



International Center for the Study of Violent Extremism



An Albanian jihadist with his family in a 2015 ISIS video. (Al-Hayat Media Center)

In Legal Wrangling over ISIS Families Should Anyone be Allowed Home?

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The territorial defeat of ISIS and resultant roundup of both male and female ISIS cadres, not to mention their children – including infants and toddlers – are creating legal nightmares for Western countries, many who do not want them back. Citizen revocations, refusals to return even women and children and bureaucratic hurdles are leaving many of these Westerners in a legal limbo as well as raising important questions of when citizenship can be revoked, creating statelessness and issues regarding cruel and inhumane punishment, not to mention collective punishment, in regard to ISIS women and children.

Researchers from the International Center for the Study of Violent Extremism (ICSVE) recently visited two prison and detention/camp facilities in Kurdish Region, Rojava, which is currently governed by the Syrian Democratic Forces (SDF), to interview ISIS

detainees and prisoners. In total, 10 male foreign fighter prisoners, held in a prison facility, and 11 women, held in Camp Roj, were interviewed.

Women and children's status in camp Roj and other detention facilities in Syria's Rojava region remains complex. While women are not (formally) accused of any crimes for living in the so-called Islamic State, nor are they aware of any pending indictments or trials in their home countries for crimes they may have committed, they are not free to leave the camp. Despite talks about possible repatriation of women and children to their respective countries, coupled with the fact that officials representing the SDF express their willingness to release them to their home countries, Western governments appear to be acting slowly on the issue, often citing bureaucratic hurdles concerning establishing parenthood in the case of the children, issues of separating mothers from their children, and fear of terrorist actions and spreading radical ideologies once returned.

Currently, there are 500 women and 1,200 children at Camp Roj who await a resolution to their pressing issues. While these ISIS mothers may be guilty of horrific crimes – we certainly have heard many abuses including flogging, torture, biting, etc., carried out by ISIS women in our 101 ISIS cadre interviews to date – their children were brought or born into ISIS by no fault of their own. Yet, these children – Belgian, French, German, Russian, Kuwaiti, Swiss and more – who we witnessed languishing without toys, playgrounds, and in conditions unsuitable for any children, are held in this limbo. When ICSVE staff queried American government officials about the status of Samantha El Hassani's four American children who up to recently were held in Camp Roj (and now finally returned home to Indiana), these officials cited inability to bring the children back without their mother's cooperation, despite the fact that she had shown poor mothering skills by taking them to ISIS to begin with, the children's lack of identity documents, difficulties with proof of citizenship, the need for DNA testing, etc., as hurdles preventing their return home.

The European mothers we interviewed in Camp Roj all now renounced ISIS and claimed for the most part to have been pretty naïve in joining, although that may not actually be the case. They complained about others in the camp who were still acting as ISIS enforcers – one was forced back into a hijab as a result, according to her claims. They were all concerned about lack of vaccinations and about children and mothers who had died in the camp of typhus and other serious communicable diseases. One of the Belgian mothers had a toddler who was routinely struggling to breathe or stopped breathing all together for short moments. None had adequate stimulation for their children (they literally play with rocks or, in the case of the older children, in a dirty canal). Medical treatments are difficult to procure and pose serious health risks, as in the case of one Belgian mother who was pregnant and about to give birth and was likely to have another cesarean section; she returned to the camp following surgery with a newborn infant. Another has no antibiotics or bandages to put on a serious skin wound of her toddler.

One mother whose child is seriously ill begged for her child to be taken from the camp and placed with family members back home, as did American Samantha El Hassani when one of her young children was seriously ill. Yet 1,200 children remain imprisoned without having committed any crime, and some could even die there. Their mothers all suffer watching their children suffer and fear of serious illness is pervasive in the camp, especially as winter approaches.

[Article 16 of the UN Convention against Torture \(UNCAT\)](#) requires parties to prevent “acts of cruel, inhuman or degrading treatment or punishment.” Is it not a slow torture to watch your child die in front of your eyes, to be denied vaccinations for your baby, to not have medical treatments, or to give birth and return after a cesarean to a camp with a newborn that may not have a chance to survive in the heat and dust? These are serious concerns about both women and children held in detention centers in Syria.

Despite the chaotic situation in Syria, the Syrian Democratic Forces (SDF) – mostly consisting of, and militarily led by, the People’s Protection Units (YPG) – appear to be running a functioning criminal justice system. Interviews with officials revealed that ad-hoc counter-terrorism courts set up in their territory are already prosecuting local Syrians and Iraqi nationals for their involvement with the so-called Islamic State, although they are currently not prosecuting foreign fighters.

From a legal standpoint, International Humanitarian Law (IHL) does not grant any powers to non-state armed groups, SDF included, when it comes to holding trials; however, it spells out a set of rules and legal obligations by which such groups should abide provided they choose to hold trials. In other words, IHL contains rules and obligations that apply both to non-state and state armed groups on how to ensure due process and administer fair and free trials (i.e. [customary international law, article 75 of Geneva Convention](#), etc.), which should also be applied in the case of foreign fighters currently in the custody of SDF.

According to IHL, because foreign fighters are currently imprisoned by SDF, a non-state armed group indirectly linked to the central government of Syria, as also feared by some interviewed foreign fighters, the Syrian government could, in fact, request that foreign fighter prisoners be transferred to their custody in Damascus, from where they could also be traded or released back to ISIS-controlled areas. One male European prisoner in particular expressed this fear, asking that his country protect him from such a fate.

All the interviewed foreign fighters pleaded to be repatriated to their respective home countries, even if that meant facing prosecutions and serving prison time. A Belgian foreign fighter stated he would rather serve his prison sentence in his home country: “I will serve 10, 15 years if need be,” he stated. Read the rest of the report [here](#).

About the Authors:

Anne Speckhard, Ph.D., is Director of the International Center for the Study of Violent Extremism (ICSVE) and serves as an Adjunct Associate Professor of Psychiatry at Georgetown University School of Medicine. She has interviewed over 600 terrorists, their family members and supporters in various parts of the world including in Western Europe, the Balkans, Central Asia, the Former Soviet Union and the Middle East. In the past two years, she and ICSVE staff have been collecting interviews (n=101) with ISIS defectors, returnees and prisoners, studying their trajectories into and out of terrorism, their experiences inside ISIS, as well as developing the *Breaking the ISIS Brand Counter Narrative Project* materials from these interviews. She has also been training key stakeholders in law enforcement, intelligence, educators, and other countering violent extremism professionals on the use of counter-narrative messaging materials produced by ICSVE both locally and internationally as well as studying the use of children as violent actors by groups such as ISIS and consulting on how to rehabilitate them. In 2007, she was responsible for designing the psychological and Islamic challenge aspects of the Detainee Rehabilitation Program in Iraq to be applied to 20,000 + detainees and 800 juveniles. She is a sought after counterterrorism experts and has consulted to NATO, OSCE, foreign governments and to the U.S. Senate & House, Departments of State, Defense, Justice, Homeland Security, Health & Human Services, CIA and FBI and CNN, BBC, NPR, Fox News, MSNBC, CTV, and in Time, The New York Times, The Washington Post, London Times and many other publications. She regularly speaks and publishes on the topics of the psychology of radicalization and terrorism and is the author of several books, including *Talking to Terrorists*, *Bride of ISIS*, *Undercover Jihadi* and *ISIS Defectors: Inside Stories of the Terrorist Caliphate*. Her publications are found here: <https://georgetown.academia.edu/AnneSpeckhard> Website: and on the ICSVE website <http://www.icsve.org> Follow @AnneSpeckhard

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