

## ICCT Report – November 2018

# The Cost of Crying Victory: Policy Implications of the Islamic State's Territorial Collapse\*

Authors: Liesbeth van der Heide, Charlie Winter, Shiraz Maher

In light of the territorial demise of the Islamic State (IS) in Iraq and Syria, this report analyses the continued risks posed by IS. Given that IS is playing a long game, the report calls upon policymakers to keep up the counter-terrorism pressure, to sidestep policy fatigue at all costs to avoid undoing years of progress, and to continue fostering the emergence of resilient and inclusive societies. Specifically, the authors present five key conclusions for policymakers, who should: (1) recognise that the territorial collapse of the caliphate does not constitute its full defeat as the jihadist ideology remains alive; (2) work to closely scrutinise the second-order impact of the events of 2017-18 on groups like Hayat Tahrir al-Sham (HTS), that has been developing a shrewd and pragmatic agenda for public socialisation; (3) increase oversight of non-Islamist extremisms, especially in light of far-right extremist groups that have blossomed on the fertile ground of polarising public discourse; (4); realize that the principal mission of IS propagandists is not recruitment but retention; and (5) accept the return of some foreign fighters and their families in light of the lack of will and capability of Syrian Democratic Forces (SDF) to hold IS detainees and the impact of detention on IS' future longevity.



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## Introduction

After years of sustained military, economic and political pressure, the so-called Islamic State (IS) has now lost some ninety-eight percent of its former territories in Iraq and Syria and a new chapter in its history has begun.<sup>1</sup> By degrading its physical footprint and senior leadership, the global coalition and its allies have been able to limit its in-theatre capabilities in such a way that the chances of it launching another large-scale offensive in Syria or Iraq are increasingly slim.<sup>2</sup> However, it is far too early to declare victory: according to official estimates, between twenty and thirty thousand IS fighters, including thousands of foreigners, remain in Syria and Iraq.<sup>3</sup>

One year ago, while the state of affairs that we are currently in was still emergent, the Dutch National Coordinator for Security and Counterterrorism (NCTV) published a report on what it considered to be IS's future trajectory following the collapse of its territorial 'caliphate'.<sup>4</sup> The report proposed four long-term scenarios:

- i) IS shifts its operational attention away from Iraq and Syria and towards the West, especially the EU, and uses foreign fighters, trained and still loyal to IS, to commit and facilitate terrorist attacks in their home countries;
- ii) IS begins to focus on neighbouring countries like Turkey, Jordan and Lebanon with a view to fostering further destabilisation in the region;
- iii) IS redoubles its efforts on establishing and/or further strengthening its affiliates in countries like Libya, Yemen, Afghanistan and the Philippines with a view to securing its global franchise; and
- iv) IS reverts to the internet in order to establish its 'virtual caliphate' as an alternative to its physical manifestation in Iraq and Syria.

In the short-term, the NCTV noted that IS was likely to retreat into less populated and rural areas and begin to operate in a more covert and decentralised manner. It calculated that the prospect of IS cooperating with other jihadist organisations, like al-Qa'ida, was unlikely because, despite both being part of the global jihadist movement, they differ too much in terms of ideological and strategic ambitions.<sup>5</sup> Moreover, since IS, without its own proto-state, would be unable to impose taxes on civilians, the NCTV held that it would likely attempt to find other means with which to finance its insurgency.<sup>6</sup> To this

<sup>1</sup> Christina Schori, "Dead or Alive? The Future of the Islamic State," *Geneva Centre for Security Policy*, last modified 2 May 2018, <https://www.gcsp.ch/News-Knowledge/Global-insight/Dead-or-Alive-The-Future-of-the-Islamic-State>.

<sup>2</sup> The Global Coalition was formed in September 2014, currently consisting of 79 countries.

<sup>3</sup> United Nations Security Council (UNSC), Twenty-second report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2368 (2017) concerning ISIL (Da'esh), Al-Qaida and associated individuals and entities (27 July, 2018) <http://undocs.org/S/2018/705>.

<sup>4</sup> National Coordinator for Security and Counterterrorism, Ministry of Justice and Security, "A perspective on the transformation of ISIS following the fall of the 'caliphate' – Continuation of roles, transformation of threats", The Hague, Winter 2017, [https://english.nctv.nl/binaries/WEB\\_112216\\_ENG%20Rapport%20Transformatie\\_tcm32-361123.pdf](https://english.nctv.nl/binaries/WEB_112216_ENG%20Rapport%20Transformatie_tcm32-361123.pdf).

<sup>5</sup> On the rivalry between al-Qa'ida and ISIS and their diverging strategic interests see for example also: Daniel L. Byman and Jennifer R. Williams, "ISIS vs. Al Qaeda: Jihadism's global civil war", Brookings, February 24, 2014, <https://www.brookings.edu/articles/isis-vs-al-qaeda-jihadisms-global-civil-war/>.

<sup>6</sup> See also Colin P. Clark's article describing how the Islamic State can continue to make money without holding territory: Colin P. Clark, "ISIS's New Plans to Get Rich and Wreak Havoc", *Foreign Policy* (October 10, 2018) <https://foreignpolicy.com/2018/10/10/isis-new-plans-to-get-rich-and-wreak-havoc/>.

end, the NCTV anticipated that the group could potentially expand its criminal activities and increase interactions with organised crime networks.

In the specific context of Europe, the NCTV stressed that particular attention should be paid to radicalisation in prisons, noting that there is a precedent for IS to use them as places to reorganise, recruit and recover.<sup>7</sup> It warned of a heightened risk of radicalisation if and when Islamists, IS combatants and common criminals were imprisoned together.<sup>8</sup> In light of all this, the report concluded that governments (European and otherwise) should prioritise the stabilisation and reconstruction of Iraq and Syria, while simultaneously addressing underlying drivers for violent extremism in their own countries.<sup>9</sup>

These were among many predictions made after the Islamic State's 2017 collapse, which left some — the presidents of the US, Egypt, Iraq, Russia and the Philippines among them<sup>10</sup> — crying victory. However, notwithstanding the fact that many of these estimations were reached with care and precision, not one of them has actually materialised in full. In light of this, we return to the NCTV report's key conclusions in the below pages. Neither speculating nor predicting, we review its findings, one year on, asking:

1. What is the current state of affairs in Iraq and Syria, after IS's territorial demise?
2. From a policy perspective, which issues are receiving too much attention and which are being overlooked?
3. What are the policy implications, especially from a criminal justice perspective, of the IS's territorial collapse?
4. Moving forward, what should the policy priorities be?

<sup>7</sup> National Coordinator for Security and Counterterrorism 2017, p. 22; see also: Vera Mironova, "Can ISIS regroup? Lessons from interviews with ex-ISIS fighters", NATO Review, August 9, 2018, <https://www.nato.int/docu/review/2018/Also-in-2018/can-isis-regroup-lessons-from-interviews-with-ex-isis-fighters-syria/EN/index.htm>;

<sup>8</sup> National Coordinator for Security and Counterterrorism 2017, p. 22; for a critical description of prisons as "schools for terrorism", see: Clarke R. Jones "Are prisons really schools for terrorism? Challenging the rhetoric on prison radicalization", Punishment and Society, Vol 16, No. 1. (2014)

<sup>9</sup> Such as the lack of political freedom combined with repressive regimes; patriarchal tribes combined with an absence of liberal traditions and participatory democracies; young population combined with chronically stagnant economies and major youth unemployment and unresolved territorial conflicts combined with stifled independence ideals, National Coordinator for Security and Counterterrorism 2017, p. 62.

<sup>10</sup> Maher Chmaytelli and Ahmed Aboulenein "Iraqi Prime Minister Al-Abadi declares final victory over Islamic State", Reuters, December 9, 2017, <https://www.reuters.com/article/us-mideast-crisis-iraq-islamicstate/iraq-declares-final-victory-over-islamic-state-idUSKBN1E30B9>; see also, Andrew Roth, "On visit to Syria, Putin lauds victory over ISIS and announces withdrawals", *The Washington Post*, December 11, 2017 [https://www.washingtonpost.com/world/putin-makes-first-visit-to-syria-lauds-victory-over-isis-and-announces-withdrawals/2017/12/11/f75389de-de61-11e7-8679-a9728984779c\\_story.html](https://www.washingtonpost.com/world/putin-makes-first-visit-to-syria-lauds-victory-over-isis-and-announces-withdrawals/2017/12/11/f75389de-de61-11e7-8679-a9728984779c_story.html).

## Iraq and Syria: the current state of affairs

On December 9, 2017, the defeat of IS in Iraq was loudly proclaimed by US President Donald Trump and his Iraqi counterpart, Prime Minister Haider al-Abadi.<sup>11</sup> Their declaration came far too early. IS is a multidimensional group that simultaneously operates as a proto-state, an insurgency and a terrorist network. Successful kinetic action against its first dimension did not resolve the threat from its second and third. Categorically speaking, even if its “state” is no more, IS remains a potent insurgent and terrorist movement.<sup>12</sup> If anything, the global threat might have increased, as returning foreign fighters drain intelligence and policing resources and sympathisers back home are left without a caliphate to travel to, which means they might instead turn their attention to targets in their home countries and focus on new *modus operandi*.

Moreover, while its material—that is, territorial—collapse may be undeniable; the ideology on which it is grounded remains alive and well.<sup>13</sup> Indeed, through an ideas-based lens, its defeat might even turn out to work to the advantage of its insurgent core. In the eyes of its committed supporters, there is no such thing as a “post-caliphate” state.<sup>14</sup> To the contrary, IS has become adept at branding its failures as merely a phase in the longer road to victory.<sup>15</sup> It is crucial that policymakers take this into account.

The fight to completely defeat IS—which, by some accounts, is nearing its final stages<sup>16</sup>—will be a difficult one: not only is the group entrenched in the Euphrates River Valley; its shift towards clandestine tactics has left it a more slippery foe.<sup>17</sup> The organisation has now changed trajectory, its overt insurgency devolving back into covert asymmetric warfare.<sup>18</sup> Now, its focus is on hit-and-run operations geared towards undermining stability and discrediting the state. These are being deployed through a careful strategy of destabilisation: IS sleeper cell networks are systematically working to subvert security

<sup>11</sup> Maher Chmaytelli and Ahmed Aboulenin, “Iraq Declares Final Victory over Islamic State,” *Reuters*, December 9, 2017, <https://www.reuters.com/article/us-mideast-crisis-iraq-islamicstate/iraq-declares-final-victory-over-islamic-state-idUSKBN1E30B9>.

<sup>12</sup> Shiraz Maher, “How the Islamic State Caliphate was lost,” *New Statesman*, August 8, 2018, <https://www.newstatesman.com/world/middle-east/2018/08/how-islamic-state-caliphate-was-lost>.

<sup>13</sup> Farah Najjar, “As ISIL’s ‘caliphate’ crumbles, its ideology remains,” *Aljazeera*, June 28, 2017, <https://www.aljazeera.com/indepth/features/2017/06/isil-caliphate-crumbles-ideology-remains-170628093014443.html>.

<sup>14</sup> Report to the United States Congress: Overseas contingency operations: Operation Inherent Resolve, Operation Pacific Eagle—Philippines. Lead Inspector General. 2018, [https://media.defense.gov/2018/Aug/06/2001950941-1/-1/1/FY2018\\_LIG\\_OCO\\_OIR3\\_JUN2018\\_508.PDF](https://media.defense.gov/2018/Aug/06/2001950941-1/-1/1/FY2018_LIG_OCO_OIR3_JUN2018_508.PDF); United Nations Security Council, Twenty-second report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2368 (2017) concerning ISIL (Da’esh), Al-Qaida and associated individuals and entities, July 28, 2018, <http://undocs.org/S/2018/705>.

<sup>15</sup> Colin P. Clarke, “How ISIS is Transforming. Why Predictions of Its Demise are Premature,” *Foreign Affairs*, September 25, 2017, <https://www.foreignaffairs.com/articles/middle-east/2017-09-25/how-isis-transforming?cid=int-lea&pgtype=hpg>.

<sup>16</sup> Donald J. Trump, State of the Union Address, January 30, 2018. Available at: <https://www.whitehouse.gov/briefings-statements/president-donald-j-trumps-state-union-address/> and <https://www.youtube.com/watch?v=J4FmQtOPbF4>; for more information you can also see: Euan McKirdy, “What Trump said about ISIS, Iran and North Korea in his State of the Union speech”, *CNN*, January 31, 2018, <https://www.cnn.com/2018/01/30/politics/donald-trump-sotu-international-lines-intl/index.html>.

<sup>17</sup> Colin P. Clarke 2017.

<sup>18</sup> Hassan Hassan, “Insurgents again: The Islamic State’s calculated reversion to attrition in the Syria-Iraq border region and beyond,” *CTC Sentinel* 10, no. 11 (December 2017), <https://ctc.usma.edu/insurgents-again-the-islamic-states-calculated-reversion-to-attrition-in-the-syria-iraq-border-region-and-beyond/>; See also: Michael P. Dempsey, “The Islamic State threat hasn’t gone away,” *Axios*, July 31, 2018, <https://www.axios.com/the-islamic-state-threat-hasnt-gone-away-f57adb1b-6fe4-4f4d-8bd4-589be98f9eba.html>.

in liberated territories. For example, Raqqa and its environs are being subjected to Improvised Explosive Device (IED) attacks and assassinations on an almost daily basis;<sup>19</sup> and in places like Kirkuk in eastern Iraq, IS is continuing to gather momentum, seemingly uninhibited.<sup>20</sup> Thus, even without its last urban strongholds, IS will likely continue to do all it can to perpetuate regional instability.

Putting Syria and Iraq to one side, the slew of challenges presented by IS' global network continues to metastasise. Its affiliates are continuing to assert themselves beyond the Middle East region, particularly in countries that lack strong state institutions; in some instances, they have even stepped up their operations.<sup>21</sup> In Afghanistan, for example, the caliphate's 'Khurasan Province' has been ascendant in 2018.<sup>22</sup> Notwithstanding the fact that it is operationally confined to a small territory to the east of the country, its ability to deploy suicide terrorism in the rest of the country is staggering and, troublingly, shows few signs of abating.<sup>23</sup> With this in mind, policymakers must not consider the counter-Islamic State mission to have already been accomplished: the campaign conducted from 2014 to 2017 was just one part of a much longer war.

Moreover, IS is far from the only jihadist insurgency out there. Indeed, while it has been dominating much of the discourse surrounding the long-term impact of the Syrian conflict and counter-terrorism policy, gathering steam away from public attention have been groups like Hay'at Tahrir al-Sham (HTS), which, based out of Idlib province in the north, has developed and deployed a shrewd and pragmatic political agenda that has revolved around working with, as opposed to against, local populations.<sup>24</sup>

In stark contrast to IS, HTS has been relatively lenient when it comes to the question of religious policing. Indeed, pursuing a socialisation strategy first conceived of by Abu Firas al-Suri—a former *shari'ah* official in Jabhat al-Nusra, HTS's predecessor—the group has suspended the implementation of most corporal and capital punishments to foster a measure of interdependence between it and the population over which it is ruling.<sup>25</sup> Given that these punishments, known as *hudud*, are considered a central part of the Islamic penal code regarding crimes or offences against God (not the state or man), this has been controversial, and widely criticised in the jihadist community. However, it seems to have paid off: HTS is now deeply embedded in its north Syrian heartlands and,

<sup>19</sup> For example, between 1 October and 7 October 2018, the Islamic State issued eighteen operation claims pertaining to attacks around Raqqa.

<sup>20</sup> In the same period, the Islamic State issued thirty-six operation claims pertaining to attacks around Kirkuk.

<sup>21</sup> Karen Leigh, Jason French and Jovi Juan, "Islamic State and its Affiliates," *Wall Street Journal*, accessed 11 October 2018, <http://graphics.wsj.com/islamic-state-and-its-affiliates/>.

<sup>22</sup> AIVD (Dutch General Intelligence and Security Service), "De Erfenis van Syrië: Mondiaal jihadisme blijft dreiging voor Europa", November 2018, p. 9, [https://www.aivd.nl/binaries/aivd\\_nl/documenten/publicaties/2018/11/05/aivd-publicatie-de-erfenis-van-syrie-mondiaal-jihadisme-blijft-dreiging-voor-europa/Publicatie+De+erfenis+van+Syri%C3%AB%2C+mondiaal+jihadisme+blijft+dreiging+voor+Europa.pdf](https://www.aivd.nl/binaries/aivd_nl/documenten/publicaties/2018/11/05/aivd-publicatie-de-erfenis-van-syrie-mondiaal-jihadisme-blijft-dreiging-voor-europa/Publicatie+De+erfenis+van+Syri%C3%AB%2C+mondiaal+jihadisme+blijft+dreiging+voor+Europa.pdf).

<sup>23</sup> Emma Graham-Harrison, "Isis will be looking for targets: guns and fear mark Afghan Ashura," *The Guardian*, September 19, 2018, <https://www.theguardian.com/world/2018/sep/19/isis-will-be-looking-for-targets-guns-and-fear-mark-afghan-ashura>.

<sup>24</sup> Charles Lister, "Profiling Jabhat al-Nusra," *The Brookings Project on U.S. Relations with the Islamic World Analysis Paper*, No. 24, July 2016; Shiraz Maher, *Salafi-Jihadism: the History of an Idea* (London: Hurst and Co, 2016).

<sup>25</sup> Shiraz Maher, *Salafi-Jihadism: the History of an Idea* (London, Hurst and Co, 2016).

much like IS once did, it is providing basic governance services, establishing local councils, and managing (and thus exploiting) local resources.<sup>26</sup>

While HTS is no longer a part of al-Qa'ida, its jihadist ideology – and in line with that its willingness to commit terrorist attacks<sup>27</sup> – remains closely aligned with it. Hence, it is troubling indeed that it has been able to establish itself as a political and military hegemon in the region. While, at this stage, its priorities appear to be internal to Syria, this could one day change, and policymakers would do well to account for it.

## What are we paying too much attention to?

Counter-terrorism efforts are incredibly costly, both politically and financially. There is, as such, a constant need to balance different priorities against one another. With the recent rise and subsequent demise of IS, policymakers have faced innumerable challenges, some old and others new. While all have required a robust response, some have been met insufficiently. Below, we focus on two of these areas: propaganda and other forms of extremism.

### Propaganda

In recent years, one of the most heavily scrutinised issues in the field of counter-terrorism policy has been propaganda. Notwithstanding the amount of time spent trying to legislate against its distribution and consumption, governments have become entangled in various assumptions about what it does and how and why it is being deployed. It is crucial that this changes.

The conventional wisdom around IS propaganda in particular is reductive and simplistic, an issue that manifests in two main ways. First, its official media is understood to have a linear relationship with recruitment but, beyond that, not much else.<sup>28</sup> However, we still do not know what relationship or correlation there is between watching online content and offline action and, in any case, IS' propaganda output is geared towards much more than radicalising supporters and enlisting new recruits. Indeed, nowadays, the principal mission of its media strategists is not mobilising sympathisers, but keeping current ones on board and intimidating local adversaries.<sup>29</sup> Functionally, this makes them a very different foe to that which they are often assumed to be.

Second, IS' propaganda operations are still chiefly being thought of as an online phenomenon, even though there is a huge amount of evidence demonstrating that it is

<sup>26</sup> Ayman al-Dassouky, "The Role of Jihadi Movements in Syrian Local Governance: A Case Study of Hay'at Tahrir al-Sham (HTS) in Idlib," *Omran for Strategic Studies* (July 2017).

<sup>27</sup> AIVD 2018, p.14; See also: Craig Whiteside, "Nine Bullets for the Traitors, One for the Enemy: The Slogans and Strategy behind the Islamic State's Campaign to Defeat the Sunni Awakening (2006-2017)," *The International Centre for Counter-Terrorism – The Hague* 9 (2018). <https://icct.nl/wp-content/uploads/2018/09/ICCT-Whiteside-Nine-Bullets-For-The-Traitors-September-2018.pdf>.

<sup>28</sup> Theresa May, "PM speech at UNGA: preventing terrorist use of the internet," Prime Minister's Office, 21 September 2017, <https://www.gov.uk/government/speeches/pm-speech-at-unga-preventing-terrorist-use-of-the-internet>.

<sup>29</sup> This is consistent with broader shifts in its strategic trajectory. See, for example, Hassan and Dempsey's above-cited articles.

not.<sup>30</sup> The fact is that the digital side of its outreach was only ever one part of the problem. Since 2014, IS has spent as much time and probably more energy on in-theatre propaganda activism as it has on online influence operations.<sup>31</sup> However, policymaker attention still overwhelmingly remains on the internet. This is especially problematic because this offline aspect of its global outreach strategy stands to be central to its ability to stage a resurgence in the future.<sup>32</sup>

In light of the above, it is crucial that public understanding of what propaganda does, why it gets deployed, and how it is conceived, is radically reappraised. As long as it is not, opportunities to cause lasting damage to IS as an idea will be missed.

## Other forms of extremism

Another key issue that has emerged of late is a structural policy imbalance that risks seeing countering jihadist terrorism prioritised at the expense of countering other forms of terrorism. In recent years, IS-inspired terrorism has absorbed the lion's share of law enforcement and intelligence resources—and rightly so, given the extent of the group's menace. However, this has come at the cost of investing those resources elsewhere and, in the meantime, far-right extremist groups have been developing and mobilising across Europe.<sup>33</sup> They have benefited both from growing polarisation in European society and the latent security environment, which sees governments being unable to respond appropriately to their ascendance. It is critical that more resources are devoted towards mitigating this emergent challenge.

## Challenges for criminal justice practitioners

IS attracted tens of thousands of foreigners to its caliphate in Syria and Iraq, among them estimates mention: 4,000 to 4,500 Russophone individuals from Central and North Asia or the Caucasus region, 2,000 to 3,000 Tunisians, 1,600 to 1,700 Moroccans, more than 1,300 French, 800 British and as many Germans, 700 Indonesians, 600 Egyptians, 500 Belgians, 200 to 300 Algerians, 250 Spaniards, 200 Americans and 100 Italians.<sup>34</sup> While many are certain to have died fighting, many have attempted to return home or have

<sup>30</sup> Daniel Milton, "Pulling back the curtain: An inside look at the Islamic State's media organization," Combating Terrorism Center at West Point, 28 August 2018, <https://ctc.usma.edu/pulling-back-the-curtain-an-inside-look-at-the-islamic-states-media-organization>; European Commission, "State of the Union 2018: Commission proposes new rules to get terrorist content off the web", Press Release, September 12, 2018. [http://europa.eu/rapid/press-release\\_IP-18-5561\\_en.htm](http://europa.eu/rapid/press-release_IP-18-5561_en.htm), [http://europa.eu/rapid/press-release\\_IP-18-5561\\_en.htm](http://europa.eu/rapid/press-release_IP-18-5561_en.htm).

<sup>31</sup> Charlie Winter, "Totalitarian insurgency: Evaluating the Islamic State's in-theater propaganda operation," Naval War College Center for Irregular Warfare and Armed Groups, <https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?referer=https://www.google.co.uk/&httpsredir=1&article=1014&context=cjwag-case-studies>.

<sup>32</sup> Charlie Winter and Haroro Ingram, "Terror, online and off: Recent trends in Islamic State propaganda operations," *War on the Rocks*, March 2, 2018, <https://warontherocks.com/2018/03/terror-online-and-off-recent-trends-in-islamic-state-propaganda-operations>.

<sup>33</sup> Aristotle Kallis, "The Radical Right and Islamophobia," in *The Oxford Handbook of the Radical Right*, ed. Jens Rydgren (Oxford: Oxford Handbooks).

<sup>34</sup> Commission d'enquête sur l'organisation et les moyens des services de l'État pour faire face à l'évolution de la menace terroriste après la chute de l'État islamique, Rapport, Sénat session extraordinaire No. 639, July 4, 2018, <https://www.senat.fr/rap/r17-639/r17-6391.pdf>.

travelled to third countries. Even though this has so far been more of a trickle than a flood, the related legal challenges are already substantial.

According to press reports, the Syrian Democratic Forces (SDF) are currently holding “900 foreign IS fighters in their custody, with 400 to 500 IS wives and 1,000 children from 44 foreign countries.”<sup>35</sup> This is a large number, and it is likely to only get bigger, with many of these fighters’ home countries—particularly those in Europe—refusing to accept ownership of their nationals. For their part, many governments fear they might not be able to secure convictions against those in SDF custody, which continues to perpetuate their detention in highly volatile and uncertain circumstances.<sup>36</sup> Resolving this is an important issue and an urgent one. Indeed, there is a risk of it becoming a crisis if not addressed rapidly: the SDF has already stated that it is unable and unwilling to hold these detainees indefinitely. If nothing else, doing so does not immediately align with SDF’s strategic interests. There is a risk, therefore, that these captured fighters could escape detention and revive their associations with active terrorist networks.

One of the principal difficulties in dealing with such fighters is that there remains no robust set of legal definitions for what constitutes membership of IS. The implications of this extend far beyond the semantic. Besides those who engaged in combat operations for IS, there are many thousands of other individuals, foreign and local, who were active participants in its civilian proto-state project.<sup>37</sup> It is extremely difficult to legislate for how such individuals should be treated if apprehended now that the caliphate has collapsed, because the spectrum of their involvement and motivations is often highly ambiguous. Indeed, there are countless grey areas to take into account: what, for example, of the people that joined its civilian administration—should they be charged with providing material support to a terrorist organisation even if they only ever performed civil duties?<sup>38</sup> What about children who were born into the caliphate or were made to join it at a young age—do they constitute one-time members or should they be treated with more lenience?<sup>39</sup> And how should prosecutors deal with those that joined the group voluntarily but were then coerced into staying?<sup>40</sup> The list goes on.

<sup>35</sup> Wladimir van Wilgenburg, “Syrian Kurds call on foreign countries to take back IS fighters,” *Kurdistan24*, October 7, 2018, <http://www.kurdistan24.net/en/news/3d949f26-0bb7-44c9-ac7b-5c6794bo6e5a>.

<sup>36</sup> Stewart Bell, “Exclusive: Canadian member of Islamic State caught, but RCMP struggle to lay charges against ISIS fighters,” *Global News*, October 8, 2018, <https://globalnews.ca/news/4526514/canadian-isis-caught-in-turkey/>; Josie Ensor and Martin Evans, “UK refusing to take back Isis fighters detained in Syria amid concerns it could be hard to prosecute them,” *The Telegraph*, October 8, 2018. <https://www.telegraph.co.uk/news/2018/10/08/uk-refusing-take-back-nine-isis-fighters-detained-syria/>.

<sup>37</sup> See, for example, Shiraz Maher (@shirazmaher). Twitter. September 22, 2018, <https://twitter.com/shirazmaher/status/1043559267486326784>, very significant video here - British foreign fighter from Birmingham with Islamic State is captured in Deir ez-Zour. This underscores, once again, how Islamic State fighters, and many foreigners with them, remain operational despite the group’s loss of territory.

<sup>38</sup> For example, see Dipesh Gadhur and Jonathan Corke, “British medics studying in Sudan flock to join Isis,” *The Times*, February 5, 2017, <https://www.thetimes.co.uk/article/british-medics-studying-in-sudan-flock-to-join-isis-8ovcjvkcj>.

<sup>39</sup> Joana Cook and Gina Vale, “From Daesh to ‘diaspora’: Tracing the women and minors of Islamic State,” *International Centre for the Study of Radicalisation*, July 23, 2018, <https://icsr.info/wp-content/uploads/2018/07/ICSR-Report-From-Daesh-to-%E2%80%98Diaspora%E2%80%99-Tracing-the-Women-and-Minors-of-Islamic-State.pdf>.

<sup>40</sup> For example, see Nick Paton Walsh, and Salma Abdulaziz, “Beaten, tortured, sexually abused: An American ISIS widow looks for a way home,” *CNN*, April 19, 2018, <https://edition.cnn.com/2018/04/19/middleeast/syria-us-isis-bride-intl/index.html>.

Many governments seem to be opting for a 'no return' policy for fighters and their families.<sup>41</sup> Women and children especially are tied to the future legacy of IS, so this 'no-return' policy, besides being highly problematic from both a moral and a legal perspective, could end up being deeply counterproductive in the long term.<sup>42</sup> It risks creating a generation of stateless youth that resent the nations that spurned them, a prospect made all the more clear by Kurdish officials' stated desire for governments to coordinate the return of their citizens.<sup>43</sup> Governments have an obligation, especially to children, to assure their safety and wellbeing and, in the current situation, that is only really feasible if they are returned to their home countries.

If this does happen, policymakers' understanding of what constitutes membership in a group like IS must be highly nuanced. It is crucial that they see it not in zero-sum terms, but as a spectrum of activism—something that manifests in many different ways and thus requires many different policy responses.

Even when the prosecution process works smoothly—the challenges in gathering admissible evidence that can be used in court are well-known by now<sup>44</sup>—there is the question of if, where and how to imprison returnees.<sup>45</sup> As discussed above, concerns are warranted about their potential ability to radicalise other prisoners, even if special accommodations are made to separate jihadists from the general inmate population, as has become the norm. Beyond that, what happens when these individuals—which may one day number in the thousands—serve their sentences and are released back into society? Given the lack of knowledge as to “what works”<sup>46</sup> in rehabilitating and reintegrating violent extremist offenders in and after prison, this demographic could well present one of the main challenges to policymakers in years to come.

## Future priorities

Policy responses to IS' territorial demise can usefully be divided into short- and long-term efforts. In the immediate term, policymakers must be wary of succumbing to

<sup>41</sup> Samuel Osborne, “France to repatriate children of jihadi fighters from Syria”, *The Independent*, October 24, 2018, <https://www.independent.co.uk/news/world/europe/france-syria-children-isis-terror-jihadi-fighters-iraq-kurdish-a8598791.html>.

<sup>42</sup> Joanna Cook and Gina Vale, “From Daesh to Diaspora: Tracing the Women and Minors of the Islamic State”, *The International Centre for the Study of Radicalisation*, July 23, 2018, <https://icsr.info/wp-content/uploads/2018/07/ICSR-Report-From-Daesh-to-%E2%80%98Diaspora%E2%80%99-Tracing-the-Women-and-Minors-of-Islamic-State.pdf>.

<sup>43</sup> Liesbeth van der Heide and Jip Geenen, “Children of the Caliphate: Young IS Returnees and the Reintegration Challenge”, *The International Centre for Counter-Terrorism – The Hague*, 8, no. 10 (2017).

<sup>44</sup> See for example: Tanya Mehra, “Bringing (Foreign) Terrorist Fighters to Justice in a Post-ISIS Landscape Part III: Collecting Evidence from Conflict Situations”, *International Centre for Counter-Terrorism – The Hague*, June 12, 2018, <https://icct.nl/publication/bringing-foreign-terrorist-fighters-to-justice-in-a-post-isis-landscape-part-iii-collecting-evidence-from-conflict-situations/>.

<sup>45</sup> Christophe Paulussen and Kate Pitcher, “Prosecuting (Potential) Foreign Fighters: Legislative and Practical Challenges”, *The International Centre for Counter-Terrorism – The Hague*, 8, no. 13 (2018).

<sup>46</sup> Bart Schuurman and Liesbeth van der Heide, “Foreign Fighter Returnees and the Reintegration Challenge”, *RAN Issue Paper*, (November 2016) [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/radicalisation\\_awareness\\_network/ran-papers/docs/issue\\_paper\\_foreign\\_fighter\\_returnees\\_reintegration\\_challenge\\_112016\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/radicalisation_awareness_network/ran-papers/docs/issue_paper_foreign_fighter_returnees_reintegration_challenge_112016_en.pdf); See also: Liesbeth van der Heide, Daan Weggemans and Bart Schuurman, “Deradicalising, uittreding en re-integratie,” In: *Terrorisme: studies over terrorisme en terrorismebestrijding* (Alphen aan de Rijn: Wolters Kluwer, 2018): 419-438.

counter-terrorism fatigue. IS is playing a long game, and its leaders are well aware of the fact that their material abilities are bound to ebb and flow during the course of it.<sup>47</sup>

With this in mind, European counter-terrorism policy must continue to exert a high degree of pressure on IS logistical support networks, even if the group appears to be inactive.<sup>48</sup> This will become more difficult as individuals that were recently jailed for recruiting and propaganda dissemination are released from prison in the months and years to come.<sup>49</sup> Hardened jihadists are patient, and serving time in jail is very unlikely to have left many, if any, of them deradicalised—indeed, in many cases, extremists only harden under confinement.<sup>50</sup>

Besides this, law enforcement and intelligence services must continue to keep close tabs on the sale of illicit arms and chemicals needed for making homemade explosives (HME). While the operational norm for jihadist terrorism seemed to become lower-tech in 2016 and 2017, complex assaults are still on the roster.<sup>51</sup> Indeed, there is now an incentive to (re)turn to more sophisticated and large-scale operations, especially given that news reporting and public discourse has started to become inured to attacks involving knives and vehicles.<sup>52</sup>

Thinking in the long-term, policymakers must seek to develop effective legislative and social instruments to address the potential threat from returnee fighters and ideologues—and this should include developing penal institutions within which many of them are housed. One of the central priorities for counter-terrorism policymakers must be rehabilitation and reintegration, both in and after prison. These environments have been referred to in the past as “universities of terrorism”—places where terrorists network, recruit and train—but they can also serve as incubators for positive change.<sup>53</sup> The key question to ask is what prevents the former and induces the latter? In order to ascertain a reasoned answer to this, more research into prison dynamics is required, with particular attention being paid to the effects of different prison systems (i.e., concentration vs. dispersion models) and post-release aftercare.

<sup>47</sup> This is a major theme in an early speech from key Islamic State ideologue Abu Mus’ab al-Zarqawi that was published in the aftermath of al-Qa’ida in Iraq’s defeat in Fallujah. Zarqawi, A.M. 2017. And likewise the messengers are afflicted, then the final outcome is theirs. Himmah Publications.

<sup>48</sup> For more on these networks, see Rukmini Callimachi, “How a secretive branch of ISIS built a global network of killers,” *New York Times*, August 8, 2016, <https://www.nytimes.com/2016/08/04/world/middleeast/isis-german-recruit-interview.html>.

<sup>49</sup> Jamie Grierson and Caelainn Barr, “Police facing surge in extremists released from jail, analysis finds,” *The Guardian*, June 3, 2018, <https://www.theguardian.com/uk-news/2018/jun/03/surge-in-terrorists-eligible-for-parole-poses-threat-to-uk-security>; see also Jamie Grierson, “Hate preacher Anjem Choudary, to be freed in weeks, is ‘still a threat,’” *The Guardian*, September 11, 2018, <https://www.theguardian.com/uk-news/2018/sep/11/hate-preacher-anjem-choudary-freed-weeks-threat-chaplain>.

<sup>50</sup> Eli Alshech, “The doctrinal crisis within the salafi-jihadi ranks and the emergence of neo-takfirism: A historical and doctrinal analysis,” *Islamic Law and Society* 21, no. 4 (2014): 419-452.

<sup>51</sup> Corri Zoli, “Is there any defense against low-tech terror?” *Foreign Policy* (October 2, 2017) <https://foreignpolicy.com/2017/10/02/terror-has-gone-low-tech>.

<sup>52</sup> Amarnath Amarasingam and Collin P. Clarke, “Terrorism fatigue,” *Slate*, November 1, 2017, [http://www.slate.com/articles/news\\_and\\_politics/foreigners/2017/11/terrorist\\_acts\\_like\\_the\\_new\\_york\\_vehicle\\_attack\\_are\\_losing\\_their\\_ability.html?via=gdpr-consent](http://www.slate.com/articles/news_and_politics/foreigners/2017/11/terrorist_acts_like_the_new_york_vehicle_attack_are_losing_their_ability.html?via=gdpr-consent).

<sup>53</sup> Bart Schuurman and Liesbeth van der Heide, “Foreign Fighter Returnees and the Reintegration Challenge,” *RAN Issue Paper* (November 2016), [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/radicalisation\\_awareness\\_network/ran-papers/docs/issue\\_paper\\_foreign\\_fighter\\_returnees\\_reintegration\\_challenge\\_112016\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/radicalisation_awareness_network/ran-papers/docs/issue_paper_foreign_fighter_returnees_reintegration_challenge_112016_en.pdf)

## Conclusion

This report presents and analyses various risks posed by IS after its territorial demise in Syria and Iraq. Five key conclusions for policymakers can be drawn from this inexhaustive list of challenges.

1. Policymakers must recognise that the territorial collapse of the caliphate does not constitute its full defeat. The root causes of its 2014-16 ascendancy are still present and still problematic – in some cases, matters have gotten worse – so the geopolitical situation remains propitious to jihadism. The “state” may have been broken, but the ideology remains alive and well: therefore, we cannot and should not speak of IS’s full defeat.
2. Putting the caliphate to one side, policymakers must not allow themselves to be distracted by its jihadist rivals. Away from the public eye, groups like Hayat Tahrir al-Sham (HTS) have been developing a shrewd and pragmatic agenda for public socialisation<sup>54</sup> Such organisations must be closely monitored because, while their short-term focus may be at the moment internal, this could be subject to change. Moreover, in the wake of IS’s territorial demise, they could be left emboldened. Policymakers must therefore work to closely scrutinise the second-order impact of the events of 2017-18; how, for example, will they influence jihadist factions in Libya, Nigeria, Somalia, or Afghanistan?
3. Policymakers must increase their oversight of non-Islamist extremisms. In recent years, far-right extremist groups have blossomed around the world, embedding themselves deep within the increasingly polarised public debate. While some states have already diverted intelligence resources to this emergent threat,<sup>55</sup> many of the counter-terrorism-related laws and security measures that have been put in place in recent years were developed in response to a specific jihadist form of terrorism. Current policy frameworks for counter extremism and terrorism must urgently be reviewed and checked for legislative and broader policy applicability in the context of far right extremism.
4. Policymakers should reconsider the role of IS’ online propaganda operations. Nowadays, the principal mission of IS propagandists is not recruitment; it is retention.<sup>56</sup> In light of this, it is critical that the conventional wisdom around its role is reappraised. If it is not, counter-efforts risk unanimously missing their mark.

<sup>54</sup> Charles Lister, “Profiling Jabhat al-Nusra,” *The Brookings Project on U.S. Relations with the Islamic World Analysis Paper*, No. 24, July 2016.

<sup>55</sup> Vikram Dodd, “MI5 to take over in fight against rise of UK rightwing extremism”, *The Guardian*, October 28, 2018, <https://www.theguardian.com/uk-news/2018/oct/28/mi5-lead-battle-against-uk-rightwing-extremists-police-action>.

<sup>56</sup> This is consistent with broader shifts in its strategic trajectory. See, for example, Hassan and Dempsey’s above-cited articles.

5. Policymakers need to recognise that they might be forced to accept the return of some foreign fighters and their families. The SDF has announced that it is both unwilling and unable to hold its IS detainees indefinitely, meaning that they might escape detention and justice. This dire situation cannot be ignored, for it stands to have a profound impact on IS' future longevity. Given that it seems inevitable that at least some fighters will return, one of the main priorities for policy practitioners should be to develop better practices for rehabilitation and reintegration, both during and after their imprisonment. As such, more research into prison dynamics and the effects of different penal frameworks is required.

In sum, now is not a time to cry victory. Even if IS' menace appears to be less pressing than it was in 2016 and 2017, the terrorist threat it presents is real and enduring. IS is playing a long game, and its leaders are well aware of the fact that their material abilities are bound to ebb and flow during the course of it.<sup>57</sup> Legislators must rise to this challenge by developing a flexible but comprehensive legislative response capable of meeting the terrorist threat while ensuring individual rights are not violated. They must keep up the counter-terrorism pressure, sidestepping policy fatigue at all costs to avoid undoing years of progress, and continue to foster the emergence of resilient and inclusive societies. To this end, short-term concerns about electoral politics must not be allowed to obstruct long-term implementation of effective policies.

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<sup>57</sup> This is a major theme in an early speech from key Islamic State ideologue Abu Mus'ab al-Zarqawi that was published in the aftermath of al-Qa'ida in Iraq's defeat in Fallujah. Zarqawi, A.M. 2017. And likewise the messengers are afflicted, then the final outcome is theirs. Himmah Publications.

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## About the Authors

### Liesbeth van der Heide

Liesbeth van der Heide is a Senior Research Fellow at ICCT. At ICCT she coordinates ICCT's activities in the field of (counter-) terrorism in prisons, a project that focuses on North-Africa and South East Asia and includes implementing threat and risk assessment measures to identify and assess violent extremism. She also works as a Researcher and Lecturer at the Institute of Security and Global Affairs (ISGA), Leiden University, focusing on rehabilitation and reintegration of violent extremist offenders and the fusion of non-state actors and terrorist groups in the Sahel region.

### Charlie Winter

Charlie Winter is an Associate Fellow at ICCT who studies terrorism, insurgency and innovation, with a focus on online and offline strategic communication. He is pursuing a PhD in War Studies at King's College London, where he is also a Senior Research Fellow at the International Centre for the Study of Radicalisation. Winter regularly advises governments and often appears in international broadcast and print media. His work has been published by, among others, the CTC Sentinel, The Atlantic, War On The Rocks, Jihadology and the BBC. He holds a BA in Arabic from the University of Edinburgh and an MA in Middle East and Mediterranean Studies from King's College London.

### Shiraz Maher

Dr. Shiraz Maher is Director of the International Centre for the Study of Radicalisation (ICSR) and a member of the War Studies Department at King's College London. He currently leads the Centre's research on the Syrian and Iraqi conflicts and also researches Salafi-Jihadi soteriology.

# The Cost of Crying Victory: Policy Implications of the Islamic State's Territorial Collapse

Liesbeth van der Heide, Charlie Winter, Shiraz Maher  
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## Contact ICCT

T: +31 (0) 70 763 0050  
E: [info@icct.nl](mailto:info@icct.nl)