

FORUM: General Assembly Sixth Committee (Legal)

QUESTION OF: The legal status for returning jihadists and their families

SUBMITTED BY: Montenegro

CO-SUBMITTERS: OCHA, Maldives, Niger, Belgium, Georgia, UN Women, Costa Rica, Tuvalu, Nigeria, North Macedonia, Congo, Malta, Mauritania, UNESCO, Paraguay, Antigua & Barbuda, Serbia, Guatemala, Ireland, Egypt

THE GENERAL ASSEMBLY,

Reaffirming that the definition of Foreign terrorist fighters is “individuals who travel to a State other than their State of residence or nationality for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict,

Alarmed by the refusal of countries to repatriate jihadists, which puts terrorists at risk of escaping captivity, especially during times of conflict,

Recalling United Nations Security Council Resolution 2396 (2017) which emphasized the importance of treating women and children related to Foreign terrorist Fighters (FTFs) in a gentler and more sensitive manner,

Noting with concern the threats returning FTFs pose to their domestic communities in terms of the influence those fighters hold over the Islamic communities there,

Emphasizing that any legal action taken against returning FTFs must comply with international human rights law, regardless of the confirmed or suspected actions of the fighter being prosecuted,

Aware that Jihadists come from many countries around the world to serve Islamic militant groups including but not limited to ISIS, Al-Qaeda and Boko Haram,

Recognizing that prisons and other detainment centers often serve as hubs for violent extremism and facilitates its spread,

1. Calls upon all member nations with citizens currently detained in affected countries to assist with the repatriation of FTFs by transporting FTFs to their state of origin, with requested supplementary monetary aid from UN Non Governmental Organizations (NGOs);
2. Asks that any nation which has found an individual who plans to commit an act of terror by their own volition or in the service of insurgent organizations such as Daesh or the Al-Nusra front to detain said person as soon as possible and communicate with the captured terrorist’s country of origin to discuss repatriation opportunities;
3. Calls for member nations as well as the United Nations High Commissioner for Refugees (UNHCR), United Nations Office for the Coordination of Humanitarian Affairs (OCHA), the International Bank for Reconstruction and Development (IRBD), and the International Monetary Fund (IMF), to provide aid, monetary or otherwise, to member nations actively pursuing the goals set in this resolution, to ensure:
 - a) the fulfillment of longer, more effective prison sentences for returnees
 - b) the positive impact of rehabilitation and post-incarceration aftercare programs for returning foreign fighters, women, and children with the repatriation and transportation of FTFs to their nation of origin;
4. Further urges all nations to access a new international database, called ANTI-TERROR which will aggregate the databases of International Criminal Police Organization (INTERPOL), European

Union Agency for Law Enforcement (EUROPOL), and allows Member States to contribute information towards the development of thorough legal profiles of FTFs before prosecution by using information such as:

- a) security footage
- b) immigration records
- c) prison records
- d) social media profiles and posts, as digital interlocutions is a major form of communication and social participation on political issues which may evidence any type of political activism
- e) other relevant data;

5. Calls upon all nations to make legal adjustments, as suggested in the Rabat Memorandum, which would allow them to effectively combat and prosecute the returning populous of FTFs, while adhering to human rights obligations and regulations, including:
 - a) enabling nations to use surveillance and detain suspected FTFs while in the process of obtaining evidence for prosecution
 - b) maintaining an effective network of investigative agencies (such as INTERPOL) to monitor the movements of fighters
 - c) ensuring that all involved prosecutors, judges, courts, and other constituents in counterterrorism trials can operate without fear of reprisal and with the full protection of rule of law and international human rights regulation
 - d) upholding the rights of those being tried, established in UN conventions, especially the right to assistance and support during a criminal trial by using international law organizations that provide free assistance to plaintiffs such as the International Association of Refugee Law Judges;
6. Further encourages establishing multidisciplinary legal groups, sponsored by independent governments, to assess the crimes and profiles of returning fighters on a case by case basis to avoid:
 - a) the introduction of large numbers of FTFs to prisons, creating an incubator for extremist ideology
 - b) the unnecessary separation of families in the criminal justice system, which fosters resentment and provides a motive for further violence
 - c) the tragic abandonment of children of FTF's in zones of conflict, such as that of two Syrian children (both less than 5 years old) in the Al-Hol camp, while their mother, the FTF and the children's only caretaker, has contracted typhoid fever
 - d) The classification of children under 9 who were either born in or moved with their families at a young age as victims of this issue, with a focus on rehabilitation and reintegration
 - e) The consideration of children aged 9 to 18 based on their level of involvement, acceptance of jihadist ideology, and willingness to answer questions and pursue rehabilitation activities, to decide if juvenile detention is needed;
7. Further Proposes the formation of a committee of experts, formed with the aid of institutions such as the World Psychiatric Association as well as other related organizations, to outline activities including:
 - a) the development of personalized programs to aid children of FTFs who have experienced extreme trauma and desocialization
 - b) the resettlement of rehabilitated fighters into civilian society
 - c) the care of children who have been traumatized by the loss of parents in foreign conflicts, or radicalized by the dogma espoused by insurgent organizations in areas of conflict
 - d) the establishment of mentor programs in correctional facilities, on an individually tailored basis, to allow FTFs to become re-socialized in the most effective manner possible (these mentors could include religious scholars, social workers, psychologists, aftercare experts, and other qualified officials
 - e) Keeping these people under regular monitoring so that the state itself can track the progress

of the FTFs and ensure that they are not returning to the radical ideology;

8. Endorses the development of a plan of work with returnees inside and outside the criminal justice system to create individualized and lasting programs of rehabilitation which involve, but are not limited to:
 - a) pre-incarceration programs such as individual or family assessment on push and pull factors, psychological assessments of minors to establish the extent to which they have been indoctrinated with jihadist ideology
 - b) prison-based psychological and religious therapy tailored to individuals and families to educate and support the finding of employment and housing after release, working with local communities and relatives for additional support and advice on transitioning out of prison, as well as implementing mentorship programs for individuals ready for reintegration
 - c) post-incarceration rehabilitation programs as a continuation of counseling and local involvement with families, schools, and religious communities, monitored carefully through probation services;
9. Further endorses workshops organized monthly within the local communities, run by municipal governments, to begin the reintegration effort by:
 - a) allowing the citizens a space to voice their concerns on safety measures, where these questions can be answered properly by probation services or government officials
 - b) fostering tolerance towards reintegration through the voices of the local community, and people working in the rehabilitation effort, especially towards young children re-entering schools and activities within the community
 - c) establishing support programs for families to visit dependents who have left to fight in foreign conflicts and have returned
 - d) creating support centers for the Islamic communities in the nation to aid in the reintegration of returning fighters, and to prevent the radicalization of more persons, such as those established by the Aarhus Kommune in Denmark;
10. Suggests that all FTFs be placed in detention centres until their trials have been conducted properly, with special provisions such as but not limited to:
 - a) the detention centres to follow the guidelines of Article 13 Geneva Convention which states that all Prisoners of War (POWs) must at all times be treated humanely
 - b) children of FTFs be placed in foster programs until the legal status of their caretakers is determined;
11. Further requests the creation of an annual conference, to be overseen by the Counter-Terrorism Committee (CTC) or the Counter-Terrorism Committee Executive Directorate (CTED), to initially take place within one year of the passing of this resolution with the goal of fostering open dialogue between member states regarding the ongoing efforts of repatriation, incarceration, and rehabilitation of FTFs in order to:
 - a) provide concrete evidence on the progress made inside and outside the criminal justice system with the returnees
 - b) discuss how to best assist member nations with less practical experience in implementing prison-based and post-incarceration rehabilitation and reintegration
 - c) share information regarding the specific motivations and push factors of individuals or families that became radicalized and acknowledge preventative measures
 - d) monitor and evaluate the progress, actions, and reintegration level of individuals released from prison
 - e) involve local, national, and international NGOs and other relevant UN bodies in the discussion on future actions to ensure successful repatriation.