

The repatriation of returning ISIS foreign terrorist fighters: Analysis of the factors influencing Indonesia's refusal and its implications on counterterrorism efforts

Pemulangan kembali pejuang teroris asing ISIS: Analisis faktor-faktor yang memengaruhi penolakan Indonesia dan implikasinya terhadap upaya kontraterorisme

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Abstract

The purpose of this paper is to study about repatriation of Foreign Terrorist Fighters (FTFs) to Indonesia who went to Syria by analyzing the factors such as risk of involving in terrorist attacks in Indonesia, which are influencing Indonesia's refusal and its implications on a state's counterterrorism efforts. The present study is carried out using qualitative research method and the data collected from secondary sources including research articles, newspapers and books related to the FTF phenomenon. To address this issue, the Indonesian government is considering a strategy to minimize negative consequences from the return of Indonesian individuals associated with terrorist activities from overseas. The results show that the Indonesian government has calculated the benefits and drawbacks of either returning foreign terrorist fighters' home or not. In the process, the government ultimately decided against the FTFs' repatriation, citing the need to safeguard millions of people's security from the danger of terrorism as a national priority for Indonesia. It concludes that the accepting repatriation of FTF by Indonesia would support human rights efforts in giving them fair trials if they have committed crimes and it will prevent them from being stateless.

Keywords: Human rights and ex-ISIS; repatriation and foreign terrorist fighters; Syria and Indonesia

Abstrak

Tujuan dari penelitian ini adalah untuk mengkaji repatriasi Foreign Terrorist Fighters (FTF) ke Indonesia yang pergi ke Suriah dengan menganalisis faktor-faktor seperti risiko terlibat dalam serangan teroris di Indonesia, yang memengaruhi penolakan Indonesia dan implikasinya terhadap upaya kontraterorisme negara. Berbagai Penelitian ini dilakukan dengan menggunakan metode penelitian kualitatif dan data dikumpulkan dari sumber-sumber sekunder termasuk artikel penelitian, surat kabar dan buku-buku yang berkaitan dengan fenomena Foreign Terrorist Fighters. Untuk mengatasi masalah ini, pemerintah Indonesia mempertimbangkan strategi untuk meminimalkan konsekuensi negatif dari kembalinya orang Indonesia yang terkait dengan kegiatan teroris dari luar negeri. Pemerintah mempertimbangkan untuk tidak memulangkan FTF, perdebatan ini memang masih diperdebatkan di Indonesia. Hasil penelitian menunjukkan bahwa pemerintah Indonesia telah memperhitungkan keuntungan dan kerugian dari pemulangan FTF atau tidak. Dalam prosesnya, pemerintah akhirnya memutuskan untuk tidak memulangkan FTF, dengan alasan bahwa menjaga keamanan jutaan orang dari bahaya terorisme adalah prioritas nasional Indonesia. Makalah ini menemukan bahwa menerima repatriasi FTF akan mendukung upaya Hak Asasi Manusia dalam memberi mereka pengadilan yang adil jika mereka melakukan kejahatan dan itu akan mencegah mereka menjadi tanpa kewarganegaraan.

Kata kunci: HAM dan ex-ISIS; pemulangan dan foreign terrorist fighter; Suriah dan Indonesia

Introduction

The act of terroristic violence is not something that has sprung out of nowhere anyplace in the world. Terrorist attacks date back to the last decades of the nineteenth century (Febriane 2023). There are now at least thirteen terrorist organizations that pose a serious danger to international stability (Global Terrorism Index 2023, ReliefWeb 2023). "Al-Shabaab, Boko Haram, National Democratic Front of Bodoland (NDFB), Taliban, Tehreek-E-Taliban Pakistan, Uighur Separatist Groups, and Baluchistan Separatist Group" are among the 13 terrorist organizations on the list. Only ISIS, Al-Qaeda, Al-Shabaab,

Jamaat Nusrat Al Islam wal Muslimeen, and Boko Haram pose a credible threat to international security, but ISIS is often regarded as the most dangerous of the 13 organizations because of its territory, weapon system, and network, allowing it to conduct extensive membership recruiting throughout Europe, Africa, Australia, and Asia (The National 2023). An international institute which focuses on radicalization called as ICSR estimates that there are 41,490 citizens of foreign countries now fighting for ISIS (77% males, 11% women, and 11% children) (Brown 2019). The 1,328 lives lost in 2018 were directly attributable to ISIS, which is a huge drop (69% from 2017 and 85% from 2016). Although ISIS's activities and number of deaths have dropped, the effects of their acts are still being felt today (Desmonda & Christianti 2022). This is because ISIS has been able to consolidate its power by luring fighters from other countries, and its assaults have the ferocity of a prolonged war.

Since the USA and its coalition partners declared that the Islamic State of Iraq and Syria had been definitively vanquished, the international community has been debating the entry of FTFs in Syrian war particularly about their repatriation to their home countries. Although participating in international wars is nothing new, the scale of responses to this trend in recent years is unprecedented (Duffy 2018). Since 2014, questions over what authorities should do with FTFs from their states along with their families have also become more important but problematic as the terrorist organization has relinquished considerable influence and command of its territory known as "Caliphate" (The Guardian 2019). States have used a variety of strategies and judgments to address the problem of FTFs in jails and camps having refugees since it poses unanticipated difficulty (European Parliament 2018). Despite appearances to the contrary, there is a universally applicable approach that states must follow in line with standards established for protecting human rights internationally.

As a result, it's fair to wonder what options governments have for dealing with FTFs. Governments, in light of the need of adopting long-term solutions to deal with this danger, must ensure that whatever approach they choose to execute is in line with their obligations under the legal framework protecting human rights. Indonesia is also among those origin countries whose citizens have fought in Syria as FTF. Leaving for Syria or to join ISIS among Indonesians began around 2012's end. There has been a massive influx of refugees into Syria ever since the head of the ISIS terrorist organization named as "Abu Bakr Al-Baghdadi" declared a state known as "Caliphate" in 2014. According to the National Counterterrorism Institute of Indonesia (BNPT), 1,321 Indonesian citizens defected to ISIS in 2017. It is estimated that 594 are still in Syria and Iraq while 84 have already died (Kristiani & Rahayu 2020). Those Indonesian residents who are still present in Syria are becoming an increasing source of concern in recent days. Especially with the question of their repatriation, a significant amount of debate going on in Indonesia.

Since the debate started that FTFs will not be repatriated from Indonesia, according to the Indonesian government, it has raised a lot of concerns. Mahfud M.D., one of the government's cabinet ministers, has stated that the government and state must take measures to protect Indonesia's 267 million citizens from the threat of terrorism. He said that the state of Indonesia would work to gather more in-depth data on how many residents of Indonesia are suspected of joining ISIL. The Government will decide how to handle this situation for children who are less than 10 years old on an individual basis. According to CIA statistics, 689 Indonesian nationals have joined ISIS (Office of Assistant to Deputy Cabinet Secretary for State Documents & Translation 2020).

Nevertheless, the president of Indonesia, Joko Widodo, preferred carefully weighing the benefits and drawbacks of repatriating former ISIS members from Indonesia (Windarty 2020). It is definitely risky to bring back FTFs who have been associated with ISIS, and complete security cannot be guaranteed. Returnees may launch assaults utilizing their fighting expertise and earlier experiences if they are not adequately supervised (Jenkins 2014). Nonetheless, it might be argued that the hazards are considerably higher if nothing is done. Especially in Southeast Asian nations like Indonesia, where ISIS activity has increased (Hikam & Munabari 2022). Thus, a controlled returning of FTFs with their families is preferable than allowing FTFs to be released, escape from prison, or join other terrorist groups in the future (Paulussen & Mehra 2019). This article intends to make a critical analysis of the Indonesian government's latest debate concerning the return of FTFs, from the perspective of human rights law.

Human rights may be defined as the range of actions, circumstances, and freedoms that are inherently granted to all individuals, irrespective of their social or legal standing, just based on their shared humanity, based on the context mentioned above.

In this portion, the author provides search results related to the subject under investigation, which is Indonesia's attempts to counter the dispute of returning FTFs in the Syrian war. This is done to trace the breadth of prior scholars' or researchers' study on the subject. By looking through current related academic articles, authors might discover fresh analyses that highlight innovative issues that have never been considered previously. It is not a recent occurrence for Indonesian people to participate as FTFs. Extremism and radicalization are a persistent problem in Indonesia. In the 1980s, some Indonesians went to Afghanistan to fight with the Mujahideen against Soviets. Groups of such people eventually founded terrorist organizations in the state of Indonesia, such as the "Jeemah Islamiyah." They saw Suharto's liberal policies as obstacles to establishing Sharia in Indonesia; therefore, many of them went to Afghanistan to get jihad training so they could return and fight for Islam at home (Solahudin & McRae 2013). After completing their training, the majority of them returned to their families and immediately began plotting and committing acts of terrorism such as the terrorist attack in Bali. FTFs from Indonesia also traveled during the War in the Balkans in order to join forces with Bosnian Muslims. These warriors travelled to Bosnia in order to do so. In addition, there is evidence that some individuals from Indonesia are taking part in the Moro uprising that is now taking place in the Philippines. It is known that these Indonesians have fought with extremist units like the "Abu Sayyaf" organization and the "Moro Islamic Liberation Front" (Raza 2023).

First, in their article entitled "The Repatriation of Foreign Terrorist Fighters in Indonesia: Its Dilemma and Debates" Rachma et al. (2022). make a critique about the Indonesian repatriation program. They argue that the deradicalization program by BNPT needs to be improved, because mostly conditions to keep the repatriated foreign terrorist fighters are not favorable, such as prisons. Overall, they mentioned about risks of bringing the foreign terrorist fighters back to Indonesia. The process of deradicalization, sometimes referred to as counter-radicalization, is a comprehensive and strategic endeavor aimed at mitigating the influence of radical terrorism on individuals or organizations. Its primary objective is to impede the propagation of radical terrorism. The process of deradicalization by BNPT continues to exhibit several deficiencies, leading to suboptimal outcomes and a failure to effectively address the root causes of radicalization. Consequently, there have been instances of recidivism among some former convicts, as shown by the example of a suicide bombing event in Bandung (Hasibuan 2023). Secondly, the article entitled "Indonesia Obligation to Repatriate Nationals Who Had joined the Islamic State of Iraq and Syria" by Widhiyanti & Medianto (2022) digs into the heated argument over whether or not Indonesia has any responsibility for the participation of its people into ISIS and their status as Indonesian nationals. This study, grounded on normative legal analysis, seeks to clarify the state's obligations in this matter and recommend reforms to better facilitate the return of its citizens. According to the findings, Indonesians who have joined ISIS qualify as FTFs.

Third, the article entitled "Politik Hukum Kewarganegaraan Indonesia: Studi Terhadap Status Warganegara Yang Menjadi Foreign Terrorist Fighters (FTF) ISIS" by Kustiwa et al. (2023) examines Indonesia's citizenship policy for FTFs and possible measures based on current legislation. Literature analysis gathers facts for the normative juridical research. Human rights law states that the state may only withdraw citizenship after a judicial ruling. Citizenship is a basic right, thus the state must recognize, respect, preserve, facilitate, and fulfil it. To handle former FTFs' citizenship status, the National Counterterrorism Agency's government institutions and law enforcement officials should improve deradicalization performance and collaboration.

These publications have something in common with this research since they both highlight the returnee FTFs' initiatives, security risks and laws. However, this study focuses on the FTFs from Indonesia who went to Syria and are now facing different problems there such as unfair trials in local courts, food crisis and many other violations of human rights. This study will make a critical analysis of Indonesia's government decision not to repatriate those FTFs back to their hometown through the lens of the basic rights of humans.

Furthermore, the first section of this article examines whether governments of origin are required by international law to return FTFs who have previously been affiliated with ISIS, whereas the second part takes a human rights lens to the options governments of origin have for tackling ISIS FTFs. This paper has drawn on a variety of published primary and secondary sources, including research articles, newspaper reports, book chapters, and documents relevant to the research topic. Therefore, it is anticipated that this study will serve as a reference, particularly for stakeholders' policy makers who are involved in matters pertaining to the preservation of human rights. The findings of this study will be crucial if the government is asked to defend the human rights of its constituents. In the meanwhile, these individuals are either affiliated with or members of terrorist and separatist organizations, which obviously poses a threat to the stability of the nation's security.

The overall goal of this study was to further the field of human rights studies by providing new insights and insights. Additionally, the purpose of this study was to investigate how the Indonesian government formulates policies in the face of human rights violations and national security requirements.

Research Method

This study was carried out utilizing qualitative research methodology. To investigate and comprehend a key phenomenon, qualitative methodologies might be applied. This approach may alternatively be viewed as a method with research output that thoroughly describes the phenomena or subject being examined. In order to simplify the analysis, this research separates the dependent and independent variables. The decision made by the Indonesian government regarding the repatriation of Indonesian nationals who had previously been members of ISIS becomes the dependent variable or unit of analysis. Meanwhile, the violation of human rights due to Indonesian government's decision about returning Foreign Terrorist Fighters is the independent variable or unit of explanation in this research.

The data utilized in this research are secondary data gathered from already-existing sources including books, newspapers, and government records. In order to comprehend policy, such as the government's policy of denying the repatriation of ex-ISIS Indonesian nationals in 2020, these data are handled and told.

Results and Discussion

The debate of Indonesia toward the FTFs from their country in not to repatriate is quite contradictory with regard to international human rights law and vulnerable for a country's safety. As a result of ISIS's territorial loss, a lot of FTFs with families are trapped in overcrowded camps or prisons in Iraq and Syria, where they have limited access to food and medical care (Weine et al. 2022). A report by Habibie center claims that around 639 Indonesian citizens who are still in Syria and Iraq joined ISIS as a foreign terrorist fighter and haven't yet repatriated (The Habibie Center 2019a). Weixiong Chen raised concern about the delayed rate of repatriation of FTFs with ties to ISIS, who are still captive in jails and detention camps in the northeastern part of Syria. He issued a warning that these circumstances provide Da'esh chances to recruit and promote terrorism (United Nations 2023). In reality, similar occurrences have already happened when hundreds of ISIS fighters allegedly broke out of Syrian jails (Loveluck & Cahlan 2022). Thus, it is necessary for authorities worldwide to cooperate in order to secure national borders and stop future terrorist acts (Gohel 2020). The Indonesian minister, Mohammad Mahfud MD, announced in 2020 that they have authenticated over 228 camp residents. These refugees' living circumstances began bad but have worsened. Poor sanitation, shortage of water and food, and diseases including measles and diarrhea have plagued these camps since 2019. IS activity has also increased due to the SDF's personnel shortage. ISIS is reportedly sneaking out juvenile recruits, assaulting those who want to return home, and inciting riots. Countries ignoring camp conditions will deepen the problem (Satria 2022).

Foreign terrorist fighters: explanations, trials, and human rights violations

Explanation of FTF

Under international law, Foreign Fighters are not uniformly defined. For the purposes of this paper, we will use the following explanation of "Foreign Terrorist Fighters," people who leave their home country

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to conduct terrorist actions, plan or prepare for terrorist activities, or engage in violent extremism, including terrorism, terrorism financing, and terrorism recruiting especially within armed conflict framework as explained under UNSC 2178 (2014) (ICCT 2023). The United Nation Security Council has passed new resolutions, namely UNSCRs 2368 and 2396 which impose new requirements. Member States must establish effective strategies, conduct investigations into allegations of war crimes by their nationals, and guarantee that their nationals are handled in conformity with applicable human rights legislation. In order to comply with international law, notably the norm of non-refoulement, governments are obligated to collaborate with charitable organizations and carry out repatriations in accordance with such organizations’ missions (UN Security Council 2017).

States have reacted in a wide range of ways to the homecoming of FTFs along with children who were held with them in Syria and Iraq. The repatriation policies put into place between 2018 and 2020 vary from refusing to allow nationals to return and revoking citizenship to repatriation and following programs for rehabilitation that take gender into account (Stenger 2022). While UNSCR 2178 asks for measures for the prosecution, rehabilitation, and reintegration of returning FTFs, UN Security Council Resolution 1373 emphasizes that countries have the legal responsibility to punish their people who commit acts of terrorism or war crimes. This is in accord with the perspective of the families of ISIS crime victims, who stress the need of a fair trial in bringing offenders to justice. They need to be dealt with when they return or relocate (Security Council 2014, United Nations 2014b).

States have been under pressure to return its people, with the US urging European nations to do the same with their FTFs (Stevoli 2020). Advocates for human rights believe that countries should repatriate its citizens and, if necessary, bring charges against them. Due to issues over insufficient evidence, adequate judicial procedure, prosecutorial aspects, and the primacy of law, international law does not force nations to repatriate fugitives detained in their custody. These problems may be found in international law (Stigall 2020). On the other hand, international humanitarian law acknowledges that nations have a duty to repatriate prisoners even when they are held during times of war.

Trial of FTFs in the conflict states

The first step in protecting human rights would be to ensure that FTFs be tried in national courts in states where their crimes were committed. Every independent state has special jurisdiction over the people and things that are on its territory, which is a firm principle of international law (Van der Vyver 2013, United Nations 2014a). To put it another way, every state has the authority to prosecute criminals who are suspected of committing crimes inside its boundaries. According to this “territorial theory,” the concept of criminal jurisdiction is predicated upon the geographical location where a crime or offense is perpetrated. In particular, it is referring to the authority of a state whose territory was the location of the illegal conduct in issue. This jurisdictional framework establishes the legal basis for prosecuting individuals who have committed crimes within a particular nation’s boundaries (Perkins 1971).

Since witnesses and evidence are easier to collect in local trials, it makes sense for suspects to be tried in national courts based on the territoriality principle if a legitimate and functional government exists after a war (Tanya 2017). Local Iraqi and Syrian courts have exclusive jurisdiction over offenses committed by both Iraqis and foreign fighters under this territorial model. The governments of each of these nations should, as soon as possible, take control of FTFs having connections to the Islamic State (United Nations 2014a). Although it makes sense to hold FTFs in Syria and Iraq, the nations where unlawful acts occurred, it is crucial that the trials and judicial procedures conform to norms of justice. The establishment of a fair judicial system is of utmost importance in the development of a democratic society. It serves as a fundamental pillar in fostering trust and legitimacy within the legal framework, while simultaneously upholding and safeguarding the fundamental human rights of individuals (The European Sting 2020).

Iraq and Syria inhumane trials of FTFs

Foreign Terrorist Fighters from Indonesia, probably numbering in the hundreds, are being held captive in facilities run by the Kurds. There are around 400 of the most dangerous IS militants being imprisoned

in al-Malikiyah in Syria as of the month of August 2019. Among them are five Indonesians (Jones 2019). As numerous ISIS FTFs have been punished in Iraq and Syria (The Guardian 2018) both have demonstrated a lack of motivation to successfully prosecute them as well as an incapacity to do so. There has been widespread criticism of the proceedings in Iraq, notably due to factors such as the lack of a fair trial, the brutal conditions of detention, and the use of the death sentence (Sendadi 2020). In Syria, the Syrian Democratic Force currently lacks both international legitimacy and diplomatic recognition (Cebrián 2019), making it unable of conducting fair trials.

Problem with evidence in conflict state

However, determining whether or not there is adequate proof is very difficult when the charges include events that occurred during a state of war. This is because there are few means to prove or even ascertain the actor's actions during the tense situation. Posing with weaponry and military gear is not adequate proof in and of itself; however, some returnees may choose to expose their participation through social media. Some people who have returned home choose to remain silent about their experiences. Local law enforcement organizations in Iraq and Syria are currently in no position to assist with evidence collection due to the volatile political climate. This means that neither nation may provide legal assistance to the other (UNSC 2018). Intelligence is a necessary tool for governments, but there will be challenges in translating it into credible evidence. One such worry is that the required evidence cannot be used in open court because of restrictions on its publication if it was obtained from an authorized overseas intelligence outfit (Hardy 2017).

Revoking nationalities

Another alternative that is utilized by the states to halt repatriating of FTFs to their homelands is by using various legal, administrative, or operational measures. This option is chosen by many states, but is not seen as resolving the issue by many others. To prevent individuals from returning home, their nationalities have been stripped from them, or technical challenges to the authenticity of their original citizenship have been raised (Hoffman et al. 2020). An argument to revoke their citizenship is also arising in the context of Indonesians returning from Syria who supported ISIS. This option pertains to rules on passport cancellation for Indonesian nationals taking part in armed training or hostilities abroad (Khadafi 2016). This claim was made by individuals who oppose the return of ISIS sympathizers from Indonesia (The Habibie Center 2019b).

Both Canada and Australia have implemented very similar policies. Citizenship can be revoked from a person in accordance with the law of Australia, if that person has been convicted of specified acts of terrorism or other crimes against the state, if that person has served in the troops of a state that is at conflict with Australia's territory or an organization that has been designated as a terrorist group or if that person has committed specified acts of terrorism or other crimes against the state. FTFs from Indonesia who leave the country will lose their citizenship. Indonesian citizenship loss is controlled under chapter IV of the Republic of Indonesia. According to Article 23 d of Law Number 12 of 2006 on Citizenship of the Republic of Indonesia, an Indonesian citizen loses citizenship if they enter foreign military service without prior permission from the President. This applies to FTFs from Indonesia: FTFs become stateless after losing citizenship (Mutaqqim 2020). A person's citizenship may be revoked under Canada's Enhancing Canadian Citizenship Act of 2014, much as it can be under the same law in the United States, if they have participated in military forces or organized armed organizations that have engaged in armed warfare against Canada, or if they have been convicted of committing a terrorist act. On the other hand, in 2017, a new government took office and eliminated these provisions (Williams 2017).

Violation of human rights with regard to revoking nationality

All of the aforementioned actions have a significant negative influence on basic human rights which include the freedom to go around as one pleases. In addition to being against contemporary international law, such actions are seen as ineffective and even counterproductive in the fight against terrorism. Decisions made in secret, absentia, or based on ill-defined criteria without the necessary protections to

avoid statelessness will raise questions. In the premise of universal basic human rights, it establishes that each and every individual has a legal entitlement to a citizenship and safeguards against the unlawful revocation or suspension of such status (UNHCR 1961) which limits the circumstances under which an individual may be properly denied of citizenship if such deprivation results in being stateless. Regarding this complication, human rights activists agree that limiting someone's ability to return home is only acceptable in exceptional circumstances. None of the governments has the authority to take away a person's citizenship or send them to a different state as way to hinder them to return to their native land, since this violates international law (OHCHR 2020).

Repatriation and prosecution in home state

Repatriation and prosecution are also taken into account when determining a country's future safety interests. It has been previously noted that the home state of the FTFs has a number of challenges in accepting their return. Possibility of dangerous people being released has grown due to this circumstance and the SDF's indication that they are unable to keep keeping captured fighters. If thousands of ISIS prisoners manage to escape, they may pose direct threats to the international community by launching terrorist attacks in their home countries (Ridgwell 2019). The aforementioned condition poses a significant challenge in developing a comprehensive approach to address the multitude of face-to-face interactions (FTFs). Henceforth, the ultimate and highly favored course of action entails repatriating FTFs and subjecting them to a just and impartial legal process within their respective countries of origin (Paulussen 2019).

A hands-off approach in this circumstance will only increase the potential threat. Repatriation, along with the chance of punishment and recuperation, is the sole legitimate and moral option for ensuring the long-term security of society; keeping foreign fighters in Syria raises security issues (Cuyckens & Paulussen 2019). The repatriation and punishment of nationals by various countries, including the United States, the United Kingdom, Germany, Tajikistan, and Australia, has been observed as a notable manifestation of their commitment. This stands in contrast to the prevailing approach of certain nations, which primarily focuses on the repatriation of children from conflict zones, considering them as victims deserving of protection. Uzbekistan, one of the conflict-prone countries, is cognizant of the risks and repercussions of inaction. They also understand that poor management of the issue might affect the government when FTFs return. Hence, several nations have returned and reintegrated their nationals.

When it comes to the prosecution process, anti-terrorism activities, which entail the exchange of information and materials among overseas collaborators, become essential. This is because evidence gathered on the battlefield is essential to the priorities of a wide variety of national security concerns (Country Reports on Terrorism 2019). Under U.N. auspices, the Investigative Team of the United Nations to Promote Accountability for Crimes Committed by ISIS (UNITAD) has done significant work to aid national efforts to hold ISIS accountable for its terrorist activities. When FTFs are repatriated, governments may use information sharing to better collect evidence for investigations and prosecutions. Furthermore, international organizations such as the U.N. Counter-Terrorism Committee Executive Directorate (CTED) and the International Institute for Justice and the Rule of Law (IIJ) have produced recommendations on the efficient use of battlefield evidence to assist governments wanting to utilize such records in civilian criminal justice settings for the purposes of interdiction, investigation, arrest, trial, and conviction of terrorists (United Nations 2014c).

Nonetheless, it is definitely risky to repatriate FTFs who have joined ISIS, and complete security cannot be guaranteed. Returnees may launch assaults utilizing their fighting expertise and earlier experiences (Marone 2019). It might be argued, however, that the consequences are considerably higher if nothing is done. There is a danger in ignoring the issue of FTFs. Everything points to the fact that ISIS is still a potent threat, able to morph and restructure in order to stay one step ahead. Opponents have pointed out that, by not repatriating, prosecuting, and reintegrating returns, vital information might be lost. Valuable FTFs may include data on ISIS management, architecture, and strategy. Further, people who return disillusioned might be influential voices speaking out against the group (UNDP 2020). Therefore, allowing them to return with their families under strict regulations is preferable than letting FTFs out of prison or letting them form new terrorist groups (Paulussen & Mehra 2019).

Viewpoint on pro-repatriation

The debate has revolved on the idea that leaving citizens in Syria runs the danger of their dying or becoming foot soldiers for another terrorist group, while bringing them home runs the risk of bringing back individuals who may become radicalized, radicalize others, or perhaps engage in violent extremism. Similar to Australia, the majority of developed nations have so far found a solution to this conundrum by only allowing those who are considered to be the most susceptible to return, only after carrying out stringent security checks, often being held upon their return, and being constantly monitored if they are not in prison or after they have been released from jail (Koser & Loga 2022). Trump's administration supported repatriation. According to George Washington University's Program on Extremism, around twenty-eight American ISIS militants and their families have returned. A State Department spokeswoman informed FRONTLINE that President Joe Biden would do the same. The State Department reports that 12 individuals of the 28 returnees hold terrorist charges. In an email to FRONTLINE, the State Department encouraged nations to return foreign terrorist combatants and dependents from Syria and Iraq.

The US thinks repatriation, prosecution, rehabilitation, and reintegration are the best ways to keep combatants off the battlefield and handle the humanitarian situation in detention facilities and IDP camps in northeast Syria (Hassan 2021). U.S. Central Command chief General Michael "Erik" Kurilla issued a warning to lawmakers about ISIS: the evil ideology of ISIS is unchecked. Despite losing its top commanders in 2022, ISIS was capable to increase its global influence, notably in Africa as well. Moreover, he mentioned the ten thousand ISIS militants now in custody and a number of many Syrian youngsters living in refugee camps as two potential dangers. ISIS prisoners cannot be solved militarily, Kurilla stated in March, after visiting northeast Syria: "We and our partners must continue to keep them safe alongside collaborating with their home countries to repatriate and rehabilitate them or find a prosecutorial road forward" (Wilson Center 2023).

Yet, despite the fact that many people support the repatriation in Indonesia, Chairul Anam, the Indonesian Human Rights Commissioner, urges the government return those former ISIS members who are Indonesian (Taher 2020). He maintained that there is no legitimate justification for the government to prevent the return of its citizens. Based on their different contributions to the ISIS effort, he thought Indonesian citizens might welcome former ISIS members. Noor Huda, the founder of the Center for International Peace Building, sees this issue as a possibility for the government to learn reliable information on terrorist groups (Hastanto 2020). In order to fight back against terrorism, a deeper grasp of the terrorist group's information, plan, or actions is necessary. Widagdo et al.'s (2021) research about FTFs who are still in Syria and Iraq found that the repatriation and prosecution within the home state is better rather than not to let them to come back home for prosecution within conflict states. In other words, the greatest solution to this issue is to reduce the number of detainees by repatriation (Widagdo et al. 2021). Another member of the Indonesian National Commission on Human Rights, Beka Ulung Hapsara, told in an interview with VOA that the Indonesian government must take into account international human rights laws when dealing with the former IS fighters and their families. This is especially true when it comes to the children, who will be evaluated under the United Nations Convention on the Rights of the Child. The United Nations Human Rights Council includes Indonesia as a member state. Hapsara, using an alternative name for Islamic State, said that it was appropriate for Indonesia to promote U.N. Human Rights principles in dealing with ex-ISIS Indonesians (Madrin & Hussein 2020).

Sidney Jones, who is senior advisor at International Crisis Group in Indonesia and made a research about returning FTFs from Indonesia in Syria, suggested that the Indonesian government should immediately begin working toward the repatriation of those considered to be vulnerable from the Syrian refugee camps, beginning with a small number of families as a trial project and then expanding and simplifying the program as it proceeds. Some of the most difficult questions can be tackled at a later time, such how to deal with high profile captives including youngsters and female hostages who held important roles within the ISIS hierarchy as propagandists, safehouse supervisors, instructors, or doctors. On their return, these individuals are quite likely to face criminal charges (Jones 2019).

In light of the discussion above, the international community and the persons in question would be wise to implement a system of monitored and overseen repatriation, prosecution, rehabilitation, and reintegration. In addition, all international stakeholders should react in like by working together to deal with the reappearance of FTF as a global problem (Taher 2020). In addition, all international stakeholders should react in like manner by working together to deal with the reappearance of FTF as a global problem (Marone 2019). States must prevent their citizens from engaging in privately motivated, externally directed violence—applies equally to foreign fighters who join terrorist (Hastanto 2020) organizations with the intention of later participating in domestic terrorism as well as those who only intend to fight against terrorist organizations (John 2020).

The discussion of this study produces practical implications, namely the Indonesian government's decision to refuse repatriation of FTFs might be said to be in violation of rules of international law. Indonesia, as a recognized international legal entity, has the responsibility of adhering to fundamental values such as non-refoulement, statelessness, and the right to enter one's country. Upholding these commitments is crucial for the promotion of human rights and the preservation of global peace. The fulfilment of certain commitments is indicative of Indonesia's adherence to its state responsibilities. Therefore, it is incumbent upon the Indonesian government to devise suitable strategies for facilitating the repatriation of individuals associated with ISIS, often referred to as foreign terrorist fighters. This process should take into account both the security concerns of the Indonesian populace and the country's duties as a member of the global community (Widhiyanti & Medianto 2022). To effectively streamline the repatriation process, it is imperative for the Indonesian government to develop appropriate strategies for managing individuals who have affiliated with ISIS from foreign nations.

This necessitates considering both the security apprehensions of the Indonesian citizens and the responsibilities that arise from Indonesia's membership in the global community. The first practical step is to do a risk and needs analysis of FTFs. It's essential for anyone on either side of the FTF network's crime. Experts in the domains of forensics and health should work together to conduct risk and needs assessments. Before the FTF return to their home country, assessments must be conducted overseas, with the help of organizations like ASEAN Polkam, the Indonesian Embassy because BNPT is the main sector. Moreover, the FTF Task Force is empowered to undertake necessary measures in anticipation of any repatriation efforts by the Indonesian government, as stipulated in Ministerial Decree Number 90 of 2023 about the Task Force for Security and Handling of Indonesian Citizens Abroad (Martiar 2023). Moreover, to cope with the issues of deradicalization, the government should establish Rehabilitation and Deradicalization Centers at Indonesian Embassies in Syria, Iraq, the Philippines, Turkey, and other countries in close proximity to Indonesian refugee camps. The Rehabilitation and Deradicalization Center can also collaborate with ASEAN nations or their embassies abroad (for instance, in the SOMTC Forum). The establishment of a Rehabilitation and Deradicalization Center at the Indonesian Embassy is one of the proposed solutions, as it has numerous benefits (Indrawan 2023).

Conclusion

The line of reasoning shown above leads one to the conclusion that nations have utilized a variety of controversial techniques to deal with returning FTFs, despite the fact that some of these strategies are desirable from the point of view of human rights. The first strategy involves making certain that members of FTFs are charged with crimes and brought before national courts in Syria and Iraq, where they will be guaranteed of a fair trial. But, given that both organizations have shown a reluctance and an incapacity to successfully prosecute the thousands of ISIS militants they have seized, it is uncertain whether FTFs will be given fair trials. Both the ICC and an international tribunal are alternatives for preventing impunity and ensuring fair trials, but each approach has its own drawbacks. Given the tiny number of FTFs who would be charged, issues are also presented by the idea of establishing an international tribunal.

The last option involves aggressively pursuing FTFs in the countries where they were born and raised after they have been repatriated. Because it ensures fair trials and takes into consideration the ethical and sustainable security interests of states as well as interests of the worldwide as a whole, it is seen as the most effective approach to preventing people from becoming stateless. For Indonesia, information

sharing and state cooperation might provide full security while also conforming to the worldwide human rights conventions for repatriation, prosecution, rehabilitation, and reintegration. Moreover, the deradicalization program by BNPT as well as the law to deal with returnee FTFs also needs to be improved.

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