



# Women and Children First: Repatriating the Westerners Affiliated with ISIS

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# Principal Findings

**What's new?** Alongside the thousands of foreign fighters detained in north east Syria are thousands of non-Syrian children and women. Western governments have for months publicly wrestled with political and policy qualms about repatriating their nationals. Turkey's incursion into Syria highlights that the window for repatriation or transfer could close suddenly.

**Why does it matter?** The long-term detention of these men, women and children in north east Syria has always been deeply problematic for security and humanitarian reasons. The Turkish incursion and shifting balance of power in the region makes the security of the camps where they are held more precarious.

**What should be done?** As a first step toward addressing this challenge, Western governments should accelerate repatriation of their national children and women. They should recognise the diversity of women's backgrounds and repatriate those who are unthreatening. They should also pour substantial diplomatic and financial resources into developing responsible options for the remaining population.

## *Executive Summary*

Tens of thousands of detained foreign men, women and children associated with ISIS in Syria's north east pose a formidable challenge for both their governments of origin and the region in which they are housed. Paralysed by domestic politics and insecure about their capacity to prosecute and police returnees, Western governments have failed to repatriate roughly 1,450 individuals within this population who are their nationals, while the humanitarian and security situation in the camps where women and children are held has gone from bad to worse. Now, Turkey's incursion into Syria underscores that Western governments could lose the opportunity to repatriate their citizens at will, but they still have a window to remove many of their nationals. Detaining and repatriating Westerners associated with ISIS carries risks and challenges that vary for men and women, but the ongoing and unresolved presence of both in the region is a stark problem, and the unattended fate of their children an egregious humanitarian oversight. States should move out all of their nationals, starting with women and children.

For nearly a year, the Syrian Democratic Forces (SDF) – an umbrella force including Kurds and Arabs, led by the Kurdish People's Protection Units (YPG) – have guarded roughly 13,500 detained foreign women and children in three makeshift camps in Syria's north east. A smaller number of male foreign fighters – perhaps 2,000 – are held in a separate prison network. Field research focusing on the largest of the camps for foreign women and children, al-Hol, reveals a picture of squalor, sexual abuse and endemic violence.

Governments outside the region have approached their nationals' repatriation in very different ways. Russia, Malaysia, Uzbekistan and Kosovo have made concerted efforts to begin repatriations, although hundreds of their nationals remain. North African countries such as Morocco and Tunisia have done little. Also lagging are Western governments – particularly EU member states, Canada and Australia – which as of October 2019 had brought home only roughly 180 (110 of these by Kosovo). Torn by internal debates and divisions, they have neither taken effective measures to alleviate suffering in the camps in the short term, nor steps that would enable them to repatriate and, where appropriate, prosecute their nationals in the longer term.

Meanwhile, the rapidly unfolding events of October 2019 have demonstrated just how precarious security is in the region where the detainees are housed. Although the SDF has retained control over the camps and prisons (chiefly by deploying YPG fighters) and the U.S. – after first announcing its withdrawal – has chosen to keep nearly 1,000 troops deployed near eastern Syria's oil fields, the balance of power has shifted. In the face of the announced U.S. withdrawal and Turkish incursion, the SDF has reached a military agreement of sorts with Damascus, raising concerns that the Syrian regime – which is widely and credibly alleged to have committed atrocities against prisoners in its custody – might assert authority over the camps.

So what to do? Ideally, all non-Syrian governments that have nationals in detention in Syria would repatriate them, relieving this war-scarred region of a burden it is ill-equipped to handle, ending a humanitarian crisis that taints all associated with it, and mitigating a range of security risks from adults escaping to children radicalis-

ing amid the hopelessness of the camps. But within this group some governments are better equipped than others to take the lead. Western governments – with their greater resources and fewer numbers of detainees – are arguably chief among them. Less apparent is what might make these governments revise the cold calculations by which they have already stranded hundreds of their nationals in Syria's north east.

The most viable approach may be to divide the population, and put women and children at the front of the repatriation queue. While officials may feel there is no politically palatable way to bring home men – most of whom were fighters, and some of whom will be difficult to imprison because of prosecutorial and evidentiary challenges – children appropriately benefit from a presumption of innocence, and women are a diverse group. Their roles varied, with a significant number uninvolved operationally. Although there may be some militant and operationally experienced women whom Western governments decide they will not take, the goal should be to keep that number to an absolute minimum. Up to this point, most Western governments have done the very least they could get away with in terms of repatriations; they should instead be stretching to do the most.

As for those who cannot be brought home, the situation in Syria remains too dynamic, and other possible dispositions in the region (including in Iraq) too fraught from both a security and a human rights perspective to make a definitive recommendation. Western governments will need to work with all interested parties to explore the possibility of developing legitimate justice mechanisms, obtain credible treatment assurances and build facilities where detainees can be securely and humanely held. If not, repatriation may be the only option. Regardless of the obstacles they face, the countries whose nationals came to fight for ISIS cannot responsibly wash their hands of them. Nor can they meet the challenges that they pose by continuing to look away.

**London/Istanbul/Beirut/Al-Hol, 18 November 2019**

# Women and Children First: Repatriating the Westerners Affiliated with ISIS

## I. Introduction

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A series of events over the course of October 2019 upended the balance of power in Syria's north east, where a network of Syrian Democratic Forces (SDF)-administered camps and prisons houses tens of thousands of ISIS fighters and their families, including thousands of non-Syrian nationals.<sup>1</sup>

In the days following a 6 October 2019 phone call between U.S. President Donald Trump and Turkish President Recep Tayyip Erdoğan, the U.S. announced that it would withdraw its forces from Syria's north east and Turkey launched an offensive into the region, quickly asserting control over a roughly 120-kilometre-long cordon running along the Turkey-Syria border. Although the U.S. decided mid-month not to pull entirely out of the north east – it will instead concentrate troops in the east near the oil fields of Hasakeh and Deir al-Zour – it did so only after the SDF had forged a tactical understanding with Damascus for its own survival, and a backlash mounted against Washington's decision.

The deal the SDF struck resulted in new deployments of Syrian military forces along the Syrian-Turkish border and the line of contact where Turkish troops and their Syrian partners had advanced into Syrian territory. That deal was limited to a joint defence of the border against further Turkish advances; it postponed any agreement on the administration and security of SDF-held areas in Syria's interior.<sup>2</sup> A Russian-Turkish deal struck on 22 October 2019 explicitly agreed to deploy Syrian forces to areas beyond the scope of Turkey's initial incursion to remove Kurdish People's Protections Units (YPG) elements from the area, together with Russian troops.<sup>3</sup>

For the time being, the SDF and YPG retain de facto control of most of the prisons and camps in north east Syria, and the U.S. has pledged to continue helping it do so. But the SDF arrangement with Damascus did not explicitly include this arrangement, and the situation is hardly stable. While U.S. Secretary of Defense Mark Esper has said the U.S. will continue supporting the SDF's role administering the camps and prisons – even suggesting that oil revenues might be a source of funding – this support is only as firm as President Trump's commitment to it.<sup>4</sup> But Trump has made clear on multiple occasions his desire to bring all U.S. troops home from Syria as well

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<sup>1</sup> "Stabilising the Shaky New Status Quo in Syria's North East", forthcoming Crisis Group Briefing.

<sup>2</sup> Ibid.

<sup>3</sup> Article 5 of the 22 October 2019 Russian-Turkish memorandum of understanding states: "Russian military police and Syrian border guards will enter the Syrian side of the Turkish-Syrian border, outside the area of Operation Peace Spring, to facilitate the removal of YPG elements and their weapons to the depth of 30km from the Turkish-Syrian border". This area refers to the 140km stretch between the border cities of Tel Abyad and Ras Al-Ayn.

<sup>4</sup> "Press Conference by Secretary Esper at NATO Ministerial", 25 October 2019, [www.defense.gov/Newsroom/Transcripts/Transcript/Article/1999660/press-conference-by-secretary-esper-at-nato-ministerial-brussels-belgium/](https://www.defense.gov/Newsroom/Transcripts/Transcript/Article/1999660/press-conference-by-secretary-esper-at-nato-ministerial-brussels-belgium/).

as his resentful perception that European governments have been refusing to repatriate their nationals while freeloading on the U.S. presence in north east Syria to manage their detention.<sup>5</sup> Trump aired, alongside these grievances, his view that Turkey should “with Europe and others, watch over the captured ISIS fighters and families”.<sup>6</sup> Another impulsive decision like that of 6 October is hard to rule out. The SDF’s partnership with Damascus could also be consequential if it gives the Syrian regime – notorious for its abuse of prisoners – a greater say in administering these camps.

Though the SDF has to date secured the camps and maintained order, for now only deploying YPG fighters as guards, that may not last. New Turkish attacks could draw more of its forces north to the border, or Damascus and the SDF could come to blows over political and security arrangements in the north east. ISIS has also focused on the plight of women and children in the camps in its messaging; now-deceased ISIS leader Abu Bakr al-Baghdadi invoked their hardship in his last audio address.<sup>7</sup> ISIS fighters still on the loose could attempt to operationalise that rhetoric and target the camps.

As the situation in north east Syria becomes ever more precarious, this report offers recommendations for how one group of governments that has been slow to claim responsibility for its nationals – Western governments comprising EU member states, Canada, and Australia – can alleviate the detention crisis, starting with a push to repatriate women and children. It focuses on these governments both because their resources put them in a relatively strong position to face this challenge, and because common political and legal contexts make them amenable to common recommendations.

In seeking to argue both the humanitarian imperative for and political feasibility of a repatriation strategy that starts with women and children, the report draws from field work done at the al-Hol and Roj camps in north east Syria. It also draws on interviews with humanitarian activists, and government officials in the U.S., UK, France and Germany conducted between June and October 2019, as well as on Crisis Group’s prior reporting on Syria, surrounding countries, and ISIS activities in the region.

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<sup>5</sup> Trump tweeted the U.S. “captur[ed] thousands of ISIS fighters, mostly from Europe. But Europe did not want them back, they said you keep them USA! I said ‘NO, we did you a great favor and now you want us to hold them in U.S. prisons at tremendous cost. They are yours for trials.’ They again said ‘NO,’ thinking, as usual, that the U.S. is always the ‘sucker,’ on NATO, on Trade, on everything”. Tweet by Donald J. Trump, @realDonaldTrump, 1:40pm, 7 October 2019.

<sup>6</sup> Tweet by Donald J. Trump, @realDonaldTrump, 5:38pm, 7 October 2019.

<sup>7</sup> Al-Baghdadi called on ISIS fighters to strive to free ISIS families in detention and highlighted the suffering of women in the camps. Asaad Almohammad and Haroro Ingram, “Say upon them to strive: A speech by Abu Bakr al-Baghdadi”, The George Washington University Program on Extremism, 16 September 2019, <https://extremism.gwu.edu/sites/g/files/zaxdzs2191/f/Blog%20Post%201.pdf>.

## II. Inside the Camps, A Humanitarian Crisis

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The camps and prisons that house ISIS fighters and their families are arrayed across Syria's north east. Women and children have been housed at camps in al-Hol, Roj and (until recently) Ain Issa. Men are imprisoned in a network of separate facilities. Precise figures are difficult to come by but al-Hol is estimated to hold by far the largest population with 70,000, of whom roughly 30,000 are Iraqi and 11,200 are foreigners from 54 different nationalities.<sup>8</sup> At Roj, near the town of Qamishli, the aggregate figure is 1,700, of whom 1,200 are foreign.<sup>9</sup> Ain Issa, 45km north of Raqqa, was home to 12,900, including 950 non-Syrians, until inhabitants of its "isolation unit" housing foreigners scattered after coming under fire during the Turkish incursion. A very small number of its inhabitants were reportedly transferred to al-Hol with Turkish detainees removed to Turkey, and the rest remain unaccounted for.<sup>10</sup> Of the 10,000 male ISIS fighters imprisoned in the area, approximately 2,000 appear to be non-Syrian or Iraqi.<sup>11</sup>

Al-Hol has achieved particular notoriety both because of its size and because of the conditions there. Built to house around 10,000 people, its numbers swelled after the SDF and the U.S.-led coalition routed ISIS from its last stronghold in Baghouz in early 2019, and tens of thousands of women and children fled the fighting. The conditions at the camp's "foreigner annex", an area constructed to allow the YPG to detain over 11,000 women and children apart from the camp's general population, have been egregiously poor virtually since the outset. The Baghouz influx meant large numbers of women without strong ideological commitments were obliged to live in tight quarters alongside a sizeable cohort of committed militants in the annex, establishing conditions that were ripe for abuse and intimidation.

Even before the Turkish incursion, security at al-Hol was precarious, leading to disruptions in service delivery and medical care in the foreigner annex, which in turn stoked anger and tension. Violence escalated by the day, with daily breakout attempts and regular confrontations among displaced women, and between women camp officials and aid staff. Accounts of disappeared and detained male children taken away to separate "deradicalisation" facilities were rife, and aid groups have documented cases of sexual abuse of women and sexual violence against children.<sup>12</sup> In just one week at the al-Hol annex in late September, two women were shot dead by guards after an armed confrontation (women appear increasingly able to smuggle firearms into the annex), and the bodies of two other women turned up, reportedly after they

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<sup>8</sup> "Camp and Informal Site Profiles: Northeast Syria, April-May 2019", Reach Initiative, p. 9; "Bringing ISIS to Justice: Towards an international Tribunal in North East Syria", Rojava Information Centre, July 2019, p. 14.

<sup>9</sup> Reach Initiative, *op. cit.*, p. 63; Rojava Information Centre, *op. cit.*, p. 14.

<sup>10</sup> Reach Initiative, *op. cit.*, p. 33; Rojava Information Centre, *op. cit.*, p. 14. Crisis Group interviews with YPG officials, al-Hol, October 2019.

<sup>11</sup> "Operation Inherent Resolve: Lead Inspector General Report to the United States Congress", U.S. Department of Defense, August 2019, p. 5, [https://media.defense.gov/2019/Aug/09/2002169448/-1/-1/1/Q3FY2019\\_LEADIG\\_OIR\\_REPORT.PDF](https://media.defense.gov/2019/Aug/09/2002169448/-1/-1/1/Q3FY2019_LEADIG_OIR_REPORT.PDF).

<sup>12</sup> Crisis Group interviews with humanitarian staff of two aid organisations and one UN agency, June, September and October 2019.

were sentenced to death in a makeshift tent Sharia court set up by militant women acting as community enforcers.<sup>13</sup>

The dangerous security risks in the annex have prevented aid groups from providing sufficient services, and the area has become a scene of humanitarian disaster, rampant with disease – its residents lacking adequate food, clean water, often cut off entirely from medical services, in an approach one aid official termed “malign neglect” and “collective punishment”.<sup>14</sup> Security disruptions are partly to blame for this, but aid officials have also attributed it to the SDF’s undifferentiated view of this population as “ISIS women and children”.<sup>15</sup>

These dangers are no secret to the detainees’ national governments, many of which are also coalition members. By mid-summer, Western governments were growing increasingly alarmed by the humanitarian crisis at the camp, especially amid creeping media headlines that implied the U.S.-led coalition were supporting what were in effect child detention centres.

Despite most states’ clear preference to improve the camp rather than repatriate their inhabitants, however, little changed. Humanitarian groups indicated that they could not provide adequate medical services unless violence in the foreigner section subsided; for this to happen, the YPG and the coalition would need to divide the area or build a new women’s detention facility to separate and house violent women. Key coalition members resisted, partly for security reasons (it was feared ISIS could break out its militants more easily), partly because some faced legal prohibitions on building new structures, and partly because of some states’ reluctance to spend money to ameliorate a situation that was highly dynamic and unstable.<sup>16</sup>

Al-Hol’s horrific conditions may also be a consequence of its fraught role as a hybrid space that offers residents none of the legal rights of a wartime detention facility, nor the services or protection of a displaced persons camp.<sup>17</sup> The ambiguity of women’s and children’s legal status (they are neither formally displaced persons, nor prisoners, nor conflict detainees) has slowed the delivery of services a refugee or internally displaced persons camp would normally receive.<sup>18</sup> This ambiguity also made it unclear who precisely was ultimately responsible for providing essential services and protecting basic rights (such as access to legal counsel) among the U.S.-led coalition, the YPG and various UN agencies.

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<sup>13</sup> Bassem Mroue, “Turkish invasion raises fears of Islamic State prison break”, Associated Press, 11 October 2019.

<sup>14</sup> Crisis Group exchange with humanitarian official with close knowledge of conditions at al-Hol, October 2019.

<sup>15</sup> Crisis Group interviews with women seeking and blocked from medical services in al-Hol, June, 2019 and with humanitarian staff, September and October 2019.

<sup>16</sup> Crisis Group interviews with humanitarian officials, European and American diplomats, in al-Hol, London and Washington, June and September 2019.

<sup>17</sup> Crisis Group interviews, humanitarian officials, September and October 2019.

<sup>18</sup> Crisis Group interviews, humanitarian officials, U.S. diplomat, September 2019.

### III. The Women and Children of al-Hol and Roj

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Understanding the diverse backgrounds of the people held in the camps of the north east, and the different levels of risks they present, is essential to developing a responsible plan for their relocation.

#### A. *The Women*

The women of al-Hol are not a monolithic group, and span a range of backgrounds and affiliations both to ISIS and to Islamist militancy more broadly.

The militant women who hold sway over the foreigner annex cast an outsize impression, harassing others who relax their niqabs, throwing stones, shouting abuse and burning down tents.<sup>19</sup> When Crisis Group visited the camp, some were combative in conversation and ideologically committed to ISIS or jihadism more broadly, vacillating between complaining about the harshness of their detention, and embracing it as a divine test for the caliphate.<sup>20</sup> One German-Somali woman said she had no regrets about coming to Syria, defended ISIS practices and rejected suggestions that the group had coerced or abused women in any way, including by forcing them to remarry after the deaths of fighter husbands, arguing that: “Islam does not allow this”.<sup>21</sup> Although YPG guards and authorities do not allow foreign women formal access to mobile phones, many have them and are able to follow ISIS media output on Telegram and WhatsApp, from the latest ideological pronouncements to directions on how to navigate the current instability.<sup>22</sup> Several reacted enthusiastically when the group put out a recent video.<sup>23</sup>

Yet the militant women appear to be only a fraction within this population. Others have a more nuanced backstory. As some accounts have shown, many women joined ISIS through misapprehension, circumstance or coercion.<sup>24</sup> Some simply followed husbands or other male family members, sought to escape abusive lives at home, or naively imagined it would be possible to try out life under the militants.<sup>25</sup> Some suffered mental health conditions, were groomed or recruited as minors and matched with fighters for marriage before legal adulthood.<sup>26</sup>

Women’s roles and status also varied greatly in ISIS territory. Some worked in the group’s administrative and media apparatus, or served as police enforcers, logis-

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<sup>19</sup> Crisis Group interviews with women in al-Hol and Roj, June 2019.

<sup>20</sup> Crisis Group interviews and observations, al-Hol and Ain Issa, June 2019.

<sup>21</sup> Crisis Group interview with woman detainee, al-Hol, June 2019.

<sup>22</sup> Crisis Group observations, al-Hol, June 2019.

<sup>23</sup> Crisis Group interviews, camp official in al-Hol, ISIS-affiliated women in Roj camp, June 2019. SDF guards and camp authorities do not formally permit access to mobile phones but also provide no other means of access to outside information or contact with families, so the constant confiscation of women’s phones or SIM cards is a source of intense friction in the camp.

<sup>24</sup> Azadeh Moaveni, “ISIS Women and Enforcers in Syria Recount Collaboration, Anguish and Escape”, *The New York Times*, 21 November 2015.

<sup>25</sup> Crisis Group interviews with European and North American women in al-Hol and Roj camps, June 2019.

<sup>26</sup> Crisis Group report author’s previous field research.

ticians, recruiters, or propagandists with far-reaching reputations as jihadi poets.<sup>27</sup> Some worked within their professions, for example, as doctors or teachers. Others were wives, mothers and housekeepers, tasked with raising future fighters. Across and within these categories, some remained committed to the ISIS project, while others grew disillusioned with its brutality, rejected its authority and sought to escape.<sup>28</sup> Those women who challenged their fighter husbands or the group's authority were often imprisoned, physically abused, prosecuted in the group's local Sharia courts, or had their children taken away to punish their disobedience.<sup>29</sup> One woman from Sweden pointed out that the women who escaped from Baghouz should not all be viewed as ISIS loyalists even if they stayed with the group until the end: "I couldn't escape earlier, how could I, a woman alone, with rockets and mortars falling everywhere?"<sup>30</sup>

There are also differences in the populations housed at al-Hol and Roj. If al-Hol's residents include, in the words of one SDF official, "the ruling class of Daesh", Roj is home to a number of dissidents who openly express their disappointment at the descent of the ISIS project into extreme brutality.<sup>31</sup> Women housed in this camp, and Ain Issa camp before it collapsed, told stories of fleeing ISIS strongholds at the earliest opportunity.<sup>32</sup> While pockets of militant women remain, they are at least outwardly in the minority, and do not act as bullies or enforcers in the camp's shared areas.<sup>33</sup> In Roj, women feel safe enough to dispense with the ISIS uniform of black *abaya* and *niqab* entirely. Instead, many wear sunglasses and loose outfits in light colours, with straw hats over their headscarves.<sup>34</sup>

One internee at Roj had a story that seemed broadly representative of many of the women in both camps. A German woman of Moroccan origin, she had been living in Roj for over a year and a half with her three children. She travelled to Syria in 2013 at the behest of her German husband, who had joined Jabhat al-Nusra, the Syrian al-Qaeda affiliate now rebranded as Hayat Tahrir al-Sham, intending to stay only two months for the children to see their father. Shortly after their arrival, her husband was kidnapped by an opposing rebel group. Trapped by the intensifying conflict, she remained in Syria, waiting for a chance to escape with her limited funds. Like several women in the camp, she said she expected to face justice in her home country for having taken such a path, but that she accepted and even welcomed such an outcome, recognising it as crucial to a second chance at a secure life for her family.<sup>35</sup>

Whether Western governments seeking to repatriate their women and children nationals can make meaningful distinctions within the populations and within al-Hol and Roj is unclear, some degree of screening adult internees for indications of mili-

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<sup>27</sup> Hassan Abu Hanieh and Mohammad Abu Rumman, op. cit.; Azadeh Moaveni, op. cit.

<sup>28</sup> Ibid.

<sup>29</sup> Crisis Group analyst's interviews in a previous capacity with ISIS-affiliated women in Ain Issa camp and with families of ISIS-affiliated women in London, 2015-2017.

<sup>30</sup> Crisis Group interview, al-Hol, June 2019.

<sup>31</sup> Crisis Group analyst's interviews with Syrian Democratic Council (SDC) and camp officials in a previous capacity, 2015-2017.

<sup>32</sup> Crisis Group analyst's previous field research in Ain Issa.

<sup>33</sup> Crisis Group interviews with SDC officials responsible for the camps, and women in Roj camp, June 2019.

<sup>34</sup> Crisis Group interviews, detainees in Roj, June 2019.

<sup>35</sup> Crisis Group interview, detainee in Roj, June 2019.

tancy is possible. First, many women have lived in the camps for months or years, and authorities have been able to monitor and observe them over time, gaining knowledge of their personalities and backgrounds through their interactions with SDF guards, camp authorities, their children and other women. Secondly, the SDF worked to catalogue and assess women in the camps, although its lists and registers are incomplete.<sup>36</sup> Thirdly, the SDF and its coalition partners with Western state investigators on the ground have done some particularly close individual assessments, relying in part on conversations with detainees.<sup>37</sup> One detainee inside Roj, for example, said she had been interviewed repeatedly by U.S. security officials.<sup>38</sup>

### B. *The Children*

If there is one group of people at al-Hol and Roj who bear no responsibility for the circumstances in which they find themselves, it is the children. Many children in the camps have lived through war since they were born. Small children taken to live in ISIS territory by their parents are now in adolescence. Many thousands were born out of the marriages between women and fighters after they had become involved with ISIS, and have grown up with little or no formal education.<sup>39</sup>

Bad as the camps are for adults, they are worse for children. The area for non-Syrians in al-Hol lacks any play areas or safe spaces for children, and foreign children receive no schooling.<sup>40</sup> Roj camp reportedly offers some instruction, though women say it was more play-based than learning. Paediatricians and psychologists who examined children at al-Hol over the course of a six-month period document a clear deterioration in their well-being.<sup>41</sup> They said children have grown increasingly antagonistic during play, reflecting in their behaviour the tension they observe in the camp.<sup>42</sup>

The limited access to health care in the camps especially harms children, many of whom were already ailing in ISIS territory before the Baghouz offensive.<sup>43</sup> At al-Hol, severe malnutrition and acute diarrhoea are common among children, with tuberculosis, measles and hepatitis also widely reported.<sup>44</sup> Commonplace ailments grow endemic without clinical care, and the winter cold, again approaching, has led to deaths from pneumonia and hypothermia.<sup>45</sup> Because camp authorities have started removing dozens of boys approaching adolescence to separate detention facilities without

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<sup>36</sup> Crisis Group interviews, SDC officials and camp authorities, June 2019.

<sup>37</sup> Ibid.

<sup>38</sup> Crisis Group interview with ISIS-affiliated woman, Roj, June 2019.

<sup>39</sup> Crisis Group interviews with women in Roj and al-Hol, humanitarian staff and camp authorities, June 2019.

<sup>40</sup> Crisis Group interviews with camp authorities, June 2019.

<sup>41</sup> Crisis Group interviews with European child psychologists and paediatricians who conducted assessments in al-Hol, August 2019.

<sup>42</sup> Ibid.

<sup>43</sup> Crisis Group interviews with humanitarian groups with close knowledge of medical conditions in al-Hol, June, September 2019.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

informing their mothers, many women are now reluctant to seek medical care for their male children around this age out of fear of losing them.<sup>46</sup>

Children across all camps are particularly vulnerable to abuse, neglect and peer indoctrination. Current camp arrangements allow children to roam freely across all sections, exposing the young children of less militant mothers, who are teaching them to reject ISIS, to the children of militants, who sometimes mirror their mothers' attitudes.<sup>47</sup> Aid officials confirm two cases of sexual abuse or rape of young girls by older boys, reportedly at the behest of militant mothers.<sup>48</sup> Many very small girls still wear niqabs, attire that would be considered extreme in even conservative Muslim-majority societies. Children are exposed to women singing ISIS songs and listening to ISIS audio recordings on their phones.<sup>49</sup>

Whether or not exposure to militancy at a young age is likely to foster militancy in adulthood is debatable. One Western official dismissed the significance of three-year-old internees mouthing jihadi slogans.<sup>50</sup> Still, exposure cannot help. Some male children who were above eight years old as ISIS was ascendant had to undergo ideological training, learning that anyone outside the group was an "unbeliever" who could be killed.<sup>51</sup>

Even if children present the most compelling case for repatriation, the logistics are challenging. In May, the UN estimated al-Hol alone held as many as 3,000 unaccompanied children – this number has reduced significantly, largely through tracing family members in other camps, but there is no exact number figure at present (the UN has not publicly updated the figure from May) – and even confirming which children are orphans is murky.<sup>52</sup> Simply cataloguing and establishing their national origins and parentage is complicated, as camp officials do not document new births. Many children are dual nationals, born to parents of different citizenships, with siblings or

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<sup>46</sup> Older boy children, aged around ten or twelve and above, have been removed from their mothers in camp and taken to a separate SDF detention facility. This facility reportedly houses 1,000 boys. Crisis Group interviews with women in al-Hol, humanitarian staff, and a UN agency, June and October 2019. Crisis Group phone interviews with humanitarian staff in al-Hol, September 2019.

<sup>47</sup> Crisis Group interviews with humanitarian staff, camp officials and ISIS-affiliated women, al-Hol and Roj, June 2019.

<sup>48</sup> Crisis Group interview with humanitarian staff, al-Hol, September 2019.

<sup>49</sup> Crisis Group interviews with women in al-Hol and Roj, June 2019.

<sup>50</sup> Crisis Group interviews, Western officials, October 2019. One official said: "I have a three-year-old, and I can't consistently get them to say or do anything, so the idea that three-year-olds are ISIS followers seems far-fetched".

<sup>51</sup> "Syria: Child Soldiers of the Caliphate", Channel 4 News, 1 October 2015. See also Gina Vale, "Cubs in the Lions' Den: Indoctrination and Recruitment of Children Within Islamic State Territory", International Centre for the Study of Radicalisation, July 2018.

<sup>52</sup> The May 2019 report on the situation in al-Hol by the UN Office for the Coordination of Humanitarian Affairs (OCHA) notes: "Distribution data suggests that there may be as many as 3,000 unaccompanied and separated children in al-Hol". "Syria: Humanitarian Response in Al Hol camp, Situation Report No. 4 – As of 29 May 2019", OCHA, May 2019. The subsequent OCHA report found that by mid-June 502 of these children had been identified, and 207 of them had been "reunified"; 77 were, as of June 2019, still in interim care centres waiting for family tracing and reunification. "Syria: Humanitarian Response in Al Hol camp, Situation Report No. 5 – As of 5 July 2019", OCHA, July 2019. A 2018 report from the International Centre for the Study of Radicalisation (ICSR), indicates that at least 3,704 foreign-born children were taken to ISIS territory by their parents or carers. "From Daesh to 'Diaspora': Tracing the Women and Minors of Islamic State", ICSR, 23 July 2018.

half-siblings whose nationalities may differ.<sup>53</sup> That many women surrendered or ripped up their passports upon arrival in ISIS territory further complicates matters.<sup>54</sup>

Some countries have sent delegations that failed to find children who, based on records and intelligence, should be in the camps but do not appear on SDF camp rosters.<sup>55</sup> There are reports that some women may be hiding orphans or passing them off as their own children, either in order to preserve the next generation of militants or – assuming that their attachment to a child will make it more difficult for national governments to abandon them – to maximise their own chances of repatriation.<sup>56</sup> Against this backdrop, governments will likely wish to conduct genetic testing to establish descent ahead of repatriation, alongside other methods of family tracing.<sup>57</sup>

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<sup>53</sup> Crisis Group interviews with camp authorities and humanitarian official, June 2019.

<sup>54</sup> Crisis Group interviews with camp authorities and humanitarian official, June 2019.

<sup>55</sup> Crisis Group interviews with European staff involved in child repatriation, August 2019.

<sup>56</sup> Crisis Group interviews with camp authorities, June 2019, and European lawyer involved in repatriation of children, September 2019.

<sup>57</sup> Crisis Group interviews with European officials and diplomats, September and October 2019.

#### **IV. The U.S. versus Europe: Two Approaches to Repatriation**

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##### *A. The U.S. and the Case for Repatriation*

Proponents for repatriating Western nationals held in north east Syria tend to put forward a mix of humanitarian, security and practical arguments. They point to the horrendous camp conditions; the security risk of leaving foreign fighters to captors who could release them; the difficulty of monitoring them in the field, and the possibility that they could drift home undetected should they be released; and superiority of the prosecutorial and monitoring tools that could be brought to bear at home.<sup>58</sup> Some also suggest the camps will be cauldrons of radicalisation for the next generation of jihadists, notwithstanding the countervailing arguments noted above.<sup>59</sup>

Nevertheless, among Western states – chiefly EU member states, Australia, Canada and the U.S. – only Washington has made a serious effort to bring back its nationals. It has repatriated eighteen Americans – six men, three women and nine children – and has urged other coalition allies to follow suit.<sup>60</sup> Other countries that have shown significant commitment to repatriation include Russia, Uzbekistan, Kosovo, Malaysia and Indonesia; Moscow has chartered flights and brought back over 200 women and children from Syria and Iraq, meting out light sentences, though many hundreds remain.<sup>61</sup>

The arguments that sub-cabinet U.S. officials put forward generally echo the foregoing points concerning security, humanitarian need and practicality.<sup>62</sup> President Trump, by contrast, has tended to emphasise, with some resentment, the expense the U.S. government supposedly has borne in securing the region to the benefit of European governments with detainees held there.<sup>63</sup> Whatever the rationale, several considerations may undercut the force of Washington's message and the pressure it has brought to bear.

One is that the U.S. had several important advantages over coalition counterparts in managing repatriation risks. The U.S. had a strong presence on the ground in Syria's north east, and American security officials have comparatively high levels of intelligence and exposure to men and women across the camp and prison system. There are also relatively few American ISIS suspects to contend with, compared with some European countries' higher numbers. Only an estimated 300 Americans joined ISIS; for

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<sup>58</sup> See, for example, Anthony Dworkin, "Beyond Good and Evil: Why Europe Should Bring ISIS Foreign Fighters Home", European Council on Foreign Relations, October 2019.

<sup>59</sup> Lara Seligman, "In Overflowing Syrian Refugee Camps, Extremism Takes Root", *Foreign Policy*, 29 July 2019.

<sup>60</sup> Crisis Group interview, extremism expert, Washington, November 2019.

<sup>61</sup> "Repatriate or reject: What countries are doing with IS group families", France 24, 11 June 2019; Andrew Roth, "'We aren't dangerous': Why Chechnya has welcomed women who joined ISIS", *The Guardian*, 2 March 2019. Iraq, which has around 30,000 nationals in al-Hol housed in the "local" wider camp (which receives better services than the annex), is a case somewhat apart, as its government has shown openness to repatriation, discussions have reached an advanced stage, and Baghdad's relative ease dealing with Damascus means it is not reliant on the SDF for any solution.

<sup>62</sup> Crisis Group interview, U.S. official, September 2019.

<sup>63</sup> See tweet by Donald J. Trump, @realDonaldTrump, 1:40pm, 7 October 2019, op. cit.

many European countries, both total and per capita numbers are much higher, with estimates ranging from 1,900 from France, 850 from the UK, and 498 from Belgium.<sup>64</sup>

Most significantly, the U.S. faces fewer legal challenges than many other governments, as its laws are robust and broad enough to better assure successful prosecution of people accused of supporting ISIS through a wide range of acts, even simply travelling to militant territory as a trailing spouse.<sup>65</sup> In contrast, more stringent requirements for obtaining a criminal conviction in some European countries have meant that dozens of women and men have done stints with ISIS and returned from Syria without serving any prison time at all.<sup>66</sup> Of the nineteen adults (fourteen men and five women) who travelled to Syria and Iraq and are publicly known to have returned to the U.S. (both repatriated and independently returned), thirteen are currently facing charges for their actions, including two women and eleven men.<sup>67</sup>

Ironically, U.S. efforts to promote an atmosphere of counter-terrorism hypervigilance globally might have discouraged other governments from showing flexibility in dealing with their own nationals, thus undercutting U.S. efforts to convince Western allies to follow its lead. One U.S. official said:

The problem is that we've expended all this effort promoting [what has become] the Western counter-terrorism paradigm and dehumanising these people to mobilise against the ISIS threat. Now we have to humanise the population to convince countries that they can and should get them home.<sup>68</sup>

## B. *Europe's Sources of Hesitancy*

### 1. Political and policy concerns

Against the foregoing backdrop, most Western governments concluded they preferred to take their chances with leaving the detainees in the field, for a mix of political and policy reasons.<sup>69</sup>

Politically, one European official told Crisis Group that full repatriation would be “suicide”.<sup>70</sup> As discussed below, France has explored the option of sending its citizens to Iraq for criminal prosecution, an option that found favour with the French public: in a February 2019 poll, 82 per cent of respondents said President Macron's government was right to let Iraq judge French nationals and 89 per cent said they were concerned about returnees' fates. Only one in ten (11 per cent) British respondents in

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<sup>64</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, pp. 17-18.

<sup>65</sup> Crisis Group interview, former U.S. security official, Washington, August 2019.

<sup>66</sup> “Returnees: Who are they, why are they (not) coming back and how should we deal with them? Assessing policies on returning foreign terrorist fighters in Belgium, Germany and the Netherlands”, Egmont Paper 101, February 2018, pp. 4-5; ITV News, op. cit.

<sup>67</sup> Crisis Group interview, extremism expert, Washington, November 2019.

<sup>68</sup> Ibid.

<sup>69</sup> Crisis Group interviews with European diplomats and officials, Berlin, Paris, London, September and October 2019. “Only option is to kill British ISIS fighters in Syria, says minister”, *The Guardian*, 22 October 2017.

<sup>70</sup> Crisis Group interview, Western official, October 2019.

a November 2017 poll believed British nationals should be repatriated.<sup>71</sup> In many countries, governments and political parties worry that allowing returns would give fodder to domestic far right and populist groups; they fear the inevitable, devastating electoral consequences should a returnee repatriated on their watch commit an attack on European soil.<sup>72</sup>

On the policy side, European officials express concern about their capacity to prosecute returnees. Although foreign fighters who have committed offenses like torture, murder and sexual violence can theoretically be tried and given long sentences in their home jurisdictions, the collection of evidence sufficient to support a conviction can be prohibitively challenging.<sup>73</sup> States may have some knowledge of their nationals' activities with ISIS but the intelligence from which this is derived is often not admissible in court. While many jurisdictions have in recent years revised their laws to permit prosecution for less weighty offenses – ones that involve membership in or material support for a terrorist organisation, for example – these also carry shorter sentences and their own difficult evidentiary requirements.<sup>74</sup> In practice, these constraints would suggest that returning male combatants who face prosecution tend to draw three- to seven-year sentences and that women (whose largely non-combat roles make evidence more difficult to collect) may face very little if any time in prison, especially in countries like the UK and Germany.<sup>75</sup>

This picture troubles security officials.<sup>76</sup> They foresee those returnees who can be successfully sentenced heading to prison, spending enough time to radicalise other inmates, and then being released into the general population where their renewed activities and networks will be extremely difficult for overburdened security services

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<sup>71</sup> “Les Français se prononcent massivement contre le retour des djihadistes”, *Le Figaro*, 28 February 2019 and “What should the government do about British jihadists”, *Opinium*, 8 December 2017.

<sup>72</sup> Crisis Group interviews, German security analyst, Berlin, June 2019; European officials and former government consultant, October 2019.

<sup>73</sup> Crisis Group interviews, European diplomats and officials, September 2019.

<sup>74</sup> For example, the UK Terrorism Act of 2000 sets a starting point for sentencing of two years' custody for membership in a proscribed organisation, and five years' for active membership. “Proscribed organisations-membership”, UK Sentencing Council. There are of course variations among jurisdictions. According to a recent report published by the European Council on Foreign Relations, the average sentence for returning foreign fighters is five years in Belgium and seven years for terrorist group members in the UK; in France, longer sentences may be possible. See Dworkin, *op. cit.*

<sup>75</sup> *Ibid.* According to a German security expert, the handful of cases where European governments have successfully tried and sentenced women for ISIS membership or crimes committed while in Syria have been aberrations. They reflect carelessness by the women, who shared explicit propaganda images of themselves on social media, or extraordinary intelligence coups that saw women incriminate themselves to intelligence informants. Two German cases illustrate this; Sabine S., found guilty in July 2019 for membership of ISIS, who had praised life under the group in a series of blogs, “German ‘Islamic State’ bride jailed for 5 years”, *DW News*, 5 July 2019; and the case of ‘Jennifer W.’, caught by German intelligence and put on trial in April 2019 for letting an enslaved five-year old girl die of thirst while living under ISIS, Melissa Eddy, “German Woman Goes on Trial in Death of 5-Year-Old Girl Held as ISIS Slave”, *The New York Times*, 9 April 2019. On the challenge of prosecuting ISIS-associated returnees, see “Only one in 10 British jihadis returning from Syria are prosecuted, MPs told”, *ITV News*, 11 June 2018.

<sup>76</sup> Crisis Group interviews with Western security officials, September and October 2019, and Dworkin, *op. cit.*

to monitor and assess.<sup>77</sup> Against this backdrop, European officials have resisted pressures, both from families and sometimes within their governments, to repatriate women, with some believing many of the women are as radical as the men. As a result, the focus in European capitals has shifted to repatriating children, but given the difficulties (and in many cases undesirability) of splitting families, that has proven also hugely difficult.<sup>78</sup>

Beyond these law enforcement concerns are geopolitical ones. For many European states, dealing with the SDF or its political wing (the Syrian Democratic Council, SDC, established in 2015) in the north east has in itself presented major difficulties. In general, governments are reluctant to engage in negotiations that treat a non-state actor like the de facto sovereign. In the present case, they are particularly reluctant to engage with the SDF or SDC, both because of longstanding reservations about their overarching relationship with the Kurdistan Workers' Party (PKK), which is considered a terrorist group by Turkey, the EU and the U.S., and out of sensitivity to Turkey's deep concerns about the SDF's presence in the north east – concerns that manifested in the recent incursion.<sup>79</sup> One German diplomat said: “We know [the SDF] want recognition out of this, and this we can't give them”.<sup>80</sup>

On occasion, the SDF's eagerness to leverage its position in order to gain a measure of recognition has reportedly scuppered repatriations entirely. One Western official recounted a repatriation arrangement for a number of Kazakhs and Central Asians, organised by Russia and approved by Damascus, that fell through because the SDF demanded “something that was tantamount to recognition”. As a result of this manoeuvring, the official said, “the SDF has priced people out of that market”.<sup>81</sup>

Some states willing to repatriate orphans have skirted such concerns by relying on NGOs to handle logistics with the SDF, but all these complications have deepened with the Turkish incursion, as aid groups have evacuated their expatriate staff and are reducing their national staff, in some cases, down to none.<sup>82</sup> This may require states to coordinate repatriation with new actors. The only successful Western repatriation of a child since the incursion was aided by the Syrian Red Cross and Red Crescent, in coordination with Damascus, which has signalled its readiness to facilitate further child removals.<sup>83</sup>

## 2. Calculations and consequences

Amid this matrix of political and policy considerations, the governments of the UK, France and Germany have steadfastly rejected the repatriation of all men and women, with some variation on children: both France and Germany have repatriated some orphans, and a small number of non-orphans, though the UK, which only just recently

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<sup>77</sup> Ibid.

<sup>78</sup> Crisis Group interview with multiple U.S. and European officials and diplomats, September 2019.

<sup>79</sup> Crisis Group interview with German diplomat, Berlin, October 2019.

<sup>80</sup> Crisis Group interviews with European diplomats, October 2019.

<sup>81</sup> Crisis Group interview with Western diplomat, Washington, October 2019.

<sup>82</sup> Ibid.

<sup>83</sup> “Albanian boy freed from IS camp on way home to Italy”, Associated Press, 7 November, 2019.

learned it had orphans in Syria, has to date not taken back any children at all.<sup>84</sup> These governments vary in how explicitly they articulate and make their approaches public, relying instead on arguments about lack of consular access in Syria or their limited legal obligations to aid citizens in a war zone to which they travelled voluntarily.<sup>85</sup>

The UK has taken the hardest line. Although international law prohibits it from rendering citizens stateless, they have stripped dozens of nationals of British citizenship on the basis that they enjoy dual citizenship or even a theoretical right to a second nationality.<sup>86</sup> The citizenship deprivation approach also places hurdles in the way of repatriating British children whose parents have been stripped of their nationality, as this would require British authorities to separate children from their parents.<sup>87</sup> The UK has only recently, on the heels of a BBC report on British orphans found in Syria, publicly conceded that it might need to repatriate British orphans and unaccompanied minors.<sup>88</sup> The UK has also argued that it is not legally obliged to offer consular assistance to its nationals due to conditions in the Syrian north east and lack of access there, despite regular UK official visits to the area, most recently by a cross-party delegation including sitting MPs.<sup>89</sup>

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<sup>84</sup> ISIS-affiliated women from North Africa face similar obstacles to return. Morocco and Tunisia, from which large numbers of women travelled to join ISIS, have rejected taking any back, although Rabat has made conflicting announcements and spoken of “humanitarian exceptions”. A small number of women, around fifty, have returned to Morocco on their own, while several hundred have returned to Tunisia independently. Tunisia faces an arguably greater challenge than Morocco in repatriating women. The country has experienced several ISIS-related terror attacks, the capacity of its judicial system and security services are severely strained, and public opinion is averse to repatriation. Tunisians have occasionally demonstrated in the capital against allowing Tunisian citizens to return from conflict zones. Tunisia has intimated that it seeks, in principle, to repatriate children, but it has done virtually nothing in practice to return any of its child nationals from Syria.

<sup>85</sup> Crisis Group interviews with German diplomat, Berlin, October 2019; European diplomat, London, October 2019. But their sometimes less than direct messaging belies what has been a very firm policy line. In fact, the logistical challenges are surmountable, or at least were, before the Turkish incursion. Countries like Belgium, France, Germany and the UK all managed, in different ways, to repatriate children from the north east on a case by case basis. By securing other states’ military cover for consular teams, working through local NGOs, and arranging for identity documents to be prepared in consulates in northern Iraq, states found ways around the obstacles. Crisis Group interviews with European diplomat, lawyer, and humanitarian officials involved with repatriations, June, September and October 2019.

<sup>86</sup> Tim Shipman, Richard Kerbaj and Dipesh Gadher, “Ministers strip 150 jihadists of UK passports”, *The Times*, 30 July 2017; “Shamima Begum: IS teenager to lose UK Citizenship”, BBC News, 20 February 2019.

<sup>87</sup> Crisis Group interview, Western diplomat with close knowledge of British repatriation policy, London, October 2019. The UK does not view itself as legally obliged to offer assistance to its nationals on request, but it has considered and responded to some appeals on a rare, case-by-case basis.

<sup>88</sup> Mark Townsend, “Britain makes move to bring home children of Isis suspects from Syria”, *The Observer*, 20 October 2019. Foreign Secretary Dominic Raab also said the general policy against repatriation was “under review”. Catherine Philip, “British jihadists ‘may return to face justice’ amid Isis-children rethink”, *The Times*, 15 October 2019.

<sup>89</sup> Crisis Group interviews, European diplomats, London, October 2019; Wladimir van Wilgenburg, “Cross-party UK delegation visits northern Syria to discuss foreign fighter issue, international court”, *Kurdistan 24*, 17 September 2019; following the visit, which included al-Hol, one of the MPs, Crispin Blunt, called for the repatriation of children as a priority. “Children should be brought back from Syria as matter of urgency – Tory MP”, *Belfast Telegraph*, 4 October 2019.

At its core, the British approach embodies the Home Office's belief that its ISIS-affiliated nationals pose less of an immediate threat to the homeland from Syria than they would in the UK. This in part reflects a view that prosecution will likely remain difficult because of evidentiary shortfalls and that risk management would fall to counter-terrorism police and Home Office authorities, who are driving UK policy.<sup>90</sup> Conversely, UK officials tend to view their nationals, if left in the field, as unlikely to fuel the resurgence of a future ISIS, which they believe will be driven by Iraqi and Syrian members of the group.<sup>91</sup> As a European diplomat said pointedly: "The Home Office has made its security calculation very clear".<sup>92</sup>

For France, repatriation is a particularly fraught question. It is the European country with the highest number of ISIS-affiliated nationals in Syria (estimated at around 400), and has also experienced the deadliest ISIS-inspired attacks on its soil including the Bataclan and related attacks that killed 130 in Paris on 13 November 2015, and an attack using a cargo truck in Nice on 14 July 2016, killing 86. In January, under pressure from President Trump, French President Macron expressed willingness to consider a more accommodating repatriation policy, but has since walked this back and is now seeking a deal with Baghdad to try French and other European citizens there.<sup>93</sup> French politicians, said one European official, are preoccupied and fearful of so called "ex-ops", externally-planned operations leading to attacks on France perpetrated by returnees from Syria or Iraq.<sup>94</sup> A French security expert also noted the lack of capacity in the French prison system and its already significant challenges with inmate radicalisation.<sup>95</sup>

French officials are also increasingly concerned about the danger posed by militant women. A French court sentenced an all-female ISIS cell plotting an attack against Notre Dame cathedral in October.<sup>96</sup> In this climate, French policy on repatriating ISIS-affiliated women – which emanates from the Prime Minister's office – has steadily hardened.<sup>97</sup>

The issue of repatriations, including of women, has become a matter of significant public debate in France, fuelled by the Notre Dame plot.<sup>98</sup> While some senior counter-terrorism officials and lawyers (such as Judge David De Pas, coordinator of the twelve investigating judges dealing with anti-terrorism) have argued that French security interests would be better served by bringing women home and prosecuting

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<sup>90</sup> Crisis Group interviews, European diplomats, London, October 2019.

<sup>91</sup> Ibid.

<sup>92</sup> Crisis Group interviews, European diplomat, London, October 2019.

<sup>93</sup> "Trump et Macron évoquent un retrait américain de Syrie 'réfléchi et coordonné'", France 24, 8 January 2019. "France : le premier juge antiterroriste plaide pour le rapatriement des jihadistes", Agence France-Presse, 19 October 2019.

<sup>94</sup> Crisis Group interview, European official, Paris, October 2019.

<sup>95</sup> Although France, through the Cazeneuve Protocol, named after the Minister of Interior who negotiated the arrangement, repatriates ISIS members who turn up in Turkey, these cases rarely exceed ten per year. Crisis Group interviews with European officials and security expert, Paris, October 2019.

<sup>96</sup> "Notre Dame car bombing: all-female jihadist cell jailed for failed cathedral attack", *The Guardian*, 15 October 2019.

<sup>97</sup> Crisis Group interviews, European defence officials, Paris, October 2019.

<sup>98</sup> "Attentat raté de Notre-Dame : les deux principales accusées condamnées à vingt-cinq et trente ans de reclusion", *Le Monde*, 14 October 2019.

and monitoring them there, France continues to negotiate with Iraq with the aim of deferring the prosecution and imprisonment of French and other European nationals to courts in Iraq, possibly through hybrid courts set up with international assistance.<sup>99</sup>

Germany has conducted a small number of case-by-case repatriations but elected to keep most of its men, women and children in Syrian camps and prisons. With German laws stipulating sentences must be reduced to reflect the time citizens have already spent in detention (though not necessarily at a one-to-one ratio), women have been receiving short, often just one-year sentences for ISIS membership.<sup>100</sup> Such legal outcomes have likely further discouraged Germany from repatriation.

With states essentially frozen in the face of the repatriation challenge – one European defence official told Crisis Group “there are no solutions” – a question that has lurked over Western governments has been whether their courts might force their hands.<sup>101</sup> France, Germany and the UK and other governments are facing lawsuits or legal action by women’s family members suing for repatriation. While courts in some jurisdictions (such as France) have tended to defer to the government, elsewhere the story has been somewhat different. Decisions in Belgium, the Netherlands and Germany have among other things directed state authorities to make efforts to repatriate children and, in some cases, mothers.<sup>102</sup> Whether these decisions will drive significant numbers of repatriations or continue to affect only a few individual cases remains an open question.

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<sup>99</sup> “France : le premier juge antiterroriste plaide pour le rapatriement des jihadistes”, Agence France-Presse, 19 October 2019; Dworkin, op. cit.

<sup>100</sup> Ibid.

<sup>101</sup> Crisis Group interviews with European defence officials and diplomats, Berlin and Paris, September and October 2019.

<sup>102</sup> “Top French court rejects Syria-based French jihadis’ repatriation demands”, Reuters, 23 April 2019; “Families sue French foreign minister over children stuck in Syria”, France 24, 16 September 2019; “German court rules on repatriation of Syria’s ISIL fighter’s family”, Al Jazeera, 11 July 2019; “High Court backs removal of UK man’s citizenship over joining Islamic State group”, Middle East Eye, 8 August 2019; “Court orders Belgium to take back woman and children from Syria”, Reuters, 31 October 2019; “OVG bestätigt: Bundesrepublik Deutschland muss minderjährige Kinder aus dem Lager Al-Hol im Nordosten Syriens zusammen mit ihrer Mutter nach Deutschland zurückholen”, press release, Higher Administrative Court Berlin, 7 November 2019; Valentina Pop and Isabel Coles, “Detained Islamic State Members Turn to Europe’s Courts to Come Home”, *Wall Street Journal*, 8 November 2019; “Dutch Court Orders Country to Repatriate Children of Radicalized Women in Syria”, Associated Press, 11 November 2019.

## V. **A Partial Blueprint for Progress: Women and Children First**

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### A. *A Reprieve*

The Turkish incursion in October 2019 raised the question of whether non-Syrian governments would have continued access to their nationals held in the region. For the time being, the answer is yes.

Of crucial importance for present purposes, the U.S. appears intent on keeping a sizeable contingent of its forces in the area (it dispatched roughly 500 to the north east after withdrawing 1,000), albeit concentrated near the oil fields of the eastern border region.<sup>103</sup> While there is not yet full clarity on the size of the U.S.'s "presence zone" (as some officials are calling it), it seems likely to stretch into north Hasekeh, including the area of al-Hol.<sup>104</sup> The U.S. is also seeking to retain access to border crossings that have been facilitating aid agencies' travel, as well as repatriations. Also crucial is that the SDC and SDF seem poised to retain at least temporary administrative control of the region's interior and the camps (including al-Hol and Roj) that lie therein.

Given that the U.S. intends for its forces both to "protect" the eastern oil fields and to maintain its cooperation with the SDF in the campaign against ISIS resurgence, Western governments can reasonably continue to seek YPG support for logistical help with repatriations and expect some degree of coalition military cover.<sup>105</sup> Indeed, there is already evidence that they are doing so on a very small scale. Despite the turbulence of recent days, the attempted repatriations of some Western children have moved quietly forward, underscoring that for now, the channels and routes on the ground remain operational and feasible.<sup>106</sup>

Whether or not they regard it as a reprieve, Western governments now have a window within which they can make progress toward the repatriation or transfer of their nationals. Few appear poised to take maximum advantage of it. But narrowing their immediate focus to the repatriation of women and children could help.

### B. *The Case for Recalculation*

As noted above, there is a case to be made for Western governments to bring home all their nationals as quickly as possible, but they are highly unlikely to do so. European officials tend to see all elements of the challenge as subordinate to their internal security assessments – which in their view militate for keeping ISIS-linked individuals at a physical distance from the homeland – and political pressures. As a matter of law and policy, they also reject the argument that home governments bear responsibility to help individuals who left for the caliphate of their own accord, notwithstanding

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<sup>103</sup> Eric Schmitt and Helene Cooper, "Hundreds of U.S. Troops Leaving, and Also Arriving in, Syria", *The New York Times*, 30 October 2019.

<sup>104</sup> Crisis Group interviews, U.S. officials, Washington DC, October 2019.

<sup>105</sup> Crisis Group interviews, U.S. officials, Washington DC, October 2019.

<sup>106</sup> Crisis Group interviews, humanitarian staff, London, October 2019.

efforts to stop them.<sup>107</sup> Together these considerations have produced deeply exclusionary policies.

Still, it may be possible for proponents of repatriation to build a more persuasive case for Western governments to shift their current positions by focusing initially on women and children. This case could start with the argument – as courts are increasingly starting to recognise – that these governments are shirking their responsibilities by failing to make a good faith effort at repatriation. Not only are they giving short shrift to their obligations toward citizens in camps like al-Hol – including innocent children – but they are also deflecting the burden of protecting, providing for, and securing their nationals to whomever controls the territory where those individuals happen to find themselves. That seems unfair under any circumstances but particularly in a region that is already staggering under the costs of a long-running war and for a movement (the SDF) facing a range of threats in an uncertain environment.

Western governments also might be persuaded to be more open-minded if the class of people to be repatriated is narrowed. They may find it politically impossible to agree on the return of individuals who have a violent or militant past, especially where these governments harbour doubts over how to manage the threat they pose. But they possess tools to distinguish high- from low-threat individuals, and they could explain to their publics the difference between on the one hand those who fought and, on the other, those who ensnared themselves at the margins of the fight, express regret, and pose no or very modest foreseeable threat. Ultimately, the most compelling case for repatriation rests on the stories of innocent children and of the many women who have shown remorse and sought to escape ISIS's hooks and ought not be lumped together with those with a history of militancy.

### C. *A Revised Approach to Repatriation*

For the time being the situation in al-Hol and Roj has reverted to a place where repatriations can theoretically proceed. While the window of opportunity remains open – and it is impossible to know for how long – Western governments should move quickly to repatriate all nationals they can responsibly bring home from north east Syria.

For the purposes of making quick progress, orphans and unaccompanied children are the least controversial group to move home. Governments have already begun this effort, but since the Turkish incursion, child repatriations have slowed almost to a halt. Camp authorities (the camps' SDC civilian management) have said they remain willing to assist with repatriations, as they did in the past, and would even be prepared to drive detainees to the Simalka border crossing with northern Iraq, but many actors report the YPG and SDF are overwhelmed by requests.<sup>108</sup> Before the Turkish incursion, the U.S. played a significant facilitation role in repatriations, such as providing military cover to national teams, offering transport and logistical assistance, and acting as go-betweens with the YPG and SDF. Washington should do as much as it can to continue to provide this kind of assistance going forward.

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<sup>107</sup> Crisis Group interviews, European diplomats, London and Berlin, September and October 2019.

<sup>108</sup> Ibid.

As for the women in the camps, most states already have a preliminary understanding of the backgrounds of their female nationals.<sup>109</sup> They should now work with the SDF, humanitarian relief agencies and other governments to close any knowledge gaps. In some cases, additional information from camp administrators or others should help provide information, make a determination of which women have a militant or violent profile, and provide a basis on which to start repatriating women they know pose little or no threat and who wish to return.<sup>110</sup>

The U.S. can be of particular help. Its own contractor, Blumont, is charged by the State Department with administering the camps, an arrangement that leaves the U.S. with some direct influence over camp affairs. It should press both Blumont and the north east authorities (spanning the YPG, SDF, civilian camp officials, and *asayesh* intelligence), to secure data and records on foreign women and children who have been processed through the camps. Biometric and civil documentation for camp residents (passports, family booklets and national IDs) are currently held by SDC authorities, and their accessibility is crucial for both screening and repatriation. Blumont should ensure that the data it holds is stored digitally, and should assist the SDC in indexing and organising documents; the SDC should, at the very least, provide them with copies of their personal records.<sup>111</sup>

What about the remaining group – women with a record of violence or militarism and male foreign fighters? Ideally, Western governments would re-examine the security and political calculations that have led them to exclude this cohort and find a way to bring them home too. After all, European governments have already begun to deal with their citizens, including former fighters, who have returned from the caliphate on their own or who Iraq or Turkey have sent home. Although this does not by itself dilute governments' security concerns – or the political resistance they would face in embracing full repatriation – it does mean that their institutions are already coping with the challenges a more proactive repatriation effort would involve, and expanding their skills and capabilities to do so effectively. French Judge David De Pas, who works on anti-terrorism cases, projected confidence in France's capabilities, arguing it would be safer for France to bring foreign fighters home where Paris would have them "on hand" rather than leave them in the field outside government control.<sup>112</sup>

Unless and until Western governments arrive at a similar assessment, however, the option they face is to develop other long- and short-term options for the responsible disposition of their citizens. Right now, the long-term option most seem to favour would be to strike a deal with Baghdad, under which Iraqi courts (possibly reconstituted as "hybrid" tribunals involving the participation of international judges and benefiting from foreign technical and financial support) would try foreign fighters and hold them in detention facilities located on Iraqi soil. In October, French Foreign Minister Jean-Yves Le Drian visited Baghdad to push for a solution along these

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<sup>109</sup> Crisis Group interviews with European diplomats, officials and security experts, London, Paris and Berlin, June-September 2019.

<sup>110</sup> Crisis Group interviews with diplomats and security experts with close knowledge of some states' intelligence data on detainees, Berlin and London, September 2019.

<sup>111</sup> The rise of human trafficking in the area, to which women are particularly vulnerable should they attempt to leave the camps, is an additional rationale for ensuring access to personal records.

<sup>112</sup> Jacob Schulz, "France Makes a Play to Try Foreign Fighters in Iraq", *Lawfare*, 4 November 2019.

lines; other European governments are also interested in this option, and the U.S. has reportedly participated in talks about financing Iraqi prisons to hold foreign fighters.<sup>113</sup>

While it is too soon to fully exclude the possibility of striking a suitable deal with Iraq, the odds appear stacked against it. Although the Iraqi government has reportedly asked for a substantial sum to cover its costs, the bigger impediments are likely to be legal.<sup>114</sup> In order for European governments to send their citizens to face trial in Iraq consistent with their human rights obligations, Baghdad would need to offer credible assurances that it will not apply the death penalty – this while its courts recently sentenced twelve French jihadists to death – and that it will treat prisoners humanely.<sup>115</sup> European governments will also need to ensure that there are fair trial safeguards, that the penal code permits the prosecution of the individuals in question, and that prison security can keep convicts under lock and key. How precisely they will achieve that in a system known for abuse, marked by poor judicial procedure, and subject to frequent jailbreaks is at best unclear.<sup>116</sup>

Western governments have also, at times, considered holding detainees at a new or improved facility inside Syria.<sup>117</sup> But the impediments here are arguably even more forbidding than those in Iraq. Building a new facility could run into Western governments' refusal to engage in newbuild construction or "reconstruction" before a comprehensive political solution to the Syrian conflict. It could also require negotiation with the non-state SDF – a problem for many Europeans. It would require faith that the territory on which the facility is built will not change hands in the ongoing push-pull among the SDF, Ankara and Damascus, or – should such a change occur – confidence that Western governments will be able to deal with the new actor in charge.

In particular, should the Syrian regime take control – as a result of either an SDF-regime understanding or a regime incursion – it would present a chilling prospect given allegations of regime brutality toward prisoners and considerable reluctance in Western governments to cooperate with Damascus in any way that suggests normalisation.<sup>118</sup> As of mid-November, French officials – noting rumours that Syrian intelligence officials had recently been seen at al-Hol – worried that it was just a matter of time until the regime took control there and used the prisoners as bargaining chips for normalisation.<sup>119</sup>

As problematic as the Iraq and Syria options seem, Western governments are likely to continue looking for some way to make one or both work for at least the near term. To the extent that they do so, it will be incumbent on them to help ensure that their nationals who remain in north east Syria are held in conditions that are both

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<sup>113</sup> Ibid. Crisis Group interview, Western security official, Europe, autumn 2019.

<sup>114</sup> Ibid. John Irish, "France's Le Drian to go to Iraq to discuss Trials for Jihadists from Syria", 16 October 2019.

<sup>115</sup> Schultz, op. cit. The jihadists sentenced to death include eleven French nationals and one resident. They have not as of this writing been executed.

<sup>116</sup> Jabbar Yasseen and Liz Sly, "Iraq jailbreak highlights Al-Qaeda affiliate's ascendancy", *Washington Post*, 22 July 2013.

<sup>117</sup> Crisis Group interviews, U.S. and European officials and diplomats, September 2019.

<sup>118</sup> Crisis Group interviews, European diplomats, London, October 2019.

<sup>119</sup> Crisis Group interview, senior French official, November 2019. The YPG denies that any Syrian security agencies or army have visited the camp. Crisis Group interview, YPG official, November 2019.

humane and secure. To that end, they should work together to surge technical support, training and resources to help the SDF, working as necessary through intermediaries such as the UN and other humanitarian actors. Because humane and secure detention will require new facilities and some investment of resources, they will also need to explore ways to address legal constraints that presently inhibit precisely that. But they also need to be prepared for the possibility – indeed likelihood – that a durable regional solution will fail to materialise, and that over the longer term the only responsible option will be repatriation.

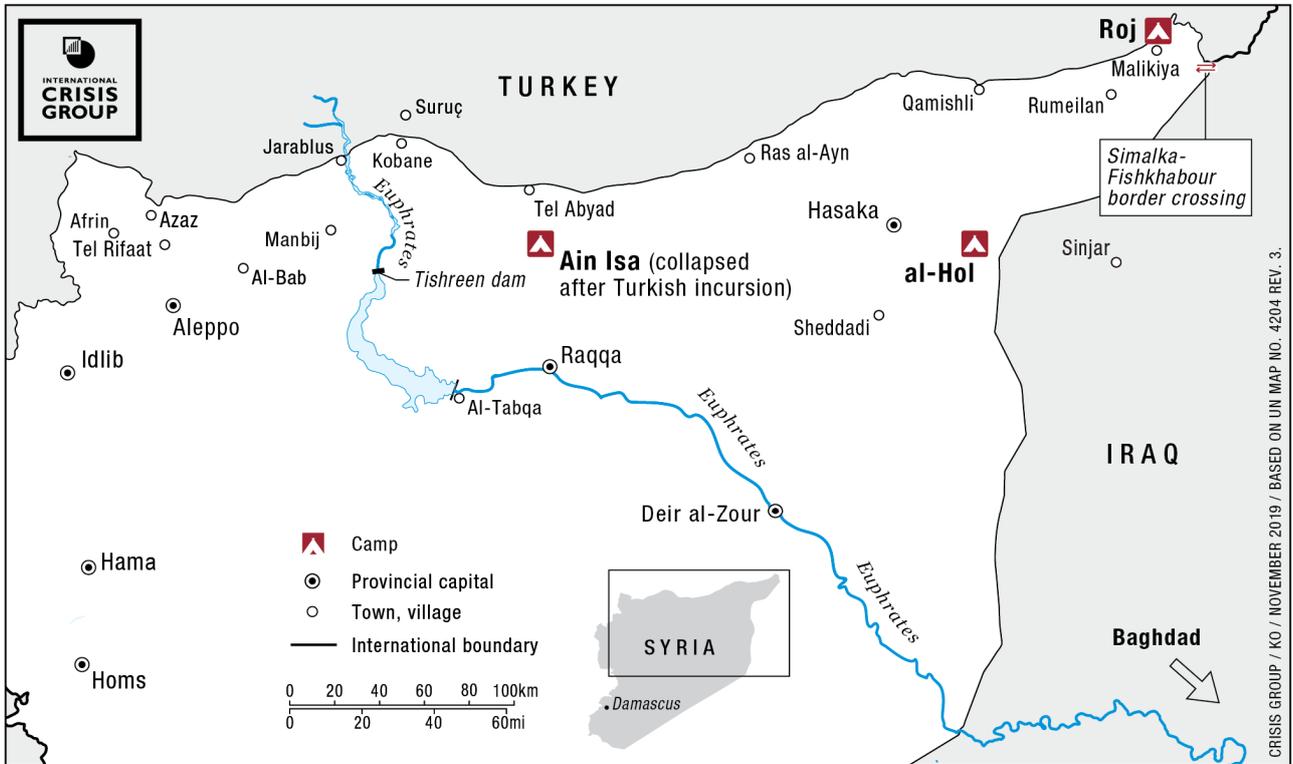
## **VI. Conclusion**

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The abandonment of tens of thousands of foreign men, women and especially children, who will grow up in or out of detention camps in Syria, citizens of no country and unwelcome everywhere, is an eventuality that Western – and indeed all – governments must strive to avoid. Finding appropriate dispositions for their own nationals is something that these governments have a responsibility to tackle. In doing so, women and children are the right place to start. As governments privately acknowledge, there is no archetypal ISIS woman, but rather a complex spectrum of women and girls in the camps of north east Syria. Alongside ideologues are deeply regretful women who rue the personal circumstances or delusions that brought them to ISIS territory, accept that they must face justice and are desperate for a second chance in their homelands, or at the very least, a decent future for their children. All of them – the believers, the regretful and the children alike – will require the attention of the home governments that have long wished this problem would simply go away, and must now turn to face it.

**London/Istanbul/Beirut/Al-Hol, 18 November 2019**

Appendix A: Map of North East Syria



## Appendix B: About the International Crisis Group

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The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 120 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries or regions at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international, regional and national decision-takers. Crisis Group also publishes *CrisisWatch*, a monthly early-warning bulletin, providing a succinct regular update on the state of play in up to 70 situations of conflict or potential conflict around the world.

Crisis Group's reports are distributed widely by email and made available simultaneously on its website, [www.crisisgroup.org](http://www.crisisgroup.org). Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board of Trustees – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policymakers around the world. Crisis Group is chaired by former UN Deputy Secretary-General and Administrator of the United Nations Development Programme (UNDP), Lord (Mark) Malloch-Brown.

Crisis Group's President & CEO, Robert Malley, took up the post on 1 January 2018. Malley was formerly Crisis Group's Middle East and North Africa Program Director and most recently was a Special Assistant to former U.S. President Barack Obama as well as Senior Adviser to the President for the Counter-ISIL Campaign, and White House Coordinator for the Middle East, North Africa and the Gulf region. Previously, he served as President Bill Clinton's Special Assistant for Israeli-Palestinian Affairs.

Crisis Group's international headquarters is in Brussels, and the organisation has offices in seven other locations: Bogotá, Dakar, Istanbul, Nairobi, London, New York, and Washington, DC. It has presences in the following locations: Abuja, Algiers, Bangkok, Beirut, Caracas, Gaza City, Guatemala City, Hong Kong, Jerusalem, Johannesburg, Juba, Mexico City, New Delhi, Rabat, Tbilisi, Toronto, Tripoli, Tunis, and Yangon.

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**November 2019**

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## Appendix C: Reports and Briefings on the Middle East and North Africa since 2016

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### Special Reports and Briefings

*Exploiting Disorder: al-Qaeda and the Islamic State*, Special Report N°1, 14 March 2016 (also available in Arabic and French).

*Seizing the Moment: From Early Warning to Early Action*, Special Report N°2, 22 June 2016.

*Counter-terrorism Pitfalls: What the U.S. Fight against ISIS and al-Qaeda Should Avoid*, Special Report N°3, 22 March 2017.

*Council of Despair? The Fragmentation of UN Diplomacy*, Special Briefing N°1, 30 April 2019.

*Seven Opportunities for the UN in 2019-2020*, Special Briefing N°2, 12 September 2019.

### Israel/Palestine

*How to Preserve the Fragile Calm at Jerusalem's Holy Esplanade*, Middle East Briefing N°48, 7 April 2016 (also available in Arabic and Hebrew).

*Israel/Palestine: Parameters for a Two-State Settlement*, Middle East Report N°172, 28 November 2016 (also available in Arabic).

*Israel, Hizbollah and Iran: Preventing Another War in Syria*, Middle East Report N°182, 8 February 2018 (also available in Arabic).

*Averting War in Gaza*, Middle East Briefing N°60, 20 July 2018 (also available in Arabic).

*Rebuilding the Gaza Ceasefire*, Middle East Report N°191, 16 November 2018 (also available in Arabic).

*Defusing the Crisis at Jerusalem's Gate of Mercy*, Middle East Briefing N°67, 3 April 2019 (also available in Arabic).

*Reversing Israel's Deepening Annexation of Occupied East Jerusalem*, Middle East Report N°202, 12 June 2019.

### Iraq/Syria/Lebanon

*Arsal in the Crosshairs: The Predicament of a Small Lebanese Border Town*, Middle East Briefing N°46, 23 February 2016 (also available in Arabic).

*Russia's Choice in Syria*, Middle East Briefing N°47, 29 March 2016 (also available in Arabic).

*Steps Toward Stabilising Syria's Northern Border*, Middle East Briefing N°49, 8 April 2016 (also available in Arabic).

*Fight or Flight: The Desperate Plight of Iraq's "Generation 2000"*, Middle East Report N°169, 8 August 2016 (also available in Arabic).

*Hizbollah's Syria Conundrum*, Middle East Report N°175, 14 March 2017 (also available in Arabic and Farsi).

*Fighting ISIS: The Road to and beyond Raqqa*, Middle East Briefing N°53, 28 April 2017 (also available in Arabic).

*The PKK's Fateful Choice in Northern Syria*, Middle East Report N°176, 4 May 2017 (also available in Arabic).

*Oil and Borders: How to Fix Iraq's Kurdish Crisis*, Middle East Briefing N°55, 17 October 2017 (also available in Arabic).

*Averting Disaster in Syria's Idlib Province*, Middle East Briefing N°56, 9 February 2018 (also available in Arabic).

*Winning the Post-ISIS Battle for Iraq in Sinjar*, Middle East Report N°183, 20 February 2018 (also available in Arabic).

*Saudi Arabia: Back to Baghdad*, Middle East Report N°186, 22 May 2018 (also available in Arabic).

*Keeping the Calm in Southern Syria*, Middle East Report N°187, 21 June 2018 (also available in Arabic).

*Iraq's Paramilitary Groups: The Challenge of Rebuilding a Functioning State*, Middle East Report N°188, 30 July 2018 (also available in Arabic).

*How to Cope with Iraq's Summer Brushfire*, Middle East Briefing N°61, 31 July 2018.

*Saving Idlib from Destruction*, Middle East Briefing N°63, 3 September 2018 (also available in Arabic).

*Prospects for a Deal to Stabilise Syria's North East*, Middle East Report N°190, 5 September 2018 (also available in Arabic).

*Reviving UN Mediation on Iraq's Disputed Internal Boundaries*, Middle East Report N°194, 14 December 2018 (also available in Arabic).

*Avoiding a Free-for-all in Syria's North East*, Middle East Briefing N°66, 21 December 2018 (also available in Arabic).

*Lessons from the Syrian State's Return to the South*, Middle East Report N°196, 25 February 2019.

*The Best of Bad Options for Syria's Idlib*, Middle East Report N°197, 14 March 2019 (also available in Arabic).

*After Iraqi Kurdistan's Thwarted Independence Bid*, Middle East Report N°199, 27 March 2019 (also available in Arabic and Kurdish).

*Squaring the Circles in Syria's North East*, Middle East Report N°204, 31 July 2019 (also available in Arabic).

*Iraq: Evading the Gathering Storm*, Middle East Briefing N°70, 29 August 2019 (also available in Arabic).

*Averting an ISIS Resurgence in Iraq and Syria*, Middle East Report N°207, 11 October 2019 (also available in Arabic).

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*Tunisia: Transitional Justice and the Fight Against Corruption*, Middle East and North Africa Report N°168, 3 May 2016 (also available in Arabic and French).

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<b>Diego Arria</b> <b>Zainab Bangura</b> <b>Nahum Barnea</b>	<b>Mou-Shih Ding</b> <b>Uffe Ellemann-Jensen</b> <b>Stanley Fischer</b>	<b>Surin Pitsuwan</b> <b>Fidel V. Ramos</b> <b>Olympia Snowe</b>
<b>Kim Beazley</b> <b>Shlomo Ben-Ami</b>	<b>Carla Hills</b> <b>Swanee Hunt</b> <b>Wolfgang Ischinger</b>	<b>Javier Solana</b>