

Keep Your Citizens Close:
Building A Policy Framework in Response to Canada's Returning Foreign Fighters

By
Mathew Shane McVeigh
BSc, University of Ottawa 2016

A Major Research Paper
presented to Ryerson University

in partial fulfillment of the requirements for the degree of

Master of Arts
in the program of
Immigration and Settlement Studies

Toronto, Ontario, Canada, 2019

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ABSTRACT

This Major Research Paper examines the irregular migration of Canadian citizens who engaged in terrorism abroad, specifically Syria and Iraq, and who are now returning home. The paper examines how they were radicalized into adopting an ideology that stands against the individuals' home state and how they can be reintegrated once they have returned. The paper acknowledges that this is not the first instance of Canadian foreign fighters, but is the first time where they pose a threat to Canada. Since this threat must be addressed in some way, the paper examines different strategies to mitigate any risk to other Canadian citizens and to counter any future radicalization of Canadian citizens.

Keywords: Irregular Migration; Terrorism; Foreign Fighter; Radicalization; Deradicalization; Disengagement

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Introduction

It is estimated that, as of November 2017, approximately 200 Canadians have left Canada to join the Islamic State in Iraq and the Levant (“ISIL”) in Syria and Iraq.¹ ISIL is a terrorist organization that, on more than one occasion, has threatened Canada and its allies. The group is also known as the Islamic State for Iraq and al-Sham (“ISIS”) or “Daesh”.² While ISIL’s geographic control of parts of Iraq and Syria has diminished, its presence is still felt, both online and in the return of these Canadian foreign fighters to home soil.³

The returning Canadians pose unique risks to Canada’s security. This paper will first address how these individuals came to join ISIL, canvassing the process of terrorist radicalization and the methods by which Canadian citizens have been recruited to foreign conflicts, both previous and current. It will assess the complementary motivations of individual Canadian foreign fighters and ISIL and address the relationship between the individuals and the organization while abroad. Against this backdrop, this paper outlines the distinct threat posed by the Canadian returnees, who now have training and experience in using violence that could be turned against their home state.

The threat is not speculative. In Europe, some of those who have returned continue to engage in violent activities such as the attempted bombing of the Stade de France by Bilal Hadfi, a returned French citizen.⁴ In a podcast from the *New York Times* called *The Caliphate*, journalist Rukmini Callimachi interviewed a Canadian foreign fighter identified as Abu Huzaifa al-Kanadi

¹ Evan Dyer. ‘Canada does not engage in death squads’, while allies actively hunt down their own foreign fighters. Canadian Broadcasting Company 17 November 2018. . <https://www.cbc.ca/news/politics/isis-fighters-returning-target-jihadis-1.4404021>. Accessed 19 October 2018.

² Faisal Irshaid, *ISIS, ISIL, IS or Daesh? One group, many names*. BBC Monitoring. Accessed 3 October 2018. <https://www.bbc.com/news/world-middle-east-27994277>. Accessed 24 September 2018.

³ L. Berthiaume, Fact check: Are Liberals welcoming ISIS returnees to Canada with open arms. The Canadian Press. 30th November 2017. Retrieved from <https://globalnews.ca/news/3889240/liberals-isis-fighters-canada-open-arms/>. Accessed 24 September 2018.

⁴ Malcolm Nance, *Defeating ISIS: Who they are, How they fight, What they believe*. New York, Skyhorse Publishing, 2016. pg. 140-141.

(not his legal name). He told her that, in his experience, foreign fighters were brought into a room in which the “Emni” (secret service of ISIL) spoke to them about returning to North America to commit terrorist attacks such as the Paris attacks in 2015.⁵ The threat of such violence occurring in Canada is thus increased with the return of these Canadians. These Canadians join others from around the world to make up ISIL’s contingent of foreign fighters.

As other countries have announced their strategies in regard to their returning foreign fighters, Canada is under increasing pressure to do the same. So far, Prime Minister Trudeau has only announced that Canadian foreign fighters will be allowed to return to Canada.⁶ This leads to the research question, addressing how the federal government should respond to Canadian ISIL fighters who are returning. There are several options available. These include refusing to allow the returnees back at all and/or taking steps to eliminate them using drone strikes while abroad, arresting or detaining the returnees on arrival, deradicalization, and disengagement. Ultimately, while each suffers from weaknesses, the last three of these four strategies should be combined into a multi-pillar approach. This paper suggests that the federal government should focus on a disengagement process for the short-term, while relying on existing deradicalization processes and facilities for those identified as having a high likelihood of success in such programs. Deradicalization more broadly is a long-term strategy that should not be hastily implemented for everyone. Monitoring and gathering evidence for possible later prosecution should be concurrently addressed. This multi-faceted approach addresses the various threats posed by the returnees in a way that is both focused on Canada’s security and cognizant of the rights held by Canadian citizens.

⁵ Rukmini Callimachi, “Caliphate: Chapter 4 Us vs Them”. 14:24-19:37 New York Times, Audio Podcast, May 10, 2018. Accessed 3rd October, 2018.

<https://open.spotify.com/episode/6bR8nmGoN3rnIJG4w9ldEd?si=truon6qdS2G5Cbj5rwpdqw> [Callimachi].

⁶ Berthiaume *supra* note 3.

To develop this framework, the paper relies on published material. Traditional field work is not recommended for this topic due to safety concerns. Safety issues arise both with respect to travel into Syria or Iraq and interviewing returning foreign fighters. The interview option also raises reliability concerns, as it is difficult to confirm whether interview participants actually were foreign fighters as well as whether the information, they provide is factual. As a result, reliance was placed instead on published material, including field studies by other individuals. The major sources in this paper use historical and current events to provide explanations as to why a phenomenon is occurring. The sources also include interviews with returning foreign fighters and experts which provide more detailed explanations and evidence for the argument that this paper puts forth. This research begins with the concept of terrorism.

Terrorism and Radicalization

Canada identifies ISIL as a terrorist organization.⁷ Being a member of ISIL, like the returnees, or supporting ISIL is in violation of Canada's *Criminal Code*.⁸ Terrorism is a type of violence used for political purposes.⁹ Other types include war, genocide, and ethnic cleansing.¹⁰ Members of terrorist groups, like the returnees, only need one successful attack to meet common terrorist goals, such as causing fear, death, or major injury.¹¹ The broader objectives of terrorism include intimidation, provocation, and creating chaos.¹² These objectives create fear and undermine the state, attempting to provoke it into overreacting.¹³

⁷ "Listed Terrorist Entities". Public Safety Canada, accessed January 7th, 2019. Retrieved from: <https://www.publicsafety.gc.ca/cnt/ntnl-scrt/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-en.aspx>. Accessed 07 January 2019.

⁸ *Criminal Code*, RSC 1985, c. C – 46 s.83.18(1).

⁹ Ariel Merari, "Terrorism as a Strategy of Insurgency" Gerard Challand and Arnaud Blin, eds, *The History of Terrorism: From Antiquity to Al Qaeda* (Berkeley, University of California Press, 2007) pg 12.

¹⁰ Martin Miller, *The Foundations of Modern Terrorism* (Cambridge: Cambridge University Press, 2013). pg.1.

¹¹ *Ibid* pg.33.

¹² *Ibid* pg.34-35.

¹³ *Ibid*.

There is no internationally agreed-upon definition of terrorism due to disagreement among states. What makes defining terrorism even more complicated is the fact that there are different types of terrorism. For instance, there is state terrorism, which is when states use terrorism on their own citizens in order to exercise control.¹⁴ A second type is state-sponsored terrorism, which is when a state sponsors groups to go abroad and attack another state.¹⁵ A third type is war time terrorism, which could include dropping bombs on civilian populations. Finally, a fourth type (the type most relevant to the returning foreign fighters) is insurgent terrorism, which includes “lone wolf” attacks (attacks committed by individuals on their own, inspired by or in support of terrorist groups) or non-state groups such as ISIL.¹⁶

In spite of the various types of terrorism, both the United Nations (“UN”) and the preceding League of Nations have attempted to create a universal definition. Shortly after 9/11, the UN came close to a universal definition, falling short because the Organization of the Islamic Conference was not willing to include national liberation movements fighting foreign occupation, in reference to the Israeli occupation of Palestinian land.¹⁷ The UN has found four main issues when attempting a universal definition of terrorism: whether terrorism can be attributed to governments in the same way as it is attributed to non-state actors; whether there is a distinction between terrorism and effecting the right of self-determination or combatting foreign occupation; whether the definition should include the actions of state armed forces during their official duties and during wartime, if in conformance with international law; and whether the definition should include state militaries’ potential uses of nuclear weapons.¹⁸

¹⁴ Bradley McAllister and Alex P. Schmid. “Theories of Terrorism” *The Routledge Handbook of Terrorism Research*, edited by Alex P. Schmid, Routledge, 2011. pg.203-206.

¹⁵ *Ibid* pg. 209.

¹⁶ *Ibid* pg. 211-213.

¹⁷ Alex P Schmid, “Definitions of Terrorism” in Alex P. Schmid, ed, *The Routledge Handbook of Terrorism Research* (Abington: Routledge, 2011) pg.51-52.

¹⁸ *Ibid*.

As the dispute over a universal definition demonstrates, states have power to define terms like terrorism. Most states would never agree to label their own actions as terroristic in nature.¹⁹ Terrorism is a loaded term: it can be used to shape policy, rally the public, condemn a group, or place the group on a moral high ground.²⁰ While states thus recognize the defining power as a very important part of their independence, the UN continues to attempt to create a universal definition. Thus far, states have agreed that terrorism includes causing death or serious bodily injury to any person. It also includes causing serious damage to public or private property, including government buildings or the environment. If non-serious damage results or is likely to result in major economic loss, is intended to intimidate a population, or is intended to compel a government or an international organization to perform or abstain from an act, it will also be captured in the general definition of terrorism.²¹ Since this MRP focuses specifically on Canada, the definition of terrorism underlying the analysis will be that used by Canada. Canada's definition can be found within section 2 of the *Criminal Code*.²² It combines a physical act with a person's or group's intention which must be political, religious, or ideological.²³ This definition was summarized by Mario Silva in his book "*Privacy versus Security in the Age of Global Terror*" as:

An act or omission undertaken, inside or outside Canada, for a political, religious, or ideological purpose that is intended to intimidate the public with respect to its security, including its economic security, or to compel a person, government or organization (whether inside or outside Canada) from doing or refraining from doing any act ... [and] that intentionally causes one of a number of specified forms of serious harm.²⁴

Terrorists are individuals who are part of groups engaged in terrorism. They generally do not consider themselves terrorists, instead believing themselves to be freedom fighters or

¹⁹ *Ibid* pg.40-41.

²⁰ *Ibid*.

²¹ *Ibid* pg.51.

²² *Criminal Code supra* note 8.

²³ Richard Barnhorst and Sherrie Barnhorst. *Criminal Law and the Canadian Criminal Code*. 5th ed., McGraw-Hill Ryerson, 2009. pg.136.

²⁴ Mario Silva. "Privacy versus Security in the age of Global Terror", Mosaic Press 2017. pg.174.

activists.²⁵ Researchers have found that those who have committed terrorist acts have a rational decision-making process but simply see violence as the best way to further their goals.²⁶ For example, many Islamic extremists argue that they act against the suffering of Muslims.²⁷ Further, there is no one path to becoming a terrorist. People from various backgrounds – wealthy and poor, employed and unemployed, educated and uneducated – all have been radicalized into becoming terrorists.

That is not to say that being a radical is the same as being a terrorist. There is nothing inherently wrong with being a radical, meaning having radical views or opinions. Some of the most common views now held were at one time considered “radical”, such as women’s suffrage or gay marriage.²⁸ It becomes an issue, however, when a person turns to violence to forward their radical views. The process of turning radical views into radical action is called radicalization. Radicalization is neatly defined in a study released by the Canadian Security Intelligence Service (“CSIS”), entitled “*Mobilization to Violence (Terrorism) Research – Key Findings*”. This study defines radicalization as “a process in which a person becomes convinced that violence is a legitimate (and eventually individually obligated) means to advance their ideological cause or beliefs.”²⁹ Radicalization has been thoroughly explored in the literature. A useful starting point for the discussion of radicalization is an American study, authored by Mitchell Silber and Arvin Bhatt out of the New York Police Department, entitled “*Radicalization in the West: The Homegrown*

²⁵ *Ibid* pg.91.

²⁶ Richard English. *Does Terrorism Work*, (Oxford: Oxford University Press, 2016) pg. 1-2. See also pg.14.

²⁷ L. Richardson. *What Terrorists Want*. New York, Random House Publishing Group, 2006. pg.47.

²⁸ Phil Gurski. *The Threat from Within: Recognizing Al Qaeda inspired radicalization and terrorism in the west*. Maryland, Rowman & Littlefield, 2016. pg. 9.

²⁹ Canadian Security Intelligence Service (2018, February 5th). *Mobilization to Violence (Terrorism) Research: Key findings*. Retrieved from <https://csis.gc.ca/publctns/thrpbcltns/2018-02-05-en.php>. Accessed 24 September 2018.

Threat".³⁰ This comparative study set out a general process for radicalization, relying on previous homegrown "jihadist" terrorist attacks (Madrid 2004, Amsterdam 2004, London 2005, Sydney 2005, and Toronto 2006).³¹ The study should be considered reliable, even though the authors had access to information that is not accessible by the public, meaning that the raw data cannot be analyzed. The research is still supported by a number of scholarly sources and includes narratives from outside experts.

Silber and Bhatt's process has four stages: pre-radicalization, self-identification, indoctrination, and "jihadization". Pre-radicalization is the period in a person's life just before being exposed to radical ideology but when he or she is nonetheless vulnerable. Many of the individuals involved in the previous attacks the study examined lived normal lives and had little to no prior criminal history. Self-identification is the stage where the individual is influenced by internal and external factors.³² They begin to explore ideologies that are more radical and associate themselves with individuals of similar mind. For this to happen, there must be a tipping point: what Silber and Bhatt described as a "cognitive opening or crisis which opens the person into accepting more radical ideas. This opening or crisis is an event that can be economic (losing a job), social (real or perceived alienation, discrimination, racism), Political (international conflicts involving Muslims), or personal (death in the close family)."³³ Indoctrination is the third stage, wherein an individual's radical beliefs intensify to the point of action. The individual is now within a social network that reinforces these beliefs and has a "spiritual sanctioner" or a radicalizer who

³⁰ Mitchell Silber and Arvin Bhatt. *Radicalization in the West: The Homegrown Threat*. New York: New York Police Department, August 2007. <https://info.publicintelligence.net/NYPDradicalization.pdf>. Accessed October 10th 2018.

³¹ *Ibid* pg.5.

³² *Ibid* pg.6.

³³ *Ibid* pg.7.

provides the justification for violent action. The last stage is “jihadization”, wherein the individual accepts becoming a jihadist and, with their social network, begins operational planning.³⁴

Beyond the process of radicalization (the “how?”), the most important question to address is *why* radicalization happens at all. There are several different theories behind radicalization that have been addressed in the literature. In “*Exploring the Theories of Radicalization*,”³⁵ Asta Maskaliūnaitė looked at different theories as to why a person becomes radicalized and engages in terrorism. There is no one explanation as to how someone becomes radicalized. The process depends on the person. Maskaliūnaite identified four theories: coercion/motivation, grievance, rational choice, and psychological. All four attempt to explain in general terms how a person becomes radicalized.³⁶

The coercion/motivation theory is when people are radicalized based on external factors such as psychological manipulation.³⁷ This could be done through friends or a leader. Members of this friend group react to peer pressure; individuals begin with legal activities but transition to more radical ones (the so-called slippery slope approach). The leaders would reinforce ideologies, exert pressure and recruit new members.³⁸

Maskaliūnaite’s second theory is through grievances. This theory relies on a perceived injustice that pushes an individual to terrorist activities. According to this theory, individuals identify strongly with the group and this identity influences the individual’s decisions.³⁹ This theory of radicalization is very popular and can be accurately applied to the conflict in Syria and Iraq, focusing on the perceived injustices faced by Islam.

³⁴ *Ibid.*

³⁵ Asta Maskaliūnaitė. “Exploring the Theories of Radicalization.” *International Studies: Interdisciplinary Political and Cultural Journal (IS)*, vol. 17, no. 1, 2015, pp. 9-26.

³⁶ *Ibid* pg.15.

³⁷ *Ibid* pg.18.

³⁸ *Ibid* pg. 19.

³⁹ *Ibid* pg. 20.

The third theory that Maskaliūnaite examines is rational choice theory. She explains that a person radicalizes into terrorist activity by conducting a cost-benefit analysis with themselves. They choose terrorism like it is a career, understanding its costs but also seeing benefits like recognition, prestige, or a sense of heroism.⁴⁰ However, most terrorist groups have not achieved their overall goals: the rational strengths of the method are thus difficult to see. The “pros” of engaging in terrorism can be better measured through reference to other theories, such as grievances or socio-economics.

The last theory is the psychological perspective. It has a focus on individual traits and suggests that there is an abnormality with people who are considered terrorists. This theory generally tries to profile a terrorist and tries to do so in three ways: racial-physical, psycho-pathological, and socio-economic.⁴¹ Racial-physical profiling relies on physical characteristics. Psycho-pathological profiling relies on people who have personality traits and tendencies that push them towards terrorist activities. Socio-economic profiling relies on an individual’s social class and income.⁴² All three make broad claims about individuals but are not generally reliable, as people who commit terrorist acts have been found to be physically and mentally similar to those who do not.⁴³

The article does well at examining the different theories and outlines their strengths and weaknesses, though Maskaliūnaite does eventually indicate support of rational choice theory as the most promising theory, without regard to how it could be integrated with the theories of grievances or socio-economics. Despite lacking a synthesized theory, Maskaliūnaite’s article provides useful sources for the background discussion of radicalization.

⁴⁰ *Ibid* pg. 21.

⁴¹ *Ibid* pg. 15-16.

⁴² *Ibid* pg. 16.

⁴³ *Ibid* pg. 17.

Some researchers contend that radicalization is dependent upon socio-economics. This theory argues that the majority of people who become radicalized are people who are marginalized from their original societies. Edwin Bakker and Peter Grol in their policy brief “*Motives and Considerations of Potential Foreign Fighters from the Netherlands*” conducted interviews with six Dutch foreign fighters. When they collected their observations, they found that the people had limited chances in the labour market and no longer felt they had a future.⁴⁴ One mosque leader who was interviewed said that those who had went to Syria finished school but were unable to find jobs. The leader also said that those who intended to go to Syria but who found work then no longer wanted to go to Syria.⁴⁵ Ted Gurr in his book “*Why Men Rebel*” noted that the relationship between political violence and economic marginalization was because of political frustration with goal achievement. However, this theory was disproven in Claude Berrebi’s “*Evidence about the Link between Education, Poverty, and Terrorism among Palestinians*”. In his study, Berrebi looked at 335 deceased Palestinian suicide bombers and found that only 16% were below the poverty line.⁴⁶ A study by Marc Sageman in “*Understanding Terror Networks*” further found that, of 172 Al-Qaeda members, two-thirds were middle or upper class and 60% had postsecondary education, up to and including doctorate degrees.⁴⁷ Lorne Dawson and Amarnath Amarasingam conducted a study in “*Talking to Foreign Fighters: Insights into the Motivations for Hijrah to Syria and Iraq*”, which they were able to interview twenty foreign fighters. After they finished their interviews with the foreign fighters they found that none of the fighters indicated that socio-economic marginalization had persuaded them into joining: instead, it was religious ideology.⁴⁸

⁴⁴ Edwin Bakker and Peter Grol. "Motives and Considerations of Potential Foreign Fighters from the Netherlands." *ICCT Research Papers*, vol. 6, no. 3, 2015, pp. 1-17. pg. 13.

⁴⁵ *Ibid* pg. 14.

⁴⁶ McAllister and Schmid *supra* note 14 pg. 249.

⁴⁷ Richardson *supra* note 27 pg.47.

⁴⁸ Lorne L. Dawson and Amarnath Amarasingam. "Talking to Foreign Fighters: Insights into the Motivations for Hijrah to Syria and Iraq." *Studies in Conflict & Terrorism*, vol. 40, no. 3, 2017, pp. 191-210 pg. 192.

Both the “how?” and the “why” of radicalization are important to consider when assessing the returnees, since they were radicalized at home prior to being recruited by ISIL and adopting its doctrine. It is after a person has been radicalized that they would use violence to further their cause. The CSIS study reviewed 100 cases and found that the period from radicalization to violent action is usually about 12 months but, in rare cases, can be shorter.⁴⁹ This is because mobilization can happen within groups that pool their resources in order to reach a goal, such as joining ISIL in Syria faster.⁵⁰

However, prior to radicalizing and recruiting others, the individuals in Iraq and Syria who make up ISIL were themselves radicalized. Fawaz Gerge’s book “*Isis: A History*” attributes this radicalization to the Iraq War.⁵¹ Supported by other references in the literature, Gerge suggests that the US invasion of Iraq and the de-*Ba’athification* created the circumstances enabling Al-Qaida, and subsequently ISIL, to emerge. A comparison of Iraq before and after the invasion is supportive of this theory. Saddam Hussein was a secular nationalist and made Iraq into a dangerous place for Islamic radicals, and in turn made Iraq one of the few Arab countries that did not have Islamic jihadists.⁵² In fact, in the beginning of the 2003 US invasion into Iraq, Al-Qaeda’s first challenge was to avoid Hussein’s Security Service in order to establish themselves in Sunni neighborhoods.⁵³ But this did not stop Hussein from presenting a more pious image, using religion to broaden his support after the Gulf War.⁵⁴ Iraq’s socio-economic conditions in the 1990s were poor due to sanctions imposed on it by the United Nations, and in response people turned to

⁴⁹ Canadian Security Intelligence Service *supra* note 29.

⁵⁰ *Ibid.*

⁵¹ Fawaz A. Gerges. *Isis: A History*, Princeton University Press, 2016. ProQuest Ebook Central, <https://ebookcentral-proquest-com.ezproxy.lib.ryerson.ca/lib/ryerson/detail.action?docID=4429091>.

⁵² *Ibid* pg.50.

⁵³ *Ibid* pg.52.

⁵⁴ *Ibid* pg.62.

religion and more radical ideas.⁵⁵ Likewise, people turned to more radical ideas under the oppressive government of Bashar al-Assad in Syria.⁵⁶ There, the civil war became an opportunity for individuals to defend Islam. Under this shared grievance, ISIL united its large contingent of both radicalized foreign and local fighters to establish a caliphate within its captured territory.⁵⁷

While the caliphate is no longer a geographic reality, the returnees are still very much radicalized. They are not, however, the only Canadians in history who have travelled to foreign soil, participating in conflicts without the support of the Canadian government. Then, like now, the response to those returning from conflict is not so simple as a prison sentence. More than simply radicalized individuals participating in terrorism, the returnees must be understood within the subclass of “foreign fighters”.

Foreign Fighters Past and Present

This term “foreign fighter” means “an individual who leaves his or her country of origin or habitual residence to join a non-state armed group in an armed conflict abroad”.⁵⁸ Notably, Canadians joined the Spanish government in its Civil War between 1936 and 1939 and the US army in the Vietnam War. While this is not to say that the conflict that occurred in Syria and Iraq is comparable to these wars – in fact, there are several key differences between them – Canada, during these conflicts, did see its citizens go abroad to fight in a foreign war without the support of the Canadian government.

⁵⁵ *Ibid* at 60.

⁵⁶ *Ibid* at 61.

⁵⁷ Jessica Stern and J.M Berger, *ISIS: The State of Terror*. New York: HarperCollins Publishers, 2015. pg. 83.

⁵⁸ Sandra Kraehenmann. *Foreign Fighters under International Law*. Geneva Academy of International Humanitarian Law and Human Rights. Geneva, Switzerland 2014. pg.6.

The Spanish Civil War and the Vietnam War both saw many Canadian foreign fighters involved and, due to their importance in world history, resulted in a Canadian government response. “*Renegades: Canadians in the Spanish Civil War*” by Michael Petrou is a good starting point for this history because the book includes an introductory review of previous literature and provides a collection of sources. Petrou’s account itself was informative and, because it was written in the 2000s, included material not previously released to the public (such as documents from the Soviet Union giving more detail about the Canadian foreign fighters).

Petrou suggests that “*The Mackenzie-Papineau Battalion*” by Victor Hoar is essential reading for anyone studying the conflict. He has strong evidence to make that claim in that Hoar’s book was an early source on the Spanish Civil War. Petrou stated that Hoar’s account was limited due to his lack of access to Soviet Union documents.⁵⁹ Having those documents would have given insight into what the Communist Party thought of the Canadian foreign fighters and some of their intentions that the RCMP at the time may have either mistaken or exaggerated. What hindered Hoar’s book was that he depended on interviews with the foreign fighters to create a narrative of what happened. This narrative was created 30 years after the war had finished. Hoar defended his research by saying that, although memory alone is not the most reliable for research, out of all the interviews a common experience could be identified and authenticated.⁶⁰ Hoar was able to authenticate the oral histories by obtaining documents from the Toronto Public Library that were donated by Spanish Civil War veterans. In addition to these, he obtained published memoirs, autobiographies, and accounts from American and European veterans.⁶¹ Despite not having data from the Soviet Union, Hoar was able to create an accurate narrative that, combined with the work

⁵⁹ Michael Petrou. *Renegades: Canadians in the Spanish Civil War*. Vancouver, UBC Press, 2008. pg.6.

⁶⁰ Victor Hoar. *The Mackenzie-Papineau Battalion*. Ottawa, Carleton University Press, 1986. pg. Preface.

⁶¹ *Ibid.*

of Petrou, provides an informative historical source explaining Canadians' involvement in the Spanish Civil War. The importance lies in the fact that these Canadians returned home after fighting abroad, without further intervention from the Canadian government.

Similarly, there has been a lot of research done on the Vietnam War, as it is a big part of US history. The books that were used for this research were written after the Vietnam War and contain a wealth of information and analysis. Preliminary research began with "*Unknown Warriors: Canadians in the Vietnam War*" by Fred Gaffen. He used letters written by Canadian veterans about their experiences as well as a number of books and articles to support their experiences. The best account of the Canadian experience was from the soldiers themselves, so the second major source used was "*I Volunteered: Canadian Vietnam Veterans Remember*" by Tracey Arial. Arial sourced Gaffen in her work and also incorporated a number of articles and books to support the interviews that she had done. Gaffen said in his book that he had interviewed many veterans from many different wars. A criticism that comes to mind with these two sources is that, because the authors interviewed only the veterans, their experiences may be biased. Although that could be considered, like in Hoar's book, all the experiences together present a common experience and both Gaffen and Hoar use other reliable sources to support their primary research and to present facts that were valuable in this research. Like the aftermath of the Spanish Civil War, the lack of government action in response to Canadian involvement in the Vietnam War stands in stark contrast to the response to the ISIL conflict.

Relying on the joint narrative from this background research, it can be concluded that, in the Spanish Civil War, most Canadian foreign fighters were recruited by the USSR, the Spanish government's main ally, through the Canadian Communist Party.⁶² During the Spanish Civil War,

⁶² *Ibid* pg.15.

Canada was going through the Great Depression. The Canadian Communist Party saw this as an opportunity and organized the workers into unions.⁶³ The Depression made people more receptive to the communists' message that capitalism was a broken system, though the Canadian Communist Party was relatively small.⁶⁴ In Spain, the Canadian foreign fighters were fighting for the democratically-elected Spanish government.

This was a different situation than the Vietnam War. In the 1950s and 1960s, there was a real fear in North America regarding communism. Canadians crossed into the USA and enlisted on their own without much motivation from the US Army. The US Army's main recruitment action towards Canadians was to open recruiting offices in American border towns to intercept the willing Canadian volunteers.⁶⁵ Canadians joined the US Army largely for idealistic reasons, being that they were against communism or they felt a connection to the US. Some Canadians had American family members while others identified America as Canada's close friend that they should help.⁶⁶ In Vietnam, many Canadians believed communism to be an international threat. Canada was very much in the US orbit, and many families were spread on either side of the border. US society is similar to Canadian society, and many volunteered as they saw the Americans as brothers-in-war.

The recruitment methods of the 1960s US Military and 1930s Communist party are very different from the methods used to recruit Canadians to fight with ISIL. Even Al-Qaeda did not have the same recruitment capabilities as ISIL when it began, as it generally relied on pamphlets, self-published books, cassette tapes, and in-person sermons.⁶⁷ As ISIL attracted more youthful recruits, it became very proficient at using the internet to recruit more foreign fighters or lone wolf

⁶³ Petrou *supra* note 59 pg.32.

⁶⁴ *Ibid* pg.31.

⁶⁵ Tracey Arial. *I Volunteered: Canadian Vietnam vets remember*. Winnipeg, Watson & Dwyer. 1996. pg.23.

⁶⁶ Fred Gaffen. *Unknown Warriors: Canadians in Vietnam*. Toronto, Dundurn Press, 1990. pg. 37.

⁶⁷ Nance *supra* note 4 pg.380.

attackers. It used the internet to reach its followers all over the world, allowing it to push its ideology and propaganda.⁶⁸ ISIL's recruitment method worked because the international circumstances were different from what they once were during the Vietnam War and the Spanish Civil War. Specifically, the foreign fighters in Syria and Iraq do not follow a political ideology but a religious one. This was shown by Dawson and Amarasingam in "*Talking to Foreign Fighters: Insights into the Motivations for Hijrah to Syria and Iraq*".⁶⁹ This was a very valuable narrative because they interviewed foreign fighters regarding their motivations for joining. The study was well-supported by subsequent articles but was critical of the socio-economic perspective. Their conclusion, that there is little evidence of economic and social motivations amongst the ISIL foreign fighters, is somewhat of a generalization. While this may not be a primary motivation, becoming a foreign fighter may result in some social or economic benefits, for example an improvement in social class.

Of the twenty foreign fighters Dawson and Amarasingam interviewed, six were Canadians, three were Americans, three were from the United Kingdom, four were from other parts of Europe, two were from Africa, one was from the Middle East, and one was from India.⁷⁰ After their interviews with the foreign fighters, it was overwhelmingly obvious that the prime motivation of the foreign fighters in joining ISIL was their commitment to their religious ideology. Tied to this motivation, however, some individuals were motivated to join ISIL by a sense of adventure. Joining ISIL to them meant leaving behind a life and beginning a new one. Some foreign fighters also wanted a sense of belonging to a group, and so adopted ISIL's collective identity and ideology.⁷¹ The motivations for foreign fighters joining ISIL have also been studied by Peter

⁶⁸ Silva *supra* note 24 pg.181.

⁶⁹ Dawson and Amarasingam *supra* note 48.

⁷⁰ *Ibid* pg. 197.

⁷¹ *Ibid* pg. 193.

Neuman, a professor of Security Studies at Kings' College in the United Kingdom who has done research in the field of radicalization. His book, "*Radicalized: New Jihadists and the Threat to the West*", focuses on Europe.⁷² However, his analysis can be applied in the Canadian context due to cultural similarities between Canada and Western European countries.

Phil Gurski in his text "*Western Foreign Fighters: The Threat to Homeland and International Security*" found six different motivations for individuals becoming foreign fighters for ISIL. The first is in defense of the *ummah*. This term means the global community or the Islamic Nation. This community is transnational, meaning it goes beyond state boundaries. Terrorists see themselves as true Muslims fighting for Islam and intent on returning it to its "glory days", which for them was between the seventh and nineteenth centuries.⁷³ The second motivator is called *hijrah*, the rejection of the West and the joining of the Muslim nation. Gurski explains that ISIL is relying on an event that took place fourteen hundred years ago, when Mohammad left Mecca in CE 622. *Hijrah* represents leaving a place of sin and establishing a community in which Muslims can practice their beliefs openly.⁷⁴ ISIL constantly compares the west as the place of sin and vice and that Muslims cannot truly practice their faith in the west because of the discrimination and cultural practice that go against *sharia* law.⁷⁵ These motivations were also popularized by the writings of Sayyid Qutb. He was a religious teacher who was part of the Ministry of Education of Egypt.⁷⁶ He went on exchange in the USA and returned to Egypt to join the Muslim Brotherhood.⁷⁷ He wrote a book called "*Milestones*", which popularized this militant perspective. The third motivation is having a desire to help; feeling that there has been an inadequate response by states,

⁷² Peter Neumann. *Radicalized: New Jihadists and the Threat to the West*. New York, I.B. Tauris & Co. Ltd, 2016.

⁷³ Phil Gurski. *Western Foreign Fighters: The threat to Homeland and International Security*. Maryland, Rowman & Littlefield, 2017. pg.71-72.

⁷⁴ *Ibid* pg.73-74.

⁷⁵ *Ibid* pg.74-75.

⁷⁶ White, Jonathan. *Terrorism and Homeland Security*, 6th ed, Wadsworth Cengage Learning, 2009 pg.194.

⁷⁷ *Ibid* pg.194.

individuals instead go as humanitarian workers and, while there, are recruited by ISIL. Gurski admits however that this could have been an illusion by individuals to throw security services off of their real intentions.⁷⁸ The fourth motivation that Gurski identifies is similar to the third in that the individual is anti-Assad and felt the need to assist in Assad's defeat in Syria.⁷⁹ Gurski also includes anti-Shia sentiments in this motivation. This is in reference to the age-long conflict of the Sunnis and Shias, which are both sects of Islam. ISIL believes itself to be Sunni and treats Shias the same as non-believers.⁸⁰ The fifth motivation is what Gurski refers to as the "lure of the caliphate". The caliphate is a political office that governs the *ummah*. In 2014, ISIL's leader Omar al-Baghdadi declared the re-establishment of the caliphate, though there are many who do not recognize al-Baghdadi's re-creation. The caliphate is still relevant, though, as this leads to the governance of a state with revenue generation capability.⁸¹ The last motivation mentioned by Gurski is ISIL's relations to the apocalypse. He refers readers to William McCants' text: "*The ISIS Apocalypse: The History, Strategy and Doomsday Vision of the Islamic State*".⁸² McCants explains that ISIL uses Sunni prophecies, which talk about "the final battle against the infidels", and that this final battle takes place in Dabiq. ISIL also uses other places from these apocalyptic prophecies such as the area around Damascus as "the Muslims' place of assembly". This works as a recruiting tool for foreign fighters because the prophecies speak about "the strangers" in positive reference to those who leave their countries to fight "the infidels" in foreign lands.⁸³

Peter Neumann has also found trends that would explain the motivations of foreigners joining ISIL. In his text "*Radicalized: New Jihadists and the Threat to the West*", he found that

⁷⁸ Gurski 2017 *supra* note 75 pg.76-77.

⁷⁹ *Ibid* pg.78.

⁸⁰ *Ibid*.

⁸¹ *Ibid* pg.80-81.

⁸² *Ibid* pg.83.

⁸³ William McCants. *The ISIS Apocalypse: The History, Strategy, and Doomsday Vision of The Islamic State*. New York, St. Martin's Press, 2015 pg.100-102.

the uniting factor of the foreign fighters in Syria and Iraq was their lack of identification with the West. He was able to group them into three different types: defenders, seekers, and hangers-on.⁸⁴ Defenders are fighters that feel they are protecting the Sunni population. They would not consider themselves radical or against the West as many came to fight the Assad dictatorship. The second type, seekers, are fighters who joined because it satisfies their need for identity. Being a part of ISIL gives them meaning and self-worth. The last type are hangers-on. These are similar to seekers but went to Syria because their small social circle decided to go and they wanted to maintain that connection.⁸⁵ Neuman and Gurski make similar findings as to why foreigners joined ISIL, although Gurski also includes McCants' work. Their findings support the fact that the foreign fighters are being radicalized around ISIL's ideology and worldview.

Beyond individual motivations, the conflicts also differ with respect to the actors. ISIL is not a state nor does it represent a uniformed military of a state, like the Spanish or American armies of the previous conflicts. ISIL is a non-state actor and a terrorist organization. As well, while Canada never entered combat in the Spanish or Vietnamese conflicts, Canada is engaged in combat in the War on Terror, addressing Islamic extremist groups that attack Western society. This conflict should make ISIL appear as the proverbial "other" to Canadian citizens – Canadian foreign fighters who joined this conflict are thus going further than the Canadian foreign fighters of conflicts past. This correlates to the availability of ISIL propaganda and videos, easily accessible via the internet, compared to the less accessible propaganda during the Spanish Civil War and Vietnam War.

A further difference is the public perception of the conflicts. In response to the Spanish foreign fighters, the Canadian government enacted the *Foreign Enlistment Act*.⁸⁶ Under this *Act*,

⁸⁴ Neumann *supra* note 72 pg.90-97.

⁸⁵ *Ibid.*

⁸⁶ Hoar *supra* note 60 pg.103-104.

the volunteering and recruitment of foreign fighters was illegal – at least nominally. In reality, the Canadian government was not motivated to charge returning foreign fighters of the earlier conflicts since it did not have the support of the Canadian public to do so.⁸⁷ Conversely, much of the Canadian public today sees the ISIL foreign fighters as criminals who should be imprisoned upon their return or not be allowed to return at all.⁸⁸

ISIL and Western Fighters

Why does ISIL bother putting significant effort into recruiting individuals who clearly have much to lose? Western foreign fighters, including Canadians, are attractive to groups such as ISIL regardless of whether they have a useful skillset for combat. First, Westerners are important to the group because they serve as proof that the group is global and has supporters within enemy territory.⁸⁹ Secondly, Western foreign fighters are more agreeable. They have come from far away and do not have to be sold on the group's ideology (as opposed to locals who may join for more basic reasons, such as survival). This has been done through the radicalization process. Lastly, Western foreign fighters come with little to no ability in Arabic nor do they know their surroundings. They therefore become completely dependent upon the group and only influenced by the group's ideology, thus becoming very loyal.⁹⁰ Since ISIL is trying to establish a caliphate, they are looking for more than just young males to fight. In a recruiting video, Canadian ISIL fighter Andre Poulin explained that ISIL needs professionals such as doctors and engineers and

⁸⁷ Petrou *supra* note 59 pg.172-173.

⁸⁸ Berthiaume *supra* note 3.

⁸⁹ Neumann *supra* note 72 pg.103.

⁹⁰ *Ibid.*

volunteers such as in fundraising or labour.⁹¹ He advertised that there was a role for everyone, including women.⁹²

Acknowledging these attractive qualities, it is no easy feat to attract foreigners half a world away to a terrorist cause. ISIL is different from previous terror groups, not just because of the number of foreign fighters they have, but also because of how they are able to recruit and radicalize foreign fighters to fight against their own countries. People are not radicalized by themselves. They need context and to have their questions answered by someone with a knowledge base.⁹³ ISIL preaches an ideology that relies on very old religious texts to justify its cause (independent of whether these texts are misrepresented or not) and, in order for possible recruits to have the intended understanding, they need a guide. Phil Gurski, an expert in the field of extremism and radicalization, refers to this person as the radicalizer. They are challenging to arrest because, in Canada, it is not illegal to have views that encourages violence even if said views are generally unwelcome.⁹⁴ The radicalizers are very much the leaders who also explain the perceived injustice and/or the enemy and a strategy for success.⁹⁵ A radicalizer can take the form of many different individuals such as a family, friends, religious leaders, or online figures. Gurski provides examples of these in his text “*The Threat from Within: Recognizing Al-Qaeda Inspired Radicalization and Terrorism in the West*”. He also gives examples of where radicalization takes place, like in a religious institution, school or the internet. Arguably, the internet is the most relevant of these options, because of the advancements to communication technologies and the ability to be undetected by authorities.⁹⁶

⁹¹ Stern and Berger *supra* note 57 pg.87.

⁹² *Ibid.*

⁹³ Gurski 2016 *supra* note 28 pg.36.

⁹⁴ *Ibid.*

⁹⁵ Richardson *supra* note 27 pg.45.

⁹⁶ Gurski 2017 *supra* note 73 pg.55.

ISIL's aim, self-described in its name, is to create the "Islamic state"; thus, it seeks to radicalize individuals other than simply fighters. Some are more involved in training, logistical support, fundraising, and recruiting.⁹⁷ Women have also played an important role in the caliphate. Many of them have been vocal supporters of ISIL online, as analysts have found hundreds of Twitter accounts connected to female ISIL members.⁹⁸ ISIL needs female recruits as much as they need male recruits because they want to grow their caliphate. Once they arrived into ISIL-held territory they were married off to fighters, but were also allowed to do certain tasks, including operational tasks. For instance, many become recruiters. One female recruiter who went by the user name "alKhansa'a" tweeted "I feel proud to be the mother of martyrs."⁹⁹ A female foreign fighter from Glasgow, Scotland uses Tumblr as well as Twitter to encourage others to join ISIL by sharing her experience. Another role for female foreign fighters in the caliphate is joining the al Khansa'a Brigade, a female morality police unit that enforces ISIL's strict female code of conduct.¹⁰⁰ It is estimated that women make up 15% of those foreigners who joined ISIL since 2013.¹⁰¹

However, the role of women away from the front lines should not be interpreted as rendering returning women less dangerous than their male counterparts. A recent study suggesting that many of those Canadians who will be returning are women and children, making assessment of any threat posed by these groups more important.¹⁰² While some female foreign fighters may have been disenchanted upon arrival, there is no way to tell whether an individual poses more or

⁹⁷ Berthiaume *supra* note 3.

⁹⁸ Stern and Berger *supra* note 57 pg.89.

⁹⁹ *Ibid.*

¹⁰⁰ *Ibid* pg.89-90.

¹⁰¹ Neumann *supra* note 72 pg.119.

¹⁰² Tamara Khandaker. (2017, November 23th). Chill out about returning foreign fighters, experts tell Canadians. Vice News. Retrieved from. https://news.vice.com/en_ca/article/zmyyk3/chill-out-about-returning-foreign-fighters-experts-tell-canadians. Accessed 18 December 2018.

less of a risk due to sex alone. Age, on the other hand, is more important to consider. The children of Canadian foreign fighters cannot be assessed through the same radicalization motivation framework as their returning parents. Nevertheless, caution should be used when addressing their needs. ISIL indoctrinated them in such a way as to ensure the child's long-term loyalty and their worldview.¹⁰³ The children are victims and would have seen a lot of violence. They might not understand that what they saw is wrong and might have a different understanding of how one is supposed to act. Children may thus have been essentially radicalized from birth by ISIL.

The Threat the Returnees Pose to Canada

Thus far, the MRP has addressed how the Canadian foreign fighters came to be: how and why they were radicalized, both in the past and by ISIL, and to what ends they were recruited. But the conflict in Iraq and Syria is, essentially, over. The important issue regarding these Canadian foreign fighters has now changed: the foreign fighters are coming back. What threat does their return pose to Canada? First, the current returnees, although sharing similarities to the Canadian foreign fighters in the Spanish Civil War and in the Vietnam War, are not the same. The returnees' radical ideology and allegiance to ISIL creates a risk that, upon their return, they would commit terrorist attacks in Canada and/or recruit others to join them. It should be noted that Canada presently allows record high numbers of new immigrants. With the large number of new immigrants being allowed in, some may support the ideology of ISIL. This ties back into the process of radicalization. Combining the Canadian returnees with individuals who may be ripe for radicalization creates the risk that Canada will become a breeding ground for more terrorists. This

¹⁰³ Stern and Berger *supra* note 57 pg. 93.

risk is increased by the methods available to the Canadian returnees once they return, including social media.

Social media is hard to control. Many countries have tried to control and censor it. That is difficult because, as websites and social media accounts are shut down, new ones are created just as quickly. Iraq tried this approach and received this exact result.¹⁰⁴ ISIL has stood out from other terrorist groups in how it has used social media to radicalize and recruit followers. ISIL's media arm is called Al Hayat. It has been publishing very professional content and manages thousands of social network accounts. On top of this, ISIL's influence is in part due to its fighters, cheerleaders, and fans.¹⁰⁵ It has hundreds of fighters posting on various social media platforms about their experiences and convincing others to join them. Then there are ISIL cheerleaders; people who are not officially part of the group but nonetheless defend it and act as authority figures. Neumann examined preachers found online and noted that the two most popular (liked by more than half of foreign fighters) were Westerners who were in no way directly affiliated with ISIL.¹⁰⁶ Also important to ISIL's online influence is its fans, people who like and share its content. Fans are important to ISIL because they make the group relatable to Europeans and North Americans. The concern is how attractive these materials are. They inspire "lone wolf" attacks and people to join the group directly. Some of these materials provide justifications for attacks or instructions on how to carry them out. In some of these materials, ISIL will feature other foreign fighters in order to inspire others. Once a recruit has been identified, a recruiter will interview them and assist in

¹⁰⁴ Aya Batraway. "Glossy Magazines and Slick Social Media – 21 September 2014". Life and Death in ISIS: How the Islamic State Builds its Caliphate. Ed Zeina Karan and The Associated Press. Mango Media in collaboration with The Associated Press. Mami. 2016. pg.99.

¹⁰⁵ Neumann *supra* note 72 pg.123-124.

¹⁰⁶ *Ibid* pg.124-126.

further radicalization. Social networks for recruitment will become even more dangerous as Canadian foreign fighters return and provide a face to the cause.

Once back in Canada, there is also an increased risk for lone wolf attacks on Canadian soil. Lone wolf attacks are not a new tactic used by extremist groups, but because of ISIL the tactic has gained more relevance. ISIL understood that lone wolf attacks would instill as much fear as their own planned attacks. Planned attacks take time and are more vulnerable to disruption than are lone wolf attacks.¹⁰⁷ Therefore, while still encouraging people to come to Syria and Iraq, ISIL also encouraged those who could not (because they did not have the means, or because they were stopped by Canadian law enforcement or security services) to attack from within. For example, one of ISIL's representatives by the name of Abu Muhammad al Adnani called for supporters to attack any citizen of any country who is a part of the coalition against ISIL.¹⁰⁸ This call for support was acted upon in 2014 when a lone wolf attacker ran over two Canadian soldiers and when, in the same year, an individual attacked Parliament Hill and shot a Canadian soldier.¹⁰⁹ ISIL was able to influence this from its online presence. Now that it has been defeated in Syria and Iraq, this presence will only become more aggressive as returning foreign fighters connect with hidden supporters at home.

Nevertheless, some studies have suggested the risk of the returning foreign fighters actually committing an attack on home soil is low. Thomas Hegghammer conducted a study called "*Should I stay or Should I go? Explaining variation in Western Jihadists choice between domestic and foreign fighting*".¹¹⁰ His conclusion was that only 1 in 9 returnees would commit attacks upon

¹⁰⁷ *Ibid* pg.132.

¹⁰⁸ Stern and Berger *supra* note 57 pg.95.

¹⁰⁹ Neumann *supra* note 72 pg.132-133.

¹¹⁰ Gurski 2017 *supra* note 73 pg.105-106.

returning.¹¹¹ While this may seem low, only one attack needs to be successful for society to be deeply affected. As Phil Gurski pointed out in “*Western Foreign Fighters: The Threat to Homeland and International Security*”, there is no way to know which of the 9 will carry out a domestic attack.¹¹² Hegghammer’s dataset in coming to this conclusion is also somewhat limited. His sources came from between 1990 and 2010, meaning that his results may not accurately reflect the unique situation of ISIL. ISIL has a high number of foreign fighters, is more proficient at online recruitment than other known terrorist groups, and has declared intentions to commit domestic attacks. All of these qualities affect the likelihood of the returning foreign fighters carrying out domestic terrorism. Furthermore, Hegghammer acknowledged that the presence of foreign fighters could in fact increase the likelihood of a terrorist plot’s success.¹¹³ He also noted that his analysis was focused on theatre choice as opposed to why the individuals radicalized and how they fought.¹¹⁴ As such, the risks associated with their return should not be understated. It is now the job of the federal government to find the best way to address the threat of the returning foreign fighters in addition to its other counterterrorism activities.

There are several options available to the Canadian government. Some of Canada’s allies, including countries like the UK, France, the US, and Australia have all decided not to allow their citizens to return and have taken steps to eliminate their own citizens. The Canadian federal government, though, has indicated that it will not consider this approach. Public Safety Minister

¹¹¹ Thomas Hegghammer, *Should I stay or Should I go? Explaining variation in Western Jihadists choice between domestic and foreign fighting*. American Political Science Association, Vol 107, No1. February 2013 Retrieved from: [http://hegghammer.com/files/Hegghammer - Should I stay or should I go.pdf](http://hegghammer.com/files/Hegghammer_-_Should_I_stay_or_should_I_go.pdf) Accessed 30 October 2018. pg.10.

¹¹² Gurski 2017 *supra* note 73 pg.105-106.

¹¹³ Lori Hinnant. “Tone sounds much like NPR - 1 June 2015”. Life and Death in ISIS: How the Islamic State Builds its Caliphate. Ed Zeina Karan and The Associated Press. Mango Media in collaboration with The Associated Press. Mami. 2016. pg.113.

¹¹⁴ Hegghammer *supra* note 111 pg.1.

the Honourable Ralph Goodale commented, “Canada does not engage in death squads.”¹¹⁵ An expert on terrorism from the Royal Military College of Canada, Christian Leuprecht, said the reason for this approach is that it is against Canadian law and it is not supported by the Canadian public.¹¹⁶ This makes for an interesting question in regard to dual citizenship. Jack Letts, also known as “Jihadi Jack”, is among other foreign fighters being held by Kurdish forces. Letts is a dual citizen of the UK and Canada, and, with the UK unwilling to repatriate him, his only option is to be claimed by Canada.¹¹⁷ This may be more difficult than one might think. The Kurdish forces are part of the Kurdistan Workers’ Party or “PKK” which is labelled by Canada as a terrorist group and, because the Kurdish forces are a non-state actor, negotiating is difficult. A national security law expert, Craig Forcese, said that the best Canada may be able to do is negotiate the conditions of citizens’ detentions.¹¹⁸ In some areas, even this might be impossible: for example, in Iraq, British citizens convicted of being part of ISIL have been sentenced to death. Abdul Sattar Beraqdar, a spokesperson for the Iraq judiciary said that if they were tough on sentencing, people would think twice about joining ISIL.¹¹⁹ This option can, however, result in the loss of valuable evidence that could be gathered from the foreign fighters if they were kept alive.

If the Canadian government can’t or won’t prevent its citizens from returning, another option is arrest and/or detention. Joining and providing support to ISIL is an offence in Canada.¹²⁰ However, a substantial issue surrounding the arrest of returnees is the matter of evidence. This

¹¹⁵ Dyer *supra* note 1.

¹¹⁶ *Ibid.*

¹¹⁷ Stewart Bell and Andrew Russell. Jihadi Jack wants to live in Canada. Here’s what officials are doing for ISIS fighters in Syria. Global News 15 October 2018. <https://globalnews.ca/news/4542842/canadian-officials-contact-isis-fighters-allegations/>. Accessed 19 October 2018.

¹¹⁸ *Ibid.*

¹¹⁹ Jen Mills. British Jihadis facing death by hanging in Iraq as PM orders rapid executions. Metro News 2 July 2018. <https://metro.co.uk/2018/07/02/british-jihadis-facing-death-hanging-iraq-pm-orders-speedy-executions-7676650/>. Accessed 19 October 2018.

¹²⁰ Criminal Code *supra* note 8.

would be less of an issue if the returnees were not citizens, as the *Immigration Refugee Protection Act* would then apply. If Canadian security and law enforcement agencies cannot collect enough evidence against these individuals, they will be allowed to go free, and collecting evidence from a war zone is difficult. Canadian citizens cannot be indefinitely detained without evidence.¹²¹ This option is thus unlikely to be a sufficient long-term solution.

Rather than arrest or detention, the most popular method of mitigating the threat presented by the returning foreign fighters is the process of deradicalization. When looking at the deradicalization processes, it is important to distinguish between deradicalization and disengagement. Deradicalizing someone involves causing an individual to reject an ideology. John Horgan, a professor of Security Studies at Georgia State University, defined deradicalization as a process by which a person is no longer committed or engaged nor is at risk of being committed or engaged.¹²² Disengagement, on the other hand, is causing someone to cease certain behaviours and associations, such as with a terrorist group, but he or she still holds the radical views and is at risk to re-engage another time.¹²³ Each process has its supporters.

Thus, in order to reverse the effects of radicalization, many have sought to create a deradicalization process. The definition of such a process, however, is of much debate in that different countries have different ideas as to what that process is. For example, in Aarhus,

¹²¹ Canadian Broadcasting Corporation (CBC) Radio. (2017, November 27th). What should Canada do with foreign fighters who return home. CBC Radio. Retrieved from <https://www.cbc.ca/radio/thecurrent/the-current-for-november-27-2017-1.4418695/what-should-canada-do-with-foreign-fighters-who-return-home-1.4418722>. Accessed on 7 January 2019.

¹²² Houssein Ben Lazreg. De-radicalization can work for former ISIS fighters. Maclean's 12 December 2017. <https://www.macleans.ca/society/de-radicalization-can-work-for-former-isis-fighters/>. Accessed 17 October 2018.

¹²³ Priyanka Boghani. Deradicalization is coming to America. Does it work. Frontline PBS (18 March 2016). <https://www.pbs.org/wgbh/frontline/article/deradicalization-is-coming-to-america-does-it-work/>. Accessed 16 October 2018.

Denmark, they have used a soft reintegration approach of deradicalizing extremists.¹²⁴ They have a four-person team (two social workers and two police officers) who organize workshops in various secondary schools, receive referrals from family, friends, teachers, social workers, or police regarding possibly radicalized individuals, and counsel returned fighters and assist them in getting a job or continuing education.¹²⁵ In Saudi Arabia, the process is different. They have a more ideological focus. The big pillars of their program are counseling radical prisoners and dialoguing with extremists online in the hopes to sway people from the ideology.¹²⁶ This is done in conjunction with law enforcement which uses deradicalized extremists to arrest others.¹²⁷ When Lorne Dawson was interviewed by Global News in “*Reality Check: Do Deradicalization Centres Work?*”, he indicated that research has not been available long enough to know the effectiveness of these methods and that no formal method of evaluation yet exists. He noted that Denmark and Saudi Arabia both have well-known, different programs.¹²⁸ Neither of these processes are necessarily wrong.

Germany has also seen a number of its citizens join ISIL and later return. In response, a program called “Hayat”, which was originally designed for neo-Nazis, was re-worked for extremists returning from the Middle East.¹²⁹ A similar approach could be applied in the US, where a Minnesota judge ordered four individuals who had been charged with providing material support to ISIL be evaluated by Daniel Koehler, who is the Director of the German Institute on

¹²⁴ Denmark’s Soft model for converting jihadists. The Local. 23 November 2015. <https://www.thelocal.dk/20151123/denmarks-soft-model-for-de-radicalizing-jihadists>. Accessed on 15 October 2018.

¹²⁵ *Ibid.*

¹²⁶ Richard Barrett and Laila Bokhari. “Deradicalization and rehabilitation programmes targeting religious terrorists and extremists in the Muslim world”. Leaving Terrorism Behind: Individual and Collective disengagement ed. John Horgan and Tore Bjorgo. New York. Routledge 2009. pg.179.

¹²⁷ *Ibid.*

¹²⁸ Andrew Russell. Reality Check: Do deradicalization centres work. Global News 16 April 2016. <https://globalnews.ca/news/2641692/reality-check-do-deradicalization-centres-work/>. Accessed 17 October 2018.

¹²⁹ Boghani *supra* note 123.

Radicalization and Deradicalization Studies and had worked at Hayat.¹³⁰ Koehler was then interviewed by journalist Priyanka Boghani in “*Deradicalization is Coming to America. Does it work?*” in which he explained the deradicalization process. In the interview, Koehler explained that, for the deradicalization process to work, there needs to be some opening that will allow the process to take effect on the individual. This opening could be doubts in the extremist ideology or a gap in the individual’s life. There also has to be motivation for the individual to participate.¹³¹ In essence, for the process to work, the individual must be willing to change or have thought about changing. Koehler said that the process could work for someone who has only thought about changing but there is a higher chance of failure and it would take more time and resources.¹³² When someone who is susceptible to deradicalization is entering into the program, Koehler explained that the specific tools used are very individualized. He mentioned that the program offers vocational training, religious counselling, psychological counselling, and creative therapy. It starts with identifying the reasons for being attracted to violent extremism in the first place. The overall goal for the individual is to accept and tolerate alternative views and to reintegrate into society.¹³³ This process would be most suitable for someone who, after arriving in the Middle East became disenchanted with ISIL and what it was doing

The deradicalization process is not just a reactionary measure used on the returning foreign fighters but a preventive measure used to affect those who are at risk for being radicalized. In 2007, a document from the CSIS Intelligence Assessment Branch stated that early interventions are key to preventing terrorism at home and “individuals at the initial stages of radicalization are more

¹³⁰ Stephen Montemayor and Mila Koumpilova. Terror suspects will test deradicalization program. Star Tribune 2 March 2016. <http://www.startribune.com/judge-orders-de-radicalization-study-for-4-terror-defendants/370806141/>. Accessed 16 October 2018.

¹³¹ Boghani *supra* note 123.

¹³² *Ibid.*

¹³³ *Ibid.*

susceptible to change or diversion than those at the latter stages.”¹³⁴ In 2005, the United Kingdom (“UK”) began a program called “Channel” which was an early intervention strategy. The person is forwarded to social workers, employment councillors, housing officials, and religious leaders who surround the person with support, similar to what is offered in other countries as deradicalization for those who are returning. The British preventative program is, however, voluntary.¹³⁵

There are several weaknesses to using a deradicalization process to combat the threat posed by returning foreign fighters. PBS Frontline published an article in 2016 in which Priyanka Boghani interviewed Koehler. The interview questions highlighted the different aspects of the program, and showed the main weakness to deradicalization, namely that it is voluntary. With that said, the interview is a bit narrow in that it only briefly describes the disengagement approach and does not explain how to work with individuals who do not want to change aside from the process just taking longer. In terms of how the program works, the interview briefly discussed options available within the process but did not address how much the program costs to run or who to hire for it. More importantly, Koehler did not know how to evaluate the program for its effectiveness although that is a current question within this field of research. Weaknesses in the deradicalization process have also been explored in Uriya Shavit and Soren Andresen’s article “*Can Western Muslims be De-radicalized?*”, though the Israeli authors did show bias against Saudi Arabia and consequently recommended policy that is unlikely to be implemented by the Canadian government.¹³⁶

¹³⁴ Dylan Robertson. RCMP may struggle to recreate the success of community groups in stopping extremism. Calgary Herald 2 October 2015. <https://calgaryherald.com/news/national/rcmp-may-struggle-to-recreate-the-success-of-community-groups-in-stopping-extremism>. Accessed 16 October 2018.

¹³⁵ *Ibid.*

¹³⁶ Uriya Shavit and Soren Andresen. “Can Western Muslims be De-radicalized”. Middle East Quarterly, vol. 23, no. 4, 2016. pg.9.

There are a lot of potential benefits that come with deradicalization programs that have been implemented by a number of countries. A main component of these programs is that they are voluntary and require the individual to accept the techniques being applied.¹³⁷ A Canadian deradicalization expert by the name of Mubin Shaikh was at one time radicalized but, after the September 11th, 2001 attacks, he began the deradicalization process. He was attempting to better understand Islam when he went through “theological reprogramming” and “cognitive reframing”, deradicalizing through accepting these techniques.¹³⁸ What happens when this is not the case? For example, recently, Shaikh has tried to work with a Canadian returnee who was mentioned earlier (Abu Huzaifa), but the counselling that Shaikh does has not been working. Shaikh described Huzaifa as arrogant and believes that he cannot be changed.¹³⁹

Huzaifa is not a unique case. Deradicalization programs are based on the principle that the people who had joined have been marginalized or need an identity. Many people lose jobs or are poor and many youths have trouble finding their identity and yet only a small number of people become radicalized extremists.¹⁴⁰ Many programs like Hayat require the involvement of family members but ISIL propaganda encourages recruits/members to hide their ideology or separate themselves from their family.¹⁴¹ Parents of foreign fighters have said that they have only received very occasional contact and, when a fighter has died, only some parents said they received a text

¹³⁷ Boghani *supra* note 123.

¹³⁸ Stefano Bonino. “In Conversation with Mubin Shaikh: From Salafi Jihadist to Undercover Agent inside the Toronto 18 Terrorist Group”. Perspectives on Terrorism. Vol 10(2) 2016. <http://www.terrorismanalysts.com/pt/index.php/pot/article/view/502/html>. Accessed 21 January 2019.

¹³⁹ Brennan MacDonald and Vassy Kapelos. De-radicalization experts urges authorities to charge Canadian former ISIS fighter. Canadian Broadcasting Company News 21 June 2018. <https://www.cbc.ca/news/politics/charge-former-isis-fighter-1.4717337>. Accessed 16 October 2018.

¹⁴⁰ Shavit and Andresen *supra* note 136 pg.6.

¹⁴¹ *Ibid.*

message whereas other parents received nothing at all.¹⁴² In regards to those who have survived and are returning, family may not be the most motivating factor for the foreign fighter to deradicalize. Educational initiatives that teach Islam and warn against its misinterpretations almost raise the status of extremist ideology, in that warning of misinterpretations may make those same interpretations appear more popular than they actually are. This may tempt more rebellious teens to experiment with such an ideology.¹⁴³ Despite its pitfalls, this strategy is great for those who meet its eligibility criteria. Considering the requirements Koehler put forth, another approach needs to be put in place for returnees like Huzaifa.

This other approach is disengagement. Disengagement means that, while a person still believes in the ideology, he or she no longer engages in terrorism.¹⁴⁴ This option is significantly easier to monitor than the deradicalization process, since actions, rather than an individual's thoughts and feelings, are the relevant measurements.¹⁴⁵ A major benefit of disengagement is that, by definition, it is not voluntary: there is no need for an individual to want to change. It can be practically managed by way of peace bonds, placing physical conditions on the returnees. Existing, traditional counterterrorism initiatives in which Canada is engaged are also well matched to this option. However, the disadvantage of a process based solely on disengagement is fairly clear: without addressing the radical ideology held by disengaged individuals, disengagement fails to address the root causes of terrorism and is unsustainable as a preventative measure. On its own, disengagement is thus insufficient. It could, however, be combined with other response options.

¹⁴² Amarnath Amarasingam. Families of ISIS Fighters look for closure in leaked documents. Canada Broadcasting Company First Hand. <https://www.cbc.ca/firsthand/features/families-of-isis-fighters-look-for-closure-in-leaked-documents>. Accessed on 16 October 2018.

¹⁴³ Shavit and Andresen *supra* note 136 pg.7.

¹⁴⁴ John Horgan. "Deradicalization or Disengagement: A process in need of clarity and a counterterrorism initiative in need of evaluation". Perspectives on Terrorism Vol 2(4) 2008.

¹⁴⁵ Gurski 2016 *supra* note 28 pg.145.

In fact, three of these options – arrest/detention, deradicalization, and disengagement – are useful tools for the Canadian approach. Canada’s most popular approach to the returnees and the countering of ISIL has been the deradicalization process. This process does have strengths, such as rehabilitating disenchanted returnees that have returned, and learning more as to how someone is radicalized, but not all returnees believe their ideology is a problem. This process does not account for such people, who are the most likely to re-engage in terrorist activity, nor does it have an evaluation method to distinguish between those who are threats and those who are successfully deradicalized. That is why a more comprehensive approach is needed, one that stops the influence of ISIL while focusing on the rehabilitation of the returnees. This multi-pillar approach would balance the rights of the returnee while maintaining the security of Canada, preventing further terrorist recruitment, and ensuring those who can be punished for terrorist activity are. In essence, it would see individuals first subject to disengagement, then deradicalization if the individual develops the criteria that would allow them to become deradicalized such as a change in priorities that would influence the individual to become more pluralistic in their beliefs.¹⁴⁶ Throughout this time, the option of arrest/detention would remain as more evidence can be gathered.

Individuals would first need to be triaged with respect to threat risk. Individuals at risk of engaging in terrorism, or likely to commit a terrorist act, can be placed under a terrorist peace bond. This is done under section 810.011 of the *Criminal Code* and is generally invoked by a Peace Officer. The officer would bring concerns (based on reasonable grounds) to a Provincial Court judge. If the Court is satisfied by the concerns, individuals can be placed under the bond for up to twelve months, or five years if they have already been convicted of a terrorist act.¹⁴⁷ Being placed under a peace bond means that the individual would have to follow certain conditions or be placed

¹⁴⁶ Horgan *supra* note 144.

¹⁴⁷ *Criminal Code supra* note 8 s.810.011.

in prison. These conditions include participating in treatment programs, wearing a monitoring device, adhering to a curfew, refraining from drugs and/or alcohol, making available bodily samples, surrendering items such as firearms or passports, and having movement restricted within a particular geographical boundary.¹⁴⁸ These conditions would be sufficient to ensure someone is disengaged, and, if a person was to be compelled to contribute to ISIL in another way such as by giving material support, recruiting others, or committing a lone wolf attack, traditional counterterrorism tools would apply. For example, the individual would be easier to investigate under physical surveillance in Canada; such investigation then would be more likely to lead to a conviction. If nothing else, the disengagement process would allow Canadian law enforcement to not rush an investigation and to thoroughly collect evidence abroad.

The preventative aspect of deradicalization should also be engaged throughout Canada's response. Since ISIL has been suppressed in Syria and Iraq, ISIL will look to its online activities for recruitment and support. Since it does not have a physical battlefield, it will depend on a cyber one. It will call on its members and potential recruits to commit terrorist attacks in their home countries. In order to prevent this, the Canadian government should enter the online battlefield and challenge the rhetoric put forward by ISIL. Individuals who read ISIL propaganda followed by criticism after criticism, will be exposed to doubts about extremist ideology very early in the radicalization process, so much so that the person may not become radicalized.¹⁴⁹ ISIL uses foreign fighters to recruit other foreigners. These fighters present themselves in such a way to seem relatable and convincing. For example, Canadian ISIL fighter Andre Poulin from Timmins Ontario (who is self-styled as "Abu Muslim") said he was a "regular Canadian" before Islam.¹⁵⁰ He may

¹⁴⁸ *Ibid.*

¹⁴⁹ Batraway *supra* note 104 pg.100-102.

¹⁵⁰ Stern and Berger *supra* note 57 pg. 87.

not be as relatable to ISIL recruits if they were told that Poulin had dabbled in communism and anarchism before radical Islam and had a criminal record for uttering threats, harassment, and carrying a weapon.¹⁵¹

There are two important factors in this approach, the credibility of the communicator and the audience being targeted. This method could incorporate individuals who were eligible for and successful in deradicalizing: they could be useful in persuading potential recruits away from ISIL.¹⁵² Deradicalization expert Shaikh uses precisely this tactic towards ISIL members and supporters. With his Twitter account, he exposes the inconsistencies with ISIL ideology, which damages its image and reduces the number of recruits.¹⁵³ It is also important that this tactic could be used towards the general public as a way educate people, and create spaces for debate.¹⁵⁴ This method was successfully implemented in Saudi Arabia's media component of its counterterrorism strategy. It publishes materials used in schools and mosques and even created a video that counters the message put forward by Muslim extremists.¹⁵⁵ Though ISIL has lost the majority of its territory, the suppression and countering of its continued online presence will assist in preventing ISIL from reasserting itself.

A remaining question that needs to be addressed is a financial one. It is expensive to monitor one individual, not to mention sixty individuals. It is also expensive to have prevention methods in place. It is definitely expensive to have the federal government quickly develop a

¹⁵¹ Canadian Broadcasting Centre. (2014, July 14th). Andre Poulin: Dead Canadian Jihadist used in ISIS recruitment video. Retrieved from <https://www.cbc.ca/news/world/andre-poulin-dead-canadian-jihadist-used-in-isis-recruitment-video-1.2705115> . Accessed 28 December 2018.

¹⁵² Lorraine Bowman-Grieve. "The internet and terrorism: pathways towards terrorism and counter-terrorism". Ed. Andrew Silke. *The Psychology of Counter Terrorism*. (Abingdon: Routledge 2011) pg. 86.

¹⁵³ Luke Felty. Mubin Shaikh Explores the Nature of Islamic Extremism. The Colgate Maroon News, 7 April 2018. http://www.thecolgatemaroonnews.com/news/article_d19fad22-fcd5-11e5-8555-73d25899d7e9.html. Accessed 16 October 2018.

¹⁵⁴ Bowman-Grieve *supra* note 152 pg.86.

¹⁵⁵ Angel Rabasa et al. *Deradicalizing Islamist Extremists*. Santa Monica California, Rand, 2010 pg.70.

deradicalization process and then shortly after begin treating returnees, particularly when such a program's success is yet unproven. Terrorism is a very real threat, and for a deradicalization program to work, it needs to be built properly. There are municipal programs currently in Canada that can be adopted to address the returnees' immediate needs, such as the ReDirect program in Calgary and the Centre for the Prevention of Radicalization Leading to Violence in Montreal.¹⁵⁶ Directing returnees to these programs can be a short-term solution while a larger program is developed. These municipal programs can even be a starting point for such a program, though some argue that a deradicalization program should only be developed with a specific city in mind. Ritu Banerjee, the Executive Director of the Centre for Community Engagement and Prevention of Violence ("CCEPV"), told the CBC in regard to a deradicalization process, one has to understand the local needs and realities. The Canadian government has set aside 35 million over five years for the CCEPV to work for the ministry of Public Safety to provide training, support, and leadership on counter radicalization strategies at the provincial and municipal level.¹⁵⁷ The money that is then left over from duplicating these programs can go towards the returnees' monitoring and towards prevention activities.

Conclusion

Considering the unique threat posed by the returning foreign fighters, a unique solution is required. None of the options on their own are sufficient to address the threat. Combining short-term disengagement and monitoring with potential arrest/detention, and long-term deradicalization, using existing facilities and duplicating existing processes to the extent possible

¹⁵⁶ Hicham Tiflati. (2018, January 18th). Radicalization to Rehabilitation: How does Canada prepare for ISIS Returnees. CBCDOCSPOV. Retrieved from <https://www.cbc.ca/cbcdocs pov/features/radicalization-to-rehabilitation-how-does-canada-prepare-for-isis-returnees>. Accessed on 27 December 2018.

¹⁵⁷ Canadian Broadcasting Centre. (2017, October 7th). Deradicalization must be tailored to Canadian cities, says expert. Canadian Broadcasting Centre. Retrieved from <https://www.cbc.ca/news/politics/deradicalization-terrorism-extremism-1.4343689>. Accessed on 27 December 2018.

is the best match for meeting Canada's needs. By focusing initially on disengagement, Canada can synthesize its response to the returnees with existing counterterrorism approaches. As well, tying in a preventative focus on social media and pre-emptive discrediting of ISIL rhetoric will assist in gradually reducing the demands on the policy program. This framework thus adequately addresses both prevention and reaction, is responsive to the circumstances that led to the foreign fighters' exodus to ISIL, and is sensitive to financial restraints. This is a comprehensive and sustainable response to the threat of Canada's returning foreign fighters.

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