Stanford Law School: Law & Policy Lab

Combatting Terrorism Through Prosecutions & Rehabilitation: Three Models Compared

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Executive Summary

      Countries have taken a number of different approaches to deal with the phenomenon of citizens returning home after fighting with terrorist organizations overseas. On one end of the spectrum lies the United States, which has employed a purely punitive method of arresting and prosecuting individuals linked to terrorist organizations. Denmark has positioned itself on the other end of the spectrum by employing a non-punitive rehabilitation model. In 2014, Denmark began its own de-radicalization program for jihadist fighters returning from the conflict in and around Syria. The program was launched in Aarhus, and thereafter in Copenhagen, and consists of preventing radicalization among young Muslims, as well as rehabilitation efforts for those returning from Syria. The program relies on the support of an extensive network in the community to accomplish de-radicalization, under the main principle of inclusion into society. Despite criticisms leveled against its riskiness and effectiveness, there is much to commend the Danish model.

      The United Kingdom's strategy consists of both punitive and rehabilitation elements. The British government has had to cope with an increasing number of its citizens traveling to Syria and Iraq to join ISIS. Empowered by statutes that allow the government to prevent reentry and even revoke the citizenship of certain individuals believed to be linked to foreign terrorist organizations, the UK has actively used prosecutions to counter individuals who have been radicalized. In addition, the British strategy consists of both counter-terrorism and de-radicalization measures. Its counter-terrorism program—Prevent—has generated significant controversy and alienated the segments of the Muslim population. In 2014, the government expanded its national de-radicalization program—Channel—to cover returning fighters from Syria and Iraq. While experts generally consider the program successful in de-radicalizing individuals, the full potential of Channel has been limited by inadequate funding and resources.

      Saudi Arabia is another country that has utilized a mixture of punitive and rehabilitation strategies. Since 2003, the most prominent feature of Saudi Arabia's counterterrorism strategy has been its singular focus on de-radicalization through its counseling and parole program for those individuals previously involved with extremist groups. The Saudi government's significant investment of resources into the program has permitted it to provide extensive assistance to returnees, including religious, psychological, social, and educational rehabilitation, as well as vocational training and family involvement. Additionally, besides monitoring detainees after their release, the Saudi program provides substantial financial assistance, continued involvement of family members through monitoring contracts, and ongoing access to program counselors and career development resources. These elements each combine to form a uniquely comprehensive and individually-tailored approach. The program's remarkably low rate of extremist recidivism, together with other anecdotal evidence, provides a strong indication of its success, and explains why it has subsequently been borrowed from and adapted as a model for numerous other countries to follow. Despite its shortcomings, many scholars regard it as the quintessential model of terrorist rehabilitation.

      Based on an analysis of the Danish, British, and Saudi models of countering radicalization, this paper offers a number of generally-applicable recommendations to countries facing similar

challenges. First, a country should develop an effective strategy for differentiating radicalized individuals who are reformable from those who are not. For individuals deemed reformable, the government should offer them a chance to de-radicalize and reintegrate back into society rather than face prosecution and/or incarceration. An effective de-radicalization program will be individually-tailored, use reformed former-radicals to offer counter-narratives to extremist teachings, and offer educational and vocational training to facilitate reform and prepare for reintegration. At the conclusion of the de-radicalization program, the government should monitor individuals based on different threat levels they pose and provide temporal and family support where fiscally feasible.

Introduction

With the rise of terrorist organizations like the Islamic State of Iraq and Syria (ISIS) that have attracted individuals from around the world, many countries have faced the daunting challenge of formulating counter-terrorism and de-radicalization policies to deal with the phenomenon of terrorist recruitment and returning fighters. Countries have adopted differing methods and strategies to address this security threat and counter the forces of radicalization. On one end of the spectrum lies the United States, which has employed a purely punitive method of arresting and prosecuting individuals linked to terrorist organizations. On the other end is Denmark, a nation that has relied on a softer de-radicalization approach. Between the two extremes are countries like the United Kingdom and Saudi Arabia, which have used a mixture of both the harder punitive and softer de-radicalization methods.

This paper analyzes the problems posed by radicalized individuals, including ISIS fighters returning home from Syria and Iraq, as well as by the ongoing threat posed by al Qaeda operatives, and evaluates the various policy options employed by different countries. Part I starts with an examination of the softer end of the policy spectrum—Denmark's de-radicalization plan. Part II and III then focuses on two countries—the United Kingdom and Saudi Arabia, respectively—that have adopted a mixture of punitive and soft approaches. The authors have also conducted a cursory survey of the rehabilitation programs of other countries to provide an idea of how the three models discussed by this paper compare (*see* Annex 1). Part IV briefly describes the United States' lack of a national de-radicalization plan and its use to date of a purely punitive strategy. Part V draws upon the lessons learned from Denmark, the United Kingdom, and Saudi Arabia's rehabilitation efforts, and offers a number of generally-applicable recommendations that focus on ways to integrate de-radicalization programs with an overall strategy to combat the forces of radicalization. Part VI concludes with a discussion of challenges countries may face as they move forward with de-radicalization plans.

Table 1 (below) broadly outlines and compares the different strategies for combating radicalization.

Table 1

Country	Purely punitive approach	Power to seize passports/tickets, prevent re-entry	Purely soft approach (de-radicalization)	Mixed approach-both punitive and soft methods	Offers de-radicalization to some returning fighters
Denmark			√		√
United Kingdom		√		√	√
Saudi Arabia		√		√	√
United States	√				

I. Denmark

A) Identification of the Problem

European states have adopted different approaches to the phenomenon of returnees. In many European countries, the response has been to send these returning fighters to prison, or at least place them under investigation by prosecutors. Countries such as Germany and Norway have all detained many returning fighters, on suspicion that they either joined a terrorist organization abroad, violated restrictions on travel to Syria, or committed crimes while affiliated with a foreign armed group.[1] The Netherlands has barred some Syria fighters from returning, and ordered those who do to face trial and wear ankle bracelets.[2] Belgium, the country with the highest number of Syria fighters per capita, has not only targeted returnees but also prosecuted people who stayed at home and encouraged others to go to fight.[3] France has recently expanded prison terms for terrorism-related offenses.[4]

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[1] Andrew Higgins, "Denmark Tries Rehabilitation" (Dec. 13, 2014), available at
http://www.nytimes.com/2014/12/14/world/for-jihadists-denmark-tries-rehabilitation.html?_r=0.
[2] *Id.*
[3] *Id.*
[4] Raf Casert, "AP Interview: EU Anti-Terror Chief: Rehab for Jihadis" (Jan. 27, 2015), available at
http://www.ksl.com/?nid=235&sid=33252653.

Compared to some European countries, Denmark does not have substantial experience with terrorism, and it is difficult to find any cases related to terrorism from a pre-9/11 context.[5] The only prominent terrorist attack against Denmark was an attack on its embassy in Islamabad, Pakistan in 2008, which resulted in six deaths. It has, however, not experienced a severe terrorist attack in its home soil.[6]

Terrorist events in other countries, however, have led the Danish authorities to launch a comprehensive counter-terrorism and de-radicalization effort.[7] Most notably, amendments were made to the substantive criminal laws penalizing terrorism. After 9/11, a series of legislative initiatives were clustered into a single anti-terror package enacted in 2002. "The 2002 anti-terror package inserted a new and innovatory Section 114 into Chapter 13 of the Penal Code. The provision did not in itself broaden the already existing scope of criminalization [as] terrorist acts could earlier have been punished under previously established provisions concerning various forms of serious crime, irrespective of a perpetrator's terrorist motive. Politically, however, there was a desire to convey more clearly that terrorism in all its forms is unacceptable in a democratic society."[8]

A second anti-terror package was adopted after the terrorist bombings in Madrid and London in 2006. The 2006 anti-terror package further extended the scope of criminalization under Section 114 in reference to the 2005 Convention on the Prevention of Terrorism established by the Council of Europe, as well as a number of older conventions, listed in its appendix.[9] While it does not as such establish new *sui generis* crimes, it authorizes enhanced sentences for offences that are covered by such treaties but which do not constitute terrorist acts in the stricter sense of Section 114.[10]

In 2009, Denmark adopted the *Common and Safe Future: An Action Plan to Prevent Extremist Views and Radicalization Among Young People* as a policy response to the apparent rise in violent Islamic extremism across Europe. Although the *Common and Safe Future* action plan ended in 2012, Islamic extremism was still on the rise and new security challenges began to emerge with the phenomenon of Danish citizens travelling to Syria and Iraq to join the fighting and thereafter returning to Denmark. As will be illustrated, the phenomenon of "returning fighters" has prompted Danish authorities to reshape its counter-terrorism and de-radicalization policies.

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[5] Crystal St-Denis, "Countering Violent Extremism: The Evolution of Countering Violent Islamic Extremism Policies in Western Europe" (2014), available at https://www.ruor.uottawa.ca/bitstream/10393/31057/1/ST-DENIS,%20Crystal%2020141.pdf .

[6] *Id.*

[7] On 1 January 2007, Denmark established the Center for Terror Analysis (CTA). The CTA was set up as part of the implementation of the Government's Action Plan for the Fight Against Terrorism. CTA analyzes the threat of terrorism against Denmark and Danish interests abroad. The analyses aim to provide Danish authorities with a better basis for preventing and neutralizing terrorist acts.

[8] Jorn Vestergaard, "The Legal Framework Applicable to Combatting Terrorism – National Report: Denmark" (2013), available at http://forskning.ku.dk/find-en-forsker/?pure=files%2F91173827%2FTerrorism_legislation_National_report_J_rn_Vestergaard_Denmark_final_version.pdf .

[9] *Id.*

[10] *Id.*

In November 2012, residents of Aarhus began to travel to Syria. Since then, another 28 men and two women are known to have made the journey. Most went in 2013, with only one known to have done so in 2014. Of these individuals, only around ten have not returned. A large number of these individuals were recruited through a local mosque. The travelers were mostly aged 15 to 25, were of mixed ethnicities, and included converts alongside those with Muslim backgrounds.

As of February 2015, it was estimated that at least 100 Danes have gone to fight with extremist organizations in Syria and Iraq, including the so-called Islamic State and al Qaeda affiliate Jabhat al Nusra.[11] Consequently, one of the current pressing issues in Denmark is the question of how to appropriately deal with young Muslims who have gone to fight in Syria and have now returned home. This pressing security issue that this phenomenon poses is captured by a 2013 assessment report of Denmark's Center for Terrorist Analysis (CTA):

> An increasing number of individuals from the West, including Denmark, seek out regions affected by violent conflict. Stays in such regions may lead to contact with militant Islamists and, thus, a risk of being radicalized. CTA assesses that there is an added risk of terror-related activities when such individuals return home.[12]

While much of Europe has responded by investigating or detaining returning fighters, Denmark has adopted the opposite approach of attempting rehabilitation—rather than embracing punitive methods. This "soft approach" is a policy decision on the part of the Danish government as a way to reintegrate young Muslims into Danish society. This program began in the municipality of Aarhus and is being expanded elsewhere.

B) Denmark's "Soft" Approach

1) Prevent—stemming radicalism

Denmark considers the prevention of radicalization and violent extremism as part of crime prevention, especially in relation to §114 of its Penal Code.[13] The *Common and Safe Future* action plan adopted in 2009 was among the first initiatives undertaken by Denmark authorities to combat radicalization. This action plan had seven focus areas:

1. Direct contact with the young people
2. Inclusion based on rights and obligations
3. Dialogue and information
4. Democratic cohesion
5. Efforts in vulnerable residential areas
6. Special initiatives in prisons
7. Knowledge, co-operation and partnerships

Prevention of radicalization efforts have continued even after the *Common and Safe Future* action plan ended in 2012, especially for individuals at risk of travelling to Syria. For this purpose,

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[11] John Beck, "Denmark's 'Jihadist Rehab; Center Offers Counselling Rather than Jail Time" (Feb. 16, 2015), available at https://news.vice.com/article/denmarks-jihadist-rehab-center-offers-counseling-rather-than-jail-time.
[12] *See* Vestergaard, *supra* note 8.
[13] Strfl § 114.

an extensive network has been built between parents, social workers, teachers, youth club workers, outreach workers, and the police. Danish authorities make efforts to gain the trust of local communities, and those who have gone or are seen as at risk of going to Iraq or Syria are often flagged via parents, teachers, youth workers, and the like to a central information network—the "Infohouse". This "Infohouse" was established as a contact point for whenever citizens have concerns about specific individuals whom they consider to be at risk of radicalization. The "Infohouse" is staffed by the police, with an interdisciplinary working group, and is responsible for making the first contact with the target individual.

Strengthening the family is also considered fundamental to the response to an at-risk individual, so self-help groups have also been set-up for families who have a family member involved in the Syrian conflict. These sessions are conducted under the guidance of trained staff from Aarhus Municipality, as well as Aarhus University. Help and guidance are provided to these families to assist them in the formalities and practicalities necessary in getting their family member home from Syria.[14]

Efforts have been made to stem the flow of foreign fighters to Syria by reaching out to a radical mosque known to have been a source of a large number of recruits.[15] In Aarhus, the Grimhøj mosque was reputed to be promoting an extremist interpretation of Islam and to have become a situs for the recruitment of foreign fighters. When the Danish authorities discovered this, they discretely let members of the press know what was going on, and then in order to encourage dialogue told the mosque's board that the information would be released unless this practice was appropriately addressed.[16] The mosque has since changed its official position and no longer encourages Aarhus's young men and women to go to Syria. A significant reduction in recruited fighters has been observed,[17] although some religious leaders still espouse a caliphate in the Middle East.[18]

It bears emphasis that under the current Danish legislation, it is not illegal to travel to Syria and it is not illegal to come back from Syria. Hence, among the resources and interventions provided is individual counselling and advice for people who intend to travel to Syria to participate in the conflict. This includes providing these individuals with the following information:

- Risk of prosecution under the anti-terrorism legislation (§114, Penal Code) upon their return to Denmark if they associate with certain parties in the Syrian conflict;

- Risk of staying in a conflict zone: physical dangers, psychological trauma, radicalization, indirect effects on family and friends, etc.

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[14] Ostjyllands Politi, "Facts on East Jutland Police and Aarhus Municipality's Work to Prevent Radicalization. Contingency Plans and Actions in Response to Travellers to Syria" (Mar. 2015).
[15] Simon Hooper, *Denmark Introduces Rehab for Syrian Fighters* (Sep. 7, 2014), available at http://www.aljazeera.com/indepth/features/2014/09/denmark-introduces-rehab-syrian-fighters-201496125229948625.html.
[16] Beck, *supra* note 11.
[17] Hooper, *supra* note 15.
[18] Beck, *supra* note 11.

- Available help for their own situation, including assistance to leave extremist circles.[19]

The only instances in which investigations may be undertaken or arrests made is when, after coming back to Denmark, the government can prove that the individuals violated §114 of the Penal Code while they were in Syria or Iraq. According to reports, however, not a single returned fighter has been convicted and imprisoned in Denmark.[20]

2) Rehabilitation Program for Returning Fighters

In 2014, Denmark began its own de-radicalization program for jihadist fighters returning from Syria. This initiative is the successor to the *Common and Safe Future* action plan that ended in 2012, and is considered a symbol of Denmark's evolution from radicalization prevention to de-radicalization.[21]

The rehabilitation program was first adopted by Aarhus, the country's second largest city. It was initially developed as a pilot project in 2007 to deal with far-right extremists.[22] Its aim was to prevent the radicalization—political as well as religious—of young people thereby promoting their safety and well-being.[23] Recognizing the need for a specialized and concerted effort for dealing with events in Syria, preparations began in mid-2013 to redeploy the program to deal with young Muslims who travelled to Syria and have returned home.[24]

The program was envisioned to have a two-tiered purpose: (1) to help individuals exit extremist religious or political environments and (2) to establish conditions that ensure the inclusion of returnees in society as fellow citizens. Indeed, according to Preben Bertelsen, a professor of psychology at the University of Aarhus who has played a leading role in the Aarhus rehabilitation program, the main principle of the program is inclusion.[25]

As such, the general approach of the program is to promote the individual's potential for inclusion in the community, improve their life skills, and positively impact on their network. To attain its goal of eliminating the risk of violence (security) and reintegrating the person into society as an active and participative citizen (inclusion), the program deploys the following measures:

- Risk assessment and referral;
- Counselling and guidance;
- Compulsory mentor processes;
- Education and employment;
- Housing;

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[19] Ostjyllands Politi, *supra* note 14.

[20] Anthony Faiola & Souad Mekhennet, "Denmark Tries a Soft-Handed Approach to Returned Islamic Fighters" (Oct. 19, 2014), available at http://www.washingtonpost.com/world/europe/denmark-tries-a-soft-handed-approach-to-returned-islamist-fighters/2014/10/19/3516e8f3-515e-4adc-a2cb-c0261dd7dd4a_story.html.

[21] Yanique A. Anderson, *Terrorists Created? The Radicalization of Muslims in Denmark*, Senior Theses, Trinity College, Hartford, CT (2015), available at http://digitalrepository.trincoll.edu/theses/496.

[22] Higgins, *supra* note 1.

[23] Ostjyllands Politi, "Preventing Radicalization and Discrimination in Aarhus" (Sep. 22, 2014).

[24] Ostjyllands Politi, *supra* note 14.

[25] Tabatha Kinder, *Denmark: ISIS Fighters Warmly Welcomed Home by Psychiatrists* (Oct. 17, 2014), available at http://www.ibtimes.co.uk/denmark-isis-fighters-warmly-welcome-home-by-psychiatrists-1470546.

- Psychological sessions;
- Network resources;
- Anchoring of faith/political conviction; and
- Medical treatment.[26]

The program is handled primarily by the East Jutland Police and Aarhus Municipality (represented by its Municipal Department for Social Services and Employment and the Municipal Department for Children and Young People). There is also collaboration with the University of Aarhus; Probation Services; the Clinic for PTSD and Transcultural Psychiatry; the Ministry of Children, Equality, Integration, and Social Affairs; and the Danish Security and Intelligence Service (PET). National cooperation is primarily arranged through the Knowledge & Inclusion in Copenhagen (VINK), which does similar work in Copenhagen. International cooperation is accomplished through the European Radicalization Awareness Network (RAN).[27]

Following on the heels of the city of Aarhus, Copenhagen has also adopted the rehabilitation program. A Copenhagen city spokesman says that around 30 jihadists, including several who have returned from Syria, have enrolled in the program.[28]

For 2015-2017, Denmark earmarked $9.2 million for programs to de-radicalize Islamic extremists, including those who have fought with jihadi groups in Syria and Iraq. Of this amount, about $1 million will be spent on exit programs for former foreign fighters.[29]

C) Evaluation

Officials in Aarhus are calling the program a success, claiming that there has already been a sharp decrease in the number of Danish nationals going to the Middle East. This claim is based on accounts that in 2013, around 30 people were known to have joined extremist groups abroad whereas only one person has been reported in 2014.[30] As of the first quarter of 2015, only 3 have been reported to have left for Syria.[31] The reduction is largely attributed to the dialogue with the communities in which recruitment takes place.[32]

Terrorism experts in Europe have already expressed support for efforts to rehabilitate Europeans returning from Syria, instead of sending them to prison. For example, the European Union's Counter-Terrorism Coordinator, Gilles de Kerchove, has called on countries to seek to rehabilitate, rather than punish, returning jihadis with no blood on their hands, in part on the grounds that some prisons have become "incubators of radicalization."[33] This position is also supported by Swedish terrorism expert Magnus Ranstorp, who expressed the sentiment that "many

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[26] *See* Municipality of Aarhus Memorandum, "Topic: Exit Programme for People in the Municipality of Aarhus involved in Violent Extremist Acts" (Oct. 2014).

[27] Ostjyllands Politi, *supra* note 14.

[28] Elisabeth Braw, "Inside Denmark's Radical Jihadist Rehabilitation Programme" (Oct. 17, 2014), available at http://www.newsweek.com/denmark-offers-returning-jihadis-chance-repent-277622.

[29] Casert, *supra* note 4.

[30] *See* Ayan Sheikh, "Denmark Unveils De-Radicalization Program for Jihadi Fighters" (Sep. 10, 2014), available at http://www.pbs.org/newshour/rundown/denmark-unveils-de-radicalization-program-jihadi-fighters/.

[31] Ostjyllands Politi, *supra* note 14.

[32] Ostjyllands Politi, *supra* note 23.

[33] Casert, *supra* note 4.

countries rely on repression but punitive methods are a recipe to create resentment toward the society."[34]

The "soft" approach adopted by Denmark, however, is also receiving some push back from other sectors. Jytte Klausen, a professor of international cooperation at Brandeis University (and graduate of Aarhus University) who has studied jihadist returnees, warns that simply opening the doors for returning fighters is "extremely naïve".[35] Other critics have called this soft-handed approach dangerous.[36] And, some have viewed the policy as unjust as it disregards the life and dignity of the people the jihadists have been terrorizing simply because the jihadists happen to be Danish.[37] Marie Krarup, an influential member of Parliament from the Danish People's Party, the country's third-largest political force, remarked that the program is too soft and that the "The problem is Islam. Islam itself is radical. You cannot integrate a great number of Muslims into a Christian country."[38]

It bears emphasis that Denmark's rehabilitation program is still new, and it would be premature at this point to definitively measure its success. Despite criticism on its implications on security at home, the Danish model may be said to have the following positive points:

1. Encourages foreign fighters to return home.

    -   By offering resources such as education, housing and employment to returning fighters, there is a higher probability that fighters who have not committed any crimes would be willing to return to Denmark, without fear of prosecution.

2. Fosters integration of minority Muslims into the general population.

    -   Strictly applying punitive methods can enhance the feeling of resentment by young Muslims who already have identity issues regarding vis-à-vis the Western population. Discrimination is considered as one of the most important factors in creating the conditions for the growth of radicalization in Denmark.[39] The rehabilitation program assists the individual in dealing with such issues instead of isolating them, which could serve to reinforce the original causes for their radicalization.

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[34] *Id.*

[35] Braw, *supra* note 28.

[36] Faiola & Mekhennet, *supra* note 20.

[37] Braw, *supra* note 28.

[38] Faiola & Mekhennet, *supra* note 20.

[39] Ostjyllands Politi, *supra* note 14.

II. United Kingdom

A) Identification of the Problem

1) The Threat in Great Britain

Today, it is estimated that some 600 to 700 Britons are fighting with ISIS.[40] Metropolitan Police Commissioner Sir Bernard Hogan-Howe has estimated that in 2014, up to five individuals traveled to Syria each week to join ISIS.[41] Shiraz Maher—a senior research fellow at King's College London's International Centre for the Study of Radicalisation and Political Violence (ICSR), an organization that has communicated with European ISIS fighters in Syria—stated that British fighters have been some of the most "vicious and vociferous fighters," at times acting as executioners and suicide bombers.[42] The most infamous fighter has been Mohammed Emwazi— the middle class, college-educated, London-accented Briton nicknamed "Jihadi John"—who shocked the world with gruesome videos depicting decapitations of foreign civilian hostages. One such execution video, depicting the beheadings of 18 Syrian soldiers and one American hostage, also showed Nasser Muthana, a medical student from Cardiff.[43]

By January 2015, around 300 individuals were believed to have returned from fighting in Syria and Iraq.[44] Of those who returned, approximately 40 individuals have been arrested and prosecuted for receiving training and fighting with ISIS.[45] In a statement released in August 2014, Scotland Yard Assistant Commissioner Mark Rowley said that 2014 saw a "significant rise in the number of Syria related arrests" for a variety of offenses including "preparation and/or instigation of terrorism acts and traveling abroad for terrorist training."[46] Most recently in an interview with the London Evening Standard, Commissioner Rowley, noting a "massive surge" in counter-terrorism arrests in the recent months, stated that Scotland Yard was "wrestling to tackle" threats

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[40] Mary Anne Weaver, "Her Majesty's Jihadists", *The New York Times,* April 14, 2015, http://www.nytimes.com/2015/04/19/magazine/her-majestys-jihadists.html?_r=0.

[41] Shiv Malik and Duncan Gardham, "Five Britons a week travel to Iraq and Syria to join Isis, says Met chief", *The Guardian,* October 21, 2014, http://www.theguardian.com/world/2014/oct/21/five-britons-week-travel-iraq-syria-isis.

[42] Georgia Graham, "British jihadists the most 'vicious and vociferous' fighters in Iraq, experts say", *The Telegraph,* August 20, 2014, *http*://www.telegraph.co.uk/news/worldnews/middleeast/iraq/11045318/British-jihadists-the-most-vicious-and-vociferous-fighters-in-Iraq-expert-warns.html.

[43] Jack Moore, "Isis: British Medical Student Nasser Muthana Shown Next to Jihadi John in Peter Kassig Beheading Video", *International Business Times,* November 17, 2014.http://www.ibtimes.co.uk/isis-british-medical-student-nasser-muthana-shown-next-jihadi-john-peter-kassig-beheading-video-1475162.

[44] Zach Adesina and Vivek Chaudhary, "UK terror fears: My jihadist son returned from Syria mentally scarred – now he is being ignored", *The Independent,* January 19, 2015, http://www.independent.co.uk/news/uk/home-news/uk-terror-fears-my-jihadist-son-returned-mentally-scarred--now-he-is-being-ignored-9986669.html.

[45] Weaver, *supra* note 40.

[46] Metropolitan Police, "Statement from the National Policing Lead for Counter Terrorism, Assistant Commissioner Mark Rowley", August 26, 2014, http://content.met.police.uk/News/Statement-from-the-National-Policing-Lead-for-Counter-Terrorism-Assistant-Commissioner-Mark-Rowley/1400026042909/1257246745756.

involving "complex, organized" terrorist plots and that returned fighters from Syria and Iraq posed a "massive threat on the streets of the UK."[47]

It is not difficult to imagine that at least a small portion of the returned fighters do pose a significant national security threat to Great Britain. A study by Thomas Hegghammer, the director of terrorism research at the Norwegian Defense Research Establishment, showed that one in nine individuals from North America, Western Europe, and Australia who left their countries to fight in an overseas conflict became involved in terrorist activities upon returning home.[48] If such estimates are equally applicable to the UK, the hundreds of returning ISIS fighters present a significant security challenge to the country. Troublingly, some returnees are feared to be living in the shadows, worried about the prospect of criminal prosecution.[49] Indeed, the Home Office has admitted that "it does not know the names of every single person who has returned."[50]

2) The Radicalization of ISIS-Bound Britons

Radicalization of an individual takes place over an extended period of time and is driven by multiple influences.[51] A study led by Professor Kamaldeep Bhui of Queen Mary University in London showed that individuals suffering from depression and those that are socially isolated were particularly vulnerable to radicalization.[52] A different study by the same professor concluded that UK-born and high-earning Muslims were at the greatest risk of radicalization.[53] The finding that immigrants were in fact "more resistant" to radicalization compared to British-born citizens highlights the homegrown nature of the problem facing Britain today.[54] In addition, ICSR found that many individuals going to Syria to join ISIS are: male, in their twenties, of South-Asian ethnic origin, have recently received higher education, and have links with individuals or groups that have international connections.[55] These studies largely dispel the notion that radicalization in the UK is driven by poverty, unemployment, or lack of education. Another study in fact showed that

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[47] Martin Bentham, "Scotland Yard's top anti-terror chief: 'Jihadis staying in UK to plot attacks'", *London Evening Standard,* May 14, 2015, http://www.standard.co.uk/news/crime/scotland-yards-top-antiterror-chief-jihadis-staying-in-uk-to-plot-attacks-10249579.html.

[48] Thomas Hegghammer, "Should I Stay or Should I Go? Explaining Variation in Western Jihadist' Choice Between Domestic and Foreign Fighting", *American Political Science Review,* February 2013, 9.

[49] Nick Harding, "British Jihadis in Iraq and Syria: How should we deal with them when they come home?", *The Independent*, October 3, 2014, http://www.independent.co.uk/news/uk/home-news/british-jihadi-fighters-in-iraq-and-syria-how-should-we-deal-with-them-when-they-come-home-9771290.html.

[50] *Id.*

[51] Peter Neumann, "The trouble with radicalization", *Royal Institute of International Affairs* July 2013, 874.

[52] Kamaldeep Bhui, Brian Everitt, and Edgar Jones, "Might Depression, Psychological Adversity, and Limited Social Assets Explain Vulnerability to and Resistance against Violent Radicalisation?", *Plos One,* September 24, 2014, http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0105918.

[53] Kamaldeep Bhui, Nasir Warfa, and Edgar Jones, "Is Violent Radicalisation Associated with Poverty, Migration, Poor Self-Reported Health and Common Mental Disorders?", *Plos One,* March 5, 2014, http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0090718#s4.

[54] Shane Croucher, "When Isis Jihadists Return Home: How to De-radicalise Islamic Extremists ", *International Business Times*, November 15, 2014, http://www.ibtimes.co.uk/when-isis-jihadists-return-home-how-de-radicalise-islamic-extremists-1474905.

[55] *Shiraz Maher,* "ICSR Insight: British Foreign Fighters in Syria", *The International Centre for the Study of Radicalisation and Political Violence*, http://icsr.archivestud.io/2013/10/british-foreign-fighters-in-syria/.

British homegrown terrorists "are better educated than the average people in the general population of UK Muslims"[56] and are typically from "well educated, middle-class or high-income families."[57]

Radicalization typically starts through personal relationships.[58] Charles Winter, a researcher at the Quilliam Foundation, a London-based counter-extremism think tank, argues that the involvement of friends and family is critical in the de-radicalization process, because individuals who end up joining ISIS and fighting in Syria and Iraq "are being recruited as friends."[59] Indeed, the arrests of individuals attempting to leave the country to join ISIS show that people rarely leave the country alone and almost always travel with others or in groups. For instance, Mashudur Choudhury, who in 2014 became the first Briton to be convicted for a Syria-related terror offense, had decided to travel to Syria with four other men after another associate had already traveled to join ISIS a few months before.[60] Winter explains that radicalization is not merely the result of a single recruiter. He stated, "It's charismatic recruiters coupled with very effective propaganda coupled with peer pressure."[61]

ISIS-bound Britons have been driven to violent extremism by a wide variety of factors and influences. Some individuals like Emwazi and Muthana seem to have embraced the most violent terrorist activities of ISIS. Others traveled to Syria on "humanitarian grounds" or with romantic visions of what a jihadist's life would be like only to find that they would be required to fill "administrative and support" roles.[62] "[S]ome subscribe to violence; some become extreme out of a sense of brotherhood to their fellow religionists; some are students looking for a sense of identity, adventure and a cause to follow."[63] It's important to note that many British fighters who "have become so disillusioned with fighting in Syria" have contacted the government for the permission to come home.[64] One Briton, claiming to represent 30 other disillusioned British fighters, expressed the group's desire to return and participate in the government's de-radicalization program if the government promised not to prosecute them upon return.[65]

B) A Punitive Approach

1) Prosecution as a Weapon

The UK has convicted numerous individuals connected in various ways to ISIS activities in Syria and Iraq. Metropolitan Police Commander Richard Walton has stated, "One of the best ways we can respond to [ISIS crimes and atrocities] is to convict terrorists through the rule of

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[56] Yener Altunbas and John Thornton, "Are Homegrown Islamic Terrorists Different?", *Southern Economic Journal*, October 2011, 262.

[57] *Id.* at 263.

[58] Harding, *supra* note 49.

[59] Croucher, *supra* note 54.

[60] Sandra Laville, "First British conviction for Syria-related terror offence", *The Guardian*, May 20, 2014, http://www.theguardian.com/uk-news/2014/may/20/briton-convicted-terror-offence-syria-jihadist-training-camp.

[61] Croucher, *supra* note 54.

[62] Harding, *supra* note 49.

[63] *Id.*

[64] Tom Coghlan, "Let us come home, say young British jihadists", *The Times*, September 5, 2014, http://www.thetimes.co.uk/tto/news/world/middleeast/article4197191.ece.

[65] *Id.*

law."[66] Indeed, ISIS-related arrests rose six-fold in 2014, as compared to 2013, to more than 150, resulting in at least 14 convictions.[67] While most of those convicted have been from London, individuals from Portsmouth, Birmingham, Luton, Manchester, and other parts of the country have also received prison sentences.[68]

British courts have allowed convictions for general involvement with ISIS activities even without evidence linking an individual to specific incidents or crimes. Under Section 5 of the Terrorism Act of 2006, an individual can be convicted if he "engages in any conduct in preparation" with the intention of "committing acts of terrorism" or "assisting another to commit such acts."[69] In application, the law has allowed for the prosecution of individuals for having attended terrorist training camps as well as for merely intending to travel to Syria in order to participate in an ISIS training camp.[70] The prosecution uses various types of evidence including "exchanges on social media, Skype and text messages" to show anything from an intent to travel to Syria to join ISIS to general involvement in terrorist activities while in Syria and Iraq.[71] In the case involving Imran Khawaja, who was sentenced to 12 years in prison for being an active member of ISIS while in Syria, the prosecution used a video depicting Khawaja posing with decapitated heads as well as pictures showing him next to weapons and tanks as evidence probative of his involvement with ISIS.[72] Evidence merely must show that an individual "went to Syria to train and to fight, and was close to, if not directly in, a combat zone."[73] Consequently, individuals have been convicted even without evidence that they planned any terrorist activity within the UK or that they actually engaged in fighting as members of ISIS.[74] Individuals have also been convicted for posting messages on social media encouraging terrorism. For instance, Runa Khan was convicted in 2014 under Section 2 of the Terrorism Act of 2006[75] for disseminating an online "terrorist publication" with the intention of providing "direct or indirect encouragement . . . to the commission, preparation or instigation of acts of terrorism."[76]

2) The New Law

The Counter-Terrorism and Security Act of 2015, which became law in February 2015, grants the government two new significant powers to control the flow of individuals connected to

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[66] BBC, "British jihadist Imran Khawaja jailed for 12 years", *BBC News*, February 6, 2015, http://www.bbc.com/news/uk-31166062.

[67] Richard Spillett, "The terror map of Britain: Soaring number of arrests and trials reveal how ISIS and Syrian war are inspiring extremists in the UK", *Daily Mail*, March 23, 2015, http://www.dailymail.co.uk/news/article-2980832/Map-Syria-linked-arrests-shows-ISIS-hasinspired-extremists-UK.html.

[68] *Id.*

[69] Terrorism Act 2006, § 5, http://www.legislation.gov.uk/ukpga/2006/11/section/5/enacted.

[70] *See* Laville, *supra* note 60.

[71] *Id.*

[72] BBC, *supra* note 66.

[73] *Id.*

[74] Josh Halliday, "London brothers who admitted going to Syrian terror training camp jailed", *The Guardian,* November 26, 2014, http://www.theguardian.com/uk-news/2014/nov/26/london-brothers-syrian-terror-training-camp-jailed.

[75] The Crown Prosecution Services, "The Counter-Terrorism Division of the Crown Prosecution Services (CPS)-cases concluded in 2014", //www.cps.gov.uk/publications/prosecution/ctd_2014.html#a10.

[76] Terrorism Act 2006, § 2, http://www.legislation.gov.uk/ukpga/2006/11/section/2.

terrorist-activities who are both leaving and entering the country. First, it empowers the government to seize the passport or travel ticket of an individual at the port of exit if a law enforcement official reasonably believes that the person is leaving "for the purpose of terrorism-related activity outside the UK."[77] Second, the law enables the Home Secretary to issue a temporary exclusion order that prohibits an individual, who is believed to be returning after being involved in "terrorism-related activity outside the UK," from entering the country for up to two years.[78] Combined with the powers it already has under the Immigration Act of 2014—which permits the revocation of citizenship for being "seriously prejudicial to the vital interests of the United Kingdom"[79]—the British government is now empowered to take drastic measures to control both the entry and exit of individuals, even citizens, suspected of supporting terrorist activities abroad.

C) A Softer Approach—Countering Radicalism and Britain's Strategy for De-radicalization

In contrast to the purely punitive approaches, two programs implemented by the Home Office—Prevent and Channel—offer a different method for addressing the problem of returning fighters.

1) Prevent—The Plan for Countering Radicalism

Prevent is a component of the UK's broader counter-terrorism strategy comprised of four P's: Prevent, Pursue, Protect, and Prepare. A British government publication lists Prevent's three primary objectives: "respond to the ideological challenges" of terrorism and violent extremism, "prevent people from being drawn into terrorism" and "ensure that they are given appropriate advice and support," and "work with sectors and institutions" to prevent radicalization.[80]

To accomplish these policy goals, Prevent has funded a variety of programs. For example, it has provided support to organizations to "'rebut' extremist views and offer positive alternative interpretations of Islam to those at risk of radicalization."[81] Other programs that do not appear to be explicitly linked to counter radicalism have also received funding—from recreational and diversionary programs to sporting and cultural events.[82] Some programs have been educational and informative in nature while others have fallen more closely within the realm of law

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[77] Shaheed Fatima, "Travel Bans and Due Regard: The UK's New Counter-Terrorism and Security Act", *Just Security,* March 11, 2015, http://justsecurity.org/20467/uk-law-counter-terrorism-security-act-2015/.

[78] *Id.*

[79] Immigration Act 2014, § 66, http://www.legislation.gov.uk/ukpga/2014/22/section/66/enacted.

[80] HM Government, "Channel Duty Guidance- Protecting vulnerable people from being drawn into terrorism-Statutory guidance for Channel panel members and partners of local panels", 3, "https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/425189/Channel_Duty_Guidance_April_2015.pdf.

[81] Matthew Holehouse, "Tony Blair's anti-jihadist programme has failed, says ex-MI5 chief", *The Telegraph*, January 14, 2015, http://www.telegraph.co.uk/news/uknews/terrorism-in-the-uk/11344281/MI5-chief-Blairs-anti-jihadist-programme-has-failed.html.

[82] Douglas Murray, "The Prevent strategy: a textbook example of how to alienate just about everybody", *The Telegraph*, March 31, 2010, http://www.telegraph.co.uk/news/uknews/terrorism-in-the-uk/7540456/The-Prevent-strategy-a-textbook-example-of-how-to-alienate-just-about-everybody.html.

enforcement. For example, one project involved the distribution of "over 200,000 leaflets and posters in five languages warning people not to travel to Syria" while another project entailed the removing "over 75,000 pieces of 'unlawful terrorist material'" from the internet.[83] By extending the programs to all sectors of society "including local government, health, education, prisons, immigration and charities,"[84] Prevent has cast a wide net in an attempt to counter the forces contributing to radicalization and terrorism.

2) Channel—UK's De-radicalization Strategy

The UK recently launched Channel, a part of the broader Prevent strategy.[85] It is a de-radicalization program that attempts to guide and counsel both individuals who are vulnerable to extremism as well as those who have already been radicalized.[86] De-radicalization programs are "generally directed against individuals who have become radical with the aim of re-integrating them into society or at least dissuading them from violence."[87] Channel essentially seeks to deprogram and rewire an individual at risk of radicalization.[88] Although the program is designed to primarily prevent individual radicalization, the government recently began to use Channel with respect to individuals already radicalized within the UK as well as with returnees from Syria and Iraq.[89]

Channel has three primary objectives: identify individuals at risk of radicalization, assess the nature and extent of the risk, and develop the "most appropriate support plan" for the individual.[90] A local multi-agency panel conducts the work of Channel by formulating and executing individual de-radicalization plans. A local police officer specializing in Channel programs—a Channel Police Practitioner (CPP)—is responsible for coordinating between the panel's various representatives.[91] Panels are chaired by "the responsible local authority" and may consist of representatives from various government and community organizations including schools, youth services, the Border Force, and the National Health Service.[92]

The first goal of Channel is to identity individuals susceptible to radicalization. The program calls on CPPs and local authorities to establish links with "those coming into contact with vulnerable individuals, such as those working in the education sector, social services, health, children's and youth services, offender management services and credible community

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[83] Frank Gardner, "Prevent strategy: Is it failing to stop radicalisation?", *BBC News*, March 6, 2015, http://www.bbc.com/news/uk-31756755.

[84] *Id.*

[85] HM Government, *supra* note 80 at 3.

[86] Harding, *supra* note 49.

[87] Institute for Strategic Dialogue, "The Role of Civil Society in Counter-Radicalisation and De-Radicalisation", October 2010, 3, http://www.strategicdialogue.org/PPN%20Paper%20-%20Community%20Engagement_FORWEBSITE.pdf.

[88] Dominic Casciani, "Analysis: The Prevent strategy and its problems ", *BBC News*, August 26, 2014, http://www.bbc.com/news/uk-28939555.

[89] Richard Kerbaj, "Soft reception for returning Brits as Isis turns to chick lit", *The Sunday Times,* November 9, 2014, http://www.thesundaytimes.co.uk/sto/news/uk_news/National/jihadists/article1481580.ece.

[90] HM Government, *supra* note 80 at 5.

[91] *Id.* at 9.

[92] *Id.* at 7.

organizations."[93] CPPs use such links to highlight the importance of protecting those vulnerable to radicalization and raise general awareness for how Channel can offer help in preventing radicalization.[94] A referral for a vulnerable individual can come from a variety of sources— including family, teachers, or social workers.[95] Once a referral is made to the CPP, the members of the panel and the CPP make an initial assessment of an individual's susceptibility to radicalization.[96] The panel members base their assessment on the individual's "engagement with a [radical] group, cause or ideology," "intent to cause harm," and "capability to cause harm."[97] Ultimately, the program relies on coordinated activity between the various local representatives of the panel. Each enrolled individual receives a tailor-made program that recognizes the person's unique set of vulnerabilities. The types of support that an individual may receive vary, based on the needs of the person, from mentoring, anger management sessions, and behavioral therapies to education and career-assistance assistance.[98] The program employs a network of mentors, psychologists, and community workers to provide these various types of counseling and support.[99]

Often times, the enrolled individual is referred to mentoring services. Channel provides informal but intensive one-on-one mentoring—once a week for up to two hours—that seeks to draw the individual away from radicalism.[100] One Channel mentor has explained that the goal was to try to "let [the individual] see the rest of the community as they live their lives, and let him see that life is wider and vaster than his house, his street, a few friends, a computer he may spend hours on."[101] Such dialogue with a mentor can help "provide opportunities to explore the concerns that radicalizers seek to exploit."[102] All mentors are members of the local community and have been accredited by the Home Secretary to serve as counselors. They focus on five different potential causes—intellectual, ideological, social, emotional, and spiritual—that may have led or contributed to an individual's radicalization.[103] The mentoring ends once the local panel believes that the person is no longer at risk of radicalization.[104]

The coordination between various government and non-governmental actors under Channel is consistent with the academic literature that identifies civil society as an important influence in de-radicalization.[105] Local civil society actors can "conduct community-level

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[93] *Id.* at 10.

[94] *Id.*

[95] Samira Shackle, "A soft approach to returning British fighters", *Al Jazeera*, October 12, 2014, *http*://www.aljazeera.com/indepth/features/2014/10/soft-approach-returning-british-fighters-2014101210194669969.html.

[96] *Id.*

[97] HM Government, *supra* note 80 at 11.

[98] *Id. at* 17.

[99] Harding, *supra* note 49.

[100] Ben Ferguson and Peter Walker, "Talking and walking – UK mentors steer young people away from radicalization", *The Guardian*, February 4, 2015, http://www.theguardian.com/world/2015/feb/05/uk-mentors-steer-youth-away-from-radicalisation.

[101] *Id.*

[102] Institute for Strategic Dialogue, *supra* note 87 at 4.

[103] Damien Sharkov, "'Significant Threat' to Europe After 1,300 Jihadis Return Home", *Newsweek*, January 16, 2015, http://europe.newsweek.com/significant-threat-europe-after-1300-jihadis-return-home-300191.

[104] Ferguson and Walker, *supra* note 100.

[105] *See* Institute for Strategic Dialogue, *supra* note 87.

intervention work" for which national governments may be ill-structured.[106] In a sense, the fact that Channel tailors each program to fit the needs of the individual and utilizes various local actors is a reflection of the understanding that local civil society may be best equipped and positioned to carry out the de-radicalization mission.

To deal with the growing number of individuals connected to ISIS activities, the government began, in 2014, offering places in Channel for both certain individuals returning from Syria and Iraq and for some who have already been convicted of terror-related offenses.[107] Once an individual returns from Syria, law enforcement officials determine whether the person should be prosecuted or referred to Channel.[108] For example, Ahmed Mohammadi and Shahid Miah of Cardiff were arrested under the Terrorism Act of 2006 upon returning from Syria in 2014.[109] Police intelligence sources told the Sunday Times of London that the Wales Extremism and Counter Terrorism Unit, a law enforcement agency, interviewed and assessed Mohammadi and Miah and subsequently referred them to Channel.[110] The two were released without charge.[111] The government has not specified any criterion which it uses to determine whether an individual should face prosecution or be referred to Channel, but it is evident that the UK has not offered places in Channel for all returned fighters.[112]

D) Evaluation of the British Counter-Radicalization and De-radicalization Policies

1) Failures of Prevent in Countering Radicalization

Prevent has generated intense controversy. The program has been criticized for various shortcomings, including "misdirected funds, poor communication and difficulties in identifying those most likely to turn to violence."[113] At times, funds were provided to organizations that were sympathetic to the very extremist messages the government is working to counter. In other cases, the funding was simply ineffective in accomplishing what Prevent is supposed to accomplish.[114] Very few funded projects "could be assessed to show one way or another whether they worked," which meant that the government was often left taking the word of implementing partners without any method for verifying the effectiveness of the program.[115]

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[106] *Id.* at 4.

[107] *See* Vikram Dodd, "Police consider forced deradicalisation as terror arrests soar", *The Guardian*, May 14, 2015, http://www.theguardian.com/uk-news/2015/may/14/hundreds-of-potential-terror-suspects-have-returned-to-uk-from-syria-police, 5-14-2015; Kerbaj, *supra* note 89.

[108] The Economist, "Turning them around", *The Economist*, November 15, 2014, http://www.economist.com/news/britain/21632628-britain-becoming-more-sophisticated-dealing-returning-fighters-turning-them-around.

[109] Kerbaj, *supra* note 89.

[110] *Id.*

[111] *Id.*

[112] Adesina and Chaudhary, *supra* note 44.

[113] Michael Holden, "Insight - Why Britain is still losing its fight against radicalisation", *Reuters*, October 14, 2014, http://uk.reuters.com/article/2014/10/13/uk-mideast-crisis-britain-radicalisation-idUKKCN0I20ER20141013.

[114] *Id.*

[115] Casciani, *supra* note 88.

Prevent has also faced a significant public relations problem. Many Muslims consider the program to be a "police-led spying exercise."[116] Critics point out that the program alienated Muslim communities by creating the perception that all Muslims are potential terrorists.[117] Harun Khan, the deputy head of the Muslim Council of Britain, has stated: "Most young people are seeing [Prevent] as a target on them and the institutions they associate with."[118] For example, in one education program targeting teenagers, government-approved materials gave the impression that "al-Qaeda was behind every street corner, working in every mosque."[119] Critics argued that the program was "turning every young Muslim into a suspect" and "stigmatizing" Muslim communities.[120] Even worse, the program was discovered to have funded CCTV cameras—including 72 hidden cameras—which were installed in Muslims neighborhoods of Birmingham. Consequently, "[t]he loss of confidence and trust in police was enormous."[121] Such setbacks were perhaps reflective of the fact that individuals put in charge of local Prevent strategies lacked an adequate understanding of the communities that they were serving. In light of the various shortcomings of the program, Dal Babu, the former chief superintendent with the Metropolitan Police, labeled Prevent a "toxic brand" that is "widely mistrusted."[122]

Considering the vital importance of the cooperation of local communities in preventing radicalization and facilitating de-radicalization, Prevent seems to have been counterproductive in alienating Muslim communities and rendering them reluctant to cooperate with the government. Eliza Manningham-Buller, the former head of MI5, stated that Prevent was "clearly not working" in stopping the spread of violent extremist ideology in the UK.[123] Baroness Manningham Buller, the former director general of the Security Service, has opined that the hundreds of British citizens traveling to Syria and Iraq to fight with ISIS is evidence that Prevent has failed.[124] It was largely this widespread recognition that the plan to "foster a moderate version of Islam and prevent radicalization" was not working that led the government to adopt a more punitive, law-enforcement based approach to countering violent extremism.[125]

2) Channel—Promising Successes and Shortcomings

Channel, a subset of the broader Prevent strategy that focuses specifically on de-radicalization, has largely generated a different response. Haras Rafiq—the managing director of the Quilliam Foundation—has opined that Channel has a "significant success rate" in rehabilitating radicalized individuals.[126] Although specific statistics are not available as internal government evaluations have not been published,[127] several elements of Channel can logically explain the

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[116] Holden, *supra* note 113.

[117] Croucher, *supra* note 54.

[118] Casciani, *supra* note 88.

[119] *Id.*

[120] *Id.*

[121] *Id.*

[122] Josh Halliday and Vikram Dodd, "UK anti-radicalisation Prevent strategy a 'toxic brand'", *The Guardian*, March 9, 2015, http://www.theguardian.com/uk-news/2015/mar/09/anti-radicalisation-prevent-strategy-a-toxic-brand.

[123] Holehouse, *supra* note 81.

[124] *Id.*

[125] Holden, *supra* note 113.

[126] Sharkov, *supra* note 103.

[127] Arun Kundnani, "A Lost Decade: Rethinking Radicalisation and Extremism", *Claystone*, January 2015, 38.

program's success. The most important is the individualized nature of the de-radicalization program. Each "patient" is given a "prescription" tailored to his needs. Such an approach increases the likelihood that the program will confront the underlying causes that led to an individual's radicalization as compared with a one-size-fits-all approach. The one-on-one mentoring sessions provide an effective way to tackle such causes. In addition, the coordination between various agencies means that the program is not structurally limited in what it can provide for an individual.

As the program currently stands, Channel, originally designed to prevent radicalization ex ante, is not sufficiently resourced to aggressively deal with an ex post radicalization problem posed by returning fighters and individuals in the UK who have already been radicalized.[128] Indeed, as discussed above, the Home Office extended Channel to returning fighters only in late 2014.[129] Recently, referrals to Channel have risen significantly. While 80 people were referred to the program during its first two years in existence, 1,281 referrals were made between 2013 and 14.[130] While it did not elaborate on the nature of referrals, the Association of Chief Police Officers did note that between April 2012 and March 2014, 56 per cent of referrals were recorded as being Muslim. It should be noted that of those referred, 20 per cent of individuals were assessed by the CPP and Channel panel as vulnerable to radicalization.[131] One may be able to assume that the recent increase in Channel referrals is causally linked to the concurrent rise in ISIS-related law enforcement investigations and activities.[132] Therefore, although the program has produced promising results, the expansion of Channel to cover returning fighters has not been accompanied by adequate funding and consequently, the full potential of the program to combat radicalization has not yet been realized.

III. Saudi Arabia

A) Identification of the Problem

Violent extremism is not a new problem for Saudi Arabia. Much of al-Qaeda's original leadership originated in Saudi Arabia; indeed, fifteen of the nineteen extremists who assisted in hijacking the planes that hit American targets on September 11, 2001, were Saudi citizens.[133] Further, from the beginning of the U.S. war in Iraq, many Saudi civilians assisted al-Qaeda as foreign fighters or even leaders,[134] leading the International Crisis Group to call Saudi Arabia a "breeding ground for terrorism."[135] More recently in November 2011, al-Qaeda in the Arabian Peninsula (AQAP), a Saudi and Yemen-based group, renewed its call to Islamic extremists throughout the world to put aside their differences and unite with AQAP in its efforts to destroy Western civilian, diplomatic, and military targets.[136] Accordingly, today AQAP is widely regarded

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[128] Harding, *supra* note 49.

[129] The Economist, *supra* note 108.

[130] National Police Chiefs' Council, "National Channel Referral Figures", http://www.npcc.police.uk/documents/Channel22.doc.

[131] *Id.*

[132] *See* Metropolitan Police, *supra* note 46.

[133] Hamed El-Said and Richard Barrett, "Saudi Arabia: The Master of Deradicalization," in *Deradicalizing Violent Extremists*, El-Said and Jane Harrigan eds. (2013) at 194.

[134] *Id.*

[135] *Id.*

[136] *See* Laura Smith-Spark, "What is al Qaeda in the Arabian Peninsula?" *CNN* (Jan. 14, 2015). http://edition.cnn.com/2015/01/14/middleeast/yemen-al-qaeda-arabian-peninsula/.

both by U.S. and other officials as the branch of al-Qaeda that "represents the most serious international threat" to the West[137]

To address this problem, Saudi Arabia's Muhammed bin Nayef Center for Counseling and Advice (referred to simply as the Care Rehabilitation Center) was created to counteract violent extremism's effects through a de-radicalization program for detained terrorists, known as the Saudi Counseling Program.[138] Saudi government data suggest that this program's efforts have yielded significant success: its recidivism rate has been remarkably low,[139] with a reported success rate of approximately 80 percent.[140] The program is widely regarded as "the most expansive and successful in seeking to deactivate radical violent Islamist extremists," making its impact likely "to spread as other nations look to Riyadh for insights."[141]

Despite such success, however, skepticism and concerns about the Saudi rehabilitation model's methods and effectiveness abound.[142] While some have argued that efforts at reforming religious ideology through use of clerics and reinterpretations of the Quran have been useless because extremist beliefs are largely retained,[143] others have criticized the program for continuing to promote an extreme version of Islam, and argued that a more moderate version of Islam must be actively promoted to increase the program's effectiveness.[144] Doubts have been raised in light of the Saudi concession that the most ideologically committed terrorists are "unlikely to respond to de-radicalization."[145] Skeptics likewise argue that recidivism rates simply reflect the social and political context of Saudi Arabia itself rather than any inherent strengths of the counseling program itself.[146] In addition, serious questions have been raised regarding whether Saudi Arabia's reported recidivism rates accurately portray the program's actual success, especially given its sharp increase in program graduate recidivists in 2009.[147] This increase in turn raises serious questions of whether the risk of releasing even one extremist that may return to terrorist action ought to be enough to indefinitely detain most participants. While skeptics raise important concerns, anecdotal evidence provides substantial support for the tremendous value and potential of the Saudi program, both for apprehended extremists and for society more broadly. In its eleven-year existence, the Saudi model

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[137] *Id.*

[138] Christopher Boucek, "Extremist re-education and rehabilitation in Saudi Arabia," in *Leaving Terrorism Behind: Individual and Collective Disengagement*, Tore Bjorgo and John Horgan eds. (2009) at 212.

[139] Marisa L. Porges, "Reform School for Radicals," *The American Interest*, (July/August 2011) at 55.

[140] By contrast, more than two-thirds of released inmates from U.S. state prisons were rearrested for a serious crime within three years of their release. Jessica Stern, "Deradicalization or Disengagement of Terrorists: Is It Possible?" *Stanford University Hoover Institution's Koret-Taube Task Force on National Security and Law* (2011) at 10. *Available at* http://www.hoover.org/sites/default/files/research/docs/futurechallenges_stern.pdf.

[141] Boucek, *supra* note 138, at 212.

[142] *See, e.g.*, Shiraz Maher, "Saudi Care for Jihadis," *Wall Street Journal* (January 11, 2010); Task Force on Confronting the Ideology of Radical Extremism, "Rewriting the Narrative: An Integrated Strategy for Counterradicalization," *Washington Institute for Near East Policy* (March 2009) at 13.

[143] *See, e.g.*, John Horgan and Kurt Braddock, "Rehabilitating the Terrorists? Challenges in Assessing the Effectiveness of Deradicalization Programs" *Terrorism and Political Violence*, Vol. 22, No. 2 (Apr. 2010) at 268.

[144] *See* Angel Rabasa, "Deradicalizing Islamic Extremists," *RAND National Security Research Division* (2010) at 34. *Available at* http://www.rand.org/content/dam/rand/pubs/monographs/2010/RAND_MG1053.pdf.

[145] Porges, *supra* note 130, at 55.

[146] *Id.*

[147] *Id.*

has already seen tremendous improvements, and is becoming increasingly effective in its individually tailored approach and adaptations.

This section begins by examining the history of Saudi Arabia's Counseling Program and outlining the major work of the four main subcommittees of the program's Advisory Committee, as well as its recently modified emphasis on reforming behavior over ideology. It then examines both apparent successes as well as perceived pitfalls of the program, including the difficulties of measuring success of de-radicalization programs generally. Lastly, it addresses critiques that have been leveled against the program. Despite the current lack of ability to predict future success, other secondary benefits weigh heavily in favor of the Saudi de-radicalization program's usefulness and worthiness as a model of imitation. Although many elements of the program are unique to Saudi Arabia itself, all countries should consider adopting certain generally applicable principles that are extractable from the Saudi model in establishing or refining their de-radicalization programs.

B) The Saudi Counseling Program

To understand the history of the Saudi Counseling Program at the Care Rehabilitation Center, it is important first to understand that Saudi Arabia has a long tradition of using both rehabilitation programs and the active involvement of religious figures in its general prison correctional system.[148] For instance, the Saudi Ministry of Islamic Affairs has a long-established precedent of coordinating with prisons throughout the country to organize Islamic lectures and recitations from the Quran for the purpose of promoting reformed character, beliefs, and behavior.[149] Early release has been offered as an incentive for prisoners to commit the entire Quran to memory; respected religious authorities have likewise played important roles in encouraging cooperation with prison officials as well as providing mentorship and counseling.[150] Further, Saudi Arabia provides several social services for helping prisoners reintegrate into society upon release, including facilitating marriage, providing monetary support of families while a parent is incarcerated, and offering loans to facilitate business development.[151] The success of such programs made their application to the increasing number of radical extremists a natural development for the Saudi government.

In May 2003, a series of terrorist attacks in Saudi Arabia led Saudi officials to create the Saudi Counseling Program to both re-educate and rehabilitate violent extremists.[152] The program's goal from the outset was to promote religious ideological reform in order to encourage extremists to "repent and abandon terrorist ideologies."[153] From the outset, the program was only targeted toward facilitating the eventual release of jihadi sympathizers, aiders and abettors, and propagandists, as opposed to those extremists who had actively engaged in terrorist violence.[154] Those with "blood on their hands" are barred from release, and are thus not to be the focus of the program.[155] Importantly, not everyone who participates in the program is released. The Saudi

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[148] Boucek, *supra* note 138, at 213.
[149] *Id.* at 214.
[150] *Id.*
[151] *Id.* at 213-14.
[152] *Id.* at 212
[153] *Id.* at 213.
[154] *Id.*
[155] *Id.*

government has continually emphasized that release is contingent on the ability of prisoners to first, complete the program and second, demonstrate to the Care Rehabilitation Center's Advisory Committee[156] that their rehabilitation is sincere.[157] Even if the program is successfully completed, however, prisoners must still serve their full sentences before being released; any manifestation of intent to commit future acts of violence will likewise prevent release.[158]

The Counseling Program is administered by the Advisory Committee under the direction of the Saudi Ministry of Interior. Because of Saudi Arabia's abundant resources and commitment to the rehabilitation of terrorist prisoners,[159] the program is "one of the most robust, well-funded terrorist rehabilitation programs in existence."[160] Advisory Committee members are responsible for visiting Saudi Arabian prisons and conducting operations at the Care Rehabilitation Center headquarters outside Riyadh.[161] The committee is divided into four main subcommittees: 1) Religious, 2) Psychological and Social, 3) Security, and 4) Media. Each of these four subcommittees has played an important role the Saudi Counseling Program's success and will be described in turn.

First, the Religious Subcommittee's work of religious re-education was originally the program's most prominent focus.[162] Local clerics are recruited individually based on their moderate religious interpretations as well as their non-lecturing communication style.[163] One-on-one discussions aim to engage prisoners individually, and if a cleric's style is found to not be conducive to dialogue with a particular prisoner, alternative clerics are then assigned.[164] Additionally, religious courses are taught to groups of detainees by widely respected imams to promote Saudi government-approved interpretations of Islam.

Second, counselors in the Psychological and Social Subcommittee are largely responsible for living with and developing a personal relationship with the prisoners, diagnosing their psychological problems, and eventually assessing their overall compliance and likelihood of success in the program. They are thus the most important sources in determining whether prisoners' rehabilitation is genuine rather than feigned or opportunistic.[165] These counselors strive to remain in contact with program graduates upon their release, and graduates are likewise advised to contact their counselor if his services or advice is ever needed.[166]

Third, the Security Subcommittee evaluates recommendations from both the Religious and Psychological Subcommittees to determine the level of security risk detainees will likely pose upon release from the institution. It also advises participants on how to conduct their lives after release, and is responsible for monitoring their activities in ways both visible and covert; prisoners

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[156] The Advisory Committee includes doctors and psychologists who conduct evaluations of the prisoners.
[157] Boucek, *supra* note 138, at 213.
[158] *Id.*
[159] For discussion of this unexpectedly strong Saudi cultural commitment to rehabilitation, *see* n.58 of this paper.
[160] Porges, *supra* note 139, at 52.
[161] Boucek, *supra* note 138, at 217.
[162] Porges, *supra* note 139, at 52.
[163] *Id.*; *see also* Boucek, *supra* note 138, at 217.
[164] Boucek, *supra* note 138, at 217.
[165] *Id.* at 218.
[166] *Id.* at 219.

are thus required to regularly check in with Security Subcommittee officials.[167] Home visits are also regularly arranged. Besides this committee's parole-like monitoring function, it also seeks to ensure that detainees are being effectively integrated into a stable social network by helping them to find jobs and ensure that ongoing counseling is provided. This aspect of the program is heavily financed by the Saudi government on the premise that if people from the program do not reach out to help the detainees, they may instead seek help from their past extremist associations or even new ones.[168]

Lastly, the Media Subcommittee conducts research of Internet and other media sources to determine the message and means to which their target audience of young Saudi men would be most receptive, and accordingly produces education materials for use both in the Care Rehabilitation Center as well as in Saudi schools and mosques. Common messages include a warning that Islamic extremists seek to exploit young people for their own gain, and that core Islamic doctrines run contrary to their actions and teachings.[169] One of the committee's most effective methods has been use of television programs featuring stories of disaffected extremists who had been betrayed or even severely injured by terrorist leaders whom they had previously trusted.[170]

The work of these four main subcommittees remains at the forefront of the program's efforts; however, the program has recently increased its emphasis on changing behavior through education rather than the earlier focus on changing participants' religious ideology.[171] As a result, the program now devotes more attention to educational programming to promote changing a prisoner's habits and behavior after release. While the work of the Religious Subcommittee remains important, especially in legitimizing and reinforcing the Saudi government's authority from a theological standpoint, "Saudi officials seem to have concluded that the best way to influence captured terrorists is through secular programing" to help detainees better adjust to Saudi society.[172] Accordingly, Saudi professors, professionals, and psychologists have increasingly taught courses on sociology, psychology, vocational and life skills, history, and politics, which today greatly outnumber religious classes regarding *sharia* law and Islamic culture.[173]

The Counseling Program has also increasingly sought to incorporate detainees' families into the rehabilitation process. The Care Rehabilitation Center encourages family members to visit prisoners, share meals and holidays with them, and even permits detainees who have progressed significantly to enjoy heavily monitored short-term periods of release from the Center, allowing them to slowly reintegrate back into everyday life.[174] Additionally, the Saudi Ministry of Interior often provides tremendous financial support for detainees' family members and dependents, including medical and education related expenses,[175] allowing for some peace of mind for detainees during their period of re-education at the center, encouraging the commitment of families

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[167] *Id.*
[168] Porges, *supra* note 139, at 53.
[169] Boucek, *supra* note 138, at 220.
[170] *Id.*
[171] Porges, *supra* note 139, at 52.
[172] *Id.*
[173] *Id.*
[174] *Id.* at 53.
[175] *Id.*

toward the rehabilitative process, and increasing the likelihood that participants will return a stable home life upon release. Saudi Arabia has also mandated that older respected male relatives sign contracts to watch over and ensure that their family member does not reengage in terrorist action, and if they do to promptly notify authorities.[176] Additionally, this family emphasis has increasingly aimed to help detainees "settle down" and find a wife, with wedding ceremonies often paid for by the government if necessary.[177]

C) **Successes and Purported Shortcomings of the Model**

The most commonly used measure of de-radicalization programs' effectiveness is the rate of recidivism; on this count, the Saudi Counseling Program's roughly 80 percent success rate excels.[178] Saudi authorities calculate the program's success rate by deducting the number of prisoners who are known to have refused to participate in the program, failed at completing the program, or who were rearrested after release, altogether totaling about 20 percent of prisoners from the total number of individuals who have progressed through the system.[179] The number of recidivists is thus likely much lower than 20 percent; as of November 2007, Saudi officials reported that only 35 individuals total had been re-arrested for security offenses, amounting to less than two percent of total program graduates.[180] While that number has almost certainly increased given recent reports of Saudi program recidivism,[181] the program's overall success in identifying candidates who are most prone to be rehabilitated has been nothing short of extraordinary. The Saudi program's successes have demonstrated the importance and effectiveness of first separating out those who at most associated with terrorists from those individuals who have actively engaged in terrorist violence, and then excluding these more radicalized individuals from the program (especially those who held leadership positions in extremist groups).[182]

Use of recidivism rates as indicia of a program's actual success, however, has been heavily criticized as being misleading. For instance, many of the 364 Yemeni detainees who had been identified as "successfully processed" through that government's de-radicalization program (which is largely modeled after the Saudi program) were subsequently found to have fled to Iraq to support terrorist groups there.[183] Identifying accurate recidivism rates is thus especially problematic because it depends on information that governments typically do not have at their immediate disposal. Accordingly, determining whether a program has been successful in the long-term will require many more years of gathering data than the Saudi program currently has available.[184] Most problematic of all is the fact that recidivism figures may mostly reflect the economic, political and social context in which the programs release their graduates. For instance,

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[176] *See id.*

[177] *Id.*

[178] *See* Stern, *supra* note 140, at 10. As of 2009, some four thousand individuals have graduated from the program. *See id* at 15.

[179] Rabasa, *supra* note 144, at 33.

[180] Boucek, *supra* note 138, at 222.

[181] *See* Porges, *supra* note 139, at 55. For instance, in January 2009 alone, the Saudi government announced that eleven former Guantanamo detainees and Care Rehabilitation Center graduates had returned to terrorism, illustrating that the most ideologically committed terrorists remain unlikely to respond to the Saudi model's de-radicalization efforts. *See id.*

[182] Rabasa, *supra* note 144, at 64,

[183] Porges, *supra* note 139, at 55.

[184] *Id.*

the fact that relatively stable countries like Saudi Arabia and Singapore (which also has a model patterned after the Saudi program)[185] offer a sturdier economy and more security generally for released prisoners undoubtedly impacts those success rates, regardless of the actual methods used in the programs. This point is further evidenced by the fact that the Iraq program (also largely patterned after the Saudi model)[186] experienced a tremendous drop in its recidivism rate during a two-year window of time when security conditions had improved.[187] It could be further argued that the Yemeni program's struggles are actually a reflection of the country's chronic instability rather than of any structural shortcomings with the program.[188]

Engagement of both family and friends in rehabilitation is now regarded as a "critically important element" explaining the Saudi model's success at de-radicalization, not only for the individual himself, but also for preventing recruitment of these associates who would otherwise be more vulnerable to radicalization.[189] One frequent criticism of the program's financial support for detainees' families, however, is that the support creates a perverse financial incentive for citizens to engage in terrorist activity because they know their families will benefit if they go through "rehabilitation."[190] Additionally, there is no empirical evidence of the long-term positive impact of the government's contracts with older family members to prevent the prisoner's return to terrorism.

Another common criticism of the Saudi program is that even given the extremely low recidivism rate, the danger of releasing one unreformed terrorist is too great. Critics frequently point to the example of former Guantanamo detainee Said Ali al-Shihri who, after graduating from the Saudi Counseling Program, subsequently joined AQAP and became its deputy commander in Yemen.[191] In cases such as these, the consequences of error are seen as too devastating to justify the program's continued operation.

D) Response to Critiques of the Program

In addressing criticisms of the model, we begin first with the difficulties of reliance on recidivism rates as a measure of the Saudi program's success. Recidivism rates are undoubtedly affected by the economic and political circumstances in which the program is implemented. Thus, a key reason the Saudi program has been so successful is because of the tremendous resources the government has been able to invest in providing a unique approach that is individually tailored to each prisoner, including ongoing counseling, financial support, and career development assistance after graduation from the program. These levels of support have not been available in countries experiencing instability or with weaker economies like Yemen. However, this

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[185] For information on Singapore's de-radicalization program and the government's efforts to pattern the model after the Saudi program, *see* Rabasa, *supra* note 144, at 95-103.

[186] *Id.* at 77-80.

[187] Porges, *supra* note 139, at 55.

[188] For more regarding the Yemeni program's recent "collapse" because of the Yemeni government's "inability . . . to provide adequate post-release care," as well as the impact of economic and political instability on de-radicalization programs, *see* Rabasa, *supra* note 144, at 46-52.

[189] Porges, *supra* note 139, at 53, 56.

[190] *Id.* at 53

[191] *Id.* at 55. Al-Shihri has since been killed by U.S. drone strikes in Yemen. Mark Mazzetti, "No. 2 Leader of Al Qaeda in Yemen is Killed," *N.Y. Times* (Jan. 24, 2013). *Available at* http://www.nytimes.com/2013/01/25/world/middleeast/said-ali-al-shihri-qaeda-leader-in-yemen-is-dead.html?_r=0.

correlation/causation problem does not highlight any inherent problems with the Saudi model itself. On the contrary, those countries that are able to devote the resources that Saudi Arabia has been able to ought to seriously considering prioritizing these types of programs into their counterterrorism strategies. Countries that are not able to finance such an undertaking can still use the model's successes as a guidepost to determine what priorities might be affordable or feasible given their economic circumstances, and pattern their model after those elements to the best of their capacity. A model need not be exportable in its exact form to every other country in order for it to be worthy of emulation. Additionally, as more intelligence becomes available, and as the program has been refined and existed for a sufficient period of time for the recidivism rate to more accurately capture reality, the success of the Saudi model will be more readily ascertained. Lack of precise recidivism data at the present time is not sufficient to override the numerous ancillary benefits that are apparent from the program's existence and success.

Perhaps the most serious critique of the Saudi model is the suggestion that it might create perverse incentives to engage in terrorist activity. Hamed El-Said invokes these perverse incentives to argue against the Saudi model's exportability to other countries, because in Saudi Arabia "the protective support of the state for people who have gone astray is entirely within the country's tradition," whereas other countries without such a tradition would actually encourage individuals to pursue terrorism.[192] While a thought-provoking argument, it has not been empirically demonstrated that individuals would consider pursuing violent extremism simply for the purpose of subsequently receiving monetary benefits for themselves or their families from the government upon disengagement. Absent such evidence, existence of such an actual incentive remains speculative.

Finally, many argue the risk of releasing any dangerous extremists at all is too serious to justify the program's existence. However, the successes of the Saudi model suggest that the risk of not pursuing such a program is actually a greater risk because it would eliminate the potential ancillary benefits: these include its powerful counter-narrative messaging, its effectiveness at preventing radicalization of highly susceptible individuals, and potential for widespread deterrence against future radicalization.

Despite the criticisms, de-radicalization programs like the Saudi model remain a useful component of counterterrorism efforts, as well as an important middle-ground option for those individuals who do not have obvious criminal charges but would otherwise be detained preventatively because of presumed risk based on their affiliation with extremist organizations. Further, these programs are especially useful for identifying those who were not ideologically devout in the first place. Besides the fact that these programs effectively mitigate the risks that

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[192] El-Said and Barrett, *supra* note 133, at 221. While El-Said does not address underlying anthropological question of why Saudi Arabia has traditionally been committed to rehabilitation and redemption of prisoners, particularly in juxtaposition with its reputation for harsh interpretations of *sharia* law and frequent use of capital punishment, this inquiry offers a worthy subject for additional research. *See e.g.*, Adam Taylor, "How Saudi Arabia's Harsh Legal Punishments Compare to the Islamic State's," *Washington Post*, Jan. 21, 2015. http://www.washingtonpost.com/blogs/worldviews/wp/2015/01/21/how-saudi-arabias-harsh-legal-punishments-compare-to-the-islamic-states/.

would otherwise exist from releasing prisoners back into society without intervention, they also provide numerous secondary societal and strategic benefits that must be weighed in the balance.[193]

These ancillary benefits are manifold. First, besides the more apparent benefit of a low recidivism rate, anecdotal evidence indicates that there are more subtle yet widespread societal benefits from the programs' success in reforming these individuals. For instance, Saudi officials report that de-radicalized prisoners who share their experiences in media campaigns have been shown to prevent future radicalization among key demographics.[194] Graduates also provide an effective resource for the program itself, as they share their story of de-radicalization with current detainees and can sympathize with the prisoners' experiences. Research has also shown that the de-radicalization of detainees can provide a powerful counter narrative to undermine al-Qaeda's messaging and deter future recruitment to radical causes.[195]

Second, Saudi officials note that the program has been tremendously important in engaging individuals and groups who are highly susceptible to recruitment to radical causes, especially prisoners' family and friends.[196] Instead of the potential highly dangerous threat that these individuals could have posed, the Security Committee has insisted that family members are often "more supportive of government-run counterterrorism initiatives after being involved in the de-radicalization programming for their loved one."[197] Additionally, although data regarding long-term implications of the family contracts requirement are currently sparse, these contracts fulfill another important role by reinforcing "the prominent role that family, community, and cultural traditions" should play in de-radicalization;[198] they thus perform an important normative teaching and reinforcement role that should not be underestimated.

Third, the program also offers strategic value in promoting counterterrorism goals and international reputational benefits. Anecdotal evidence again suggests that improved relations between prison personnel and detainees may enhance intelligence collection regarding al-Qaeda's secret operations and the location of terrorist leaders.[199] These efforts have also promoted Saudi Arabia's reputation abroad, as it is today regarded by countries like the U.K, U.S., Singapore, Indonesia, and many others as a "master of de-radicalization" that is "providing solutions to violent extremist ideology and action."[200]

Despite its weaknesses, the Saudi Counseling Program remains widely regarded as "one of the best terrorist rehabilitation programs in the world."[201] Accordingly, its comprehensive, individually tailored approach, which has already been widely imitated by many other countries' de-radicalization programs because of its apparent successes, deserves at a minimum the attention

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[193] Porges, *supra* note 139, at 55-56.

[194] *Id.* at 56.

[195] *Id.*

[196] For more on the increased susceptibility of extremists' family members to radicalization, *see* U.N. Counterterrorism Implementation Task Force, "First Report of the Working Group on Radicalization and Extremism that Lead to Terrorism: Inventory of State Programs" (2006) at 13. *Available at* http://www.un.org/en/terrorism/pdfs/radicalization.pdf.

[197] Porges, *supra* note 139, at 56.

[198] *Id.* at 53.

[199] *See id.*

[200] El-Said and Barrett, *supra* note 133, at 220.

[201] *Id.* at 194.

of all countries seeking to counter violent extremism. To the extent that the resources for such a program are available, many aspects of the Saudi Counseling Program should be incorporated into any country's de-radicalization program.

IV. United States

Although this paper is largely focused on other countries' efforts around the phenomenon of returned foreign fighters, we briefly discuss the United States approach by way of comparison. At the national level, the United States has employed a purely punitive model to address the problems of radicalization. Some bills are pending in Congress that would further enlarge the law enforcement tools of the government. The Foreign Terrorist Organization Passport Revocation Act of 2015 would allow the revocation of passports of individuals linked to terrorist organizations.[202] Another proposed bill, the Expatriate Terrorist Act, would allow the government to revoke the citizenship of individuals who join a terrorist organization.[203] Relying on arrests and convictions to counter violent extremism at home,[204] the United States currently does not have a national de-radicalization program or strategy.

However, a test case for de-radicalization is taking place in Minnesota. The trial program, the first of its kind in the US, involves Abdullahi Yusuf, a 19-year old who was arrested for attempting to join ISIS abroad.[205] U.S. District Court Judge Michael Davis sent Yusuf to a "halfway house"—run by a Minneapolis nonprofit called Heartland Democracy—where he is undergoing a "tailor-made curriculum aimed at reintegrating him into American society and his immigrant community" while awaiting his sentencing.[206] The organization will provide various forms of counseling with the hope of leading Yusuf away from radicalization and ultimately enabling him to reintegrate into his community.[207] While the program does not appear to be a complete substitute for imprisonment, Yusuf could potentially receive a reduced sentence for his participation.[208] Experts have stated that if Yusuf's program is successful, the de-radicalization program may be replicated elsewhere in the country.[209]

The Minnesota de-radicalization program may mark the start of a shift in strategy from a purely punitive to a mixed approach that combines prosecutorial tools with softer rehabilitation for low-risk individuals. The Department of Homeland Security's Countering Violent Extremism

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[202] "Summaries for the FTO Passport Revocation Act of 2015",
https://www.govtrack.us/congress/bills/114/hr237/summary.

[203] "Summaries for the Expatriate Terrorist Act", https://www.govtrack.us/congress/bills/114/s247/summary.

[204] Some individuals linked to terrorist organizations have been convicted under 18 U.S.C. § 2339B (providing material support or resources to designated foreign terrorist organizations) and 18 U.S.C. § 2339D (receiving military-type training from a foreign terrorist organization). Others have been prosecuted for passport fraud and firearms violations. *See* Beth Van Schaack, "John Walker Lindh's Legacy: To Join The Fight Is Criminal", *Just Security*, September 9, 2015, http://justsecurity.org/14616/john-walker-lindhs-legacy-crime-fighting/.

[205] Laura Yuen, "Minneostan charged with trying to aid ISIS released to halfway house", *MPR News*, January 27, 2015, *http*://www.mprnews.org/story/2015/01/27/yusuf-released-to-halfway-house.

[206] Miriam Jordan and Tamara Audi, "A Test Case for 'Deradicalization'", *The Wall Street Journal*, May 6, 2015, http://www.wsj.com/articles/a-test-case-for-deradicalization-1430944585.

[207] Laura Yuen, "Key question in MN terror case: Can the radicalized be rehabilitated?", *MPR News,* February 12, 2015, *http*://www.mprnews.org/story/2015/02/11/rehabilitating-terror-recruits.

[208] Jordan and Audi, *supra* note 206.

[209] *Id.*

program[210] as well as the recent White House Summit on Countering Violent Extremism[211] suggest that the US is taking preliminary steps towards developing a national de-radicalization strategy. As the number of Americans attempting to travel to Syria and Iraq to join ISIS grows, the US may look to allies overseas—including the UK, Denmark, and Saudi Arabia—for important lessons in countering the forces of radicalization.

V. Recommendations

The Danish, British, and Saudi experiences of addressing the radicalization problem illustrate a number of valuable lessons applicable to other nations facing similar challenges. The following recommendations are based on both the successes and pitfalls of the three countries' de-radicalization programs. First, a country must develop an effective strategy for differentiating radicalized individuals who are reformable from those who are not. For individuals deemed reformable, the government should offer a chance to de-radicalize and reintegrate back into society rather than face prosecution. An effective de-radicalization program will be individually-tailored, use reformed former-radicals to offer counter-narratives to extremist teachings, and offer educational and vocational training to facilitate reform and prepare for reintegration. At the conclusion of the de-radicalization program, the government should monitor individuals based on different threat levels they pose and provide temporal and family support where fiscally feasible.

A) Devise an effective triage strategy to differentiate reformable and unreformable individuals

Differentiating the reformable from the unreformable individuals may be the most difficult challenge of any de-radicalization plan. There are several approaches governments may adopt in deciding whom to prosecute and whom to offer places in de-radicalization programs. One possible method of distinguishing reformable and unreformable individuals would borrow from the UK's Channel's initial assessment process and measure an individual's "engagement with a [radical] group, cause or ideology," "intent to cause harm," and "capability to cause harm."[212] Governments may also gauge an individual's reformability by determining whether he occupied a leadership position with the terrorist organization while abroad, or alternatively the level of an individual's ideological commitment to the radical cause. Lastly, an approach that focuses more on economic efficiency and practicality may call for prosecutions of only those individuals against whom evidence of specific criminal acts is available, even if it is possible to prosecute individuals for lesser conduct, such as receiving training or joining a group. As the academic literature has not unified behind one particular approach for best distinguishing the reformable from the unreformable individuals, governments may want to explore different methods to determine the best strategies to fit their situational needs.

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[210] Department of Homeland Security, "The Complexity of Violent Extremism", April 2, 2015, http://www.dhs.gov/topic/countering-violent-extremism.

[211] White House, "Fact Sheet: The White House's Summit on Countering Violent Extremism", February 18, 2015, https://www.whitehouse.gov/the-press-office/2015/02/18/fact-sheet-white-house-summit-countering-violent-extremism.

[212] HM Government, *supra* note 80 at 11.

B) Offer reformable individuals a chance to de-radicalize and reintegrate back into society rather than face prosecution

An effective policy concerning radicalized individuals must recognize that not all returnees intend or desire to commit terrorist acts in their home country. If an individual committed a crime while fighting with ISIS or al-Qaeda or poses a threat to society, the punitive model may be most appropriate. However, as discussed above, not all individuals are driven to radicalization by the same forces, and many may be reformable. An overemphasis on a strictly punitive approach may send reformable and moderate returnees underground, deter them from returning to the country, or send them to prisons that will reinforce a radical extremist viewpoint. This effect, in turn, may deprive the government of potentially valuable assets who can not only provide relevant intelligence but also counteract the extremist narrative that is inspiring so many individuals to join the fight in Syria and Iraq in the first place.[213]

Peter Neumann, a professor at King's College London and the director of ICSR, has found that many fighters in Syria and Iraq with whom he has communicated "want to quit but feel trapped, because all the government is talking about is locking them up for 30 years."[214] If disillusioned fighters are dissuaded from returning due to the government's punitive approach of dealing with returnees, they may be forced to remain overseas with terrorist organizations, thereby becoming more radicalized and arguably a bigger threat to security of their home countries.[215] In other words, while those who committed crimes must be prosecuted, the "repentant fighters need a way out . . . they need to know there is a place for them back at home if they are committed to a non-violent future."[216] It is this recognition of the importance of offering reformable individuals a chance to de-radicalize that has led some countries like the UK and Saudi Arabia to shift their focus from a punitive model involving criminal prosecution and instead refer certain returned fighters to de-radicalization programs.

C) Focus on designing individually-tailored de-radicalization programs.

One of the main strengths of the Danish, British, and Saudi de-radicalization programs comes from the individualized nature of the de-radicalization programs that each enrolled person receives. The programs offer counseling and guidance that is tailored to each individual. Such individualized attention and focus help identify and subsequently address the underlying motivations that led an individual toward violent extremism. Perhaps the most important takeaway from the various profiles of the fighters is that there is no typical profile; as such, each model must strive to meet the unique needs and context of the country in which its program operates. Therefore, an effective de-radicalization strategy will mirror the de-radicalization programs of the three countries and offer individually-tailored programs to address the unique motivations that drew an individual to violent extremism.

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[213] Harding, *supra* note 49.

[214] Croucher, *supra* note 54.

[215] Weaver, *supra* note 40.

[216] Michael Townsend, Tracy McVeigh, and Andrew Anthony, "Isis fighters must be allowed back into UK, says ex-MI6 chief", *The Guardian*, September 7, 2014, http://www.theguardian.com/world/2014/sep/06/richard-barrett-mi6-isis-counter-terrorism.

D) Use reformed individuals to offer counter-narratives to extremist teachings.

An integral part of de-radicalization is "dismantling the narratives and the theological justifications that extremists use to justify their actions."[217] This means that de-radicalized individuals can themselves be "some of the most effective de-radicalizers. Because they know the ideology inside out and they know the arguments that will try to be used to defend it."[218] Saudi officials have reported that de-radicalized prisoners who share their experiences in media campaigns have a positive influence on young Saudis and in preventing future radicalization.[219] Graduates are also an effective resource when incorporated into the program itself, by sharing with current detainees or participants their story of de-radicalization and being able to sympathize with the prisoners in light of their unique shared background and experiences.

In terms of al-Qaeda's ability to recruit globally, research has shown that the de-radicalization of detainees, especially of well-known leaders, can provide a powerful counter-narrative to undermine al-Qaeda's messaging and deter others.[220] Indeed, a study by the Institute for Strategic Dialogue showed that community-based counter-messages are often more effective than those emanating from governments.[221] The personal credibility of the individuals involved in the counter-radicalization process is important,[222] and a person vulnerable to extremism may be able to relate better to someone who has had similar experiences of exposure to radicalism than a government official. The potential for returned fighters to vitally contribute to a broader strategy to combat violent extremism has led experts like Neumann and Winter to call for certain fighters in Syria and Iraq to be allowed to return despite the security risks involved. Neumann argued that the government may be able to use certain "repentant, less-hardened" fighters as "powerful spokesmen" against ISIS.[223]

Using rehabilitated fighters to counter violent extremist messages may be particularly useful for individuals who were driven to extremism by the ideological lure of radical preachers. More so than any government official who may have little in common with an individual susceptible to radicalization, an ex-ISIS or ex-al-Qaeda member may act as a powerful counter to "experienced and charismatic ring leaders [who] recruit alienated, troubled younger accomplices"[224] through ideological indoctrination and promises of excitement and purpose. Many young people today are exposed to extremist ideologies through not only sermons at local mosques but also online. Fundamentalist preachers use YouTube videos and social media accounts to reach out to and "groom potential recruits."[225] An effective strategy may consist of an online campaign that uses de-radicalized fighters under the guidance of government-approved anti-extremist imams

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[217] Croucher, *supra* note 54.

[218] *Id.*

[219] Porges, *supra* note 139, at 56.

[220] *Id.*

[221] Institute for Strategic Dialogue, *supra* note 87 at 4.

[222] *Id.* at 21.

[223] Croucher, *supra* note 54.

[224] Brendan O'Duffy, "Radical Atmosphere: Explaining Jihadist Radicalization in the UK", *Political Science and Politics*, January 2008, 40.

[225] Townsend, *supra* note 216.

to target young internet-savvy individuals susceptible to extremism in much the same way radical imams do.

E) Monitor individuals after the conclusion of the de-radicalization program based on different threat levels and continue assisting them in the reintegration process

The true success of a de-radicalization program will only be ascertained by monitoring individuals over the long term following the conclusion of the program. The government will likely need to conduct follow-up surveillance to determine the individual's intent to commit acts of violent extremism in the future. A threat gradation system, which places individuals into different categories based on the levels of risk they posed prior to and post de-radicalization, can determine the nature and degree of monitoring. For instance, individuals who are at very high risk of conducting a terrorist attack could be put under close surveillance for an extended period of time until law enforcement officials determine that the threat has been adequately neutralized, while low-risk individuals may be subject to periodic probationary supervision.

Additionally, the Saudi program's unique approach of assisting individuals through providing educational and vocational training, as well as assisting financially for both detainees and their families, has great potential to promote program graduates' effective reintegration back into society. Insofar as a country's resources permit, we recommend that in addition to close monitoring, governments consider adopting this active post-release approach with ongoing counseling and career development resources at the disposal of prior detainees.

VI. Conclusion

An obvious challenge in enacting a comprehensive de-radicalization strategy is political capital. The growing terrorist threat, especially in wake of the rise of ISIS, may lead the public to pressure the government to take increased punitive measures to forcefully combat radicalism. As argued above, such measures are entirely appropriate in certain circumstances. And any policy that does not result in the immediate arrest and prosecution of those connected to terrorist organizations may easily be dismissed as being weak on national security.

But as this paper has argued, the punitive model may not always provide the best method for dealing with the problem of radicalized individuals. An effective de-radicalization program that provides reformable individuals a chance to de-radicalize may, in many ways, provide a more effective means of countering the forces of radicalization and violent extremism. Countries around the world facing similar challenges can certainly watch and learn from the Danish, British, and Saudi experiences.

Annex 1: Other Rehabilitation Programs

Country	Duration	Program	Effectiveness
Egypt	1997	• Use of moderate intermediaries/religious scholars to influence the religious views of the group. • Access to books and other religious texts that allowed the leadership to change its views after expanding their religious knowledge. • By allowing the maintenance of the group's organization and leadership structure within the prisons, Egypt was able to use the leadership council of the group to disseminate changes to ideology to members once those ideological transformations had been made.	• Over the years, groups have splintered into factions, some of which refuse to acknowledge the non-violent reforms. • Unclear whether jailhouse conversions were part of a collective effort to fake cooperation and ensure a quick release of members or whether they are sincere.
Singapore	2002	• "Religious Rehabilitation Group" imparts structured religious counselling sessions, and the detainees are provided with religious texts to correct their misconceptions about Islam. • Inter-Agency Aftercare Group is a voluntary community effort between different Malay/Muslim agencies and organizations that provide assistance to the families of the detainees. • Educational program and assistance in the form of tuition fee subsidy or program fee waiver. • Financial assistance to families.	• As of May 2009, none have been reported to have returned to extremist activities. • Singapore's privacy laws allow for greater monitoring of individuals and help the government keep tabs on those released.

Country	Years	Initiatives	Outcomes
		- Crisis-management initiatives and family counselling. - A detainee in Singapore is not released until his case officer, a psychologist, and the religious counselor sign off.	
Yemen	2002-2005	- Religious scholars form the "Religious Dialogue Committee (RDC)" debate with detainees to dispute the core tenets of terrorism and to correct their beliefs, on the assumption that violence would be rejected by inmates once freed.	- Reported 60% success rate. - Ineffectiveness of the Yemeni initiative lay in the ease with which detainees could go through the motions of de-radicalization by signing a slip of paper, being granted their freedom, and only being required to check in regularly with their parole officers.
Indonesia		- Rehabilitation centers help convicted terrorists start new lives by helping them to set up businesses, send their children to government schools and access to religious counselling from moderate Muslim mullahs. - Logistic and financial support to prisoners. - Access to distance education.	

Sources:

Lisa Blaydes & Lawrence Rubin, Ideological Reorientation and Counterterrorism: Confronting Militant Islam in Egypt, Terrorism and Political Violence, 20:4, 461-479 (2008)

Based on the counterterrorism experience of Egypt, this paper defines and describes a counterterrorism strategy of ideological reorientation. It defines ideological reorientation as a counterterrorism approach that seeks to change core ideological or religious beliefs of the terrorist group, thus bringing the beliefs of group members in line with societal norms. The Egyptian experience indicates that (1) the ideology of religiously-based groups is not exogenous and fixed, as is often assumed, but rather endogenous and flexible; and (2) ideological reorientation may be more effective at stemming militancy in the long run compared to rival approaches.

John Horgan & Kurt Braddock, "Rehabilitating the Terrorists?: Challenges in Assessing the Effectiveness of De-radicalization Programs", Terrorism and Political Violence 267-291 (2010).

This article presents an overview of the results of a one-year pilot study of select de-radicalization programs and investigates critical issues surrounding assessment of their effectiveness and outcomes. It argues that Multi Attribute Utility Technology (MAUT) may offer promise for future empirical assessment of "terrorism risk reduction initiatives." Until more data surrounding the efficacy of such initiatives become available, MAUT may also provide a conceptual basis for planning, evaluating, and guiding the development of future such initiatives and may have the unanticipated consequence of facilitating progress by encouraging greater exploration of efforts to change behavior from other contexts.

Rohan Gunaratna, "Terrorist Rehabilitation: A Global Imperative", Journal of Policing, Intelligence and Counter Terrorism 65-82 (2011)

After examining the practices of terrorist rehabilitation programs, this paper argues in favor of a global regime on terrorist rehabilitation. It claims that terrorist rehabilitation is a vital tool in the fight when incarcerated terrorists are engaged to recant, repent, and express remorse for their thoughts and acts of violence. It identifies four principal modes of rehabilitation: religious rehabilitation; psychological rehabilitation; social rehabilitation; and vocational rehabilitation.

Rohan Gunaratna, Jolene Jerard, & Lawrence Rubin, Terrorist Rehabilitation and Counter-Radicalisation (2012)

This book examines the factors that affect individual disengagement in the context of a terrorist group's collapse and the effectiveness of a government's policies to turn terrorists around. It finds evidence for the recommendation that disengagement should be a central objective of counter-terrorism policies and suggests de-radicalization is possible through effective rehabilitation programs.

Katherine Seifert, "Can Jihadis Be Rehabilitated?", Middle East Quarterly, 17:2, 21-30 (Spr. 2010)

This article provides a brief overview of the various jihadist rehabilitation programs established by Egypt, Yemen, Saudi Arabia, United States, Singapore, United Kingdom, and Canada. It contains preliminary assessments of the effectiveness of these progams.