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A Will to Punish

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in the Hands of Iraqi Justice*



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About the Author

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COVER IMAGE

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A Will to Punish

The Shia View of Dealing with ISIS Suspects in the Hands of Iraqi Justice

In December 2017, the Iraqi prime minister Haidar Al Abadi announced victory over the jihadist group Islamic State in Iraq and Syria (ISIS).¹ This announcement came after years of heavy fighting following ISIS's take-over of Mosul in June 2014. In addition to widespread destruction in occupied territories, another legacy of the fight against ISIS is the challenge faced by the Iraqi justice system in dealing with suspected ISIS affiliates. Around 19,000 such suspects have been captured by forces loyal to the Iraqi state, and thousands more by Kurdish forces.² Moreover, a great number of suspected ISIS families have been detained in separate camps. The fate of those accused of having links to ISIS presents political, legal and security challenges for the new Iraqi government that will emerge from the May 2018 elections.

Like all Iraqi governments since the first post-Saddam parliamentary elections in 2005, the new government will be dominated by Shia Arabs. Those detained on the basis of alleged ISIS links, by contrast, almost exclusively belong to the country's minority Sunni Arab group. Thus far, Iraq has adopted a highly punitive approach to alleged ISIS affiliates, relying heavily on prosecution and detention (or de facto equivalents), and exhibiting little tolerance for amnesty or other leniency measures, even for those with minimal ties to ISIS. In pursuing this approach, the previous Iraqi government was able to count on broad support among the Iraqi public.³ Many analysts, however, have pointed to the risks of excessively punitive approaches, which could backfire by, for instance, obstructing rather than facilitating individual exits from jihadist groups, and/or complicate longer-term reconciliation by casting the punishment net too wide.⁴

The formation of a new Iraqi government could offer an important opportunity for the country to adjust its approach to those accused of ISIS affiliation. Considering the heavy influence of the views and interests of the Shia majority upon policy-making, legislation and application of law in the country, it is worth investigating what Iraq's Shia population considers to be the best way for the Iraqi justice system to treat ISIS fighters, civilians associated with it, as well as relatives of ISIS members.

This paper seeks to answer these questions about the views of the Iraqi Shia by presenting the results of a survey of 1,146 people in five Shia-majority provinces in the populous Mid-Euphrates region. It seeks to understand the degree of support among Iraqi Shia for current legal practices regarding ISIS suspects, as well as their openness to alternative leniency approaches.

The survey results show that most Iraqi Shia in the region generally support the policies and practices of the Iraqi state, in particular with respect to highly punitive measures applied to ISIS fighters. However, the survey also reveals that Iraqi Shia public opinion tends to differentiate between various degrees of responsibility and culpability of ISIS members, in ways that

Iraqi laws and courts tend not to. This suggests the existence of potential support for more nuanced approaches toward individuals associated with ISIS, in particular for civilians who were associated with the group in non-fighting roles.

These insights may provide some impetus for the new government to review current approaches and encourage the application of responses that differentiate among individuals who played diverse roles (e.g., fighting vs. non-violent support roles), under diverse conditions (e.g., willing members vs. those who developed an association with ISIS out of a need to survive). The survey's findings may also be useful to Iraq's international partners, such as the United Nations and the European Union, as well as international non-governmental organisations (NGOs), that have encouraged Iraq to uphold international human rights and other standards in dealing with ISIS suspects.

This paper does not mean to argue that the application of laws should be subjected to forms of unfettered majoritarianism that do away with constitutional checks and balances, chip away at individual and minority rights, endanger the independence of the judiciary, or relegate to irrelevance international legal obligations. At the same time, majority rule in most countries does determine, in no small measure (either directly through referendums or indirectly through a legislative body of elected representatives), a great part of what is perceived as justice, this being a concept that goes beyond – and is not always compatible with – mere legality. In addition, illiberal legal policies, even in recognised democracies, are either maintained, introduced or restored, based on popular majorities.⁵ All this makes it inadvisable to neglect to into account the popular view of Iraqi Shia regarding administering justice to ISIS suspects.

This paper will sketch out the context of justice for ISIS suspects in Iraq, and the challenges that a punitive approach poses for a sustainable transition away from armed conflict. It will also consider the complications of amnesty schemes. It will then discuss the survey, outlining the methodology, and analysing the results. It will conclude with recommendations to the Iraqi government and policymakers as well as international organisations.

PART I

Context and Current Approaches in Iraq toward Punishment and Leniency

Background

Dealing with thousands of ISIS suspects has proved problematic, legally and politically, for Baghdad and for the Kurdistan Regional Government (KRG) in the north. Iraqi and Kurdish authorities have been criticised by a wide range of international human rights organisations for the lack of a strategy to address the worst actors under the relevant laws.⁶ Human Rights Watch has questioned the credibility of prosecutions of ISIS suspects, criticising the lack of access to legal representation, poor detention conditions, and the circumstances under which children suspected of ISIS membership have been held and tried.⁷ The lack of meaningful participation by victims of crimes committed by ISIS in the trials – either by attending, providing testimonies or submitting questions to the accused – has also been a source of criticism, in part given the related risk that victims may not be aware of justice processes and thus be more likely to take matters into their own hands.⁸ Some trials of ISIS suspects have been reported to last as short as 20 minutes, calling into question due process.⁹ Additionally, some judges and prosecutors involved in ISIS trials hail from communities victimised by ISIS, casting doubts upon their impartiality.¹⁰

The lack of distinction between active fighters and other ISIS affiliates is particularly troubling. Many civilian employees of ISIS, such as teachers, doctors, tax inspectors and other civil servants, have been prosecuted on terrorism charges, including those whose work had no security or military implications and whose functions were essential for the survival of the civilian population (e.g. doctors in ISIS-run hospitals).¹¹ According to the President of the Iraqi Bar Association, quoted in a recent study by Mara Revkin on this subject, judges and prosecutors do not distinguish between individuals who joined ISIS of their own free will and those who were forced into joining because of ISIS's control over the area they lived in.¹² The fact that ISIS held great swathes of Iraqi territory, for years in some cases, has complicated the task of distinguishing between voluntary and involuntary association and cooperation with ISIS. Those who did not immediately flee ISIS territory, instead remaining until the areas were recaptured by the Iraqi state, have often been viewed suspiciously by Iraqi security forces and allied armed groups.¹³ These “stayers” have also been resented by those who had fled ISIS territory (“leavers”).¹⁴

Individuals linked to ISIS, whether they were fighters, civilian collaborators or mere residents of ISIS-controlled territory, have been stigmatised by local communities, tribal authorities and state-allied forces. In some cases, members of ethnic and religious groups that fell victim to ISIS's brutality (e.g., the Yazidis) are reported to have engaged in reprisals against Sunni Arabs, and personal enmities have often led to false accusations of others of joining or supporting ISIS.¹⁵ Family members of alleged ISIS members are often treated as guilty by association, regardless of their own individual culpability. Tribal laws have been used to force some relatives of ISIS members to leave their hometowns, to ban them from returning, or to make their return conditional on paying blood money to ISIS's victims.¹⁶ Hundreds of relatives of alleged ISIS members were forcibly displaced and sent to camps.¹⁷ According to Amnesty International,

some women with alleged ISIS ties in Internally Displaced People camps have been subjected to sexual exploitation by “security forces, armed guards, members of militias working in and near the camps.”¹⁸ They have also become victims of rape by “armed men, members of the camp administration or other camp residents.”¹⁹

On the other hand, in some territories previously held by ISIS, such as Hawija, Anbar and Nineveh, a number of pacts involving the government and local tribes prevented sectarian revenge killings and inter-tribal score settling over crimes related to ISIS.²⁰

Iraqi politicians usually reject criticisms of the state’s handling of ISIS suspects,²¹ and some judges justify the harsh sentences handed down as appropriate under domestic laws. In fact, some Iraqi groups affiliated with the Popular Mobilisation Forces (PMF) have criticised the judicial process as too lenient, claiming that death sentences need to be carried out more quickly,²² and alleging that corrupt dealings by judicial and law enforcement actors have led to the unwarranted release of suspects.²³ Lack of trust in the judiciary apparently drove some Iraqi soldiers in Mosul to carry out extrajudicial executions themselves.²⁴

How ISIS members and affiliates are processed by the Iraqi system has national and international implications. ISIS bombings in Baghdad in 2016, for example, led to hundreds of fatalities and popular calls for retribution, including a threat by a PMF faction to storm a prison to extrajudicially execute the inmates convicted of terrorism charges.²⁵ Many ISIS members and non-ISIS terrorism convicts are not Iraqi nationals, which has created tensions with neighbouring countries, in particular when they are tried by the Iraqi justice system.²⁶ The run-up to the May 2018 elections further politicised the issue of how ISIS detainees are processed.²⁷

The Challenge: Balancing punishment and leniency

Research has shown that, in the context of civil wars, an overly punitive and indiscriminate approach by state-affiliated forces toward individuals accused of association with non-state armed groups can undermine long-term conflict resolution.²⁸ Casting the punishment net too wide, by detaining, trying and/or sentencing many individuals who had at most minor associations with a group, and/or developed such associations under conditions of coercion, risks exacerbating rather than mitigating exclusion and cycles of violence.²⁹ An overly broad approach to punishment risks conflating victims and supporters of non-state armed groups.³⁰ Excessively punitive and indiscriminate approaches can also overwhelm the capacity of a weak state’s criminal justice sector.³¹ More broadly, approaches that treat a broad cross-section of society as suspect risk fuelling new waves of grievances among local communities vis-à-vis the state. Non-state armed groups have, in some cases, proven adept at exploiting such grievances.³²

On the other hand, the use of well-designed and feasible transitional justice approaches, such as conditional amnesties, may provide an alternative or complementary approach that can better contribute to conflict resolution in conflicts marked by seemingly intractable insurgencies.³³ Conditional amnesties, truth-telling, and related measures could be used to promote defections among the rank-and-file, to incentivise negotiations with amenable parts of the leadership of such groups, and/or promote longer-term reconciliation.³⁴

In the Iraqi case, prioritising the worst ISIS offenders, and not applying the “terrorism” definition too broadly, would likely support Iraq’s security and stability. In fact, grievances related to the expansive definition and application of Iraq’s current Anti-Terrorism Law featured prominently in Sunni anti-government demonstrations in 2012 and 2013.³⁵

Article 3 of the Anti-Terrorism Law defines “state security crimes.” One of the definitions describes any act “with terrorist motivations”, and that aims to “endanger the national unity and the safety of society and touches the state security and stability [...] in any way that exceeds

the freedom of expression guaranteed by law”.³⁶ This broad language offers state authorities significant leeway in interpreting what qualifies as a terrorist act. Hundreds of Sunnis have been detained on terrorism charges under this law, which was widely seen by Sunnis as a sectarian tool wielded by then (Shia) Prime Minister Nouri al Maliki’s government primarily against them. Those demonstrations preceded armed confrontations with the government and the encroachment of ISIS,³⁷ and in hindsight, Sunni grievances related to exclusion and marginalisation have been widely cited as one of the reasons ISIS was able to expand so rapidly.³⁸

However, the – mainly Shia – political, religious and military players who can exert influence over the issue of justice towards ISIS do not appear, at this stage, to be convinced of the merits of a legal strategy that includes some leniency measures. First, the security-related advantages may not be so obvious to Shia leaders at this stage. The war against ISIS in Iraq seems to have ended in a clear-cut military victory for the Iraqi state-supported forces. From the perspective of Shia leaders, this makes a return to the levels of violence of 2014-17 seem very unlikely. Several interviews conducted between late 2017 and early 2018 with commanders and officers of the PMF, as well as members of Iraqi political parties and the Shia religious establishment, reflected the widely held view that a return to significant levels of violence in Sunni territories with wide popular support was highly unlikely, or even impossible.³⁹ That view is based on the assumption that previous supporters of ISIS, having suffered significant losses, in terms of life, material possessions and infrastructure, were disinclined to return to violence because of war-fatigue.⁴⁰

Further, many Sunni political leaders, who subtly or otherwise supported an armed movement against the state prior to and during the initial ISIS onslaught, have lost much of the confidence of their Sunni constituencies who felt abandoned by their politicians during the ISIS war,⁴¹ and after years of fighting, seem to have no stomach for another destructive anti-Baghdad movement.⁴² These constituencies might be more open to a pragmatic acceptance of and collaboration with a Shia majority government.⁴³ Besides, Sunni tribes have taken a leading role in targeting ISIS sympathisers, even evicting so-called “ISIS families” (i.e., relatives of accused ISIS members).⁴⁴

Given this context, Shia decision-makers may not believe there is security to be gained from deviating from an overwhelmingly punitive approach toward one that includes some leniency options. From their perspective, it appears that victory has been secured militarily, and there is little reason to resort to leniency measures aimed at promoting defections or divisions within the enemy’s leadership.

Nevertheless, and as has been recognised by some Iraqis and Americans who led the war effort against ISIS, even in December 2017 when victory was declared, ISIS has not been totally destroyed.⁴⁵ Low-intensity ISIS-related violence may continue for years to come in Iraq. In several territories retaken from ISIS with Sunni-majority populations (or demographically mixed areas with substantial Sunni populations), Shia-dominated security forces are now in control. According to Michael Knights, Sunni insurgent violence could make a comeback in areas with such sensitive and potentially volatile post-ISIS security configurations.⁴⁶ The Iraqi armed forces and the PMF have continued since the December 2017 victory declaration to: fight deadly skirmishes with remnants of ISIS around Baghdad;⁴⁷ conduct “mopping-up” operations in Hawija against remnants of ISIS;⁴⁸ clash with ISIS along the border with Syria; and strike ISIS targets across the border.⁴⁹ They have also conducted operations in the Kirkuk region.⁵⁰ A bombing, suspected to have been carried out by ISIS, struck Baghdad in January 2018, and members of the terrorist group recently kidnapped and killed police officers.⁵¹

Iraq needs fair trials for ISIS suspects, and to ensure that punishments are proportionate to the crimes.⁵² That is, non-violent offenders should not be excessively punished, and the right to due process for all those accused of ISIS links needs to be protected. For those who played minor (or non-substantial) roles, or did so under coercive conditions, some leniency will be

required. Beyond upholding basic human rights standards, such an approach can also help avoid exacerbating grievances among the Sunni population. Excessive (or wrongful) punishment of Sunnis who played minor, non-violent support roles, became affiliated with ISIS under conditions of duress, and/or simply could not flee ISIS territory, risks robbing these people of any prospects for reintegration into society, trust in the rule of law, and in the Iraqi state more broadly. Broadly penalising all Sunnis who had any association with ISIS, even a tangential one, risks alienating the Sunni population all over again, and even pushing some towards desperation, criminal activities or into the arms of extremists. By contrast, a more nuanced approach that treats Sunnis suspected of ISIS links fairly can enhance trust among Sunnis in the Iraqi state, and in particular in the judiciary – a branch that many Sunnis have long felt targeted by. The Iraqi government would be wise to bank on the fact that there is currently very little sympathy among Sunnis for ISIS.⁵³

At the same time, any sensationalist terrorist attacks by remnants of ISIS is likely to give rise to voices demanding revenge, severely limiting any prospects for amnesty or leniency – prospects that are already limited to begin with.

Amnesty Law

It is important to note that Iraq has experimented with one leniency measure for those accused of terrorism ties – an amnesty law. However, due to political wrangling and controversy, the amnesty law has fallen short of providing those who had insubstantial or minor ties to the group with an alternative to punishment. The convoluted story of the Amnesty Law and its multiple controversies brings into sharp focus the political sensitivities surrounding questions of punishment and leniency for those accused of ISIS ties in Iraq.

The Iraqi parliament adopted an Amnesty Law in August 2016, after a protracted political tug-of-war. It was partially the result of longstanding demands by Sunni politicians to release the large number of Sunni Arabs who had been arrested for, in their eyes, politically-motivated reasons under the Anti-Terrorism Law.⁵⁴ The Amnesty Law was proposed in order to “give a chance to Iraqis who deviated [from the right path] to reintegrate in public life, and in order to spread the spirit of tolerance and reform in society.”⁵⁵ It exempts from amnesty those who committed acts of terrorism listed in the Anti-Terrorism Law that have entailed or caused: killing or permanent handicap; the sabotage of state institutions; the crime of fighting against Iraqi armed forces; and “every act of terrorism that [the accused/condemned] committed by way of help or incitement or agreement.” It also exempts the crime of kidnapping resulting in death, permanent injury or the fate of the victim becoming unknown.⁵⁶ At the time of its debate and passing, the proposed Amnesty Law was not without controversy. Critics, who included parliamentarians representing some of the most hard-line factions within the PMF, contended that the voting on the proposed law was a “crime against martyrs,”⁵⁷ and that it would let off ISIS members who technically did not commit the crimes exempted by law – e.g., those who spread ISIS propaganda.⁵⁸

Given the particular severity of ISIS-related crimes, the government proposed in 2017 an amendment to the Amnesty Law that contained an article (Article 2) that would have granted amnesty to those who committed acts of terrorism that *did not result in death or permanent injury*, provided those acts were committed prior to 10 June 2014 – the date that ISIS seized control of Mosul. The proposed amendment left those associated with ISIS after the above-mentioned date outside the scope of amnesty completely. But said article was deemed too lenient by many lawmakers, and voted down and replaced.⁵⁹ The replacement text kept the proposed exemption from amnesty for acts committed after 10 June 2014. But it replaced the pre-10 June 2014 qualifying criteria with a harsher text exempting from amnesty anyone who committed an act under

the Anti-Terrorism Law that resulted in *death, permanent injury, destruction of state institution or fighting against security forces, or any act of terrorism, by “help, incitement or agreement.”*⁶⁰ Those apprehended under the Anti-Terrorism Law before ISIS’s June 2014 onslaught might still find something in the amended Amnesty Law – and depending on a court’s interpretation – that could grant him or her some form of leniency. However, ISIS members are clearly excluded from the current Amnesty Law, unless they can prove that their confessions of membership were extracted under duress. That exclusion was made explicit multiple times in interviews by Iraqi lawmakers and government officials.⁶¹

But the story of the amended Amnesty Law entailed yet another controversy. In January 2018, Iraqi media was rife with a new “scandal” regarding the amnesty, when it was revealed that the above-mentioned government-proposed amendment article, which had been voted down in parliament, was nevertheless included in the text that found its way to the presidential palace, where it was signed and entered into force. The signed Amendment Law was published in the Iraqi *Al Waqai’ Al Iraqiyya* official gazette in mid-November 2017.⁶² Although this was possibly a procedural mistake, some claimed it was a conspiracy by unnamed parties that wanted to release terrorists.⁶³ The Amendment Law was officially revoked and a correction was published by the Presidential Office in the *Al Waqai’ Al Iraqiyya* in March 2018.⁶⁴

The complicated history of the Iraqi Amnesty Law, its limitations regarding ISIS members, and the “scandal” that followed its amendment – on top of the recent memory of ISIS atrocities and the costly three-years-long struggle to defeat the group – makes it difficult to forge the necessary political will or the popular support required to push through a law that goes beyond what the current (amended) amnesty law provides.⁶⁵ Ultimately, any meaningful steps towards an effective amnesty would need also to consider amending the Anti-Terrorism Law itself due to its overbroad definition of terrorism and the harsh punishments it stipulates.

PART II

The Survey Findings

Foreign surveys of Shia opinion of ISIS

This is not the first survey in Iraq conducted by outside researchers on the futures of former ISIS members, or on public perceptions regarding Arab Sunnis' relation to ISIS. Matthew Franklin Cancian and Kristin E. Fabbe conducted a survey among Kurdish Peshmerga in 2017, finding that 65% of the Peshmerga believed that more than 75% of Sunni Arabs supported ISIS in 2014, though less than 10% believed that the same was true in 2017. Further, few Peshmerga advocated drawing a distinction between ISIS leadership and ISIS supporters, and 72% believed that supporters should be tried in court, while 10% believed that they “deserve to be executed.”⁶⁶

Nor is this the first survey to explore views among the Shia population regarding how ISIS members should be dealt with. In 2016, academics affiliated with the Massachusetts Institute of Technology published a survey they led in Iraq, *To Karbala*,⁶⁷ which elicited views among Iranian and Iraqi Shia during the *Arba'in* religious ceremony in Iraq. The survey covered a wide array of issues, including politics (both internal and regional), religion, sectarianism, social mores, family subjects, and more. The survey found that 37% of the Iraqi respondents (41% of men, and 32% of women) believed most Sunnis supported ISIS, while more than 30% thought that about half of Sunnis supported ISIS.⁶⁸ More relevant to the current study, the 2016 survey also asked respondents to react to a scenario that had them decide whether an alleged ISIS war criminal should be tried by a tribunal or be summarily executed. Overall, the majority of both the Iranian and the Iraqi respondents supported the tribunal over the summary execution, irrespective of the victims' sect(s). However, more than 40% of the Iraqi respondents supported an execution without trial.⁶⁹

While the above-mentioned surveys show that most Kurdish Peshmerga and most Iraqi Shia favour trials of ISIS members over summary executions, they do not show what those surveyed would see as the appropriate outcome of such trials. For example: what kind of punishment would be fit for fighters and/or civilian collaborators of ISIS, as well as their families; and whether any pardon possibilities for ISIS associates would be acceptable. They also do not reveal public perceptions regarding the trials that are already being conducted, and the state's implementation of the outcomes of said trials. This study aims to fill that knowledge gap.

How foreign-conducted surveys might be perceived

Before proceeding, it is important to acknowledge that foreign-conducted surveys of Shia opinion are often viewed with suspicion by locals, many of whom question their intentions. For example, the Abbas Holy Shrine Islamic Centre for Strategic Studies⁷⁰ published an Arabic translation of the above-mentioned *To Karbala* study, and wrote in the introduction that the survey was a tool to further American policy goals regarding the Shia.⁷¹ It criticised the American survey, stating that:

There is no doubt that these types of research that are financed by circles closely linked to decision-making in America, especially the American Army, represent the most up-to-date form of ‘political orientalism’, that has combined anthropological surveying

mechanisms and information security and intelligence techniques. Therefore, we do not have to support these types of surveys.⁷²

The Centre expressed particular suspicion about survey questions regarding attitudes toward Sunnis. The Arabic introduction lampooned what it called the authors' confusion of Shia attitudes towards "Salafi terrorism" with that towards Sunni citizens. Most of the latter, the introduction asserts, have gradually come to support the Iraqi Army and the PMF.⁷³ The introduction also warns that the United States has dug deep into the psychological geography of the Shia citizen, and will use and entrench the "scars and boundaries that were caused by internal schism and by wars."⁷⁴ The American goal, it argues, is to demonstrate divisions in Iraq's political geography, "leading to plans to divide [the country/people] on ethnic, religious or sectarian basis."⁷⁵

To pre-empt possible perceptions of this survey trying to steer respondents into supporting leniency for ISIS associates, it took steps aimed to measure as objectively as possible Shia opinion in the Mid-Euphrates vis-à-vis the fate of ISIS suspects in the hands of Iraqi justice, without pushing any particular agenda. Options in the questionnaire were designed in such a way as to accommodate different possible attitudes ranging from lenient to very harsh, thus giving respondents unrestricted choice of their position. The highlighting, towards the respondents, of the independent nature of the bodies that organised and conducted the survey was done in order to alleviate any potential concerns that might misinterpret the survey as being linked to the interests of any particular foreign country.⁷⁶

Methodology

The survey was administered in five provinces of the Mid-Euphrates region: Baghdad, Babil, Karbala, Najaf and Qadisiyya, in February 2018 by the Karbala based Al Furat Centre for Development and Strategic Studies,⁷⁷ directed by Dr. Khalid Oleiwi Jiad. A 10-member research team, in addition to the team leader Alaa Mohammed Naji, conducted the survey on the ground. Al Furat Centre is a respectable Iraqi research institute, and Dr. Khalid Oleiwi is also the director of the Karbala University Centre for Strategic Studies. Al Furat Centre regularly conducts surveys for the Iraqi government, Iraqi NGOs, as well as political parties.

The survey questions were inspired by and partly modelled on the questions and goals contained in "The Limits of Punishment: Transitional justice and violent extremism" project led by Cale Salih,⁷⁸ and a working paper titled "Reintegration of rebel collaborators" by Kirsten Kao and Mara Revkin,⁷⁹ a blueprint for a conjoint experiment conducted in Mosul. It was further informed by one of the authors of the latter paper, Revkin.⁸⁰ However, the circumstances of and concerns in Mosul, and other Arab Sunni majority areas, differ from those in Shia-majority areas. The return of ISIS sympathisers to their hometowns, and the conditions under which they could be integrated, is practically a non-existent concern in the Shia region of the Mid-Euphrates, and southern Iraq more broadly, with one significant exception: Jurf Al Sakhar.⁸¹ And though most Iraqi Shia have been affected by the struggle against ISIS in some way or another, the personal dimension and risks are different to those of the people in Mosul, who may end up living next-door to former ISIS members, family members or collaborators in the future. Such differences in concerns were taken into account when formulating the survey questions for this paper.

Before conducting the region-wide survey, and with no involvement of Al Furat Centre, a pilot survey of 100 people in Karbala was conducted personally by the author, with the cooperation of two personnel from Karbala University and the Karbala Central Library.⁸² The goal of this pilot was to have a preview of the results. The results of the region-wide and the pilot surveys

were generally compatible (see below). Naturally, not all of the questions of this pilot overlap with the later, amended questionnaire of the region-wide survey. For the region-wide survey, a final list of 12 topical questions was compiled, largely based on the small survey questionnaire and the Kao and Revkin conjoint experiment. It was modified in consultation with the Al Furat Centre and the surveying team leader. All questions were multiple choice. Respondents were free to add explanatory remarks, though only a very small group did, and not to all questions. Reference to some of these explanatory comments is given below. Six introductory questions covered the respondent's age, gender, marital status, residence, education level and profession. For the coordination of the work, a WhatsApp group including the author, the director of Al Furat Centre, as well as the surveyors, was created to communicate daily on the progress of the work. 1,500 paper survey forms were provided, in order to ensure sufficient forms in case of waste (such as forms being lost or filled out in error). Daily photographs were provided by the surveying team members documenting their activities in the five provinces concerned. No irregularities that would suggest the possibility of data fabrication have been detected. No direct contacts have been made with Iraqi authorities and no harassment from any official or an unofficial security apparatus or armed group has been reported.

The sample

1,146 respondents were surveyed. Samples were drawn from the provinces' capital cities, districts and sub-districts, based on the 2015 population projection,⁸³ as the table below demonstrates.

Table 1. Samples drawn from the Mid-Euphrates region

Provinces	Population	Sample size	Number of surveyors	Duration of work days
Baghdad	7,877,888	316	3	6
Babil	1,999,034	263	2	4
Karbala	1,180,545	160	1	2
Najaf	1,425,723	209	2	4
Qadisiyya	1,250,116	198	2	4
Total	13,733,356	1,146	10 (+1 team leader)	20

While the survey team tried to reach a reasonably representative group, given the all-male make-up of the research team, unfortunately male respondents were represented in far higher percentages than female ones. This was due to the difficulty surveyors had in attempting to approach and survey females in a somewhat conservative cultural environment. Since voluntary informed consent constitutes an essential part of any survey, the under-representation of women is a reflection of the voluntary nature of the respondents' participation. In the case of Qadisiyya province, the female to male ratio is much higher than that of the Mid-Euphrates region as a whole.⁸⁴ The following table shows the male/female ratio.

Table 2. Male/female ratio of samples

Province	Male	Female
Baghdad	76.3%	23.7%
Karbala	76.9%	23.1%
Babil	91.6%	8.4%
Najaf	82.8%	17.2%
Qadisiyya	56.6%	43.4%

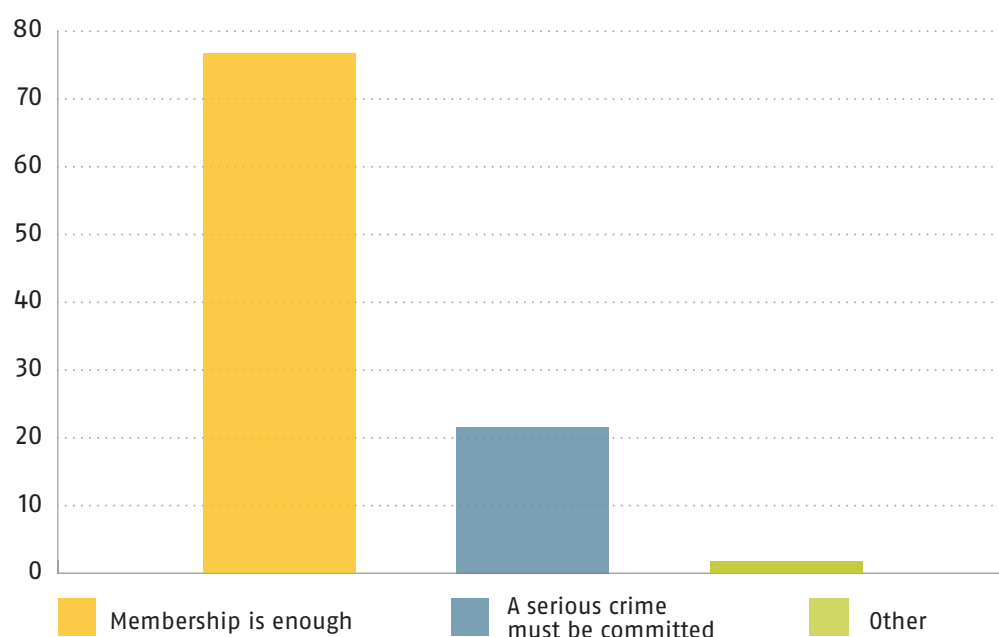
In terms of age, the most represented category comprised those between their early 20s and their early 30s. The majority of respondents were either university educated or were in the process of obtaining a degree.

Findings

The punitive approach is the preferred one

The survey results show that the majority of the population in the Mid-Euphrates five provinces prefer a harsh, punitive response to those associated with ISIS. This preference is not only based on the types of legal violations that ISIS suspects are accused of having committed. 76.7% of those surveyed believed that mere membership in ISIS should merit the most severe punishment.⁸⁵ Only 21.55% thought that committing a serious crime must be proven for an ISIS associate to deserve a severe punishment (see Figure 1). 70.68% of the respondents also believed that harsh punishments would constitute a deterrent against future terrorists. Only 17.54% did not believe so, while 11.78% were undecided, some of the undecided citing their ignorance of the nature of the punishments required by Iraqi law. A majority of 63.87% also thought that most of those associated with ISIS cooperated with the organisation willingly.⁸⁶

Figure 1. Should severe punishment be linked to membership or to a crime?
(Answers in percentages)



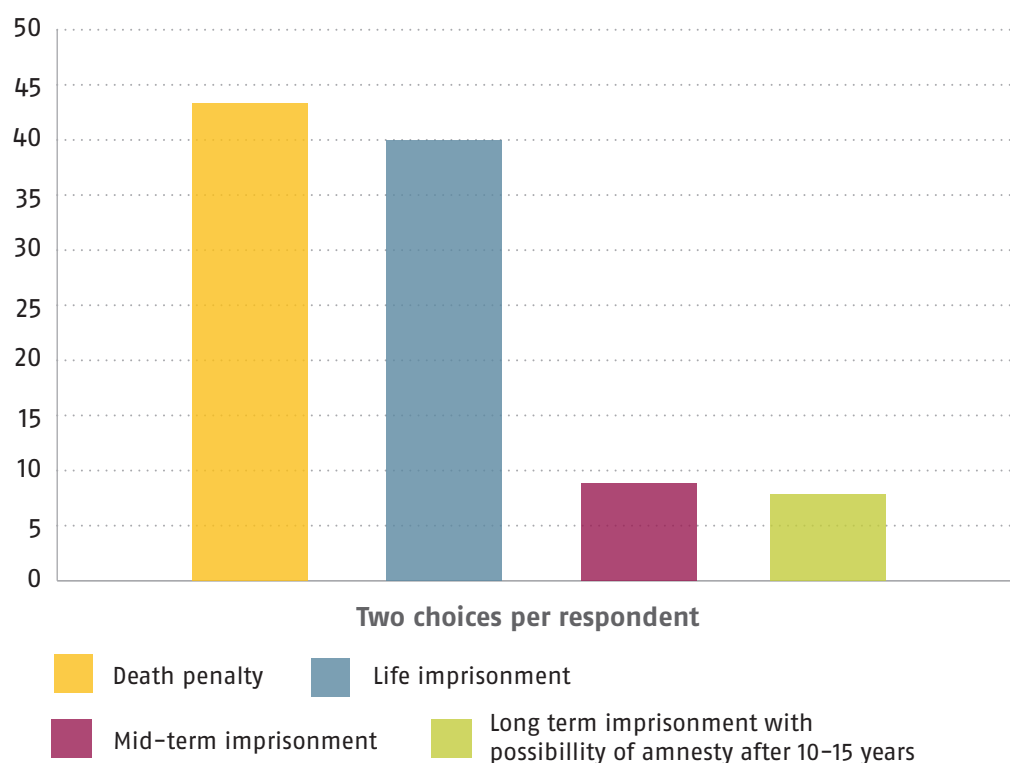
Death and life imprisonment for the fighters

Attitudes toward those who “carried arms and participated in fighting against Iraqi Security Forces” were generally uncompromising. Among respondents, the death penalty was seen as the most “suitable” form of punishment. The death penalty topping the choice for “suitable” punishment was predictable, based on the pilot,⁸⁷ and the “feeling” that the survey team had for the mood of the street. The survey team opted to obtain a ranking of “suitable” punishments,

though in a somewhat unconventional manner. Rather than choosing one punishment, the survey asked respondents to choose the two most “suitable” punishments (out of four) for ISIS members who had fought against Iraqi Security Forces, meaning that the number of responses would amount to double the number of respondents. As such, no single choice could account for more than 50% of the responses. Further, because the survey did not ask respondents to rank their choices, the results do not indicate whether respondents, on an individual level, afforded each of their choices equal weight, or preferred some of those choices over others. However, the results do show these preferences collectively. Based on the pilot survey, the survey team had expected that respondents would generally prefer the most severe punishments (death penalty and life imprisonment) over the less severe (less lengthy prison terms). The expected pattern largely emerged.

The death penalty choice accounts for 43.34% of the responses, with Karbala scoring the highest preference for capital punishment (45.3% of the responses in that province marking it as a choice) followed by Najaf (44.6%) with the lowest in Qadisiyya (39.64%). The next preferred form of punishment was life imprisonment, which accounted for 39.94% of the responses. Once again, Karbala and Najaf were leading,⁸⁸ with Qadisiyya again trailing.⁸⁹ A mid-term imprisonment, followed by long-term imprisonment with the possibility of amnesty after 10-15 years, were the least preferred options, accounting together for 16.72% of the responses.⁹⁰ Most of the responses therefore - 83.28% - favoured punishments that were either lethal or with no possibility of release. The figure below shows the ranking of preferred punishments for ISIS fighters.

Figure 2. Ranking of preferred punishments for ISIS fighters (Answers in percentages)



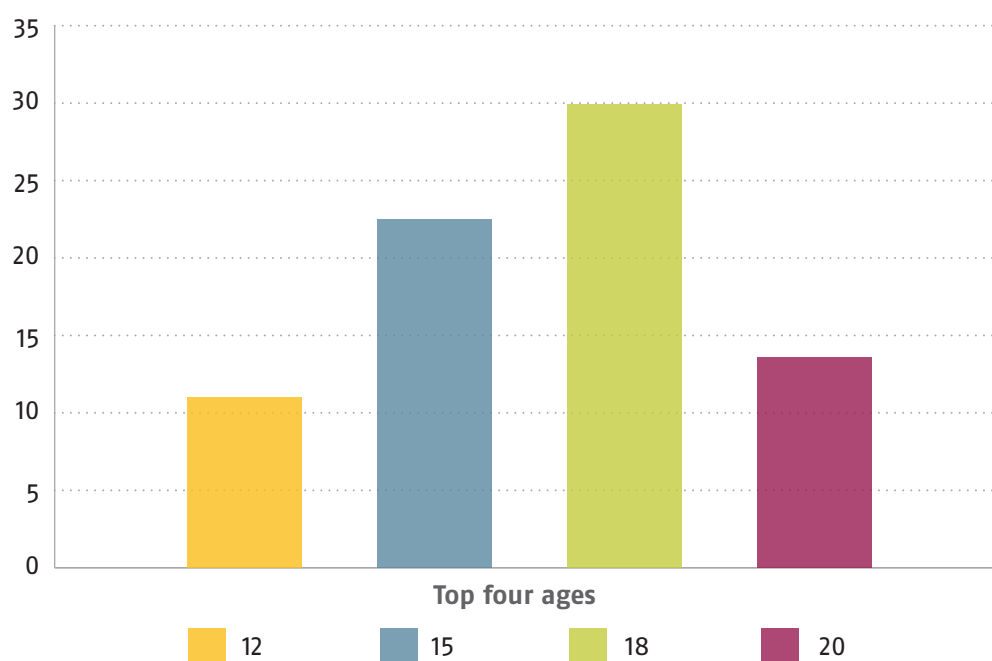
Respondents were also asked to offer views on ISIS fighters who surrendered as a result of negotiations and rank their preferred punishments. Considering that respondents were asked to choose three answers (out of four stated choices, plus one choice to be filled by them, thus five choices in total), it means that any of the four stated punishments could not theoretically

receive more than one-third of the answers. The most preferred punishment with respect to these individuals was less severe: life imprisonment, rather than the death penalty. Life imprisonment accounted for 29.41% of the responses. The next preferred punishment for these individuals was the death penalty, which received just above 25%. This was followed by a conditional pardon with 22.72%, and a mid-term imprisonment with 20.8%. The to-be-filled-by-respondents “other” category, listing mostly short-term prison sentences received around 2% of the responses.⁹¹

Given that life imprisonment was highest-ranked, one might have reasonably expected that the death sentence would fall much further behind than the second place it occupies. Were respondents given only one choice, rather than three, that would probably have been the case.⁹² This level of preference for the death penalty, however, could also reflect a lack of sympathy for ISIS fighters. Though a majority might accept a non-lethal penalty for fighters who chose to surrender after negotiations, a substantial segment of the respondents also appears willing to tolerate the death penalty for these fighters. It is, however, noticeable that in both Babil and Qadisiyya, the choice for the death sentence comes in third place rather than second.

An important question in determining approaches to ISIS fighters is: starting at what age could an ISIS fighter be considered conscious of and responsible for his actions? 52.3% of respondents chose age ranges of 18 years and higher, and within the 18+ category, the age of 18 itself received the highest score (29.93%). This was followed by the age of 20 (13.61%). However, 47.64% of respondents chose age ranges of 17 years and lower (down to 12 years). In this non-adult category, the age of 15 ranked highest (22.51%), followed by 12 (10.99%).⁹³ Najaf was the only province in which the majority (53.1% of its respondents) chose ages in the range of 12-17 years. See the figure below.

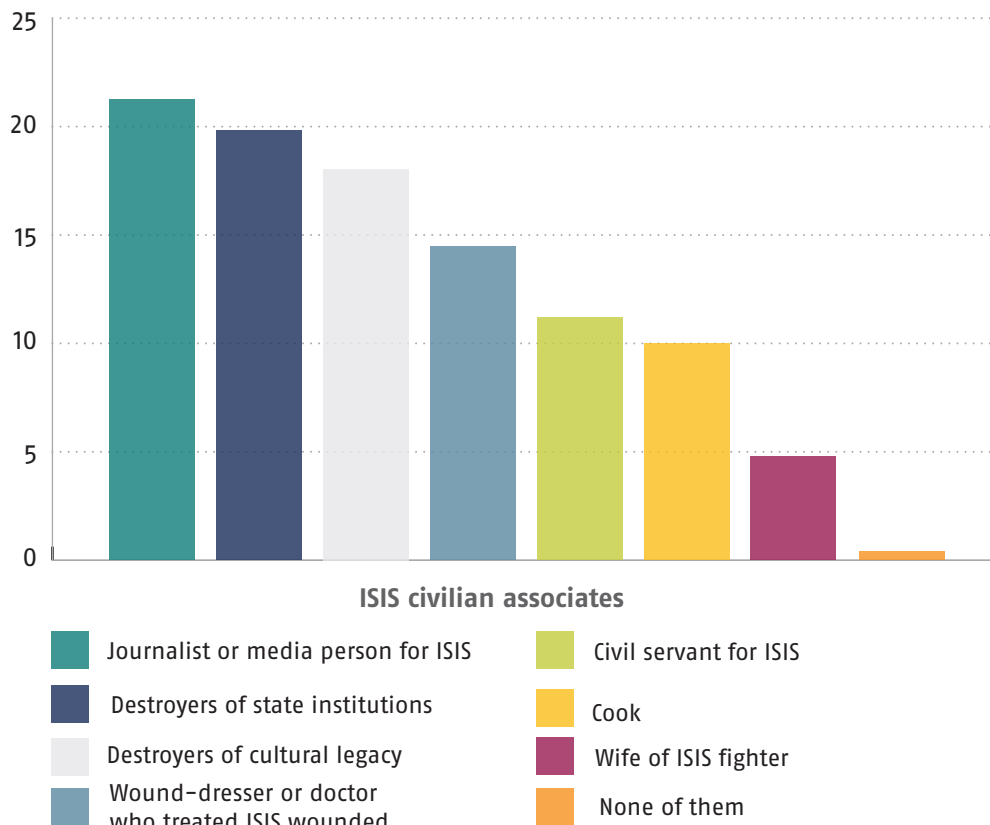
Figure 3. Age of responsibility for an ISIS fighter (Answers in percentages)



Punishing ISIS civilians and families

ISIS members, associates and collaborators included not only fighters, but also civilians. Many civilians accused of association with ISIS are now in the hands of the Iraqi justice system. The survey elicited views on which categories of civilian associates and collaborators should receive the harshest penalties, and what to do with the families of ISIS members, asking each respondent to pick three categories or a “none of the above” category. When presented with seven categories of ISIS-linked non-fighters, the majority (21.26%) of responses went to an ISIS journalist or media person as the most deserving of life imprisonment or the death penalty. This probably reflects the realisation of the important role media warfare played in the ISIS campaign against the Iraqi state, armed forces and the Iraqi Shia in general.⁹⁴ Behind the ISIS journalist, those who destroyed state institutions ranked second (19.82%), and those who destroyed cultural legacy third (18.05%).⁹⁵ A wound-dresser or a doctor who treated wounded ISIS members was found more deserving of severe punishment than a civil servant working for the ISIS administration. This could reflect perceptions that such a wound-dresser or doctor would have significantly contributed to continued fighting, by treating ISIS wounded who could then return to the battlefield. Next to last came the cook, scoring higher than a wife of an ISIS fighter. The wife of an ISIS fighter was the lowest-ranked of the ISIS associates to be chosen by respondents (4.79% of responses). This was the only explicitly female category, which might have contributed to it being the lowest position in the ranking of choices. For the other categories the masculine form in Arabic was used. As a female, the wife might have been perceived, by the majority male respondents, as having little or no agency.⁹⁶ The status of a wife also does not denote any specific activities in favour of ISIS, which might partly explain this ranking.⁹⁷ The figure below shows the ranking of civilian associates of ISIS deemed by respondents as deserving of the harshest criminal punishments.

Figure 4. ISIS civilian associates deserving of death sentence or life imprisonment (Answers in percentages)



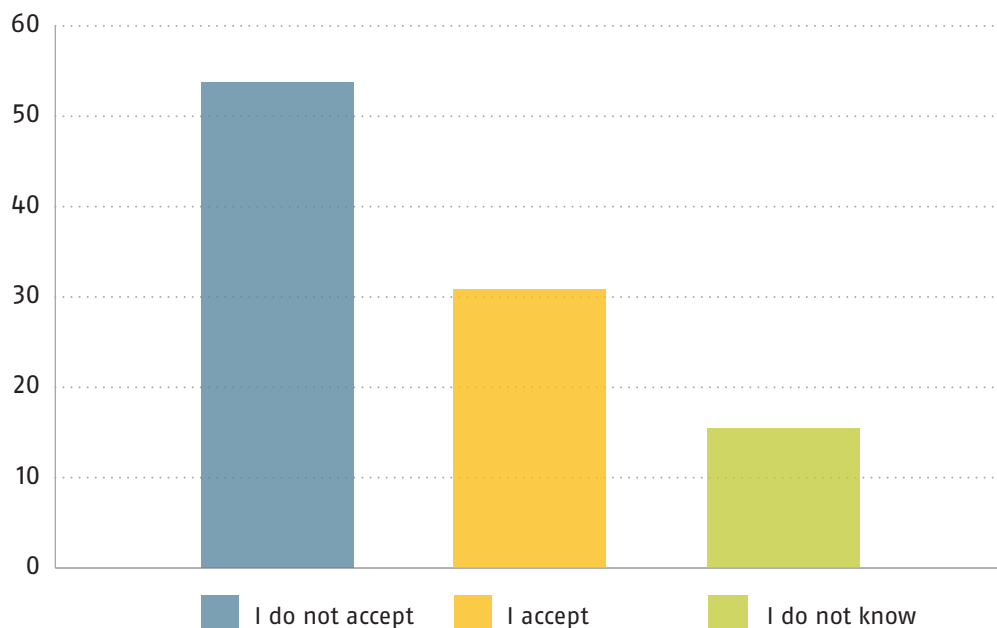
Families of ISIS members, which can include not only wives but also sons and siblings, do not appear to receive much sympathy from the respondents. A majority of respondents (43.01%) thought that ISIS families should be forced out of their places of residence, while 37.43% opted for putting those families under strict surveillance. Only a minority of 14.4% chose to attempt reintegration of those families into society, and an even smaller group (2.9%) opted for leaving them alone.

The province that most favoured forcing ISIS families out of their places of residence was Babil, with 47.5% of respondents choosing that option.⁹⁸ This probably reflects a combination of: the mixed sectarian composition of parts within this province, and of the immediately adjoining southern parts of Baghdad province; the history of sectarian violence in this area since the early stages of the American occupation of Iraq; and the control by ISIS of significant parts of the province in 2014, prior to its ejection towards the end of that year.⁹⁹ In Babil province lies a town retaken from ISIS, Jurf Al Sakhar, where the population has not been allowed to return.¹⁰⁰ Qadisiyya, on the other hand, had the lowest rate of respondents favouring the option of forcing ISIS families out of their homes (38.9%), and the highest rate of those calling to reintegrate ISIS families in society (17.2%), as well as the highest rate of those who chose to “leave them alone”(6.6%).¹⁰¹

Position toward amnesties

With most of the respondents opting for a punitive approach in dealing with ISIS members and associates, including civilians, it follows that most would also be inclined to reject any amnesty schemes. Indeed, this is what the survey data shows, though perhaps on a smaller scale than one would expect. The majority of respondents, 53.75%, rejected a conditional amnesty for members of ISIS who were not proven to have committed murders or rapes. Almost 31% accepted the idea, while 15.4% were undecided. See the figure below.

Figure 5. Acceptance of amnesty for ISIS members who have not committed serious crimes (Answers in percentages)



Among those who reject an amnesty, an oft-given explanation was that crimes other than murder and rape, such as threatening civilians and forcing families out of their hometowns, and the imposition of laws alien to Iraqi society (which ISIS did in areas it controlled), were enough to deny someone amnesty. Others pointed to being affiliated with an illegal extremist organisation as (an additional) reason for such rejection. It is also possible that the wording of the question, referring to “members of ISIS,” which did not explicitly exclude fighters, played a role in how the question was understood and the choices made.

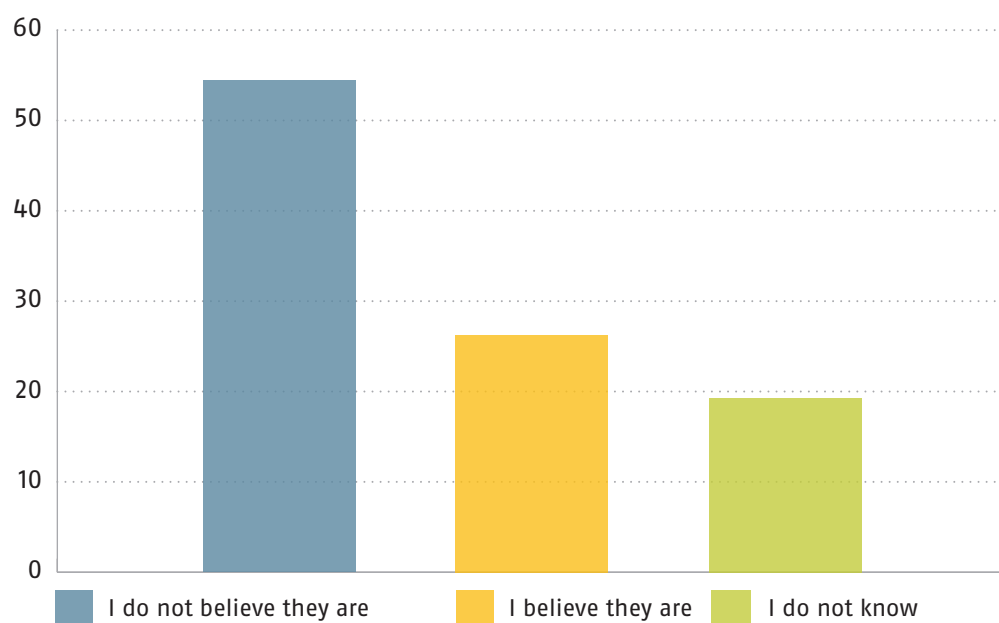
Among those who accepted the premise of a conditional amnesty, some (in Babil) proposed rehabilitation, but with strict control and prohibition on mixing with the rest of society. On the other hand, in Najaf, some of those who accepted a conditional amnesty (26.8% of Najaf respondents did) were welcoming of reintegration in society following rehabilitation by the government. The most common reasons given by those who were undecided on this matter were their ignorance of: the sorts of non-rape and non-murder crimes for which ISIS members had been arrested; and what penalties Iraqi law would impose upon them.

It is also noticeable that Najaf was most opposed to a conditional amnesty (64.6% of respondents there). Baghdad had the lowest percentage of opposition with 48.7% of respondents answering that they would not accept an amnesty, followed by Qadisiyya (51.5%) which was also the most undecided (26.8%). The province with the highest acceptance rate for a conditional amnesty was Karbala (36.3%), followed by Baghdad (35.8%).¹⁰²

Attitudes towards prosecution of ISIS members by the state and judiciary

The manner in which the Iraqi government and judiciary has dealt so far with ISIS suspects has drawn criticism from international organisations for being too harsh or arbitrary, and from parts of the PMF for being too lenient. Two questions were designed to measure the attitude of respondents towards the judiciary’s processing of ISIS suspects. One question centred on general satisfaction about the state’s implementation of court sentences, and the second focused on how respondents perceived accusations that ISIS trials have been run unfairly. Most respondents in the Mid-Euphrates were satisfied with the Iraqi state’s implementation of court sentences on serious crimes (question number 13 of the survey). 63.44% of respondents expressed satisfaction with the speed with which court sentences were being carried out against ISIS members convicted of serious crimes. 25.13% expressed their dissatisfaction while 11.43% were undecided, often citing as their reason for indecision their ignorance of the sentences concerned. The highest rate of satisfaction was scored in Babil (74.1%). The highest rate of dissatisfaction was in Najaf (31.6%), while the lowest was in Babil (17.9%). Najaf had also the highest rate of undecided responses (15.3%).

Given that most respondents expressed satisfaction with the implementation of court sentences regarding grave crimes, it is not surprising that a majority (54.45%) also rejected the notion that ISIS trials were hasty, random and violated justice (question number 18 of the survey), while 26.26% agreed with it (19% were undecided). The highest rate of rejection of the suggestion that trials of ISIS members were unfair came from Najaf (67%), which also had the lowest rate of accepting the notion that trials of ISIS suspects were unfair. The highest rate of belief in the flaws of ISIS trials was in Karbala, with 38.1%. The undecided rate was highest in Baghdad, with 25.1%.¹⁰³ See the figure below.

Figure 6. Are ISIS trials hasty, random and violating justice? (Answers in percentages)

Regional differences

Noticeable regional differences have emerged from this survey. As noted above, the Najaf population holds the harshest views towards ISIS members and are most opposed to any pardon schemes. It is also the region with the highest percentage of those who viewed people associated with ISIS as having cooperated wilfully with the group (71.77%), though that view is shared by a majority across the board in the five provinces. The Najaf case might be explained by the fact that the city is the centre of Shia political power and theology in Iraq, and is a hub for the ideological fight against ISIS's extremism. The Grand Ayatollah Ali Sistani issued a *fatwa* (religious decree) imposing a communal obligation to wage holy war against ISIS on 13 June 2014.¹⁰⁴ Qadisiyya, on the other hand, displays a "softer attitude" with the lowest percentage of respondents among the regions choosing the death penalty for fighters. Qadisiyya respondents are also: the most in favour of a conditional pardon for fighters who negotiated their surrender; the least prone to accept that those associated with ISIS cooperated wilfully with the group; and the least prone to accept the deportation of families of ISIS members.

PART III

Policy Implications

The Iraqi government and parliament are unlikely to face popular pressure from their majority-Shia constituency to enact more lenient legislation targeting detained ISIS members and affiliates, or to push Iraqi courts towards a more tolerant interpretation of the Anti-Terrorism Law. Nor does the majority of the Shia population seem to have an interest in promoting such objectives. Those in Iraq's government and parliament who are hostile to any revision of the current approach are probably aware of the mood of the Iraqi Shia street regarding ISIS members. They might rely on this sense of public perception to counter internal pressure by domestic voices calling for a more lenient approach as well as external pressure by international actors, especially NGOs, who criticise Iraq's prosecution of ISIS suspects.

However, this does not necessarily mean that the Iraqi government would face backlash from its Shia constituency if it were to revise its approach regarding suspected ISIS members. The survey offers interesting pointers to political openings for such revisions. It is true that under the current Iraqi Anti-Terrorism Law, even fighters who surrendered following negotiations would, at least in theory, be subject to Article 4, which imposes the death penalty. The 2016 Amnesty Law, and its 2017 amendment, exclude the possibility that ISIS members could be pardoned.

But the survey shows that life imprisonment is the preferred choice among respondents for fighters who surrender willingly, rather than be captured in battle. Of course, "willingness" on a battlefield can be interpreted narrowly or flexibly. After all, any surrender of a fighter, whether long before he is captured, or at the last minute, involves a degree of wilful choice. Commanders of the PMF who spoke to this author, for example, reported that there were rarely any cases that would fall under the category of wilful surrender. However, according to other sources, the Iraqi Army refused to negotiate surrender terms with some ISIS leaders who expressed a desire to do so.¹⁰⁵ Ultimately, it is the task of Iraqi justice to determine defectors' levels of culpability. Sparing "wilful" defectors the death penalty might incentivise further defections, and could pave the way for a long-term pardon and rehabilitation process, depending on the security environment and the process of political reconciliation. The survey results show such an approach will not necessarily enrage Iraqi Shia public opinion.

In terms of non-combatant ISIS members and those who have not been proven to have committed murder, inflicted permanent injury or committed rape, the survey shows that, in the abstract, most Iraqi Shia would still reject any notion of mid- or long-term pardon. Further, the survey shows that Iraqi Shia are not ready, nor will they be in the near future, to forgo the legitimacy of the death penalty in dealing with those who either committed or were implicated in killing Iraqi security forces members or Iraqi civilians. This is a particularly tricky issue for the Iraqi state, as resorting to capital punishment to satisfy Shia popular expectations, will expose the government to international criticism.

At least in terms of non-combatants, Iraqi Shia respondents tended to make more nuanced distinctions than do current security and judicial approaches in Iraq. Respondents made distinctions between an ISIS media person, who tops the list of those deserving either a life imprisonment or death sentence, and a cook for ISIS who comes almost at the very bottom

(only above the wife of an ISIS fighter).¹⁰⁶ While some Iraqi judges may not distinguish between a fighter, media person, and a cook,¹⁰⁷ the Iraqi Shia population of the Mid-Euphrates does, although perhaps not to the extent of overwhelmingly forgiving a wound-dresser or doctor who keeps ISIS fighters alive. It appears from the survey that there would be some popular support for such measures, or at least not much opposition among Iraqi Shia. A more lenient approach toward non-violent offenders might even be supported by the Shia religious authority,¹⁰⁸ as well as a number of Shia political parties.¹⁰⁹

The best long-term prospects for ISIS suspects in the hands of Iraq justice lie in an Iraqi state that is free from daily risks of terrorist attacks and has: a fair but firm judiciary; a strong security apparatus; an effective mechanism for political reconciliation, with compensation for Iraqi victims of war and terror; with much reduced corruption in its state apparatus; rebuilt and well-maintained infrastructure, accompanied by improved living standards and job prospects for its young population. Otherwise, in the face of public anger against rampant corruption, increasing unemployment, the absence of improved services for its citizens, and an ineffective public sector - all coupled with rapid population growth¹¹⁰ - there is a growing risk that Iraqi politicians will seek to use punishment of ISIS suspects and sympathisers as a tool to shore up legitimacy. Particularly if there are resurgent terrorist attacks, politicians may be incentivised to adopt even harder-line positions on how to deal with ISIS affiliates - including by supporting the swift implementation of death sentences.¹¹¹

Policy recommendations

To the Iraqi government

The prosecution of violent ISIS criminals is a duty of the Iraqi government and judiciary. However, the right of the accused to a fair trial is no less sacred than the right of ISIS victims to see perpetrators punished. There is sufficient evidence for the Iraqi government to realise that the trials of ISIS suspects are flawed and need reviewing. A more nuanced recognition of degrees of responsibility should be reflected in Iraqi courts, and introduced in Iraqi terrorism and amnesty legislation.

Any Iraqi government interested in a more effective amnesty strategy should arrange a nationwide poll prior to the introduction of a future amendment to the Amnesty Law. Results will likely demonstrate support for a more lenient approach than what the current Anti-Terrorism Law and the Amnesty Law allow. These survey results could increase awareness among members of parliament about the real attitudes of their constituencies, particularly Shia ones. Such attitudes constitute one major factor that would lend greater weight and legitimacy to future government amnesty schemes.

With the cooperation and consultation of relevant security actors who helped Iraq defeat ISIS, including the PMF and foreign partners, the Iraqi government should appoint a committee of respected academics, legal experts, and civil society actors to undertake a comprehensive study on how Iraq should balance punishment and leniency. The committee could consider the merits and disadvantages of both a punitive, national security-centred approach, and an alternative approach that includes some leniency measures - such as conditional amnesties and reintegration programs - for certain eligible affiliates. Results of such a study should draw on lessons learned from other civil war contexts in which states have developed strategies that balance punishment with leniency measures to effectively transition away from conflict. The

committee's recommendations should be made public. Any alternatives to punitive justice must be justified, not only on a legal and security basis, but – more importantly, to ensure leniency measures do not infringe on the rights of victims of ISIS, and do not ignore the concerns of those who fear a resurgent terrorist threat.

To Sunni politicians

Sunni politicians often argue that ISIS grew out of the sectarian and repressive policies of the former Prime Minister Maliki's Shia-dominated government, which had systematically marginalised Sunnis. While it is true that many Sunnis were unjustly detained and otherwise marginalised during Maliki's tenure, the rise of ISIS cannot be explained on this basis alone. Such a narrow interpretation ignores the broader context of a civil war and post-authoritarian transition in which ISIS developed. It also ignores the fact that many former Ba'athists rejected the legitimacy of the post-2003 system and tried to return to political domination of Iraq by means of violence.¹¹² Further, it disregards the role of foreign jihadists in Iraq, as well as the parts played by some regional countries.¹¹³ Finally, it would be wrong to equate the scale of ISIS atrocities with violations committed by the Iraqi Security Forces, or by the international military coalition against ISIS, or to draw moral equivalence between the two.

In reality, most Sunnis became victims of ISIS, and many Sunnis fought against the group, some of them as members of the predominantly Shia PMF. Sunni politicians should draw attention to these facts, and to the fates of innocent Sunnis who continue to be detained under an overbroad application of the Anti-Terrorism Law. The latter is a cause for which there is some – even if not yet overwhelming – sympathy among Shia. If Sunni politicians instead focus on blaming Shia-dominated governments for the rise of ISIS, they risk raising suspicions among the Shia population and politicians that they are making apologist arguments on behalf of Sunni insurgents. It is in Sunni politicians' interests to gain Shia support for more leniency measures; after all, Shia political forces have the greatest share of influence to decide on any shift away from the current approach.

To international organisations and NGOs

The United Nations as well as NGOs should continue to monitor how ISIS suspects are processed within the Iraqi justice system, and, if necessary, advocate for measures that uphold fair trial guarantees and shed light on the plight of those who have been falsely accused, in an effort to shift policies and opinions in Iraq towards more fair and balanced trials.

Perceptions are important in Iraq, regardless of intentions, and international organisations must take care not to have their reports and statements give the impression of favouring the interests of suspected perpetrators above victims of ISIS atrocities. They must continue to engage public opinion in Iraq, especially of the Shia – including the religious establishment – in order to convey the message that highlighting flaws in prosecuting ISIS suspects does not relegate to second place the rights of ISIS victims to see perpetrators receive their due punishment.

Endnotes

1. While the group officially changed its name to the Islamic State, this paper continues to use the acronym ISIS, more common in the media.
2. Qassem Abdul-Zahra and Susannah George, 'Iraq holding more than 19,000 because of IS, militant ties', AP News, 22 March 2018, <https://www.apnews.com/aece6571de54f5dba3543d91deed381/Iraq-holding-more-than-19,000-because-of-IS,-militant-ties>
3. Margaret Coker and Falih Hassan, 'A 10-minute trial, a death sentence: Iraqi justice for ISIS suspects', *The New York Times*, 17 April 2018, <https://www.nytimes.com/2018/04/17/world/middleeast/iraq-isis-trials.html>
4. See 'The Limits of Punishment: Transitional justice and violent extremism' (UNU-CPR and IFIT, 2018). Available at: <https://cpr.unu.edu/the-limits-of-punishment-transitional-justice-and-violent-extremism.html>
5. Japan's argument for the retention of the death penalty is that it reflects the popular will. Recently three American states voted in referendums for the retention of the death penalty, in the case of Nebraska even defeating a bill to abolish capital punishment that was adopted by the state. See 'Survey shows 85.2% of Japanese in favor of death penalty', *Japan Today*, 26 February 2013, <https://japantoday.com/category/crime/survey-shows-85-2-of-japanese-in-favor-of-death-penalty>; Jon Herskovitz, 'Death penalty gains new support from voters in several U.S. states', *Reuters*, 10 November 2016, <https://www.reuters.com/article/us-usa-election-execution-idUSKBN1343C7>
6. Human Rights Watch, 'Flawed Justice: Accountability for ISIS Crimes in Iraq', December 5, 2017, <https://www.hrw.org/report/2017/12/05/flawed-justice/accountability-isis-crimes-iraq>
7. Ibid.
8. Ibid.
9. Ash Gallagher, 'For captured ISIS fighters in Iraq, justice is swift and conviction certain', *Yahoo News*, 14 December 2017, <https://www.yahoo.com/news/captured-isis-fighters-iraq-justice-swift-conviction-certain-174952840.html>
10. Mara Revkin, 'After the Islamic State: Balancing Accountability and Reconciliation in Iraq', in 'The Limits of Punishment: Transitional justice and violent extremism' (UNU-CPR and IFIT, 2018). Available at: <https://cpr.unu.edu/the-limits-of-punishment-transitional-justice-and-violent-extremism.html>, 55.
11. Human Rights Watch, 'Flawed Justice', 47.
12. Revkin, 'After the Islamic State', 47.
13. "We know they are all Daesh [ISIS] families," one Iraqi soldier referred to civilians in the Old City of Mosul, during the fight to liberate it, "but what do we do, kill them all?" Susannah George, 'Tensions rise, between Iraqi forces and civilians in Mosul', AP News, 6 July 2017, <https://apnews.com/3fd-26124422748fc8e5bd6b5637899fe/Tensions-rise-between-Iraqi-forces-and-civilians-in-Mosul>
14. On 'stayers' versus 'leavers' see Revkin, 'After the Islamic State', 46-47.
15. Ibid., 44
16. Ibid., 48.
17. Human Rights Watch, 'Families with ISIS relatives forced into camps', 4 February 2018, <https://www.hrw.org/news/2018/02/04/families-isis-relatives-forced-camps>
18. Amnesty International, 'Iraq: Women and children with perceived ties to IS denied aid, sexually exploited and trapped in camps', 17 April 2018, <https://www.amnesty.org/en/latest/news/2018/04/iraq-women-children-with-perceived-ties-to-is-denied-aid-sexually-exploited-trapped-in-camps/>
19. Ibid.
20. The pacts included tribes promising not to shield members accused of ISIS ties; the creation of committees of tribal, security and administrative officials to identify and capture ISIS suspects; government compensations to ISIS victims rather than blood money exacted from Sunni tribes, and other measures. These pacts increased trust between tribes and the state and helped many displaced people return home. See Osama Gharizi and Hiadar Al-Ibrahimi, 'Baghdad must seize the chance to work with Iraq's tribes', *War on the Rocks*, 17 January 2018, <https://warontherocks.com/2018/01/baghdad-must-seize-chance-work-iraqs-tribes/>
21. In response to the December 2017 Human Rights Watch report on trials of ISIS members, a spokesman for the Human Rights Committee in the Iraqi Parliament, Habib Al Turfi, accused HRW of receiving large sums of money from suspicious sources in return for "offending" Iraq, adding that "ISIS members are not angels so that we would provide gardens of red roses for them," denying the existence of torture in Iraqi prisons. 'Raddan ala taqir lil monaddhama: Taqarir Human Rights gheir muhtarama wal Dawa' ish laisu mala'ika' (Responding to a report by the organisation: Human Right's reports are not respectable, and ISIS members are not angels), *yadoT dadhgaB*, 5 December 2017, <https://goo.gl/zw5Mbm>. A similar reaction came from another member of said committee, the Yazidi parliamentary representative Kendour Al Sheikh, who charged, in response to claims about Yazidi groups taking revenge on Sunni Arabs, that HRW was trying to "acquit some collaborators of

ISIS” and that “this organisation receives its information from tribes, linked to and cooperative with ISIS.” ‘Huquq Al Insan Al Niyabiyya: “Rights Watch” ta’tamid ala al irhabiyyien fi ma’lumatiha’ (Parliamentary Human Rights: “Rights Watch” depends on terrorists for its information), Baghdad Today, 28 December 2017, <https://goo.gl/xjE5SW>

22. The League of Righteous, one of the most prominent and hard-line factions in the PMF, in its political program calls for an end to the “phenomenon of malicious appeals that aim to delay the settling of cases and obstructing the court decisions especially with regard to those accused and convicted in terrorism cases.” ‘Al Barnamij Al Siyassi Li Harakat Asa’ib Ahl Al Haqq’ (The political program of the League of the Righteous People movement), June 2017, <http://ahlualhaq.com/index.php/permalink/5229.html>

23. A commander of Al Tufuf Brigade commented that “the judiciary is not just, it is bribed. Investigative officers are bribed. Sometimes the judge is worthy of his work and respects his profession, but the investigative officer loses much of the evidence so that the judge would not be convinced of the decision that should be taken against this individual.” Still, he insisted, and due to the instructions of the Grand Ayatollah Sistani, his soldiers always delivered ISIS prisoners to the Iraqi authorities. Qassem Muslih, interview, Karbala, 22 January 2018. A journalist affiliated with the media wing of the PMF criticised unnamed state officials, for succumbing to pressure and facilitating the release of terrorists. “The thief of the house is among us,” she stated. Either such officials were agents for hire, she said, or they “conducted some unbecoming behaviour” and were therefore blackmailed into releasing terrorists. Zainab Shuaib, interview, Karbala, 4 February 2018.

24. Ghaith Abdul-Ahad, ‘After the liberation of Mosul, an orgy of killing’, *The Guardian*, 21 November 2017, <https://www.theguardian.com/world/2017/nov/21/after-the-liberation-of-mosul-an-orgy-of-killing>

25. The man in question, Sheikh Aus Al Khafaji, commander of the Abul Fadhl Al Abbas forces, headed to Nasiriyya to carry out his threat, but was assured by presidential advisors and the Ministry of Justice that death sentences of convicted terrorists would be carried out. Hussein Zankana, ‘Mu’taqalu Al Nasiriyya bein al ajz al hukumi wa tahdid Al Hashed bi tanfidh al i’damat’ (The prisoners of Nasiriyya between the government’s lack of ability and the threat by the Mobilisation to carry out the executions), *Rudaw*, 13 July 2016, <http://www.rudaw.net/arabic/middleeast/iraq/13072016>. Interviewed much later on Al Furat TV and criticised for trying to usurp the state’s authority in the matter, he defended himself saying “it was my right as an Iraqi citizen to demand the gov-

ernment to implement its own constitution [...] and it brought results.” See his interview on the program *Zuqq Siyasi*, 12 June 2017, <https://www.youtube.com/watch?v=mzIIDhsJeEI>

26. In the aftermath of the execution in January 2016, in Saudi Arabia, of the Shia cleric Nimr Al Nimr, parliamentary voices in Iraq, as well as among the PMF called for the immediate carrying out of death sentences of Arab and particularly Saudi prisoners convicted on terrorism charges. See ‘I’dam Al Nimr yutheer rudud af’al ala al mustawa al siyasi dakhel Al Iraq’ (The execution of Al Nimr raises political reactions inside Iraq), *Al Mirbad*, 2 January 2016, <http://www.almirbad.com/news/view.aspx?cdate=02012016&id=904fecf-333c-4b28-8136-078d58fd7008>; see also the joint declaration of a number of PMF factions on 4 January 2016, <http://ahlualhaq.com/index.php/permalink/4162.html>

27. A Sunni politician and candidate for the elections, Mish’an Al Juburi, accused in April 2018, Saleh Al Mutleq, another Sunni and former deputy prime minister, of pressuring him not to reveal the real names of the perpetrators of the Camp Speicher massacre, in which ISIS executed what is believed to be around 1700 Iraqi Air Force cadets. Al Juburi added that he revealed the real perpetrators in order to exonerate his family members who hail from the same region as the killers. ‘Al Juburi lil Mayadeen: lem tetum muhasabat murtakibi majzarat Speicher wal Abadi yafshal fi mukafahat al fasad’ (Al Juburi to Al Mayadeen: the perpetrators of the Speicher massacre have not been brought to account, and Abadi fails in fighting against corruption), *Al Mayadeen*, 4 April 2018, <https://goo.gl/xq1oWY>

28. Cale Salih, ‘Limits of Punishment: Transitional justice and Violent Extremism. Introduction to the project’, (UNU-CPR and IFIT, 2018). Available at: <https://cpr.unu.edu/the-limits-of-punishment-transitional-justice-and-violent-extremism.html>

29. Ibid.

30. Ibid.

31. Ibid.

32. Ibid.

33. Ibid.

34. Ibid.

35. Kirk H. Sowell, ‘Maliki’s Anbar blunder’, *Foreign Policy*, 15 January 2014, <http://foreignpolicy.com/2014/01/15/malikis-anbar-blunder/>; ‘Iraq protesters win first demand: Release of 3,000 prisoners’, *Middle East Online*, 3 February 2013, <https://www.middle-east-online.com/en/node/651822>

36. ‘Number 13 for the year 2005, The Anti-Terrorism Law’. *Al Waqai’ Al Iraqiyya*, 4009, 9 November 2005.

37. 'Iraq militants "still control part of western cities"', *BBC NEWS*, 3 January 2014, <http://www.bbc.com/news/world-middle-east-25588615>
38. Jason Burke, 'Iraq: how much is the divisive approach of Maliki responsible for the turmoil?', *The Guardian*, 15 June 2014, <https://www.theguardian.com/commentisfree/2014/jun/15/nouri-al-maliki-is-he-the-man-to-blame-in-iraq>; David Ignatius, 'How ISIS spread in the Middle East, and how to stop it', *The Atlantic*, 29 October 2015, <https://www.theatlantic.com/international/archive/2015/10/how-isis-start-ed-syria-iraq/412042/>
39. That is the overwhelming security analysis of PMF commanders and officers who included those of the Ansar Al Hussein Brigade, Ali Al Akbar Brigade, Al Tufuf Brigade, the military office of the Badr Organisation in Karbala, and the Abbas Combat Division. Interviews, Karbala, December 2017 to February 2018.
40. As one official in the Abbas Holy Shrine -which supervises the Abbas Combat Division- put it: "The cruel lesson during the ISIS period and what they witnessed: the destruction of their homes the loss of their sons and their displacement has made it difficult for those communities to be influenced again by extremist terrorist thinking. They would think a lot before taking that step, so the chances of terrorism returning to those communities is less than before." Interview with Sayyed Leith Al Musawi, deputy to the supervisor of the Al Abbas Shrine in Karbala, 24/12/2017.
41. 'Al intikhibat fil Anbar wa Nainawa...hamalat lil muqata'a wa ukhra lil taghyir bisabab siayissi Daesh' (The elections in Anbar and Nineveh ... campaigns to boycott and others to change because of the ISIS politicians), *One Iraq News*, 19 April 2018, <http://oneiraqnews.com/index.php?aa=news&id22=4795#.WwUforpuK7o>.
42. Interview with former parliamentarian and member of Al Amal party, Jawad Al Attar, Karbala, 29 December 2017. On the internal divisions of Iraqi Sunni politicians and their constituencies see Renad Mansour, 'The Sunni Predicament in Iraq', March 3, 2016, <http://carnegie-mec.org/2016/03/03/sunni-predicament-in-iraq-pub-62924>
43. According to one Dawa Party member. "There is now a Sunni segment that believes in co-existence and sharing power with others, and they know the time when one sect ruled alone is gone" he continues. "That segment is bigger now than before ISIS [...] and must be strengthened." He argued, further, that since ISIS victimised many Sunnis, these are likely to "cleanse" any remaining Sunni supporters of ISIS themselves. A. Sabari, telephone interview, 10 November 2017.
44. 'Anbar tribes seek vengeance against Iraqi ISIS members', *Asharq Al-Awsat*, 14 November 2017, <https://aawsat.com/english/home/article/1083421/anbar-tribes-seek-vengeance-against-iraqi-isis-members>; Cockburn, 'Mosul's Sunni residents face mass persecution'; Revkin 'After the Islamic State', 47-48.
45. 'Al Iraq hasama ma'rakat Daesh wa lakin al harb qad tastamir bi aujuh ukhra' (Iraq has settled the ISIS battle, but the war may continue in other forms), *Elaph*, 9 December 2017. <http://elaph.com/Web/News/2017/12/1180724.html>
46. Michael Knights, 'Predicting the Shape of Iraq's Next Sunni Insurgency', *CTCSentinel*, 10 (2017): 13-22.
47. Interview with Mohammed Al Amili, commander of Ansar Al Hussein Brigade, Karbala, 31 December 2017.
48. Interview with Ali Al Hamdani, commander of Ali Al Akbar Brigade, Karbala, 14 January 2018.
49. Mohammed Tawfeeq and Susannah Cullinane, 'Iraqi Airforce targets ISIS in Syria', *CNN*, 6 May 2018, <https://edition.cnn.com/2018/05/06/middleeast/iraq-syria-strike-isis/index.html>
50. Tom Westcott, 'No surrender: "White Flags" group rises as new threat in northern Iraq', *Middle East Eye*, 31 January 2018, <http://www.middleeasteye.net/news/iraq-islamic-state-white-flag-hashd-al-shaa-bi-1282818812>
51. Rhys Dubin, 'ISIS 2.0 is really the original ISIS', *Foreign Policy*, 3 April 2018, <http://foreignpolicy.com/2018/04/03/isis-2-0-is-really-just-the-original-isis/>
52. Several lawyers in Iraq that were recently interviewed by Mara Revkin have expressed concerns that excessive punishments may lead to growing recidivism by convicted ISIS members, and that unfair convictions may be a contributing factor to a future insurgency. Revkin, 'After the Islamic State', 63.
53. In many places in Iraq, Sunnis point out that the Popular Mobilisation still treats them with suspicion and accuses them unfairly of supporting ISIS. Gharizi and Al-Ibrahimi, 'Baghdad must seize the chance'. However, in some places like Anbar, there is apparently good will between some components of the PMF and the local Sunni population as a result of Western Anbar operations chief, Qassem Muslih, helping to restore basic services. Interview with Iraqi journalist Anwar Al Gharrawi who extensively travelled in Western Anbar to cover post-ISIS reconstruction activities, Karbala, 28 January 2018. A recent BBC report, by Ayman Oghanna, seems to confirm these impressions. 'An Iraqi road trip of sectarianism and Iranian influence', *BBC News*, 10 May 2018, <http://www.bbc.com/news/av/world-middle-east-44046353/an-iraqi-road-trip-of-sectarianism-and-iranian-influence>

54. Mustafa Habib, 'Get out of Jail Free: Iraq's New Amnesty Law so Full of Loopholes, Terrorists Could be Freed', <http://www.niqash.org/en/articles/politics/5371/Iraq's-New-Amnesty-Law-So-Full-Of-Loopholes-Terrorists-Could-Be-Freed.htm>. Habib provides a good overview of the most controversial parts of the law, including issues dealing with families of victims, judges, corruption, and those who fought foreign troops in Iraq up until 2011.
55. 'Number 27 for the year 2016, The Law of General Amnesty', http://www.iraq-ig-law.org/ar/webfm_send/1629. Under article 4 of the Iraqi Anti-Terrorism Law of 2005, those convicted of terrorist crimes defined under that law receive the death penalty. Those who did not commit but did conceal acts of terrorism or hid those who committed such acts receive life imprisonment.
56. Ibid.
57. 'Kutlat Al Asaib ta'tabir al taswit ala Al Afu Al Am "jarima" bi haq al shuhada', (The League [of the Righteous] block considers voting on [the law of] general amnesty a "crime" against martyrs), *Al Ghad Press*, 25 August 2016, <https://goo.gl/hwRqUT>
58. 'Khabir qanuni: Al Afu Al Am yashmal Daesh' (A legal expert: The General Amnesty covers ISIS), *All Iraq News*, 26 August 2016, <http://www.alliraqnews.com/modules/news/article.php?storyid=46828>
59. See the text of the 'First Amendment Law of the General Amnesty Law Number 27 for the Year 2016', dated 21 August 2017, on the website of the Iraqi parliament, which still, as of 22 May 2018, contains the proposed article by the government which was voted down by the Parliament, and has not been corrected. <https://goo.gl/Cdf8Ji>
60. One of the members of the parliamentary legal committee explained that this replacement was due to fears that those who "incited, financed and contributed" to acts of terrorism would not be included in the exemption, and would therefore benefit from amnesty. Interview with Ibtisam Al Hilali on the Iraqi Asia channel, on 22 January 2018, <https://www.youtube.com/watch?v=qeEPqCoRb7I>
61. Prime Minister Abadi had vowed in July 2017 that "No terrorist escapes punishment and we will not issue an amnesty for the murderous terrorists." 'Iraqi leader Abadi vows "no amnesty for terrorists" as troops "mop up" Mosul', *The New Arab*, 13 July 2017, <https://www.alaraby.co.uk/english/news/2017/7/13/iraq-continues-mosul-mop-up-despite-human-rights-concerns>
62. "'Khata" fi nashr qanun Iraq yasmah bi Ilaq sarah "irhabiyyin" ("A mistake" in the publication of an Iraqi law allows the release of "terrorists"). *Asharq Al-Awsat*, 12 January 2018, <https://goo.gl/z1QQaG>.
63. 'Na'iba: tazwir qanun afu yashmal al irhabiyyin fadiha fi tarikh Al Iraq' (A [parliamentarian] representative: The falsification of an amnesty law that includes terrorists is a scandal in Iraq's history), *RT*, 12 January 2018, <https://goo.gl/MurGv7>. See also the interview with Ibtisam Al Hilali on the Iraqi Asia channel. Some members of parliament called for convicting those responsible for including the voted-down article, on the basis of being complicit in terrorism. 'Fadhilat al nass al muharraf li Qanun Al Afu Al Am' (The scandal of the corrupted text of the General Amnesty Law', *Al Dustur*, 14 January 2018, 1. <https://www.moj.gov.iq/view.3714/>
65. Between November 2016 and the end of March 2018, and according to the Iraqi Ministry of Justice, 7353 inmates were released, the releases being based on the Iraqi Law of General Amnesty. Although it is not clear how many of those released were imprisoned on terrorism charges, given the constraints of the law, that number cannot be high, <https://www.moj.gov.iq/view.3764/>
66. [Matthew Franklin Cancian](#) and [Kristin E. Fabbe](#), 'What Iraq's Kurdish Peshmerga Believe and How It Will Affect the Country's post-ISIS Future', *Foreign Affairs*, <https://www.foreignaffairs.com/articles/middle-east/2017-08-25/what-iraqs-kurdish-peshmerga-believe>
67. Fotini Christia, Elizabeth Dekeyser, Dean Knox, 'To Karbala: Surveying Religious Shi'a from Iran and Iraq', http://web.mit.edu/cfotini/www/Shia_Pilgrims_Survey.pdf
68. Ibid., 68
69. Ibid., 70
70. *Al Wijha Karbala* (Destination Karbala), Trans. Nur Aladdin, (Al Markaz Al Islami lil Dirasat Al Istratiyya, Beirut Office, Beirut: 2017). The Abbas Holy Shrine Islamic Centre for Strategic Studies identifies itself as working in the field of "religious strategy", designing plans and programs in religious and cultural fields to 'improve the current situation and tackle looming dangers'. See 'Men Nahnu [Who are we?]' on its website: <http://www.iicss.iq/?id=8>
71. Ibid., 14. The Arabic introduction for example saw the questions by the surveyors on the sources from which Shia get their news as useful for the American policy so that it would know where on the internet or on which satellite channels it can "pump information." Ibid.
72. Ibid., 17
73. Ibid., 19
74. Ibid.
75. Ibid.
76. Survey forms carried the logo of UNU-CPR and the surveyors were instructed to inform respondents

of the identity of both the institutions authorising as well as carrying out the survey.

77. <http://www.fcds.com/>

78. Available at: <https://cpr.unu.edu/the-limits-of-punishment-transitional-justice-and-violent-extremism.html>

79. Kristen Kao and Mara Revkin, 'Reintegration of Rebel Collaborators: A Conjoint Experiment in Mosul', working paper.

80. Video interview with Mara Revkin, 15 December 2017.

81. For more on that see the footnotes in the 'Punishing ISIS civilians and families' section below.

82. With thanks to Dr. Al Toma and Mr. Al Anabari from Karbala University and the Karbala Central Library respectively.

83. See the website of the Central Statistical Organisation of the Iraqi Ministry of Planning, [http://www.cosit.gov.iq/AAS2016/population/population\(12\).htm](http://www.cosit.gov.iq/AAS2016/population/population(12).htm)

84. Qadisiyya is considered a somewhat more conservative province. The surveyors had difficulty approaching females necessitating the intervention of the team leader on the ground in order to reach a more balanced female to male ratio. This was so successful that led in this case to have higher female/male ratio than other provinces.

85. The question on membership versus crime committed (question 7 in the survey form) did not define what is meant by severe punishment and left the respondents to interpret it themselves. The question states "Do you consider affiliation to the ISIS organisation in itself a crime that merits the most severe legal punishments?"

86. The respondents had two options: 1-Against their will and 2-Willingly. As such 36.13% chose "against their will." While the Karbala test survey included also two options, some of the respondents chose on their own to add a third option of "both willingly and against their will," leading to a result of 64% believing that those associated with ISIS collaborated with it willingly; 26% choosing for the "against their will" option, and 10% choosing both.

87. In the Karbala pilot survey, given only one choice, 76% and 13% of the respondents chose the death penalty and life imprisonment respectively.

88. 42.2% and 41.2% of the choices given by citizens of Karbala and Najaf, respectively.

89. 36% of the responses given in Qadisiyya went for life imprisonment.

90. Given that the death penalty received the top choices, followed by life imprisonment, one would assume that given the decreasing order of punishment severity, the next preferred option would be long-term imprisonment with the possibility of amnesty after 10-15 years, rather than mid-term imprisonment.

Therefore, it is possible that "mid-term" was interpreted by respondents as lasting more than 10 years.

91. No detailed explanation for the term "conditional pardon" was given in the survey forms. Respondents in the pilot did not express lack of understanding of the term or ask for explanations about it, nor did the issue arise during the main survey.

92. In the Karbala pilot survey, with only one answer to choose (out of 5 stated options), 38% chose life imprisonment, while only 8% chose the death penalty.

93. Two votes out of 1146 went to the age of 50.

Whether it was intended for humour, or a result of confusion is unfortunately unknown. 6 votes went to the age of 30, and 60 votes (5.23%) to ages 21-28. The Karbala pilot survey required respondents to choose an age in the range 14-18 years. The age of 18 was given most votes with 43% followed by the age of 15 with 20% of the votes.

94. For the use of media warfare by ISIS during its occupation of Mosul and after see Ali Aghuan, 'The Cyber Dimensions of ISIS's occupation of Mosul', <http://www.washingtoninstitute.org/fikraforum/view/the-cyber-dimensions-of-isis-occupation-of-mosul>; and 'ISIS counters Mosul Battle through Psychological Media Warfare', *Al Arabiya*, 19 October 2016, <http://english.alarabiya.net/en/media/digital/2016/10/19/ISIS-counters-Mosul-battle-through-psychological-media-warfare.html>

95. The destruction of state institutions and cultural legacy, which at times has been committed by fighters, has also often been conducted by civilian functionaries of the diwans (or departments) of the caliphate state. ISIS's bureaucracy was implicated in the looting and selling of antiquities, which is one form of destruction of cultural legacy. See Yaya J Fanusi and Alexander Joffe, 'Monumental Fight. Countering the Islamic State's Antiquities Trafficking', November 2015, available on the website of the *Foundation for Defense of Democracies*, http://www.defenddemocracy.org/content/uploads/documents/Monumental_Fight.pdf. The same applies to ISIS's affiliates who delegitimise certain Iraqi state institutions and replace them.

96. It seems that foreign ISIS wives are at a greater disadvantage than Iraqi ISIS women in Iraqi courts and count on even less sympathy from Iraqis in general. Martin Chulov and Nadia Al-Faour "They deserve no mercy": Iraq deals briskly with accused "women of Isis", *The Guardian*, 22 May 2018, <https://www.theguardian.com/world/2018/may/22/they-deserve-no-mercy-iraq-deals-briskly-with-accused-women-of-isis>. This survey, however, did not explicitly distinguish between Iraqi and foreign ISIS wives.

97. The Karbala pilot survey, contained 5 choices plus a "none of the above" choice and lacked the two categories of destroyers of state institutions and

destroyers of cultural legacy. No 3-choices limit was placed. The ISIS media person or journalist gained most choices, 30.19%; followed by the civil servant with 25% and the wound-dresser or doctor who treats ISIS wounded with 21.23%. The wife of an ISIS member came in last with around 8%.

98. The question about the families (question 17 in the survey) reflects an idea considered for the original questions list, asking respondents about the fate of the population of Jurf Al Sakhar in Babil province who have so far not been allowed, since late 2014, to return to their homes, an issue about which the governor of Babil province threatened to prosecute anyone who raised it. To protect the surveyors from any repercussions the idea was dropped. The replacement question revolved more about towards ISIS families in general rather than an entire district population, and was therefore judged to be safer.

99. See Thomas, E. Ricks, *Fiasco. The American Military Adventure in Iraq* (London: Penguin, 2006), 426.

100. Mustafa Habib, 'Security or Demographics? Why Babel Province has a Ghost Town?', *Niqash*, <http://www.niqash.org/en/articles/security/5725/>. See the for the UN's mission in Iraq response to the issue, 'UNAMI expresses concern at Provincial Council decision on returnees in Babil', *United Nations Iraq*, 26 August 2017, http://uniraq.org/index.php?option=com_k2&view=item&id=7819:unami-expresses-concern-at-provincial-council-decision-on-returnees-in-babil&Itemid=605&lang=en. In December 2017 the governor of Babel promised to let families "not stained with the blood" of the people of Babel to return, but "other than that we will not allow any family to return." 'Muhafidh Babil: Nahnu ma'a audit al awa'il allati lam tatalattakh aidihum bi dima' abna' Jurf Al Sakhar' (Babil Governor: We are in favour of the return of families the hands of which have not been stained with the blood of the sons of Jurf Al Sakhar), *Rudaw*, 7 December 2017, <http://www.rudaw.net/arabic/middleeast/iraq/071220174>.

101. This question does not figure in the pilot survey in Karbala.

102. In the pilot survey in Karbala, where respondents had only the two options of "yes" and "no," with no "I do not know" option, 51% rejected a conditional amnesty while 49% accepted it.

103. This question does not figure in the pilot survey in Karbala.

104. The communal obligation was termed as *Kifa'i* which signified that if a "sufficient" number of members of the community undertook the religiously sanctioned task, the rest of the community would be free from the obligation to perform said task. Sistani's *fatwa* called for volunteers to join Iraqi Security Forces. It was however later interpreted, by the groups

that constituted the Popular Mobilisation Forces, as the religious justification for their formation.

105. Cited in Revkin, 'After the Islamic State', 53.

106. One could wonder that, given that respondents could choose only three categories of civilians who merit severe punishments, whether they would have chosen everyone in the civilian list had they had the option? As the Karbala pilot survey puts no limit to the options and still reached fairly similar results compared to the region-wide one, the author contends that the point of respondents distinguishing degrees of responsibility among ISIS-related civilians is valid.

107. One Iraqi judge told HRW "I had a case yesterday of an Isis cook and I have recommended giving him the death penalty. How could the Isis fighter have executed someone if he had not been fed a good meal the night before?", Paul Wright, 'Iraq might be executing innocent people as alleged Isis fighters face 20-minute trials', *International Business Times*, 29 December 2017, <https://www.ibtimes.co.uk/iraq-might-be-executing-innocent-people-alleged-isis-fighters-face-20-minute-trials-1653094>.

108. Sayyed Leith Al Musawi, deputy to the supervisor of the Al Abbas Shrine in Karbala answered a question by the author about the possibility for amnesty for people linked to ISIS who did not commit serious crimes by stating: "Why not? The Iraqi people decided to forgive the Ba'athists whose crimes lasted 35 years, so why not forgive those who did not commit serious crimes? The Iraqi people would accept such a thing." Karbala, Interview, 24/12/2017.

109. Jawad Al Attar, interview; A. Sabari, telephone interview.

110. On the economic, demographic and corruption challenges facing post-ISIS Iraq see Anthony Cordesman, *After ISIS: Creating Strategic Stability in Iraq*, https://csis-prod.s3.amazonaws.com/s3fs-public/publication/170711_Iraq_After_ISIS.pdf?2YaQgw-PQq4GnjGoSlzhMoQ7epLxQ2vq6

111. Immediately after the bodies of eight hostages - who had been kidnapped and executed by ISIS - were found, the Iraqi government responded by carrying out, on 28 June 2018, the death sentences of 12 ISIS members whose convictions were described as final. Prime Minister Abadi also issued orders to carry out hundreds of death sentences of convicted ISIS fighters. 'Iraq executes 12 ISIL members on death row: PM's office', *Al Jazeera*, 29 June 2018, <https://www.aljazeera.com/news/2018/06/iraq-executes-12-isil-members-death-row-pm-office-180629075413083.html>

112. Michael Rubi, 'Maliki's Exit Doesn't Change a Thing', *Commentary Magazine*, 15 August 2014, <https://www.commentarymagazine.com/foreign-pol->

<http://www.warontherocks.com/2016/08/washingtons-sunni-myth-and-the-middle-east-undone/> ; Cyrus Malik, 'Washington's Sunni Myth and the Middle East Undone', *War on the Rocks*, 23 August 2016, <https://warontherocks.com/2016/08/washingtons-sunni-myth-and-the-middle-east-undone/>
113. US General Dempsey, Chairman of the Joint Chiefs of Staff stated, in September 2014, that he knew of "major Arab allies [of the US] who fund ISIS." See 'General Dempsey Acknowledges U.S. Arab Allies Funding ISIS', *C-Span*, [https://www.c-span.org/video/?c4718678/general-dempsey-acknowledges-us-ar-](https://www.c-span.org/video/?c4718678/general-dempsey-acknowledges-us-arab-allies-funding-isis)

<http://www.bbc.com/news/world-us-canada-29528482> . Former US Vice-President Joe Biden caused tension with key Middle Eastern allies when he named some of them as providing funds and weapons that found their way into the hands of Al Qaeda and ISIS. He later apologised clarifying that he did not mean that the countries he named intentionally supported the extremists. Barbara Plett Usher, 'Joe Biden apologised over IS remarks, but was he right?', *BBC News*, 7 October 2014, <http://www.bbc.com/news/world-us-canada-29528482>