

Managing the Return of Foreign Terrorist Fighters in Southeast Asia: Complexities and Challenges

By
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First and foremost, I wish to congratulate the team at RSIS for organizing this Webinar. I believe that this Webinar is useful for all stakeholders, especially the researchers, students, policy-makers, civil society workers, the intelligence community (IC) and the interested public. We are inspired to see the RSIS plays its role as an innovative education institution, a think tank to generate creative ideas to solve the state's problems regionally and internationally.

As a backdrop, my humble deliberation today is limited to Malaysian context, and my involvement as the rehabilitation panel, expert witness in terrorism cases, academic research and regular consultation with former actors in terrorism cases.

In this conversation, I will discuss Malaysia's experience of managing the returning fighters and their families, the challenge we face and some recommendation.

I would like to share 6 key points covering the following aspects:

- 1) *The framework for understanding FTF phenomenon*
- 2) *Foreign Terrorist Fighters?.*
- 3) *The policy of repatriation.*
- 4) *Assessment, rehabilitation, and judicial process are the pillars of managing the returnees.*
- 5) *Challenges in managing returning fighters and their families faced by the authorities, and civil society sectors.*
- 6) *Some Recommendation.*

1. ***The framework for understanding FTF phenomenon.*** How can we make sense of the so-called "foreign terrorist fighters" (FTF) phenomenon in our region, and what it means to us?
 - a. ***The departure:*** it starts with the departure of people from certain country to another country with the intention to join the fight (war, conflict). The attraction to theatre of conflict for variety of motives, pull and push factors, ideological appeal, and radicalisation.
 - b. ***The return:*** the end of conflict, disenchantment with the reality on the ground, incapacitated or injured, the death of caretakers and repatriation.
 - c. ***What next?*** – the attack? Repatriation? Rehabilitation?
 - a) The initial thinking in the IC: it has three phases: *the departure- the return – the attack*

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- b) Policy improvisation: *the departure – the return or repatriation – rehabilitation – judicial process – reintegration – monitoring.*
 - i. Policy of repatriation – state’s arrangement of their return (returning fighters and families), including documentation and logistics.
 - ii. Judicial process – bring them back and charge them in court, using legal processes. Security Offences (Special Measure) Act (SOSMA) 2012, Prevention of Terrorism Act (POTA) 2015, Penal Code 130b-130r (Terrorism), Prevention of Crime Act (POCA) 1959 and relevant legal provisions.
 - iii. Assessment – put them through psychological, ideological, and security assessments.
 - iv. Rehabilitation – put them through rehabilitation process
 - v. Reintegration – return them to their families, providing community support, and initiatives to help them back in the society.
 - vi. Monitoring – continuous surveillance.

2. **Foreign Terrorist Fighters?** Who are they? Unlike in Afghanistan War (1979-1989) and other conflict, the “returnees” today travelled with families (female/wife and children), with the intention of living or staying in the Caliphate (Daulah Islamiyyah), and *not to fight* especially for the female and children. In this sense, they are not fighters, play supportive role to the husband.

The term “foreign terrorist fighters” is problematic for four reasons:

- a) First, for Malaysia, they are not foreigners, they are Malaysian citizen. Thus, calling them as “foreign fighters” is inaccurate to say the least.
- b) Second, they are not “fighters” i.e. female and children never engaged in the fight. They just a family, who happened to be following and living with the husband – the only fighter in the family. Are we going to prosecute the wife and children due to association with the “fighter”?
- c) Third, calling them as “terrorist” poses double problem, especially to family (women and children who never fought). In my view, the term FTF is quite elitist, it is bias, and slippery slope.
- d) Fourth, for civil society sector, using the term terrorist, FTF, and extremist is very offensive. It put both party in a very uncomfortable position.

FTF phenomenon is a complex issue, it has legal, ethical, social, political dimensions. Thus, it requires careful consideration, and to avoid violation of basic human rights, human security, and generates another problem in the long run.

Therefore, I propose the term “returnees” or “returning fighters”, to be more neutral and value-free. Most importantly, it is convenient for civil society workers to operate and cooperate with them.

I fully acknowledge the need for this term by the state’s security agencies. Exception is made in this case.

3. ***The policy of repatriation.*** “Why repatriation the terrorist and their families?”, “let them rot and die there” was the core debate. In Malaysia’s experience, the policy of repatriation is adopted for three reasons:
 - a. ***The rule of law*** – by law, they are still Malaysian citizens, even though leaving the country illegally to join designated terrorist organisation like ISIS/IS. Thus, upholding the rule of law is the key to fight violent extremism.
 - b. ***Humanitarian basis*** – differentiating offences and humanitarian reason is a manifestation of the state’s commitment to the rule of law, human rights, human security, while balancing it with the importance of preserving national security. Balancing these two elements requires “political will” and “prioritizing” by the state’s security agencies and the top leadership.
 - c. ***Preventing potential security threats for other countries.*** If we don’t take them back, they will pose problem for another country. Lesson learned from Jama’ah Islamiyah case, where Malaysians were operating in neighbouring countries (Bali bombing 2002 and 2005).

Are they ready to come home?. Some Malaysians in al-Howl Camp did decide to return home, assured by government repatriation policy, the appeal from families in Malaysia. The recent change in the region, especially with the withdrawal of US forces in the region, seen an upsurge of IS activities. The sense of hope and optimism for the return of IS run high among the refugees. This affects their decision to return home. Some Malaysians, then, decided to stay.

4. ***Assessment, rehabilitation, and judicial process are the pillars of managing the returnees.*** Three level of assessments are vital and practiced; Psychological, ideological, and security assessment. For male returnees, they are subjected to thorough investigation, assessment, and normal judicial process (legal procedure and court hearing). Female returnees and children - a thorough investigation, assessment, rehabilitation program, and then reintegration to their families and monitoring.
5. ***Challenges in managing returning fighters and their families faced by the authorities, and civil society sectors.***
 - I. ***Public perception.*** Initial response from the public disfavor of repatriation policy. “why take the terrorist back, they will cause problem internally?” Naturally, the state needs consider pro and cons, cost benefit analysis, balancing human security and national security. Public perception has strong bearing on state’s policy. Politicians cannot afford to lose public support and confidence to the ruling party, by taking “unpopular position” or policy. Considering the views of professional security practitioners are vital.
 - II. ***The role of civil society.*** In this work, CSO is a mediating agency, balancing the “interest and will of the state” and the “interest of the public and stakeholders”. The challenge is, among others, to preserving the integrity of CSO as an independent, no-string-attached organisation in the eyes of the public and stakeholders, while maintaining good relations with the state, and operationalizing the “interest of the state” in the context of nation-building. Strategic partnership between the state and CSOs is much more sustainable in the long run.

- III. *Stigmatisation*. The need to promote stigmatisation without we realise it, such as the term FTF. CSOs need to avoid using this term. The families of the returnees, (parents, children, and relatives) have to go through living with the stigma of being associated with terrorist. Children who suffers stigmatisation in school experiences depression, after his classmate learning his father was arrested for terrorism charges.
- IV. *Lack of assessment tools*. Psychological, ideological assessment needs specific tools specially designed for the returning fighters and their families. The existing psychological assessment tools need to be modified to suit the nature of the case.

6. Some Recommendation. I would to put forth the following recommendation:

- I. *Policy of repatriation*: the state needs to consider long-term implications of refusing their citizens to return, while providing sufficient legal and rehabilitative process when they are repatriated. Repatriation is a low-key operation. Given the nature of the case, it should be a low-key event not with the full view of the public.
- II. *Developing assessment tool for the returnees*. E.g. Radicalisation, Extremism Assessment Scale (REXAS) to assess the extent the psychological and ideological state.
- III. *Detention with education*. Collaboration between universities and prison authorities to offer certificates for inmates; education is the best method, besides entrepreneurial skills, to change their life for the better. Educative approach may increase the effectiveness of rehabilitation approach, while promote the lifelong learning.

I hope the sharing is useful. Thank you!