

Report of the book launch

Foreign Fighters under International Law and Beyond

31 May 2016, The Hague

On 31 May 2016, the T.M.C. Asser Instituut hosted the launch of the book [Foreign Fighters under International Law and Beyond](#) and a subsequent panel discussion. The event followed the earlier co-launch of the book at the Scuola Superiore Sant'Anna in Pisa last week. The book comprehensively addresses the foreign fighter phenomenon from a variety of perspectives in order to better understand it and to assist those grappling with issues associated with foreign fighters. It also aims to present deeper observations about foreign fighters that are insightful to future conflicts and dilemmas beyond the current situations in Iraq and Syria.

Following introductory remarks by Asser Senior Researcher and ICCT Research Fellow Dr. Christophe Paulussen, Dr. Francesca Capone, a Research Fellow in Public International Law at the Scuola Superiore Sant'Anna and the Didactic Coordinator of the Master in Human Rights and Conflict Management at the same institution, briefly presented the book and outlined the multidisciplinary approach taken. The main goal was to better understand the foreign fighter phenomenon – namely, by answering the questions of who foreign fighters are, why they leave their homes to join foreign wars, how dangerous they truly are, and how to best counter the phenomenon.

In answering the first question, Dr. Capone honed in on the distinction between foreign fighters and foreign terrorist fighters. Within the book, an intentionally broad definition of foreign fighters was favoured, defining them as 'individuals, driven mainly by ideology, religion and/or kinship, who leave their country of origin or their country of habitual residence to join a party engaged in an armed conflict'. Thus, the book addresses not only foreign fighters who join non-state groups but also those who support states in distress. In contrast, foreign terrorist fighters are defined in Security Council Resolution 2178 (2014) which ultimately hinges on the 'terrorist' intention of the individual. She noted that there is substantial confusion surrounding these two labels and stressed the benefits of being more precise in terminology.

Dr. Capone subsequently discussed the structure of the book. In the first chapters, the statistics and characteristics related to current armed conflicts in which foreign fighters are involved are examined, as well as the history of foreign fighters, drawing an interesting contrast between the mythology surrounding historical foreign fighters and the negative connotations that are associated with them today. The multidisciplinary nature of the volume emerges at its best in this first part which examines, inter alia, the factors that motivate foreign fighters' choice, the role of social media in the recruitment process and the peculiar situation of female foreign fighters. The second part of the volume examines the status of foreign fighters under different branches of international law, including international humanitarian law, international human rights law, and international criminal law. In the third part, the supranational dimension is considered by analysing the international obligations of various states involved with foreign fighters, including the state(s) of nationality or habitual residence, the state(s) of

transit and the state(s) of destination. Then the book considers how states are tackling issues surrounding foreign fighters at national levels and finally concludes with the findings of the volume. In this respect, the authors stress the importance of identifying and comprehensively addressing the factors that lie behind the decision to become a foreign fighter.

Edwin Bakker, Professor of (Counter-)Terrorism Studies and Director of the Institute of Security and Global Affairs at Leiden University, spoke next and focused on the magnitude of the foreign fighter problem. While he noted that foreigners travelling to join conflicts abroad is not a new issue, he emphasised that the amount of travellers to Syria and Iraq is unprecedented and is largely beyond the control of many organisations seeking to limit the flow of people. The phenomenon has become more global than ever before and, while estimates vary due to a number of factors, evidence suggests that many individuals are still travelling. This leads to a troubling conclusion which is that perhaps we are still not entirely aware of all that is going on.

Professor Bakker went on to highlight the problems associated with the present focus on European foreign fighters. He suggested that currently the focus is largely on Europeans who travel abroad and on the threats posed to Europe by foreign fighters. This is problematic as it doesn't consider the damage foreign fighters cause in the territories in which they fight or the spill-over effects in states bordering conflict zones. While past research has shown that many foreign fighters die in battle or remain in the territory following the cessation of the conflict, others return home or seek to relocate elsewhere, including in Europe. Thus this is a truly global problem and should be addressed accordingly.

Similarly, Professor Bakker drew attention to the focus on Sunni jihadi fighters, which currently excludes other foreign fighters who do not fall into this group. Although he acknowledged that a large amount of foreign fighters fit into the former category, this focus ignores other groups that attract foreign fighters, including Shi'ite groups, Hezbollah, Kurdish militia groups, Christian militia groups and pro-Assad forces. This narrow view then creates practical problems down the line, especially for prosecutors who are determining who to charge and who falls under the 'terrorist' label. He concluded by encouraging those studying or responding to the phenomenon to look beyond these narrow categories and to significantly widen the lens through which we view foreign fighters.

Afterwards, Mr. Mark Singleton, the Acting Head of the Administrative Unit of the Global Counterterrorism Forum and a career diplomat, spoke about the latest developments in relation to foreign fighters since the publication of the book. His talk was thematic, focusing on current symptoms of, causes of and responses to foreign fighters. In relation to the first point, Mr. Singleton highlighted that the number of individuals travelling continues to vary across the world, with some regions seeing an increase and others a decrease. Similarly, there has been growing recognition of the threat posed by returnees as well as those who relocate in other states, particularly when the conflict spills into neighbouring countries in the region. Concerns surrounding the global nature of terrorist groups have also received increasing recognition. Despite this, Mr. Singleton noted that the magnitude of the issue remains contentious and that states are still struggling to respond, due in part to the lack of information available.

In terms of causes, Mr. Singleton noted that the current rise in foreign fighter flows emerged largely due to the Syrian conflict and the aftermath of the Iraq conflict. However, with the self-declared caliphate in Syria and Iraq now shrinking as a result of the Coalition's military campaign, foreign fighters have been travelling to other areas or potential caliphates, including northern and western Africa. Despite these military gains, a political solution to the Syrian conflict remains elusive. The multitude of conflicting interests continues to hamper the prospects of making significant political progress. Defeating ISIS is unlikely, and we are already witnessing a change in tactics, with "hit and run" attacks in areas outside its territorial control. When examining the causes for the unprecedented increase of foreign fighters, Mr Singleton warned for possible negative side-effects of El Nino, citing the example of Somalia, where a severe drought is empowering Al Shabaab's appeal among the suffering population, thanks to its doling out of food aid.

Mr. Singleton then briefly discussed recent developments in how states respond to foreign fighters. He noted that the knee jerk reaction by states continues to focus on the use of repressive measures at the national level, including criminal law and administrative measures. These types of responses are tactical, rather than strategic, and do not properly address the transnational element of the threat. He highlighted the seeming contradiction between two approaches taken by states: first, the 'enemy' centric approach to foreign fighters, in which states use the military or police to address foreign fighters; and second, the policies that aim at countering or preventing violent extremism, in which states pledge to prevent radicalisation and reintegrate fighters. He argued that the focus has been on the former type of measures with the latter so far failing to materialise at scale. Similarly, efforts were being made to increase cross-border communication between states but too little had been done in this area to date. Going forward, Mr. Singleton suggested that we need to thoroughly examine which responses are the most effective and work towards a more credible global architecture with firm leadership, a vision and a comprehensive strategy.

The panel discussion was followed by a lively Q&A session, moderated by Dr. Christophe Paulussen. The questions considered issues such as the role of female foreign fighters, the links between foreign fighters and organised crime, the distinction between foreign fighters and mercenaries, and state responsibility. The evening was concluded by Mr. Frank Bakker (T.M.C. Asser Press), who thanked everyone who contributed to the book and who invited the audience for a reception, kindly offered by ICCT.