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Criminal and Transitional Justice Preferences for Former Boko Haram Associates

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MANAGING EXITS
FROM ARMED CONFLICT

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KEY FINDINGS

- Most people do not want repentant former Boko Haram affiliates to be punished. Only about a quarter of respondents wanted them to be punished, and the most commonly chosen type of punishment was prosecution.
- Although most respondents were not familiar with the government's programme to rehabilitate former Boko Haram associates, trust in the courts charged with handling their prosecution, and support for their detention, are both high.
- When asked about rehabilitation preferences for former Boko Haram affiliates, respondents overwhelmingly selected education (religious re-education, formal education, and skills training).

This Findings Report, and the research that supported it, were undertaken as part of UNU-CPR's Managing Exits from Armed Conflict (MEAC) project. MEAC is a multi-donor, multi-partner initiative to develop a unified, rigorous approach to examining how and why individuals exit armed conflict and evaluating the efficacy of interventions meant to support their transitions. While the Findings Report benefited from feedback from MEAC's donors and institutional partners, it does not necessarily represent their official policies or positions.

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Background

About MEAC

How and why do individuals exit armed groups, and how do they do so sustainably, without falling back into conflict cycles?

These questions are at the core of UNU-CPR's Managing Exits from Armed Conflict (MEAC) initiative. MEAC is a multi-year, multi-partner collaboration that aims to develop a unified, rigorous approach to examining how and why individuals exit armed conflict and evaluating the efficacy of interventions meant to support their transition to civilian life. MEAC seeks to inform evidence-based programme design and implementation in real time to improve efficacy. At the strategic level, the cross-programme, cross-agency lessons that will emerge from the growing MEAC evidence base will support more effective conflict resolution and peacebuilding efforts. MEAC is supported by the Norwegian Ministry of Foreign Affairs, Switzerland's Federal Department of Foreign Affairs (FDFA), the UK Foreign, Commonwealth and Development Office (FCDO), Irish Aid, and the UN Development Programme (UNDP), and is being run in partnership with the UN Department of Peace Operations (DPO), UNICEF, the International Organization for Migration (IOM), and the World Bank.

About this Series

The MEAC findings report series seeks to put evidence about conflict transitions and related programming into the hands of policymakers and practitioners in real time. The reports present short overviews of findings (or emerging findings) across a wide range of thematic areas and include analyses on their political or practical implications for the UN and its partners.

About this Report

This report is based on data collected from December 2020 to March 2021, as part of a phone survey with a representative sample of 2,963 community members from key locations in and around the Maiduguri metropolitan area in Borno State, Nigeria. It presents data on the public's perspectives on transitional and criminal justice as a way for responding to former Boko Haram associates. This data may be useful to UN and NGO partners working in the region to bolster their reintegration programming, as well as efforts to support the communities who receive former Boko Haram associates. This report will examine the public's receptivity to apply transitional justice to returning armed group associates, either as an alternative or alongside criminal justice and counter-terrorism approaches to Boko Haram. These insights are unique as this data is collected in ongoing conflict, while reintegration is actively occurring and communities in and around Maiduguri are receiving those who exit Boko Haram and other armed groups. The report ends with an examination of key policy and programmatic implications of these findings.

Transitional Justice Approaches When Reaching the Limits of Punishment

Overview

Over the last decade, the response to Boko Haram has been varied, including a focus on kinetic counter-insurgency operations as well as a defectors programme and dalliances with other transitional justice staples such as amnesties. It has never been clear if these components are part of a coherent strategy to weaken Boko Haram factions, address victims' and impacted communities' needs, and promote reconciliation. Nor has there been widespread agreement on which approaches to pursue, with politicians in the North East, victims' groups, the federal Government, and the public, proposing – and opposing – various options for how to handle the armed factions and those associated with them. For example, for years the federal Government has operated Operation Safe Corridor (OSC) to “deradicalize” and rehabilitate low-risk former associates of Boko Haram who surrender to the military. It has remained unclear what the exact criteria are for qualifying for this programme and whether entry to OSC bestows a blanket amnesty on participants. What is clear is that the public seems to know little about the programme and what “graduating” from it signifies. Indeed, this survey found that only 21 per cent of people in and around Maiduguri had ever heard of it.¹

The question of how to respond to Boko Haram affiliates in a realistic way that respects human rights, addresses the needs of victims, and facilitates reconciliation and peacebuilding has taken on a new urgency of late. In recent months, following the death of Shekau, the leader of the Jama'atu Ahlussunnah Lidda'awati Wal Jihad (JAS) faction, thousands of fighters and associates exiting this faction, and farmers and their families that lived in areas under its control, have descended on Maiduguri.² The high number of surrenders overwhelmed existing transit centres that normally support low-risk associates coming out of OSC and exposed tension between different government actors over how best to respond to them.³ While earlier publications⁴ noted high levels of public receptivity to reintegrating former associates of Boko Haram in and around Maiduguri, the influx of so many people – some of them being higher level commanders – without a plan on how to quickly and carefully handle them, appears to be rattling nerves⁵ and may undermine the public's openness

¹ Respondents were asked: “Are you familiar with Operation Safe Corridor in Gombe where people formerly with Boko Haram are taken by the government to be reoriented?”

² [“Almost 6,000 Boko Haram fighters have surrendered, Nigerian army says,” Reuters](#), 2 September 2021.

³ Even before the influx of Shekau faction associates and those who lived under the group, there was conflict over how to handle defectors and Boko Haram associates. In March 2021, Governor Zulum of Borno claimed that “...Safe Corridor is not working as expected. Quite often, those who have passed through the Safe Corridor initiative, or have been deradicalised, usually go back and rejoin the terror group...” See, Femi Owolabi, [“Zulum: ‘Repentant’ Boko Haram members end up as spies for the insurgents,” The Cable](#), 5 March 2021.

⁴ See, Rebecca Littman, Siobhan O’Neil, Kato Van Broeckhoven, Mohammed Bukar, and Zoe Marks, [“Community Acceptance of Former Boko Haram Affiliates,” MEAC Findings Report 7](#) (New York: United Nations University, 2021); and Rebecca Littman, Siobhan O’Neil, Kato Van Broeckhoven, Zoe Marks, and Fatima Yetcha Ajimi Badu, [“Social, Economic, and Civic Reintegration of Former Boko Haram Affiliates,” MEAC Findings Report 10](#) (New York: United Nations University, 2021).

⁵ [Ruth Maclean](#) and Ismail Alfa, [“Thousands of Boko Haram Members Surrendered. They Moved In Next Door,” The New York Times](#), 2 November 2021.

to their return. It is a key moment to better understand the public's preferences when it comes to criminal and transitional justice so as to inform any programmatic response.

The following brief provides an overview of the criminal and transitional justice preferences of people in and around Maiduguri with regard to Boko Haram affiliates based on survey data collected between December 2020 and March 2021. UNU-CPR and one of its implementing partners in Nigeria – Innovations for Poverty Action (IPA) – conducted a phone survey with 2,963 people from Maiduguri Metropolitan Council (MMC), Jere, and Konduga.⁶ Respondents were asked a set of questions about what they thought should happen to those who exit Boko Haram. One set of these questions focused on a generic “man” and “woman” who are coming out of Boko Haram, while other questions provided a more detailed fictional profile of a repentant former affiliate, and varied his/her gender (“Usman” or “Fatima”) and age (12- or 28-years old). This series of questions was designed to measure differences in people's willingness to receive different types of former Boko Haram associates into their community and to ascertain whether receptivity is influenced by various criminal justice, transitional justice, or programmatic interventions.

Findings

When seeking to craft strategies responding to insurgency and terrorism that have public buy-in, it is important to accurately and holistically gauge public preferences. The survey detailed in this report asked respondents about their criminal justice, transitional justice,⁷ and programming preferences for former associates of Boko Haram in Nigeria. After being presented with a fictional profile of Usman or Fatima, either described as a 12-year-old or 28-year-old, who had been with Boko Haram for a year and who was repentant and wanted to return home, respondents were asked what should happen to them.

Desire for Punishment

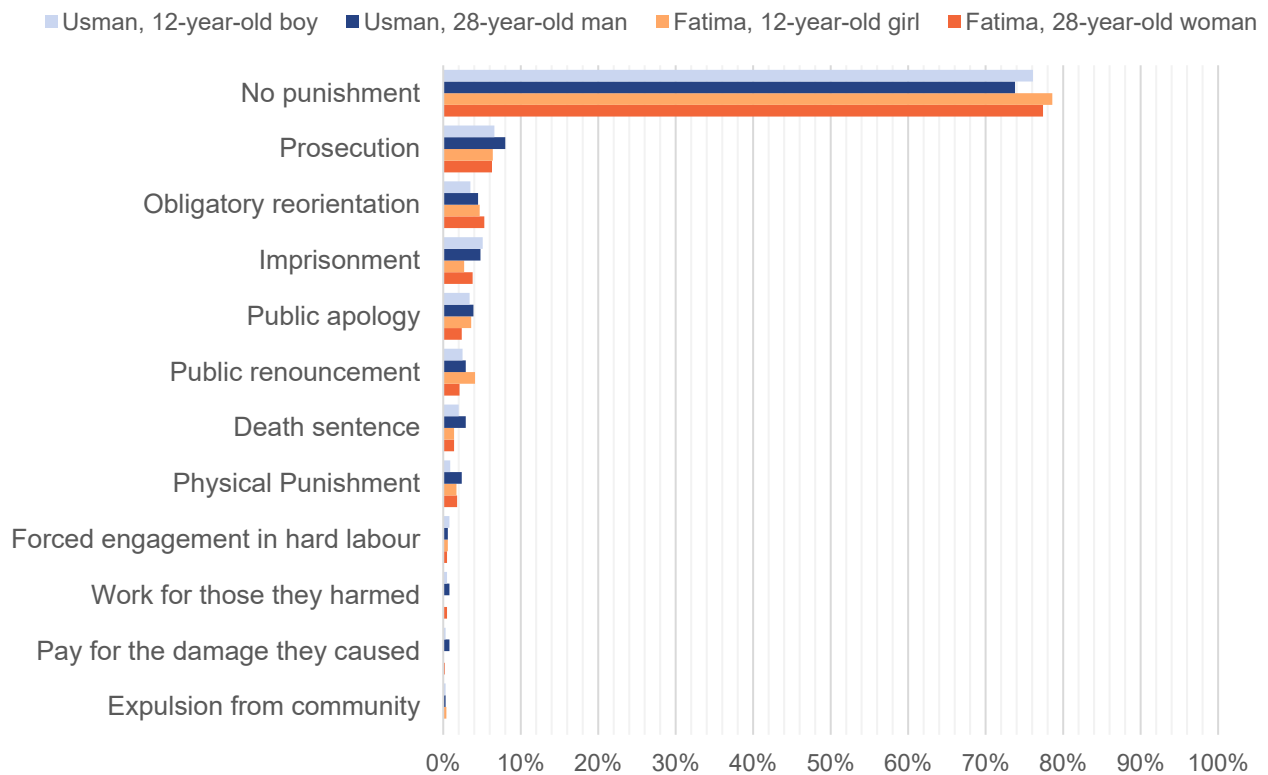
Overwhelmingly, the public did not want Fatima or Usman punished regardless of age (74-79 per cent did not want them punished). The roughly one quarter of respondents who said they did want punishment were then asked what kind of punishment(s) Fatima or Usman should receive. The question was asked in an open-ended way, and enumerators classified respondent answers against a list that included classic criminal justice punishments and obligatory transitional justice or reintegration programming. While not all of the responses may be considered punishments by the Nigerian Government or humanitarian community (e.g., mandatory reorientation and public apologies), they represent what people in Maiduguri think of as punishments.

⁶ This research was conducted in partnership with several researchers, spearheaded by Dr Rebecca Littman, University of Illinois at Chicago, in partnership with Dr Zoe Marks, Harvard Kennedy School, and conducted and facilitated on the ground principally by Innovations for Poverty Action (IPA), with support from Mobukar Consultancy. More information on MEAC partners and donors is available at: <https://cpr.unu.edu/research/projects/meac.html#outline>.

⁷ In contexts where conflict or repression have been so widespread, abuses so systematic and numerous, and where regular criminal justice responses are inadequate to respond, there is often focus on transitional justice. Transitional justice seeks to enhance accountability, allow redress for victims, and promote reconciliation and healing in a society on a large scale. This means that not every violation is individually addressed. Transitional justice can take various forms, often in combination: criminal prosecutions for the most serious crimes, amnesty for lower-level conflict involvement, public apologies, reparations for victims, and truth commissions, amongst other approaches. For more information see, International Center for Transitional Justice, “What is Transitional Justice?,” last accessed 15 November 2021, <https://www.ictj.org/about/transitional-justice>.

As Figure 1 highlights, even the most commonly mentioned “punishment” of prosecution was only selected by 6-8 per cent of the total sample. There were lower levels of support for obligatory reorientation – a reference to reintegration and rehabilitation programming (4-5 per cent) and imprisonment (3-5 per cent), public apology (2-4 per cent) or a public renouncement of Boko Haram (2-4 per cent). Support for capital or corporal punishment was very low (1-2 per cent and 1-3 per cent respectively). Almost no respondents wanted expulsion from the community, hard labour, or reparations either in terms of cash or labour (less than 1 per cent of the total sample). Across almost all punishment preferences, there were no significant differences by gender or age, with one exception: respondents wanted Usman to be imprisoned more than Fatima. While traditional criminal justice options remained popular among those respondents who wanted Usman and Fatima punished (e.g., prosecution, imprisonment) some of the more transitional justice-oriented approaches were also on par with the criminal justice approaches (apologies and public repentance, although not reparations).

Figure 1 – Preferred “Punishments” for Former Boko Haram Associates



When considering counter-insurgency and counter-terrorism strategies, it is important to not only think of how palatable responses are to the public (i.e., they are seen as just or well-calibrated), but also how they potentially shift attitudes, emotions, and behaviour, and whether that can influence peacebuilding efforts. This is particularly true with regard to community acceptance of reintegrating former armed group associates. Among those respondents that wanted punishment, overwhelmingly they said that they would forgive Fatima or Usman (86-92 per cent) and would be okay with them

living in their community (84-89 per cent) if they received their selected punishment.⁸ Among the full sample, the already high levels of support for Fatima or Usman returning to the community (85-90 per cent) are even higher when the former associates are described as publicly asking the community for forgiveness (91-92 per cent) or swearing on the Quran that he/she is truly repentant (91-94 per cent). Violating an oath on the Quran is considered a major sin by Muslims in the North East, and the increase in receptivity to return could be related to the widely held belief that anyone who breaks a pledge that was made on the Quran will be punished in this life or the next (or both). Thus, swearing on the Quran is a costly signal, which enhances community receptivity to returning Boko Haram associates.

The findings suggest that those who want Usman and Fatima punished are generally also less receptive to their return to the community. Examining the response to the Usman narrative demonstrates this. Among those who do not want Usman to be punished, 91 per cent are willing to accept him back. Among those who do want him punished, 76 per cent are willing to accept him back. If Usman received his punishment, however, acceptance rates among this group go up to 86 per cent. For the less receptive portion of the population who want Usman punished, knowing he received their preferred punishment has an important impact on their willingness to accept Usman back.

At the very least, tolerance for the co-location of former armed group associates may not represent a behavioural or emotional shift towards them. That is to say, people may tolerate returning ex-associates living in their community, but they may not necessarily socialize or do business with them, nor may they forgive them or stop being angry at them. There has long been the assumption that forgiveness is key to promoting reintegration and reconciliation after conflict. Forgiveness is generally defined as “a conscious, deliberate decision to release feelings of resentment or vengeance toward a person or group who has harmed you, regardless of whether they actually deserve your forgiveness.”⁹ One possible explanation for the high rates of willingness to forgive – whether asked about a generic man or woman, or asked about forgiveness after a former associate receives a punishment – is the widespread belief that people who had been with Boko Haram are often victims themselves. In response to being presented with the fictional Usman or Fatima profile – either described as a 12- or 28-year-old – the majority of the public sees them as victims of the conflict (78-82 per cent across profiles). Moreover, Islam encourages Muslims to forgive those who show humility and ask for forgiveness. It is widely believed that you are more likely to be forgiven by God for your wrongdoings if you forgive those who wronged you. The culture of forgiveness in the North East likely helps explain the high levels of willingness to forgive former Boko Haram associates in the survey data.

Trust in Government Response

In the Nigerian context, it is important to specifically ask about public preferences on detention. The relationship between detention and criminal justice processes and of transitional justice opportunities and reintegration programming trajectories is not always clear. There are reports of widespread,

⁸ As detailed in a previous findings brief, without being given much information on the potential returnees, 69-71 per cent of respondents were okay with a generic male or female former associate living in their community. These levels of acceptance are lower than when respondents were asked later in the same survey if they would be okay with Fatima or Usman returning to their community. See Rebecca Littman, Siobhan O’Neil, Kato Van Broeckhoven, Mohammed Bukar, and Zoe Marks, “[Community Acceptance of Former Boko Haram Affiliates](#),” *MEAC Findings Report 7* (New York: United Nations University, 2021).

⁹ The Greater Good Science Center at the University of California, Berkeley, “Forgiveness Defined,” last accessed 12 October 2021, <https://greatergood.berkeley.edu/topic/forgiveness/definition>.

arbitrary detention of individuals suspected of Boko Haram affiliation without indications of movement toward a criminal justice process. The low-risk associates that come through OSC usually come from detention – although this path is not necessarily followed by all groups (e.g., children) and OSC processes have changed over time.¹⁰

Even though the overwhelming majority of respondents said that they do not think Fatima or Usman should be punished, they still broadly trust government institutions to respond and largely approve of the government's approach. 84 per cent of respondents said they trust the government courts to try Boko Haram members, and 77 per cent said they approve of the government detaining individuals who are suspected of association. Interestingly, the approval rates for detention dropped drastically when respondents were asked if they approve of the government detaining someone who has repented (46 per cent). When asked directly if they approve of the government reorienting these repentant former associates, 62 per cent of respondents said yes. These questions were asked broadly, and not in the context of OSC, as previous surveys – and ongoing data collection – suggest that name recognition and knowledge of the OSC programme remain low amongst the public in and around Maiduguri.

Although trust and approval levels are clearly high, it seems that people are not very familiar with the government-run rehabilitation processes. As mentioned earlier, only 21 per cent of respondents reported being familiar with OSC, the Nigerian rehabilitation programme to support the reintegration of “low-risk” Boko Haram defectors. Those who knew of the programme, seemed to have a relatively high level of trust in the process. Only 32 per cent said yes when asked if they thought people coming out of OSC pose a threat to society. Interestingly, there is a significant gender gap in familiarity with OSC. Only 14 per cent of women and girls knew about the programme, compared to 30 per cent of men and boys. This may reflect different information flows for women/girls and men/boys and the need for gender-responsive information campaigns around the defectors programme. It is also worth noting that of those who had heard about OSC, there are similar levels of concern among women, girls, men, and boys about whether programme graduates pose a threat (31 per cent for women/girls, 33 per cent for men/boys).

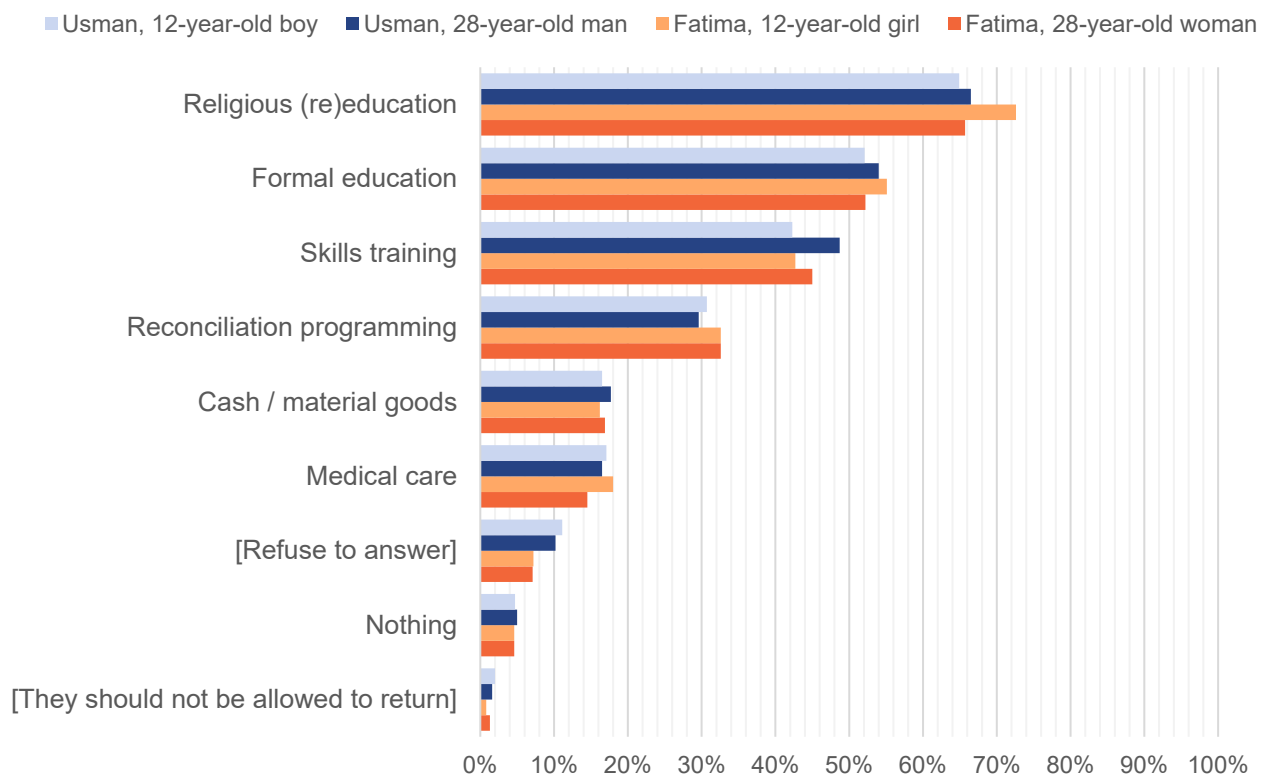
Reintegration Preferences

To further break down what reintegration should entail, respondents were asked what type of reorientation Fatima or Usman should get before being allowed to return to their community.¹¹ Contrary to the question about punishment, all respondents were asked this question. The answer options were read out loud, and all participants indicated yes or no for each potential aspect of reintegration programming.¹² Figure 2 shows the list of multiple-choice options that was given to respondents, as well as the responses for each fictional profile.

¹⁰ It could be argued – since one cannot leave of their own accord – that the entire OSC pipeline, including the UN-supported transit centres in Borno State, is technically detention.

¹¹ Respondents were asked about what type of “reorientation” Fatima or Usman should receive before returning to the community. The term “reorientation” is used here because it most closely reflects the back translation of “reintegration” in Hausa and Kanuri. The list of answer options is the result of extensive consultations with local researchers, as well as testing, to ensure that the terms accurately reflect the local understanding of what falls under “reorientation.” Psychological support, for example, was not included separately in this list, because of a lack of local terms to describe this type of support. It is possible that respondents include this type of support under religious (re)education, as advice and counseling is generally obtained from religious leaders.

¹² Two answer options were not read out loud: “Refuse to answer”, and “They should not be allowed to return.”

Figure 2 – Preferred Reintegration (or “Reorientation”) Preferences

Overwhelmingly, respondents chose religious re-education (65-73 per cent across profiles), followed by formal education (52-55 per cent) and skills training (42-49 per cent). Around 30 per cent supported reconciliation programming. The portion of respondents who thought nothing was needed before Usman or Fatima returned home was low (5 per cent), as was the percentage of the public who thought they should not be allowed to return at all (1-2 per cent across profiles).

The focus on religious re-education and formal education likely speaks to the perception that those who were with Boko Haram were exposed to a narrow world view and may have bought into a “perverse” form of Islam. The feeling is that those returning would need to be set straight about religion and the world before they return home. For some respondents, the choice of religious re-education may be less about scripture and dogma than mentoring or counselling from a trusted religious leader, which in other contexts may have been conceptualized as “psychosocial support.” The emphasis on religious re-education may not reflect the impact religion or ideology had on why people became associated with Boko Haram in the first place. In the Nigerian context, it is particularly important to note how many people were abducted into Boko Haram and had very little – if any – agency in their association with the group. This mismatch between perceived motivations and actual precipitating factors that lead to recruitment by armed groups highlights the potential challenge to crafting reintegration programming that is tailored to actual client needs while managing public expectations. It is also important to understand that why someone was influenced to associate with an armed group and how they talk about those reasons after the fact – especially after being detained, imprisoned, or having been engaged in violence – may be very different. Earlier research by UNU-CPR draws attention to the difference between ideological motivation or the influence of religion

(which can be a proxy for numerous things) in joining a group or cause, and indoctrination while in a group and *post facto* justification.¹³

Policy and Programmatic Implications

The findings detailed in this report have several policy and programmatic implications. First, there are indications that more transitional justice-oriented responses may have utility in the North East of Nigeria. Second, the findings suggest that while there are general public preferences around how to respond to former Boko Haram associates, there are some small differences depending on the profile of the individual exiting the group and the gender of the respondent. Third, as highlighted in an earlier report, there is little public knowledge of OSC, and it is possible that enhanced communications campaigns around this programme – and its requirements, components, and the assurances and status it confers – could influence public receptivity to graduating programme participants.

While transitional justice approaches have been promoted and employed in many conflict-affected countries, support for them often dissipates when listed terrorist groups, or those characterized as “violent extremist”, are involved. When groups are designated or labeled in these ways, often there is a preference – or public pressure – to pursue a hard-line response to them. As such, some of the transitional justice options for such groups, like amnesties or deferred prosecution, are rejected out of hand. The evidence from Nigeria is more mixed. There is some public interest in apologies or demonstrations of public repentance, and demonstrated repentance may have a positive impact on the public’s willingness to forgive former Boko Haram associates. This is important given the size of the population that has been associated with the group in some form, and the limitations of a purely military or criminal justice approach in Nigeria.

Given the challenges in outright defeating Boko Haram’s various factions with military means, the limited capacity of the criminal justice system in the North East of Nigeria to investigate and prosecute so many cases in line with human rights standards, and the inability to distinguish victims and perpetrators, transitional justice responses could prove valuable for promoting accountability and reconciliation. This finding builds on earlier research by UNU-CPR and the Institute for Integrated Transitions (IFIT) that found that “transitional justice could help places like Nigeria, Somalia and Iraq construct the framework for a strategy against violent extremist organizations capable of 1) enticing exit, 2) providing accountability, 3) offering redress to affected communities, and 4) addressing the conditions conducive to the creation and support of such organizations.”¹⁴

As detailed in previous reports as well as in a forthcoming one, gender – both of respondents and of the fictional Boko Haram associate presented in the survey – can impact public preferences for government responses. This report detailed how there were higher levels of support for imprisoning Usman than for Fatima, which follows some of the heightened concerns around men who were formerly associated with the group that have been previously reported. In addition, women and girls may not have the same level of information about the government response to Boko Haram. More research is needed to discern how different levels of familiarity with government policy and practice influences criminal and transitional justice preferences for ex-affiliates. Such differentials also

¹³ Siobhan O’Neil and Kato Van Broeckhoven, eds., [Cradled by Conflict: Child Involvement with Armed Groups in Contemporary Conflict](#) (New York: United Nations University, 2018): 63-64, 124, 238.

¹⁴ Ronald Slye and Mark Freeman, [The Limits of Punishment. Transitional Justice and Violent Extremism. Framework Paper](#) (New York: United Nations University, 2018): p. 4.

highlight the potential need for gender-sensitive communication campaigns around counter-terrorism and reintegration policy and practice.

Given how much attention has been paid to OSC by the Nigerian Government and the international community, it would be expected that reorientation programming would have garnered more public awareness. This survey highlighted the public's low knowledge of the programme, which may have influenced the modest public preferences around reorientation. The interest in public apologies or denouncements of Boko Haram, approaches that are not part of an organized, national strategy currently, may hint at why. Unlike OSC, the public has more clarity about what such apologies or denouncements mean. In the way the questions were posed, they were more likely to have direct knowledge of – or even possibly witness them – as they are likely local initiatives. When the purpose and the details of transitional justice approaches are unclear to the public or the armed group associates they are aimed at, this can produce a number of negative effects.¹⁵ As earlier work by UNU-CPR and IFIT has concluded, "...it is crucial for policymakers to understand that every transitional justice policy choice (on amnesty, accountability, reparations or anything else) will have a 'signalling' function for the target armed group."¹⁶ Without proper signalling, the transitional justice measure may not provide the clarity and assurances to effectively incentivize defections, prevent re-recruitment, assuage the fears of the public, or create accountability for perpetrators. All this – in addition to the low level of knowledge about OSC – points to the value of enhancing the clarity and communications around this programme.

Doing so may be more important than ever now that a reported number of around 8000 people who lived under the control of Boko Haram's JAS faction, and former associates, have descended on Maiduguri.¹⁷ This is a much larger population than the smaller cohorts that have passed through OSC and then transited through the Bulumkutu and Shokari centres in past years. It is also made up of people with vastly different relationships to JAS – from farmers who lived under the group to high level commanders. Signalling to the public – which likely feels overwhelmed by this influx – about how these people will be handled, and what that indicates for their own security and justice, will be key in easing the reintegration of these ex-combatants and former associates, and perhaps even enticing members of the rival Boko Haram factions about their prospects for defection. In a positive sign – after months of divergent messages – both Governor Zulum¹⁸ and the Shehu¹⁹ recently signalled their support for the reintegration of Boko Haram members that have surrendered. More transparency and public support from different levels of government can help generate support for reintegration processes at a critical time.

¹⁵ Ibid: 5.

¹⁶ Ibid.

¹⁷ ["Over 8,000 Boko Haram terrorists have surrendered," Vanguard, 22 September 2021.](#)

¹⁸ Umaru Yakubu Kirawa, ["The Governor's Media Chat with Governor Zulum," YouTube, 4 November 2021.](#)

¹⁹ ["Borno Meeting Over Boko Haram Members' Surrender," Vanguard, 4 November 2021.](#)

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