

HOW DOES PUNISHMENT AFFECT REINTEGRATION? EVIDENCE FROM ISLAMIC STATE “COLLABORATORS” IN IRAQ

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ABSTRACT

How does variation in the severity of punishment affect public opinion toward the reintegration of former nonviolent offenders? We study this question in the context of Iraq, where the United States has been heavily involved in the design and development of criminal justice institutions since overthrowing Saddam Hussein’s dictatorship in 2003. Building upon extensive fieldwork and interviews in Iraq, we designed a survey experiment—a method developed in the social sciences but not yet widely used by legal scholars—that randomly varied the severity of sentences in hypothetical scenarios of nonviolent Islamic State “collaborators” (e.g., cleaners, cooks, and wives of fighters) to estimate the causal effects of punishment on attitudes toward reintegration. We find that a long prison sentence (15 years) does not increase the likelihood of participants’ willingness to allow the reintegration of former offenders, but a noncarceral punishment (community service) has a small but statistically significant positive effect. Our most striking finding is that noncarceral and community-based justice mechanisms can significantly increase the likelihood of successful reintegration after punishment. Fifteen percent of respondents who were initially opposed to the return of former offenders into their communities said that they would be willing to change their judgment and support reintegration if they were asked to do so by a tribal or religious leader, or if the offender completes a noncarceral rehabilitation program. These findings suggest that noncarceral, restorative, and community-based justice mechanisms may be equally or even more effective than long-term incarceration for achieving the objectives of rehabilitation and eventual reintegration of former nonviolent offenders. Our study also advances the field of comparative empirical legal scholarship by providing an innovative experimental research design that can be replicated by scholars studying other contexts including the United States to help answer important questions about the causal effects of criminal justice policies.

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Both authors contributed equally. We thank the U.S. Institute of Peace, United Nations University, the Fox International Fellowship Program at Yale University, the GLD Program, and the Project on Middle East Political Science for generously funding this research. For helpful comments on earlier drafts, we thank Scott Anderson, Oona Hathaway, Andrew Kerr, Martin Lederman, David Luban, Ellen Lust, Jason Lyall, Megan Mattimoe, Milton Regan, Louis Michael Seidman, Rose Shaber-Twedt, Ruti Teitel, Kevin Tobia, Robin West, and Elisabeth Wood. The dataset and analysis code will be made available upon publication for replication and use by other scholars.

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INTRODUCTION

Incarceration has become the dominant form of punishment in the United States and many other countries around the world despite the availability of more humane and less costly noncarceral alternatives. The rapid growth of incarceration in the United States since the 1980s¹ has had important international consequences because the United States provides substantial economic assistance and advising to criminal justice systems in the developing world and post-conflict settings, often in the context of programs aimed at strengthening rule of law.² The United States' international assistance for criminal justice systems has led to the diffusion of American theories and practices of punishment abroad, a phenomenon that has been described as "U.S. criminal justice export."³ Since overthrowing the former dictatorship of Saddam Hussein in 2003, the United States has allocated hundreds of millions of dollars in assistance for the construction and maintenance of Iraqi prisons and courthouses⁴ for the purpose of promoting rule of law and counter-terrorism objectives in the face of a growing al-Qaeda led insurgency,⁵ in addition to training programs for Iraqi judges, prosecutors, and police officers.⁶

¹ The growth of the U.S. federal prison population accelerated dramatically in the 1980s from 25,000 in 1980 to 205,000 in 2015. # Nathan James, *The Federal Prison Population Buildup: Options for Congress*, CONGRESSIONAL RESEARCH SERVICE 1 (2016), <https://fas.org/sgp/crs/misc/R42937.pdf>. This 720% increase was driven by a series of "tough on crime" and "war on drugs" sentencing and law enforcement policy changes that disproportionately penalize African Americans. PAUL BUTLER, *CHOKEHOLD: POLICING BLACK MEN* (2018) ("[T]he war on drugs has been selectively waged against African Americans.").

² See, e.g., Bureau of International Narcotics and Law Enforcement Affairs, *INL Guide to Corrections Assistance*, U.S. Department of State 11 (2017), <https://2009-2017.state.gov/documents/organization/234722.pdf> ("Corrections-sector assistance improves the capacities and capabilities of the corrections sector to fulfill its role within the criminal justice system, including institutionalizing respect for human rights and the rule of law.").

³ Allegra M. McLeod, *Exporting U.S. Criminal Justice*, 29 *YALE L. & POL. REV.* 83, 85 (2010).

⁴ United States Office of Management and Budget, *Budget of the United States Government: Appendix 1171* (2008).

⁵ John Hagan & Anna Hanson, *The Militarization of Mass Incapacitation and Torture during the Sunni Insurgency and American Occupation of Iraq*, 5 *SOC. SCI.* 78 (2016).

⁶ RICHARD R. BRENNAN, JR., ET AL., *ENDING THE US WAR IN IRAQ: THE FINAL TRANSITION, OPERATIONAL*

The heavy costs of incarceration for both society and offenders are well-documented. In addition to the substantial per capita annual cost of imprisonment (more than \$36,000 in the United States⁷ and more than \$90,000 in Iraq's largely U.S.-built prison system⁸), prolonged incarceration harms prisoners' physical and mental health and hinders their ability to access education, voting, and employment after their eventual release. In recent years, a growing body of empirical evidence—both quantitative and qualitative—has called into question the effectiveness of incarceration for achieving its purported objectives of deterrence, incapacitation, retribution, rehabilitation and reintegration. First, several empirical studies have attempted to quantify the effects of incarceration on specific deterrence (recidivism) and general deterrence in diverse contexts including the United States, the United Kingdom, Sweden, and Italy, but the evidence is mixed and inconclusive.⁹ Second, incapacitation is not necessarily achieved through imprisonment.¹⁰ It is still possible to commit crimes within the confines of prison, for example, phone scams or violence against other inmates. Some offenders are able to continue engaging in criminal activity through “inside-outside” networks that operate both within prisons and externally, particularly prison gangs.¹¹ Jeremy Bentham warned that prisons may function as

MANEUVER, AND DISESTABLISHMENT OF UNITED STATES FORCES-IRAQ 197 (2013)(DoJ ... began training police officers and border security personnel in 2003 ... [and] trained prosecutors and judges.”)

⁷ Bureau of Prisons, *U.S. Department of Justice, Annual Determination of Average Cost of Incarceration*, 83 Federal Register 18863 (2018), <https://www.govinfo.gov/content/pkg/FR-2018-04-30/pdf/2018-09062.pdf>.

⁸ According to one estimate, the cost of incarceration in Iraq is around \$250 per day per prisoner. Multiplying this rate by 365 days, the annual cost of incarceration in Iraq is at least \$90,000. See Vera Mironova, *The Overloaded Prisons of Iraq*, FOREIGN AFF. (Dec. 1, 2016), <https://www.foreignaffairs.com/articles/iraq/2016-12-01/overloaded-prisons-iraq>.

⁹ See *infra* Section I.B.

¹⁰ See *infra* Section I.C.

¹¹ Dudley & James Bargent, *The Prison Dilemma: Latin America's incubators of organized crime*, 19 INSIGHT CRIME (Jan. 19, 2017), <https://www.insightcrime.org/investigations/prison-dilemma-latin-america-incubators-organized->

“schools of crime” in which inmates learn and adopt new criminal behaviors by learning from each other.¹² There are many examples of organized criminal groups that originated in prisons include the Aryan Brotherhood, a white supremacist group in the United States,¹³ the Brödrskapet, a Swedish prison gang,¹⁴ the Primeiro Comando da Capital in Brazil,¹⁵ and the Islamic State in Iraq, many of whose leaders were radicalized during incarceration in U.S.-administered prisons after the 2003 invasion and overthrow of Saddam Hussein—prisons that were later described as “jihadi universities.”¹⁶ Third, several studies shed light on how the experience of incarceration often has counter-productive consequences for rehabilitation and reintegration, particularly through stigmatization of and discrimination against former offenders.¹⁷

Given growing evidence that incarceration often fails to achieve its intended objectives and in many cases is counter-productive, there is a need for more empirical research on whether these objectives might be better achieved through noncarceral alternatives.¹⁸ Of the different purported

crime/.

¹² JEREMY BENTHAM, *THE RATIONALE OF PUNISHMENT* 48 (1830)(“[W]hen care is not taken to prevent the indiscriminate association of prisoners; but the juvenile and the hoary delinquent are allowed to meet and live together. Such prisons, instead of places for reform, are schools for crime.”).

¹³ Anti-Defamation League, *White Supremacist Prison Gangs in the United States: A Preliminary Inventory* (2016), https://www.adl.org/sites/default/files/documents/assets/pdf/combatting-hate/CR_4499_WhiteSupremacist-Report_web_vff.pdf.

¹⁴ WALTER ROBERTS, *PRISON GANGS: ORGANIZED CRIME BEHIND BARS* (2014).

¹⁵ Leonardo Coutinho, *The Evolution of the Most Lethal Criminal Organization in Brazil—the PCC*, 8 *PRISM* 56 (2019).

¹⁶ Patrice Taddonio, *How U.S. Prisons in Iraq Became “Jihadi Universities” for ISIS*, PBS FRONTLINE (May 17, 2016), <https://www.pbs.org/wgbh/frontline/article/how-u-s-prisons-in-iraq-became-jihadi-universities-for-isis/>.

¹⁷ See, e.g., Dominique Moran, *Prisoner Reintegration and the Stigma of Prison Time Inscribed on the Body*, *PUNISHM. SOC.* (2012)(discussing the long-term impact of stigmatization for former offenders released from Russian prisons). Wing Hong Chui & Kevin Kwok-Yin Cheng, *The Mark of an Ex-prisoner: Perceived Discrimination and Self-stigma of Young Men after Prison in Hong Kong*, 34 *DEVIAN'T BEHAV.* 671–684 (2013)(finding that former prisoners in Hong Kong often suffer from “self-stigma,” anticipating stigmatization and discrimination before they experience it).

¹⁸ Allegra M. McLeod, *Prison Abolition and Grounded Justice*, 62 *UCLA L. REV.* 1156 (2015)(“[Despite persistent

objectives of incarceration noted above, this study focuses on one: reintegration. Studying the effects of incarceration on reintegration is important because the vast majority of nonviolent offenders who are incarcerated will eventually be released,¹⁹ and will then face the challenge of social and economic reintegration into society. However, there has been very little quantitative research on how long-term incarceration—particularly in comparison with alternative noncarceral sanctions—may affect the likelihood that former nonviolent offenders will be able to successfully return to society after years or decades in prison.

The literature on reintegration often fails to seriously consider the importance of public opinion toward former offenders within the communities to which they return. If community members distrust and fear former offenders, the resulting stigmatization makes it difficult for former offenders to rebuild social relationships and find employment, which then increases their risk of recidivism. Theories of incarceration often rely on an implicit assumption that long prison sentences are necessary for former offenders to prove to society that they have been successfully rehabilitated and “paid their debt.” However, there is very little empirical evidence in support of

and increasing recognition of the deep problems that attend U.S. incarceration and prison-backed policing, criminal law scholarship has largely failed to consider how the goals of criminal law—principally deterrence, incapacitation, rehabilitation, and retributive justice—might be pursued by means entirely apart from criminal law enforcement.”).

¹⁹ The U.S. Department of Justice estimates that 95% of all state prisoners in the U.S. will eventually be released. See Bureau of Justice Statistics, *U.S. Department of Justice, Reentry Trends in the U.S.* (Oct. 2002), <https://www.ncjrs.gov/App/abstractdb/AbstractDBDetails.aspx?id=197334>. Currently, there is no comparable data available for Iraq, however, we can infer from Iraq’s large prison population and capital punishment rate that a high percentage of prisoners will eventually be released there. Iraq’s prison population was estimated to be 64,172 in 2017. See *infra* Section III.A, Figure 1. A life sentence in Iraq is generally interpreted as 20 years in prison or 15 years with good behavior. *German ‘IS’ Jihadi Spared Death Sentence in Iraq*, DEUTSCHE WELLE (Dec. 24, 2018), <https://www.dw.com/en/german-is-jihadi-spared-death-sentence-in-iraq/a-43515263>. In 2018, Iraq had the fifth highest capital punishment rate in the world with 52 executions and at least 271 death sentences. Amnesty International, *Global Report: Death Sentences and Executions* 46, 47 (2018), <https://www.amnesty.org/download/Documents/ACT5098702019ENGLISH.PDF>. Despite Iraq’s high capital punishment rate, its large prison population and the customary reduction of life sentences to 15-20 years suggests a high rate of eventual release.

this belief. There is also a widespread and similarly untested assumption that harsh and carceral punishments are more effective at achieving the objectives of rehabilitation and eventual reintegration than more lenient, restorative, and noncarceral punishments. We test and ultimately challenge the validity of these presumptions by asking and answering two empirical questions. Does incarceration actually promote perceptions of rehabilitation and increase the willingness of communities to allow the reintegration of former offenders? Furthermore, is prolonged incarceration the most effective punishment for facilitating eventual reintegration, or can shorter prison sentences or restorative noncarceral alternatives such as community service be equally or even more effective?

To address these questions, we conducted an original study to estimate the effects of different types of punishments on public opinion toward the reintegration of former offenders in the context of Iraq, where more than 20,000 people have been imprisoned on criminal charges of association with the Islamic State since the insurgent group's military defeat in 2017. The Islamic State is a Sunni Islamist rebel group that captured and governed substantial territory in Iraq between 2014 and 2017. Since Iraq's legal definition of membership in a terrorist group does not differentiate between violent and nonviolent offenders, many of these detainees are civilian "collaborators" accused of providing non-military support to the Islamic State by working as cooks, cleaners, and other civilian jobs.²⁰ In many cases, civilians living in Islamic State-captured areas disagreed with

²⁰ Kristen Kao & Mara Revkin, *How the Iraqi Crackdown on the Islamic State May actually Increase Support for the Islamic State*, Wash. Post (Jan. 7, 2019), <https://www.washingtonpost.com/news/monkey-cage/wp/2019/01/07/is-iraqs-post-islamic-state-justice-strategy-misguided/> ("Iraq's anti-terrorism law criminalizes membership in a terrorist group without requiring proof of a specific criminal act. Anyone with a plausible connection to the Islamic State including family members and unarmed civilian employees can be sentenced to life in prison, the minimum punishment allowed by the law.")

the group's ideology, were victims of its violence, and only cooperated in order to stay alive under conditions of extreme coercion. As one employee of the department of municipal services in Mosul explained why he decided to continue working in his job after the Islamic State captured the city, "Quitting was not an option because it would have been an act of rebellion, which would have put me and my family at risk for severe punishment."²¹ Nonetheless, there is a widespread belief among Iraqi security forces, prosecutors, and judges that anyone who lived under or worked for the Islamic State is complicit in the group's crimes, regardless of whether they acted voluntarily or involuntarily.²² As another interviewee explained, "People assume that everyone who stayed in Mosul is an Islamic State supporter or member, but many of us were victims."²³ Although Islamic State fighters are usually sentenced to death, civilian collaborators are generally punished with long but still less-than-life sentences of 15 years or less, depending on mitigating circumstances or good behavior, and will eventually be released. Understanding how variation in the severity of punishment affects public opinion toward these former nonviolent offenders is crucial to identifying the determinants of successful reintegration.

To study the relationship between punishment and reintegration, we collected original data on Iraqi public opinion toward hypothetical individuals convicted of nonviolent support for the Islamic State through an experiment embedded in a household survey of 1,458 residents of the Iraqi city of Mosul, which was the capital of the Islamic State between 2014 and 2017. Survey

²¹ Author interview with "Zyad" (35, municipal services) in Mosul, Iraq (April 2017). To ensure anonymity, all interviewees are identified by pseudonyms.

²² Mara R. Revkin, *Competitive Governance and Displacement Decisions Under Rebel Rule: Evidence from the Islamic State in Iraq*, J. CONFLICT RESOL. 3 (2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3365503.

²³ Author interview with "Khaled" (38, accountant) in Mosul, Iraq (April 2017).

experiments, which randomly assign treatments to respondents in the context of a survey to enable measurement of the causal effects of one or more independent variables on an outcome of interest,²⁴ have become increasingly common in the social sciences,²⁵ but are not yet widely used or cited by legal scholars with a few noteworthy exceptions.²⁶ In this article, we demonstrate how survey experiments can be leveraged to answer important empirical questions in legal scholarship, contributing to an emerging field of “experimental jurisprudence.”²⁷

The survey experiment presented respondents with three hypothetical scenarios of nonviolent Islamic State collaborators: a cook who prepared food for fighters, a janitor who worked for the department of municipal services, and the wife of a fighter. These hypothetical collaborators varied in their social intimacy with and physical proximity to Islamic State fighters. Whereas wives and cooks were closely linked to fighters, interacting with them on a daily basis, civilians who worked for non-military institutions of the Islamic State that provided services to civilians, such as janitors working in the municipal department, were more distant from the perpetrators of violent crimes. This study focuses on nonviolent collaborators because they are more plausible candidates for

²⁴ Yanna Krupnikov & Blake Findley, *Survey Experiments: Managing the Methodological Costs and Benefits*, in THE OXFORD HANDBOOK OF POLLING AND SURVEY METHODS (Lonna Rae Atkeson & R. Michael Alvarez, eds. 2016).

²⁵ See, e.g., James N. Druckman et al., *The Growth and Development of Experimental Research in Political Science*, 100 AM. POLIT. SCI. REV. 627–635 (2006).

²⁶ See, e.g., Adam Chilton, *The Influence of International Human Rights Agreements on Public Opinion: An Experimental Study*, 15 CHI. J. INT’L. L. 110 (2014) (using a survey experiment to assess whether information about international law changes perceptions of a domestic human rights issue: solitary confinement); Conor Clarke & Edward Fox, *Perceptions of Taxing and Spending: A Survey Experiment*, 124 YALE L.J. 1252, 1279 (2014) (using a survey experiment to measure perceptions of government spending, finding that the public strongly prefers spending through the tax code over direct expenditures); Bert. I. Huang, *Law’s Halo and the Moral Machine*, 119 COLUM. L. REV. 1811, 1812 (2019) (using a survey experiment to assess how law influences moral intuitions about artificial intelligence).

²⁷ Roseanna Sommers, *Experimental Jurisprudence*, BRIEFLY (2020), <https://lawreviewblog.uchicago.edu/2020/02/26/briefly-3-12-experimental-jurisprudence/> (“Experimental Jurisprudence is . . . an emerging field that uses empirical methods, particularly from the cognitive sciences, to clarify important concepts in the law.”).

reintegration than fighters and other violent offenders who committed severe crimes against Iraqi civilians.²⁸ In the survey experiment, respondents were asked if they would be willing to allow these hypothetical former offenders to return to their neighborhood after serving a randomly assigned punishment from among four options ranging in severity: no punishment, six months of community service, three years in prison, or 15 years in prison. The random assignment of these different punishments to the three hypothetical collaborator profiles enables us to estimate the causal effects of punishment on preferences for reintegration of different types of former offenders.

Overall, the results suggest that long-term incarceration does not increase the likelihood that former offenders will be accepted back into society. Although a 15-year prison sentence has an insignificant effect on respondents' willingness to allow the reintegration of a former offender in comparison with no punishment, we do find that a restorative punishment, 6 months of community service, has a small but statistically significant positive effect of 4 percentage points. In addition to finding some evidence that community service has positive effects on public opinion toward reintegration, our most striking finding is that, among respondents who initially rejected a hypothetical candidate for reintegration, a substantial 15% were willing to change their judgment and allow the former offender to return to their community if asked to do so by their religious or tribal leader, or if the former offender successfully completes a rehabilitation program. These results call into question the efficacy of incarceration for achieving the important objective of eventual reintegration and provide strong support for restorative and community-based justice

²⁸ Communities that were traumatized by the Islamic State are extremely resistant to the reintegration of violent offenders and in practice, most individuals who are found to have committed violent crimes for the Islamic State are sentenced to death, so asking hypothetical questions about the reintegration of former fighters would have been both offensive to participants and unrealistic.

mechanisms.

Our study highlights the need for more empirical research to assess the generalizability of these findings to other post-conflict settings where states are facing the challenge of prosecuting and reintegrating large numbers of civilians who are accused of collaborating with illegal armed groups. Furthermore, understanding the relationship between punishment and reintegration is vitally important not only in Iraq but in all justice systems that rely heavily on incarceration. Since Iraq is a particularly “hard case”²⁹ for reintegration given high levels of fear and anger against the tens of thousands of individuals who are accused of having collaborated with the Islamic State, the results may have implications for other contexts where barriers to reintegration are not as steep. During its more than three-year rule over large areas of Iraq and Syria, the Islamic State committed severe crimes and human rights violations against residents of its territory including frequent executions of dissidents and others accused of violating the group’s strict rules,³⁰ the use of civilians as human shields,³¹ forced marriage of women and children,³² and a genocide against the Yazidi minority group in northern Iraq.³³ If Iraqis, many of whom were severely victimized by the

²⁹ When selecting cases to test theories, political scientists use the terms “hard” or “least-likely” to refer to cases that represent a particularly difficult test for a theory in contrast with “easy” or “most likely” cases, which represent an easy test for a theory. If a theory holds when tested in a “hard case,” this provides strong evidence of the theory’s validity and generalizability to easier cases. Andrew Bennett, *Case Study Methods: Design, Use, and Comparative Advantages*, in *MODELS, NUMBERS, AND CASES: METHODS FOR STUDYING INTERNATIONAL RELATIONS* 19-55 (2004).

³⁰ Judith Tinnes, *Counting Lives Lost—Monitoring Camera-recorded Extrajudicial Executions by the “Islamic State,”* 10 *PERSP. TERRORISM* 78-82 (2016).

³¹ Nick Cummings-Bruce, *ISIS Has Killed Hundreds of Civilians in Mosul*, *U.N. Says*, *N.Y. TIMES* (Jun. 8, 2017), <https://www.nytimes.com/2017/06/08/world/middleeast/iraq-mosul-isis.html>.

³² Mara R. Revkin & Elisabeth Jean Wood, *The Islamic State’s Pattern of Sexual Violence: Ideology and Institutions, Policies and Practices*, *J. GLOBAL SEC. STUD.* 7 (forthcoming 2020), https://www.mararevkin.com/uploads/1/2/3/2/123214819/revkin_wood_jogss.pdf (“[The Islamic State’s] sexual violence against civilians took several forms, each targeted against particular social groups: sexual slavery, forced marriage, child marriage, and rape outside of the context of slavery or marriage.”).

³³ Nick-Cumming Bruce, *ISIS Committed Genocide Against Yazidis in Syria and Iraq*, *U.N. Panel Says*, *N.Y. TIMES*

Islamic State, are nonetheless willing to allow the reintegration of former nonviolent Islamic State collaborators who serve restorative, noncarceral sentences such as community service or whose return is endorsed by local community leaders, then incarceration does not appear to be a necessary condition for successful reintegration in these cases. Furthermore, we should expect the public to be even more amenable to the reintegration of individuals convicted of crimes much less serious than collaboration with the Islamic State, such as drug possession or petty theft.

Although Iraq is a uniquely challenging case for reintegration, we argue that our findings may offer lessons for other countries that incarcerate large numbers of nonviolent offenders including the United States. At a time when the COVID-19 pandemic has increased the urgency of calls for decarceration in the United States,³⁴ Iraq,³⁵ Iran,³⁶ Turkey,³⁷ and several European countries,³⁸ in some cases prompting the early or temporary release of nonviolent, elderly, and immunocompromised prisoners, there is a pressing need for evidence on the effectiveness of noncarceral alternatives.

This article proceeds as follows. Part I describes the significant social and economic barriers

(Jun. 16, 2016), https://www.nytimes.com/2016/06/17/world/middleeast/isis-genocide-yazidiun.html?_r=0.

³⁴ Matthew J. Akiyama et al., *Flattening the Curve for Incarcerated Populations — Covid-19 in Jails and Prisons*, 382 NEW ENGLAND J. MEDICINE 2075-2077 (2020).

³⁵ *Iraq Releases 16,000 Prisoners Amid Covid-19 Outbreak*, NEW ARAB (Apr. 16, 2020), <https://english.alaraby.co.uk/english/news/2020/4/16/iraq-releases-16-000-prisoners-amid-covid-19-outbreak>.

³⁶ Parisa Hafezi, *Iran Temporarily Frees 85,000 from Jail Including Political Prisoners*, REUTERS (Mar. 17, 2020), <https://www.reuters.com/article/us-health-coronavirus-iran-prisoners/iran-temporarily-frees-85000-from-jail-including-political-prisoners-idUSKBN21410M>.

³⁷ Ali Kucukgocmen, *Turkish Parliament Passes Bill to Free Thousands from Prison Amid Coronavirus*, REUTERS (Apr. 13, 2020), <https://www.reuters.com/article/us-turkey-security-prisoners/turkish-parliament-passes-bill-to-release-thousands-from-prison-amid-coronavirus-idUSKCN21V241>.

³⁸ Cain Burdeau, *Europe Released 128,000 Prisoners to Prevent Virus Outbreaks*, COURTHOUSE NEWS SERVICE (Jun. 18, 2020), <https://www.courthousenews.com/europe-released-128000-prisoners-to-prevent-virus-outbreaks/>,

that former offenders face after prison and identifies a gap in the literature on reintegration: the important role of public opinion in the communities to which former offenders return. Part II discusses the research design and results of our original survey experiment estimating the causal effects of punishment on public opinion toward reintegration in the cases of Iraq. Part III discusses the broader policy and legal implications of these findings for Iraq and beyond in the areas of post-conflict transitional justice, criminal sentencing reform, and noncarceral and community-based alternatives to incarceration.

II. THE IMPORTANCE OF STUDYING PUBLIC OPINION TOWARD REINTEGRATION

Public opinion is an important factor in successful reintegration of former offenders for several reasons. First, it is well-established that rebuilding social networks and relationships between former offenders and their communities discourages recidivism.³⁹ Negative public opinion toward former offenders leads to stigmatization and exclusion, which then makes it more difficult for former offenders to obtain safe housing and employment. Scholars have identified three forms of stigmatization: structural, social, and self.⁴⁰ Structural stigmatization occurs through laws and policies that hinder former offenders' access to housing, jobs, education, and other opportunities. Structural stigmatization also includes the denial of voting rights, drivers' licenses, and eligibility for public assistance.⁴¹ Social stigmatization refers to "stereotypes and discrimination from

³⁹ See, e.g., Mark Berg & Beth M. Huebner. *Reentry and the Ties That Bind: An Examination of Social Ties, Employment, and Recidivism*, 28 JUST. Q. 382 (2011) ("Scholars consistently find that reentering offenders who obtain steady work and maintain social ties to family are less likely to recidivate.").

⁴⁰ Kelly Moore et al., *Jail Inmates' Perceived and Anticipated Stigma: Implications for Post-release Functioning*, 12 J. INT. SOC. SELF IDENTITY 527, 527 (2013).

⁴¹ JOAN PETERSILIA, *WHEN PRISONERS COME HOME: PAROLE AND PRISONER REENTRY* (2003).

community members.”⁴² Negative public opinion toward former offenders may contribute not only to stigmatization and marginalization of individual former offenders but also of their families and neighborhoods.⁴³ A third form of stigmatization, “self-stigma,” occurs when prisoners anticipate stigmatization and discrimination before they experience it, which has a detrimental effect on their prospects for successful reintegration.⁴⁴

In addition to stigmatization, there are other ways in which public opinion affects reintegration of former offenders. If community members do not feel that a former offender has been sufficiently punished and rehabilitated, there is a risk of retribution or retaliatory violence. Research on transitional justice in post-conflict settings has found that when the state’s accountability measures fall short of what victims believe is proportional to the crime committed, the resulting perception of an “injustice gap” may increase the likelihood that victims will seek revenge through extrajudicial violence.⁴⁵

Proponents of incarceration often rely on an untested assumption that long prison sentences are necessary for former offenders to prove to society that they have been successfully rehabilitated and “paid their debt.” The characterization of incarceration as payment of a “debt to society” had become common in the United States and Europe by the mid-1800s. Some proponents of incarceration advocated hard labor during imprisonment as another way to “work off” the

⁴² Moore et al., *supra* note 82 at 527.

⁴³ DONALD BRAMAN, *DOING TIME ON THE OUTSIDE: INCARCERATION AND FAMILY LIFE IN URBAN AMERICA* 187 (2007) (“As families of prisoners confront incarceration, they also confront a widespread set of assumptions about their loved ones and about themselves, not only in the eyes of society at large but also in the communities where they live.”).

⁴⁴ Wing Hong Chui & Kevin Kwok-Yin Cheng, *The Mark of an Ex-prisoner: Perceived Discrimination and Self-stigma of Young Men after Prison in Hong Kong*, 34 *DEVIANT BEHAV.* 671–684 (2013)

⁴⁵ EVERETT L. WORTHINGTON, JR. *FORGIVENESS AND RECONCILIATION: THEORY AND APPLICATION* (2016).

prisoner's debt to society. The 1859 edition of *The Encyclopedia Britannica's* entry on "Prison Discipline" describing the practice of hard labor in prisons stated, "A criminal ... has incurred a debt to society, which he is bound and should be entitled to work off by the results of his industry ... [T]he prisoner's labour is exacted as a material payment of his debt to society."⁴⁶ In 1898, Stephen Bonsal published an article in *Harper's New Monthly Magazine*, "The Convict System in Siberia," based on a reporting trip to Russia that described offenders sentenced to less-than-life prison sentences as follows: "[Prisoners] are allowed to retain the hope of paying their debt to society and of regaining their lost position in the world at some future time."⁴⁷ In 1901, *The Anamosa Prison Press*, a newspaper written and published at the Iowa State Penitentiary, published a "Sunday-School" lesson stating, "[E]very modern penitentiary is a reformatory—a chance for the convict to pay the penal debt to society and start anew. The sentence of the court is the debt society has fixed against the prisoner for the crime, and when the prisoner has canceled the debt, then he and society are square again and he begins anew."⁴⁸ Judges have also invoked the concept of debt in sentencing decisions.⁴⁹ Despite the widespread belief that society expects

⁴⁶ *Prison: Prison Discipline*, THE ENCYCLOPAEDIA BRITANNICA 8TH EDITION 573 (1859). See also the 1894 decision by the California State Board of Prison Directors to commute the prison sentence of a man convicted of murder from life to twenty-one years after concluding that "he has been sufficiently punished for his offense and has paid his debt to society." *Biennial Message of Governor H. H. Markham*, THE JOURNAL OF THE SENATE DURING THE ... SESSION OF THE LEGISLATURE OF THE STATE OF CALIFORNIA 52 (1895).

⁴⁷ Stephen Bonsal, *The Convict System in Siberia*, 97 HARPER'S NEW MONTHLY MAGAZINE 328 (1898), <https://harpers.org/archive/1898/08/the-convict-system-in-siberia/>.

⁴⁸ Amos Steckel, *Sunday-School Lesson for April 28*, 9 Anamosa PRISON PRESS 26 (1901).

⁴⁹ In 1974, the United States District Court for the Eastern District of Pennsylvania stated in *United States of America ex rel James Hoey Fear v. Alfred T. Rundle, Superintendent*, "A prisoner pays his debt to society by serving his time in a penal institution." *United States of America ex rel James Hoey Fear v. Alfred T. Rundle, Superintendent, et al*, 506 F. 2d 331 (1974). See also the 1909 decision of the Supreme Court of Idaho in *In Re Mallon*, "All convicts having completed the [prison] sentence are supposed to have discharged their full debt to society and the state, and upon the discharge of such debt they are presumed to all be on an equality in so far as being entitled to the protection of the law." *In re Mallon*, 16 Idaho 737, 102 P. 374 (1909).

offenders to repay their debt by serving prison sentences, there is very little empirical evidence to support this assumption, which is best tested with public opinion survey data.

Although there has been substantial public opinion research on preferences for criminal sentencing around the world, we know very little about what societies view as necessary conditions for reintegration of former offenders. Previous studies have been primarily descriptive, presenting evidence of general trends in public opinion toward former offenders and correlations between different variables such as the severity of the offense and preferences for different types of carceral or noncarceral sanctions. In the United States, several state-level studies indicate strong public support for noncarceral sanctions for nonviolent offenders, although support for these alternatives to incarceration—such as community service, compensation, and restitution—declines as the seriousness of the offense increases.⁵⁰ One study found that Vermont citizens preferred that nonviolent offenders receive reparative sanctions from community reparative boards rather than prison sentences.⁵¹ In North Carolina, a 2002 study found that 97% of respondents favored greater use of community service for nonviolent offenders.⁵² A cross-national study of the social correlates of public attitudes toward criminal punishment in more than 30 countries in Europe, North America, Asia, Africa, and the Middle East found that survey respondents' individual characteristics (e.g., age, gender, education, and income) were not significant predictors of attitudes (with the exception of the finding that men tend to be more punitive than women), but a

⁵⁰ Julian V. Roberts & Loretta J. Stalans, *Restorative Sentencing: Exploring the Views of the Public*, 17 SOC. JUST. RES. 315 (2004).

⁵¹ John Doble, *Attitudes to Punishment in the US – Punitive and Liberal Options*, in CHANGING ATTITUDES TO PUNISHMENT: PUBLIC OPINION, CRIME AND JUSTICE (Julian V. Roberts et al. eds., 2002).

⁵² *Id.*

stronger predictor was income inequality; people in countries with higher levels of income inequality were more likely to prefer harsher sentences.⁵³

There have been few efforts to estimate the causal effects of different individual attributes of former offenders (e.g. age, gender, or racial identity), variation in the severity of the offenses, and different types of carceral or noncarceral sanctions on public opinion toward reintegration. Our study is one of the first to estimate the causal effects of these different independent variables on preferences for reintegration of former offenders and what communities view as minimum necessary conditions for their return. To our knowledge, there have been only four other studies that use survey experiments in similar ways, including one of our own. One study in the United States experimentally manipulated two offender attributes—type of offense and work qualifications—on the perceived employability of a hypothetical job applicant, finding that violent offenders received significantly lower employability ratings than nonviolent offenders.⁵⁴ Another study in Israel randomized the ethnicity of offenders in crime scenarios and found that when the offender was a member of the same ethnic group as the respondent (either Arab or Israeli), the offense was perceived as significantly less serious than if the same act was committed by a member of the other ethnic group.⁵⁵ A third set of studies in Denmark and the United States used survey experiments to estimate the effects of a criminal’s “association value” (the person’s value as a potential social associate) and the seriousness of the crime on preferences for rehabilitation and

⁵³ John Van Kesteren, *John, Public Attitudes and Sentencing Policies Across the World*, 15 EUR. J. CRIM. POL. RES. 25, 45 (2009)(“[W]orldwide people in less egalitarian societies are more likely to opt for more severe sentencing options.”).

⁵⁴ Jessica A. Cerda et al., *The Role of Type of Offense and Work Qualifications on Perceived Employability of Former Offenders*, 40 AM. J. CRIM. JUST. 317 (2015).

⁵⁵ Sergio Herzog, *Does the Ethnicity of Offenders in Crime Scenarios Affect Public Perceptions of Crime Seriousness? A Randomized Survey Experiment in Israel*, 82 SOC. FORCES 757 (2003).

punishment, finding that the former was a more important determinant than the latter.⁵⁶

In another survey experiment that we conducted in Iraq separate from the experiment presented in this article, we also randomized the identity traits of hypothetical Islamic State collaborators to estimate the causal effects of different identity traits (gender, age, and tribal identity) and different offenses on preferences for punishment.⁵⁷ Building upon these previous studies, the experiment presented in this article provides new insights into the poorly understood relationship between punishment and reintegration.

II. ESTIMATING THE EFFECTS OF PUNISHMENT ON PUBLIC OPINION TOWARD REINTEGRATION

A. *The Case of Iraq*

Incarceration is the dominant form of criminal punishment in Iraq. The increase in the number of Iraqi prisons and the size of Iraq's prison population over time is largely due to the United States' significant role in the design and development of new legal institutions after overthrowing Saddam Hussein's dictatorship in 2003.⁵⁸ Since 2003, the United States has allocated hundreds of million dollars in assistance for the construction and maintenance of Iraqi prisons.⁵⁹ The purpose of this support was to promote rule of law and counter-terrorism objectives in the context of a growing al-Qaeda-led insurgency.⁶⁰ In addition, the United States provided training for Iraqi

⁵⁶ Michael Bang Petersen et al., *To Punish or Repair? Evolutionary Psychology and Lay Intuitions About Modern Criminal Justice*, 33 *EVOLUTION HUM. BEHAV.* 682, 693 (2012).

⁵⁷ [Citation removed for blinding]

⁵⁸ John Hagan & Anna Hanson, *The Militarization of Mass Incapacitation and Torture during the Sunni Insurgency and American Occupation of Iraq*, 5 *SOC. SCI.* 78 (2016).

⁵⁹ In 2008 alone, the United States allocated 159 million in assistance for Iraq "to build additional prisons to meet anticipated shortfalls." United States Office of Management and Budget, *Budget of the United States Government: Appendix* 1171 (2008).

⁶⁰ John Hagan & Anna Hanson, *The Militarization of Mass Incapacitation and Torture during the Sunni Insurgency and American Occupation of Iraq*, 5 *SOC. SCI.* 78 (2016).

judges, prosecutors, and police officers.⁶¹ Although Iraq's criminal legal framework predates the U.S. occupation in 2003, the Coalition Provisional Authority immediately issued several amendments to Iraq's 1969 Penal Code on the grounds that this Code had been used by the former regime as "a tool of repression in violation of internationally recognized human rights standards."⁶²

Although the United States' involvement in the reconstruction of Iraq's criminal justice system after 2003 was intended to promote rule of law and respect for human rights, those objectives were not realized. Torture was widespread in U.S.-administered prisons during the occupation, including Abu Ghraib and Camp Bucca,⁶³ and remains widespread today, particularly in prisons.⁶⁴ The rapid growth of Iraq's prison population has given rise to additional human rights concerns. Between 2004 and 2017, the number of persons officially imprisoned in Iraq increased from 7,000 to at least 64,172 according to United Nations reports.⁶⁵ The limited available data does not distinguish between prisoners convicted of terrorism-related offenses and other types of crime. By 2013, overcrowded prisons were operating at an estimated 136% of their intended capacity.⁶⁶ Between 2014 and 2017, at least 19,000 people were detained on terrorism-related charges alone (excluding other types of crimes) as the Iraqi government and U.S.-led international coalition

⁶¹ RICHARD R. BRENNAN, JR., ET AL., ENDING THE US WAR IN IRAQ: THE FINAL TRANSITION, OPERATIONAL MANEUVER, AND DISESTABLISHMENT OF UNITED STATES FORCES-IRAQ 197 (2013)(DoJ ... began training police officers and border security personnel in 2003 ... [and] trained prosecutors and judges.”).

⁶² Coalition Provisional Authority, *Order No. 7: Penal Code* (June 10, 2003), <https://www.refworld.org/cgi-bin/tehis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=54c11c6d4>.

⁶³ David Enders, *Camp Bucca: Iraq's Guantánamo Bay*, NATION (Oct. 8, 2008), <https://www.thenation.com/article/archive/camp-bucca-iraqs-guantaacutenamo-bay/>.

⁶⁴ Human Rights Watch, *Iraq: Events of 2019* (2020), <https://www.hrw.org/world-report/2020/country-chapters/iraq>.

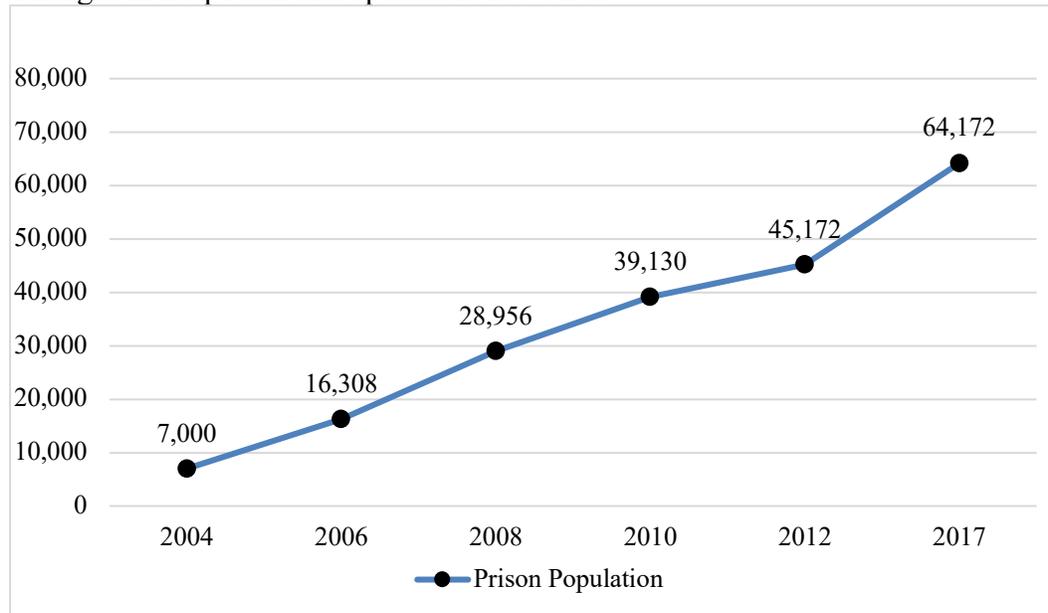
⁶⁵ World Prison Brief, “Iraq,” <https://www.prisonstudies.org/country/iraq>.

⁶⁶ *Id.*

fought a protracted war against the Islamic State.⁶⁷ Given the unreliability and limited availability of official Iraqi government statistics, these numbers are likely to be considerable underestimates of the true prison population.

Figure 1.

Changes in Iraq's Prison Population: 2004-2017



The recent collapse of the Islamic State and ongoing mass incarceration of at least 20,000 individuals on criminal charges of association with the group has further strained the capacity of Iraq's already overcrowded prisons.⁶⁸ The Islamic State's objective was to build a modern-day "caliphate" based on the original model of Islamic governance developed by the Prophet

⁶⁷ Qassim Abdul-Zahra & Susannah George, *Iraq Holding More Than 19,000 Because of IS, Militant Ties*, ASSOC. PRESS (Mar. 21, 2018), <https://apnews.com/aeece6571de54f5dba3543d91deed381/Iraq-holding-more-than-19,000-because-of-IS,-militant-ties>.

⁶⁸ *Id.*

Mohammed in the sixth century.⁶⁹ At the height of its expansion in 2014, the Islamic State controlled territory in Iraq with an estimated population greater than 5 million.⁷⁰ Between 2014 and 2017, the group functioned as an unrecognized “de facto state”⁷¹ and operated a variety of institutions that provided protection, public goods, and basic services for the civilian population living in areas under its control. These institutions necessitated a civilian bureaucracy staffed by thousands of employees who were paid by the Islamic State but did not receive any military training, carry weapons, or directly participate in hostilities as combatants.⁷²

The Iraqi government has taken a very harsh approach to individuals accused of supporting the Islamic State including these civilian employees. The accused are prosecuted under Iraq’s Anti-Terrorism Law in rapid-fire trials that are often decided by judges in less than 10 minutes with a conviction rate of around 98%.⁷³ The United Nations and Human Rights Watch have criticized these prosecutions for failing to differentiate between more serious violent crimes and lesser nonviolent offenses as well as for failing to distinguish between acts there were committed voluntarily and those that were committed under extreme duress and coercion.⁷⁴ In some cases,

⁶⁹ Andrew F. March & Mara R. Revkin, *Caliphate of Law: ISIS’ Ground Rules*, FOREIGN AFF. (2015), <https://www.foreignaffairs.com/articles/syria/2015-04-15/caliphate-law>.

⁷⁰ Eric Robinson et al., *When the Islamic State Comes to Town: The Economic Impact of Islamic State Governance in Iraq and Syria*, RAND CORPORATION (2017).

⁷¹ A “de facto state” is a political entity that controls territory and engages in some degree of governance of the population therein but lacks international recognition. Harris Mylonas & Ariel Ahram, *De Facto States Unbound*, 374 PONARS Eurasia 1 (2015).

⁷² Mara R. Revkin, *When Terrorists Govern: Protecting Civilians in Conflicts with State-building Armed Groups*, 9 HARV. NAT’L SEC. J. 100, 127 (2018).

⁷³ Author observations of trials of alleged Islamic State members in Tel Kaif, Iraq (December 2017); see also Margaret Coker & Falih Hassan, *A 10-Minute Trial, a Death Sentence: Iraqi Justice for ISIS Suspects*, N.Y. TIMES (Apr. 17, 2018), <https://www.nytimes.com/2018/04/17/world/middleeast/iraq-isis-trials.html>.

⁷⁴ See, e.g., United Nations Assistance Mission for Iraq, *Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL* (2020), https://www.ecoi.net/en/file/local/2025174/Iraq_-_ISIL_trials_under_the_anti-

wives and children⁷⁵ of Islamic State members and nonviolent civilian collaborators—such as doctors and cooks—who only provided medical services or other nonviolent aid to the group have been sentenced to life in prison.⁷⁶

Many of these nonviolent civilian collaborators have been sentenced to less-than-life sentences and therefore will eventually return to their former communities. Given the overcrowding of prisons in Iraq and the human rights violations that occur therein, the question of whether such long prison sentences are really necessary—or if some prisoners might be rehabilitated with shorter sentences or noncarceral alternatives—is critically important. The case of Iraq after the defeat of the Islamic State provides an important opportunity to assess the relationship between punishment and public opinion toward reintegration.

B. Hypotheses

To address our research question—How do harsh punishments such as long-term incarceration affect public opinion toward the reintegration of former offenders in comparison with shorter prison sentences and noncarceral alternatives?—we developed three hypotheses and then tested them with original survey data from Mosul.⁷⁷

First, we assess the effects of long prison sentences on attitudes toward reintegration of former

terrorism_laws_and_the_implications_for_justice_28012020.pdf; Human Rights Watch, *Flawed Justice: Accountability for ISIS Crimes in Iraq* (2017), <https://www.hrw.org/report/2017/12/05/flawed-justice/accountability-isis-crimes-iraq>.

⁷⁵ Jane Arraf, *ISIS Wives, With Children on Tow, Are Handed Long Jail Sentences or Death Penalty*, NAT'L PUB. RADIO (2018), <https://www.npr.org/2018/06/09/613067263/isis-wives-with-children-in-tow-are-handed-long-jail-sentences-or-death-penalty>.

⁷⁶ Human Rights Watch, *Flawed Justice: Accountability for ISIS Crimes in Iraq* (2017), <https://www.hrw.org/report/2017/12/05/flawed-justice/accountability-isis-crimes-iraq>.

⁷⁷ We pre-registered these hypotheses and plans for heterogeneous analysis of sub-groups prior to the completion of data collection. “Pre-Analysis Plan: ‘Reintegration of Rebel Collaborators: Survey Experiments in Mosul,’” EVIDENCE IN GOVERNANCE AND POLITICS (Mar. 29, 2018), available at <https://egap.org/registration/4395>.

offenders in comparison with shorter sentences and noncarceral restorative sanctions such as community service. Proponents of incarceration often rely on a retributive theory of punishment, arguing that incarceration facilitates the eventual reintegration of former offenders into society after they are released by convincing the public that a former offender has paid his or her “debt to society” by completing a prison sentence, as discussed above.⁷⁸ Despite the widespread belief that society expects offenders to repay their debt by serving prison sentences, there is very little empirical evidence to support this assumption, which is best tested with public opinion survey data. If long-term incarceration does promote support for eventual reintegration among the public, we should expect:

Hypothesis 1. Long Prison Sentences Increase the Community’s Willingness to Allow Reintegration of Former Offenders:

Respondents will be more likely to accept the reintegration of former offenders who have received harsher incarceration sentences (i.e. those who received 15) than those who have received lighter sentences (i.e. those who received 3 years imprisonment or 6 months of community service or no punishment).

In contrast with Hypothesis 1, many critics of incarceration argue that rehabilitation is best achieved through “restorative justice” mechanisms. Restorative justice refers to “a variety of different practices, including apologies, restitution, and acknowledgments of harm and injury, as well as to other efforts to provide healing and reintegration of offenders into their communities, with or without additional punishment.”⁷⁹ This approach aims to repair damaged relationships between victims, perpetrators, and communities⁸⁰ through active participation of both victims and

⁷⁸ See *infra* Section II.

⁷⁹ Carrie Menkel-Meadow, *Restorative Justice: What Is It and Does It Work?*, 3 ANNU. REV. LAW SOC. SCI. 161, 162 (2007).

⁸⁰ BANKS, *supra* note 66.

perpetrators in restorative justice processes.⁸¹ Whereas incarceration relies heavily on state institutions—judges, courts, and prisons—restorative justice is often associated with “community-based,”⁸² “bottom-up,”⁸³ and “informal”⁸⁴ processes. If restorative justice facilitates reintegration, we should expect:

Hypothesis 2. Restorative Justice Increases the Community’s Willingness to Allow Reintegration of Former Offenders:

Respondents will be more likely to accept the reintegration of former offenders who have received a restorative punishment (i.e. 6 months of community service) than those who received no punishment.

In addition to our two primary hypotheses concerning the effects of punishment on attitudes toward reintegration, we also test a third hypothesis concerning how variation in the severity of an offense affects attitudes toward reintegration of the offender.

Hypothesis 3. The Severity of the Offense Affects Attitudes Toward Reintegration:

Respondents will be more likely to accept the reintegration of former offenders who committed less serious transgressions in comparison with those who committed more serious transgressions.

To test these three hypotheses in the context of Iraq, our survey experiment—discussed in more detail below—randomized the attributes of three profiles of hypothetical Islamic State collaborators, enabling us to estimate the causal effects of these different attributes on our

⁸¹ *Id.*

⁸² See, e.g., Leena Kurki, *Restorative and Community Justice in the United States*, 27 CRIME JUSTICE 235–303 (2000); GORDON BAZEMORE & MARA SCHIFF, RESTORATIVE COMMUNITY JUSTICE: REPAIRING HARM AND TRANSFORMING COMMUNITIES (2015).

⁸³ John Braithwaite, *Setting Standards for Restorative Justice*, 42 BR. J. CRIMINOL. 563, 563 (2002) (“[T]op-down lists motivated by UN instruments or the ruminations of intellectuals are only important for supplying a provisional, revisable agenda for bottom-up deliberation on restorative justice standards appropriate to distinctively local anxieties about injustice.”).

⁸⁴ THEO GAVRIELIDES, RESTORATIVE JUSTICE: IDEALS AND REALITIES (2017).

dependent variable (attitudes toward reintegration). We also expected that the results might vary between different sub-groups within our sample: (1) women, as compared against men; (2) those who perceived acts of collaboration to be involuntary rather than voluntary; (3) those with grievances against IS as measured by the death or injury of a family member during the Islamic State's rule or the subsequent battle for Mosul; and (4) those who trust the Iraqi courts as a measure of state legitimacy.

C. Survey Administration

This article draws on evidence from a quantitative household survey containing a survey experiment as well as qualitative data from fieldwork in Mosul and other areas of northern Iraq. Conducting fieldwork in conflict-affected areas can pose a number of potentially serious risks to participants and researchers have a professional and moral responsibility to do no harm. Potential participants in research conducted in post-conflict settings are a particularly vulnerable population for several reasons including possible recent exposure to violence, the risk of retraumatization, and unequal power dynamics between international researchers and local populations. To ensure that we took all possible steps to minimize the risk of harm to participants, including a detailed informed consent process and a mechanism for study participants to report adverse events or concerns, and we went through the rigorous process of obtaining ethics approval from Yale University's Institutional Review Board (IRB).⁸⁵

We conducted an original survey of a random sample of 1,458 Mosul residents in March-April

⁸⁵ Yale University's Institutional Review Board (IRB) approved the survey instrument including the experimental design on December 14, 2017 (Protocol #2000022022), observations of trials of alleged Islamic State members on September 22, 2017 (Protocol #2000021840), and interviews with Iraqis from Islamic State-controlled areas on June 24, 2015 (Protocol #1506016040).

2018 working with an experienced Iraqi research firm.⁸⁶ A team of 10 Iraqi enumerators from Mosul conducted the face-to-face survey with mobile computer tablets. The sample was intentionally limited to Sunni Arab Iraqis because, at the time of the survey, fewer than 3% of randomly selected respondents belonged to non-Sunni religious groups (e.g. Christians and Shia Muslims) and the numbers of respondents belonging to these minority groups would have been too small to draw any statistically significant inferences about the larger populations to which they belong.

The sample of 1,458 respondents was drawn from 47 Primary Sampling Units (PSUs), corresponding to census blocks that were randomly selected from a sampling frame of all 209 of the city's PSUs (Figure 2).⁸⁷ Eight PSUs in West Mosul were excluded from the sampling frame because these areas experienced severe collateral damage during the 2017 battle to recapture Mosul from the Islamic State and remained largely uninhabited at the time of the survey. Within each PSU, streets were randomly selected and from those streets, enumerators selected households using a random-walk procedure.⁸⁸ Each PSU was allocated 30 interviews.⁸⁹ The tablets were programmed with a Kish grid that randomly selected a respondent from the pool of adult household members (at least 18 years old).

Figure 2.

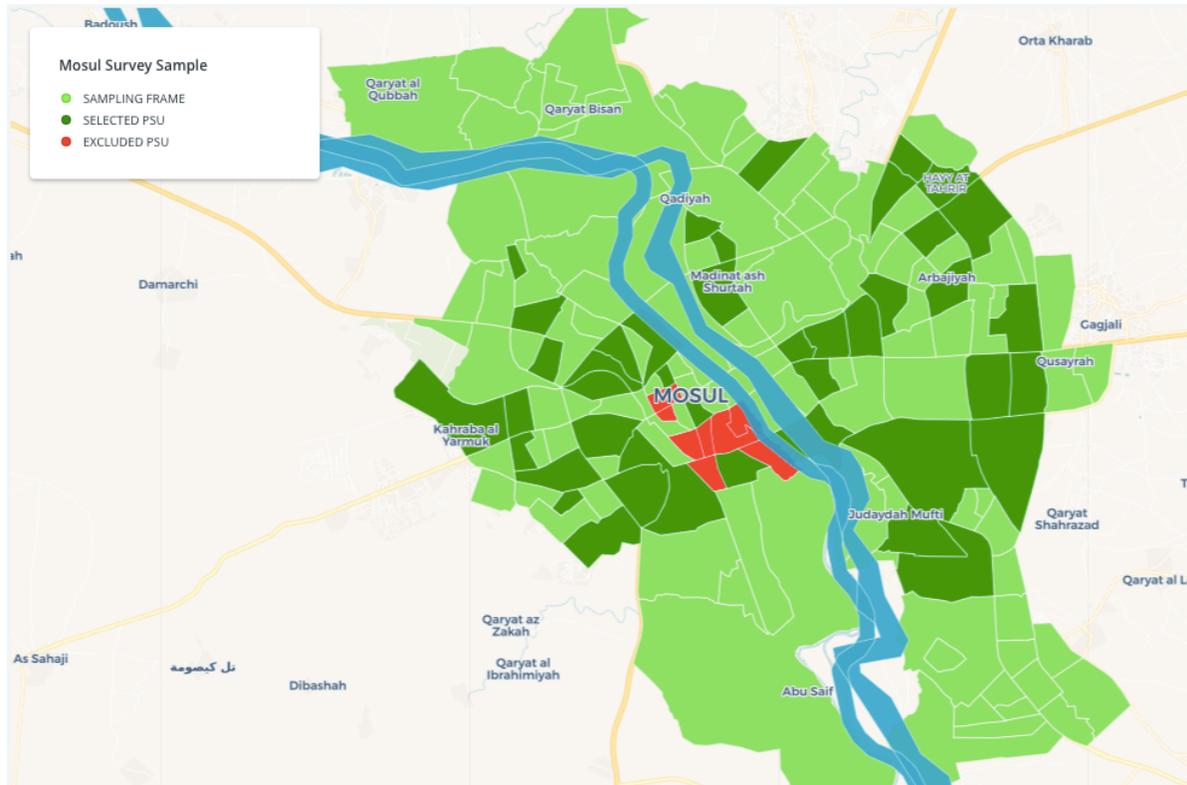
⁸⁶ The Independent Institute for Administration and Civil Society Studies.

⁸⁷ This map was generated with shapefiles provided by Ivan Thung of the United Nations Human Settlements Programme in Iraq.

⁸⁸ Enumerators counted the number of houses on each street and divided by seven to determine the interval of houses skipped between interviews.

⁸⁹ It was not impossible to sample based on probability proportional to size due to conflict-related changes in demography that make it impossible to accurately estimate the true populations of the PSUs. For this reason, we assigned a consistent number of interviews (30) to each PSU.

Map of the Sampling Frame in Mosul, Iraq



The design of the survey questionnaire was informed by extensive qualitative field research and semi-structured interviews. The field research included visits to public institutions (schools, the department of municipal services, and the main hospital in Mosul) that were previously administered by the Islamic State, as well as observations of trials of alleged Islamic State fighters and civilian collaborators. We conducted interviews with 61 individuals from areas previously controlled by the Islamic State, as well as 17 lawyers, judges and experts involved in prosecuting and defending suspected Islamic State collaborators. These interviews and observations helped us to ensure the cultural and contextual appropriateness of the survey questions as well as the realism

of the hypothetical scenarios that were the basis for the two survey experiments discussed below.

D. Experimental Design

To assess the preferences of Mosul residents concerning reconciliation with and reintegration of former Islamic State collaborators, we conducted two survey experiments. Survey experiments attempt to apply the scientific method to the study of social phenomena. They do so by randomly assigning participants in a survey to treatment groups and control groups for comparison and testing whether there are statistically significant differences between the groups, which can be attributed to the treatment(s) applied. This process not only allows for causal inference (i.e. that A actually causes B) when sample sizes of participants are large enough to ensure statistical power to detect differences, but also provides a sizable measure of the effect. Another benefit of experimental methodology is that each step can be transparently reported so as to produce fully replicable results, ensuring that findings are verifiable.

The first experiment, which we discuss more extensively in a related article,⁹⁰ identified the causal effects of different attributes of hypothetical Islamic State collaborators—including the severity of the offense, age, and gender—on participants preferences for punishment by randomly varying these attributes in a series of hypothetical collaborator profiles. After viewing each profile, participants were asked to choose the punishment that they believed was punishment for the collaborator given their identity traits and the crime they had committed. We find that the type of offense committed matters much more than individual identity traits (e.g. age, gender, and tribe) in determining preferences for punishment, with respondents choosing harsher punishments for

⁹⁰ *Id.*

and being less willing to forgive more severe offenses.⁹¹

In the second experiment, which is the subject of this article, we attempted to measure how different punishments affect respondents' willingness to reintegrate hypothetical "collaborators" who were associated with the Islamic State in nonviolent roles. To do this, we randomized the type of punishment that a given Islamic State collaborator receives and then asked if the respondent would be willing to allow this person to become their neighbor—a measure of reintegration.⁹²

Since the respondent has no control over the assigned punishment, we can better assess how different types of punishment affect the respondent's willingness to allow a former collaborator back into his or her community.

The experiment displays three profiles of nonviolent Islamic State collaborators: a cook for Islamic State fighters, a woman married to an Islamic State fighter, and a janitor who worked for the Islamic State's department of municipal services. Every respondent was presented with all three profiles, increasing our sample of evaluated profiles to 4,374 from the survey sample of 1,458.⁹³ We designed these hypothetical profiles to be highly realistic based on interviews with residents of Mosul. By the time of the survey in March-April 2018, many Iraqis who had been displaced from Mosul during the conflict with the Islamic State were returning to the city.⁹⁴

⁹¹ We also found that perceptions of the volition behind an offense had significant effects on preferences for different punishments. Personal experiences with violence at the hands of the Islamic State also mattered, although these effects diminished after accounting for the severity of the act. [citation removed for blinding].

⁹² We follow other survey-based studies that attempt to measure prejudice against outsiders in terms of whether or not a respondent will accept people of differing backgrounds as their neighbors. See, e.g. Howard Schuman & Lawrence Bobo, *Survey-Based Experiments on White Racial Attitudes Toward Residential Integration*, 94 AM. J. SOC. 273–299 (1988); Zan Strabac & Ola Listhaug, *Anti-Muslim Prejudice in Europe: A Multilevel Analysis of Survey Data from 30 countries*, 37 SOC. SCI. RES. 268–286 (2008).

⁹³ In our statistical analysis, robust standard errors are clustered at the respondent level to account for covariances in their responses.

⁹⁴ International Organization for Migration, Number of Returns Exceeds Number of Displaced Iraqis: UN Migration Agency, (Jan. 12, 2018), <https://www.iom.int/news/number-returns-exceeds-number-displaced-iraqis-un>

Therefore, questions about the return and reintegration of former neighbors including individuals accused of collaborating with the Islamic State were salient and realistic. As noted previously, we did not include violent collaborator scenarios in this experiment (i.e., and Islamic State fighter) because these individuals are generally sentenced to capital punishment or life in prison and therefore would not be plausible candidates for release and reintegration.⁹⁵

The experimental prompt read: “Now I am going to read you some more hypothetical scenarios of Mosul residents who cooperated with the Islamic State. I would like to know if, given the punishment they have received, you would accept these former Islamic State collaborators back into your community.”⁹⁶ Figure 3 shows an example of how candidate descriptions were displayed.

Figure 3.

Randomization of the Hypothetical Collaborator Profiles

Respondents were presented with each of the three profiles below in a random order generated by tablets. Punishments were randomly assigned from among the four options listed:

1. The candidate for reintegration into your community is a 35-year-old man who was a cook for Islamic State fighters.
2. The candidate for reintegration into your community is a 35-year-old woman who was married to an Islamic State fighter.
3. The candidate for reintegration into your community is a 35-year old man who was a janitor for the Islamic State’s department of municipal services

... and will be sentenced to [...]

1. 15 years in prison
2. three years in prison
3. six months of community service (e.g. picking up trash, rebuilding homes)

migration-agency (“For the first time since the beginning of the Iraq crisis in December 2013, the number of people returning to their area of origin has surpassed the number of people displaced in the country.”).

⁹⁵ See *infra* Introduction.

⁹⁶ The survey questions referred to the Islamic State with its Arabic acronym pronounced “Daesh.”

4. will not receive any punishment

After seeing each candidate, respondents are asked: “Given this [punishment/outcome], would you allow this former Islamic State collaborator to become your neighbor?” Respondents could answer either “yes” or “no” and we used these responses to measure our dependent variable: attitudes toward reintegration.

E. Results

The design of the survey experiment allows us to estimate the effects of varying degrees of punishment as well as different types of acts of collaboration on reported willingness to accept a collaborator as a neighbor through the following equation:

$$Acceptance_{ik} = \theta_0 + \theta_1 Punishment_{ik} + \theta_2 ActofCollaboration_{ik} + \varepsilon_{ik}$$

where i denotes the respondent and k denotes which round of three rounds each respondent completes. $Acceptance_{ik}$ is a binary outcome: The respondent is either willing to allow the reintegration of a given collaborator profile or not.

Figure 4 below shows the point estimates from an ordinary least squares (OLS) regression where the cook for Islamic State fighters is the base category of comparison for other types of collaborators and “no punishment” is the base for comparison of other randomized punishments. The dependent variable is acceptance of the collaborator as a neighbor, in which 1 acceptance and 0 is rejection. Overall, about 70% of our sample did not accept collaborators back into their communities.

1. Results for Primary Hypotheses

To test our two primary hypotheses concerning the effects of punishment on attitudes toward reintegration of former Islamic State collaborators, we employ an OLS analysis of the pooled data across the three collaborator profiles.⁹⁷ We include control variables for standard demographic indicators including age, wealth, and education. The results are depicted in Figure 4 showing coefficient point estimates. This method enables us to examine the effects of a randomized punishment a collaborator has received as well as the type of collaboration on the willingness of the respondent to accept him or her as a neighbor.

Hypothesis 1: Longer Prison Sentences Increase the Community's Willingness to Allow Reintegration of Former Offenders
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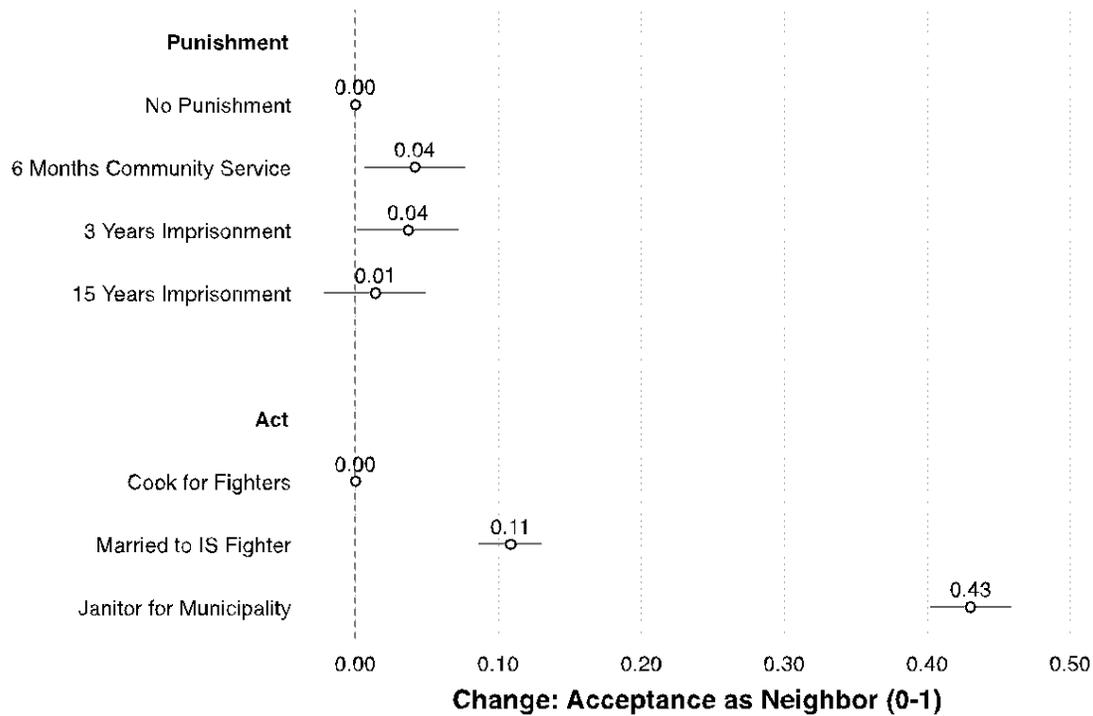
Contrary to Hypothesis 1, we find that longer prison sentences do not significantly affect respondents' willingness to allow the reintegration of hypothetical Islamic State collaborators in comparison with more lenient alternatives. Those who serve 15-year prison sentences are not more likely to be reintegrated than those who receive no punishment at all, as indicated by the fact that the confidence intervals surrounding the point estimate crosses the dashed vertical line, representing an effect of zero. A shorter prison sentence of three years appears to have a small but statistically significant positive effect on respondents' willingness to reintegrate former offenders: Respondents are around 4 percentage points more likely to allow the reintegration of collaborators who serve three-year prison sentences in comparison with those who receive no punishment. This result is statistically significant at the conventional level of $p < 0.05$, however, a more basic model

⁹⁷ As a robustness check, we also conducted a binary logistic analysis and the results did not differ significantly from that of OLS.

without controls reveals that this finding is not very robust and only approaches statistical significance at a level of $p < 0.10$ (Figure 4).

Figure 4:

Effects of Type Punishment and Type of Act on Probability of Reintegration of Former Islamic State Collaborators



Note: Figure depicts point estimates (circles) with 95% confidence intervals (horizontal lines). Robust standard errors are clustered at the individual level. The circles on the vertical dashed line at 0 denote the reference category for comparison against.

Hypothesis 2: Restorative Justice Increases the Community’s Willingness to Allow Reintegration of Former Offenders

Although we did not find support for Hypothesis 1, we find some evidence in support of Hypothesis 2, predicting that restorative justice approaches should increase the community’s willingness to allow reintegration of former offenders. In the experiment, a restorative punishment

(six months of community service) has a statistically significant positive effect (4 percentage points) on respondents' willingness to allow the reintegration of collaborators ($p < 0.05$) and this finding is robust to the exclusion of controls (Figure 4).⁹⁸ Substantively, the size of the effect of six months of community service is greater than the effect of a 15-year prison sentence (zero) and similar to the effect of a 3-year prison sentence (4 percentage points) although the latter result loses significance with robustness checks as noted above. Overall, these results suggest that a noncarceral and much less costly sanction of community service may be equally or more conducive to reintegration than incarceration.

Hypothesis 3: The Severity of the Offense Affects Attitudes Toward Reintegration

In addition to our two primary hypotheses concerning the effects of punishment on attitudes toward reintegration, we also tested a third hypothesis predicting that the severity of the offenses committed by former Islamic State collaborators should affect the community's attitudes toward reintegration. To evaluate Hypothesis 3, we employ OLS analysis to assess whether acceptance as a neighbor depends on the type of offense.⁹⁹ The results indicate that the type of offense—rather than the type of punishment—is the most important driver of public opinion toward reintegration, consistent with Hypothesis 3.

Respondents are least likely to allow the reintegration of collaborators who were physically closest to the Islamic State (those who worked as cooks for fighters) and those with family ties

⁹⁸ In experimental research, “control variables” refer to participant characteristics that remain constant over the course of the experiment such as age or gender. Since these characteristics may be associated with the outcome of interest (the dependent variable), they must be included in statistical analysis (“controlled for”) to ensure the validity of inferences about the relationship between the independent variable and the dependent variable.

⁹⁹ As with our analysis for Hypothesis 1, we employed logit analysis as a robustness check on the use of OLS and did not find substantive differences in results.

(wives of fighters) in contrast with collaborators in civilian roles who were working for institutions that provided services to other civilians (janitors working in the Islamic State's department of municipal services). Where the base of comparison is a cook for fighters, respondents are 11 percentage points more likely to accept women married to fighters and 43 percentage points more likely to accept janitors working for the Islamic State's department of municipal services (Figure 4). These results are robust to controlling for the respondent's age, income, education, and loss of a family member either under the Islamic State's rule or during the battle for Mosul.

Theories of retribution emphasize the importance of individual moral responsibility for wrongdoing as a basis for determining the punishment that an offender deserves ("just deserts"). To explore whether retribution might play a role in preferences for reintegration of the former offenders in our scenario, we asked a follow-up question after the experiment to assess whether respondents associate different types of collaboration with varying degrees of moral condemnation.¹⁰⁰

Respondents were asked to rank five different types of collaboration (an Islamic State fighter, a cook for fighters, a woman married to a fighter, a janitor who worked in the Islamic State's department of municipal services, and a civilian who paid taxes to the Islamic State) from least to most condemnable (Table 1). Unsurprisingly, respondents overwhelmingly viewed Islamic State fighters as the most morally condemnable (98% of the sample). Cooks for fighters were judged to be the second most condemnable, ranked as such by 77% of the sample. Respondents seemed to view women married to fighters and janitors in the Islamic State's department for municipal

¹⁰⁰ Since these ranking questions are cognitively burdensome, we randomly asked approximately 50% of the sample only one of each of these questions.

services about evenly, between third and fourth most reprehensible among the five types of hypothetical collaborators. Finally, 81% of the sample viewed the civilian taxpayer as least condemnable. The perception of taxpayers as much less blameworthy than the other types of collaborators is likely due to widespread recognition of the coercive nature of the Islamic State's tax system. Refusal to pay zakat (a mandatory charitable contribution that is the functional equivalent of an income tax) was considered an act of apostasy and therefore punishable by death, resulting in widespread compliance with the Islamic State's tax policies.¹⁰¹

Although we did not randomize the moral culpability of the different hypothetical collaborator scenarios and therefore cannot estimate the causal effects of this variable on attitudes toward reintegration, these descriptive findings nonetheless indicate that respondents attribute different degrees of moral culpability to different hypothetical collaborators depending on their proximity to the most culpable category of fighters.

Table 1.

Five-Point Ranking of Collaborators from Least (1) to Most Condemnable (5)

Ranking	Type of Collaboration	% of Respondents
(1) Not condemnable at all	An Islamic State [IS] fighter	1%
	A woman married to an IS fighter	1%
	A cook for IS fighters	0.4%
	A janitor at the IS municipality	16%
	A taxpayer to IS	81%
(2) Not very condemnable	An Islamic State [IS] fighter	0%
	A woman married to an IS fighter	4%
	A cook for IS fighters	3%
	A janitor at the IS municipality	77%

¹⁰¹ Mara R. Revkin, *What Explains Taxation by Resource-Rich Rebels? Evidence from the Islamic State in Syria*, 82 J. POL 757, 762 (2020).

	A taxpayer to IS	15%
(3) Neutral	An Islamic State [IS] fighter A woman married to an IS fighter A cook for IS fighters A janitor at the IS municipality A taxpayer to IS	0.3% 37% 57% 4% 1%
(4) Somewhat condemnable	An Islamic State [IS] fighter A woman married to an IS fighter A cook for IS fighters A janitor at the IS municipality A taxpayer to IS	1% 57% 39% 2% 1%
(5) Completely condemnable	An Islamic State [IS] fighter A woman married to an IS fighter A cook for IS fighters A janitor at the IS municipality A taxpayer to IS	98% 1% 0% 0% 1%

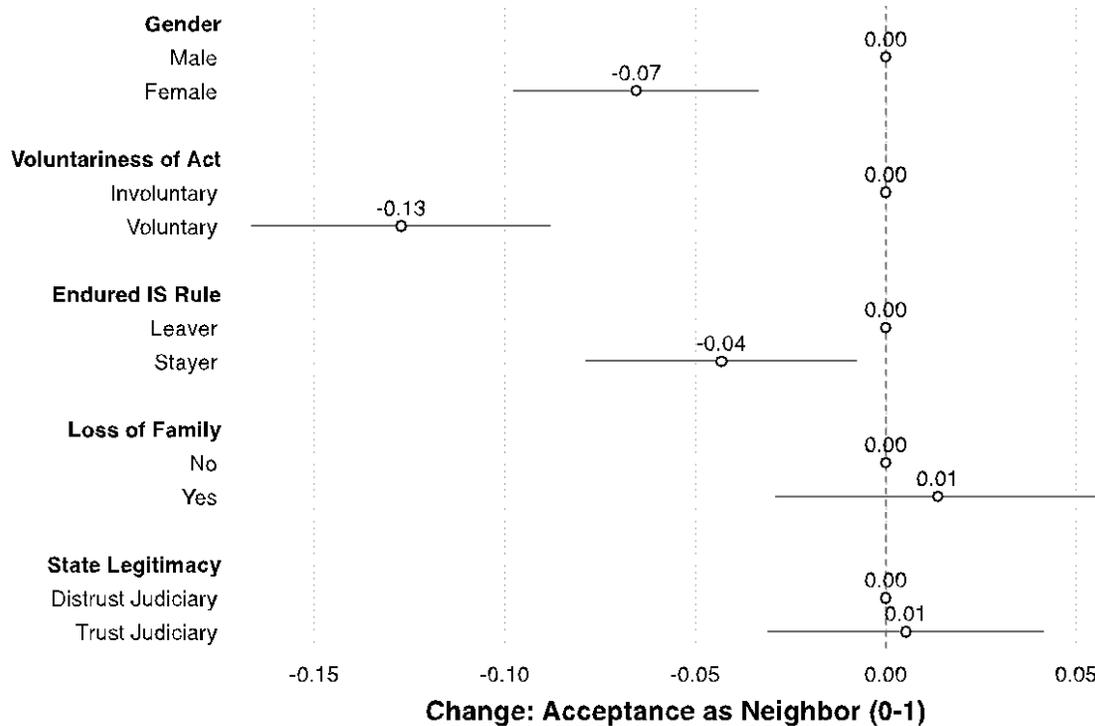
2. Heterogeneous Effects of Individual Respondent Characteristics

In addition to our primary hypotheses, we also examined how the varying individual characteristics and experiences of survey respondents may affect their attitudes toward reintegration (a “heterogeneous effects” analysis). Specifically, we consider associations between: (1) willingness to allow the reintegration of collaborators and the respondent’s gender; (2) whether the respondent stayed in Mosul for the duration of the Islamic State’s three-year rule as opposed to fleeing; (4) the respondent’s perception of the offense as either voluntary or involuntary; (5) whether the respondent lost a family member during the Islamic State’s rule over Mosul or the battle to recapture the city; and (6) whether the respondent perceives the Iraqi government as legitimate or illegitimate.¹⁰² Figure 5 presents the results of this analysis.

¹⁰² In these analyses, we still control for the randomized punishment and type of act.

Figure 5.

Associations Between Respondent Characteristics and the Probability of Reintegration of Former Islamic State Collaborators



Note: Figure depicts point estimates (circles) with 95% confidence intervals (horizontal lines). Robust standard errors are clustered at the individual level. The circles on the vertical dashed line at 0 denote the reference category for comparison against.

Gender

Some studies have found that women are more likely than men to forgive transgressions, suggesting that women might be more willing to allow the reintegration of former offenders.¹⁰³

¹⁰³ Andrea J. Miller et al., *Gender and Forgiveness: A Meta-Analytic Review and Research Agenda*, 27 J. Soc. CLINICAL PSYCHOL. 843-876 (2008).

However, the results of our study are inconsistent with this expectation. We found that women were in fact *less* likely to allow the reintegration of former Islamic State collaborators by 6 percentage points on average. This finding might be explained by the varying experiences of men and women living in Islamic State-controlled areas. In general, women were more negatively affected by the Islamic State than men given the group's extremely patriarchal ideology, which severely restricted the rights of women—for example, prohibiting them from leaving their homes without a male guardian.¹⁰⁴ If women had more grievances against the Islamic State than men, then women might be less willing to forgive and allow the reintegration of former Islamic State collaborators. Another possible explanation is that women may feel more vulnerable than men and less capable of defending themselves from security threats such as the risk of recidivism by former Islamic State collaborators given the patriarchal context of Iraq, where social norms dictate that women depend on men for protection.

Perceived Voluntariness of Collaboration

Previous research suggests that perceptions of the voluntariness of a transgression affect attitudes toward guilt and preferences for punishment.¹⁰⁵ As noted above, our related experiment in Mosul found that perceptions of the volition behind an offense (whether voluntary or involuntary) had significant effects on preferences for how the offender should be punished.¹⁰⁶ We tested whether this relationship extends to preferences for reintegration of former offenders after

¹⁰⁴ Mara R. Revkin, *The Legal Foundations of the Islamic State*, 23 THE BROOKINGS PROJECT ON U.S. RELATIONS WITH THE ISLAMIC WORLD 16 (2016), https://www.brookings.edu/wp-content/uploads/2016/07/Brookings-Analysis-Paper_Mara-Revkin_Web.pdf.

¹⁰⁵ Michael E. McCullough et al., *Forgiveness, Forbearance, and Time: The Temporal Unfolding of Transgression-Related Interpersonal Motivations*, 84 J. PERSONALITY SOC. PSYCHOL. 540-557 (2003).

¹⁰⁶ Kao & Revkin, *supra* Section III(D).

punishment.

As shown in Table 2, 88% of the sample believed that the cook for Islamic State fighters was acting voluntarily, 84% believed that the woman married to an Islamic State fighter was acting voluntarily, and 71% believed that the janitor working in the Islamic State's department of municipal services was acting voluntarily.

Table 2.

Perceptions of Collaborative Acts as Voluntary (Percentage of Sample)

Type of Collaboration	Voluntary	Involuntary
A cook for Islamic State fighters	88%	12%
A wife of an Islamic State fighter	84%	16%
A janitor in the Islamic State's department of municipal services	71%	29%

In a multivariate regression analysis, those who perceive the offense as voluntary are 13 percentage points less likely to accept former collaborators, on average (Figure 5). Perceptions of voluntariness behind the act are mostly insignificant in interactions with the type of act committed, which suggests that voluntariness is an independent driver of respondents' willingness to forgive and allow the reintegration of former offenders.

Personal Experiences and Grievances with the Islamic State

Preferences for punishment of former Islamic State collaborators may be affected by whether or not—and to what extent—an individual was personally affected by the group. Many studies find that personal experiences with violence decrease victims' willingness to forgive, reconcile,

and cooperate with offenders and the social groups to which they belong. Studies in the post-conflict settings of Yugoslavia, Bosnia, Herzegovina, and Croatia reveal that experiences with trauma were significant inhibitors of reconciliation.¹⁰⁷ However, other research finds that personal victimization by crime or violence can increase pro-social emotions and behaviors including empathy,¹⁰⁸ collective action,¹⁰⁹ and political participation through a post-traumatic growth mechanism.¹¹⁰ These two conflicting sets of findings suggest that personal experiences and grievances with the Islamic State could have either a positive or negative effect on victims' willingness to forgive and allow the reintegration of former Islamic State collaborators. The results of our study are consistent with the first expectation but not the latter. We find that survey respondents who experienced the loss of a family member due to the Islamic State (17% of the sample) were not significantly less likely to allow the reintegration of former Islamic State collaborators (Figure 5).

Given previous research on the effects of personal experiences and grievances on attitudes toward forgiveness and reconciliation, we also expected that there might be differences in preferences for reintegration between participants in the experiment who stayed in Mosul for the

¹⁰⁷ See, e.g., Nicholas A. Jones et al., *Dealing with International Crimes in Post-war Bosnia: A look Through the Lens of the Affected Population*, 9 EUR. J. CRIMINOLOGY 553–564 (2020); Miklos Biro et al., *Attitudes Toward Justice and Social Reconstruction in Bosnia and Herzegovina and Croatia*, in MY NEIGHBOR, MY ENEMY: JUSTICE AND COMMUNITY IN THE AFTERMATH OF MASS ATROCITY 183–205 (Eric Stover & Harvey M. Weinstein eds., 2004); Jonathan Hall et al., *Exposure to Violence and Attitudes Towards Transitional Justice*, 39 POL. PSYCH. 345–363 (2018).

¹⁰⁸ Michael Gilligan et al., *Civil War and Social Cohesion: Lab in the Field Evidence from Nepal*, 58 AM. J. POL. SCI. 604–619 (2014).

¹⁰⁹ ELISABETH J. WOOD, *INSURGENT COLLECTIVE ACTION AND CIVIL WAR IN EL SALVADOR* (2003).

¹¹⁰ See, e.g., Christopher Blattman, *From Violence to Voting: War and Political Participation in Uganda*, 103 AM. POL. SCI. REV. 231–247 (2009); Regina Bateson, *Crime Victimization and Political Participation*, 106 AM. POL. SCI. REV. 570–587 (2012).

duration of the Islamic State's more than three-year rule and those who fled soon after the group's capture of the city and therefore experienced less of the group's violence and repression. Those who stayed ("stayers") might be less forgiving of other Mosul residents who supported or joined the Islamic State due to having more grievances than those who left Mosul ("leavers"). However, it is also possible that "stayers" might be more sympathetic to those accused of collaboration with the Islamic State because they personally experienced the full extent of the Islamic State's coercive and authoritarian rule and have a better understanding of how dangerous it was to resist. Comparing "stayers" (who comprise 71% of the sample) against "leavers," we find that "stayers" are 4 percentage points less likely to allow the reintegration of former collaborators, which is consistent with previous research finding that exposure to conflict tends to "harden hearts."¹¹¹

Perceptions of State Legitimacy

We also expected that variation in individual perceptions of state legitimacy might affect attitudes toward reintegration of former offenders. If respondents do not believe in the legitimacy of state institutions, they may not view court decisions as fair and they may not trust that criminal justice systems will effectively rehabilitate former offenders. Previous survey-based research has found that low levels of trust in state institutions and particularly law enforcement institutions may contribute to support for vigilante justice in diverse contexts including Mexico,¹¹² Pakistan,¹¹³

¹¹¹ Sivan Hirsch-Hoefler et al., *Conflict Will Harden your Heart: Exposure to Violence, Psychological Distress, and Peace Barriers in Israel and Palestine*, 46 BRIT. J. POL. SCI. 845–859 (2016).

¹¹² Daniel Zizumbo-Colunga, *Community, Authorities, and Support for Vigilantism: Experimental Evidence*, 39 POL. BEHAVIOR 989 (2017).

¹¹³ Justice Tankebe & Muhammad Asif, *Police Legitimacy and Support for Vigilante Violence in Pakistan*, 40 INT'L J. COMP. & APPLIED CRIM. JUST. 343 (2016).

Ghana,¹¹⁴ and Latin America because citizens do not trust the state to provide justice and security.¹¹⁵ In Iraq, concerns about corruption in Iraqi courts and prisons are believed to have contributed to extra-judicial killings of suspected Islamic State fighters and collaborators in areas recaptured from the group in 2017. Some Iraqi state security forces said that they had participated in extra-judicial executions because they did not trust the Iraqi justice system to punish them fairly. As one Iraqi explained in 2017, “[Corruption] is why Iraqi soldiers prefer to shoot them or throw them off high buildings.”¹¹⁶ A resident of Mosul said of individuals currently awaiting trial on Islamic State-related charges, “We don’t want them to go to jail because they will be let out. It’s better for them to be killed.”¹¹⁷ These concerns are not unfounded. Iraqi lawyers have witnessed cases in which judges have offered to alter witness statements in exchange for bribes and others reported that convicted Islamic State fighters have successfully bribed their way out of prison.¹¹⁸ For these reasons, we expected that respondents who view the Iraqi government as illegitimate would be more likely to reject the reintegration of former Islamic State collaborators who have completed their sentences than those who view the Iraqi government as legitimate.

To assess the relationship between respondents’ perceptions of state legitimacy and their

¹¹⁴ Justice Tankebe, *Self-help, Policing, and Procedural Justice: Ghanaian Vigilantism and the Rule of Law*, 43 L. & SOC’Y REV. 245 (2009).

¹¹⁵ Amy E. Nivette, *Institutional Ineffectiveness, Illegitimacy, and Public Support for Vigilantism in Latin America*, 54 CRIMINOLOGY 142 (2016).

¹¹⁶ Patrick Cockburn, *More Than just revenge: Why Isis Fighters are Being Thrown off Buildings in Mosul*, THE INDEPENDENT (July 17, 2017), <https://www.independent.co.uk/news/world/middle-east/isis-mosul-iraq-fighters-killed-thrown-off-buildings-reasons-corruption-revenge-patrick-cockburn-a7845846.html>.

¹¹⁷ Haley Bobseine, *Mosul and Tel Afar Context Analysis*, RISE FOUNDATION 26 (2017), <http://rise-foundation.org/wp-content/uploads/2017/12/Rise-Mosul-and-Tel-Afar-Context-Analysis-Rise-December-2017.pdf>.

¹¹⁸ Mara R. Revkin, *After the Islamic State: Balancing Accountability and Reconciliation in Iraq*, UNITED NATIONS UNIVERSITY CENTRE FOR POLICY RESEARCH 29 (2018), <https://i.unu.edu/media/cpr.unu.edu/attachment/3127/2-LoP-Iraq-final.pdf>.

willingness to allow the return and reintegration of former Islamic State collaborators, we analyze survey questions that asked respondents how much trust they have in the Iraqi courts and judges on a four-point scale ranging from “no trust” to “a lot of trust.” For analysis purposes, we dichotomized the responses into the binary variables of trust and no trust. Contrary to expectations, we found that trust in courts and judges (a measure of the perceived legitimacy of the state’s legal system) is not significantly associated with our dependent variable, attitudes toward reintegration.

3. Community-Based and Restorative Justice Mechanisms

In this section, we consider three follow-up questions that were asked only to respondents who initially refused to accept former Islamic State collaborators into their neighborhood in order to explore two potential mechanisms—endorsements by community leaders and noncarceral rehabilitation programs—that might facilitate reintegration. These questions were asked separately after each hypothetical candidate for reintegration that respondents rejected. The first two questions asked if respondents would be willing to change their judgement and allow the person to be reintegrated if their religious or tribal leader asked them to do so. The third question asked if respondents would be willing to change their judgement and allow the person to be reintegrated if he or she successfully completed a rehabilitation program. Although the non-randomized nature of these questions does not allow us to identify the causal effects of community leader endorsements and rehabilitation programs, the results strongly suggest that community-based or restorative approaches to rehabilitation and reintegration may be more effective than prolonged incarceration.

Table 3 presents the results of our questions on these potential facilitating mechanisms for reintegration. Among respondents who initially rejected their hypothetical candidates for

reintegration (around 70% of our sample), about 8% are willing to change their judgment and support reintegration if asked to do so by their tribal leader or religious leader. These outcomes are highly correlated ($r = 0.78$)¹¹⁹ such that if we combine these two groups, the total percentage of the sample who were persuaded either by a tribal or religious leader is around 10%. Another 10% of respondents were willing to change their judgment and support reintegration if the former offender completes a rehabilitation program. The results for the rehabilitation question are not as highly correlated with respondents who said they would be willing to accept former offenders when asked to do so by a traditional leader ($r = 0.26$); undergoing a rehabilitation program moves an *additional* 5% of the sample in favor of reintegration.

Together, the combined effects of local leader endorsements and rehabilitation programs persuade around 15% of people who were previously opposed to reintegration to change their judgment and allow former offenders to return to their home communities. For tribal and religious leader endorsements, these outcomes do not vary greatly between types of acts or punishment. However, for the rehabilitation program, cooks were much more likely to benefit than wives of fighters or janitors at the municipality and those who received no punishment were more likely to benefit than those who received other types of punishments.¹²⁰

Table 3:

The Effects of Different Facilitating Mechanisms on Attitudes Toward Offenders

Mechanisms Facilitating	Percent of Respondents Who Change Attitude to
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¹¹⁹ Pearson's R-squared was used to calculate this statistic.

¹²⁰ According to multivariate regression analyses.

Reintegration	Acceptance of Reintegration
Tribal leader endorses reintegration	7.8%
Religious leader endorses reintegration	8.2%
Offender completes rehabilitation program	9.8%

F. Addressing Potential Biases in the Data

Survey experiments enable researchers to estimate the causal effects of possible causes known as independent variables (in this case, different types of punishment) on outcomes known as dependent variables (in this case, public opinion toward reintegration of former offenders), but they are nonetheless subject to potential biases. Below, we explain these different potential biases and how we addressed them.

First, a common concern in post-conflict settings is that social-desirability bias suppresses the true level of support for a rebel group, due to respondents' fears of punishment or stigmatization.¹²¹ To address this concern, we designed a "list experiment" to assess whether a higher percentage of respondents might answer "yes" to sensitive questions if asked indirectly (Appendix). List experiments are a type of survey experiment where respondents are asked to provide the total number of items on a list to which they answer affirmatively rather than to answer each item separately. For the randomly selected control group (approximately 50% of the total number of survey respondents), the list only includes non-sensitive items. For the treatment group (the other

¹²¹ Graeme Blair et al., *Comparing and Combining List and Endorsement Experiments: Evidence from Afghanistan*, 58 AM. J. POL. SCI. 1043–1063 (2014).

50% of survey respondents, the list contains a sensitive item in addition to these non-sensitive items.¹²² In our survey, we asked the following direct sensitive question: “During the first six months of Islamic State rule, did you believe that the Islamic State was doing a better job governing Mosul than the Iraq government did previously?” to which 16% of respondents answered “yes,” suggesting that a substantial minority of the Mosul population viewed the Islamic State’s system of governance favorably in comparison with that of the Iraqi state. It is likely that social desirability bias affected responses to this question because expressing any approval for anything that the Islamic State did is risky in a context where tens of thousands of Iraqis suspected of supporting the group are being arrested and detained.

We designed a list experiment in which the wording of the sensitive item mirrored that of the direct sensitive question (Appendix). The results indicate that 11% of the sample agreed with the sensitive item when asked indirectly. The difference in the response rates between these two samples (11% and 16%) was not statistically significant according to a Welch’s two-sample t-test ($p=0.12$). In addition, only six respondents declined to answer or did not know when asked the direct question. Together, these findings suggest that social-desirability bias did not significantly affect our results.

A second potential concern is that “order effects,” the order in which respondents were presented with the three hypothetical scenarios, may have influenced their responses. It is possible that respondents were beginning to fatigue by the third round of the experiment or that earlier scenarios somehow biased their responses to scenarios presented later.

¹²² Graeme Blair & Kosuke Imai, *Statistical Analysis of List experiments*, 20 POL. ANALYSIS 47-77 (2012).

A third potential concern is that the severity of the punishment that was assigned to the different hypothetical offenders was interpreted by respondents as a signal of the offender's culpability or dangerousness, which would bias our estimate of the effects of punishment—independent of severity of the offense—on preferences for reintegration. Although this is a valid concern, we believe that the severity of punishment was not in fact a credible signal of an offender's culpability given widespread recognition of the corrupt and arbitrary nature of sentencing decisions in Iraq as noted above. For example, many nonviolent Islamic State collaborators such as cooks received the same sentence as fighters, capital punishment, despite having committed a much less severe offense.¹²³ Furthermore, reports of criminal defendants paying bribes to judges in exchange for reduced sentences or to prison guards to help them escape are frequent.¹²⁴ Given that so many Iraqis perceive the judiciary as corrupt and arbitrary, we have reason to believe that respondents' preferences for reintegration of hypothetical collaborators are not conditioned by the severity of their punishments.

Finally, it is possible that punishment affects reintegration differently across the three different types of offenses included in our experiment, which would interfere with our ability to estimate the independent effects of punishment on attitudes toward reintegration. To test for this possibility, we interact punishment with type of collaboration in OLS regression. The results indicate that there is not a statistically significant interaction between punishments and the type of offense as

¹²³ Human Rights Watch, *Flawed Justice: Accountability for ISIS Crimes in Iraq* (2017), <https://www.hrw.org/report/2017/12/05/flawed-justice/accountability-isis-crimes-iraq>.

¹²⁴ Mara R. Revkin, *After the Islamic State: Balancing Accountability and Reconciliation in Iraq*, UNITED NATIONS UNIVERSITY CENTRE FOR POLICY RESEARCH 17, 24 (2018), <https://i.unu.edu/media/cpr.unu.edu/attachment/3127/2-LoP-Iraq-final.pdf>.

shown by the fact that the confidence intervals of the point estimates for the interactions all cross zero (Appendix Figure 1).

III. IMPLICATIONS FOR LAW AND POLICY IN IRAQ AND BEYOND

A. Post-Conflict Transitional Justice

There is a growing consensus among scholars of post-conflict transitional justice that state-led, top-down accountability processes are often ineffective in advancing the goals of enduring peace and reconciliation because they tend to be insufficiently inclusive of diverse perspectives—particularly the voices of victims—and are often heavily shaped by the preferences of political elites on the winning side of the conflict.¹²⁵ Harsh punishment of perpetrators without adequate differentiation between more serious crimes and lesser offenses may be perceived as “victors’ justice,” undermining the legitimacy of transitional justice efforts.¹²⁶ Jane Stromseth, David Wippman, and Rosa Brooks have highlighted the importance of “understand[ing] the specific goals and priorities of domestic populations who, after all, are the people who endured the atrocities and must chart a new future.”¹²⁷ Ruti Teitel argues that a necessary condition for successful transitional justice is to promote the dissemination and acceptance of the truth of past crimes and atrocities in the “public sphere” in order for society to reach a shared understanding of the past.¹²⁸ Although public opinion should not be the sole basis for the design of transitional justice policies because of

¹²⁵ ROSALIND SHAW ET AL., *LOCALIZING TRANSITIONAL JUSTICE: INTERVENTIONS AND PRIORITIES AFTER MASS VIOLENCE* (2010).

¹²⁶ Pablo de Greiff, *Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence*, United Nations General Assembly, Human Rights Council A/HRC/27/56 (2014).

¹²⁷ JANE STROMSETH ET AL., *CAN MIGHT MAKE RIGHTS?: BUILDING THE RULE OF LAW AFTER MILITARY INTERVENTIONS* 257 (2006).

¹²⁸ RUTI G. TEITEL, *TRANSITIONAL JUSTICE* 83 (2000) (“Consensus on the history produced is predicated on the truth’s dissemination and acceptance in the public sphere.”)

the danger of “mob justice,” research suggests that ignoring public opinion can have adverse consequences for the success of transitional justice processes.¹²⁹ In contrast with top-down approaches to transitional justice, our study uses a bottom-up and victim-centered methodology to illuminate the experiences and attitudes of people directly affected by the conflict for whom the question of how to balance demands for justice with the need for reconciliation is particularly urgent and personal. Survey experiments like those we conducted in Iraq could be utilized in other post-conflict settings to inform evidence-based transitional justice policies that reflect not only the interests of the state and political elites but also victims and marginalized communities.

B. Sentencing Reform

Incarceration has become the dominant form of punishment in the United States and many other countries around the world despite the availability of noncarceral alternatives that are more humane and less costly. Between 2000 and 2016, the global prison population increased by almost 20% to a total of 10.35 million prisoners around the world.¹³⁰ This increase was driven largely by the United States, which has by far the largest prison population in the world and the highest per capita incarceration rate: Nearly one out of every 100 American adults are in prison.¹³¹

Our finding that long prison sentences of 15 years did not affect the community’s willingness

¹²⁹ Erin Daly, *Between Punitive and Reconstructive Justice: The Gacaca Courts in Rwanda*, 34 N.Y.U. J. INT’L LAW POL. 383 (2001).

¹³⁰ Roy Walmsley, *World Prison Population List 11th Edition*, 2 (2016), https://grupodeprisiones.uniandes.edu.co/images/stories/relatorias/PRISIONES-OCT2011/OTRASINTERNACIONALES/PRISONSTUDIES/WorldPrisionPopulationList_2017.pdf.

¹³¹ Committee on Causes and Consequences of High Rates of Incarceration, *The Growth of Incarceration in the United States: Exploring Causes and Consequences* (2014).

to allow the reintegration of former offenders in the case of Iraq is relevant to current debates about sentencing reform there and potentially in other contexts. In the case of Iraq, community members do not seem to view prolonged incarceration as a necessary condition for reintegration of former Islamic State collaborators even though this community was directly affected by their offenses and therefore might be expected to have stronger-than-average preferences for retribution. We did find that a much shorter prison sentence of three years had a small but statistically significant positive effect on attitudes toward reintegration in comparison with no punishment, suggesting that reduced sentences might be more conducive to reintegration than longer ones. One possible explanation for this result is that longer prison sentences are associated with greater stigmatization and difficulty finding employment, so people may be more accepting of former offenders who served shorter sentences because they are perceived as being more likely to successfully reintegrate into the community. Given the heavy costs of prolonged incarceration and evidence of its counterproductive effects on rehabilitation and reintegration, policymakers should consider whether much shorter sentences or noncarceral sanctions (discussed below) would achieve the same or possibly better results for these and other criminal justice objectives.

C. Alternatives to Incarceration

After decades of rapid growth in the U.S. prison population, there are some promising signs of progress toward decarceration and increasing interest in non-carceral restorative and community-based alternatives. Although the U.S. incarceration rate is still by far the highest in the world, the growth rate of the U.S. prison population has slowed since 2000 as Congress and states began to

adopt sentencing and criminal law reforms aimed at reducing incarceration.¹³² In Iraq, the recent release of more than 16,000 nonviolent offenders to reduce the risk of COVID-19 outbreaks in prisons indicates that decarceration is possible despite continuing political opposition.¹³³ Many empirical studies have already called into question the efficacy of incarceration for achieving its intended objectives, but there is still a need for more research on the causal effects of noncarceral alternatives that may be equally or more effective.

Our study in Iraq found that a restorative punishment (six months of community service) had a small but statistically significant positive effect (4 percentage points) on respondents' willingness to allow the reintegration of former offenders. Substantively, the magnitude of the effect of six months of community service is greater than the effect of a 15-year prison sentence (zero) and similar to the effect of a 3-year prison sentence (4 percentage points). In addition to finding some evidence that community service has positive effects on public opinion toward reintegration, our most striking finding was that around 15% of respondents who initially rejected a hypothetical candidate for reintegration were willing to change their judgment and allow the former offender to return to their home community if asked to do so by their religious or tribal leader or if the former offender successfully completes a rehabilitation program. These results are promising evidence of the potential effectiveness of restorative and community-based justice mechanisms for changing public opinion in ways that decrease stigmatization of former offenders and facilitate their successful reintegration.

¹³² David Cole, *Turning the Corner on Mass Incarceration?*, 9 OHIO ST. J. CRIM. L. 29 (2011).

¹³³ *Supra* note 31.

CONCLUSION

This study contributes to a growing body of empirical research that challenges some of the foundational but untested assumptions upon which criminal justice institutions and policies have been built in the United States and other countries including Iraq, which receives considerable U.S. assistance. In Iraq, where tens of thousands of individuals have been convicted of collaborating with the Islamic State in nonviolent civilian roles, we found that public opinion toward former offenders is significantly less punitive and more forgiving than the government's current sentencing policies. A harsh prison sentence of 15 years did not increase the likelihood of community acceptance of reintegration, but a noncarceral punishment (community service) did. Furthermore, we found strong evidence that noncarceral, community-based justice mechanisms can significantly increase the likelihood of successful reintegration after punishment. Fifteen percent of respondents who were initially opposed to the return and reintegration of offenders into their communities said that they would be willing to accept reintegration if they were asked to do so by a tribal or religious leader, or if the offender completes a noncarceral rehabilitation program. These findings suggest that noncarceral, restorative, and community-based justice mechanisms may be equally or more effective than prolonged incarceration for achieving the objectives of rehabilitation and eventual reintegration of former nonviolent offenders.

This study is one of the first to provide empirical evidence on the relationship between punishment and reintegration of former offenders and offers an innovative research design that can be replicated by other scholars studying public opinion toward sentencing and other criminal justice policies in contexts beyond Iraq. Our findings raise a number of questions that, although beyond the scope of our article, suggest directions for future research. We only evaluated one type

of noncarceral sanction (community service) and found that it had positive effects on public opinion toward former offenders. How do other restorative justice mechanisms—such as public apologies or restitution—affect willingness to forgive and allow the reintegration of former offenders? Additionally, how does physical and social proximity to former offenders affect attitudes toward reintegration? Are individuals who live in communities with large numbers of former offenders or in communities near prisons more or less likely to support reintegration? Are individuals who personally know a former offender more or less likely to support reintegration?

Many studies have found that providing new information to participants, or varying how the information is framed and presented, can change attitudes and in some cases can change behaviors as well. For example, a survey experiment that randomly provided participants with information about immigrants in the United States found that the treatment group positively updated their prior beliefs about immigrants and were willing to donate more money to a pro-immigration charity.¹³⁴ Another experiment found that a brief “perspective-taking exercise” in which participants were asked to imagine themselves as refugees increased inclusionary behavior toward refugees as measured by the likelihood of sending a letter to the President in support of admitting Syrian refugees.¹³⁵ Could similar informational interventions help to reduce stigmatization of former offenders and increase empathy toward them?

Our findings contribute to a growing empirical consensus that incarceration fails to achieve its intended objectives. We demonstrate how survey experiments, a method developed by social

¹³⁴ Alexis Grigorieff et al., *Does Information Change Attitudes Toward Immigrants?*, 18 DEMOGRAPHY 1-27 (2020).

¹³⁵ Claire L. Adida et al., *Perspective Taking Can Promote Short-term Inclusionary Behavior Toward Syrian Refugees*, 115 PROC. NAT’L ACAD. OF SCI. 9521, 9523 (2018).

scientists that has not been widely used by legal scholars, can help to address important questions about causal relationships between criminal justice policies and outcomes of great importance such as the reintegration of former offenders. We hope that other scholars will replicate and build upon our research design to study other pressing issues in criminal justice and beyond.

APPENDIX

A. List Experiment to Assess Social Desirability Bias

On the survey, 16.1% of respondents answered “yes” to the following direct sensitive question: “During the first six months of Daesh rule, did you believe that Daesh was doing a better job of governing Mosul than the Iraqi government did previously?” To assess whether an even higher percentage of respondents might answer “yes” to this question if asked indirectly, we implemented a list experiment in which the wording of the sensitive item mirrors that of the question above (Appendix Figure 1).

The non-sensitive items in this list experiment are objectively true or false statements based on facts that should have been widely known to Mosul residents during the first six months of the Islamic State’s rule, so we expected that most respondents would be able to correctly identify them as true or false. However, given individual-level differences in exposure to Islamic State governance and information, it is possible that some respondents did not know whether these

statements were true/false or had incorrect beliefs. Nonetheless, the distribution of uninformed or misinformed respondents should be unbiased across control and treatment groups.

Appendix Figure 1.

List Experiment Design

“Please tell me how many of the following statements were true during the first six months of the Islamic State’s rule. We are not interested in which statements you think are true, only how many of them:

- During this period, the Iraqi government stopped paying the salaries of government employees in Mosul [FALSE].¹³⁶
- During this period, the Islamic State started collecting zakat [taxes] from the people of Mosul [TRUE].¹³⁷
- During this period, the Islamic State opened a religious police department (known as the “hisba”) in Mosul [TRUE].¹³⁸
- During this period, the Islamic State was doing a better job of governing Mosul than the Iraqi government did previously [TREATMENT: displayed only for 50% of respondents]

If survey respondents had perfect information, we would expect the mean of the control group to be approximately 2, since 2 out of the 3 items on the list are objectively true and the third is objectively false. The difference between the mean of the control group (1.35) and the expected mean under conditions of perfect information (2) suggests that some survey respondents had

¹³⁶ The Iraqi government did not stop paying the salaries of government employees in Mosul (and other Islamic State-controlled areas) until July 2015. Isabel Coles, Despair, hardship as Iraq cuts off wages in Islamic State cities, Reuters (Oct. 2, 2015), <https://www.reuters.com/article/us-mideast-crisis-iraq-salaries/despair-hardship-as-iraq-cuts-off-wages-in-islamic-state-cities-idUSKCN0RW0V620151002>.

¹³⁷ In August 2014, an Iraqi newspaper published an official Islamic State document announcing instructions for the payment of zakat. *The Iraqi Bulletin*, *الزكاة / تعليمات الموصل / صورة الموصل: Zakat Instructions*, (Aug. 14, 2014), <https://web.archive.org/web/20180318172323/https://www.facebook.com/Iraqibulletin/photos/a.766232510084131.1073741828.766120606761988/796126887094693/?type=3&theater>.

¹³⁸ The Islamic State had established a “hisba” police department by July 2014. Khalis Jamaa, *الموصل تحت عباءة الخليفة وقوانين دولته (Mosul Under the Cloak of the Caliph and the Laws of his State)*, NIQASH (Jul. 17, 2014), <http://www.niqash.org/ar/articles/security/3497>.

factually incorrect beliefs about the items that were objectively true or false (Appendix Table 1). One possible explanation for misinformation is that some residents of Mosul avoided leaving their homes as much as possible during the three years that the Islamic State was in control of the city to minimize contact with the group.¹³⁹

Using a Welch's two-sample t-test, we find that the difference between the mean of the control group (1.35) and the mean of the treatment group (1.45) is not statistically significant ($p=.1231$). This result, together with the fact that only 6 respondents declined to answer or did not know when asked the direct sensitive question, suggests that social desirability bias did not significantly affect the results.

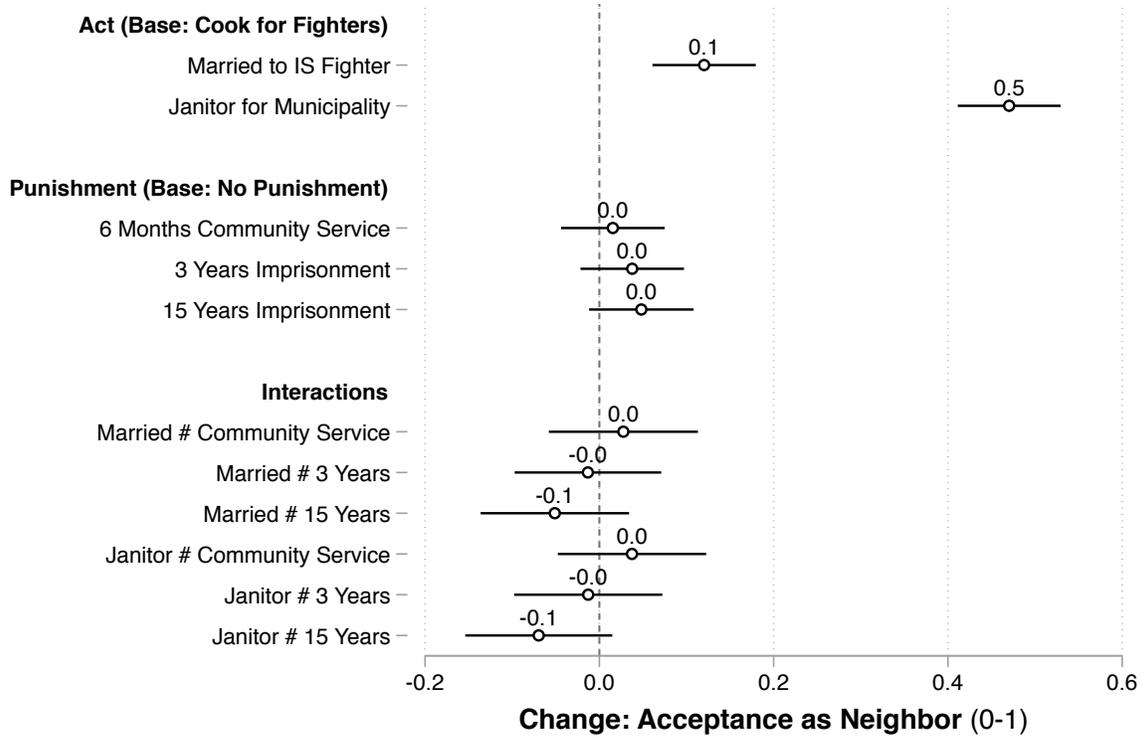
Appendix Table 1.
Analysis of List Experiment

Mean of Control Group (3 non-sensitive items)	1.351931
Mean of Treatment Group (3 non-sensitive + 1 sensitive)	1.452113
Difference in Means	0.100182
t	-1.5429
d.f.	1392.5
p-value	0.1231

B. Interactions Between Type of Collaboration and Punishment

Appendix Figure 1.
Interactive Effects of Type of Act and Punishment on Probability of Reintegration of Former Islamic State Collaborators

¹³⁹ Florian Neuhof, *Meet the Woman Who Picked Up the Pen Under ISIL's Sword*, NAT'L (Apr. 5, 2018), <https://www.thenational.ae/world/mena/meet-the-woman-who-picked-up-the-pen-under-isil-s-sword-1.718978>.



Note: Figure depicts point estimates with 95 confidence intervals. Robust standard errors clustered at the individual level. The dots on the vertical line at 0 denote the reference category for each attribute.