

Due Process and Accountability Under Transitional Justice: Evidence from Mosul, Iraq

Vera Mironova
Harvard University

Sam Whitt
High Point University

How important are due process norms when holding groups accountable for political violence? We examine public perceptions of justice and fairness in judicial proceedings brought against suspected Islamic State (ISIS) fighters and their supporters in Mosul, Iraq. We conducted a survey of Mosul residents and former ISIS affiliates in camps outside Mosul to evaluate public support for due process rights. Using experimental survey vignettes involving trials of ISIS detainees, we find that Mosul residents, while supporting harsh judicial outcomes that hand down capital punishment, are also sensitive to violations of procedural due process. People with ISIS affiliations, in contrast, are more concerned with substantive due process, and do not see capital punishment as just or fair, regardless of whether procedural due process is followed. While we find that insurgency supporters and opponents have clashing interpretations of the rule of law under transitional justice, both also recognize the strategic value of procedural justice to long-term peace and stability.

Word Count: 9075

To what extent do publics value procedural justice in the treatment of insurgent and terrorist detainees? In this study, we consider whether ordinary Mosul civilians, many of whom suffered under ISIS rule, show any concern for the rule of law in the treatment of suspected ISIS detainees. Based on a survey of approximately 400 Mosul civilians and 200 people with ISIS family affiliations, we find a deeper appreciation for the rule of law among ordinary Mosul civilians than conventional wisdom might predict. First, we show that while ordinary citizens of Mosul favor capital punishment for ISIS followers, they are less likely to see death penalty outcomes as just or fair when detainee due process rights are violated. Hence, while vengeful against ISIS, Mosul civilians are sensitive to procedural due process norms in the treatment of ISIS detainees. People with ISIS affiliations, in contrast, regard capital punishment as a substantively unjust and unfair outcome, regardless of whether procedural due process is adhered to. We also find that trust and confidence in the judiciary and beliefs about ISIS willingness to surrender help explain perceptions of judicial outcomes. Our results have important implications for the transitional justice process. In particular, we reveal how many ordinary Mosul civilians as well as ISIS affiliates see basic due process protections as important to demobilizing insurgents and building lasting peace.

Literature

What rights do insurgent and terrorists combatant detainees have under the law? Are they entitled to due process and other legal protections? While a great deal of research focuses on international legal and jurisdictional matters¹, less attention has been paid to public perceptions of detainee rights, especially in the context of ongoing terrorist and insurgency related violence. While some combatants have been brought to justice before international war crimes tribunals, in many cases of inter-state and civil conflict, states often prefer to try combatants in domestic military commissions or domestic courts where they have potentially greater leverage over outcomes (Rudolph 2001; Smith et al. 2002; Vagts 2003; Bass 2014). This raises questions about the potential of public opinion on judicial strategies states pursue.

Within domestic judicial systems, states possess a variety of prosecutorial options in holding insurgent combatants accountable for war-related crimes and atrocities. On one hand, states may pursue restorative or rehabilitative strategies, granting former combatants amnesty through truth and reconciliation commissions (Braithwaite 2002; Latimer et al. 2005; Gibson 2004; Cobban 2015) or demobilization and re-education along with short term incarceration (Raynor and Robinson 2005; Robinson and Crow 2009). More austere prosecutorial policies emphasize retributive justice, applying both punitive and deterrent measures such as long-term or life incarceration and capital punishment (Darley et al. 2000; Darley and Pittman 2003; Hood and Hoyle 2015). In practice, scholars argue that states may also utilize judicial process for strategic purposes, especially in authoritarian regimes, where elites utilize show trials of “enemies of the state” for political gain (Szász 1971; Koskenniemi 2002; Koestler 2015). In each

¹ The legal foundations for detainee rights under international humanitarian and human rights law remains contentious. We review some of this literature, much of which is grounded in the US “War on Terror”, in an online appendix.

case, the treatment of detainees has important implications for the transitional justice process and long-term prospects for peace and stability after violence (Teitel 2000, 2015; Elster 2004). One major concern is that the willingness of the state to use violence against detainees, especially civilians, will fuel the very insurgencies they are trying to circumvent (Sambanis et al. 2012; Valentino 2014; Souleimanov and Siroky 2016, though see Lyall 2009). Given these options and concerns, what might ordinary citizens, some of whom likely supported the insurgency while others opposed it, regard as justice for insurgent detainees?

Our research specifically targets the underexplored question of public support for detainee rights in the context of counter-insurgency/counter-terror campaigns. Do publics support government efforts to pursue justice through harsh prosecution of insurgent detainees? To what extent are they willing to discount violations of detainee rights for the sake of security or revenge and retribution? In criminology research, Tankebe (2009) argues that public concerns for procedural justice may diminish in insecure settings, with publics placing a premium on safety above all else. Some research shows how publics who are fearful are willing to support restrictions of basic civil rights and liberties (Davis and Silver 2004; Davis 2007) as well as harsh punishment of enemy combatants including capital punishment and the use of torture (Gronke et al. 2010; Piazza 2015). Increasingly scholars are examining public attitudes toward the treatment of insurgent and terrorist detainees. In the case of Iraq, Kao and Revkin (2018) examine punishment preferences for ISIS detainees and find that publics favor harsher punishment for ISIS leadership than rank-and-file followers and supporters. We build on previous research by considering public support for detainee rights in the adjudication and punishment of those identified by the state as terrorists and insurgents. We now turn to our hypotheses about public support.

Theory and Hypotheses

The concept of rule of law is often heralded an essential pillar of democracy, and public support for due process under the law could be an important barometer of the strength of democratic norms in a society. O'Donnell (2004) defines the rule of law as at minimum the fair and consistent application of the written law by state authorities in judicial processes.² The rule of law is often contrasted with partial and capricious “rule of man” or “rule by law” which emphasizes the power of the state to interpret and carry out law as it sees fit. Fair treatment under law in accordance with established rules and procedures is commonly referred to as *due process* (Linde 1975). However, building foundations for the rule of law may be especially challenging in societies with a history of authoritarianism and violence (Diamond 2005). One of the functions of transitional justice programs is to help societies overcome such painful historical legacies (Kritz 1995; Teitel 2000; 2015), but it is unclear the extent to which publics are willing to extend basic rule of law protections to former oppressors and perpetrators of violence against them (Elster 2004).

We examine public support for the rule of law by evaluating respect for due process rights of combatant detainees. We consider public regard for the rights of enemy combatants as a potentially important indicator of respect for the rule of law. Research in criminal justice has shown that public perceptions of due process, i.e. procedural justice, are especially important to institutional legitimacy, effective rule of law, social cooperation, and peace (Thibaut and Walker

² Carothers (1998, p. 96) defines the rule of law as “a system in which the laws are public knowledge, are clear in meaning, and applied equally to everyone.”

1975; Tyler 1994; Tyler 2003; Latimer et al. 2005; Reisig and Lloyd 2009; Loyle and Apple 2017). Public support for detainee due process should strengthen transitional justice programs and the institutionalization of rule of law norms after authoritarianism and violence. However, Tankebe (2009) suggests that publics value security over procedural fairness in volatile settings. If publics disregard due process in the treatment of detainees, it could undermine legitimacy of judicial outcomes, eroding prospects for long-term peace and stability and lead to renewed insurgent violence. A lack of public support may also encourage elites to willfully violate detainee rights for political gain, and may also have the unintended consequence of fueling insurgency recruitment. Hence, public opinion on the treatment of detainees is not only important for holding elites accountable to basic human rights protections under the rule of law, but also for promoting institutional legitimacy, peace and stability after violence.

Within the framework of procedural justice, we focus on public perceptions of judicial *processes* and *outcomes*. As such, we unpack the concept of due process into procedural and substantive components. The procedural vs. substantive distinction is important to legal scholars, where procedural due process refers to individual rights and protections in the adjudication process, while substantive due process speaks to the protection of fundamental individual rights from government interference (Tribe 1975; Rubin 2003). For example, depriving someone of the right to self-defense in a criminal trial (denial of right to attorney, the right to speak in one's defense, the right to question witnesses or cross-examine evidence) would constitute a basic denial of procedural due process. A violation of procedural due process is likely to produce an outcome that violates substantive due process: the unlawful infringement of government on life, liberty, or property. However, substantial due process can be violated even when procedural due process is protected. For example, the application of capital punishment to an innocent person

may violate substantive due process even if the adjudication process were procedurally lawful (Bentele 2003).

In this study, we focus on judicial outcomes involving capital punishment: an austere, but common fate for many insurgent fighters after capture by government forces (Jones 2006).³ We begin by testing a simple hypothesis that subjects will perceive judicial outcomes involving capital punishment of detainees as more fair when they follow procedural due process than when basic elements of procedural due process are violated. Validation of this hypothesis would suggest that ordinary citizens value due process norms (Tyler 1994).

H1 (Procedural Due Process): In trials of insurgent detainees, individuals will be more likely to accept capital punishment of detainees when procedural due process is followed than when it is violated.

Next, we consider important conflict-related identity cleavages regarding due process rights. Research indicates that attitudes toward procedural justice are driven primarily by identity-based relational concerns, where “people’s sense of justice or injustice shapes what they think, feel and do in groups” (Tyler and Blader 2000, p. 9). A large body of literature underscores the willingness of individuals to favor in-groups over out-groups, especially during conflict (Balliet et al. 2014; Bauer et al. 2016). To explain public support for due process under transitional justice, we focus on public divisions in support of and opposition to insurgents,

³ We anticipate that our hypotheses will hold true for other less severe types of punishment, but we leave that for others to test with future research designs where punishment outcomes are manipulated.

which may be hard to identify in practice (Fearon 2007; Kalyvas and Kocher 2007; Lyall et al. 2013). In the aftermath of an insurgent defeat, perspectives on detainee rights might provide a useful instrument for identifying insurgent sympathy within the population.⁴ We predict that insurgency opponents will be more favorable of capital punishment of detainees, but insurgent supporters are more likely to raise concerns about substantive due process, questioning the fairness of capital punishment regardless of procedural due process adherence or violations. We test the following hypothesis:

H2 (Insurgency Support and Opposition): In trials of insurgent detainees, insurgency opponents are more likely to accept capital punishment of detainees than insurgency supporters.

Why might insurgency opponents regard the death penalty for insurgent detainees as a just and fair judicial outcome? Why might insurgent supporters view capital punishment as excessive and unfair? To explain pro/anti-insurgency cleavages with respect to treatment of detainees, we consider arguments present in the broader literature on violence against civilians in conflict. Valentino (2014) summarizes the literature into two main camps: one focusing on psychological drivers and another focusing on strategic rationales. One psychological argument holds that publics who harbor grievances against insurgents will be more willing to inflict harsh punishments against detainees in the quest for revenge and retribution. Victimization at the hands of insurgent forces should make individuals especially willing to favor capital punishment of detainees, regardless of due process considerations. In contrast, insurgency supporters, who

⁴ A counter-hypothesis might be that insurgent supporters will show no public sympathy toward insurgent detainees for fear of retribution.

presumably hold their own strong grievances against the state, would be more likely to regard state use of capital punishment as excessive and unfair.⁵ We test the following hypothesis:

H3 (Grievances) In trials of insurgent detainees, victims of insurgent violence are more likely to accept capital punishment of detainees than non-victims.

A second psychological argument considers the impact of institutional trust on perceptions of justice and fairness. Tyler and Lind (1992) and Lind et al. (1997) underscore how institutional trust is important to public perceptions of legitimacy and justice. Conflict can be highly destructive to stocks of institutional trust (De Juan and Pierskalla 2016). We anticipate that individuals who are more trusting of government institutions would perceive judicial processes and outcomes as more just and fair than those who have low institutional trust. In conflict settings, it is highly likely that anti-government groups have extremely low institutional trust, which may also explain their support for insurgents. Corruption has also been shown to play a major role in eroding institutional trust (Uslaner 2004; Morris and Klesner 2010). We consider how trust and confidence in the courts impacts public perceptions of fairness in the adjudication process and outcome. We test the following hypothesis:

H4 (Trust and Confidence in the Judicial System) In trials of insurgent detainees, individuals who perceive the courts as untrustworthy and corrupt will be less likely to accept capital punishment of detainees.

⁵ We will explore the effects of state vs. insurgent-driven violence in greater detail in future research.

Next, we consider strategic rationales for supporting and opposing capital punishment. First, we examine a strategic rationale *in favor of* harsh punishments. We argue that insurgent forces may still be perceived as a severe threat in the immediate aftermath of violence, with publics fearful that insurgents might remobilize and resume fighting at any time. Elites may also be wary of providing concessions to insurgents (ex. amnesty, short-term detention) when their commitment to peace is not seen as credible. Elites might also be tempted to exploit insurgent threats for political gain, signaling their commitment to combating insurgents through harsh punishment of detainees (Bartolucci 2012). If publics are indeed fearful of insurgents, they also may be willing to make justice vs. security trade-offs, sacrificing norms of due process to ensure insurgent threats are removed. Capital punishment of detainees serves to underscore the credibility of elite elimination rhetoric in response public demands to stamp out insurgent threats.

As a counter-argument, we offer a strategic rationale *against* capital punishment as a means to incentivize insurgent groups to surrender and demobilize. Drawing on the logic of security dilemmas (Jervis 1971, Posen 1993), efforts increase one's security can have unintended consequences of making one less secure. In the context of the treatment of detainees, capital punishment could undermine the legitimacy of the transitional justice process, giving insurgents cause to remobilize and renew fighting. In contrast, offering incentives to detainees in terms of procedural guarantees and substantive protections in the judicial process might encourage more insurgents to stop fighting. Hence, individuals who believe that insurgents would be more likely to surrender if offered concessions will be more opposed to capital punishment. We test the following hypothesis:

H5 (Strategic Support/Opposition to Due Process) In trials of insurgent detainees, people who believe insurgents will not stop fighting, even if offered concessions, are more likely to accept capital punishment than those who believe insurgents would stop fighting if granted concessions.

To summarize, we explore how procedural vs. substantive due process concerns, insurgency support vs. opposition, victimization-based grievances, institutional trust and confidence, and security-driven rationales might encourage publics to support or oppose capital punishment of detainees. We now turn to our test case, the detention and prosecution of Islamic State insurgents after the liberation of Mosul Iraq from ISIS rule.

Rationale for Case Selection

Our research considers the case of accountability and due process for Islamic State (ISIS) detainees in Mosul, Iraq. When Iraqi armed forces recaptured Mosul in 2017, they detained thousands of suspected ISIS fighters and supporters, many of whom are now standing trial in Iraqi criminal and counter-terrorism courts for their role in the 2014-2017 occupation of Mosul. Human rights groups and reputable journalists have described the harsh treatment of suspected ISIS supporters in the Iraqi judicial system as a campaign of revenge (Taub 2018; HRW 2017; 2019).

Although scholars have documented the rise of the Islamic State in Iraq since 2014 (Cockburn 2014; Weiss and Hassan 2016; Abdulrazaq, Tallha, and Gareth Stansfield 2016), the fall of ISIS and aftermath of the 2017 liberation of Mosul are only beginning to be investigated.

In particular, journalists and human rights groups have documented widespread human rights violations in the arrest and detention of suspected ISIS supporters and insurgents, to include torture, rape, and extrajudicial killing, suggestive of a campaign of revenge (Belkis 2017; Human Rights Watch 2017; 2019; Taub 2018). At present, however, little is known about how ordinary Iraqi civilians feel about holding ISIS supporters accountable for crimes and atrocities committed by the organization, though several projects are underway. In an early survey of post-liberation Mosul, Kao and Revkin (2018) find that the nature of collaboration matters in terms of public willingness to punish ISIS, with publics seeking harsher punishment for ISIS leadership and combatants over non-combatant followers.

Our work builds on this foundation by considering the importance of the rule of law and due process in the treatment of ISIS detainees and supporters. Iraq's Code of Criminal Procedure requires police to obtain a warrant for arrest, protection of habeas corpus (the accused must be brought before a judge within 24 hours of arrest), requires defendants to have access to an attorney and time to prepare a defense, as well as the right to cross-examine witnesses, but these procedures are routinely violated, even before the rise of ISIS (HRW, 2013). In violation of Iraqi law, suspected ISIS members have been detained and incarcerated with scant justification, confessions have been extracted under torture, trials of ISIS combatants and supporters have lasted mere minutes, where defendants lack access to defense council, have no opportunity to speak on their behalf, where witnesses are never called or cross-examined, and where prosecutors offer no evidence to substantiate claims of guilt (Human Rights Watch 2019). These violations speak to the widespread problem of procedural due process violations in the treatment of ISIS detainees.

There are also real concerns about violation of substantive due process. It is well known that death sentences are being routinely handed down by presiding judges over ISIS trials, resulting in the execution of potentially innocent people or those for whom capital punishment appears disproportionate to their alleged crimes, often in disregard to Iraqi law (Taub 2018; Human Rights Watch 2019).⁶ In our research we ask whether publics are willing to tolerate systematic violations of procedural due process in the punishment of ISIS adherents, and whether they see capital punishment itself as a violation of substantive due process. We now turn to details of our research design.

Research Design

Our key dependent variable is public perception of justice and fairness in trials involving capital punishment of ISIS detainees. To test H1 about public support for due process, we rely on a survey experiment. The experiment involves a vignette about a detainee named Mustafa, who has been accused of serving as an informant for ISIS and is being brought to trial. The text of the vignette is the same except that in version 1, Mustafa has access to a lawyer and is able to speak in his defense, denying the accusations. In version 2, Mustafa is denied an attorney or the opportunity to speak in his defense, a basic violation of procedural due process under the Iraqi Code of Criminal Procedure. In both versions the outcome is the same, the judge sentences Mustafa to death, which in the context of a procedural due process violation should also entail a substantial due process violation as well: the unlawful execution of an ISIS detainee. We tailored

⁶ The prosecution of ISIS detainees only represents the latest round of challenges for the judicial treatment of insurgents. See Castanaro (2004) for an earlier discussion.

our vignette to be consistent with judicial outcomes reported by journalists and human rights organizations about suspected ISIS detainees under Iraqi law (Taub 2018; Human Rights Watch 2017; 2019). Both vignettes, provided below, were randomly assigned to subjects in the study.

1. After the liberation of Mosul, witnesses have come forward claiming that Mustafa was working for ISIS as an informant. Mustafa denies this. At his trial, Mustafa had no independent lawyer and was not able to speak in his defense. The judge decided to sentence Mustafa to death.
2. After the liberation of Mosul, witnesses have come forward claiming that Mustafa was working for ISIS as an informant. Mustafa denies this. At his trial, Mustafa had an independent lawyer and was able to speak in his defense. The judge decided to sentence Mustafa to death.

Following the vignette, subjects were asked a series of questions about the outcome of the trial where they assess the veracity of the following statements: “He [Mustafa] had a fair trial”, “He [Mustafa] was guilty”, “Witnesses were telling the truth”, “The judge made the right decision”, “The sentence was proportional to the crime”, and “The sentence was motivated by revenge”. Response options range from Definitely Yes, Probably Yes, Probably Not, and Definitely Not for each response category. Individually and collectively, the items provide a measure of perceptions of judicial fairness in the treatment of an ISIS detainee. From the experimental treatment, we assess how perceptions of judicial fairness change depending on the inclusion or exclusion of a foundational element of due process: the right to defend oneself against accusations brought by

the state with high stakes (life or death) outcomes. The vignette is also a realistic representation of due process violations in the treatment of ISIS detainees as documented by human rights observers (Human Rights Watch 2017; 2019). If ordinary Iraqis fail to understand or appreciate the importance of due process, then we would anticipate a null treatment effect.

To test our remaining hypotheses, we rely on additional survey instruments and variation in our survey sample. We test H2 by comparing perceptions of judicial fairness and treatment effects of our survey vignette between anti-insurgent and pro-insurgent subsamples who complete our survey. We compare subsamples of people who were supporters of ISIS to those who lived under ISIS but were opposed to their rule. To locate insurgency opponents, we sample from among ordinary citizens in Mosul, who were subject to ISIS rule, and have remained in or returned to the city since liberation. To identify pro-ISIS supporters, we survey people who fled from Mosul during liberation into refugee camps outside the city, specifically to camp locations known to house former ISIS affiliates and their families. Many of these individuals were interrogated by the Iraqi army and placed in camps separately from other IDPs (Belkis 2018). Many of these IDPs, based on their own reporting to us, worked or fought for ISIS, have family members who worked or fought for ISIS, or have family members on trial for their role in ISIS. However, they are not detainees themselves and are not currently facing charges for their role in ISIS. They remain in these camps in part because they have nowhere else to go, and they are fearful for their security due to retribution attacks should they return to Mosul. We expect that ISIS affiliates in IDP camps will be more concerned with due process rights of ISIS detainees, especially substantive due process, compared to ordinary Mosul civilians, consistent with H2. We also employ measures of trust in the Iraqi government, and views of ISIS support in Mosul in

general as an attitudinal proxy for ISIS support, since we believe people will self-censor on questions directly related to personal support for ISIS.⁷

To further explore mechanisms differentiating perceptions of judicial fairness predicted by H2, we examine the role of victimization based grievances (H3), trust and confidence in the judicial system (H4), and strategic perspectives related to threat perception and detainee-related security dilemmas (H5). We measure grievances based on self-reported victimization by ISIS and trust and confidence in the judiciary using a battery of items about trust in the Iraqi government, trust in courts and perceptions of judicial corruption in our survey. We measure threat perception and detainee-related security dilemmas through a series of questions about what it would take to convince ISIS fighters to stop fighting and whether ISIS would stop fighting if offered meaningful concessions. We now turn to a discussion of our data collection process.

Sampling and Data Collection

We conduct our survey in the city of Mosul, Iraq between December 23-30, 2018. Because of unknown population parameters due to massive displacement between 2014-and 2017, we are unable to make population inferences from our sample. We conduct a random route sampling of neighborhoods in both East Mosul (which was spared the worst of destruction) and West Mosul (the heart of the city which was destroyed in street-to-street battles between the Iraqi Army and ISIS), resulting in a sample of 401 subjects from across 11 neighborhoods in Mosul (See Appendix Map for Mosul sampling locations).

As a comparison group, we sample internally displaced persons (IDPs) from camps on the outskirts of Mosul, which were known to house people from ISIS-affiliated families. These

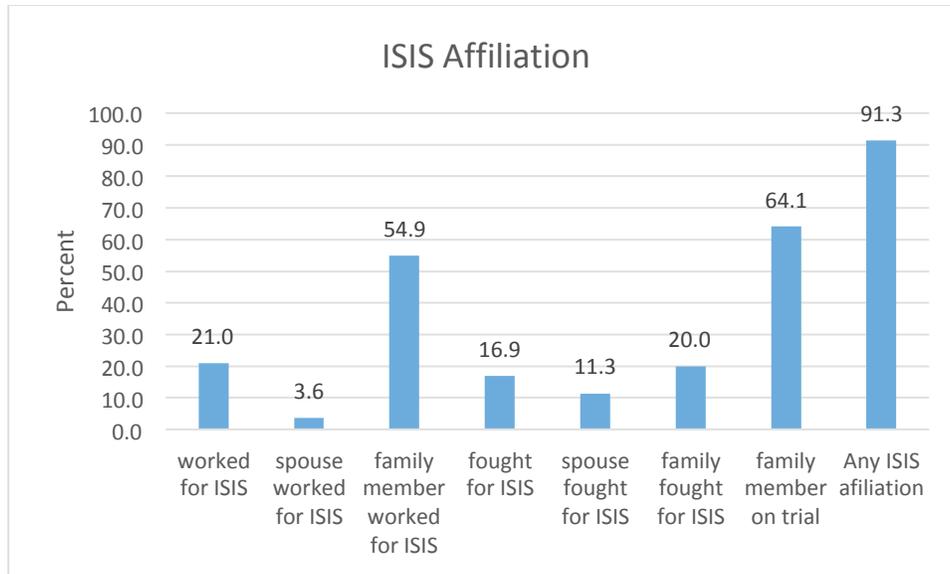
⁷ In future research, we may employ list experiments to identify ISIS involvement.

people had left Mosul during or after the liberation out of fear of retribution for their involvement in ISIS. People in the camps were free to leave, and were not themselves considered as ISIS detainees. Between January 10-25, 2019 we surveyed 195 individuals from 3 out of 15 camps outside Mosul (See Appendix Map for ISIS camp locations).

Our research design enables a comparison of anti-insurgent and pro-insurgent groupings. We treat ordinary civilians in Mosul as the anti-insurgent sample and IDPs in ISIS camps as a pro-insurgent sample. To substantiate that categorization, we ask individuals in the camps directly whether they, their spouses, or their family members had ever worked or fought for ISIS and whether any family members had been or are currently on trial facing ISIS related charges. Despite concerns about self-censoring, sizable numbers indicated that they worked for ISIS (21%), fought for ISIS (17%), had family members who worked for ISIS (55%) and had family members who were brought to trial for their role in ISIS (64%). In total 91% indicated some form of ISIS affiliation, which we consider a compelling indicator of prior ISIS support in the camp sample. In contrast, no one in our Mosul sample reported any affiliation with ISIS, which we acknowledge could be a self-censoring due to fear of retribution. Nevertheless, people in IDP camps were much more forthcoming about their role and we used the same interviewers for both samples.⁸

Figure 1. Percentage of Camp Sample Indicating ISIS Affiliations

⁸ Several of the enumerators themselves had ISIS affiliations by virtue of family members who had worked or fought for ISIS. This helped us gain trust and access to those in camps and convinced them to be forthcoming about their family experiences. Also, some enumerators gained trust through tribal connections with IDPs in ISIS affiliated camps.



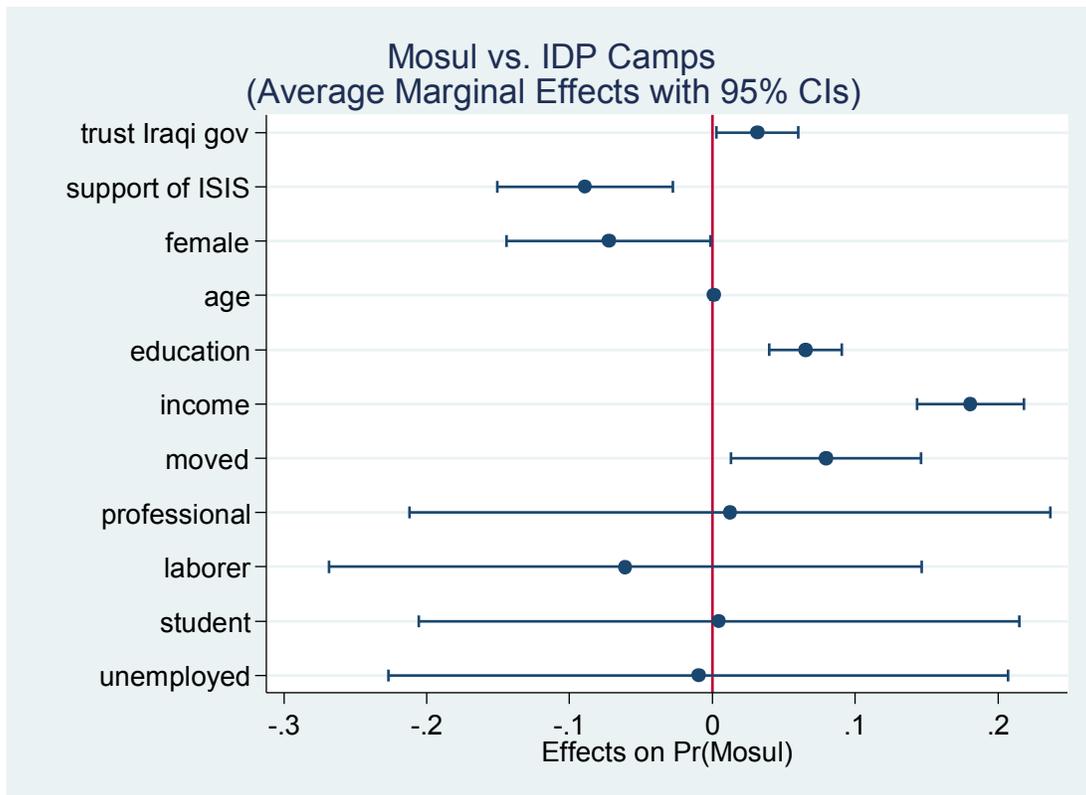
As an additional check on our assertion that IDP camps were comprised of ISIS affiliates, we analyze attitudinal differences in trust in the Iraqi government and beliefs about ISIS support in Mosul between our two samples. Figure 1 below indicates the average marginal effects of logit regression where the dependent variable is coded 1 for Mosul and 0 for camps. We ask respondents how much they trust the Iraqi government using a four-point scale (1 = highly distrust to 4 = highly trust).⁹ This serves as a proxy for insurgency opposition. To measure support for ISIS, we use a second instrument, where we ask respondents “how many people in Mosul do you think supported ISIS during the occupation?” with response options being 1 = almost no one at all to 4 = almost everyone. Results show that ordinary Moslawis are more trusting of the Iraqi government than IDP camp members, and less likely to believe ISIS enjoyed widespread support before liberation. Results also show that our two samples are well balanced on gender, age, and labor demographics. Residents of Mosul are more educated, have higher

⁹ The instrument asks specifically how much the trust the Iraqi government “follow the rule of law” as opposed to more general, but less clearly defined parameters of trust.

income, and are more likely to have moved/left Mosul for some time during ISIS occupation. We will control for imbalances between camps and Mosul citizens in subsequent analysis.

Finally, we took very seriously the safety and security of our respondents and enumerators when conducting field work for this study. Our research was conducted in accordance with established practices and recommendations for ethical conduct of research by the American Political Science Association and the requirements of our Institutional Review Board. We provide a more detailed discussion about ethical conduct of research in the online appendix. We now turn to testing our key hypotheses.

Figure 2. Demographics and Anti-insurgent/ISIS Attributes of the Sample

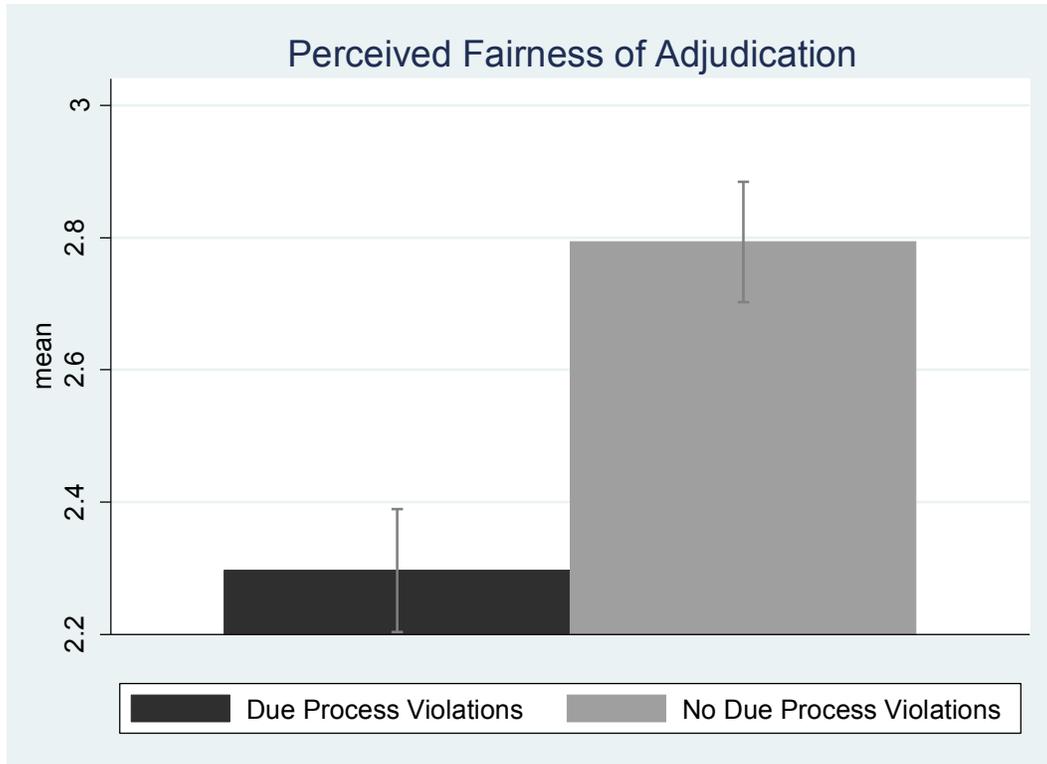


Results

We begin by presenting an overview of the treatment effects from our survey vignette. Subjects received a version of the vignette where the ISIS detainee, Mustafa, had access to an attorney and was allowed to speak in his defense or did not, which is our experimental treatment for procedural due process. The outcome of the trial is the same either way: Mustafa receives the death penalty, which we selected as a harsh punishment to capture public reaction to substantive due process: was capital punishment proportional to the crime or is the death penalty being applied unjustly as part of a campaign of revenge?

To measure perceptions of fairness in the adjudication process and outcome, we employ a series of post-treatment questions. We ask respondents whether they think that 1. Mustafa had a fair trial, 2. He was guilty, 3. Witnesses were telling the truth, 4. The judge made the right decision, 5. The sentence was proportional to the crime, and 6. The sentence was motivated by revenge. All items are on a four-point scale ranging from 1 = definitely not to 4 = definitely yes. Factor analysis indicates that responses to the items score well, indicating that people responded to items consistently enough to justify combining into an index measuring a latent variable on perceptions of fairness in the adjudication of the detainee (Factor 1 eigenvalue = 3.60; Cronbach alpha = 0.89, See SI Table 1). In Figure 3 below, we report mean responses (with 95% confidence intervals) to the index of judicial fairness for those who received the due process treatment (“no due process violations”) and the “due process violations” treatment. Consistent with H1, the mean response to the perceptions of judicial fairness index is greater when due process is followed compared to when it is violated ($t=7.34$, $p<0.0000$).

Figure 3. Fairness of Adjudication by Treatment Group



Next, we consider whether perceptions of judicial fairness are contingent on insurgency support or opposition as predicted by H2. In Figures 4 and 5, subjects are divided into two subgroups: ordinary Mosul citizens, who represent our anti-insurgent group and camp IDPs, who represent our pro-insurgency group. Figure 4 indicates responses to each individual item, while Figure 5 combines items into a common index of “perceptions of judicial fairness”.

Figure 4. Fairness of Adjudication by Treatment, Location

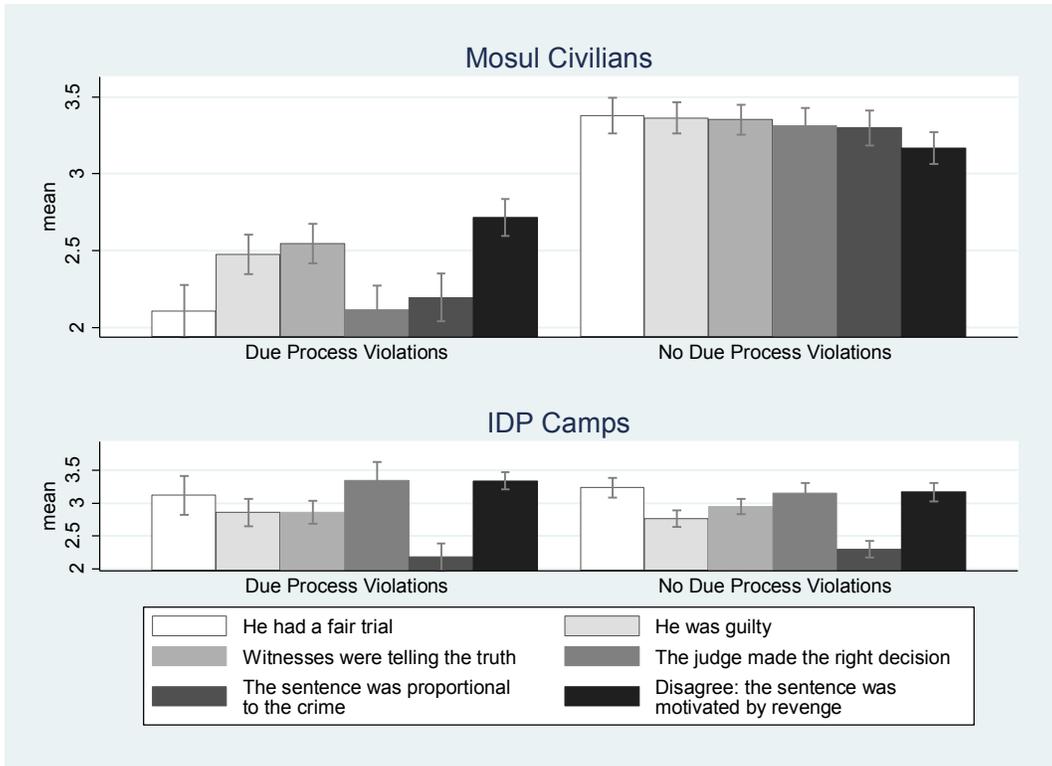
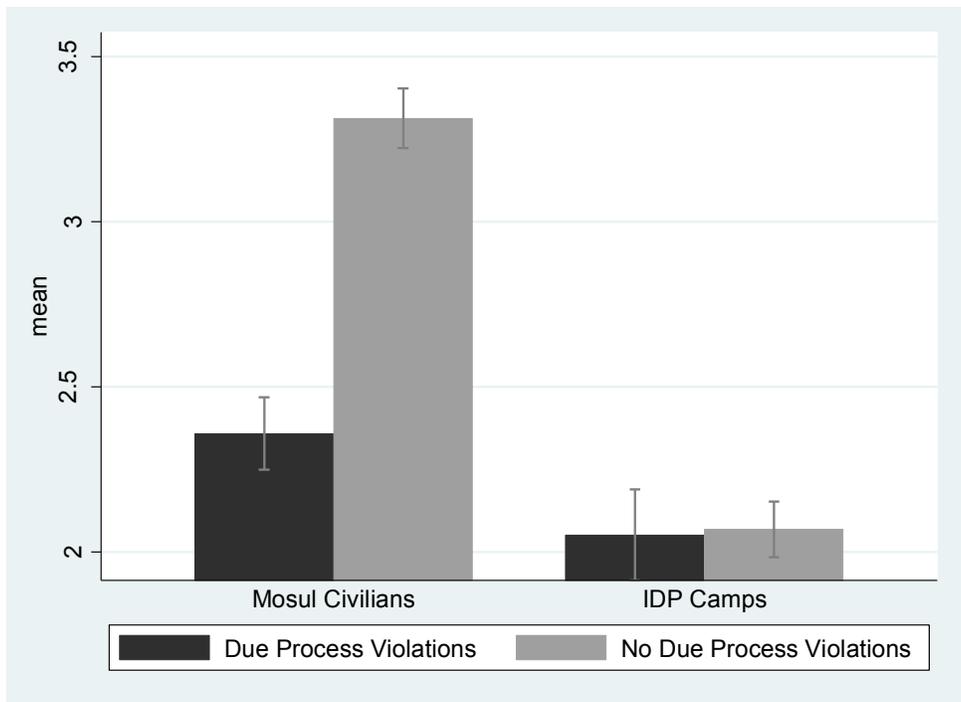


Figure 5. Fairness of Adjudication, Combined Index



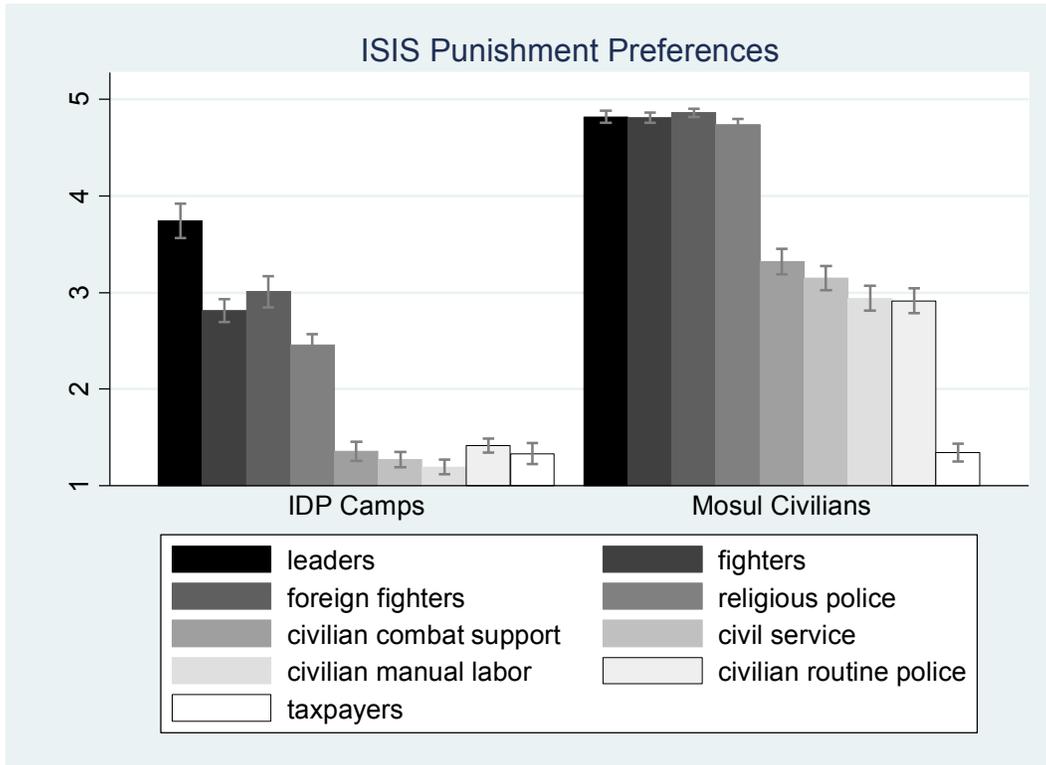
Consistent with Hypothesis 2, residents of Mosul are more likely to consider the adjudication to be fair in the absence of due process violations. When Mustafa was allowed a defense, subjects in Mosul, who we consider to be anti-insurgency, are more likely to perceive the trial as fair, to believe Mustafa was guilty, to see witnesses and the judge as credible, to see proportionality in the sentence, and to doubt revenge-based motives in the outcome. For ordinary Mosul civilians, the outcome of the trial is perceived as fair as long as procedural due process is followed. This provides one indicator of respect for rule of law. In contrast, if Mosul civilians only cared about “rule by law”, they would have seen the state’s use of capital punishment as just regardless of procedural due process violations.

In contrast, insurgency-affiliated IDPs in the camps are more focused on substantive due process. For them, the violation of procedural due process in the survey treatment has no effect on their perceptions of adjudication process or outcome. The outcome of the trial is disproportionate to what they see as an acceptable punishment for involvement in ISIS. Regardless of whether Mustafa has access to a lawyer or is allowed to speak in his defense, capital punishment is viewed as an unjust abuse of government power: rule *by* law, but not rule *of* law.

Finally, to further validate the claim of H2 that insurgency opponents are more supportive of harsh detainee punishment than insurgent supporters, we consider a range of other non-experimental items on punishment preferences for ISIS members from our survey. These items are analogous to those used by Kao and Revkin (2018), but who did not have an IDP camp sample from which to compare the preferences of ordinary Moslawis. If ordinary Mosul citizens are anti- insurgency, we would anticipate that they would be more favorable of harsh punishments for ISIS detainees compared to pro-insurgency IPDs within the camps. In the

survey, we asked Mosul citizens and camp IDPs to indicate what punishment they think different groups of people should receive for their role in ISIS. Response options ranged from 1 = amnesty, 2 = short-term imprisonment, 3 = long-term imprisonment, 4 = life imprisonment, to 5 = death penalty. Figure 6 indicates responses to these items by subgroup. Consistent with Kao and Revkin (2018), responses indicate that Mosul civilians are more favorable of applying the death penalty to ISIS leaders, fighters, foreign fighters, and religious police (Amni, Hizba) than people in IDP camps, who generally oppose the death penalty in favor of long-term imprisonment. A similar divide is evident in punishment preferences for civilian followers of ISIS. Mosul civilians seek long-term imprisonment for civilians who worked for ISIS in combat support roles, in administrative roles, or provided manual labor for ISIS in any direct way, while IDP camp members lean more toward amnesty. The only consensus is that people who paid taxes to ISIS, which would include most ordinary Mosul citizens, should be pardoned rather than punished. We believe this predisposition to harsher ISIS punishment further justifies categorizing Mosul civilians as anti-insurgency and IDP members as a pro-insurgency constituency in our sample.

Figure 6. Punishment Preferences for ISIS Detainees in General



Exploring Mechanisms Driving Perceptions of Judicial Fairness

To this point, we have shown that individuals are sensitive to procedural due process in the treatment of detainees consistent with H1. When due process is followed, they are more accepting of harsh outcomes involving the death penalty. However, H2 shows that support for due process is contingent on insurgency opposition and support. Mosul residents, who are generally anti-insurgency, are more likely to see the judicial process as just and fair than ISIS

affiliates. Even when procedural due process is followed, ISIS affiliates view the harsh outcomes of the judicial process as substantively unfair.

We now test hypotheses H3-5 to better understand why Mosul residents are more favorable to harsh outcomes than ISIS affiliates. In H3, we focus on grievance-based explanations. We argue that ISIS victimization might lead to more support for capital punishment of detainees regardless of due process violations. We measure ISIS victimization using an additive index based on self-reported responses for whether one was punished for violating ISIS laws, injured by ISIS, whether a family member was injured or killed by ISIS, having been threatened or imprisoned by ISIS, having one's home occupied or looted by ISIS, or having female family members were abused or assaulted by ISIS. Responses to these items line up on a single dimension using factor analysis and were scored into a common index of increasing victimization (See SI Table 2).

For H4, we focus on whether support for harsh punishments is a function of trust and confidence in the judicial system. We measure trust using an additive index built off several items in the survey based on trust in the government of Iraq and local authorities in Mosul, trust in courts inside and outside Mosul, and trust in criminal and counter-terrorism courts to follow the rule of law. Factor analysis indicates that responses to these questions align on a single dimension, and we coded institutional trust based on a combined alpha index ranging from 1 = low trust to 4 = high trust (see SI Table 3).

We also rely on a second instrument gauging perceptions of judicial corruption. We ask respondents whether they agree or disagree that there is corruption in the Iraqi judicial system, whether judges are mainly motivated by revenge, whether trials were biased against ISIS members specifically and against Iraqi Sunni more broadly, and whether some innocent people

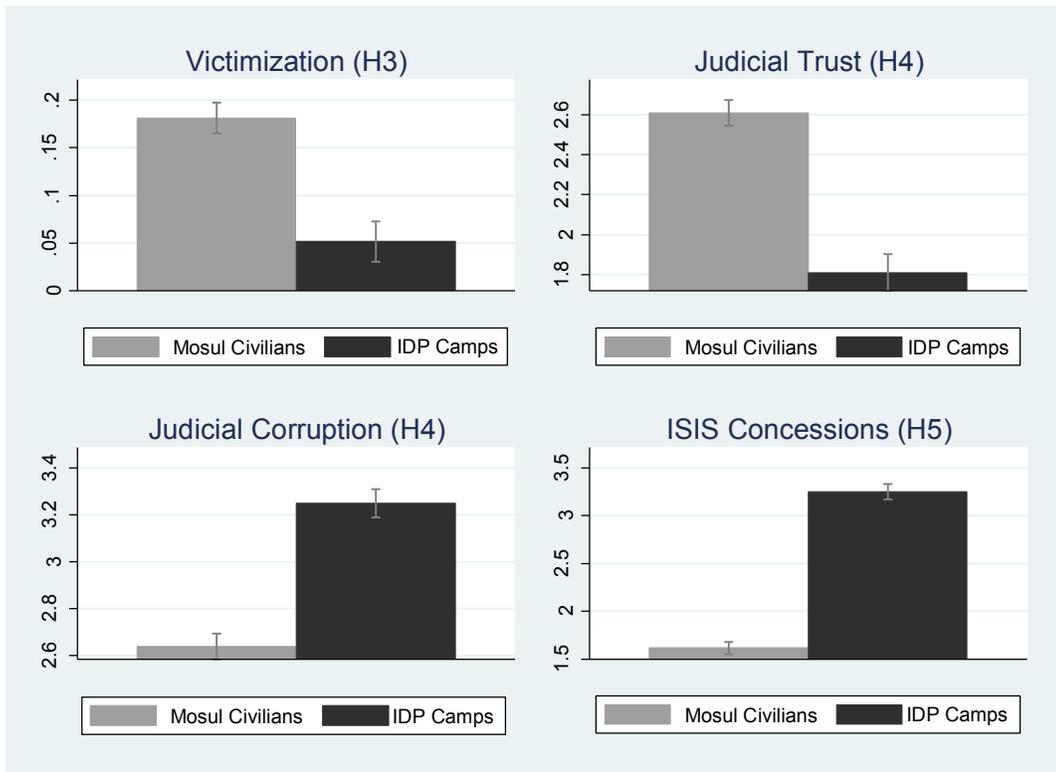
were being convicted. Responses to these items also align on a single dimension with factor analysis and were combined into a common index ranging from low to high levels of perceived judicial corruption (See SI Table 4).

Finally, to evaluate H5, we utilize a series of items about perception of ISIS willingness to stop fighting. Among Mosul residents, we ask subjects whether they agree or disagree that ISIS would stop fighting if given amnesty, whether ISIS fighters who surrender and cooperate should be pardoned, whether ISIS would have stopped fighting earlier if given amnesty, and whether the Iraqi government should have negotiated more with ISIS to end the conflict earlier. Responses to these items align on single dimension in factor analysis and are combined into an additive index reflecting beliefs in ISIS willingness to stop fighting when offered concessions (See SI Table 5). For ISIS camp members, we utilized a more detailed battery of questions about whether they think ISIS would stop fighting if given a fair trial, if promised protections from torture, if the death penalty were taken off the table, if they were promised reduced prison sentences, if there were protections put in place against revenge attacks by either ordinary Iraqis or retribution from ISIS for defection, and if they were provided temporary financial aid to resettle. Responses range from definitely not stop fighting to definitely yes. These items also scaled well using factor analysis and were combined into a common additive index on perceived likelihood of ISIS surrender if given concessions (See SI Table 6).

In Figure 7 below, we report mean responses to these indexed items by location (Mosul, ISIS Camps). We see that Mosul civilians are more likely to have experienced victimization by ISIS than IDP camp residents. They also have higher institutional trust in the Iraqi judiciary and perceive judicial institutions as less corrupt than IDP camp residents. Finally, Mosul civilians are less likely to believe ISIS would stop fighting if offered concessions compared to IDP camp

residents. These indices offer plausible mechanisms for explaining why Mosul civilians would prefer harsher punishment of combatant detainees, regardless of procedural due process violations. They may also explain why IDP camp members are more concerned about substantive due process in terms of judicial outcomes compared to Mosul civilians.

Figure 7. Plausible Mechanisms for Explaining Judicial Punishment Preferences



We now turn to OLS regression models in Table 1 to investigate further the relationship between perceptions of judicial fairness in the treatment of ISIS detainees and grievances (H3), trust and confidence in the judiciary (H4), and strategic rationales (H5). Model 1 estimates the basic treatment effect of due process violations on perceptions of judicial fairness. Model 2 includes an interaction term for location, showing that Mosul civilians are more concerned about

procedural due process violations than IDP camp members in assessing judicial fairness. IDP camp members who received the due process violation treatment serve as the constant comparison group.

Model 3 includes extended controls for the subsample of Mosul civilians. In terms of demographics, it shows that professional and working class Moslawis are more accepting of capital punishment of ISIS detainees than students who represent the constant comparison group. More educated Moslawis are less inclined to see the adjudication process as fair. Next, model 3 fails to show support for H3 and H4 regarding the importance of grievances and judicial trust and confidence to perceptions of judicial fairness among Mosul civilians. Instead, there is stronger support for the strategic hypothesis, H5. Subjects who believe ISIS would stop fighting if offered concessions are more opposed to the use of capital punishment against detainees.

Finally, model 4 offers a comparative view of perceptions of judicial fairness within IDP camps. It shows very little noteworthy differences in opinion across key demographics. We also again fail to find support for H3 that grievances against ISIS predict perceptions of judicial fairness. However, there is stronger support for H4 and H5. People in IDP camps who distrust Iraqi judicial institutions and see them as corrupt are more likely to oppose capital punishment of ISIS detainees. Consistent with Mosul civilians, people in IDP camps are also less likely to regard harsh punishments as fair when they believe ISIS would stop fighting if given concessions.

Table 1. Explaining Perceptions of Judicial Fairness (OLS Regression)

VARIABLES	(1)	(2)	(3)	(4)
	Judicial Fairness	Judicial Fairness	Judicial Fairness	Judicial Fairness

	(combined)	(combined)	(Mosul)	(IDP camps)
Due Process (H1)	0.497*** (0.0662)		0.909*** (0.0762)	0.0413 (0.0496)
Due Process x Mosul (H2)		1.261*** (0.0838)		
No Due Process x Mosul (H2)		0.306*** (0.0894)		
Due Process x ISIS Camps (H2)		0.0169 (0.0820)		
ISIS Victimization (H3)			0.0647 (0.227)	-0.343 (0.195)
Judicial trust (H4)			0.0504 (0.0611)	0.327*** (0.0448)
Judicial corruption (H4)			-0.0562 (0.0728)	-0.274*** (0.0881)
ISIS concessions (H5)			-0.164** (0.0639)	
ISIS concessions (H5)				-0.225*** (0.0639)
female			0.0151 (0.0839)	0.162 (0.0888)
age			-0.00185 (0.00340)	0.00368 (0.00192)
education			-0.127** (0.0531)	0.0226 (0.0358)
income			-0.0964 (0.0522)	-0.0214 (0.0558)
professional			0.268** (0.113)	0.248 (0.130)
laborer			0.399*** (0.119)	-0.0725 (0.0869)
unemployed			0.191 (0.121)	-0.169 (0.0867)
moved			0.107 (0.0942)	0.0585 (0.0638)
Constant	1.801*** (0.105)	2.052*** (0.0698)	2.196*** (0.388)	2.901*** (0.406)
Observations	595	595	400	194
R-squared	0.083	0.395	0.377	0.703
adj. r2	0.0818	0.392	0.356	0.681

Robust standard errors in parentheses

*** p<0.01, ** p<0.05

In summary, we find that Iraqi civilians are sensitive to due process rights of ISIS

detainees as predicted by H1. Ordinary Mosul civilians are more likely to accept capital punishment as just and fair if due process rights are not violated. In contrast, ISIS supporters in refugee camps are more concerned about the inherent fairness of the judicial outcome predicted by H2. They oppose capital punishment of the detainee regardless of procedural due process because substantively, they see the punishment as excessive and disproportionate. In other words, Moslawis are process-oriented and ISIS camp people are outcome-oriented in their understanding of judicial fairness. To better explain anti-insurgent/anti-government divisions over the treatment of combatant detainees, we considered hypotheses based on grievances (H3), institutional trust and confidence (H4), and strategic reasoning (H5). We find little support for grievances driving harsh treatment preferences for detainees. Instead, Mosul civilians appear more driven by strategic reasoning. Those who think ISIS will not stop fighting favor harsh punishments, while those who believe ISIS would surrender if offered reasonable concessions are more opposed to death penalty outcomes. This belief is even more widely shared among ISIS affiliates in refugee camps, who also oppose capital punishment because they distrust the judicial system, which they see as corrupt. We now consider the implications of our main findings in more detail.

Discussion and Conclusion

Journalists have characterized the transitional justice process in Iraq as driven by a campaign of revenge (Taub 2018; HRW 2017; 2019). We do not dispute claims that the process has involved egregious and systematic human rights violations. Our main objective is to assess whether there is public support within Iraq for basic denial of due process in pursuit of justice.

We find that ordinary Mosul civilians, who suffered greatly under ISIS rule, favor harsh punishment of ISIS detainees. However, they are also mindful of basic due process rights to include the right to legal representation and to speak in one's defense. Many of those basic rights have been consistently violated in the treatment of ISIS detainees. However, Moslawis are less likely to see capital punishment of ISIS detainees as just and fair when procedural due process rights are denied. In seeking justice for ISIS crimes, Mosul civilians care about process, which shows an underlying respect and appreciation for the rule of law, even as it relates to ISIS.

In contrast, ISIS affiliates in IDP camps are more concerned about outcomes, and they see capital punishment as a violation of substantive due process, regardless of whether procedural due process norms are followed. In their eyes, the Iraqi government's widespread use of the death penalty against ISIS detainees is neither just or fair. While appeals to the rights of detainees may seem ironic given the brutality of ISIS's own judicial system, the goal of many transitional justice systems are ostensibly to promote peace and reconciliation rather than revenge and retribution. ISIS affiliates as well as many ordinary Moslawis believe that harsh punishments will likely prolong the insurgency. Offering concessions to ISIS fighters and supporters in the form of leniency and other guarantees of safety and security might entice them to surrender. Even so, ISIS affiliates are wary of the Iraqi government and judicial institutions, which they see as fundamentally corrupt. A successful transitional justice process in Iraq will require further judicial reforms to ensure rule of law, accountability for violations, and root out corruption in order to gain trust from insurgent supporters. At present, transitional justice in Iraq, while meting out harsh punishments to ISIS offenders, may be also jeopardizing long term goals of peace and reconciliation, a model for the world not to emulate but avoid.

Fortunately, Mosul civilians appear capable of putting aside grievances to respect the rule of law, despite the terror many endured under ISIS rule. Concern for procedural due process is an important judicial norm. Our study suggests stronger foundations for the rule of law than one would anticipate in a campaign of revenge. Hence, political leaders who wish to strengthen the rule of law need not fear a strong public backlash should they wish to apply proper due process in the adjudication of ISIS. Our results may have implications for how publics are willing to apply legal norms to hold rebel groups accountable for atrocities beyond the Iraq case.

For one, ordinary Iraqis may see value in reconciliatory, restorative, and transformative forms of justice over the strictly retributive approach entailed by capital punishment. ISIS followers have no incentive to surrender and demobilize if all that awaits them is death at the hands of a vengeful court. Yet, ISIS followers clearly signal that many would stop fighting if the government could summon the political will to offer concessions. Some Moslawis also believe that negotiating with ISIS might have brought an end to the conflict more quickly. The government's scorched earth approach to liberating Mosul ensured that it was better for ISIS fighters to fight until death rather than surrender and be taken prisoner by the Iraqi army. While Mosul was ultimately liberated, we anticipate long-term negative legacies, not only from ISIS brutality, but the way in which the transitional justice process is playing out. Our data suggest that there is tangible public support for a different path with more emphasis on due process and fair accountability, which is an important testament to the potential transformative power of transitional justice regimes in the aftermath of violence.

In summary, our research underscores how insurgency opponents and supporters can hold contentious interpretations of justice and fairness under the rule of law. Reconciling opposing perspectives on judicial fairness will have important implications for transitional justice

outcomes both within Iraq and beyond. We emphasize a need for balance between procedural and substantive due process considerations in holding insurgents accountable if transitional justice programs are to promote peace and stability after violence.¹⁰

¹⁰ We also consider the importance of holding government actors accountable for war-related violence in a subsequent manuscript.

Appendix Table 1. Summary of Variables

Variable	Description	N	Mean	SD	Min	Max
judicial fairness	alpha score for perceptions of judicial fairness based on 6 post-treatment survey items*	596	2.58	0.85	1	4
Judicial trust	alpha score for judicial trust based on 6 post-treatment survey items*	596	2.35	0.76	1	4
Judicial corruption	alpha score for judicial corruption based on 6 post-treatment survey items*	596	2.85	0.59	1	3.8
ISIS concessions Mosul	alpha score for belief that ISIS will stop fighting if given concessions based on 4 survey items*	401	1.62	0.64	1	4
ISIS surrender Camps	alpha score for belief that ISIS will stop fighting if given concessions based on 7 survey items*	195	3.25	0.57	1	3.9
victimization	alpha score for ISIS victimization based on 9 survey items*	596	0.14	0.17	-0.11	0.78
female	1 = female respondent	596	0.22	0.41	0	1
age	Subject age in years	596	34.71	12.75	18	72
education	Education from no formal education to post-secondary	595	2.61	0.91	1	4
income	Income assessment ranges from 1 = Significant difficulties to 4 = cover expenses and save	596	2.13	0.93	1	4
Professional	1 = employer, manager, professional office worker	596	0.26	0.44	0	1
Laborer	1 = manual worker, farmer	596	0.33	0.47	0	1
Student	1 = student	596	0.24	0.43	0	1
unemployed	1 = currently unemployed	596	0.17	0.38	0	1
moved	0 = lived in Mosul throughout ISIS rule, 1 = moved at some point	596	0.18	0.38	0	1

*See online appendix for index construction details.

References

- Abdulrazaq, Tallha, and Gareth Stansfield. 2016. "The Day After: What to Expect in post-Islamic state Mosul." *The RUSI Journal* 161(3): 14-20.
- Balliet, Daniel, Junhui Wu, and Carsten KW De Dreu. "Ingroup favoritism in cooperation: A meta-analysis." *Psychological bulletin* 140, no. 6 (2014): 1556.
- Bartolucci, Valentina. 2012. "Terrorism Rhetoric under the Bush Administration: Discourses and Effects." *Journal of Language and Politics* 11(4): 562-582.
- Bauer, Michal, Christopher Blattman, Julie Chytilová, Joseph Henrich, Edward Miguel, and Tamar Mitts. "Can war foster cooperation?." *Journal of Economic Perspectives* 30, no. 3 (2016): 249-74.
- Bass, Gary Jonathan. 2014. *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals*. Princeton University Press.
- Belkis, Wille 2017. "Iraq: Why ISIS Trials are Robbing Women of their Rights." Human Rights Watch.
<https://www.hrw.org/news/2017/12/05/iraq-why-isis-trials-are-robbing-victims-their-rights>.
- Belkis, Wille 2018. "Iraq's So-Called "ISIS Families": Rounded up, Vilified, Forgotten." Human Rights Watch.
<https://www.hrw.org/news/2018/11/14/iraqs-so-called-isis-families-rounded-vilified-forgotten>
- Bentele, Ursula. 2003. "Does the Death Penalty, by Risking Execution of the Innocent, Violate Substantive Due Process." *Houston Law Review*. 40 (5): 1359-1386.

Braithwaite, John. 2002. *Restorative Justice & Responsive Regulation*. Oxford University Press.

Canestaro, Nathan A. 2004. "Small Wars and the Law: Options for Prosecuting the Insurgents in Iraq." *Columbia Journal of Transnational Law* 43 (73): 73-140.

Carothers, Thomas. 1998. "The Rule of Law Revival." *Foreign Affairs* 77 (2): 95-106.

Cobban, Helena. 2015. *Amnesty after Atrocity?: Healing Nations after Genocide and War Crimes*. Routledge.

Cockburn, Patrick. 2014. *The Jihadis Return: ISIS and the New Sunni Uprising*. New York: Or Books.

Darley, John M., and Thane S. Pittman. 2003. "The Psychology of Compensatory and Retributive Justice." *Personality and Social Psychology Review* 7(4): 324-336.

Darley, John M., Kevin M. Carlsmith, and Paul H. Robinson. 2000. "Incapacitation and Just Deserts as Motives for Punishment." *Law and Human Behavior* 24(6): 659-683.

Davis, Darren W., and Brian D. Silver. 2004. "Civil Liberties vs. Security: Public Opinion in the Context of the Terrorist Attacks on America." *American Journal of Political Science* 48(1): 28-46.

Davis, Darren W. 2007. *Negative Liberty: Public Opinion and the Terrorist Attacks on America*. Russell Sage Foundation.

De Juan, Alexander, and Jan Henryk Pierskalla. 2016. "Civil War Violence and Political Trust: Microlevel Evidence from Nepal." *Conflict Management and Peace Science* 33(1): 67-88.

Diamond, Larry. 2005. "Building Democracy after Conflict: Lessons from Iraq." *Journal of Democracy* 16(1): 9-23.

Elster, Jon. 2004. *Closing the Books: Transitional Justice in Historical Perspective*. Cambridge University Press.

Fearon, James D. 2007. "Iraq's Civil War." *Foreign Affairs*. 86 (2): 2-15.

Gibson, James L. 2004. "Does Truth Lead to Reconciliation? Testing the Causal Assumptions of the South African Truth and Reconciliation Process." *American Journal of Political Science* 48(2): 201-217.

Gronke, Paul, Darius Rejali, Dustin Drenguis, James Hicks, Peter Miller, and Bryan Nakayama. 2010. "US Public Opinion on Torture, 2001–2009." *PS: political science & politics* 43(3): 437-444.

Hood, Roger, and Carolyn Hoyle. 2015. *The Death Penalty: A Worldwide Perspective*. Oxford University Press.

Human Rights Watch. 2013. "Iraq: A Broken Judicial System."

<https://www.hrw.org/news/2013/01/31/iraq-broken-justice-system#>

Human Rights Watch. 2017. "Flawed Justice: Accountability for ISIS Crimes in Iraq."

<https://www.hrw.org/report/2017/12/05/flawed-justice/accountability-isis-crimes-iraq#>

Human Rights Watch. 2019. "World Report: Iraq."

<https://www.hrw.org/world-report/2019/country-chapters/iraq>

Jervis, Robert. 1978. "Cooperation under the Security Dilemma." *World Politics* 30(2): 167-214.

Joes, Anthony James. 2006. *Resisting Rebellion: The History and Politics of Counterinsurgency*. University Press of Kentucky.

Kalyvas, Stathis N., and Matthew Adam Kocher. 2007. "Ethnic Cleavages and Irregular War: Iraq and Vietnam." *Politics & Society* 35(2): 183-223.

Koestler, Arthur. 2015. *Darkness at Noon*. Simon and Schuster.

Koskenniemi, Martti. 2002. "Between Impunity and Show Trials." *Max Planck Yearbook of United Nations Law* 6(1): 1-32.

Kritz, Neil J., ed. 1995. *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*. US Institute of Peace Press.

Latimer, Jeff, Craig Dowden, and Danielle Muise. "The effectiveness of restorative justice practices: A meta-analysis." *The prison journal* 85, no. 2 (2005): 127-144.

Lind, E. Allan, Tom R. Tyler, and Yuen J. Huo. "Procedural context and culture: Variation in the antecedents of procedural justice judgments." *Journal of personality and social psychology* 73, no. 4 (1997): 767.

Linde, Hans A. 1975. "Due Process of Lawmaking." *Nebraska Law Review* 55(2): 197-255.

Loyle, Cyanne and Benjamin Appel. 2017. "Conflict Recurrence and Postconflict Justice: Addressing Motivations and Opportunities for Sustainable Peace." *International Studies Quarterly* 61(3):690–703

Lyall, Jason, Graeme Blair, and Kosuke Imai. 2013. "Explaining Support for Combatants During Wartime: A Survey Experiment in Afghanistan." *American Political Science Review* 107(4): 679-705.

Morris, Stephen D., and Joseph L. Klesner. 2010. "Corruption and Trust: Theoretical Considerations and Evidence from Mexico." *Comparative Political Studies* 43(10): 1258-1285.

O'Donnell, Guillermo. 2004. "The Quality of Democracy: Why the Rule of Law Matters." *Journal of Democracy* 15(4): 32-46.

Piazza, James A. 2015. "Terrorist Suspect Religious Identity and Public Support for Harsh Interrogation and Detention Practices." *Political Psychology* 36(6): 667-690.

Posen, Barry R. 1993. "The Security Dilemma and Ethnic Conflict." *Survival* 35(1): 27-47.

Raynor, Peter, and Gwen Robinson. 2005. *Rehabilitation, Crime and Justice*. Springer.

Reisig, Michael D., and Camille Lloyd. "Procedural justice, police legitimacy, and helping the police fight crime: Results from a survey of Jamaican adolescents." *Police quarterly* 12, no. 1 (2009): 42-62.

Kao, Kristen, and Mara Redlich Revkin. 2018. "To Punish or to Pardon? Reintegrating Rebel Collaborators After Conflict in Iraq." *Reintegrating Rebel Collaborators After Conflict in Iraq* (June 23, 2018).

Robinson, Gwen, and Iain D. Crow. 2009. *Offender Rehabilitation: Theory, Research and Practice*. Sage.

Rubin, Peter J. 2003. "Square Pegs and Round Holes: Substantive Due Process, Procedural Due Process, and the Bill of Rights." *Columbia Law Review* 103 (4): 833-892.

Rudolph, Christopher. 2001. "Constructing an Atrocities Regime: The Politics of War Crimes Tribunals." *International Organization* 55(3): 655-691.

Sambanis, Nicholas, Jonah Schulhofer-Wohl, and Moses Shayo. 2012. "Parochialism as a Central Challenge in Counterinsurgency." *Science* 336(6083): 805-808.

Smith, Brent L., Kelly R. Damphousse, Freedom Jackson, and Amy Sellers. 2002. "The Prosecution and Punishment of International Terrorists in Federal Courts: 1980–1998." *Criminology & Public Policy* 1(3): 311-338.

Souleimanov, Emil Aslan, and David S. Siroky. 2016. "Random or Retributive?: Indiscriminate violence in the Chechen Wars." *World Politics* 68(4): 677-712.

Szász, Béla. 1971. *Volunteers for the Gallows: Anatomy of a Show-trial*. London: Chatto and Windus.

Tankebe, Justice. "Public cooperation with the police in Ghana: Does procedural fairness matter?." *Criminology* 47, no. 4 (2009): 1265-1293.

Taub, Ben 2018. Iraq's Post-ISIS Campaign of Revenge. *The New Yorker*.

<https://www.newyorker.com/magazine/2018/12/24/iraqs-post-isis-campaign-of-revenge>

Teitel, Ruti G. 2000. *Transitional Justice*. Oxford University Press.

Teitel, Ruti G. 2015. *Globalizing Transitional Justice*. Oxford University Press.

Thibaut, John W., and Laurens Walker. 1975. *Procedural justice: A psychological analysis*. L. Erlbaum Associates, 1975.

Tribe, Laurence H. 1975. "Structural Due Process." *Harvard Civil Rights-Civil Liberties Law Review*. 10 (2): 269-321.

Tyler, Tom R., and Steven L. Blader. *Cooperation in groups: Procedural justice, social identity, and behavioral engagement*. Psychology press, 2000.

Tyler, Tom R. 1994. "Psychological models of the justice motive: Antecedents of distributive and procedural justice." *Journal of personality and social psychology* 67, no. 5 (1994): 850.

Tyler, Tom R., and E. Allan Lind. "A relational model of authority in groups." In *Advances in experimental social psychology*, vol. 25, pp. 115-191. Academic Press, 1992.

Tyler, Tom R. 2003. "Procedural justice, legitimacy, and the effective rule of law." *Crime and Justice* 30 (2003): 283-357.

Uslaner, Eric M. 2004. "Trust and Corruption." In *The New Institutional Economics of Corruption*, Lambsdorff, Johann Graf, Markus Taube, and Matthias Schramm eds. Routledge: 90-106.

Vagts, Detlev F. 2003. "Which Courts Should Try Persons Accused of Terrorism?." *European Journal of International Law* 14(2): 313-326.

Weiss, Michael, and Hassan Hassan. 2016. *ISIS: Inside the Army of Terror (updated edition)*. Simon and Schuster.

