

The Impact of Iraq's Anti-Terrorism Law No. 13 of 2005 on Freedom of Expression

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Terrorism has been a persistent phenomenon throughout history, and only a few countries can claim to have been entirely free from terrorist acts over the past centuries. However, the attacks of September 11, 2001—considered the most significant terrorist assault against the United States—marked a critical turning point in the evolution of terrorism. These events represented an unprecedented, devastating, and transformative moment in contemporary history. A prominent French philosopher, emphasizing their global significance, referred to them as the “mother of events.” The targeting of the World Trade Center towers and the Pentagon inaugurated a new era of confrontation between the United States and its allies, forming the so-called “anti-terrorism front,” against terrorist organizations such as al-Qaeda and later ISIS, which constituted the “terrorism front.” This confrontation heightened the sense of global insecurity. Since then, the “war on terror” has assumed multifaceted dimensions, including legal, political, and security aspects, as terrorism has simultaneously been recognized as both an international and a domestic crime. In the context of Iraq, prior to the collapse of the Ba’athist regime in 2003, no comprehensive anti-terrorism legislation existed. Following the intervention of U.S. and coalition forces, Iraq witnessed a surge in violent terrorist activities that gravely threatened national stability and public order. In response, legislative efforts were undertaken to draft laws aimed at combating terrorism and mitigating its consequences. These initiatives culminated in the enactment of Anti-Terrorism Law No. 13 of 2005. Nevertheless, the enforcement of this law—particularly regarding its implications for fundamental rights and freedoms—has generated considerable debate. Critics contend that certain provisions have had adverse effects on civil liberties in general and on freedom of expression in particular, rights that are explicitly guaranteed in the Iraqi Constitution. This tension raises a fundamental legal and political question: To what extent can the necessity of safeguarding national security be reconciled with the commitment to protecting freedom of expression? Scholarly inquiry into this matter typically adopts a multidisciplinary approach. The descriptive method is employed to contextualize and define the issue, the analytical method to examine the text and structure of the legal provisions, and the critical method to interpret the law, identify its strengths and weaknesses, highlight deficiencies and challenges, and ultimately provide a balanced assessment. Such an approach enables a precise understanding of the relationship between anti-terrorism legislation and fundamental freedoms, while also offering potential pathways for achieving a more equitable balance between public security and individual rights.

Keywords: Anti-Terrorism Law No. 13 of 2005, human rights, Iraq, freedom of expression.

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1. Introduction

The relationship between anti-terrorism legislation and freedom of expression in Iraq is highly contentious, as such laws are often employed to severely restrict legitimate expression under the pretext of national security (Abbas, 2021). Anti-Terrorism Law No. 13 (2005) serves as the primary legislation, having been amended several times (for example, after the rise of ISIS in 2017). This law contains significant problems. It provides a broad definition of terrorism. Article 4 defines terrorism as acts that cause “fear” or “harm” to public order, including “any act carried out with the intent of destabilizing the country.” Such ambiguity enables authorities to classify criticism as “terrorism” (Ali, 2007; Ben Jelloun & A. Barzangi, 2017).

The law also criminalizes “promotion” or “glorification” of terrorism. Article 2(4) punishes “promoting terrorist acts” or “inciting sectarian conflict,” which can encompass peaceful dissent, journalism, or academic analysis (Dzin, 2009). The provision on “harming national unity” is interpreted expansively. Article 4(2) criminalizes acts “damaging to national unity”—a discretionary term often used to silence minority groups or government critics (Abdollahi et al., 2019; Rouhi & Bayz, 2021).

Journalists and activists, for instance, face charges such as “supporting terrorism” for reporting on corruption, militia abuses, or state failures. Numerous arrests have occurred over social media posts criticizing the Popular Mobilization Forces (PMF) or government officials (Mohandes, 2018). The Cybercrime Law, in conjunction with counter-terrorism legislation, is frequently applied to prosecute online speech. Accusations such as “defamation” or “inciting discord” carry heavy fines or imprisonment. The criminalization of peaceful assembly is another relevant issue. Protests—such as the Tishreen Movement (2019–2021)—were dispersed under anti-terrorism pretexts, while activists were accused of “sabotage” or “links to terrorism” (Nahofar & S. Omar, 2017).

Vague national security exceptions are highly controversial. Constitutional protections for freedom of expression (Article 38) are overshadowed by “public order” exceptions, facilitating abuse (Anwar Ahmad et al., 2024). Militias and security forces intimidate critics

offline, coercing them into self-censorship (Rouhi et al., 2017b).

The fear of prosecution drives journalists and activists to avoid sensitive topics, such as militia power or religious authorities. The United Nations Human Rights Council and organizations such as Amnesty International consistently condemn Iraq’s laws for violating Article 19 of the International Covenant on Civil and Political Rights, which safeguards freedom of expression (United Nations General, 2006).

Iraq’s counter-terrorism laws create a repressive environment in which freedom of expression is subordinated to state security interests. While combating terrorism is a legitimate objective, the vagueness of these laws, their disproportionate penalties (including life imprisonment), and their politicized enforcement transform them into tools of repression. Genuine security requires the protection of civil liberties (Abdullah, 2005; Bakhan, 2007). To address these concerns, this article critically examines Iraq’s laws and enforcement mechanisms while proposing reform strategies.

2. The Concept of Freedom of Expression

Definition of Freedom of Expression

To understand and explain the meaning of freedom of expression, both its linguistic and legal definitions are examined.

Linguistic Definition of Freedom of Expression

For the purposes of this study, the lexical meaning of three terms—freedom, thought, and expression—are presented.

Freedom

In Arabic, the word *al-hurriyya* is used for “freedom.” In Persian, the term “*āzādī*” is employed, which is the opposite of “slavery,” and refers to the ability to act freely and at will. In other words, it denotes the capacity to act according to one’s will or to be liberated from slavery, condemnation, and coercion (Masoud, 1981; Omid, 1982).

Thought and Opinion

In Arabic, the word *nazar* is used, while in Persian, *fekr* and *andisheh* denote thought, opinion, intellect, belief, reflection, or consultation (Isfahani, 1992).

Expression

In Arabic, the term *ta’bīr* means interpretation and declaration of what lies within a person’s mind and

consciousness, equivalent to the Persian term “expression” or “articulation” (Firouzabadi; Ibn).

Conceptual Definition of Freedom of Expression

- **Jurisprudential Perspective:** Freedom of expression signifies that an individual is free to articulate opinions without surveillance, persecution, or fear, enjoying full liberty to express them in any form desired (Hussein).
- **Legal Perspective in Iraqi Legislation:** It denotes the right of citizens to express their views through speech, writing, photography, or any other conventional medium, provided that public order and morality are not undermined (Khah et al., 2024).

3. The Concept of Terrorism

Linguistic Definition of Terrorism

In Kurdish, the word *ar'āb* refers to intimidation and the creation of fear. In Persian, *terorism* denotes fear, horror, dread, anxiety, and extraordinary or unexpected threats. In Arabic, *irhāb* connotes danger, intimidation, oppression, panic, and threats of this kind (Hayyim, 2008; Nizodine, 2004).

Conceptual Definition of Terrorism

- **Definition in International Law:** Since the late 1960s and early 1970s, terms such as “terrorism,” “political terrorism,” “domestic terrorism,” “international terrorism,” and “state terrorism” have been widely used due to the rise in bombings, hijackings, hostage-taking, and attacks on embassies. Because of disagreements on definition, the United Nations defined terrorism as: “Criminal acts against civilians with intent to kill, cause serious harm, or take hostages with the purpose of spreading fear and intimidation among the public, a group of people, or specific individuals, or to compel a government or organization to undertake a particular act.” Such acts are classified as international crimes when they spread fear, intimidation, or anxiety among populations for political purposes (Dardarian et al., 2005; Rifaat & Al-Tayyari, 1998).
- **Definition in Iraqi Law:** According to Iraqi law, terrorism refers to: “Any criminal act committed by an individual or an organized group targeting

a person, group, or formal or informal institution, with the intent of harming public or private property, disrupting security, stability, or national unity, or spreading fear and intimidation among people to achieve terrorist objectives” (Abbas, 2021; Mohammad, 2009).

4. The Impact of the Definition of Terrorism on Freedom of Expression

The legislator must define crimes clearly and unambiguously and determine their principles. If the legislator fails to observe this requirement and the law is vague, general, and flexible, its implementation will deviate from the principle of legality of crimes and punishments. Similarly, in the sacred religion of Islam, punishment without an explicit text constitutes injustice, a principle reflected in the Holy Qur'an: “*We never punish until We send a messenger*” (Isfahani, 1992). The purpose of this principle is to guarantee and protect individual rights and freedoms. If the legislator delegates this matter to judges and enforcers, individual rights and freedoms are placed at risk. Historically, the rights and freedom of expression were often violated by authorities and judges, as authorities exercised absolute power and judges ruled according to the will of rulers (Rouhi et al., 2017b).

When reviewing Article 1 of the law, we find that terrorism is not properly defined. Instead, it is vague, general, and flexible. The law fails to distinguish between who is a terrorist and who is not, or between what constitutes terrorism and what qualifies as freedom of expression. As a result, it grants broad discretion to enforcers and the judiciary to accuse an individual, party, organization, group, or institution of terrorism (Abbas, 2021). This broad scope occurs despite the fact that successive governments in Iraq, including the United States during its intervention, have themselves relied on oppression, violence, and intimidation against the Iraqi people (Mohandes, 2018).

This represents the first and most significant threat posed by the law, which undermines freedom of expression and exerts a highly negative effect on political pluralism and social cohesion—matters crucial for contemporary Iraqi society. While combating and eliminating terrorism may justify certain restrictions, the positive aspects and benefits of security, peace, and coexistence must prevail over obstacles, limitations, and

threats to life, freedom of expression, and the rule of law (Abdullah, 2005; Bakhan, 2007).

5. The Impact of the Forms of Terrorism on Freedom of Expression

The Anti-Terrorism Law defines acts deemed to constitute terrorism in detail across several articles, covering multiple aspects. This amounts to an expansion of the scope of terrorism, with the law subsequently broadening its application a second and third time. However, it fails to make a clear distinction between terrorism and individual freedoms, leaving interpretation to the discretion of authorities, as the definition of terrorism in Article 1 is filled with expansive and ambiguous expressions (Khah et al., 2024).

Although Iraqi law includes positive provisions such as prohibiting torture and prohibiting inhumane treatment of the accused—provisions stipulating that courts must not rely on confessions obtained through coercion, threats, torture, or inducements—the Anti-Terrorism Law of Iraq does not explicitly state these protections. By contrast, the Anti-Terrorism Law of the Kurdistan Regional Government explicitly references them (Rouhi & Bayz, 2021). Nevertheless, in practice, this provision is frequently disregarded, leading to numerous victims. Under the broad definition of terrorism, journalists, intellectuals, writers, media professionals, opposition parties, and other individuals may be targeted. This poses a grave threat to freedom of thought, democracy, and all fundamental freedoms (Rouhi et al., 2016).

6. The Impact of Terrorism Punishments on Freedom of Expression

The Anti-Terrorism Law is one of the most stringent pieces of legislation, imposing severe punishments for terrorist crimes with the declared aim of maintaining public security by fighting terrorism. It prescribes deterrent penalties for perpetrators, accomplices, and supporters, including execution, life imprisonment, temporary imprisonment, confiscation of property, and post-sentence monitoring.

The problem arises because such severe penalties also apply to writers, intellectuals, journalists, researchers, and political opponents. This means that journalists may face these harsh punishments simply due to their professional work, while perpetrators of crimes against journalists and intellectuals often escape punishment.

Iraq ranks fifth among the worst countries in the world for impunity in crimes against journalists (Anwar Ahmad et al., 2024).

Although Iraqi law provides for the appointment of a lawyer for terrorism suspects, this applies only at the trial stage and not during the investigation phase. As a result, lawyers lack prior knowledge of the charges or the accused since they have not accessed or reviewed the case file, thereby preventing effective defense. This deficiency does not stem from the Anti-Terrorism Law itself, since no article explicitly mentions the right to counsel; rather, this right is established under the Iraqi Constitution and other laws (Fozieh Hemmati et al., 2025). Thus, the severity of punishments has a profoundly negative impact on freedom of expression.

One positive provision of Iraqi law is that if an accused person proves innocent of terrorism charges, they may claim compensation for damages sustained, as explicitly provided by law. However, it would have been preferable if Iraq's Anti-Terrorism Law had codified this right as explicitly as the Anti-Terrorism Law of the Kurdistan Regional Government. Even where compensation is paid to the innocent, it often occurs only after violations of freedom of expression, infringements of individual rights, and the silencing of intellectuals and writers through intimidation. Consequently, Iraq ranks 169th out of 180 countries for violations against journalists and freedom of expression, recording 333 infringements annually (Fateme et al., 2025).

7. The Impact of Bail on Freedom of Expression

Any individual charged under this law is not eligible for release on bail during the investigative phase, a restriction justified on the grounds of the dangerous nature of terrorist activities and their negative impact on public security. The Iraqi legislator deemed this strict measure necessary to preserve public safety and prevent suspects from absconding or resuming terrorist activities (Rashid, 1974).

However, as previously noted, the definition of terrorism is so broad, vague, and flexible that many acts classified as terrorism actually pose a real threat to intellectuals and writers. Consequently, they are easily subjected to prosecution under this law, thereby adding another restriction on freedom of expression. This results in the accused remaining in detention until trial, even in cases where evidence is lacking or weak. Meanwhile, Iraq's

pre-trial and investigative procedures are notoriously lengthy, complex, and time-consuming (Dzin, 2009).

8. The Impact of the Concept of Attempting to Commit a Crime on Freedom of Expression

Anyone who attempts to commit a terrorist crime is sentenced to life imprisonment. Accordingly, if an offender begins to carry out a crime, even if it is not completed or if, for any reason, the terrorist act does not succeed, the individual is nevertheless sentenced to life imprisonment (Abbas, 2021). The law prescribes severe punishments for crimes listed within its provisions, meaning that even acts not completed are still punishable.

As noted earlier, this stems from the vague, expansive, and flexible definition contained in the law. The terms “participation,” “motivation,” and “collaboration” are highly malleable, permitting diverse meanings and interpretations, while the punishments remain extremely severe (Rouhi et al., 2017a). This approach broadens the scope of terrorism to a highly comprehensive degree, ultimately reinforcing the concern and presumption that the law may be exploited to restrict the boundaries of democracy, human rights, and freedom of expression—particularly against writers, journalists, and researchers (Dardarian et al., 2005).

This is especially troubling for those outside government authority, as the law risks transforming Iraq into what could effectively become a vast prison for all citizens (Nahofar & S. Omar, 2017).

9. Legality versus Legitimacy in Iraq’s 2005 Anti-Terrorism Law

For a law to be enforceable and to possess genuine legal legitimacy, it must contain substantive content that safeguards citizens’ fundamental human rights and freedoms. Otherwise, even if a law has formally passed through the appropriate official channels, it will lack legitimacy (Fozieh Hemmati et al., 2025). This issue is particularly critical in Iraq’s multicultural and mosaic society, composed of diverse ethnic, religious, and sectarian groups. Different cultural groups hold divergent values and perspectives on law and democratic principles.

Minorities and marginalized groups, especially when the legal system fails to equally protect their rights, remain vulnerable to discrimination and violence (Abdollahi et

al., 2019). In light of prevailing cultural relativism regarding human rights in Iraq, it is imperative that this issue be seriously addressed within anti-terrorism legislation, ensuring that the law is not misused as a tool to reinforce dominance of some cultures over others. In practice, the law has been instrumentalized in Iraq’s ethnic, sectarian, and tribal conflicts, as well as in suppressing dissent (Rouhi & Bayz, 2021).

However, based on both procedural and substantive standards of the rule of law, a law must possess both legality and legitimacy. Otherwise, it becomes nothing more than an oppressive decree designed to subjugate dissenters and opponents (Arkoun & S. Al-Juhaim). This principle has repeatedly been affirmed in the jurisprudence of international courts, particularly the International Court of Justice, which has consistently recognized the prohibition of violations of fundamental human rights as a *jus cogens* norm that cannot be derogated under any circumstances (Khah et al., 2024). Where such rules are violated, both state responsibility and individual international criminal responsibility may arise (Fatemeh et al., 2025).

This approach has contributed to the development of international law, particularly in the field of human rights (United Nations General, 2006). In essence, legality is not inherently equivalent to legitimacy, for a law or act may be formally legal while remaining substantively unjust and illegitimate (Aboujeib, 2003).

Given these considerations, it can be concluded that Iraq’s 2005 Anti-Terrorism Law faces serious challenges when measured against the formal and substantive criteria of the rule of law (Anwar Ahmad et al., 2024).

10. Conclusion

This study concludes that Iraq’s Anti-Terrorism Law does not provide a precise, concise, clear, and comprehensive definition of terrorism that distinguishes terrorist crimes from other crimes and activities. The law is designed to guarantee public security; therefore, it can be justified to some extent. However, it frequently violates human rights and leaves no space for freedom of expression. At times, this law is misused to resolve political issues. It poses a direct threat to journalists, writers, researchers, and freedom of expression itself. Since the right to freedom of expression, freedom of thought, and terrorism are not distinguished from one another, the law requires fundamental revision. It has

become one of the most severe legal instruments against freedom of expression and all human rights.

The law imposes harsh punishments for incitement or promotion of terrorism, where even clicking, liking, or posting a comment online can be construed as establishing a terrorist crime. This practice proves that the law is inconsistent with the principles of freedom of expression. Moreover, the law makes no reference to guaranteeing rights and freedoms, including freedom of expression, despite the fact that most constitutions of states explicitly mention such protections, and the Iraqi Constitution itself recognizes them.

Recommendations:

- This law was enacted under undesirable circumstances marked by intimidation, fear, and anxiety; therefore, it should be temporary and repealed as soon as possible.
- If repeal is not feasible due to ongoing threats of terrorism, the law should be extended only on a temporary and short-term basis, not indefinitely or permanently.
- Reform and amendment of the law are necessary to eliminate vague and stereotypical terminology and to ensure protection of freedom of expression and all human rights.
- The definition of terrorism must be set out clearly and concisely in the law so that terrorism is properly distinguished.
- The acts classified as terrorism are numerous and spread across several provisions, covering diverse aspects. This broad expansion of terrorism constitutes a threat to freedom of expression.
- The law should not be applied to opposition parties, journalists, media activists, writers, researchers, and experts.
- The judiciary should exercise its counter-terrorism powers independently and impartially, limiting its role to fairness in investigation and decision-making.
- Cases involving journalists and media professionals should be handled under journalism laws rather than anti-terrorism legislation.
- The law should explicitly guarantee rights, freedoms, and freedom of expression.

- Certain terrorism cases that do not involve acts of violence or intimidation, and for which the courts lack sufficient evidence, should be dismissed.
- When bail applications are submitted, the court should carefully review the evidence before rejecting them in order to maintain a balance between public security and freedom of expression.
- Strict judicial oversight should be exercised over decisions denying bail to prevent their use for political cleansing, partisan rivalry, or human rights violations.
- Alternative measures to imprisonment, such as compulsory residence or electronic monitoring, should be adopted where appropriate.
- A freedom of expression bill should be drafted, reviewed, and enacted to align with freedom of expression and all human rights.
- The law should provide compensation for defendants who are proven innocent of terrorism charges.
- The law should explicitly establish the right of defendants to legal counsel.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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Declaration of Interest

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In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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