
The Perilous Intersection of Amnesty and Accountability: Iraq's Legal Quandary and its Global Counterterrorism Ramifications

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The Iraqi Parliament is poised to [discuss](#) a new [amnesty bill](#) that has generated significant controversy and debate. This legislation is intended to address the issue of wrongful detentions but raises profound ethical, judicial, and societal concerns. Advocates claim the bill will rectify unjust imprisonment, particularly in the post-ISIS era. Critics, however, argue that the bill's broad language could inadvertently release individuals affiliated with ISIS, undermining ongoing counterterrorism efforts and the pursuit of justice for victims. Complicating matters further is the recent decision by the United Nations Security Council to terminate the mandate of [UNITAD](#), a team responsible for investigating crimes committed by ISIS. This article delves into the intricacies of the proposed bill, its implications for justice and national reconciliation, and its potential impact on counterterrorism efforts in Iraq.

Introduction

The Iraqi Parliament's impending vote on an amnesty bill continues to generate debates about ethical, political, and societal issues. It is a subject that requires rigorous scrutiny and input from multiple stakeholders, particularly in a country reeling from years of internal conflict and an ongoing struggle with terrorism. Adding another layer to this complexity is the recent United Nations Security Council (UNSC) decision to terminate the mandate of the United Nations Investigative Team for Accountability of Da'esh/ISIL (UNITAD) by September 2024. The team was set up to promote accountability for crimes committed by ISIS. The simultaneous developments of the amnesty bill and the end of UNITAD's mandate present a critical juncture for Iraq, raising significant concerns about the future of justice and counterterrorism efforts.



Figure 1. The Human Rights Committee holds a meeting to discuss legislation, including the General Amnesty Law ([Iraqi Parliament](#)).

A Disputed Legislative Approach: Balancing Justice and Expediency in a Divided Society

The amnesty bill under consideration has ignited a complex debate on justice, national security, and societal healing issues. At the heart of the matter is the critical question of how Iraq can rectify wrongful detentions and hold accountable those who committed heinous crimes under the banner of ISIS.

Advocates for the bill contend that it serves a reparative function, intended to alleviate the suffering of those wrongfully detained in the sweeping counterterrorism measures that followed the expulsion of ISIS. They argue that the legislation would act as a corrective mechanism for what they see as widespread injustices perpetrated in the name of national security. The bill is a necessary step toward national reconciliation, creating a legal pathway to redress the grievances of those unjustly imprisoned.

However, this perspective is sharply contested by critics who underscore the complex interplay of justice and security, especially in the wake of ISIS's devastating influence in Iraq. Leading this dissenting voice is Yazidi activist Murad Ismael and organizations like [Yazda](#). They echo similar concerns expressed by international figures such as counsel to Yazda, Amal Clooney, and others involved in global justice initiatives.

On September 15, 2023, the UN Security Council adopted resolution 2697, ending the United Nations Investigative Team mandate to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD) by September 17, 2024. This move, made at the request of the Iraqi government, was executed without consulting ISIS survivors, including those represented by Yazda and counsel like Amal Clooney. The resolution has been criticized for undermining the pursuit of justice for victims of ISIS, curtailing the prospects of prosecuting the terror group for its crimes against humanity and genocide.

Ismael argues that when viewed with the cessation of UNITAD, the amnesty bill presents a grim picture of justice in Iraq. "The amnesty bill offers everyone a 'blank check of forgiveness,' including thousands of ISIS members. With the termination of UNITAD, the twin moves signal a step away from accountability and justice," he asserts. Ismael emphasizes the need for retaining the exclusion of terrorism-related crimes from any amnesty provisions, a practice that has been the norm in Iraq's legislative history.

These critical perspectives have led to calls for urgent actions to salvage the situation. Recommendations have been made for the UN Security Council to convene an urgent session in early 2024 to discuss how the evidence gathered by UNITAD could be used, potentially in an international court that can prosecute ISIL members for international crimes.

Ismael takes issue with the argument that the bill merely aims to address isolated instances of wrongful imprisonment. Instead, he challenges the broad strokes with which the bill's proponents paint the issue, arguing that the scale of unjust detentions is significantly smaller than suggested. "There are probably hundreds of unjust cases, not thousands," he asserts, questioning the narrative that the bill's sweeping measures are proportionate or just.

Further complicating the situation is the ambiguity surrounding the definition of terrorism within the proposed law—a vagueness that Ismael and others find deeply troubling. The lack of clarity opens the door to potential misuse and misapplication, creating a legislative landscape where the pursuit of justice could be fundamentally compromised.

The Amendment: A Closer Look at Nuances and Complexities

The recent amnesty bill [amendment](#) explicitly exempts anyone affiliated with ISIS, a significant legislative modification designed to address some of the most pressing concerns surrounding the bill. At first glance, this addition might seem like a resolution to the primary worries critics like Murad Ismael have expressed. However, a closer examination reveals that this amendment, while a step in the right direction, presents a new array of questions and leaves several unresolved issues.

Ismael perceives the amendment as insufficient in tackling the intricate ethical dimensions that a broad amnesty law brings, particularly in a society still grappling with the aftermath of conflict and sectarian division. While the amendment aims to clarify who would not benefit from the amnesty, it fails to provide a comprehensive mechanism to ensure that those wrongfully detained are effectively distinguished from actual criminals or terrorists. Ismael's call for a "very selective mechanism" for retrying those who might be innocent underscores the need for a more nuanced approach than the current legislation offers.

Moreover, Ismael questions the wisdom of a general amnesty law, arguing that alternative legal avenues exist for achieving the same goals without the associated risks. He suggests that Iraq could "amend its laws to allow parole when certain conditions are met," thereby avoiding the pitfalls that come

with a sweeping amnesty. This proposal would allow for individualized assessments and ensure that releases are contingent on specific criteria, including good behavior or other mitigating factors.

Additionally, the amendment's focus on ISIS-affiliation raises legal interpretation and implementation issues. How does one accurately define 'affiliation'? The bill's language, already scrutinized for its vagueness, could allow for different readings and, therefore, different law applications, risking inconsistent judicial decisions. This lack of specificity could be exploited either to detain individuals unjustly or to release those who should rightly remain in custody.

Ismael's reservations about the amendment also invite us to consider the long-term impact of such legislation on the judicial system and the notion of justice in Iraq. Introducing a blanket amnesty, even with exclusions, interferes with the judiciary's role in determining guilt or innocence through due process. Such interference could erode public trust in judicial institutions and, by extension, the rule of law, thereby making the road to national reconciliation and peace even more challenging.

Counterterrorism and National Reconciliation: Navigating a Complex Landscape

In the discourse surrounding the Iraqi amnesty bill, one of the most pressing matters is its potential impact on ongoing counterterrorism efforts. Murad Ismael, a noted Yazidi activist, raises significant alarms. He fears that any relaxation in the terms of detainment, especially if it leads to the release of ISIS members, would not just be counterproductive but could be dangerously destabilizing. Ismael warns that such a move would essentially send a message that "you can get away with whatever you do," thereby significantly undermining counterterrorism initiatives. This concern draws attention to the tension between the immediate goals of the amnesty bill and the long-term imperatives of ensuring national security.

Ismael's point on counterterrorism also touches on the broader geopolitics of the region. The resurgence of ISIS or any terrorist group would have a ripple effect, affecting Iraq and its neighbors and potentially engaging international stakeholders in new conflicts or renewed military efforts. The amnesty bill could become a variable in a much larger equation of regional stability and global counterterrorism efforts.

On the question of national reconciliation—a term often invoked to justify sweeping legal and policy changes—Ismael is skeptical. Contrary to some political narratives that present the bill as a pathway to national healing, Ismael refutes the notion that there is a widespread public demand for such amnesty. His perspective is grounded in observation: "I have not seen a single demonstration demanding amnesty," he notes, adding that most Sunni Muslims also object to an amnesty that would include ISIS members. This case raises questions about the authenticity of claims that the bill is a step toward national reconciliation. Who benefits from it, and is it truly in line with public sentiment?

As Ismael notes, the ethical dimensions of the bill add another layer of complexity. Rather than serving as a unifying force, the bill has the potential to sow further discord among Iraq's diverse communities.

Specifically, Ismael warns that the bill "will create a sense that the Sunni community defends ISIS prisoners on the basis of their identity, not on the base of standing for justice." This belief could exacerbate sectarian tensions in a country that has spent years trying to mend such divisions. It could also backfire by reinforcing stereotypes and prejudices, making fostering a genuinely inclusive sense of Iraqi identity even more challenging.

Ismael's nuanced critique invites serious contemplation on whether the bill, in its current form, aligns with the principles of justice, security, and social cohesion that it ostensibly aims to promote. It underscores the necessity of ensuring that legislative actions are not just reactive measures but are well-considered strategies that account for complex realities and long-term implications. With the stakes this high, the discussion around the amnesty bill is not just about legal technicalities; it is a dialogue that delves into the heart of what kind of society Iraq aspires to be in the post-conflict era.

The Termination of UNITAD and Its Consequences: An Erosion of Accountability

The prospective termination of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD) must be understood in isolation and in conjunction with the proposed amnesty bill. The coincidence of these two legislative moves adds a layer of complexity and concern to Iraq's already fraught political landscape. Murad Ismael asserts that the termination of UNITAD could be "part of the political deal," an accord essentially aimed at "closing investigations and accountability altogether." This statement suggests that there may be more orchestrated motives behind the scenes than what is being publicly disclosed.

In the international context, UNITAD represented a tangible effort to ensure that the heinous acts committed during the ISIS occupation were meticulously investigated and cataloged for future legal actions. The termination of its mandate symbolizes a discontinuation of that international commitment. It implies that the mechanisms designed to hold ISIS accountable are being dismantled, potentially leaving victims without institutional support or avenues for redress. As Ismael poignantly observes, the amnesty bill's combined impact and the UNITAD's end "is ending the hope for victims and communities like ours that any justice will be served."



Figure 2. The [Investigative Team](#) collects, preserves, and stores evidence in relation to acts of ISIL that may amount to war crimes, crimes against humanity and genocide.

One of the most unsettling aspects of this situation is the fate of the extensive evidence collected by UNITAD over the years. This evidence could be invaluable in prosecuting ISIS members and establishing historical records. If UNITAD is dissolved, what happens to this cache of information? Will it be transferred to Iraqi authorities or another international body, or will it become archived, gathering dust and contributing to a culture of impunity?

Additionally, the termination raises questions about international responsibility. If UNITAD is disbanded, does this change signify a withdrawal of international commitment to justice in Iraq? And what are the implications for global governance structures tasked with upholding human rights and international law?

Given these complexities, the termination of UNITAD is not just a procedural conclusion; it serves as a litmus test for the political will—both nationally and internationally—to ensure accountability for crimes committed by ISIS. It also poses ethical challenges regarding the commitment to justice and the rights of victims enduring unimaginable suffering.

The juxtaposition of the amnesty bill with the dissolution of UNITAD creates a troubling scenario in which national and international justice mechanisms are weakening simultaneously. This is particularly problematic in a post-conflict society like Iraq, where the legal and moral fabrics are already fragile, and every legislative action or inaction reverberates far beyond the walls of parliamentary chambers. Thus, the termination of UNITAD's mandate, combined with the proposed amnesty bill, could have

repercussions that last long into the future, affecting the quest for justice and the overall stability and cohesion of Iraq as a nation.

The Definitional Dilemma of Terrorism: A Quagmire of Legal and Ethical Ambiguities

The proposed amnesty bill does more than stir concerns about potential releases of ISIS members and the erosion of justice; it also resurrects the perennial debate about what precisely constitutes "terrorism," a term often fraught with legal and ethical ambiguities. Murad Ismael argues fervently for an act-based definition of terrorism, contending that terrorism "should be labeled by act and should have a clear definition and application, not something selective based on the identity of the doers."

Ismael's assertion addresses a deeper, more systemic issue—the elasticity of the term "terrorism," which often allows for subjective interpretations that can be weaponized for political ends. The ambiguity in defining terrorism also has significant ramifications for the effectiveness of the amnesty bill itself. How can the bill's amendment, which explicitly excludes ISIS affiliates from amnesty, be effectively implemented without a precise definition? Ambiguities could create loopholes that permit the release of individuals involved in acts of terror based on differing interpretations of what constitutes a "terrorist act."

Moreover, Ismael's emphasis on an act-based definition speaks to broader concerns about the selective labeling of terrorism, often based on the identity or affiliation of the perpetrators. He raises the pertinent issue that when a 'Sunni' group engages in violent activities, its members are more likely to be branded as terrorists than those of non-Sunni groups. This bias also extends to the international sphere. Ismael notes that, in Western contexts, acts of mass violence committed by Muslims are quickly labeled terrorism. In contrast, similar acts by non-Muslims are often termed 'mass shootings' or 'radical actions.'

The importance of this definitional clarity goes beyond mere semantics; it has substantial implications for justice and equity. A skewed or biased definition of terrorism could potentially exacerbate existing societal divisions and foster an environment where discriminatory practices are legally sanctioned. Such a state of affairs could further marginalize specific communities, sowing the seeds for future conflict and perpetuating a vicious cycle of violence and retribution.

The unresolved issue of defining terrorism also complicates international cooperation in counterterrorism efforts. Ambiguities could create rifts between nations and international bodies, hindering a coordinated approach to tackling the complex challenges posed by global terrorism.

The call for a clear, unambiguous definition of terrorism, therefore, is not just a legal necessity, but is also an ethical imperative. It can help ensure that the application of the law is fair and just, irrespective of the identity of the accused. Additionally, it can contribute to more effective counterterrorism policies, both nationally and internationally, by removing the impediments that definitional ambiguity poses.

In sum, the debate over the definition of terrorism, as provoked by the amnesty bill, opens a Pandora's box of legal, ethical, and social challenges. It raises questions about the just application of the law, the nature of selective labeling, and its impact on national unity and international counterterrorism collaborations. This definitional dilemma is another facet of the multi-layered complexities surrounding the amnesty bill, underlining the need for careful, nuanced approaches to legislative reforms.

Conclusion: Navigating the Labyrinth of Legal and Ethical Challenges

As Iraq's Parliament prepares to debate the new amnesty bill, the complexities surrounding it manifest on multiple fronts—legal, ethical, social, and geopolitical. What appears to be a well-intended legislative action aimed at correcting injustices can potentially unleash a cascade of unintended consequences within Iraq and beyond its borders. The concerns expressed by stakeholders like Yazidi activist Murad Ismael highlight the precarious balance between justice and reconciliation and between the pursuit of domestic political harmony and the commitment to international counterterrorism efforts.

The bill's ambiguity in defining terrorism, the specter of releasing dangerous elements back into society, and the ethical dimensions of implementing such an amnesty in a post-conflict landscape contribute to a fraught debate. Additionally, the termination of UNITAD's mandate, which ostensibly closes the door on accountability for ISIS crimes, creates an even more complex backdrop against which the amnesty bill is being discussed.

As Ismael points out, while there might be legitimate cases where injustices need to be corrected, a blanket amnesty risks becoming a "blank check of forgiveness" that could jeopardize the justice system and the fragile social fabric of a nation still recovering from years of conflict. Moreover, the amnesty bill and the end of UNITAD could collectively signal the termination of justice-seeking mechanisms, further dismaying victims and communities who have already suffered immensely.

On the matter of counterterrorism, the amnesty bill sends mixed signals. The broader implications of releasing individuals once affiliated with terror organizations could have ramifications for Iraq and international counterterrorism collaborations. The dilemma of defining 'terrorism' exposes the deep-rooted systemic issues plaguing Iraq and global governance, further complicating international counterterrorism efforts.

Suppose one overarching lesson is gleaned from this intricate web of issues. In that case, legislative actions, particularly those dealing with matters as sensitive as amnesty in a post-conflict society, require a nuanced, multi-faceted approach. This approach must account for the multiple stakeholders involved, from victims to communities, local governments to international bodies, legal experts to ethicists. Each of these facets must be examined and weighed carefully to navigate the labyrinth of challenges that such a law inevitably presents.

As the Iraqi Parliament moves forward with its deliberations, the world watches keenly, aware that the outcome could serve as a precedent, for better or worse, in the ongoing global struggle to balance justice, security, and reconciliation.

Addressing the entangled issues surrounding Iraq's controversial amnesty bill, the cessation of UNITAD's mandate, and ongoing counterterrorism and justice efforts is an intricate undertaking that defies simple solutions. Indeed, the dilemma is heightened by vested interests, ranging from victims of ISIS atrocities to the Iraqi government, local communities, and even international entities like the United Nations.

Firstly, the general amnesty bill has been criticized for its sweeping provisions, which could offer a blanket reprieve to ISIS members. A more nuanced strategy would entail meticulous legal scrutiny of individual cases, overseen by an independent judicial committee augmented by international legal experts. This approach would serve a dual purpose: ensuring that those genuinely deserving of amnesty are identified and released while those guilty of crimes against humanity are held accountable.

Simultaneously, Iraq could consider establishing specialized courts to review and retry individuals on specific types of offenses, particularly those related to terrorism. This arrangement would address concerns about unjustly releasing actual ISIS members while providing a legitimate channel for correcting wrongful detentions. The end of UNITAD's mandate creates a vacuum that could be filled by strengthening Iraq's domestic legal and investigative capabilities. Investment in training prosecutors, judges, and investigators could develop a robust system capable of continuing the work that UNITAD started, but on a national level.



Figure 3. Intensive training program for Iraqi judges at the Nuremberg Academy.

In light of the transnational repercussions of ISIS, regional cooperation is of the essence. The pooling of intelligence and legal resources across borders could lead to a more effective counterterrorism strategy that can offset the vacuum left by UNITAD's termination.

Furthermore, although UNITAD's mandate is drawing to a close, other avenues of international involvement could be explored. For instance, the UN could oversee safeguarding evidence that UNITAD collected, ensuring its availability for future prosecutions, either within Iraq or at international courts.

As for societal divisions exacerbated by the amnesty bill and the end of UNITAD, what is required is a national dialogue that includes all segments of Iraqi society. This forum could forge common ground and discuss measures contributing to justice and national reconciliation. Given the ethical complexities, a parallel initiative could involve crafting ethical guidelines for legal reforms, balancing considerations of justice, national security, and societal unity. These guidelines could be developed through an inclusive process involving stakeholders from civil society, the legal community, and various ethnic and religious groups.

A comprehensive and equitable solution could emerge by threading these multifaceted elements into a cohesive strategy. This plan would address Iraq's immediate challenges and serve as a template for how similar, deeply entrenched issues could be managed in other post-conflict societies.