

Abstracts

Incitement to Terrorism and the Limits of Free Speech: Between Direct and Indirect Limitations

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The article discusses the criminalization of incitement to terrorism in Israeli law, in comparison to the models applied in this area in other legal systems, including the international effort which led to SCR 1624. More specifically, the article studies the development of this criminal prohibition in Israel as well as its enforcement against the background of Israeli law's traditional view of freedom of speech and its constitutional protection, and in light of the deliberations taking place also in other legal systems regarding the appropriateness of direct limitations on freedom of speech. The article compares the view that favors directly limiting freedom of speech by way of enacting criminal prohibitions on incitement to terrorism (which prevails in European law and in Israel) with the view that applies only indirect limitations on incitement to terrorism, based on broad criminal prohibitions on affording support to terrorism or conspiring to commit terrorist crimes (exemplified by the law in the U.S.). This comparison assesses the respective price each of these choices entails – admitting formally and openly that freedom of speech is being compromised (in the case of direct limitations) vis-à-vis *de facto* limiting freedom of speech without admitting it (in the case of indirect limitations). This analysis serves as the basis for evaluating new proposals for reform in this area, including the new Struggle Against Terrorism Bill, 2011, aimed at forming a new and updated legal framework for antiterrorism law in Israel.