



Enhancing Justice in Iraq

Specialized Procedures for Various Issues

Author: A Group of Researchers

Prepared by: Ali Taher Alhammood

Translation: Batool Kareem Hamdi



Enhancing Justice in Iraq
Specialized Procedures for Various Issues

مركز البيان للدراسات والتخطيط
Al-Bayan Center for Studies and Planning



Enhancing Justice in Iraq

Specialized Procedures for Various Issues

Author: A Group of Researchers

Prepared by: Dr. Ali Taher Alhammood

Translation: Batool Kareem Hamdi

Al-Bayan Center for Studies and Planning Series

Enhancing Justice in Iraq: Specialized Procedures for Various Issues

Author: A Group of Researchers

Prepared by: Dr. Ali Taher Al-Hamoud

Page 148

Baghdad, November 2024

All rights reserved © to Bayan Center for Planning and Studies

No person or entity has the right to reproduce, publish, or transmit this book or any part of it in any form or by any means of information transfer, including copying or recording, without written permission from the copyright holders.

First Edition

Translation: Batool Kareem Hamdi

Design and Execution: Mustafa Mohammed

Published and distributed by: Al-Bayan Center for Planning and Studies

www.bayancenter.org

info@bayancenter.org

Since 2014

About the Centre

Al-Bayan Center for Studies and Planning is an independent, non-profit center based in Baghdad. Its main mission—among other issues—is to present a credible perspective on public and foreign policy issues related specifically to Iraq and more generally to the Middle East region. The center aims to conduct independent analysis and find clear, practical solutions to complex issues that concern both the political and academic fields.

Given Iraq's regional and international importance and the ongoing developments in the country and the region, most analyses and follow-ups attempting to track events and issues in Iraq have lacked the ability to think outside the prevailing framework and narratives that have shaped perceptions of Iraq over the past decades. For this reason, the center seeks to present new perspectives based on objectivity, neutrality, credibility, and creativity. It directs its research and analysis activities toward addressing the challenges facing Iraq and the Middle East, offering insights and ideas to decision-makers on effective approaches to tackle these challenges in both the short and long term.

The center provides perspectives based on the principles of objectivity, originality, and creativity on issues of conflict through analyses, fieldwork, and establishing connections with various institutions in the Middle East. Its goal is to address Iraq's issues related to politics, economy, society, oil and agricultural policies, international relations, and education.



Table of content

Introduction of the Center	9
Part One: Political Justice – A Broad Title in an Emerging Procedural Reality.	13
Axis One: Iraqi Political Parties: Two Decades of the Absence of True Structural Building - Mustafa Al-Saray	15
Axis Two: Decision-Making Mechanisms in Provincial Councils: Challenges and Opportunities for Reform	
Dr. Abdulaziz Aliwi Al-Essawi	35
Part Two: The Economy as a Key Factor in Achieving Justice	65
Axis Three: Commercial Arbitration in Iraq: Reality and Future Prospects	
Dr. Ali Daadoush	63
Axis Four: Mechanisms for Supporting Small and Medium Enterprises Under Governing Laws	
Dr. Ali Abdul Rahim Al-Aboudi	89
Part Three: Employed Women and Justice Procedures:	
A Constant Struggle in State Institutions	108
Axis Five: Assessing the Needs of Women in State Institutions: The Ministries of Higher Education and Scientific Research and Education as a Model	
Hayam Ali Al-Marhaj	109



Introduction of the Centre

The concept of justice, as understood by Eastern societies, is distinguished by its influence from culture within historical, social, and intellectual contexts. While Western societies seek values of freedom and equality as the fundamental framework for justice, and represent these through the judicial system, wealth redistribution policies, social welfare, and criminal justice, the literature on justice in this context is generated through the centrality of the individual's interests and rights. In contrast, justice in the Eastern context is more aligned with traditional culture. It seeks individual rights through ensuring social balance, public interest, and religious values that frame justice through divine law and principles of fairness and mercy, achieving peace through inherited customs and traditions. Thus, justice and its realization in our countries are intertwined with traditional structures, even though modern concepts of justice involve rational institutions and structures that assume a deep understanding from both authorities and individuals.

Iraq represents a model of this intersection in the understanding of justice. While the political system seeks and assumes an ongoing process of modernization and updating, it is undeniable that this country is the heir to one of the deepest cultures known to humanity. Despite the concerted efforts to make the political system a true representation of the people, crises, events, and fluctuations have made the pursuit of justice a path fraught with challenges, requiring a delicate balance between legal frameworks, public policies, emerging institutions, public culture, international obligations, and the existing legal and administrative heritage.

This book is the result of a project carried out by the centre over the course of a full year titled "Enhancing Justice in Iraq." The centre worked for a full year on this project by holding numerous focused discussion sessions with stakeholders and target groups in the topics and sectors identified. More than 250 people, including experts, academics, decision-makers, and target groups, participated in these sessions.

In the implementation of the project, the centre worked on developing the skills and capabilities of more than 30 young men and women from different provinces



across southern, central, and northern Iraq. These youths were trained in the skills of facilitating sessions and designing advocacy campaigns aimed at gaining social and political support for the five issues the project worked on.

The final phase of the project culminated in an advocacy campaign aimed at gaining support and discussing the papers on a national level in provinces beyond Baghdad. This was done in partnership with many civil society organizations and associations in various provinces such as Najaf, Karbala, Babel, Anbar, Salahaddin, and Mosul.

The choice of these topics stems from a deep understanding that justice is not achieved through the security or judicial system alone. Rather, it is an integrated system that includes the role of political parties, the importance of provincial councils, and the significance of local governance. The second policy study addressed the reality of provincial councils and their role in promoting justice at the local level. Iraq is a country with a complex administrative structure; provinces enjoy a degree of local governance, which can be an effective means of achieving justice at the local level through the fair distribution of wealth and the creation of an environment of active participation in decision-making, policy formulation, and the development of strategies specific to each province.

The third policy study focused on commercial arbitration as a tool for enhancing economic justice, in light of the growing shift towards an open economy and the encouragement of foreign investment. Commercial arbitration has become an indispensable tool for resolving commercial disputes quickly and efficiently. However, the Iraqi legal environment still suffers from the absence of robust legal frameworks that support commercial arbitration, which hinders economic justice and deters investors. This study aims to analyse the obstacles facing the development of commercial arbitration in Iraq and proposes practical steps to reform the legislation and legal infrastructure, linking this issue to the importance of attracting international investment to achieve sustainable development.

The fourth policy study addressed the issue of accessing loans for small projects, which represents a significant challenge to achieving economic and social justice.



Small businesses are the backbone of any thriving economy and serve as an effective means of empowering individuals and fostering innovation. However, in Iraq, owners of these businesses face significant difficulties in obtaining financing, which deepens the economic gap between different social classes. The study tackles this issue by providing a detailed analysis of the obstacles within the Iraqi financial system and proposes strategies to facilitate access to financing, which is considered one of the key factors in promoting economic and social justice in the country.

The fifth policy study focused on the situation of female employees in Iraqi government institutions. Despite efforts to promote women's rights in Iraq, women still face significant challenges in the workplace, including discrimination and unequal opportunities. This study focuses on analysing this phenomenon through a field study of female employees in the Ministries of Higher Education and Education, which employ the largest number of women in the administrative apparatus of the Iraqi state. The study proposes policies and mechanisms to support women's rights and achieve gender equality, which is vital for sustainable internal development and fulfilling Iraq's commitments to international agreements.

The Al-Bayan Centre for Studies and Planning hopes that these five studies provide useful analysis for decision-makers in achieving justice in Iraq within its societal, cultural, legal, and political contexts and specificities. The centre also hopes that this book serves as a solid scientific contribution that enriches both local and international understanding of justice issues in Iraq.

Dr. Ali Taher Al-Hamoud

Executive Director of Al-Bayan Centre for Studies and Planning



Part One

Political Justice: A Broad Concept in an Emerging Procedural Reality

The concept of justice in general, and political justice in particular, occupies a prominent place in political thought. This concept has been widely discussed by ancient political philosophers such as Plato, Kant, Rousseau, Montesquieu, and others, up to the modern era. The interest in this concept remains vast, even forming theoretical formulations by philosopher John Rawls regarding justice, political justice, and transitional justice. Rawls considered justice a foundational structure for the democratic system, referring to the economic, social, and political institutions within a democratic society. This clarifies that justice is not a concept limited to social aspects or economic philosophy only, but political justice is considered one of the foundations of a democratic system.

Justice, in its simplest concept, means giving everyone their due and avoiding discrimination in any specific issue. The term justice has prevailed in political jurisprudence through different stages, with two meanings: functional and systemic.

Systemic justice refers to the set of rules and regulations that govern the judicial system, making it an instrument to enable the justice mechanism. On the other hand, functional justice means that justice becomes one of the goals or tasks that the political community seeks to achieve. It represents a fixed goal for the political system. As a function, goal, or value, justice must be pursued by the political system, representing different aspects of justice as a political principle. This is because justice expresses a specific civilization, reflects individual identity, and, by its nature, assumes neutrality.

The principle of political participation and the principle of legitimacy are considered fundamental principles on which the system is based. There are many forms that express political participation and demonstrate legitimacy. However, the existence of political parties and their establishment are considered the most prominent and powerful forms of political participation in democratic systems. Additionally, the electoral process and decision-making processes in councils and institutions elected



by citizens reflect their will and represent their voices. By achieving justice in these two aspects, the functional meaning of political justice is realized, which leads to the establishment of political stability and a sense of trust among citizens in the political system's institutions, of which they consider themselves a part.

Based on this, one of the objectives of this book is to discuss and analyze the aspects of political justice in two of the most important features of a democratic system: political parties and local councils, or what are referred to as provincial councils in Iraq. This aims to identify the shortcomings in achieving the goals and functions of these two aspects, and how they affect the effectiveness and stability of the political system due to the feeling of injustice in these key areas. These two areas represent the broadest and most accurate reflection of justice in practice.

This section focuses in its first axis on the process of building political parties in Iraq after 2003, and the major challenges that political parties face. These challenges reflect the most prominent aspects of the lack of justice, particularly in terms of fairness in the formation of parties, their operational practices, their true functional performance, and the reasons behind the chronic deficiencies in party work. These issues have contributed to the decline in political participation by citizens.

The second axis addresses the decision-making process in provincial councils, which accurately reflects the aspects of justice. This process allows citizens to participate in decision-making and express their views and aspirations on the decisions that directly affect the organization and management of their local affairs. It is one of the key doors to justice, through which citizens feel that they are part of the system and active contributors, leading to a sense of fairness that translates into a state of justice.



Iraqi Political Parties ... two decades of the absence of real development

Mustafa Al-Saray/ Director of Research and Studies at Al-Bayan Center for Planning and Studies

Summary

This paper presents a practical and scientific perspective on building political parties within Iraq's political system post-2003. It also attempts to introduce some of the problematic issues in the work of political parties and what they should aspire to be. We begin this study with a fundamental and crucial question: Despite the large number of political parties in Iraq, these parties have not been established on a truly institutional basis. Therefore, we proceed from the hypothesis that this large number of parties is a quantitative rather than a qualitative phenomenon, as many parties still lack vision, programs, and internal and external organization. This is due to a multitude of reasons, including legal factors related to the legal structure of parties, political factors linked to the nature of the political system, and social factors related to societal perceptions of parties. Additionally, there are other factors related to the personal factors of the founders, political gains, economic interests, political immunity, and other issues that we will explore in this paper. This study was conducted based on a series of workshops, discussions, and interviews held at Al-Bayan Centre for Studies and Planning. Participants included political party leaders, party representatives, and decision-makers from the Independent High Electoral Commission, the Department of Political Parties and Organizations, and the Council of Representatives. Additionally, a group of political science experts specializing in political parties were consulted. The aim was to gather a comprehensive range of perspectives on this subject.



Introduction

With the change in Iraq's political system after 2003, party politics began to operate rapidly and multiply within a vastly different political, social, and cultural environment. This, in turn, facilitated party operations at times and complicated them at others. Consequently, Iraqi political parties since 2003 have undergone several organizational stages in their pursuit of genuine party organization and a robust party structure grounded in legal foundations and regulatory frameworks. The primary objectives of these efforts include:

1. **Reflecting the democratic nature of the political system** by ensuring the existence of political parties and political pluralism.
2. **Organizing the work of political parties in a coordinated manner** to facilitate interactions with them and ensure their sustainability and resilience.
3. **Granting legal legitimacy to the existence of parties** and resolving the ongoing debate over their legal legitimacy due to the absence of a comprehensive law regulating party activities.
4. **Guaranteeing the continuation of the democratic electoral process** and consolidating the principle of peaceful transfer of power through the presence of organized and active parties both before and after elections, rather than their activation as electoral blocs solely during election periods.

Iraq witnessed a clear democratic openness towards political pluralism following a long period of centralized rule and the dominance of a single party or individual. This led to widespread political mobilization, opening the doors wide for the establishment of diverse political movements and organizations, and various organizational structures. These included both Islamic and secular parties, some large, some medium, and others small, as well as strong and weak parties, some barely labelled as a party. This diversity is quantitative rather than qualitative, as many of these political parties and organizations may not truly fit the definition of a party or organization in its practical sense. As noted by Lapombarra and Weiner, the concept of a party includes a set of necessary elements¹, namely:

1. Osama Al-Ghazali Harb, Political Parties in the Third World, National Council for Culture, Arts and Letters, Kuwait, 1987, p. 17.



- 1. Organizational Continuity** implies the existence of a genuine and enduring organization, even in the absence of the party's founders. This is a quality that many Iraqi parties lack.
- 2. Extension of Organization to the Local Level** with regular internal communication among national and local units. Many Iraqi parties are centralized, relying on mass mobilization and centralized recruitment without a foundation of local representation, communication, and sustaining relationships. The Islamic Dawa Party during its time in opposition abroad, as well as the Iraqi Communist Party, are notable examples of parties that successfully established local communication institutions such as media outlets, cultural salons, and regular gatherings. The Sadrist Movement's post-2003 experiment with the "solid structure" is perhaps the most prominent example of the establishment of internal communication institutions.
- 3. Parties and organizations Focus on the Mobilization of Supporters and Adherents**, especially during elections. While some Iraqi political parties enjoy significant public support, this support is often temporary and concentrated around election periods, when the party is activated for that sole purpose. Once the elections are over, the party may become inactive or adopt political or public positions that are not supported by its base, or even take positions in opposition to the latter's position and conviction.

Starting from this point, we will attempt in this paper to trace the institutional work of political parties in Iraq through the formation of their internal structures. We will begin with a crucial point: the formation of political parties in accordance with the Political Parties Law No. 36 of 2015, which is in force in Iraq, as it is the most prominent legal and institutional framework for the formation and organization of parties. Under this law, a large number of parties have been formed, reaching perhaps 375 parties. However, despite this vast number of parties, the process of organizing parties still faces many challenges and points of contention. This leads us to question these challenges and points of contention and explore possible solutions

To answer the posed question and solve these problems, this study relied on the opinions of a large group of representatives from Iraqi political parties, as well as employees of departments and institutions concerned with regulating party work, such as the Independent High Electoral Commission, the Department of Political Parties and Organizations, and the Council of Representatives, in addition to the opinions of a



group of experts specializing in political parties and law in faculties of political science and law, through dialogue sessions held at the Bayan Centre for Studies and Planning.

In this paper, we will discuss several axes: starting with tracing the simple historical context of organizing the work of Iraqi political parties after 2003, then discussing the legal organization of the work of political parties, followed by discussing the problems resulting from this organization process, and finally, we will present the most important proposals and recommendations that we believe will contribute to solving the problems of organizing the work of parties and achieving political stability and justice in the application of the law.

The first decade of political parties in post-2003 Iraq (Work without organization)

The first months following the invasion of Iraq in 2003 showed a disconnect between the parties coming from abroad and the Iraqi citizens who suffered from a tight international blockade and an iron regime that controlled the media and prevented the leakage of information to them from abroad. A large number of politicians acknowledged this disconnect as a result of the rift that occurred between the opposition pursued by the Baath regime and Iraqi society. On August 19, 2003, Maysan Governorate recorded the first attacks on party headquarters in the first signs of society's separation from the parties. The parties that came from abroad were suffering from great flabbiness in their internal structures and political programs for Iraq after the fall of the one-party regime. These parties were operating in secret, and many of them relied on confronting Saddam's regime to rally the population around them. However, this reliance seemed to be a short-sighted plan in a country that the war had returned to the pre-industrial era as a result of the repeated wars it had witnessed, which meant an almost complete collapse in the economic structures.²

The first organization of political parties came after 2003, according to Resolution No. (97) of 2004 of the Coalition Provisional Authority led by (Paul Bremer), which was considered the law of political parties at the time and organized their work to be consistent with the content of Resolution No. (92) of 2004, also issued by the Coalition Provisional Authority, which formed the Independent High Electoral Commission. The two resolutions came according to an integrated vision, since (there is no democracy without parties), and this process had to be organized within a legal

2. Omar Al-Jafal, *Undemocratic Parties in a Democratic System: The Formation and Functioning of Political Parties in Iraq after 2003*, Middle East Centre, October 2021, p. 10.



framework; therefore, according to Resolution No. (97), political entities were formed, and according to Resolution No. (92), they were allowed to participate in elections; however, this matter faced a lot of criticism and objections to what the form of the political process later became, and the most important of these objections are the following:

- 1- The decision stemmed from a vulnerable environment and is not in line with the nature and size of the political or social situation that establishes a strong democratic system.
- 2- This decision gave the right to individual persons to be a political entity in accordance with the law, which contradicts the content and form of political parties.
- 3- It also obligated any person, organisation or group of persons to obtain the status of a political entity from the Commission, which is subject to the occupation authority.
- 4- This decision did not specify the form of political parties and the process of organising and structuring them, the decision did not concern itself primarily with the form of party organisation.
- 5- The decision was considered as an organisational decision that allows groups to participate in elections, which is its main purpose.
- 6- The decision did not specify the mechanism, method, or status of the entities that arise after the end of the Commission's work.

Therefore, the decision was only formal, regulating the process of entry of entities and persons to participate in elections and the formation of a parliament, and did not truly establish the organisation of party life in Iraq, the regulation of the work of parties and the formation of real parties according to a vision, objectives, a group of people and a specific organisation. The status of parties took a legal framework with the issuance of the Law on the Administration of the Iraqi State for the Transitional Period in 2004, which referred in Article 13(c) to the right to freedom of political assembly and freedom to belong to associations and the right to form and join trade unions and parties according to the law. This is a guaranteed right, and it is recorded that it did not prohibit associations based on sectarian, national, ethnic and regional grounds, which strengthened the conflict of narrow interests, but the order was brief



compared to previous legislation and fell short of regulating party life. As it was closer to electoral laws than to laws regulating political parties, it did not regulate the work of parties except from the angle of their participation in elections, and its provisions were not consistent with the provisions of the State Administration Law. Thus, Iraq witnessed a democratic openness and political movement, as the door opened wide for the establishment of political movements and organisations and various activities, and parties and organisational structures appeared on the scene under various names, some Islamic and others secular. Some of them were well known to the Iraqi street and had a long history and experience in the field of political work in the ranks of the opposition, while others did not emerge until after 2003, including the Communist Party, the Islamic Dawa Party and the Iraqi Islamic Party. The leadership of some of these old parties had dominated their decision-making for more than two decades, and most of them were not committed to holding a general conference to choose new leaders. On the other hand, there were other forces that, although less organized, had a party structure, such as the Supreme Council for the Islamic Revolution led by the al-Hakim family. Parties led and dominated by one person also returned, such as the Iraqi National Congress led by Ahmed Chalabi, and the Iraqi National Accord Movement led by Iyad Allawi.

In addition, some nationalist, leftist and royalist movements returned and formed parties. For their part, the forces and figures inside the country hastened to gather themselves and began to establish political entities. The most prominent of these were the Sadrist movement led by Muqtada al-Sadr, the Virtue Party led by Muhammad al-Yaqoubi, the Kurdistan Democratic Party led by Masoud Barzani, the Kurdistan Union Party led by Mam Jalal Talabani, and the Iraqi Islamic Party headed by Mohsen Abdul Hamid.

What distinguishes this stage is that the components became the basis of the political process in Iraq after 2003, as the Iraqi political parties and forces represent the main components of Shiites, Sunnis and Kurds. This matter created a state of political partisan fragmentation as a result of the absence of the basic components of the party, and what appeared was a group of entities and individuals practicing the party name just to enter the elections.



In the first parliamentary elections in 2005, approximately 150 political entities participated, and the number increased in the second parliamentary elections in 2010, bringing the total number of participating political entities to (167) single entities, 12 large coalitions made up of several entities and personalities, and the number increased in the third parliamentary elections in 2014, as 277 political entities participated in the elections, and from this we see the amount of fragmentation among political entities between each election cycle to produce new political entities and faces.

The Second Decade of Iraqi Political Parties (The Struggle of Legal Organisation)

After the 2014 elections, and as a result of political and popular pressure through large popular demonstrations in the capital Baghdad and some provinces, the Iraqi Council of Representatives in its third parliamentary session was forced to start the process of legislating the Political Parties Law, the long-awaited law that was a real step in the right direction to organise the work of political parties, so the Political Parties Law No. (36) of 2015 was enacted and entered into force in 2016, the law came with ten chapters, the first of which is : Validity, Definitions and Objectives, Second: Basic Principles, Third: Establishment Provisions, Fourth: Establishment Procedures, Fifth: Rights and Duties, Sixth: Alliances and mergers, VII: Discontinuation of the party's activity, eighth: Financial Provisions, Ninth: Penal Provisions, Tenth: General and Final Provisions.

This law is retroactive to the legal value of all political parties and organisations formed prior to the promulgation of this law, as Article (1) stipulates that (the provisions of this law shall apply to political parties and organisations in Iraq) This indicates that all previously formed parties must re-register themselves in accordance with the new registration procedures. This is confirmed by Article (60), which repealed the Political Parties Law No. (30) of 1991 and Decision No. (97) of the Coalition Provisional Authority in 2004, and this adaptation was within a period of time not exceeding one year from the effective date of the law, and there are many interested persons and researchers consider the existence of the law is good and regulates the process of the existence of parties. In this regard, Mr Ali Al-Yasiri* says 'The articles of the Political Parties Law (36) of 2015 are excellent, but they have not been applied in reality.' On the other hand, Dr.



Heman Tahsin³ confirms that ‘the adoption of this law contributed to the adaptation of the legal status of existing parties⁴, that is, those that preceded this law, indicating that in the previous period there was chaos in the process of party formation.’ In a related context, Mr Mohsen Al-Musawi⁵ confirms that ‘despite the existing observations on the law, this law provided systems of political life in the country.’

On the other hand, it is raised that the law regulates the existence of parties to participate in the electoral process, and does not go beyond that, as the law did not establish the existence of real political parties or organisations. Dr. Abdulaziz Aliwi⁶ affirms: ‘Although we talk about political parties, more than 90% of the parties that are formed before each election are electoral gatherings “electoral shops” because they were not subject to the criteria for forming political parties. These parties end after the elections.’ This confirms that the parties were not built according to a real and effective legal construction, but only legal recognition. This is the view of Dr. Iyad al-Kanani⁷, who asserts that ‘the phrase “building political parties” when reviewing the Parties Law, we will not find anything in it that contributes to building parties and relates only to the authorisation of the passage of the party’.

Many political parties have been officially registered and received licenses, but their activity may be completely non-existent. Some of them may not participate in the electoral process for two cycles, for example. In this regard, Mr. Hazem Al-Ridini⁸ states: “There are many parties that have received their licenses and then disappeared. They do not have headquarters, no activity, and have not even participated in the electoral process. This is a negative indicator of the existence of such parties, and the law does not address how to deal with such cases.”

3*. Member of the National Wisdom Party

4. Director General of the Political Parties and Organisations Department at the Independent High Electoral Commission.

5. Former member of the Board of Commissioners of the Independent High Electoral Commission.

6. Professor of Political Systems at the Faculty of Political Science, Anbar University, and a researcher specialised in parties and electoral systems.

7. Professor of Political Science at Al-Bayan University and former member of the Board of Commissioners of the Independent High Electoral Commission.

8. Former member of the Board of Commissioners of the Independent High Electoral Commission.



These substantive issues with the essence of the law have not only affected the law's applicability, strength, and duration but also the way it functions through the legal provisions and instructions issued to facilitate the implementation of the law. The procedures of the Party Affairs Department also face several challenges in applying the law and monitoring parties, or at the very least in organizing the work and registration of parties in a way that ensures fairness and supports the true foundation for party-building. Organising the work and registration of parties with some justice that ensures the real formation of the party building.

Double Dilemmas

When looking at Article (2) of the law, it states: "(First: A party or political organization: is a group of citizens united under any name based on shared principles, objectives, and visions, aiming to attain power to achieve their goals through democratic means, in accordance with the provisions of the Constitution and applicable laws)."⁹

Upon examining the definition, we find that the legislator included the term "political organization" as an alternative to "party" by using the word "or" This raises the question: what exactly is meant by "political organization"? Is the term "political organization" synonymous with a political party as defined by some American and European political schools, or is it different from the party as understood by other schools, such as socialist

9. The Law on Parties and Political Organizations No. (36) of 2015 was published in the Iraqi Gazette, Issue No. 4383, Baghdad, on October 12, 2015.



schools*?¹⁰ In this context, Dr. Talib Kazem Ouda¹¹ states that “discussing political parties in Iraq leads us to a broader discussion about the entire political process. He points out that the full name of the law is ‘The Law on Political Parties and Political Organizations,’ and that the latter term is broader than the concept of political parties. Many political actors in Iraq are more accurately described as political organizations rather than political parties.”

This highlights the ambiguity and challenges in dealing with the concept of political parties and their organization. This ambiguity in defining the concept of a political party likely stems from two factors: first, a lingering intellectual memory linked to the negative connotations of the word “party,” influenced by the actions of the Baath Party prior to 2003. Secondly, the political forces represented in the parliament during the drafting of the law were ideologically diverse, including secular, civil, and Islamic factions. This diversity made it difficult to unify perspectives on defining the concept of a party, especially with Islamic blocs or movements, which had their own interpretations or reservations about how a party should be defined.

There are also those who confirm that the law allowed for the existence of small entities and groups that are established as parties from a legal perspective, and this is clear from the articles of the law itself as well as the procedures followed by the Department of Political Parties and Organizations Affairs, including:

10. The term “political organization” is defined as a group of people with a unified direction regarding political programs and principles, connected through organizational rules accepted among them. These rules determine their relationships, methods, and activities. The phrase “organizational rules” refers to a set of regulations, instructions, restrictions, and procedures that bind these individuals and subject them to a form of institution operating under specific guidelines. Some also consider a political organization to be an institution based on a strict hierarchical structure that organizes and directs its members, in contrast to a political party, which is viewed as a type of social gathering or assembly. For further details, see: Maurice Duverger, (Political Parties), translated by Ali Maqlid and Abdul Mohsen Saad, General Authority for Cultural Palaces, Cairo, 2011, pp. 23-26. Also, Mansoor Al-Jamri, (What is a Political Organization or Political Party?), Al-Waseet Network, 2007, available at [<http://www.alwasatnews.com/news/265318.html>].

11. Advisor in the Iraqi Council of Representatives / Parliamentary Legislation Department.



- 1- Registration procedures:** Article (11) stipulated the registration conditions that the number of founding members of the party should be (7) persons and that the party should submit a list of names of no less than (2000) members in the various governorates and that women's representation should be taken into account, as this text allows parties to be large entities and newly established entities with the same procedures, which allowed the re-existence of all previous political entities. Especially since the list of members was a paper form¹² and a table prepared in the Excel program, the party completes the data and sends it to the commission, and this matter opens the door to "incorrect information", as well as the various governorates, as a result of the newness of the law, the Independent High Electoral Commission proceeded, through the Department of Political Parties and Organizations Affairs, and based on Article (59) of the Parties Law, the Commission issued instructions to facilitate the implementation of the Political Parties Law, which confirmed in Article (6 No. 2) that the various governorates should not be less than two governorates. It has been customary in application and work (that there is data for party members in three governorates), which has greatly facilitated the process and has also established the principle of sectarian or national parties. In this context, Dr. Heiman Tahseen confirms that (the Department of Political Parties and Organizations Affairs has recently taken a set of more stringent measures in order to control this matter by requesting the identification documents of registered members, which are the voter card, the unified national identity or citizenship), However, this applies only to parties intending to register anew and does not apply to previously registered parties, except in one case: the process of updating and adding new members to the registration.
- 2- Leadership Selection:** The law also overlooked the process of organizing the party in terms of selecting leadership or other party bodies, and merely included one very timid article, Article (6), which states: "The political party shall adopt democratic mechanisms for selecting party leadership." This leaves the rest of the matter to the whims of political parties, allowing them to act as they see fit. A significant oversight of the law is the omission of a very important point: the fate of the

12. As shown in appendix No. (1)



founding members after the party is established. What is their role? What is their future? This issue is highlighted by Dr. Heyman Tahseen, who points out legal loopholes that fail to clarify the role and function of the party's political offices or the founding members after the party's establishment. As a result, most political parties tend to draft their internal regulations according to their own desires, or those of the party's political leadership, or its founder or owner.

Most political parties, except for the large and older ones, adopt a Leninist style of internal organization, where representatives from party groups engage in the process of electing and selecting leaders and other roles. These representatives are usually relatively few in number and can be easily controlled and directed according to the wishes of the party leadership. Furthermore, the law allows this in a non-explicit way, as all party bylaws include a clause stating that a general conference of the party's general assembly must be held every four years, or whenever deemed necessary. A quorum is achieved with the presence of (half + 1) of the total number of the party's general assembly members registered with the Party Affairs Department¹³. In the event that the quorum is not met at the scheduled time, the conference is postponed to another date, no more than or less than seven days later, and the quorum is then considered met regardless of the number of attendees, provided there are at least 250 members present. Thus, most parties resort to this legal trick in holding their general assembly conference, where the Secretary-General of the party, or members of the political office, or members of the party's general secretariat are selected, in accordance with each party's regulations^{14*}.

13. According to the Party Law as previously mentioned, the official number of the party's general assembly is (2,000) members. This means that for a party that has submitted (2,000) members to the Party Affairs Department, a quorum is achieved with half + 1, which equals (1,001) members. This number increases as the number of the general assembly members submitted to the Party Affairs Department grows.

14*. As practiced by the National Future Gathering (A.N.F), Article (7, Paragraph 2) states: "The call for the conference is issued, and the quorum for its convening shall be the absolute majority of the party members, i.e., (half +1) of the number of members registered with the Party Affairs Department. In the event that the quorum is not met on the first date, a subsequent meeting is held within 10 days, and in this case, the conference is convened with whoever is present, provided that the number of attendees is no less than (250) members, and this is done in the presence of a representative from the Party Affairs Department."



Thus, this trick provides the party and its leadership with many advantages, including:

- Inviting specific, reliable individuals who are directed according to the preferences of the party leadership in the selection process.
 - Voting for specific, pre-determined individuals and ensuring their victory by directing the attending members according to the preferences of the party leadership.
 - Facilitating decision-making and leadership selection, while granting them legal legitimacy and ensuring compliance with the Party Law. This guarantees that party leaders are chosen democratically, in accordance with the electoral method of selection.
- 3- The Personality of the President:** We also observe that some political parties centralize the party's identity around the personality of the party president, making the selection of the president the right of a

Additionally, Paragraphs (3) and (4) of the same article stipulate that the party is composed of the Political Committee, which consists of (8) full members and two reserve members, who are elected at the party's general conference for a four-year term, renewable. The chair of the Political Committee is the head of the party, and both the head and deputy are elected by the Political Committee with (half +1). The same applies to the Iraqi Islamic Party, where Article (11) of its bylaws stipulates that the general conference is held every four calendar years. Its membership includes those who have belonged to the party for no less than ten uninterrupted years. When the membership exceeds (500) members, one additional delegate is added for every twenty-five members to attend the general conference, under the same membership conditions and duration.

Moreover, Article (15) outlines the tasks of the conference, which include the election of the Secretary-General, the election of the President of the Shura Council, and the election of the Political Office. Upon review, it becomes evident that the conditions for attendance and quorum are restricted to a specific group of individuals, leading to the perpetuation of certain figures and limiting the presence of younger members. For example, the dismissal of the Secretary-General, the President of the Shura Council, and the dissolution of the Shura Council or the Political Office fall under the authority of the general conference. However, the process is extremely complex, limiting its feasibility. Article (14) states that a quorum is achieved by an absolute majority of members, except for meetings concerning the dissolution of the party, its merger, or the dissolution of the Shura Council or the Political Office, where the quorum is achieved by two-thirds of the registered members, effectively preventing the conference from convening in the first place.



small faction within the party and a limited number of individuals¹⁵. On this matter, Mr. Sarmad Fadel¹⁶ says: (Each party is linked to a specific figure. If this figure or personality ends, the entire structure collapses, as the issue with political parties in Iraq is that they focus on the individual rather than a system, even if there are internal regulations and certain foundations in place). Additionally, Article (19) of the law almost exclusively grants all powers to the president, stating:

- First: The president of the party, or whoever holds that title according to the internal regulations, is the one who represents the party in all matters before the judiciary and other authorities.
- Second: The president of the party, or whoever holds that title, has the authority to delegate one or more party leaders to represent him in accordance with the party's internal regulations.

4- **Financial Aid and Final Accounts:**

The issue of financial aid is a key topic when discussing the formation and structure of political parties. The law, in Articles (42-45), addresses financial aid and how it is distributed and allocated to political parties. Article 42 states:

15* For example, Article (17) of the internal regulations of the *Erada Movement* stipulates the formation of a body called the "Board of Trustees," which consists of (7) members and no more than (11) members. These are either the founding members of the movement or those chosen by the board itself from its members. One of the tasks of this board is to elect the president of the movement by an absolute majority. Article (19), which clarifies the nature of the president of the movement, states that the president is elected every six years, renewable through direct election and documented in a written record signed by the Board of Trustees by an absolute majority. The candidate for the position of president of the movement must be a member of the Political Office or the Board of Trustees and must be at least 35 years old.

Similarly, in the *National Masses Party*, Article (11) stipulates the election of the leadership body—the party's General Secretariat—by the general assembly at the general conference. According to Article (14), the General Secretariat consists of (11) full members and (5) reserve members. Priority for nomination to the General Secretariat is given to members of the party's founding committee in the first and second terms, with a term of four years. The General Secretariat elects the president of the party from among its members, and the president of the General Secretariat, called the "Secretary-General," is also elected from among its members. The Secretary-General then elects the members of the party's Political Office.

16. He is a leader in the *Iraqi Promise Movement*, one of the emerging political parties that was formed after 2019.



“Political parties receive annual financial aid from the state budget, and it is transferred to each party’s account by the Ministry of Finance.” This article raises concerns, as granting political parties a budget from the state could mean that party power is subject to the control of the ruling coalition or ruling party, which could act arbitrarily in allocating these funds. Moreover, many argue that the percentage of aid specified in the law is neither fair nor satisfactory, as mentioned in Article 44, which states: “The Party Affairs Department shall distribute the total amount of financial aid to the parties according to the following percentages: First: 20% (twenty percent) equally to all political parties registered in accordance with this law. Second: 80% (eighty percent) to the parties represented in the House of Representatives based on the number of seats their candidates won in the parliamentary elections.” This division is considered unfair and discriminatory. Some parties become active only during elections and win seats for various reasons, but then fade away, while other parties that do not win seats continue to operate.

Additionally, the term “parliamentary elections” restricts aid to parties that win seats in the House of Representatives, neglecting those that win seats in provincial councils but not in the House of Representatives. What happens to those parties? Dr. Heyman Tahseen highlights that “achieving justice among political parties is essential, and Article (44) of Law No. (36) was effectively nullified by the Federal Court, and the issue has not yet been resolved. This article concerns the mechanism for funding parties, dividing financial aid such that (20%) goes equally to all registered parties, and (80%) is distributed to parties represented in parliament based on the number of seats they hold. These percentages are unfair and unworkable. The Party Affairs Department suggests that aid should be calculated based on the valid votes a party receives in the elections. For instance, if a party receives ten thousand votes, enough for two seats, aid should be allocated based on its valid votes, not on the number of seats. This would provide a relatively fairer system compared to what Article (44) outlined.”

Regarding final accounts, Article 39 (Third) of the law states that “the party shall submit an annual report of its accounts prepared by a licensed certified public accountant, and the report shall be submitted to the Financial Auditing Bureau.” This raises two questions: First, if the parties are not receiving financial aid from the public budget and they are not for-profit organizations, why are they



required to submit annual financial reports? Second, the auditing fees imposed by the Iraqi Association of Accountants, which amount to approximately 10 million Iraqi dinars, are considered excessive by emerging parties, especially those without economic influence or profit-making businesses. This poses a significant obstacle to party operations and is unclear in the law.

The same issue applies to Article 38, which prohibits parties from engaging in commercial activities. Some argue that there should be more flexibility in the exceptions granted under this article to ensure the party's sustainability. Mr. Ali Al-Yasiri states: "Article (38), which stipulates that 'political parties may not engage in commercial activities...' financially constrains political parties, especially since the state has not enforced Articles (42, 43, 44) of the law concerning financial aid from the state to parties." Dr. Heyman Tahseen also comments that "the issue of political parties' final accounts and their oversight presents a major challenge both for the parties and for the Financial Auditing Bureau and the Party Affairs Department. Many parties claim that they do not receive financial aid, so why should they provide final accounts? Additionally, these parties argue that the 10 million Iraqi dinars requested by accountants for auditing services are exorbitant, especially for new parties that lack the financial resources of more established or larger parties."

From this, we can conclude that political parties, within the legal freedoms they are granted, often undermine party organization and the institutional structure of a political party based on diverse formations within the party and decision-making centers. We see that a very limited group often controls decision-making within the party, typically belonging to the president's faction or chosen according to the president's preferences. Even when structures do exist, they are often in name only and lack substance. For example, many parties disregard the mechanisms for dismissing or removing the party president, the reasons for such actions, and the process for doing so. Typically, the authority of the party president surpasses that of other party structures.

From this, we can conclude that political parties in Iraq face a number of significant shortcomings, including:

- 1- **Partisanship vs. Party Pluralism:** By "party pluralism," we mean the acceptance of other political parties, whether opposing or supporting,



and a belief in genuine political plurality, rather than superficial plurality. In Iraq, however, parties are entrenched in the idea of partisanship, which is characterized by a refusal to accept the existence of others with differing ideologies. Instead of allowing for a rotation of roles and ideas, exclusion and elimination dominate party dynamics. Parties reject differences, even if they share some common foundations, such as religious sect or ethnicity. This is evident in the intense conflicts within Iraqi Shiite parties, as well as among Sunni and Kurdish parties.

- 2- **Lack of Institutional Foundations:** Political parties in Iraq are often established based on personal ambitions for power and material gain, rather than as genuine political institutions founded on social, economic, or cultural needs. As a result, these parties lack internal regulations that would organize the party's work as an institution, distributing powers across leadership, intermediaries, and grassroots members¹⁷. Even when such regulations exist, they concentrate power in the hands of the leadership, effectively marginalizing other members. This is clearly reflected in party leadership structures and in candidates for high-level state positions, which are often based on appointments and selections made by the party president or the president's inner circle, known as the "leadership committee." Selection and appointment are based not on merit, but on loyalty.

- 3- **Absence of Internal Democracy:** Many political parties in Iraq lack internal democracy in the selection of party leadership, decision-making processes, and procedures for rejecting or challenging decisions. Even if such mechanisms exist, they are often superficial, put in place merely to comply with the requirements of the Party Law and the procedures of the Party Affairs Department, rather than stemming from a genuine belief in democratic principles as a guiding framework for political parties.

¹⁷ Leadership member refers to the party president and the political council. The intermediary refers to the party's general assembly, while the grassroots member refers to the cadres and new members within the party.



4- Monopoly of Supreme Power Positions:

Most Iraqi parties experience internal splits and divisions, often stemming from senior figures within the party, particularly those in high executive government positions. These figures often feel that they possess the personal qualities necessary to establish a party through which they can participate in elections to secure parliamentary seats or, at the very least, maintain their political presence. As a result, we observe that a number of parties lack genuine societal roots or the ability to mobilize and create public opinion around a specific issue as a party. Instead, they participate in elections merely to secure at least one parliamentary seat, which is typically held by the party leader.

5- Personality-Centric Parties:

Iraqi parties are often built around the “personality of the party leader” or the “party’s secretary-general.” The party’s ideas, principles, and beliefs are thus reflections of this individual’s beliefs and objectives. For most parties, the secretary-general is viewed as both the intellectual and financial inspiration, keeping the party closely tied to them. Over time, the party may even become a family enterprise, with leadership roles passed down to the leader’s children or relatives, transforming the party into a familial entity. As a result, all internal structures dissolve into the identity of the party leader, revolving entirely around them, with some parties considering this figure infallible and above error.

6- Lack of Ideological Foundation:

Most parties lack the deep ideological framework necessary for effective party and state management. Many political parties in Iraq are formed not on an ideological basis but rather to meet the requirements of a parliamentary system, which necessitates the existence of parties, and an electoral framework, which mandates that political parties be formed to create political blocs. Consequently, these parties often experience constant internal and external conflicts at both the administrative and opposition levels.



From this, we derive the following recommendations:

- 1- Amend Political Parties Law No. (36) of 2015, especially regarding organizational issues related to party operations under Article (17). Establish an independent political party's office separate from the Independent High Electoral Commission, with financial and administrative independence, under the supervision of the Council of Representatives, to function effectively without political pressures stemming from institutional power-sharing arrangements.
- 2- Amend the provisions and conditions for party establishment under Articles (8-16) with stricter and more complex procedures, such as increasing the number of general assembly members to around 10,000 across at least five provinces, with a minimum of 2,000 members per province. These memberships should be documented through official identification, such as voter cards and official ID, and explicitly outlined in the law.
- 3- Revise Article (2, First) regarding the definition of a party to provide a clearer, more comprehensive concept. We propose defining a political party as: "A political party is a group of citizens organized under any designation based on shared principles, goals, and visions that seeks to attain power through democratic means in alignment with the Constitution and existing laws."
- 4- Modify the articles related to rights and duties under Articles (18-28) and increase institutional oversight of party performance, ensuring that such oversight is non-obstructive and does not prevent parties from carrying out their activities freely.
- 5- Urge the Board of Commissioners in the Independent High Electoral Commission, through the Political Parties Affairs Office, to issue guidelines and advisory regulations for organizing internal party structures, such as defining the founding board's powers and structuring leadership elections to ensure a high level of internal democracy and equal treatment among parties.



- 6- Encourage the Political Parties Affairs Office, in coordination with the Independent High Electoral Commission, to submit suggestions and proposed amendments for Articles (38, 42, 43, 44, and 45) to the Iraqi Council of Representatives to address current issues and ensure fairness in operations and distribution.
- 7- Redraft the law in light of current circumstances and review Article (6) due to its general nature, which requires clarification.
- 8- Resolve the issue of conditional licensing. In 2021, the Electoral Commission and the Political Parties Affairs Office granted establishment licenses to several new political parties that had not completed registration procedures solely for electoral participation purposes. Currently, 15 parties operate under conditional licenses.
- 9- Activate electronic processes for tracking party operations and increase the activities of the Political Parties Affairs Office by monitoring party operations, documenting violations, and publicly disclosing these online.

The screenshot shows the website of the Iraqi Council of Representatives (Majlis al-Nawwabin) with a form for party registration. The form includes fields for party name, registration number, and other details. A table with 10 rows and 10 columns is visible at the bottom of the form area.

									1
									2
									3
									4
									5
									6
									7
									8
									9
									10

This section shows the registration form fields in more detail:

- اسم ممثل الحزب (Party Representative Name)
- تاريخ تولد (Date of Birth)
- الاسم الكامل (Full Name)
- تاريخ الميلاد (Date of Birth)
- العنوان (Address)
- رقم الهاتف (Phone Number)
- البريد الإلكتروني (Email)
- ملاحظات (Remarks)

Decision-Making Mechanisms in Provincial Councils Challenges and Opportunities for Reform

Dr. Abdul Aziz Al-Alawi Al-Eisawi/ Academic Specialist in Electoral Affairs and Democracy Studies

Executive Summary

The Iraqi constitution grants non-region provincial councils the right to partial participation in power through the shift to administrative decentralization. These councils derive their strength from being elected by the people in regular elections, in addition to constitutional provisions mandating their existence. Provincial councils emerged from the decentralization enshrined in the constitution, serving as a critical mechanism for implementing the decentralized system that democratic nations adopt to grant provinces administrative autonomy. This autonomy varies depending on geographical conditions, the nature of relations between the central government and the provinces, and other political, economic, and social factors.

This study examines the relationship between democracy and decentralization to understand the nature of power distribution between federal authorities and elected provincial councils. It then delves into the constitutional and legal framework governing provincial councils in Iraq, beginning with the Law of Administration for the State of Iraq for the Transitional Period, progressing to the permanent Iraqi constitution of 2005, and reviewing current laws regulating provincial council operations. The study also explores the decision-making mechanisms within provincial councils from the perspectives of stakeholders, decision-makers, and experts, as well as the influences impacting decision-making processes within these councils.

The study concludes with several recommendations grouped under three pillars: legislative reform, political reform, and practical reform. These aim to create realistic mechanisms that support the decision-making environment in provincial councils, which are central to administrative decentralization and serve as a key measure of the success of democratic frameworks in Iraq's provinces.



Introduction

The Al-Bayan Center for Studies and Planning held four sessions to prepare this study. The first session was attended by representatives of stakeholders involved in decision-making mechanisms within provincial councils, aiming to gather their views on the main challenges and key recommendations that could lead to stability in the decision-making process within these councils. The second session brought in a sample of decision-makers to identify the main obstacles faced by local councils and to develop solutions regarding these issues. The third session included representatives from both stakeholders and decision-makers to refine the findings reached in the first two sessions. The fourth session was attended by specialized experts, who reviewed the outcomes of the previous three sessions to finalize the study and present it to the entities and institutions concerned with decision-making mechanisms in provincial councils. It is worth noting that the study covers previous terms of the provincial councils, as the current term is still in its early stages, making it premature to evaluate this experience until its cycle is completed.

Through these sessions, it became clear that the study's problem lies in three main areas:

1. Legislative Aspect

The sessions revealed a disruption in the decision-making process within previous provincial councils, due to issues in the legislative framework. These issues stem either from certain provisions in Law No. 21 of 2008 concerning provinces not organized into a region, or from the need to amend this law or introduce new legislation that aligns with current political, social, and economic conditions.

2. Political Aspect

Participants in the sessions discussed the existence of political interference in the work of the provincial councils, which has affected many of their important decisions. The suspension of previous councils' operations or the reinstatement of councils through the 2023 elections were politically driven decisions that have sparked mixed opinions. Some view these actions as necessary to support the councils, while others consider them an impediment to the councils' work.



3. Practical Aspect

The previous terms of the provincial councils revealed numerous issues in the practical execution of the councils' work, which has negatively impacted decision-making mechanisms. Today, there is a pressing need for fundamental reforms to ensure that practical applications align, or at least closely correspond, with constitutional texts and legislation.

First: Democracy and Decentralization

The shift towards decentralization emerged after it became clear that democracy would face significant challenges unless it delegated some of its powers to other officials and administrators across a broad geographic scope representing all states, districts, or provinces within the country. This shift aims to achieve a minimum level of equity in managing shared affairs.

According to Max Weber, democracy found itself constrained by a set of essential conditions that could not be overlooked, falling under two main principles: first, the existence of geographic representation for democracy, and second, numerical representation, in order to foster a reasonable degree of social cohesion. This allows democracy to assign part of the authority to local managers and employees through the application of democratic procedures.¹⁸

Thus, decentralization gained importance, taking on the task of distributing roles between central authority and elected local bodies to expand participation in the governance of states or provinces, improve the quality of services, and enhance the social, cultural, and economic realities of local areas. Many countries have adopted decentralization to alleviate the burdens on federal authorities in addressing citizens' needs. Through democratic processes, citizens elect local representatives, with local councils responding to their demands, which may be challenging for the federal government to address directly.¹⁹

Provincial councils emerged as a core mechanism for activating the decentralized

18. Iv Centomeri, *The Impossible Democracy: Politics and Modernity in Weber and Habermas*, translated by George Kattoura, Arab Centre for Research and Policy Studies, 1st edition, 2023, p. 56.

19. Safwan Al-Mubaydeen, *Local Administration: Approaches to Development*, Al-Yazouri Scientific Publishing, 2022, p. 11.



system. Some believe that these councils' formation stemmed from the emergence of decentralization within the modern state, which adopted varying degrees of centralization and decentralization according to geographic conditions, the nature of relationships between the central government and regions or provinces, and other political, economic, and social factors. Decentralization involves the distribution of authority across multiple entities so that it is not solely concentrated in the hands of the government. Instead, other regional, sectoral, or political bodies operate within defined areas of the country under local governance. Administrative decentralization takes three primary forms:²⁰

1. Regional Decentralization: This form of decentralization divides the country into administrative regions, distributing administrative powers among them so that local councils in regions or provinces have the authority to make important decisions without needing to refer back to federal authorities.

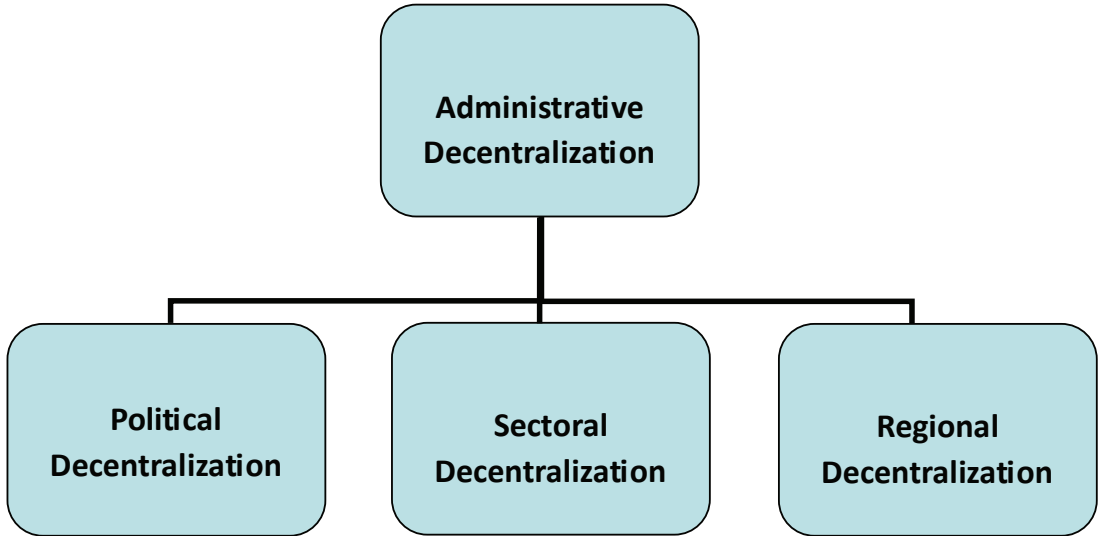
2. Sectoral Decentralization: This involves granting provinces powers over specific public sectors related to state ministries, such as transportation or telecommunications. Companies or individuals are authorized to manage these sectors in coordination with local councils without needing approval from central authorities.

3. Political Decentralization: This type is based on the distribution of political powers—legislative, judicial, and administrative—between the central government and the regions or provinces. Political decentralization must be linked to the country's constitutional framework and is applicable only in federal states, where states or provinces have the right to elect a local council that selects local authority. However, regions and provinces with political decentralization cannot act on matters of national sovereignty, such as foreign policy, the armed forces, or national financial policy.

20. Abdulaziz Alawi Al-Eisawi, Al-Bayan Center for Studies and Planning, 2023, pp. 3-4.



Figure 1: Types of Administrative Decentralization



Prepared by the Researcher

With regard to provincial councils in Iraq, these councils operate by adopting administrative decentralization, specifically through regional decentralization and sectoral decentralization. This applies to the 15 provinces that are not part of a region, and does not include the provinces within the Kurdistan Region, which enjoy political decentralization.



Second: The Constitutional and Legal Framework of Provincial Councils

The democratic transition that Iraq experienced after 2003 necessitated a shift in governance style, moving towards administrative decentralization. This shift aimed to ensure the participation of provinces in state governance through provincial councils, which the constitution grants partial authority within the government. These councils derive their power from being elected by the people in regular elections and from constitutional provisions that mandate their existence.

1. Provincial Councils in the Law of Administration for the State of Iraq for the Transitional Period

The Law of Administration for the State of Iraq for the Transitional Period was issued in 2004 to manage the affairs of the state until an elected Iraqi government could be formed under a permanent Iraqi constitution. Article 2 of this law emphasized the importance of distributing power between the central government and the provinces. This is clearly articulated in Article 4, which states that the system of governance in Iraq is republican, federal, democratic, and pluralistic, with power shared between the central government, regional governments, provinces, municipalities, and local administrations.

Additionally, Article 21 of the law addressed local councils and governments as a reality that cannot be ignored, stipulating that: “Neither the Iraqi transitional government nor the governments and administrations of regions, provinces, municipalities, or local administrations may interfere with the Iraqi people’s right to develop civil society institutions, whether in cooperation with international civil society organizations or in any other manner.”

Article 52 of the Law of Administration resolved debates at the time about power centralization by asserting that decentralization “will encourage local authority exercised by local officials in each region and province, creating a unified Iraq where citizens actively participate in governance, guaranteeing their rights and freeing them from authoritarianism.” Article 55 then explicitly referred to “the right of each province to form a provincial council and appoint a governor, as well as to form municipal and local councils.”



Finally, Article 56 of the law defined the functions of councils and local administrations as follows:²¹

- Assisting in coordinating the operations of federal ministries within the province.
- Reviewing the annual plans of federal ministries in the provinces.
- Enabling councils to independently increase their revenue by imposing taxes and fees.
- Initiating local projects independently or in partnership with international non-governmental organizations.
- Carrying out any other activities in line with federal laws.
- Assisting district and sub-district councils in fulfilling federal government responsibilities and providing public services.
- The federal government has the right to grant additional powers to provinces and local administrations.

2. Order 71 of 2004

Coalition Provisional Authority Order No. 71 of 2004 served as the first direct legal framework for provincial councils after 2003. Although titled “Local Governmental Authorities,” it was based on the Law of Administration for the State of Iraq for the Transitional Period, which outlined mechanisms for power-sharing between the federal government and regional governments, provinces, and local administrations.

Section Two of the order set forth mechanisms for the formation and functioning of provincial councils through several steps:²²

- Establishing a provincial council in each Iraqi province.
- Councils then set priorities for the provinces and adjust projects according to specific guidelines.
- Monitoring and providing recommendations regarding provincial services.
- Collecting revenues by imposing taxes and fees.

21. Law of Administration for the State of Iraq for the Transitional Period, 2004.

22. Order 71 of 2004



- Initiating projects at the provincial level in partnership with international and non-governmental organizations.
- Engaging in other activities provided they comply with existing laws.
- Provincial councils carry out their responsibilities independently of any supervision or control by ministries.
- Councils have the right to reject central appointments of local managers and employees within two weeks.
- Selecting governors and their deputies.
- Removing governors and their deputies by a two-thirds majority of council members.

3. The Constitution

The permanent Iraqi constitution, issued in 2005, explicitly states in Article 116 that Iraq is a federal state comprising a capital, regions, decentralized provinces, and local administrations.

Article 122 of the constitution clearly outlines the mechanisms through which provincial councils can be formed and operate as follows:

- Provinces consist of a number of districts, sub-districts, and villages.
- Provinces not organized into a region are granted broad administrative and financial powers, enabling them to manage their affairs according to the principle of administrative decentralization, as regulated by law.
- The governor, elected by the provincial council, serves as the highest executive authority in the province, exercising powers delegated by the council.
- The election and powers of the provincial council are regulated by law.
- The provincial council is not subject to the control or supervision of any ministry or non-ministerial entity and has independent finances.

Article 123 of the constitution grants the federal government the right to delegate part of its powers to the provinces and allows provinces to grant a portion of their powers to the federal government, with the consent of both parties, provided this is regulated by law.



4. Law of Provinces Not Incorporated into a Region, No. 21 of 2008

Article 2 of this law stipulates that the Provincial Council is the legislative and oversight authority within the province, with the right to issue local legislation that enables it to manage provincial affairs according to the principle of administrative decentralization, provided it does not conflict with the constitution and federal laws within the exclusive jurisdiction of federal authorities. Provincial councils are granted legal personality and financial independence, represented by their chair or a designated representative.

This reflects that the lawmaker has taken advantage of the Iraqi constitution's explicit reference to granting provinces broad administrative and financial powers, thereby granting provincial councils several key rights, including:

- Recognizing the Provincial Council as the legislative authority with the right to issue local legislation.
- Granting the Provincial Council a supervisory role.
- Allowing provincial councils extensive administrative decentralization, provided it does not conflict with the constitution and existing laws.
- Establishing financial independence for provincial councils as a clear indicator of administrative decentralization.

In light of constitutional texts and laws allowing provincial councils the right to issue local legislation, regulations, and instructions to organize administrative and financial affairs, the following can be observed:²³

- A. Iraq's shift from a simple state model to a federal structure, necessitating a new governance approach, which led to the adoption of a federal system.
- B. Iraq's expanded adoption of administrative decentralization aligns with democratic trends post-2003, in addition to the political decentralization seen in regions (e.g., Kurdistan Region).
- C. Granting administrative decentralization to provincial councils indicates a desire to avoid concentrating power solely in the hands of the local government.
- D. Election has become a cornerstone for exercising authority in the provinces, ending the era of appointment, which conflicts with democratic principles.

23. Abdul Jabbar Ahmed Abdullah, *Federalism and Decentralization in Iraq*, Amman, Friedrich Ebert Foundation in Jordan and Iraq, November 2013, p. 12.

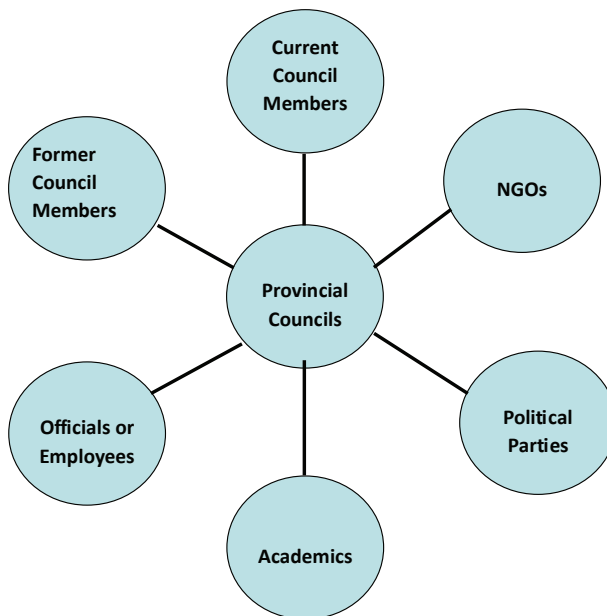


Third: Stakeholders and Decision-Making in Provincial Councils

Stakeholders are groups with specific demands they seek to fulfill through a particular organization. Each of these groups has an interest whose realization depends on the performance of the organization or institution. Stakeholders can be either internal or external to the organization. The level of satisfaction among each stakeholder group is used to assess the organization's performance and effectiveness. These groups influence the organization's work, as organizations ultimately become political arenas where interest conflicts occur in the struggle to control decisions and outcomes.²⁴

As far as the provincial councils in Iraq are concerned, the interest groups concerned with this institution are numerous, whether they participate in the councils or not, whether they benefit or are affected by the existence of the councils, and any group concerned with decentralisation as one of the most important aspects of the emerging democratic experience in Iraq. The most prominent interest groups that have demands that they want to be realised through decision-making in the provincial councils can be illustrated in the following figure:

Figure 2: Stakeholders and Provincial Councils in Iraq



Prepared by the Researcher

24. Muaid Al-Salem, Organization Design and Analysis, 2018, p. 57.

Al-Bayan Center for Studies and Planning has prioritized placing the issue of decision-making within provincial councils at the center of a dialogue table. This discussion included representatives from diverse stakeholder groups to identify the main challenges facing decision-making in these councils and to work towards finding solutions for them.

Through discussions and reviewing past experiences of provincial councils, several challenges in the decision-making process within these councils became evident:

1. Relationship Between the Governor and the Provincial Council

A universal description cannot be applied to the relationship between governors and provincial councils across all provinces, as this relationship has achieved a satisfactory level of stability in some areas but not in others. Overall, if this relationship were completely stable, the disruptions that have shaken the existence of provincial councils—driven by the political instability in the country before, during, and after 2019—would not have occurred. According to session participants, strained relations between some governors and their provincial councils led to disorder in those provinces. The complexity and bureaucracy within these relationships tend to reduce positive outcomes as complexity increases. Additionally, some participants noted that political factors play a role in this relationship; for instance, a conflict between a council and a governor who belongs to an influential political faction can weaken the council's legislative authority, resulting in disruption in its decision-making processes.

2. Relationship Between the Central Government and Provincial Councils

Despite the positive role of the Higher Commission for Coordination among Provinces in resolving conflicts and fostering a constructive relationship between the central government and the provinces, participants noted that some issues stem from authority gaps that lack appropriate legislative organization. This has led to overlaps in jurisdiction, which must be swiftly addressed as provincial councils are established.

3. Weak Horizontal Representation

Stakeholder discussions highlighted the important issue of weak horizontal representation for residents of certain provinces. Some participants pointed out that past experiences have shown an absence of representation in some areas within



4. Election Law

Most participants, representing various stakeholders, emphasized the importance of enacting an election law that aligns with the administrative decentralization granted to provinces by the constitution. They pointed out that previous election laws were the primary reason for the instability of provincial councils and their failure to represent all or most of the population in decision-making. They argued that provincial council elections require a mechanism based on small electoral districts within provinces to ensure proper geographic representation of the province's population in its council. This contrasts with representation in the federal parliament, where larger districts at the provincial level or even a single nationwide electoral district could be used.

5. Political Interventions

During the sessions, discussions highlighted political interventions in the operations of previous provincial councils. These councils suffered from political agreements and compromises carried over from the central government to the provinces, directly affecting the decision-making mechanisms within the councils.

6. Overlap in Baghdad

The former governor of Baghdad spoke during the sessions about administrative, functional, and service overlaps in Baghdad. He explained that the legislative framework was responsible for this overlap, noting that during his tenure, Baghdad province lacked general directors with full authority. Additionally, there was a functional disparity between Baghdad Province and the Baghdad Municipality. He described the transfer of powers from ministries to the province as superficial and pointed out that administrative overlaps in Baghdad are evident. For example, the "Al-Ma'amal" area is serviced by Baghdad Province, despite a portion of its residents belonging to Diyala Province.

7. Lack of a Future Vision in Provinces

Participants in the sessions highlighted a significant challenge disrupting decision-making in provincial councils: the absence of a future vision that includes proper planning for provincial projects. They noted that operations in some provinces are sometimes conducted on an ad-hoc, "emergency response" basis. Furthermore, they stressed that unregulated and haphazard investments have exacerbated the problem.



8. Legislative Gaps

The sessions identified flaws in the legislation governing the work of provincial councils, particularly Law No. 21 of 2008 on Provinces Not Organized in a Region. Former Baghdad Governor Falah Al-Jazairi pointed out that the law failed to address overlaps in authority. He explained that deputy governors, holding positions equivalent to deputy general directors, were issuing directives to general directors in other institutions. To navigate this issue, they resorted to a legal workaround by adding a clause to directives sent to higher-ranking officials, stating: “Under the direction of the governor...”

The following table outlines the challenges, their causes, and their outcomes:

Table 1: Challenges of Stakeholder Participation in Decision-Making, Causes, and Outcomes

Challenges	Causes	Outcomes
Relationship between governor and provincial council	Overlap in authorities	Instability in the decision-making environment
Relationship between central government and provincial councils	Differences in interpreting legislation	Increased overlap in authorities
Weak horizontal representation	Election law not accounting for geographic representation	Disparities in representation within provincial councils
Election laws	Political compromises	Instability in the work of provincial councils
Political interventions	Control over decision-making in provincial councils	Limited participation of certain groups in decision-making
Overlap in Baghdad	Ambiguity in legislation related to provinces	Decline in performance during previous terms
Lack of a future vision	Hasty decision-making in provinces	Uninformed decisions
Legislative flaws	Indifference toward reforming provincial legislation	Disruption in the work of provincial councils

Prepared by the Researcher



Participants in the stakeholder sessions on their perspectives regarding decision-making mechanisms in provincial councils proposed several recommendations:

1. Enhancing the Relationship Between Provinces and the Coordinating Body

Administrative decentralization does not imply complete separation between the central government and provinces but rather a distribution of responsibilities that does not conflict with the exclusive powers of the center. This relationship between provinces and the central government should be complementary, not competitive. Strengthening this relationship can be achieved through the High Coordination Commission for Provinces, which serves as an essential link for developing ties between federal authorities and governors.

2. Dialogue with Winning Political Forces in Provinces

The influence of dominant political forces that secure the majority of seats in provincial councils cannot be overlooked. It is in the interest of decision-making mechanisms within councils to engage in dialogue with these winning forces, given their significant political weight and their legitimacy as the result of a democratic electoral process. This prioritizes their participation in decision-making within provincial councils.

3. Expanding the Service Effort Initiative

Building on the recent service efforts and reconstruction campaigns witnessed in Baghdad, expanding this initiative to include other provinces could serve as an entry point for reform in provincial councils. These councils, now reinstated, face numerous accumulated issues from the period of their suspension, and this approach could help address them

4. Reforming the Election Law

There is a strong link between the nature of the election law and decision-making in provincial councils. An election law that broadens representation leads to a wider circle of participants in decision-making, and vice versa. Therefore, reforming the future of provincial councils begins with reforming the election law. This law should align with the political, social, and economic conditions of each province. Many participants in the sessions advocated for adopting a multi-district system within provinces. This approach need not replicate the multi-district model used in the 2021 parliamentary



elections but should be tailored to the unique characteristics of each province to ensure stability within the councils.

5. Activating the Role of Oversight and Accountability

Some participants emphasized the need to activate oversight and accountability mechanisms in the provinces. This step is crucial for reforming local political practices and preventing the recurrence of past political crises involving provincial councils. It is essential, however, that these mechanisms do not conflict with or hinder the constitutional role of provincial councils, which includes the right to oversight.

6. Encouraging Participation in Elections

The decline in voter turnout during provincial elections has posed a significant challenge to decision-making in local councils. Encouraging widespread participation in elections could contribute to reform efforts. Broader participation would lead to the election of new representatives, breaking the pattern of the same individuals winning repeatedly. This, in turn, would introduce a relative diversity that benefits the decision-making process within provincial councils.

7. Revisiting the Provincial Law

Participants in the sessions argued that Law No. 21 of 2008, concerning provinces not organized into a region, is no longer suitable for Iraq's current circumstances and developments. They recommended either amending the law or enacting new legislation that addresses all the challenges facing the councils, particularly those related to decision-making processes.

Table 2 outlines the proposals related to mechanisms for involving stakeholders in the decision-making process of provincial councils, along with the tools for implementing these proposals:



Table 2: Proposals and Implementation Tools

Proposals	Proposed Implementation Tools
Strengthening the relationship between provinces and the High Coordination Commission for Provinces	Enact new legislation or amend existing laws
Dialogue with winning forces in provincial council elections	Direct meetings, dialogues, and seminars
Expanding the service effort initiative in provinces	Coordination between provinces and relevant federal institutions
Reforming the election law	Engage with the legislative authority and influential political forces
Activating the role of oversight and accountability	Through oversight by provincial councils and relevant federal institutions
Encouraging participation in elections	Reforming the election law and enhancing voter confidence in the law
Revisiting Law No. 21 of 2008 on Provinces	Amend the law or legislate a new law for provinces not organized into a region

Prepared by the Researcher

Fourth: Decision-Makers and Provincial Councils

This study focused not only on stakeholders but also on decision-makers, as they are both stakeholders and contributors, directly or indirectly, to the decision-making process. A session was dedicated to hosting decision-makers to learn from their experiences and discussions, aiming to identify key challenges and proposals resulting from those experiences.

Among the key challenges faced in decision-making within provincial councils, from the perspective of decision-makers, are the following:

1. Attempts to Control Decision-Making

Participants in the sessions discussed efforts by some parties to control decision-making within previous provincial councils. They emphasized that this phenomenon represented one of the most significant challenges faced by the previous councils, hindering their ability to execute plans and fulfill their oversight and service duties effectively.

2. Overlapping Authorities

Echoing the remarks of stakeholders, several decision-makers discussed the overlap of provincial council powers with those of other institutions. Some pointed out that the legislature was responsible for this overlap, which particularly affected Baghdad, where previous councils struggled to implement their decisions. This, in turn, deepened conflicts between the provinces and certain ministries. Participants also acknowledged that some failures occurred in the implementation process, and not all legal provisions related to the provinces were flawed. They attributed these challenges to a lack of legal culture and insufficient knowledge of roles and responsibilities. According to their view, this led to further failures, with many projects either not implemented or poorly executed. Some participating lawmakers expressed dissatisfaction with the outcomes of the decentralization process, emphasizing that the transfer of powers should be accompanied by expertise and competence, and should occur vertically through cooperation between authorities.



3. Interference in Appointments

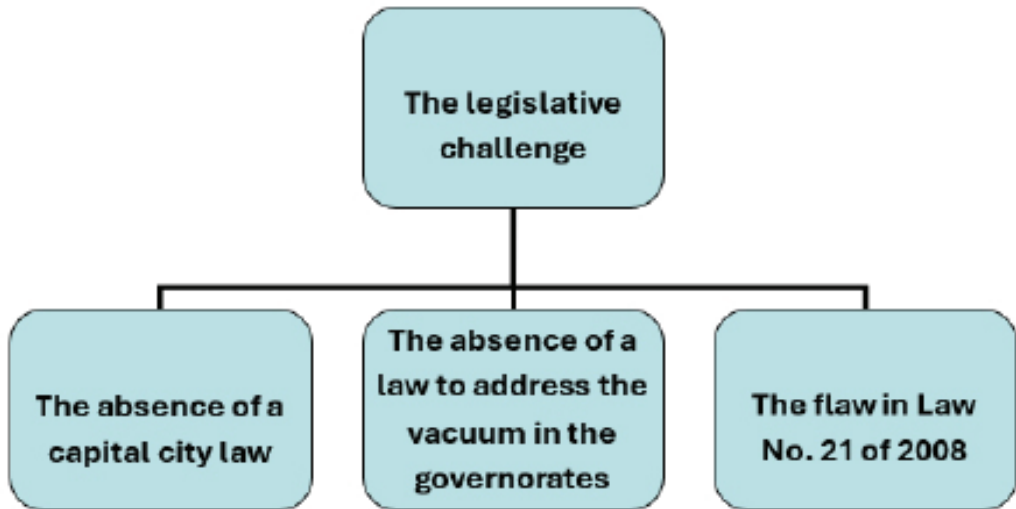
Some participants voiced their concerns about the interference of federal authorities in the appointment process of directors and officials in the provinces during previous terms. They believed that such interference could obstruct efforts to place the right person in the right role. They stressed that reform would be achieved by ensuring qualified individuals occupy key positions in provincial councils and other important roles within the provinces.

4. Inadequacy of Current Legislation

Several participants, both decision-makers and those close to them, discussed the flaws in some laws and their impact on provincial councils. The focus was primarily on Law No. 21 of 2008, concerning provinces not organized into a region, which they believe is due for amendment. Former Deputy Minister of Construction and Housing, Isbareq Al-Shouk, emphasized that this law was passed at an inappropriate time, and the circumstances during its enactment were not conducive to its introduction. He explained that the transition to decentralization should have been gradual, accompanied by the necessary conditions for the shift. He pointed out that numerous issues arose following the transfer of powers, leading some ministries to develop codes to resolve the overlap.

There was also a warning about the potential for a repeat of the void that followed the suspension or disruption of provincial councils in 2019. This period led to the release of governors from oversight, and the powers of provincial councils became a target for other entities. The absence of councils reduced oversight on directors and employees in the provinces, resulting in a dysfunction in the distribution of roles among state institutions. This situation highlights the need for legislation to address any future gaps in provincial governance.

It was also noted that the biggest challenge in Baghdad province stems from the absence of a capital law, which, if legislated, could resolve many cases of overlapping powers.

Figure 3: Legislative Challenge

Prepared by the researcher

5- Failure to Adapt to Decentralization Requirements

Although the Iraqi Constitution emphasizes decentralization in the management of governorates, the actual implementation has proven to be characterized by a lack of adaptation to administrative decentralization, which differed on the ground from what is written in the legislation.

6- Corruption

Some participants also addressed corruption as one of the major obstacles that hindered the previous governorate councils and obstructed them from carrying out their duties.



7- Displacement of Competence and Expertise

The previous governorate councils were heavily influenced by political considerations, leading to the assignment of important positions to individuals affiliated with certain political parties, without regard to competence and experience. This negatively affected services, projects, and achievements in the governorates.

8- Increase in the Power of Governors

The absence of governorate councils has led to an increase in the power of governors in previous terms. Some governors began making decisions unilaterally, according to some participants who criticized how some governors took advantage of their positions during elections.

During discussions with decision-makers, several proposals were raised to reform the decision-making process in governorate councils:

1. Adherence to the Constitution

The constitution requires the existence of elected governorate councils, meaning their abolition would be unconstitutional. From this standpoint, the call for their return and continuation is a commitment to the constitution. Mohamed Anouz, a member of the legal committee in the Iraqi Parliament, emphasized during one session that applying the constitution is essential for the success of governorate councils. He explained that the past issues were due to a crisis of understanding, and everyone today must recognize their responsibilities. He stressed that any attempt to dissolve the councils would be unconstitutional and highlighted the importance of adhering to the constitutional tasks outlined for the councils.

2. Legislation and Amendment

It can be said that the best solution to the above issues could begin with laws that require change or amendment based on needs and available resources. Participants mentioned an intention to change or amend Law No. 21 of 2008 to avoid the mistakes of the past and address the overlap and confusion in powers. Although there is disagreement over whether the law should be changed or amended, there is a general trend toward reforming the legal mechanisms in the governorates.

3. The Most Suitable Electoral System



There has been a belief that the electoral system affects decision-making in governorate councils, as its outcomes determine who will make decisions in the councils. Due to the controversy surrounding previous terms, there are renewed calls to reconsider the electoral system, focusing on the electoral district mechanisms. Some decision-makers have expressed a desire to return to multiple districts or individual districts in future governorate council elections.

4- Reconsideration of Delegation Mechanisms

Given the extensive debate surrounding the delegation of powers to the governorates and the ambiguity in interpretation and application, the proposal here focuses on the need to revisit the mechanisms for delegating powers, ensuring that they are outlined in clear texts that are not open to misinterpretation, allowing them to be effectively implemented.

5- The Political Environment

It is impossible to reform the decision-making environment in governorate councils without a political environment that supports this approach. From this standpoint, the focus here is on creating a political climate that either supports or, at the very least, does not oppose the involvement of relevant parties in the decision-making process within the governorate councils.

6- Supporting Codes for Reform

The codes developed by some ministries can help alleviate overlapping powers, prompting the suggestion to consolidate, refine, and generalize these codes to other institutions that have not yet adopted them.



7- Binding Nature of Governorate Council Decisions

After the issue of non-compliance with the decisions of previous governorate councils was raised, the suggestion in this regard calls for a return to constitutional and legal texts in order to give the decisions of governorate councils a binding nature in the areas they are constitutionally and legally authorized to address.

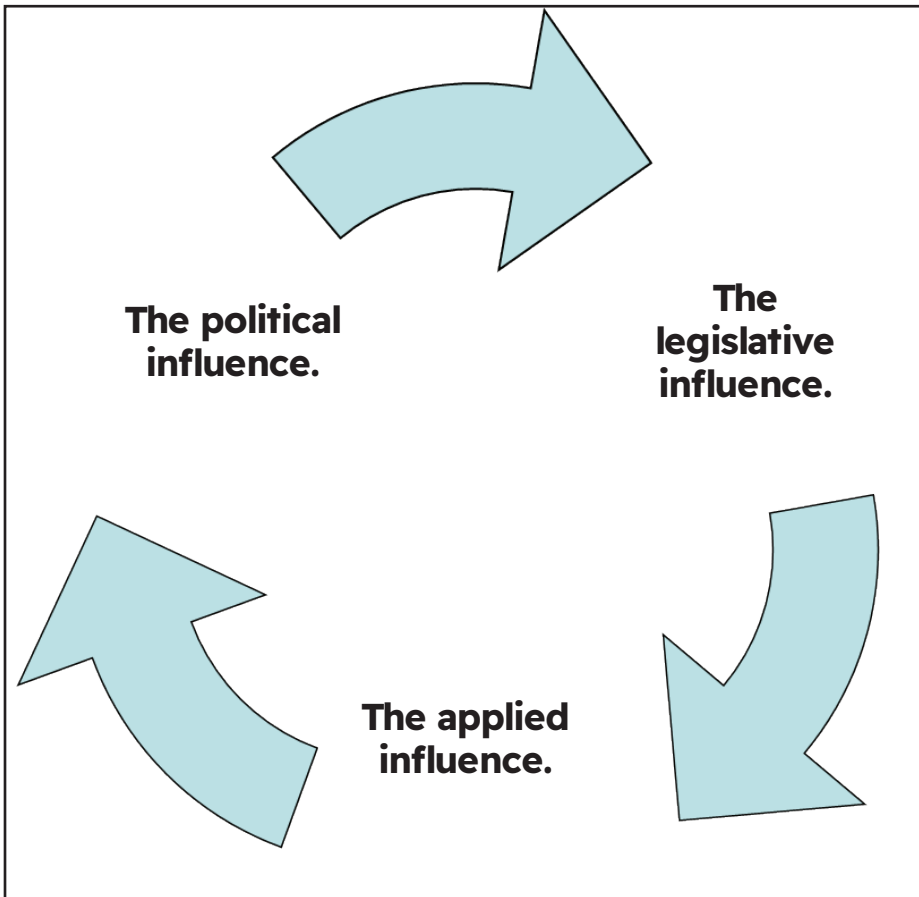
8- Utilizing Expertise and Competence

It has been emphasized that reform begins with utilizing the existing expertise and competencies in the governorates by placing the right person in the right position.

Fifth: The Triad of Influence on Governorate Council Decisions

From the above, it is clear that all the proposed solutions to the challenges faced in the decision-making process within governorate councils fall under the following triad:

Figure 4: The Triad of Influence on Governorate Council Decisions



Prepared by the Researcher

The experience has demonstrated the complexity of this triad, which has imposed itself on the governorate councils during the previous phase. What further complicates the situation is the inability of any one factor to work without the presence of the others. The political influence cannot function on its own without legislation and application on the ground. Likewise, legislation alone is insufficient without political support and practical implementation. Similarly, the applied influence would be ineffective without the support of legislation and a favourable political environment.

Sixth: Final Proposals – Opportunities for Reform

Based on the triad of influence in the decision-making process within governorate councils, any attempt at reform must be realistic to find its way to implementation. This reality cannot be achieved in the case of governorate councils unless attention is paid to the gateway through which the path to reform can pass. Since all the proposals made fall under legislation, politics, and application, the recommendations related to opportunities for reform will be within this framework:

1. Legislative Reform

Legislative reform represents the most crucial link in developing decision-making mechanisms in governorate councils because it establishes the legal framework necessary to provide the appropriate environment for decision-making in the councils, which were established by the constitution and granted powers distinct from those at the central level.

Table No. (3): Stages of Legislative Reform

Stages	Reform	Feasibility	Relevant Entities and Stakeholders
Short-term	<ol style="list-style-type: none"> 1. Amendment of Law No. 21 of 2008 2. Amendment of the Election Law 	<ol style="list-style-type: none"> 1. Stabilization of decision-making mechanisms in governorate councils and elimination of overlapping powers. 2. Achieving diversity in representation in the governorate councils. 	<ol style="list-style-type: none"> 1. Legislative authority and political forces 2. Legislative authority, political forces, and stakeholders
Medium-term	<ol style="list-style-type: none"> 1. Enactment of a Capital Law 	<ol style="list-style-type: none"> 1. Ending overlapping powers in Baghdad, which has a unique status different from other governorates. 	<ol style="list-style-type: none"> 1. Legislative authority and political forces
Long-term	<ol style="list-style-type: none"> 1. Enactment of a Federation Council Law 2. Legislation to address the vacuum in governorate councils 	<ol style="list-style-type: none"> 1. Organizing the relationship between governorates and federal authorities. 2. Preventing the recurrence of the vacuum in governorate councils after 2019. 	<ol style="list-style-type: none"> 1. Legislative authority and political forces 2. Legislative authority and political forces

Prepared by the Researcher



2- Political Reform

Experience has shown that no reform step can succeed without a supportive political environment. This confirms that political reform must be present to reform decision-making mechanisms in governorate councils.

Table No. (4): Stages of Political Reform

Stages	Reform	Feasibility	Relevant Entities and Stakeholders
Short-term	<ol style="list-style-type: none"> 1. Support participation in decision-making in governorate councils 2. Free the councils from political pressures 	<ol style="list-style-type: none"> 1. Broader representation of the demands of the governorate's residents. 2. Well-considered decisions free from pressure. 	<ol style="list-style-type: none"> 1. Governorate councils and political forces 2. Political forces
Medium-term	<ol style="list-style-type: none"> 1. Support communication between councils and stakeholders 2. Engage with proposals from NGOs, relevant federations, and influential local groups 3. Focus on enhancing participation and dialogue with local residents and documenting it 	<ol style="list-style-type: none"> 1. Increased satisfaction with council performance. 2. Listening to proposals from outside the council and political parties. 3. Convincing people of the value of governorate councils and achieving wider participation in local elections. 	<ol style="list-style-type: none"> 1. Political forces and stakeholders 2. Political forces, NGOs, and federations 3. Governorate councils, NGOs, and federations
Long-term	<ol style="list-style-type: none"> 1. Prepare political cadres capable of managing governorates 	<ol style="list-style-type: none"> 1. Proper management of governorate councils according to election results 	<ol style="list-style-type: none"> 1. Political forces

Prepared by the Researcher

3- Applied Reform



The implementation of the provisions in the laws and the agreements resulting from political forces requires the presence of qualified individuals and experts capable of transforming demands into successful outcomes that achieve the fundamental goal of administrative decentralization, which the constitution has guaranteed for the governorates.

Table No. (5): Stages of Applied Reform

Stages	Reform	Feasibility	Relevant Entities and Stakeholders
Short-term	<ol style="list-style-type: none"> 1. Develop the relationship between the High Coordination Committee for Governorates and Governorate Councils 2. Define the relationship between the Parliament and Governorate Councils 3. Activate the codes in ministries 4. Hold public sessions for Governorate Councils 5. Organize the relationship between Parliament and Governorate Councils 	<ol style="list-style-type: none"> 1. Reduce overlapping powers. 2. Prevent the recurrence of debates over the cancellation of councils after 2019. 3. Reduce overlapping powers. 4. Narrow the gap between Governorate Councils and local populations. 5. Resolve contentious issues and pending matters. 	<ol style="list-style-type: none"> 1. High Coordination Committee for



Medium-term	<ol style="list-style-type: none"> 1. Train administrative leaders in the governorates through the Higher Institute for Leadership Development 2. Train Governorate Council employees below the leadership level 	<ol style="list-style-type: none"> 1. Prepare administrative leaders capable of fulfilling their duties in the governorates. 2. Strengthen the role of councils in oversight and service delivery. 	<ol style="list-style-type: none"> 1. Higher Institute for Leadership
Long-term	<ol style="list-style-type: none"> 1. Comprehensive strategy for decision-making in the Governorate Council 2. Develop a comprehensive code for the powers of Governorate Councils as outlined in the constitution and applicable laws 3. Establish specialized legislative, executive, and local committees to monitor the work of Governorate Councils 	<ol style="list-style-type: none"> 1. Strengthen the work of Governorate Councils in accordance with the constitution. 2. Provide constitutional and legal support for the powers of the governorates. 3. Resolve overlapping issues and remove any conflicts with federal authority institutions. 	<ol style="list-style-type: none"> 1. Political forces,

Prepared by the researcher

Commercial Arbitration in Iraq: Reality and Future Prospects

Dr. Ali Da'adoush / Researcher in Iraqi and international economics

Executive summary:

- 1- Commercial arbitration enhances justice in the country, as it is a form of private justice whereby an arbitrator or arbitration panel is legally mandated to perform a role originally and constitutionally given to state judges, who play a role in establishing the meaning of sovereignty in any state, regardless of its political and economic systems.
- 2- Arbitration is recognized as a legal system that serves as an ideal alternative to state judiciary in resolving disputes, offering advantages to the parties involved. It is referred to by different names depending on the nature of the dispute it is meant to resolve; for civil matters, it is termed civil arbitration, for administrative matters, administrative arbitration, and for commercial matters, commercial arbitration.
- 3- Recently, arbitration has become the preferred method for parties to resolve disputes, both domestically and internationally, due to the advantages it provides, such as confidentiality, speed, and convenience.
- 4- Commercial arbitration is one of the most important means for resolving disputes between parties, as it has led to significant interest in enacting a specialized law for commercial arbitration to encourage international companies to enter the Iraqi market. There is also a need for laws supporting investment and protecting investors, as the link between attracting investments and commercial arbitration is strong and robust. As a result, commercial arbitration creates a sustainable and supportive environment for investment.
- 5- Commercial arbitration exists in Iraq, though not under a standalone law. Rather, certain articles are included in various laws such as the Civil Procedure Law, the Enforcement Law, the Investment Law No. 13, and the draft Public-Private Partnership Law, in addition to some government decrees issued before and after 2003.



Conclusion

In conclusion, it must be emphasized that all the proposals presented are the result of in-depth discussions held with decision-makers, stakeholders, experts, and those involved in the decision-making mechanisms of Governorate Councils. The paper aimed to provide realistic recommendations that can be implemented in the short, medium, or long term. However, this does not mean that it has addressed all the issues or found all the solutions. While Governorate Councils were established to implement administrative decentralization, they remain governed by the political system in Iraq, which is also influenced by changing circumstances. The proposals in this paper represent the current perspective on decision-making mechanisms in Governorate Councils, aiming to maximize the benefits of the administrative decentralization that the constitution permits.



Part II

The economy is an essential factor in achieving justice.

The economic factor plays an essential role in the stability of societies because of its impact. The lack of financial equity, high rates of poverty and unemployment, the crisis in the distribution of wealth and resources among citizens, and the crisis of penetration all contribute to the lack of justice because of the economy, which leads to economic and political instability. After 2003, Iraq suffered many crises related to achieving economic justice. However, the crises of distribution of resources and wealth and the crisis of penetration were and still are among the most prominent crises. As a result of economic factors and structural changes in the structure of the Iraqi economy, citizens are constantly dissatisfied (lack of justice), as confirmed by Abdul Hassan Asfour al-Shammari in his book «The Impact of the Economic Factor on Political Stability»: «The impact of the economic factor on political stability comes from the existence of structural imbalances in the Iraqi economy, destroyed infrastructure, high rates of unemployment and widespread poverty among members of society, the absence of a clear economic philosophy and its instability, the adoption of a one-sided economy, as well as the prevalence of financial, administrative and political corruption, all of which deepened popular discontent and increased the sense of marginalization and oppression, which deepened social conflicts and increased the state of (dissatisfaction), which affected the legitimacy of the political system and thus its political stability.» The structural imbalances plaguing the Iraqi economy are related to two dimensions: The first is legal; the Iraqi economy suffers from major legal imbalances that contribute to the lack of justice between individuals on the one hand and economic groups on the other with the regime, such as the absence of a commercial arbitration law that addresses the commercial and economic issues of local and foreign companies and individual investors, and the second dimension is social; countries try to minimize economic disparities between social groups, especially when there is a continuous increase in the social pyramid, and the regime suffers from mismanagement and distribution of resources, increasing unemployment, poverty and social disparities on an economic basis, especially in the case of the Iraqi economy. Accordingly, this section focuses on the implications of these two dimensions: This part focuses on the effects of these two dimensions: legal and social in the case of realizing justice in Iraq, and the most important things that suffer from these two



matters, by reviewing this in two important axes: The first discusses the state of the goals of the legal organization of commercial and economic issues in the (Commercial Arbitration Law), the most important legal part, because commercial arbitration promotes justice in the country, as it is considered a form of private justice, given that the arbitrator, whether an individual or an arbitration body, is entrusted by the legal organization to perform a function originally and constitutionally given to the official state judges who participate in establishing the meaning of sovereignty in any state, and in different political and economic systems. The second discusses the mechanisms of financing small and medium-sized enterprises, the lack of justice and clear disparities in the financing process and the delays in it; the neglect suffered by the private sector in general, and small enterprises in particular, has resulted in negative results at the level of the national economy and social justice.



6- Iraq's accession to the New York Convention under Law No. 14 of 2021, issued by the President on 06/04/2021 and effective from its publication in the Iraqi Gazette on 31/05/2021, includes key conditions, notably that the convention's provisions do not apply to arbitration awards issued prior to Iraq's accession.

7- Iraq's accession to the New York Arbitration Convention serves as an incentive for foreign investors and major international companies to enter into commercial and investment agreements with Iraqi institutions (private or public), as this convention provides a security guarantee for foreign entities, enhancing justice in terms of the ability to recover their rights within Iraq under the supervision of relevant authorities.

8- There are many obstacles hindering the enactment of a commercial arbitration law in Iraq, most notably public opinion, contract drafting issues, lack of reliance on experts and consultants, in addition to bureaucracy, and administrative and financial corruption. On the other hand, there are many positives, such as enhancing legal stability, creating a stable legal environment, expediting procedures, and ensuring confidentiality.

9- The Iraqi legislator should address deficiencies in the texts of the 2024 Draft Commercial Arbitration Law, scheduled for a first reading, according to general observations, as well as specific comments included within this document, while considering global developments in the field of commercial arbitration and Iraq's potential membership in organizations such as the World Trade Organization and BRICS Plus.



Introduction

Arbitration is considered one of the most important methods for resolving disputes, as it allows disputes to be settled by ordinary individuals outside of the state judiciary. Originally, individuals are not permitted to claim their rights independently; they must seek a neutral party to resolve the dispute, and traditionally, this neutral party is a state-appointed judge. However, as an exception to these principles, the legislator also recognizes arbitration, permitting this neutral individual to be chosen by the disputing parties themselves.

Recently, arbitration has become the customary and preferred means for parties to resolve disputes, particularly those arising within the framework of private international relations. This brings forth a key question for this paper: Is the choice of commercial arbitration by disputing parties driven by the advantages it provides as a form of private judiciary, advantages that national (official) courts often struggle to offer?

The importance of commercial arbitration lies in its confidentiality, specialization, and flexibility from rigid legal rules—whether substantive or procedural—unless these are connected to public order in the state where the arbitration takes place or where the arbitration award is to be enforced. Arbitration is also distinguished by respecting the will of the parties that gave rise to this private judiciary.

It is widely agreed that the slow pace of litigation and the ineffectiveness of judgments are serious issues that hinder justice. In fact, it's fair to say that they strip the constitutional right to litigation of its true value, as recourse to the judiciary is no longer an effective means to claim rights. Instead, it has become an arena where those who delay payments find ample room to evade and delay proceedings, exploiting the legal protections intended to respect the defense rights of adversarial parties. It has even reached a point where it benefits any evader if their opponent resort²⁵ to litigation, as people have come to believe that the best way to extinguish a claim is to bring it before the court.

25 Hafiza Al-Sayyid Al-Haddad: *The General Theory of International Commercial Arbitration*, Dar Al-Halabi for University Publications, Beirut, 2007.



Axis One: The Specificity of Commercial Arbitration as an Alternative Mechanism for Resolving Economic Disputes

While the judiciary aims to achieve justice in its general sense, arbitration, as an alternative method for dispute resolution, also pursues the same goal by providing a fair solution to resolve economic disputes arising between contracting parties. Consequently, the judiciary is not the only path to resolve disputes between contracting parties. In recent times, arbitration has become the preferred method for domestic trade participants to resolve their conflicts, as well as for addressing disputes in international economic relations.

Undoubtedly, the parties' recourse to this path to resolve their economic disputes stems from the advantages arbitration offers, which national courts and other alternative dispute resolution methods often struggle to achieve. Resorting to the judiciary is no longer considered an effective means of enforcing rights; instead, it has become a field where the procrastinator finds ample room for evasion and delay, exploiting the legal guarantees provided to the disputing parties.

First: The Concept of Commercial Arbitration in Global Legislations

The perspectives of jurisprudence, law, and the judiciary have varied regarding a general concept of commercial arbitration, yet they agree in essence that it is a legal means to resolve disputes between parties to an arbitration agreement in a swift and confidential manner. It has been defined as a private judicial system created by the agreement of the parties to entrust a third party with a specific task—to resolve an existing dispute between them with a binding judgment that prevents the parties from re-submitting the same dispute to a state court or another arbitration body.

Another view in jurisprudence describes arbitration as a private judicial system where disputes are entrusted to individuals selected to resolve them. In other words, arbitration establishes a form of private justice by removing disputes from the hands of the judiciary to be resolved by arbitrators empowered with the authority to judge²⁶. Alternatively, it is a system by which the parties entrust arbitrators, freely appointed, with the task of resolving their disputes²⁷.

26. Jean Robert: *L'arbitrage civil et commercial droit interne, droit, international privé* - Dalloz, 1983.

27. Abdul Sattar Ahmed Al-Jubouri: *Distinguishing Commercial Arbitration from the Judiciary*



The Egyptian Court of Cassation defined arbitration as an exceptional means of dispute resolution that deviates from the normal litigation process. It is also defined as the two disputing parties' request to select a third party, called an arbitrator, with their consent and agreement. The Egyptian legislator confirmed this definition in the Egyptian Arbitration Law No. (27) of 1994, as amended by Law No. (9) of 1997 and Law No. (8) of 2000, in Section Two, Article (10), which states that arbitration is an agreement between the parties to resolve all or part of the disputes arising between them in connection with a specific legal relationship, whether contractual or non-contractual.²⁸

The French legislator defined an arbitration agreement in Decree No. 48 of 2011, which amended the Arbitration Law in Article 1442 of 2018, stating that an arbitration agreement takes the form of either an arbitration clause or an arbitration agreement. An arbitration clause is an agreement by which the parties to one or more contracts agree to submit any disputes arising from these contracts to arbitration. An arbitration agreement, meanwhile, is an agreement in which parties to an existing dispute consent to submit their dispute to arbitration.

The Iraqi legislator did not define arbitration but mentioned it in Article (2) of the amended Iraqi Civil Procedure Law No. (83) of 1969, stating that "it is permissible to agree on arbitration in a specific dispute, and it is also permissible to agree on arbitration in all disputes arising from the execution of a specific contract." Here, the law did not define arbitration but permitted agreements on arbitration.

From the above, arbitration can be defined as a legal system that serves as an alternative to the state judiciary in resolving disputes, surpassing it in terms of benefits offered to the parties. It is given different names based on the nature of the dispute it resolves: if it is civil, it is called civil arbitration; if administrative, administrative arbitration; and if commercial, commercial arbitration.²⁹

International commercial arbitration flourished with the growth of international trade, linked closely with it—rising as trade rose and declining as trade declined. International commercial arbitration was created for international trade, not vice versa; it was established and Its Legal Nature, Journal of the College of Law for Legal and Political Sciences, Vol. 10, Issue 38, 2021.

28. The Egyptian Arbitration Law, Law No. 27 of 1994

29. Mamdouh Abdulaziz Al-Anzi: Nullity of the International Commercial Arbitration Award - Causes and Consequences (Comparative Study), Al-Halabi Legal Publications, First Edition, 2006.



lished to solve trade problems, not the other way around. This is particularly evident as development opened borders and connected countries in finance, services, goods, and money, making international commercial arbitration an essential requirement for the realities of international trade, especially between developed industrialized nations as well as developing countries with significant resources, such as Iraq and other oil-rich countries. Major nations have therefore pursued international agreements to facilitate arbitration, which, in turn, facilitates international trade.

Foreign investments grew with the emergence and expansion of international trade, boosted by multinational corporations, mergers, and acquisitions, including foreign investors purchasing privatized institutions. Many countries, especially developing nations, have used foreign capital to modernize and develop their production facilities and national economies, and society has increasingly turned to arbitration, viewing it as a safe option. Consequently, international arbitration agreements began to emerge, **including some of the most notable:**

1. The Geneva Protocol of 1923 on Arbitration Clauses, supervised by the League of Nations.
2. The 1927 Geneva Convention on the Enforcement of Foreign Arbitral Awards.
3. The 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, under the United Nations.
4. The 1961 European Convention on International Commercial Arbitration, signed in Geneva, and the 1962 arrangements for its implementation.
5. The 1965 Convention on the Settlement of Investment Disputes between States and Nationals of Other States, spearheaded by the World Bank, which established the ICSID.
6. The 1972 Moscow Convention on the Settlement of Disputes by Arbitration among Socialist States.
7. The 1974 Convention on the Settlement of Investment Disputes between Host Arab States and Nationals of Other Arab States.

Since the beginning of the new millennium, international commercial arbitration has



become a vital and essential aspect of civilized interaction between nations and a necessary tool for development and prosperity. Practicing it in an advanced and civil manner has become a means of safeguarding national sovereignty by ensuring economic and developmental interests. This means that arbitration is a protective and preservative tool for national interests, allowing for proper international competition. Choosing commercial arbitration is not a one-sided concession; as it involves two parties, it is a mutually agreed-upon compromise that acts as a preventive measure to avoid issues and find solutions. It entails both parties waiving a unilateral stance for a solution closer to reconciliation, sharing responsibility in choosing the judicial jurisdiction, and fostering a climate of trust and goodwill. In other words, it is a step taken by each party toward the other to meet halfway, so it cannot be considered a concession from one side only but rather a mutual compromise in the interest of both, as neither can impose its will on the other.³⁰

30. Abdul Hamid Al-Ahdab: Arbitration - Its Rules and Sources, Part One, Noufel Publishing House, Beirut, 2002.



Second: The Legal and Economic Dimensions of Commercial Arbitration

1. Legal Dimensions of Commercial Arbitration

The power of will, or in other words, the parties' intention in choosing the commercial arbitration system, drives and shapes the legal framework of arbitration. It is the will of the parties that activates commercial arbitration by agreeing to arbitration and selecting its panel to resolve disputes, followed by the enforcement of the arbitration award—provided there is a legal provision enforcing arbitration rulings. Furthermore, arbitration rulings are subject to judicial oversight. However, there has been a legal debate over the nature of the legal system governing arbitration.³¹

The parties' agreement to resolve disputes through commercial arbitration, bypassing traditional judiciary processes, is the foundation of the arbitration system. This agreement serves as the cornerstone of the arbitration framework, as the will of the parties creates arbitration as an exceptional method for dispute resolution, reinforced by legal support. This has led to varying jurisprudential opinions on the nature of the commercial arbitration system. The legal nature of commercial arbitration is one of the most debated topics in jurisprudence, especially when arbitration is considered a tool for resolving international commercial disputes. Determining the nature of commercial arbitration is essential, as it clarifies the source from which arbitration derives its authority as a source of legal norms.

Jurisprudence has extensively discussed the legal nature of commercial arbitration, with many scholars trying to define it. The dispute stems from arbitration's nature as an independent system. Various views and legal theories have emerged to characterize the nature of commercial arbitration. One view emphasizes the contractual nature of arbitration, while another asserts its judicial nature, as arbitrators derive their authority from judges, though their selection depends on the parties' agreement. A third view suggests a hybrid nature, combining (contractual and judicial) elements, where both aspects complement each other in arbitration.³²

31. Khaled Abdel Azim Abu Ghaba: *Arbitration and Its Impact on Dispute Resolution*, Dar Al-Fikr Al-Jamii, Alexandria, 2011.

32. Mohamed Ahmed Ibrahim Mahmoud: *The Role of International Commercial Arbitration in Creating Legal Rules for International Trade*, Dar Al-Nahda Al-Arabiya, Cairo, 2013.



The above perspectives have been critiqued, leading to a newer jurisprudential trend that asserts the (independence) of commercial arbitration—a view endorsed by the researcher. This perspective regards arbitration as a standalone system, a unique mechanism for dispute resolution between parties.

The researcher concludes that commercial arbitration represents a form of private justice, with the arbitrator—either an individual or a panel—entrusted by the legal system to fulfill a role originally designated for official state judges, who uphold the concept of sovereignty in any state, regardless of its political and economic system.

2. Economic Dimensions of Commercial Arbitration

Investments seek environments that offer security, comfort, and the promise of profit, which is the primary goal of investors. In the context of trade liberalization and globalization, investors and businesspeople can easily assess which countries attract investments and which deter them, aided by reports from organizations such as the United Nations Conference on Trade and Development (UNCTAD)'s World Investment Report and Transparency International's Corruption Perceptions Index.

Consequently, investments prioritize secure environments that safeguard the capital invested. When disputes arise, arbitration laws ensure the protection of projects and promote fairness between contracting parties. The efficiency and speed of dispute resolution through commercial arbitration make it a favorable option for investors and businesspeople, especially compared to national court systems.

For investors to have confidence, adequate protections must secure their investments. Capital requires security, and investors, often concerned, need reassurance. Encouraging foreign investments requires safeguards that ease investors' concerns, as international investment contracts often involve foreign investors who may lack confidence in the judiciary of the contracting state. In certain cases, local courts may be influenced by national interests that conflict with those of the investor. Additionally,



the laws in developing and politically unstable countries are often prone to frequent changes, making foreign investment security essential. Arbitration serves as a vital guarantee that alleviates foreign investors' concerns, creating a significant link between arbitration and the flow of capital.³³

Commercial arbitration has thus become a means of protecting foreign investments, serving as a safeguard that secures and protects investments. To attract foreign investments, particularly developing countries have adopted arbitration as a means of resolving investment disputes.

The United Arab Emirates' investment law, for example, enshrines arbitration as a principle in resolving investment disputes in Articles 203 to 218 of its Civil Procedures Law. Similarly, Egypt and Algeria have adopted commercial arbitration to resolve contractual disputes between parties. Nations have increasingly encouraged investments by permitting the option of submitting investment disputes to neutral arbitration bodies trusted by investors, either based on mutual agreements or within the framework of international agreements.

From the above, it is evident that there is a strong and solid relationship between investment attraction and commercial arbitration. Commercial arbitration fosters a stable and supportive environment for investment.

33. Taouilt Karim: International Commercial Arbitration, Faculty of Law and Political Science, University of Abderrahmane Mira - Bejaia, 2019.



Third: Justifications for Resorting to Commercial Arbitration Among Contracting Parties

1. Desire for a Swift, Enforceable Judgment in Disputes:

Commercial arbitration typically provides a faster route to a binding decision than traditional courts, as arbitrators can focus exclusively on a given dispute, unlike judges who often handle multiple cases simultaneously. Arbitrators are generally bound by a specified, often short, timeframe agreed upon by the parties or set by the arbitration center's rules. In contrast, judges are not restricted by such time limits, allowing arbitrators to conclude cases more promptly. Arbitrators can also employ simpler, faster procedures, avoiding the formalities and delays of standard legal processes. Additionally, arbitrators are often experts in specific scientific or technical fields relevant to the dispute, familiar with the industry norms and practices, which can reduce the need for outside expertise and save time. In contrast, judges typically rely on appointed experts, who may require additional time to analyze the dispute. Additionally, the judge cannot rely on their technical knowledge or personal insights regarding the subject matter, unlike a criminal judge who may have certain discretionary powers in interpreting cases. Furthermore, arbitration awards may only require one stage of litigation, making them enforceable more quickly than court judgments, which usually involve multiple levels of appeal.³⁴

2. The Desire to Maintain Confidentiality of the Dispute and Its Details:

The parties in a relationship are typically keen on preserving confidentiality to protect their interests, whether from clients or competitors. For instance, if a case involves delayed or defective execution, the defendant places great importance on keeping the delay or defect concealed from competitors on one hand and clients on the other. Similarly, if a claim pertains to the contract subject not meeting agreed-upon specifications, confidentiality becomes even more critical in more complex contracts, especially those involving new products. In such cases, confidentiality is necessary for several reasons: new products are always vulnerable to potential defects, or rapid technological advancements may make the product seem outdated (technological obsolescence). Additionally, the buyer or distributor may often lack the expertise to correct the product under contract.

34. Al-Anzi, 2006, previously cited source.



Resorting to arbitration undoubtedly ensures the parties achieve this desire, as arbitration sessions are usually conducted with complete confidentiality, whereas the default in official court sessions is transparency, and judgments must always be issued publicly.

3. The Desire for a Fair Solution that Preserves the Ongoing Relationship Between the Parties Despite Disputes:

Arbitration can achieve this desire because it allows the parties to agree that the arbitrator may be exempted from strictly applying the law, opting instead for a solution based on equity, sound commercial practice, and industry norms. Resorting to the judiciary, however, requires the judge to adhere strictly to the rules of law, which often prolongs the dispute between the contracting parties.

4. While the previous considerations support the existence of the arbitration system in both domestic and international private relations, international private relations carry unique factors that drive the preference for arbitration: in such cases, the stronger party often imposes arbitration as a means of dispute resolution on the other party. The powerful party's primary objective is to avoid the application of any national laws, relying instead on international commercial law, which encompasses the customs and practices prevalent in international trade, along with the general principles that govern commerce in developed countries. This approach ensures the stronger party—often a multinational corporation—has a unified legal framework governing its relationships across different countries, an objective not consistently achieved through official judiciary channels.

Although similar outcomes can sometimes be obtained by imposing a specific law on the other party to govern their contractual relationship under the principle of autonomy of will, national courts do not always easily honor this law. A national judge may exclude the chosen law due to a lack of sufficient connection between it and the disputed contract. Additionally, some of its provisions may be dismissed if there are overriding national rules directly applicable to the dispute or if there is a conflict with mandatory rules or public order.

Axis Two: The State of Commercial Arbitration in Iraq



First: The Current Legal Framework for Commercial Arbitration in Iraq

Commercial arbitration in Iraq serves as an essential means for resolving commercial disputes within the modern legal framework. The Iraqi Commercial Arbitration Law of 2024 is the latest legislation aimed at regulating this field. This law seeks to strengthen arbitration's role in resolving commercial disputes in line with international standards, with Iraqi courts supporting commercial arbitration by recognizing and enforcing arbitration awards, as referenced in several legal statutes to be mentioned.

Commercial arbitration procedures in Iraq follow a specific legal system outlined in the comprehensive Arbitration Law, typically involving the following essential steps:

- A. **Agreement Between Parties:** Arbitration begins with a written agreement between the parties specifying the terms of arbitration, including the choice of arbitrators and the subject matter of the dispute.
- B. **Formation of the Arbitration Panel:** The parties form an arbitration panel composed of qualified arbitrators mutually agreed upon.
- C. **Hearings and Pleadings:** Sessions are held to hear the arguments of the parties, along with evidence and proofs related to the dispute.
- D. **Final Award:** Once hearings conclude, the arbitration panel issues a legally binding final decision to resolve the dispute.

Notably, parties may turn to the Iraqi judiciary for the enforcement of the final arbitration award if one party does not comply with the decision.



1. Arbitration in the Civil Procedure Code

The Iraqi legislator has dedicated the second chapter of the Civil Procedure Code and Enforcement to arbitration, allocating approximately 25 articles on arbitration from Article 251 to Article 276. Generally, the law clarifies most issues related to commercial arbitration, from the permissibility of arbitration agreements to dispute resolution and final validation of the arbitration decision.

Specifically, key provisions include Article 251, which allows parties to agree on arbitration for a particular dispute or for all disputes arising from the execution of a specific contract. Article 253 states that if parties agree on arbitration for a dispute, they may not take the matter to court unless the arbitration decision is exhausted. Additionally, Article 255 states that a judge may not serve as an arbitrator without the permission of the Judicial Council.

The Iraqi legislator did not overlook the duration of the arbitration. Article (262) II states that if no period is stipulated for the issuance of the arbitrators' decision, they must issue it within six months from the date of their acceptance of arbitration. Article (266) is based on the fact that the arbitrators decide the dispute on the basis of the arbitration contract or its condition and what the parties submit to them, and this article is the basis for arbitration as the absence of a written contract between the contracting parties providing for resort to arbitration during the dispute did not require going to commercial arbitration. Commercial arbitration, meaning that there is no need for commercial arbitration and the judiciary is the decisive factor for resolving disputes, as well as the case when there is a dispute and submitted to arbitration and the arbitrators find that there is forgery or criminal proceedings, then the arbitration is suspended and the dispute is referred to the competent court, which stops the validity of the specified period until a final judgement is issued by the judiciary in this matter, and finally, Article (276) mentioned the process of determining the fees for arbitrators by agreement of the parties or in a subsequent agreement.

2. Arbitration in the Investment Law

The Iraqi Investment Law No. (13) of 2006 includes a special article for the resolution of disputes arising between the contracting parties, as Article (27), as amended, states: 'Disputes arising from the application of this law shall be subject to Iraqi law and the



jurisdiction of the Iraqi judiciary, and it may be agreed with the investor to resort to commercial arbitration - national or international - in accordance with an agreement concluded between the parties specifying the arbitration procedures, its destination and applicable law. The article outlines the procedures to be followed when there is a dispute between the partners, the following points shall be resorted to: -

A. If work on the project stops for more than (3) three months, a warning is issued to the investor to settle the dispute within (30) thirty days from the date of the warning, and upon failure to respond, the delayed investor shall be charged a delaying penalty commensurate with the duration of the delay, provided that the cumulative total does not exceed (10%) of the cost of the project.

B. The party in breach of its obligations shall be excluded after the expiry of the period stipulated in paragraph (a) of this clause, and the partner who is not in breach or his nominee shall replace him in his rights and obligations after obtaining the approval of the licensing authority, without prejudice to the right of the authority to withdraw the investment licence after the expiry of the period stipulated in paragraph (a) of this clause.

In the event that work on the investment project stops due to the dispute between the investor and the third party and after observing the time period stipulated in paragraph (a) above, the Authority may take legal procedures to liquidate the project with notifying the project owner and depositing the liquidation amount in a bank after fulfilling the right of the State or any third party rights established by a judicial judgement stipulating their entitlement, and the third party, if it is a lender or financier, has the right before the start of the liquidation procedures to request the authority granting the licence to replace the investor, and the decision to accept or reject this request rests with the authority granting the licence.

3. Arbitration in the Public-Private Partnership (PPP) Draft Law

The importance of commercial arbitration lies in its ability to attract investors and ensure they are committed to their rights (considering the economic aspects of the mentioned commercial arbitration). This has led the PPP law to dedicate an entire chapter (Chapter Seven) to the governing law and dispute resolution. Article 35 of the law outlines three key points related to dispute resolution mechanisms. First, it details that disputes will be resolved in a manner agreed upon by the parties. Secondly, it grants



the disputing parties the freedom to choose between mediation, binding or non-binding expert evaluation, national or international commercial arbitration, or investment arbitration, in line with the aforementioned international commercial arbitration agreements. Additionally, the article includes the waiver of sovereign immunity, meaning that there will be no immunity between contracting parties concerning any disputes requiring commercial arbitration.

The researcher believes it is essential to add further points, notably determining which courts will handle dispute resolution—whether specialized courts, dedicated courts, or if disputes should be referred to the Court of First Instance in its commercial capacity. This would become unnecessary if a commercial arbitration law is enacted in Iraq in 2024.

Second: The Commercial Arbitration Law in Iraq: Challenges and Advantages

Commercial arbitration in Iraq faces numerous challenges and obstacles, such as a lack of awareness among companies and parties regarding its benefits and importance as an effective means of dispute resolution. Additionally, certain legal and enforcement hurdles may hinder the implementation of arbitration decisions. Weaknesses in local legislation related to commercial arbitration, as well as overlaps among laws, also pose challenges, compounded by a lack of necessary training for judges, lawyers, and experts in the field.

The following points highlight the main obstacles facing commercial arbitration in Iraq prior to drafting the new law for 2024:

- 1. General Attitude:** Public sentiment is one of the biggest barriers preventing contracting parties from resorting to commercial arbitration.
- 2. Contract Clause Drafting Issues:** There is significant weakness in drafting contract clauses between contracting parties or partnerships, and thus, the inclusion of a clause specifying commercial arbitration in the event of a dispute is often overlooked in most contracts.



3. Lack of Use of Experts and Consultants: Engaging consultants, experts, and international arbitrators ensures ease in resolving disputes during the contract period. However, a lack of community awareness or acceptance of such specialties often prevents their utilization.

4. Administrative Bureaucracy: Bureaucracy represents a major barrier to the commercial arbitration law in Iraq. Sometimes, arbitration rulings are implemented without proper understanding, which deters parties from considering arbitration. In other cases, arbitration is deliberately avoided to align with corruption, which discourages updating laws in general and commercial arbitration specifically.

5. Lack of Experience and Training: Judges and lawyers in Iraq may lack adequate training and experience in commercial arbitration, potentially affecting the quality of final decisions.

6. Limitations in Enforcing Decisions: Decisions issued by commercial arbitration may face difficulties in effective implementation, especially if they are not accepted by the concerned parties.

7. High Costs: The costs of arbitration procedures are relatively high compared to regular judicial processes, potentially restricting access to this service for some parties.

8. Legislative Pressure: There are significant pressures on lawmakers to promote transparency, justice, and dispute resolution, which currently restrict the use of commercial arbitration in Iraq.

Despite these challenges and obstacles, the relevant authorities in Iraq are making continuous efforts to enhance and develop the commercial arbitration system by issuing new legislation that aligns with international standards, organizing training courses and workshops to raise awareness of the importance of commercial arbitration, and strengthening cooperation with specialized entities on both local and international levels.

Commercial arbitration in Iraq is one of the most important steps for enhancing the investment climate and stimulating business activity, as it contributes to providing a fa-



avorable legal environment for both local and international companies. Therefore, Iraq must work on strengthening arbitration mechanisms and providing necessary support for affected parties by promoting justice, transparency, and integrity in commercial arbitration procedures and improving the quality of legislation and local infrastructure related to commercial arbitration. Specifically, the main advantages of enacting the commercial arbitration law in Iraq include:

- A. **Enhancing Legal Stability:** The commercial arbitration law provides a stable legal environment that helps attract investments and promotes economic growth.
- B. **Expedited Procedures:** Arbitration is considered a quicker means of resolving disputes compared to traditional courts, saving time and effort for the disputing parties.
- C. **Confidentiality of Procedures:** Arbitration is characterized by the confidentiality of its procedures, as sessions are conducted privately and confidentially, without the need for public hearings.
- D. **Ease of Application:** The commercial arbitration law grants disputing parties the freedom to choose arbitrators and define procedural rules, simplifying the arbitration process.



Axis Three: The Future of Commercial Arbitration in Iraq

In recent years, arbitration has expanded at the expense of traditional court litigation for dispute resolution. This trend is due to legislators in most countries aligning with the developments in commercial arbitration, reflected in the enactment of laws that generally regulate arbitration. Commercial arbitration has been evolving daily as it represents the best means for dispute resolution, especially in investment contract disputes, both locally and internationally. Arbitration offers a faster dispute resolution process, bypassing the complex and lengthy procedures of traditional court litigation.

The growth in global trade has heightened the interest in international commercial arbitration, leading to the establishment of specialized arbitration bodies and centers. International organizations have also contributed by creating specific rules for international commercial arbitration, resulting in the signing of multilateral agreements to organize these rules and procedures, including the recognition and enforcement of arbitration awards. Thus, for the prosperity of international trade, the emergence of a commercial arbitration system within the international community has been a welcomed alternative to relying on international courts. The ongoing development in arbitration has prompted many countries to introduce legislation and procedures specifically tailored for dispute resolution through arbitration.

In Iraq, the role of commercial arbitration can be further strengthened by raising community awareness about its importance, developing the legal and enforcement infrastructure related to this field, and enhancing cooperation with international bodies to promote a culture of commercial arbitration and facilitate the exchange of knowledge and expertise. Iraq has taken a significant initial step by joining the 1958 New York Convention, which is crucial for advancing arbitration in the country.

First: Accession to the 1958 New York Convention

Iraq has officially joined the list of countries that are signatories to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, known as the (1958 New York Convention on Arbitration). This brings the total number of countries that have acceded to the convention to approximately 168. Initially adopted by the Unit-



ed Nations in 1958, the convention aims to facilitate and standardize the procedures for recognizing foreign arbitral awards among countries. Member states are obligated to recognize and enforce arbitration awards issued in other countries, provided they meet the conditions specified in the convention.

Iraq's accession to the convention was enacted by (Law No. 14 of 2021), issued by the President on April 6, 2021, and took effect upon its publication in the (Iraqi Official Gazette) on May 31, 2021. However, **Iraq's accession to the New York Convention includes three reservations:**

- A. The convention's provisions do not apply to arbitration awards issued prior to Iraq's accession.
- B. The convention's provisions apply only based on the principle of reciprocity.
- C. The convention's provisions apply only to disputes arising from legal relationships considered commercial in nature under Iraqi law.³⁵

Iraq's accession to the New York Convention on Arbitration serves as a strong incentive for foreign investors and major international companies to enter into trade and investment agreements with Iraqi institutions, whether private or public. The convention acts as a safeguard for foreign entities, offering assurance that they can secure their rights within Iraq under the oversight of Iraqi judicial institutions.

Second: Observations on the 2024 Draft Commercial Arbitration Law

In general, drafting any legislative bill should include at least a policy paper that it is based on, or comments that raise questions to provide the decision-maker with a comprehensive understanding of all aspects of the law, in addition to a guide and instructions for reference in case of future challenges. This is also applicable to the draft commercial arbitration law submitted to Parliament at the beginning of 2024.

From the observations made, there are both general and specific points that can help refine the law before its full enactment for implementation by Iraq's executive authorities:

35. The researcher believes that the provisions of the New York Convention should be applied in line with updates to Iraq's commercial regulations, including the incorporation of electronic and digital commerce, among other areas.



1. General Observations

Various legal provisions in Iraq address arbitration. Some can be found in the 1969 Civil Procedure Law, others in the 2006 Investment Law No. 13, as well as in the Public-Private Partnership Draft Law (see Axis Two). Additionally, decisions like Resolution No. 57 of 1990 by the now-dissolved Revolutionary Command Council prohibited Iraqi arbitration bodies from handling cases inside or outside Iraq, and this resolution remains in effect at the time of writing this paper. Therefore, it is essential to abolish all specific laws, legislations, and resolutions related to arbitration (specifically commercial arbitration) and subsequently enact a new commercial arbitration law for Iraq.

The dispute resolution procedures between contracting parties should go through several key stages³⁶: (consultations, dispute resolution by a specialized team, appeals, and implementation of recommendations and decisions.) Additionally, arbitration should be available to a natural person (individual) who has the right to manage their rights. Arbitration cannot apply to matters that cannot be resolved through settlement.

Under the proposed law, arbitration is considered commercial if the dispute arises from an economic legal relationship, whether contractual or non-contractual. This includes, for example, the supply of goods or services, commercial agencies, construction contracts, engineering or technical expertise, licensing (agricultural, industrial, or tourism), technology transfer, investment, development contracts, banking operations, insurance, transport, natural resource exploration and extraction, energy supply, gas or oil pipeline installation, road and tunnel construction, land reclamation, environmental protection, and the establishment of nuclear reactors.

Furthermore, jurisdiction over arbitration matters referred by the draft law to the Iraqi judiciary shall lie with the court that originally has jurisdiction over the dispute. However, if the arbitration is international commercial arbitration, whether conducted in Iraq or abroad, (jurisdiction shall rest with the Federal Court with specialized economic-commercial judges), unless both parties agree on the jurisdiction of another Court of Appeal within the country. The court where the arbitration is held will retain exclusive jurisdiction until all arbitration procedures are completed.

The arbitration panel, explicitly provided for in the draft law, may—if both parties to

36. World Intellectual Property Organization (WIPO): Enforcement of Intellectual Property Rights and Dispute Settlement Procedures within the Framework of the World Trade Organization, 2004.



the arbitration expressly agree to delegate it the power to settle—resolve the dispute based on principles of justice and equity without being bound by specific legal provisions.

Finally, within the activities of the arbitration panel, the filing of an annulment lawsuit does not automatically suspend the enforcement of an arbitration award. However, the court may order a stay of enforcement if the claimant requests it in the lawsuit and if the request is based on serious grounds. The court must decide on the stay request within sixty days from the date of the first scheduled hearing. If it orders a stay, the court may require a bond or financial guarantee and must resolve the annulment lawsuit within six months from the date of issuing the stay order.

2. Specific Observations

A. Accountability for Disclosure of Confidential Arbitration Information: If confidential arbitration information is disclosed, it constitutes a breach of confidentiality and trust in the arbitration process. The individual responsible for publishing such information can be held accountable according to the applicable laws and regulations in the country. Penalties may include financial fines or even more severe legal consequences.

B. Nature of Arbitration – Absolute, Private, or Requiring Government Approval: Commercial arbitration is considered a form of private arbitration, agreed upon by the disputing parties as an alternative to formal litigation. There is generally no requirement for approval from the Prime Minister or government to conduct commercial arbitration.

C. Restrictions on Certain Issues Like Corruption and Fraud Preventing Arbitration: There may be restrictions on certain topics that prevent recourse to commercial arbitration, depending on the legislation of each country. For instance, there could be restrictions on arbitrating disputes involving corruption, bribery, fraud, monopolistic practices that impact market requirements, and other serious offenses. Such restrictions are crucial as they serve as a genuine deterrent for corruption cases in Iraq.

D. Has Arbitration Become a Form of Judicial Privatization: Commercial arbitration can be viewed as a form of judicial privatization, as it offers a means of resolving legal disputes outside the official judicial system. However, it remains limited to commercial disputes at both local and international levels.

E. Protection of the Arbitrator or Mediator Resolving Disputes: It is essential to provide



full protection and rights to the arbitrator or mediator handling disputes between the parties, ensuring they are not subjected to any harm or interference after issuing an arbitration decision.

G. Governance of Commercial Arbitration Institutions and Ensuring Integrity: It is crucial to implement governance over the procedures of commercial arbitration institutions or relevant entities, safeguarding them against corruption. Measures should be taken to ensure that arbitration procedures are effective and binding on the contracting parties, with enforcement subject to appeal only in specific cases.

H. When the Losing Party Refuses Voluntary Compliance: If the party against whom the award is issued refuses to comply voluntarily, the winning party in the arbitration can seek a judicial order for enforcement, which may involve recourse to the formal judicial system for mandatory enforcement, in accordance with applicable laws and procedures.

I. Addressing Awards Issued under Invalid or Untimely Contracts: The draft commercial arbitration law should address cases where an arbitration award was issued based on a contract signed by a party lacking proper authority or legal capacity, or where the award was issued after the designated timeframe. Should such an award remain valid, or should it be subject to annulment through formal appeal in the courts? These situations are common in disputes between parties.

J. Guidelines for Dispute Continuity and Business Operations: It is also necessary to add detailed provisions regarding whether business operations between the contracting parties should continue or cease in the event of a dispute. For instance, in an international context, if a dispute arises over issues like product dumping, should trade between Iraq and other countries continue if Iraq were to join the World Trade Organization (WTO), BRICS Plus, or any other global organization in the future? Clear procedures should be outlined for determining who bears the losses and costs, whether shared equally or by the losing party in arbitration.

Finally, it is essential to include specific provisions for (digital commercial arbitration) in light of recent government and central bank initiatives to promote electronic payment and the automation of government administrations.



Mechanisms for Supporting Small and Medium Enterprises Under Governing Laws

Dr. Ali Abdul Rahim Al-Aboudi/ Researcher in Economic Affairs

Introduction:

Since the inception of economic theories, a nation's economy has generally been managed through two primary approaches. The first is the **capitalist approach**, or what is known as the **market economy**, which mandates minimal state intervention in economic activities. The second is the **socialist approach**, the antithesis of capitalism, where the state exclusively controls economic activities.

However, this dichotomy has evolved, and nations have started to blend both approaches in ways that align with the nature of their economies. Consequently, advanced countries have begun developing complementary plans by distributing roles between the state and the private sector. This shift underscores the significant role that small and medium enterprises (SMEs) play in revitalizing and fostering national economic growth.

Based on this, nations—particularly developed ones—have worked diligently to design economic plans and strategies to support and stimulate small and medium enterprises (SMEs). These strategies vary in approach but share common objectives.

A notable example is the United States, where the government, in collaboration with private institutions, has launched numerous initiatives to support and develop small businesses and entrepreneurship through financing and training. These initiatives offer two levels of support:

1. Federal Government Support
2. State-Level Support

This dual approach explains the growing role of SMEs in the U.S. economy. According to 2023 reports³⁷, SMEs accounted for 99% of all businesses in the United States.

Similarly, other industrialized nations—and even countries geographically close to

37. a report Office of Advocacy, What is a small business, (Washington, 2023) .look at the link:<https://web.archive.org/web/20230315041101/https://cdn.advocacy.sba.gov/wp-content/uploads/2023/03/07121547/Frequently-Asked-Questions-About-Small-Business-March-2023-508c.pdf>



Iraq—have implemented various initiatives to support SMEs through diverse methods.

First: Importance and Objectives of the Paper

Iraq's political system inherited an economy with a socialist nature. Despite the Iraqi Constitution of 2005 emphasizing the necessity of transitioning to a market-based system and granting the private sector a significant role in managing the national economy,³⁸ most national economic policies have continued to be formulated with a quasi-socialist mindset.

This can largely be attributed to the urgent need for financial revenues during the period following the transition (2003–2005). As a result, successive Iraqi governments since 2005 have focused primarily on securing financial revenues, which have remained almost exclusively tied to (oil extraction and sales).

This situation has led to significant neglect of the private sector, both in terms of financial support and regulation. Consequently, the private sector in all its forms and classifications has become dependent on and subordinate to the public sector.

The neglect experienced by the private sector, particularly small enterprises, has produced negative outcomes both for the national economy and for social justice. Due to the breadth and complexity of these issues, this paper will focus only on the outcomes relevant to its objectives, outlined as follows:

1. Dependence of the Private Sector on Oil Revenues

Oil revenues account for approximately (90–98%) of Iraq's total revenues and contribute around (45–60%) to the country's annual Gross Domestic Product (GDP). These revenues are the government's primary source for fulfilling its obligations, with wages and salaries making up a significant portion—approximately (70%)—of total annual budget expenditures.³⁹

Since the government is the sole provider of capital in Iraq, the level of government spending, which directly influences the purchasing power of Iraqi citizens, is closely tied to oil revenues.

38. Republic of Iraq, Permanent Constitution of 2005, Article 25.

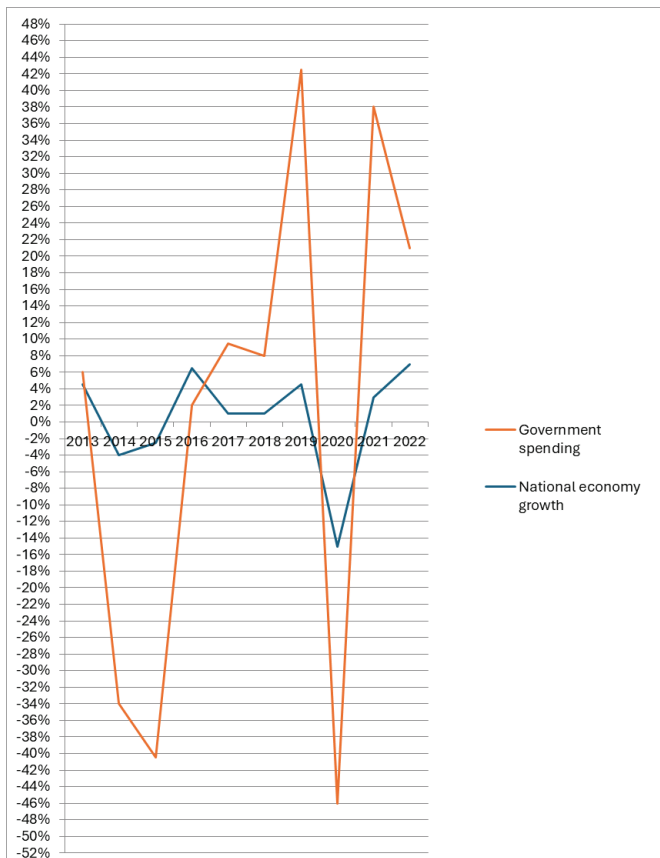
39. Reference: Central Bank of Iraq, Annual Economic Report (Department of Statistics and Research, 2010–2022).



In simpler terms, when government spending increases—driven by higher oil revenues—the market, private sector, and national economy thrive. Conversely, when oil revenues decline, government spending decreases, leading to reduced demand, market stagnation, and significant losses for small and medium enterprises (SMEs).

For a visual demonstration of this dynamic, refer to (Figure 1).

Figure 1: Growth of Government Spending vs. National Economic Growth



Source: Central Bank of Iraq, Annual Economic Report (Department of Statistics and Research, 2013–2022).

2. Suppression of Innovation and Youth Preference for Government Jobs

The Iraqi government's continued reliance on the same economic approach used pri-



or to 2003—maintaining outdated economic laws and focusing heavily on the public sector while sidelining the private sector—has stifled innovation. Additionally, political parties have used public sector employment as a tool to secure electoral support, offering government jobs as rewards for votes.

These factors have led to widespread disillusionment among young people, discouraging them from pursuing personal development or entrepreneurial ventures. As a result, creativity has been stifled among both graduates and skilled workers.

This issue is supported by various statistical studies. For instance, a 2020 field study conducted by the Ministry of Planning revealed that (71% of young people) attributed Iraq's high unemployment rates to the government's failure to provide job opportunities outside the public sector.⁴⁰

On the other hand, most young job seekers, both graduates and others, have tended to seek employment in the public sector (government). This collective mindset, along with the youth's focus on public sector employment over the private sector, is not without reason. Several key factors contribute to this trend, including:

- The lack of a binding law ensuring workers a pension income.
- The difficulty in obtaining financial and technical support to start private ventures, whether small or large.
- The dependence of economic demand and activity on the public sector, which is largely reliant on oil revenues, as previously explained.

This can be clearly demonstrated by tracking the growth rate of public sector employment over the past decade, as shown in Table 1.

Table (1): Percentage Increase in the Number of Workers in the Government Sector (2013–2023)



Years	Number of workers in the Public Sector	Change Percentage
2013	2,907,077	-
2014	-	-
2015	3,027,069	4%
2016	2,905,226	%-4
2017	2,885,834	%-0.6
2018	2,885,716	%-0.004
2019	2,941,890	2%
2020	-	-
2021	3,263,834	11%
2022	-	-
2023	4,074,697	25%

Source: Republic of Iraq, Federal Financial Budget Law for the Years 2013–2023* (Iraqi Official Gazette, Various Issues).

It is evident from the table above that, despite the large number of employees retiring annually, the increase in public sector employees continued to rise, reaching more than (25%) by the end of 2023.

3. Informality of the Private Sector and the Lack of a Regulatory Framework for Small and Medium Enterprises (SMEs)



The private sector referred to here specifically concerns small and medium enterprises (SMEs). Amid the growing dominance of the public sector and the focus of policymakers on economic sectors linked to the government—particularly the oil and gas sectors—SMEs have expanded in an unregulated and haphazard manner.

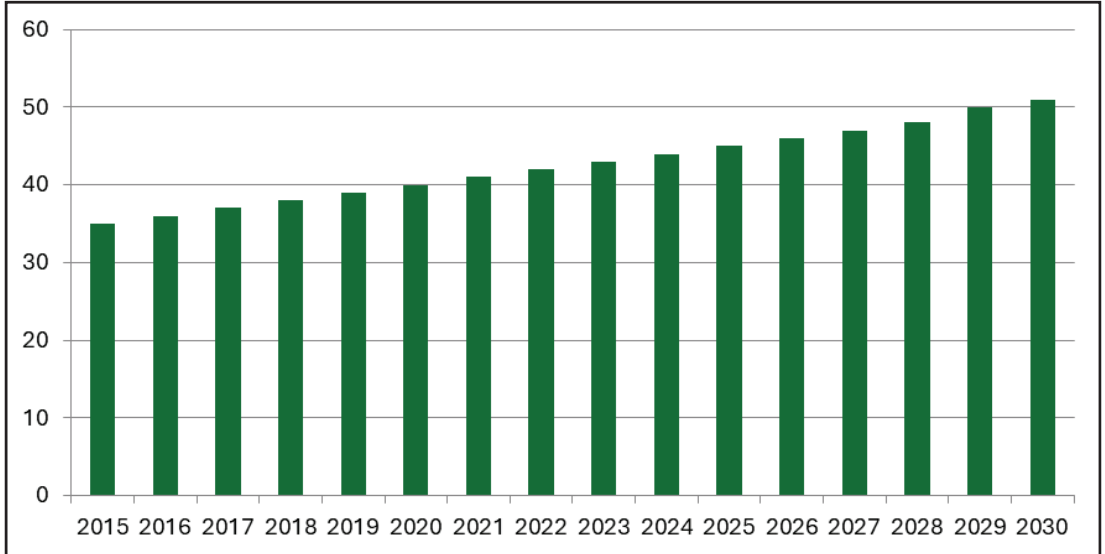
Regardless of the economic viability of these enterprises, small businesses, which employ approximately 70% of the global workforce according to the International Labour Organization (ILO)⁴¹, have not received the attention they deserve. These businesses were not organized from the outset under a comprehensive legal framework that balances their interests with the government's vision for national economic development. As a result, many SMEs have been dissolved, while others have stagnated in a market dependent on government activity.

Thus, the importance of the topic under discussion lies in providing recommendations or finding an effective mechanism to support small and medium enterprises (SMEs). This can be achieved by identifying areas of weakness from the perspectives of SME owners, stakeholders, and policy makers, aligning government policies with the private sector's direction, and reducing the unemployment rate within the country. This is particularly critical as Iraq's population is growing rapidly, with estimates suggesting that the population will exceed 51 million by the start of 2030, according to the Iraqi Ministry of Planning. This is illustrated in Figure 2.

The urgency of supporting the private sector, especially SMEs, becomes even more pressing given that youth labor force will constitute the largest proportion of Iraq's population in the coming years.

41. For more, see: International Labour Organization, Official Report: <https://www.ilo.org/infostories/ar-AE/Stories/Employment/SMEs#power-of-small>



Figure (2) Percentage of the expected population growth in Iraq until 2030

Source: Ministry of Planning, Iraq Population Estimates for the Period 2015–2030 (Central Statistical Organization, 2015). Available at: [<https://cosit.gov.iq/ar/62arabic-cat/indicators/174->]

Based on the previous discussion, the objectives of the topic under examination can be defined as follows:

1. Develop a practical and realistic mechanism that connects all relevant stakeholders to support small and medium enterprises (SMEs) in Iraq, leading to integrated teamwork.
2. Address the gaps and weaknesses in laws related to providing financial and technical support to SMEs, specifically Small and Medium Enterprises Support Fund No. 10 of 2012 (amended).
3. Encourage youth (both graduates and non-graduates) to establish their own businesses and reduce reliance on government jobs.
4. Reduce unemployment rates, which are expected to rise significantly in the coming



years if the government continues with the current mechanisms.

5. Establish a mechanism to formally regulate the private sector (SMEs) in the coming years.
6. Achieve social justice and support low-income individuals, especially in densely populated areas.
7. Stimulate creativity and innovation among young people.

Second: Evaluation of Government Laws and Initiatives Supporting Small and Medium Enterprises (SMEs)

Over the last decade, the Iraqi government, in both its legislative and executive branches, has recognized the importance of the private sector and specifically private enterprises in achieving economic and social development within the country. As a result, the government has worked on enacting laws and initiatives that support the development and growth of small and medium enterprises (SMEs). Among the most important of these laws and initiatives currently are Income-generating Small and Medium Enterprises Support Law No. 10 of 2012 (Amended), the Central Bank of Iraq Initiative, and the “Riyada” Project for Youth Development and Employment, launched by Iraqi Prime Minister Mohammed Shia’ al-Sudani.

Despite these efforts, these laws and initiatives have not yet yielded the expected practical results, due to several reasons identified by specialists and SME owners themselves. Therefore, it is possible to highlight the weaknesses and shortcomings of each law and initiative separately, based on an evaluative perspective, as follows.

A. The Income-generating Small and Medium Enterprises Support Fund No. 10 of 2012 (Amended):

Established in 2012 under the leadership of the Minister of Labor and Social Affairs, this fund was created to support private projects and named the Income-generating Small and Medium Enterprises Support Fund, with a capital of 150 billion Iraqi dinars⁴². In 2023, procedural amendments were made to certain provisions of this law⁴³. While the creation of such a fund is undoubtedly a positive step toward supporting SMEs, it contains several provisions that require revision. The more significant issue lies in the regulations and instructions governing the provision of soft loans for SMEs. Regarding the provisions of the fund's law, several observations can be made, as follows:

1. A single entity or small fund is not enough to support SMEs at the national level. Additionally, the Support Fund does not distinguish between small and medium-sized enterprises.
2. The law leaves many essential provisions to the discretion of the Fund's Board of Directors, which should have been included as key legal articles to ensure consistency and transparency.
3. Although amendments have been made regarding the loan amount, the law does not differentiate between types of projects based on market needs or national development priorities. Instead, it bases the loan amount solely on the number of employees in the project.
4. Despite Article 4 of the law permitting the establishment of branches across all provinces, such branches do not exist in practice.
5. Marginalization of Private Sector Representation: The role of the private sector in the Fund's Board of Directors is marginalized, despite the fact that the private sector is the primary focus of this law.
6. A significant concern is the Fund's association with the Ministry of Labor and Social Affairs, without an independent legal personality. The Minister of Labor and Social Affairs serves as the Chairman of the Fund's Board, limiting its administrative autonomy.

42. For more, see: Republic of Iraq, Income-generating Small and Medium Enterprises Support Law No. 10 of 2012 (Iraqi Gazette Journal, Issue No. 4231, 2012).

43. Republic of Iraq, First Amendment to the Law on Supporting Small and Medium Income-Generating Projects No. (10) of 2012, (Iraqi Gazette, Issue 4728, 2023), p. 80 and following.



7. The law should include all principles and essential points related to its implementation rather than leaving them to bylaws and instructions. The law overly simplifies critical areas, leaving important details—such as loan repayment terms, grace periods, instalment schedules, and eligible project types—to the discretion of lawmakers.
8. The Fund does not stipulate a grace period for loan repayment, neither in the legal text nor in the accompanying regulations or instructions.
9. The Fund suffers from poor promotion. Many SME owners are unaware of its existence or the support it offers.

Regarding the regulations and instructions of the Small and Medium Enterprises Support Fund, several observations have been noted by stakeholders and SME owners themselves, as follows:

1. Clause One of the regulations states that a family is entitled to only one loan, regardless of the number of unemployed members in the household. This is illogical, especially for large families with no stable income. Relying entirely on the profits of a single project to meet all daily needs is unrealistic and may lead to business failure.
2. Point (C) in Clause One sets the borrower's eligible age range between 18 and 40 years, which contradicts the definition of the working-age population in the country, defined as those aged 18 to 64 years.
3. Point (G) of the regulations stipulates that anyone who has benefited from any other lending program, whether governmental or international, cannot receive a loan from the fund. This is impractical for two key reasons: First, if the borrower has a financially capable guarantor, there should be no reason to prevent them from obtaining another loan. Second, many businesses require additional funding for expansion and development after the initial establishment phase.
4. The regulations exclude full-time students from receiving loans, despite the fact that many students are primary breadwinners for their families.
5. Point (I) in Clause One prohibits female employees from acting as guarantors for their husbands, which is impractical. Guaranteeing a loan should be based on trust and financial capacity, and many unemployed individuals struggle to find guarantors for their projects.
6. The regulations restrict guarantor-ship to government employees, retirees, or those with real estate collateral.



B. Central Bank of Iraq Initiative to Support Small Projects: Since 2015, the Central Bank of Iraq has launched several initiatives, including the Small and Medium Enterprise Support Initiative, commonly referred to as the One Trillion Dinar⁴⁴ Initiative. In 2022, the Central Bank increased the initiative's funding to 2 trillion dinars, and by 2023⁴⁵, it had further increased it to 4 trillion dinars.

The primary objective of this initiative is to support small and medium-sized enterprises (SMEs) by providing affordable financing through a network of specialized banks. The Central Bank allocated the capital to these banks, which in turn provided loans to SME owners⁴⁶.

Although the Central Bank initiative is more comprehensive than the Small and Medium Enterprises Support Fund No. (10) of 2012 (amended), the regulations, instructions, and loan amount do not differ much from the Ministry of Labor and Social Affairs' Small and Medium Enterprises Support Fund. The maximum loan amount allowed for small and medium enterprises is (50) million Iraqi dinars. Additionally, the borrower is required to provide a civil or retired guarantor, a feasibility study for the project, and other regulations that are similar to those of the Small and Medium Enterprises Support Fund⁴⁷.

Therefore, the observations made on the Small and Medium Enterprises Support Fund under the Ministry of Labor and Social Affairs, as mentioned earlier, can also be observed in the regulations and instructions of the Central Bank of Iraq's initiative for supporting small and medium enterprises.

C. Reyada Initiative⁴⁸

On March 4, 2023, Prime Minister Mr. (Mohammed Shiaa Al-Sudani) launched an initiative to support entrepreneurs and owners of private projects, called the (Reyada) initiative. The Reyada initiative consists of five main stages that participants go through via an electronic form, as follows:

44. Central Bank of Iraq, Official Website, available at: <https://cbi.iq/news/view/968>

45. Central Bank of Iraq, available at: <https://cbi.iq/news/view/2317>

46. Central Bank of Iraq, previous source, available at: <https://cbi.iq/news/view/968>

47. For more information, refer to: The Central Bank Initiative for Supporting Small and Medium Enterprises. Available at the following link: https://alhudabank.iq/?page_id=10

48. Prime Minister, Reyada Initiative, Official Website: <https://riyada.iq/blogs/806ae941-ebc6-48a5-8a74-584400fd1a6c>



1. Registration on the (Reyada) initiative's electronic platform.
2. Attending an in-person training course on developing a business plan.
3. Writing an economic feasibility study for the project electronically.
4. Applying for financing (loan).
5. Registering in business incubators for follow-up.

This initiative, which is still in its nascent stage, is a highly ambitious one. According to those in charge, the goal of the (Reyada) initiative is to build a genuine system that fosters a creative environment, helping all innovators with creative and innovative ideas to think boldly and to train on the requirements for success. This will help transform the innovators into entrepreneurs in a well-planned manner that adheres to strategic planning standards. The main goal of this initiative is to reach one million Iraqi entrepreneurs, resulting in one million private projects.

The mechanism adopted by the (Reyada) initiative to finance entrepreneurs and owners of small projects, after the applicant successfully completes the training courses, involves an agreement with the banks of Al-Rasheed and Al-Rafidain to provide and manage the financing amounts, as well as setting lending conditions and regulations that align with supporting and advancing the initiative⁴⁹.

Despite the division of (Reyada) loans into two categories— the first ranging from 1 million dinars to 20 million dinars, and the second reaching 100 million dinars for medium-sized projects, with an interest rate of 2% and a repayment period of 10 years (as shown in Table 2)— the conditions and mechanisms for granting loans did not introduce anything new⁵⁰, nor was the problem of guarantees (which is a major issue for project owners) resolved.

49. Prime Minister's Office, Reyada Initiative. See the link: <https://riyada.iq/blogs/c60f4414-40b7-4f40-b429-d1db0ee39efe>

50. Same source.



It is worth noting that this initiative stands out from its predecessors in two significant points: First, it involves nurturing and training the project owner through a series of stages, and second, it mandates the follow-up of project implementation and provides advisory services for one year from the start of the project⁵¹.

Table (2): Loan Amount, Repayment Period, and Interest Rate According to the Reyada Initiative

الفائدة %2 متناقص المدة 10 سنوات فترة الامهال 3 اشهر				
ت	المبلغ	القسط	الفائدة	القسط والفائدة
1	1,000,000	8,547	862	9,409
2	2,000,000	17,094	1,724	18,818
3	3,000,000	25,641	2,586	28,227
4	4,000,000	34,188	3,448	37,636
5	5,000,000	42,735	4,310	47,045
6	6,000,000	51,282	5,172	56,454
7	7,000,000	59,829	6,034	65,863
8	8,000,000	68,376	6,896	75,272
9	9,000,000	76,923	7,758	84,681
10	10,000,000	85,470	8,620	94,090
11	11,000,000	94,017	9,482	103,499
12	12,000,000	102,564	10,344	112,908
13	13,000,000	111,111	11,206	122,317
14	14,000,000	119,658	12,068	131,726
15	15,000,000	128,205	12,930	141,135
16	16,000,000	136,752	13,792	150,544
17	17,000,000	145,299	14,654	159,953
18	18,000,000	153,846	15,516	169,362
19	19,000,000	162,393	16,378	178,771
20	20,000,000	170,940	17,240	188,180

Third: Proposed Recommendations to Enhance Small and Medium-Sized Enterprises (SMEs) in Iraq

51. Prime Minister's Office, Reyada Initiative. Available at: <https://riyada.iq/blogs/eb3f54a6-7f51-47d8-b26c-b991db2c646d>



Based on the objectives of this paper, the observations made regarding the Small and Medium-Sized Enterprises Support Fund Law No. (10) of 2012, and other related initiatives mentioned earlier, and in light of previous discussions with small business owners and economic specialists, the following recommendations are provided to address the weaknesses in the previous initiatives and to improve the status of small and medium-sized enterprises (SMEs) in the country in a more comprehensive and effective way.

The recommendations in this paper will be divided into two sections: the first will focus on reforming the Small and Medium-Sized Enterprises Support Fund by expanding it, and the second will address proposed recommendations for the regulations and guidelines related to the comprehensive Small Business Support Fund.

A. Establishing a Comprehensive Fund to Support Small and Medium-Sized Enterprises (SMEs)

The following proposed mechanism is suggested to establish a comprehensive fund to support small and medium-sized enterprises (SMEs):

1. Separate the Small and Medium-Sized Enterprises Support Fund (Law No. 10 of 2012) from the Ministry of Labor and Social Affairs and link it to the Prime Minister's Council, similar to the Economic Ministerial Council. The project to support small and medium-sized enterprises should be treated with the same importance as the Economic Council, the Social Services Council, or the Human Development Council under the Prime Minister's office⁵².
2. Merge all initiatives related to supporting small and medium-sized enterprises into the proposed comprehensive Small and Medium-Sized Enterprises Support Fund under the Prime Minister's office.
3. Include representatives from the Federation of Industries and the Federation of Chambers of Commerce as members of the fund's board, representing business owners.

52. Republic of Iraq, Internal System of the Council of Ministers No. (2) of 2019, (Iraqi Official Gazette, Issue 4533, 2019), Article (20).



4. The fund will be managed by a Board of Directors under the supervision of the Prime Minister. The Board will consist of representatives from the following ministries:

Minister of Planning (Chairman)

Governor of the Central Bank (Fund Manager)

Minister of Labor and Social Affairs

Minister of Finance

Minister of Industry and Minerals

Minister of Agriculture

Minister of Higher Education

President of the Iraqi Federation of Industries

President of the Federation of Chambers of Commerce

5. The Comprehensive Fund will open sub-accounts in all governorates of Iraq.

6. The Fund's management will organize free training courses in coordination with vocational training institutes, universities, or government-owned centres to train loan applicants, tailored to each applicant's project.

7. The Fund will categorize projects into three groups:

- Micro projects (1-2 workers),
- Small projects (3-10 workers),
- Medium projects (more than 10 workers).

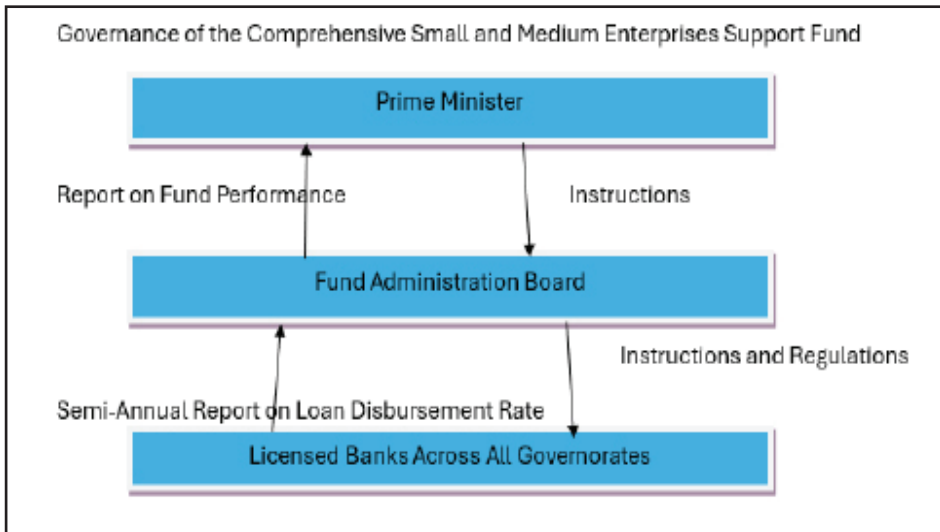
8. Based on the above categorization, the Fund will set loan amounts and limits:

- (5-15) million dinars for micro projects,
- (15-30) million dinars for small projects,



- (30-100) million dinars for medium projects.
9. Projects covered by this law will be exempt from taxes and fees for five years from the date of obtaining the loan.
10. Fund Capital: The Fund’s capital will be sourced from:
- A percentage of the state budget,
 - A percentage of the foreign currency reserves at the Central Bank,
 - A percentage of mandatory reserves or deposits at private banks.
11. The loan interest rate will be 2% annually, with a repayment period of six years.
12. The grace period or deferral of payment will be six months.

In return, the government should work on the governance of the comprehensive Small and Medium Enterprises (SMEs) Support Fund, in terms of administrative hierarchy and division of powers. The governance of the recommended fund can be implemented according to the following mechanism:



B. Instructions and Regulations for Loan Disbursement from the Comprehensive Fund for Small and Medium Enterprises (SMEs)



Loan Disbursement Regulations:


1. The loan is granted to all job seekers who are not employees in the public sector and have completed the required training period.
2. The project owner must submit the loan application.
3. The project may be transferred to the borrower's heirs in case of death, or to one of the borrower's siblings if no heirs exist, provided they are unemployed.
4. The loan applicant must be at least 18 years old and not older than 60 years and must be deemed eligible in terms of health and mental capacity.
5. The borrower is not allowed to change the type or location of the project without the approval of the Fund's Manager.
6. The borrower who has already obtained a loan from the fund to establish their own project is allowed to apply for a second loan, provided that at least five years have passed since the first loan, or the entire loan amount has been repaid.
7. A student continuing in the morning shift is not eligible to apply for a loan from the fund if one of their parents is a government employee.
8. Applications must be submitted exclusively through the fund's electronic portal for small enterprise support.
9. If the borrower fails to pay instalments for three months after the grace period, the guarantor will be notified. If there is no response, the payments will be deducted from the guarantor.
10. Priority in granting loans during the first three years of the fund's operation will be given to stalled or inactive projects.

The importance of the above point is that many projects, especially industrial ones, are halted due to various reasons, the most significant of which is insufficient financing and high taxes. On the other hand, these projects have existing infrastructure ready to resume operations once financing is secured. For example, there are over 40,000 small and medium industrial projects registered with the Iraqi Federation of Industries that are currently inactive. See Table (2).



Table (2) Number of Small and Medium Industrial Projects Inactive in Iraq Until 2022

احصائية جميع المشاريع المسجلة في اتحاد الصناعات العراقي



المحافظة	عدد المشاريع
نينوى	٣٠٧٠
كركوك	٨٨٥
ديالى	١٦٧٤
الانبار	١٥١٣
بغداد	٢٩٠٤٥
بابل	٢٣٠٥
كربلاء	٢٣٧١
واسط	٢١٦١
صلاح الدين	٦١٠
النجف	٤٣٨٧
الذيوبة	١٤٢٧
المتنبي	٢٠٩٧
ذي قار	١٢٥٢
ميمسان	٥٣٥
البصرة	٣٣٦٥
المجموع	٥٦٦٩٧

عدد المشاريع العاملة = ١٦٣٦٧ مشروع
عدد العمال يتراوح ما بين (٢ - ٥٠) عامل او اكثر وحسب حجم المشروع

Required Documents:

- Official documents (Civil status ID or unified card + housing card + personal photos).
 - A written commitment confirming that the loan applicant is unemployed and does not have a fixed income from any other source.
 - Certificate of completion of the training course.
 - The loan applicant must provide a guarantor, which can be of two types: First - a civil or military employee or a retiree. If this is not available, the property deed or a registered major trader or a salaried private sector worker can be considered as a financial guarantor.
- If none of these options are available, the “five-guarantee” model introduced by Professor Muhammad Yunus in Bangladesh can be applied. This model allows five small business owners to guarantee each other, provided they commit to the success of all five projects⁵³.
- Submission of a feasibility study for the proposed project.
 - Chamber of Commerce ID of the governorate where the project is located or the ID of the Iraqi Federation of Industries.

The importance of this point lies in two aspects: first, assisting in organizing the busi-



ness sector in the Iraqi economy, and second, helping provide a real database on the number and types of small and medium-sized enterprises in the national economy.

G. A written commitment to adhere to health and environmental regulations.

H. A letter from the local municipality confirming there are no objections to the establishment of the project.

In conclusion, it can be said that adopting the aforementioned recommendations and starting the establishment of a comprehensive fund that encompasses all past and future initiatives to support small businesses will result in a range of positive outcomes, the most important of which are:

1. Restructuring the national economy to enable the private sector to play its true role in economic activity.
2. Achieving social justice and redistributing national income to benefit the most impoverished groups.
3. Establishing a real database of the size and type of the private sector within the country.
4. Reducing the contribution of the oil sector to the gross domestic product.
5. Absorbing the workforce in the future outside of the public sector.
6. Increasing aggregate demand within the country, thereby enhancing the dynamism of national economic activity.

Part Three

Women Employees and Justice Procedures: A Constant Struggle in State Institutions



Women play a significant role in societal progress, and this role is not limited to a specific age group, educational level, or job type. It is a role that spans various fields where women have presence and importance. However, in many cases, women in traditional societies suffer from a hierarchical system that classifies them solely based on their social role, which is often tied to their familial responsibilities. This role is regarded with a sense of uniqueness, creativity, responsibility, and a high degree of dedication. However, this does not mean that women cannot excel in other roles, particularly educated or talented women, who possess the energy and potential to achieve success in various fields.

Iraq has witnessed structural transformations in its social system from the 1980s to the present, which necessitated a methodological change in the societal roles of women. As a result of the wars in the 1980s, women took on a broader role in education to occupy public sector jobs in areas like education and healthcare. Due to the economic sanctions in the 1990s, women expanded their role to become economic contributors, supporting both their families and themselves. After the democratic change in 2003, educated and professional women began to expand their presence within the system. However, this expansion was not based on solid foundations that would allow women to showcase their creativity, achieve success, and preserve their feminine uniqueness. Instead, it was based on general, often patriarchal, norms, and women were required to adapt to this system.

The issues surrounding the integration of women into the workforce have led to a continuous state of dissatisfaction due to the nature of the bureaucratic system, which is managed with a patriarchal mindset. This has created an unjust social, political, and economic situation, significantly widening the gap between women and the system. This gap has even affected the upper echelons of the system; the democratic system, in which women are considered a key pillar in Iraq, still suffers from the diminished role of women in strategic decision-making within the structure. Therefore, this section focuses on studying the situation of women employees in public institutions and the instances of injustice they experience, aiming to develop insights that would strengthen women's position within these institutions in order to achieve social and political justice.

Axis Five

Assessment of Women's Needs in State Institutions



“Ministry of Higher Education and Scientific Research and Ministry of Education as a Model”

Hayam Ali Al-Murhij / Researcher at Al-Bayan Centre for Studies and Planning / Women’s Studies Department

Introduction

This paper explores the needs of women in the government sector and aims to understand how workplace conditions in state institutions affect women’s productivity. It seeks to identify what women need in the workplace to be more productive and contribute effectively to government work. This study serves as an assessment of women’s needs in the workplace and, consequently, an evaluation of government policies regarding state institutions in general and female employees within these institutions in particular, as well as their approach to integrating women into government work.

To achieve this, and to obtain answers directly from women rather than relying solely on desk-based data, we conducted a self-assessment of women’s needs. We prepared a survey that included 200 participants from two ministries: the Ministry of Education and the Ministry of Higher Education and Scientific Research. These ministries were selected based on reports from the Iraqi Ministry of Planning, which indicated that they have the highest percentage of female employees in the government sector.

Additionally, we conducted 20 interviews with female employees in these ministries and organized three roundtable discussions. The first table included 10 women from the target group. The second table involved decision-makers at both the executive and legislative levels, as well as researchers and representatives from women-focused civil society organizations. The third table included academic researchers and specialists with whom we discussed the draft research findings.

The survey was divided into four sections:

1. Personal Information



2. Work System, Wages, and Leave Policies within the Institution

3. Development and Promotion

4. Available Services within the Institution

The survey concluded with two open-ended questions regarding the challenges women face in the workplace and what they need to be more productive. These questions provided space for women to express their needs, requirements, and challenges and to address any gaps in the survey from their perspectives.

General Context: Conditions of Women's Economic Participation

The Impact of a Rentier Economy on Women in Iraq

The Iraqi economy significantly influences the degree of women's economic empowerment in the country. The production model and nature of economic performance in Iraq are characterized by rent dominance and weak economic growth. Oil revenues have led some individuals to support a large number of non-working dependents, particularly women. Additionally, conservative cultural values are widespread, reinforcing stereotypical roles for men and women that are not based on equality.

More specifically, rent revenues have caused the state to dominate the private sector and transform the country's economy into a protectionist, command-driven, single-direction economy in favor of the state. This conservative economic trend is reflected in socially conservative values as well. Combined with Iraq's existing cultural conservatism, this economic model ultimately defines specific roles for men and women in rigid stereotypes that lack a foundation in the principle of equality.⁵⁴

The rentier nature of Iraq's national economy has led to low economic growth rates, fragile productive structures, widespread poverty and unemployment, and a lack of social justice in the distribution of income and resources. This has negatively impacted

54. See: Sultan Al-Amer: «The Relationship Between Oil and the Status of Women,» Al-Khaleej Al-Jadeed. Article link:

<https://thenewkhalij.news/article/10520/%D8%B9%D9%84%D8%A7%D9%82%D8%A9->



women's economic empowerment. As a rentier state, Iraq's economic policies do not encourage diversification, and the economic sources and institutions it provides are typically male-dominated due to two key factors. The first is the nature of the economy itself, as previously mentioned, and the second is the social system reinforced by the rentier economy.

On the other hand, the rentier economy fails to provide job opportunities outside the public sector. Consequently, due to societal heritage, women's employment opportunities are largely limited to the public sector.


A rentier economy inherently produces a consumption-oriented society that relies on the distribution of oil revenue income. This has exacerbated levels of poverty and unemployment, as the system is only capable of generating jobs for approximately 3% of the labor force. Furthermore, the imbalance in property relations and the power structure created by the rentier economy makes it difficult to integrate women into the economy, limiting their participation mostly to the public government sector.⁵⁵

The latest statistical data from 2021 indicates that the economically active labor force in Iraq constitutes 63.6% of the total working-age population. Of this, 86.6% are men, while only 13.4% are women. The unemployment rate in Iraq stands at 16.5%, representing the percentage of the labor force that is unemployed. The unemployment rate for women is 28.2%, which is double that of men, whose unemployment rate is 14.7%. ⁵⁶

Economically Active Labour Force	Males Percentage	Females Percentage	Unemployment Rate in Iraq	Males Unemployment Rate	Females Unemployment Rate
63.6%	86.6%	13.4%	16.5%	14.7%	28.2%

The Gap in Justice Pathways: Gender Stereotypes in Women's Roles in Government Work

55. Saleh Yasser: *The Rentier State and Democratic Development: The Impossible Duality (The Case of Iraq)*, Friedrich Ebert Foundation, Iraq-Baghdad, 2013, pp. 12-16.

56. Ministry of Planning, Central Statistical Organization, *Iraq Labor Force Survey Report for 2021*. 

It is impossible to analyse women's role in the economic sphere without considering the socio-political conditions that have influenced women's economic participation. During the late 1960s and 1970s, and into the early 1980s, women were portrayed as active participants alongside men in agricultural fields, factories, and community services. This period, coinciding with Iraq's developmental phase, saw women filling roles left vacant by men who were drawn into the state and institutional workforce due to wartime demands.

However, after the 1980s, the image of women shifted toward that of the mother, emphasizing their role as reproducers. This shift served a political purpose: to compensate for the demographic losses caused by war-related deaths. This illustrates how political objectives have shaped and directed societal perceptions of women and their roles.⁵⁷

Women were directly affected by the economic sanctions imposed on Iraq, followed by the wars and conflicts that ensued after the fall of the regime. These wars led to a sharp decline in real incomes for low- and middle-income groups and a rise in the cost of living, making education a luxury that low-income families could not afford. During periods of declining income, Iraqi families tended to prioritize education for male children over females. As a result, illiteracy rates among women increased, and female enrolment in education declined. The restriction of educational opportunities for women diminished their competitiveness and reduced their chances of securing government employment, contributing to higher unemployment rates among women and the deterioration of their economic and social status.⁵⁸

The Iraqi Constitution, according to Article (22), First Clause, states: "All Iraqis have the right to work in a way that guarantees them a decent life." This indicates that Iraqis, both men and women, are equal in their right to access employment opportunities, without discrimination, and that the principles of work should be based on social justice. However, in practice, we find that the economic activity rates for women are lower than those for men. This is due to several factors, including the prolonged period of

57. Asmaa Jameel: *The Social Image and Self-Image of Women in Iraqi Society - A Field Study in the City of Baghdad*, PhD Dissertation, University of Baghdad, College of Arts, Department of Sociology, 2006, p. 47.

58. Amal Shlash: *The Changing Role of Women in the Iraqi Economy**, published research presented at a symposium organized by the UNDP Office in Iraq titled **The Role of Iraqi Women in Society*, 2001, p. 13.



poor security conditions in Iraq, which significantly affected women's ability to safely participate in the workforce.

Additionally, the employment policies that emerged after 2003, particularly the open-door recruitment policy in the Ministries of Defense and Interior, prioritized the hiring of men due to the political and security context of that period. Meanwhile, there was a continued stagnation in productive sectors, limited private sector activity, and societal attitudes shaped by traditional customs and norms that restrict women's access to certain economic fields. These factors collectively weakened women's economic participation and increased their unemployment rates.

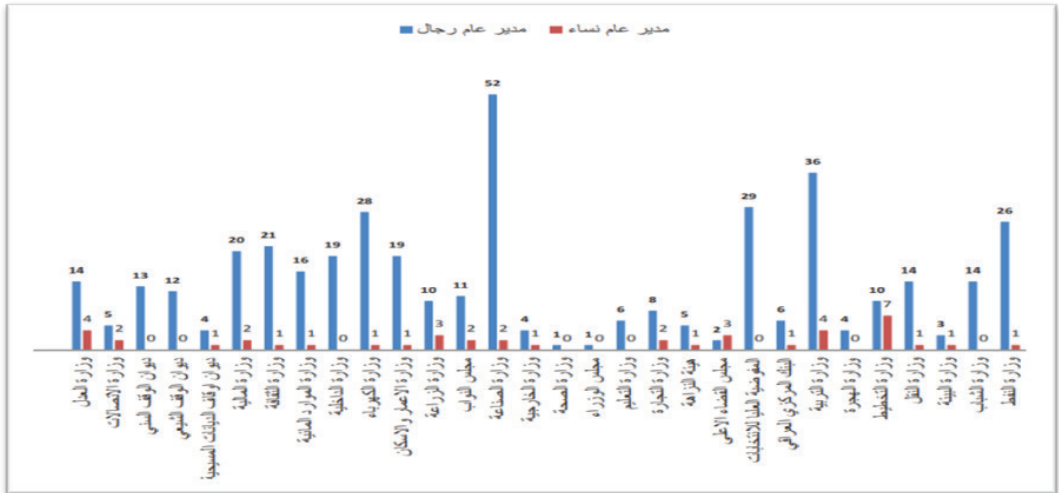
Despite the increasing openness Iraq has witnessed in recent years regarding women working outside the home, the promotion of women's positions within the workforce still faces many challenges. One of the most significant challenges is the nature of the work environment for women, which is influenced by social values. This results in women having less access to professional networks and experience, limiting their ability to establish effective working relationships. These networks often play a crucial role in determining career opportunities, such as promotions, letters of appreciation, and participation in official delegations.⁵⁹

The entry of women into the labor market in Iraq has been accompanied by the emer-

59. Providing New Opportunities for Women in Iraq: A Report on Focus Group Discussions in Iraq, National Democratic Institute, 2018, p. 16.



gence of gender discrimination in the workplace, which refers to the exclusion of women from certain professions when entering the job market. 60



According to the data from the above chart, the information from the Job Information Bank of the Central Statistical Organization indicates a gender gap in special grades, which include senior positions in ministries. According to statistics from the Iraqi Ministry of Planning, the Ministries of Oil and Interior have the highest number of male employees compared to female employees, while the number of female employees is higher in the Ministries of Education and Higher Education. This reflects the gender stereotyping surrounding women’s roles. In the Ministry of Higher Education, there are 57,034 male employees compared to 41,366 female employees out of a total of 98,400 employees.

The gender gap between male and female employees in the Ministry of Higher Education is particularly evident in two areas: the first is the representation of women in senior leadership positions, and the second is women’s participation in training, conferences, and foreign delegations, which are mostly attended by male employees⁶¹.

There are often significant differences between the number of female and male em-

60. Lahai Abdul Hussein: The Impact of Development and War on Women in Iraq, Dar Al-Shu'un Al-Thaqafiya Al-Aamma, Baghdad, 2006, p. 66.

61. The Reality of Gender in Iraqi Ministries and State Institutions, report issued by the Ministry of Planning, Human Development Statistics Department, 2018, p. 6.



employees in government ministries, even at the administrative level. According to the latest statistics from the Central Statistical Organization for 2021, 17.5% of women work in administrative positions, compared to 82.5% of men. Additionally, 14.5% of women hold managerial administrative roles, compared to 85.5% of men.⁶²

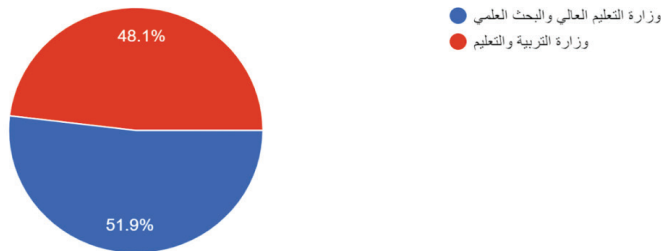
Percentage of women in administrative jobs	Percentage of males in administrative jobs	Percentage of females in administrative positions	Percentage of males in administrative positions
17.5%	82.5%	14.5%	85.5%

Anex One: Characteristics of the Sample

In this section, we will review the characteristics of the sample included in the study, focusing on factors such as workplace, age, marital status, economic status, and education.

Figure 1: Ministry

في أي وزارة تعملين؟
131 responses



The sample was distributed between two ministries: the Ministry of Higher Education and the Ministry of Education. The majority of the sample, at 51.9%, came from the Ministry of Higher Education, followed by those from the Ministry of Education at 48.1%.

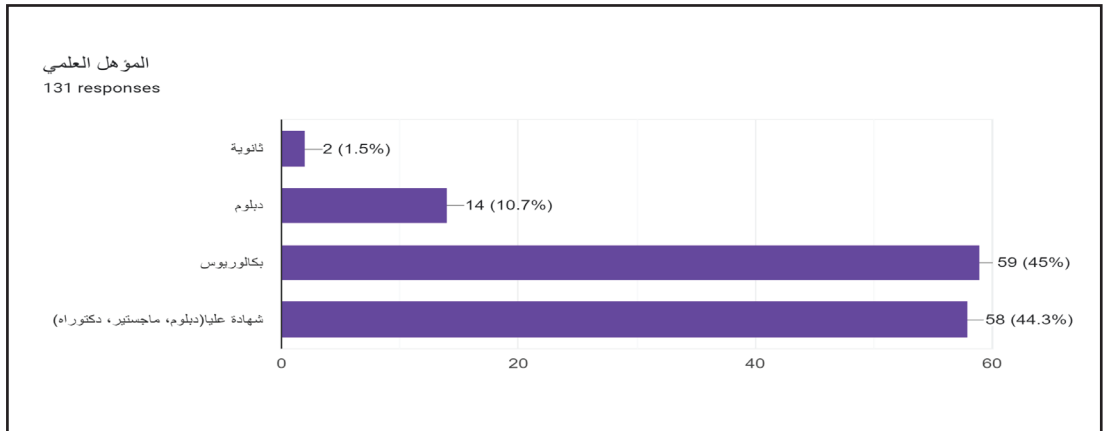
These percentages indicate a close distribution of the sample between the two minis-

62. Iraq Labor Force Survey for 2021, previously mentioned source.



tries, which was our aim to achieve the highest possible balance in the sample size. This will, in turn, reflect in the results of the survey later on.

Figure 2: Educational Level



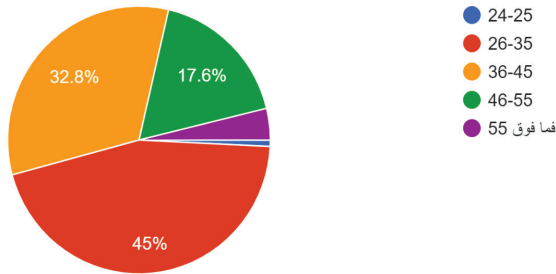
The majority of the sample, at 45%, holds a Bachelor's degree, followed by a similar percentage of 44.3% with a higher education degree (Master's or PhD). Then, 10% of the sample holds a diploma, and finally, 1.5% have a high school diploma.

It is clear that the largest group of female employees holds a Bachelor's degree, which is what we expected, as most female employees in ministries possess a Bachelor's degree. Following this group are those with higher degrees (Master's and Doctorates), who are typically employed within the Ministry of Higher Education. The diploma group is small among employees since it does not offer many advantages, while the smallest group consists of those with a high school diploma. This is expected, as individuals with only a high school diploma are generally employed in limited roles within state ministries.

Figure 3: Age Group

العمر

131 responses

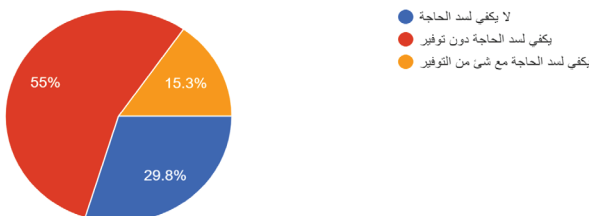


The majority of the sample, at 45%, comes from the age group of 26-35 years, followed by the age group of 36-45 years at 32.8%, then the age group of 46-55 years at 17.6%. Finally, there are very small percentages from the age groups of 24-25 years and 55 years and above. This suggests that the age distribution of the sample is predominantly middle-aged, which is typically within the working age range. This indicates that the sample accurately represents the broader population, as those in the 24-25 age group are generally still in education and do not typically enter government work. Those in the 55+ age group are either nearing retirement or may not have a strong interest in responding to surveys.

Figure 4: Income Level

مستوى الدخل الذي تحصلين عليه

131 responses



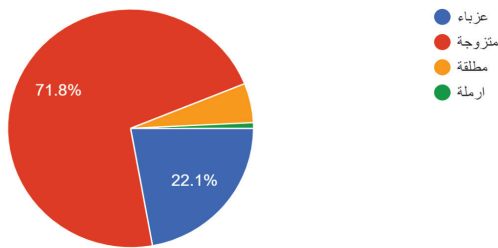
The majority of the sample, at 55%, earn an income that is sufficient to meet their basic needs without saving. This is followed by 29.8% of the sample who earn an income that is not enough to meet their needs, while another 15.3% earn an income that is sufficient to cover their needs with minimal savings.



Upon further analysis, we found that unmarried female employees are able to save a small portion of their income, while married female employees often find that their income barely covers their needs. This is due to the comparison between wage levels and the cost of living, especially for female employees with family responsibilities.

Figure 5: Marital Status

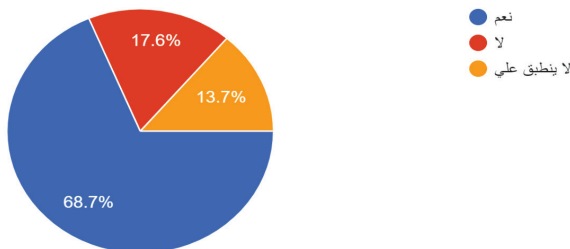
الحالة الاجتماعية
131 responses



The highest percentage of the sample, at 71.8%, were married, followed by 22.1% who were single, 1% who were divorced, and finally 0.5% who were widowed. These percentages were expected, as the highest age group in the sample was 26-35 years, which is generally the typical age for marriage.

Figure 6: Children

هل لديك اطفال
131 responses



The highest percentage of the sample, at 68.7%, have children, followed by 17.6% who do not have children, and finally, 13.7% are unmarried.

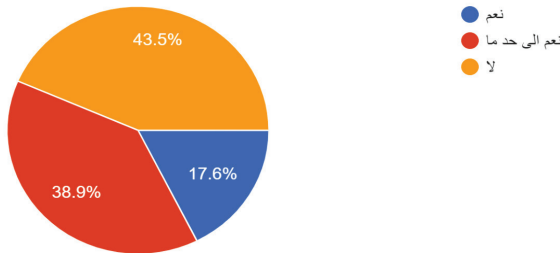
Anex Two: Work System and Wages

In this section, we aim to gather opinions from women regarding the work system and wages in their institutions, as well as the level of fairness achieved for female employees based on working hours, administrative procedures, and how the management treats female employees:

Figure 7: Do you believe that the number of working hours is in line with the wages (salary) you receive?

هل تعتقدن ان عدد ساعات العمل متلائمه مع الاجور (الراتب) التي تحصلين عليها

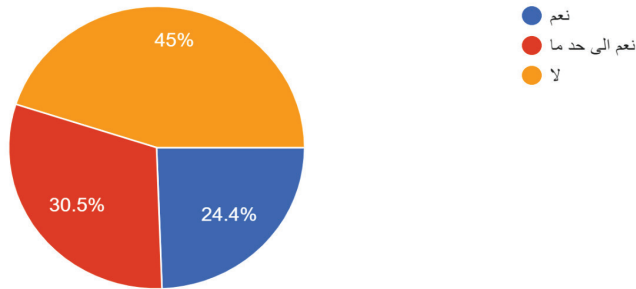
131 responses



The highest percentage of the sample, at 43%, chose the option “No,” as they believe that the wages they receive do not match the number of working hours. This was followed by 38.9% who somewhat agreed, and 17.6% who agreed fully. During the interviews, female employees pointed out that the issue is not only about the alignment of working hours with wages, but also about the lack of fairness in salaries between different job grades and ministries, even among those working the same number of hours. According to reports, the average net salary of a government employee in Iraq was more than 580 dollars in 2022, according to the American CEOWORLD magazine. The magazine’s report states that the average monthly net salary for an employee in Iraq, after tax deductions, was 583 dollars, ranking 10th in the Arab world and 62nd globally out of 105 countries⁶³. Additionally, wages may differ based on gender, with female salaries being up to 17% lower than male salaries.⁶⁴

Figure 8: Do the wages you receive align with your life needs and requirements?





The highest percentage, at 45%, chose the option “No,” indicating that they do not receive the regular vacation days allowed each month. This was followed by 30.5% who selected “Yes, to some extent,” stating they receive vacations in a limited manner. Finally, 24.4% chose “Yes,” indicating they do receive regular vacation days.

According to Article 43 of Chapter 8 of the Iraqi Civil Service Law, employees are entitled to paid regular leave at a rate of one day for every ten days of service. However, female employees face challenges in obtaining this regular leave, which they specifically highlighted in the open-ended question.

If there are exceptions or difficulties in obtaining leave, what are these difficulties?

Most women who face difficulties in obtaining regular leave have written that it is their legal right according to the law. However, they encounter several challenges in obtaining this leave:

Management Policy: The management uses leave as a form of authority against employees, especially women, with their numerous family responsibilities. Women require more flexibility from the administration and understanding of their circumstances, but they often face the subjectivity of management in granting leave, favouring some employees over others.

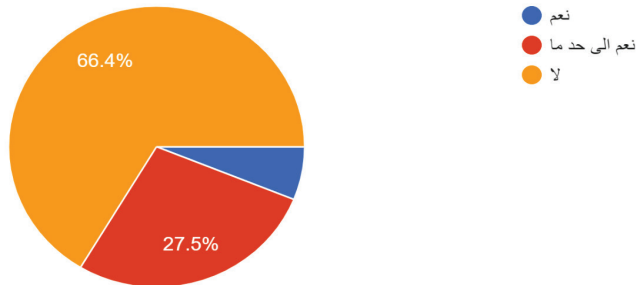
Work Conditions: Women in the Ministry of Education mentioned that they are unable to request leave due to the lack of substitutes in their work and their responsibility to complete the curriculum. Additionally, the shortage of staff forces teachers to cover subjects outside of their specialization. Women in the Ministry of Higher Education, particularly teachers, stated that the law grants teachers only seven days of leave per year, which they view as unfair and insufficient.

Procedures: Women highlighted the lengthy bureaucratic procedures required to obtain leave. Some administrations confuse sick leave with regular leave. Therefore, in order for an employee to obtain leave, they must first get approval from a health center, submit a request, and the request must go through various procedures before approval is granted.

Figure 10: Are the leave days granted to employees sufficient compared to their family responsibilities?

هل الاجازات الممنوحة للموظفة كافية مقارنة مع مسؤولياتها الاسرية

131 responses



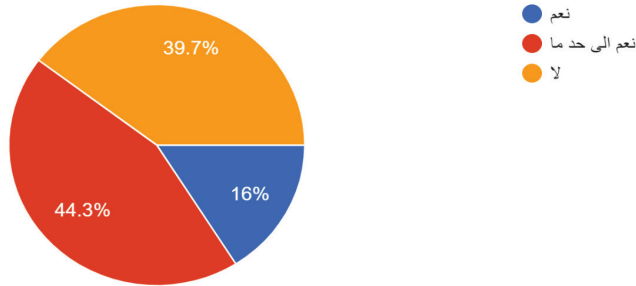
The highest percentage, at 66.4%, chose the option “No,” indicating that the leave provided to female employees is not sufficient when compared to their family responsibilities. This was followed by 27.5% who selected “Yes, to some extent.” These percentages reflect the dual burdens that women carry, both familial and work-related.

Women’s work can present challenges in achieving a balance between professional life and family life, especially when high work demands and a work environment that does not take women’s circumstances into account are present. The pressures of work and the challenges in the professional sphere can negatively affect women’s mental health, particularly if these issues are not effectively managed. Additionally, work can impact the experience of motherhood, as women must balance both work and parenting responsibilities.

Figure 11: Does your workplace consider your circumstances as a woman and provide accommodations when necessary?



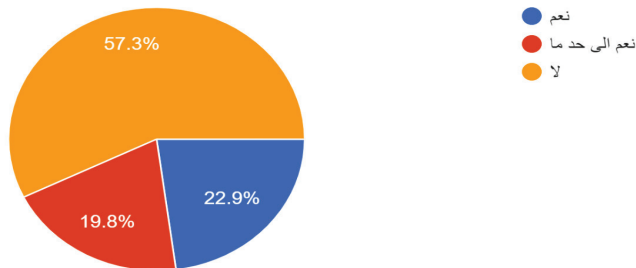
هل تقدر جهة العمل ظروفك كامرأة و تقدم التسهيلات عند الضرورة
131 responses



The majority of the sample, 44.3%, selected the option “Yes, to some extent,” indicating that the workplace acknowledges women’s circumstances and provides accommodations when necessary. This was followed by 39.7% who chose “No,” and finally, 16% chose “Yes.” The close percentages between “No” and “Yes, to some extent” suggest that there are significant challenges and difficulties in the workplace, even when accommodations are needed.

Figure 12: Is there discrimination in granting leave between women and men within the institution?

هل هناك تمييز في الحصول على اجازات بين النساء والرجال داخل المؤسسة
131 responses



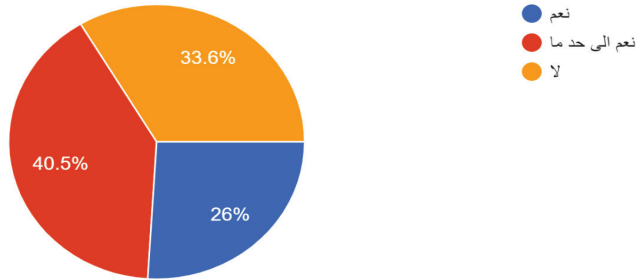
The highest percentage, 57.3%, chose the option “No,” indicating that they do not believe there is discrimination between women and men in obtaining leave within the institution. Meanwhile, 22.9% selected “Yes,” and 19.8% chose “Yes, to some extent.” These results suggest that most women believe there is no significant gender-based discrimination regarding leave.

Figure 13: Do you believe that the maternity leave duration provided by law is appropriate and sufficient for women?



هل تعتقدين أن مدة اجازة الامومة وفقاً للقانون مناسبة وكافية للنساء

131 responses



The highest percentage (40.5%) selected the option “Yes, to some extent,” followed by 33.6% choosing “No,” and 26% opting for “Yes.” Upon cross analyzing the data to interpret these results, it became evident that the majority of respondents who answered “Yes, to some extent” were from the Ministry of Education. In contrast, those who answered “No” were predominantly from the Ministry of Higher Education and Scientific Research. This difference stems from the distinct nature of work in these ministries.

Women working in the Ministry of Education benefit from summer vacations and mid-year breaks, and schools are often located near their homes, making the one-year maternity leave relatively sufficient. However, women in the Ministry of Higher Education do not share these conditions, which explains why they find the one-year leave inadequate.

To explore this further, an open-ended question was posed to those who found the one-year maternity leave insufficient: ***“If you disagree, what duration do you think would be appropriate for maternity leave, and why?”***

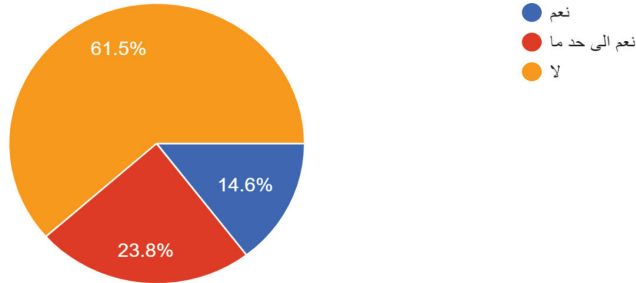
Most responses suggested two years, aligning with the child’s weaning age, or three years, when the child can express basic needs, reducing maternal anxiety about placing the child in daycare.

Figure 14: Do you believe that the wages provided to women during maternity leave are fair and adequate?



هل نعتقد أن الاجور الممنوحة للمرأة الموظفة خلال فترة اجازة الامومة مناسبة و عادلة بالنسبة للنساء

130 responses

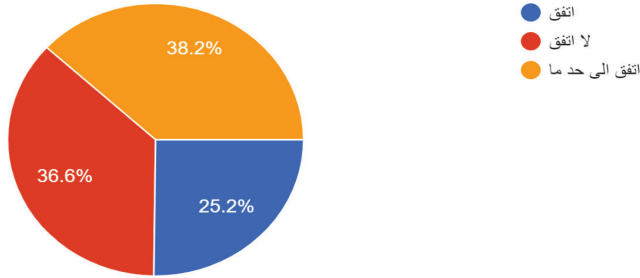


The majority of respondents (61.5%) selected “No,” indicating that they do not believe the wages provided during maternity leave are fair. Meanwhile, 23.8% chose “Yes, to some extent,” and only 14.6% selected “Yes.” The primary reason cited by those who believe the wages are unfair is that during maternity leave, half of the employee’s salary is deducted. Women described this policy as unjust, particularly because the costs associated with having a child increase significantly during this period, and it is not a time of rest. Furthermore, they emphasized that they have no alternative but to take leave, effectively leaving them without full income.

Some decision-makers interviewed defended the policy, arguing that it provides a reasonable income level while the employee is not actively contributing to the institution. They also highlighted that maternity leaves can disrupt operations and create challenges in finding temporary replacements, which is why they prefer hiring men over women.

Many women expressed frustration with this perspective during interviews. One employee from the Ministry of Higher Education remarked, “Why is the burden placed solely on women, as if they are the only ones responsible for childbirth? Instead of viewing women as a burden, solutions that promote fairness should be considered, such as implementing parental leave, where both the mother and father share the responsibility of childcare and divide the leave equitably.”

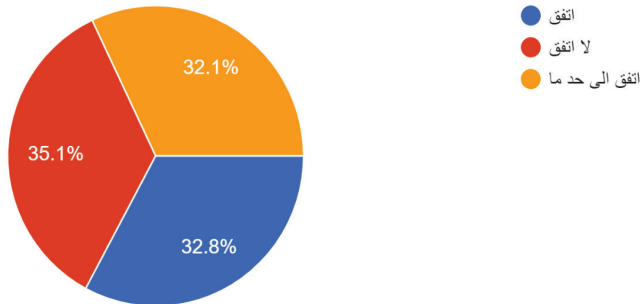
Figure (15): Does your workplace provide a safe and comfortable environment for you?



The highest percentage of the sample (38.2%) chose the option “Somewhat agree,” followed by (36.6%) who chose “Disagree,” and finally (25.2%) who chose “Agree.” This indicates that government institutions do not provide a comfortable work environment for women. This can be further explained by the responses collected in the following questions.

Figure (16): Does your workplace take fair measures when women face harassment in the workplace?

تتخذ جهة العمل اجراءات عادلة في حال تعرض المرأة للمضايقات في بيئة العمل



The highest percentage of the sample selected “Disagree” at 35%, followed by 32.1% choosing “Somewhat agree,” and 32.8% selecting “Agree.” Although the highest percentage leaned toward “Disagree,” combining the percentages for “Agree” and “Somewhat agree” reveals a significant portion of the sample experiences workplace harassment without effective deterrent measures in place.



Women shared various instances of harassment, highlighting the lack of effective action. One physical education teacher in the Ministry of Education stated:

“A male colleague constantly harasses me with his words and actions, deliberately trying to anger me. When I reported him to the administration, instead of taking action, they simply advised me and dismissed the issue.”

Similarly, a legal department employee within the same ministry mentioned that complaints from female employees are often ignored or resolved informally, typically at the expense of the women. A director-general in the Ministry of Education explained:

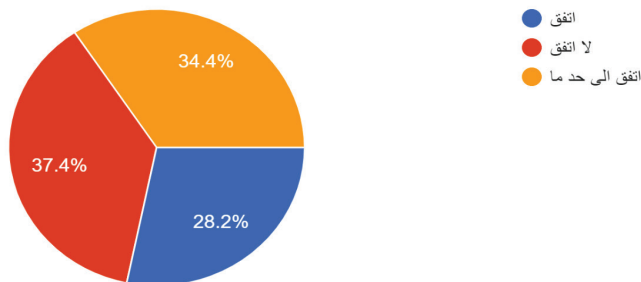
“We support women if they experience harassment, but only if there is evidence. We cannot accuse anyone without proof. We try to resolve issues amicably to protect the women both within and outside the workplace.”

Women noted that this policy emboldens offenders, as even with undeniable proof, the most severe punishment is typically a transfer.

Figure (17): Does your workplace assign tasks and responsibilities that align with your health and physical capabilities?

تكلفك جهة العمل المهام والمسؤوليات التي تتناسب مع وضعك الصحي وقدرتك البدنية

131 responses



The highest percentage of the sample chose “Disagree” at 37.4%, followed by 34.4% selecting “Somewhat agree,” and 28.2% choosing “Agree.” Combining the percentages for “Agree” and “Somewhat agree” reveals that a significant portion of the sample endures work that may not align with their health conditions or physical capacity.

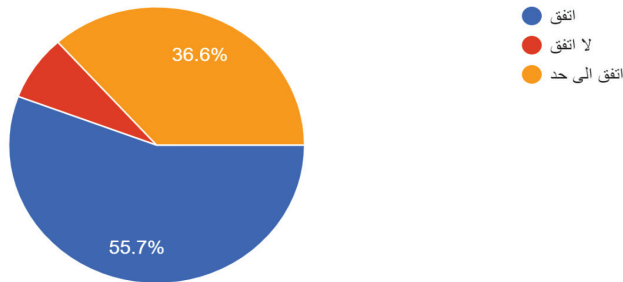
In an interview with an employee at a government university under the Ministry of Higher Education, she shared:

“Sometimes, management does not assign us tasks that are unsuitable for our health conditions, but we are forced to do them because there is no one else to take on the responsibility. For example, I suffered a slipped disc after moving heavy work files from one place to another because no laborers were available to help, and all the staff were busy with their own work. There are also many secondary tasks that are not part of our primary duties, but we are compelled to handle them.”

Figure (18): Do relationships between male and female employees in your workplace reflect cooperation and respect?

تتسم العلاقة بين الموظفين الرجال والموظفات النساء بالتعاون والاحترام

131 responses



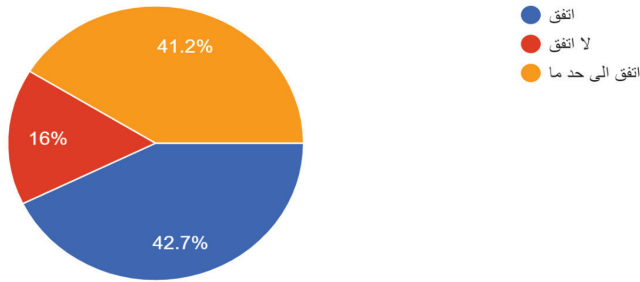
In response to this question, 55.7% of the sample chose “Agree,” while 36.6% selected “Somewhat agree,” indicating that relationships between male and female employees are generally characterized by cooperation and respect.

Figure (19): Do relationships among female employees reflect cooperation and respect?



تتسم العلاقة بين الموظفات النساء بالتعاون والاحترام

131 responses



The highest percentage (42.7%) chose “Agree,” followed by 41.2% for “Somewhat agree,” and 16% selected “Disagree.” Notably, the percentage for “Agree” is quite close to the percentage for “Somewhat agree,” and the proportion for “Disagree” is relatively high. Comparing these results with the previous question in Figure (18), we observe that relationships among women themselves appear to be more tense than the relationships between women and men within the government work environment.

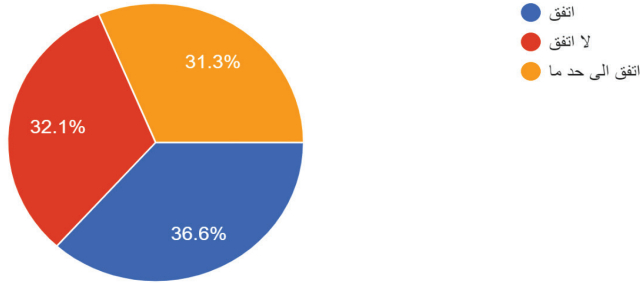
Anex Three: Development and Promotion

In this section, we explore the women’s perspectives on the opportunities available for career development provided by the institutions, as well as the fairness in awarding commendation letters and promotion procedures.

Figure (20): Does your employer offer training courses to enhance your skills for the work you perform within the institution?

تقدم جهة العمل دورات تدريبية لتطوير مهاراتك في العمل الذي تؤديه داخل المؤسسة

131 responses



The highest percentage of the sample (36.6%) answered with “Agree,” followed by 32.1% answering “Disagree,” and finally 31.3% answering “Somewhat Agree.” This shows a close distribution among the three options.

Through interviews and sharing opinions with the targeted group, it became evident that although ministries do offer training courses, the issue lies in the fact that these courses do not meet the actual needs of female employees within the ministries. Often, these courses are provided randomly, without a clear plan aimed at addressing specific skill gaps or professional needs of women in the institution. Additionally, training sessions and seminars targeting women typically focus on issues like cyberbullying and domestic violence—topics that could be addressed through partnerships with civil society organizations. However, these organizations often face resistance from ministry administrations and bureaucratic hurdles in their efforts to cooperate. Notably, the Ministry of Higher Education and Scientific Research has prohibited universities from engaging with civil society organizations or allowing them to conduct any activities.

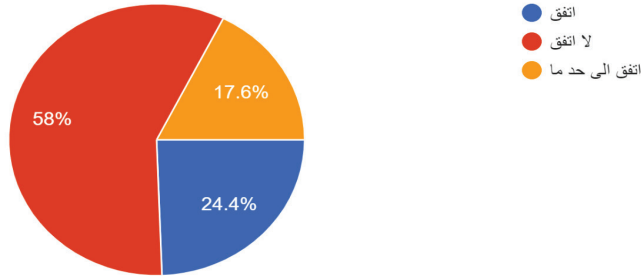
In this context, a decision-maker from the Ministry of Education said: “The problem often lies with the organizations. When they approach us for approval to hold activities, we ask them to provide a clear program for the seminar and the people who will be presenting the work. We operate according to specific protocols, and we need the organizations to be professional in their work, but they usually come without a proper plan, so we have to reject their request.”

Figure (21): Is there discrimination between women and men in benefiting from and participating in the training courses offered by the institution?



هناك تمييز بين النساء والرجال في الاستفادة والمشاركة في الدورات التدريبية التي تقدمها المؤسسة

131 responses



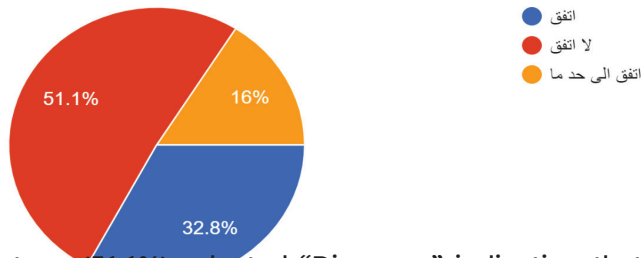
The highest percentage of the sample (58%) answered with “Disagree,” followed by 17.6% who answered, “Somewhat Agree,” and finally, 24.4% who answered “Agree.” This is a positive indicator, suggesting that the majority of the sample reported no discrimination between male and female employees in receiving letters of appreciation.

However, as mentioned earlier, female employees, particularly in ministries with a high percentage of women, such as the Ministry of Higher Education and the Ministry of Education, are in greater need of training that develops their job-related skills. Therefore, there is a need for training courses specifically tailored to the needs of women, designed to improve their skills in their professional roles.

Figure (22): Is there discrimination between male and female employees in receiving letters of appreciation from the employer?

هناك تمييز بين الموظفين والموظفات في اعطاء كتب الشكر من قبل جهة العمل

131 responses



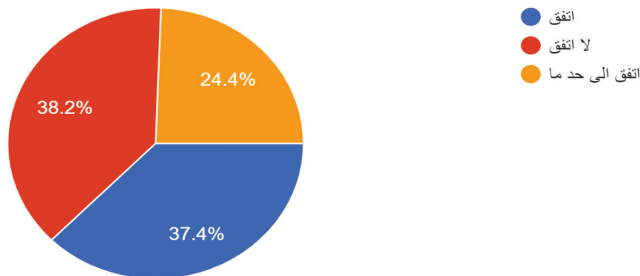
The highest percentage (51.1%) selected “Disagree,” indicating that there is no discrimination between male and female employees in receiving letters of appreciation. This was followed by 32.8% who selected “Agree,” and finally, 16% chose “Somewhat Agree.”

In this regard, one employee from the Ministry of Higher Education shared: “Equality and fairness in the distribution of letters of appreciation is one of the problems we face. This process does not undergo real evaluation, so everyone receives letters of appreciation, even though in our office, women outnumber men, and we perform administrative tasks that exceed what the male employees do. However, we are still given the same recognition. Additionally, there are only three official letters of appreciation per year that we all benefit from, which are awarded to all employees, while any other letters of appreciation from department heads carry no privileges, even if they are given to those who have put in more effort.”

Figure (23): Does the employer provide equal and fair opportunities for promotion and rewards?

تمنح جهة العمل فرصاً متساوية وعادلة في الترقية والمكافآت

131 responses



The percentages were close in this question, with 38.2% selecting “Disagree,” followed by 37.4% who selected “Agree,” and 24.4% choosing “Somewhat Agree.”

In this regard, a university professor from the Faculty of Science said: “The context of promotions is well-known, and there is no discrimination in the procedures, but the discrimination comes in rewards, if given. These are often subject to the management’s mood, so it’s not necessarily the person who does outstanding work who receives the reward, but rather those who have relationships with the management, and they are usually men. There is also a significant discrimination in opportunities for participation in conferences held outside the institution or abroad, which are often limited to the heads of the institution and their male friends.”



On this topic, a member of the Education Committee in the Iraqi Parliament commented: “Rewards are at the discretion of the ministry official, and they distribute them according to their personal judgment based on their proximity to the employees and knowledge of their work. We have not received any complaints on this matter. As for external conferences, women often decline to participate due to household obligations or family objections, so the participation rate of men is higher than that of women. However, there is no discriminatory policy against women by the institutions.”

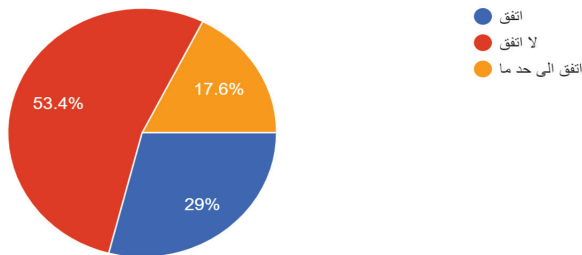
Axis Four: Available Services Within the Institution

In this section, we seek to understand the availability of a healthy environment and services within the institutions where women work and how these services impact the productivity of female employees.

Figure (24): Do you have a private office, and is your privacy respected?

لديك مكتب وظيفي خاص بك وهناك احترام للخصوصية

131 responses

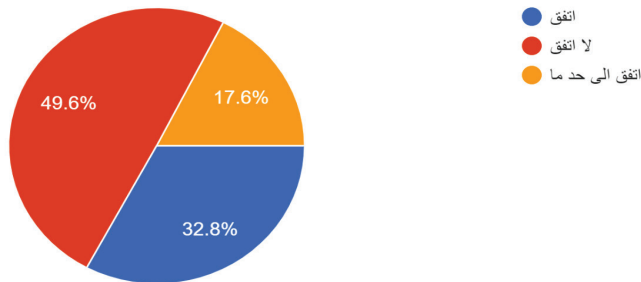


The highest percentage (53.4%) selected “Disagree,” followed by 29% who chose “Agree” and 17.6% who chose “Somewhat Agree.” This indicates that most female employees do not have private offices. During interviews, women expressed dissatisfaction with the infrastructure of the institutions where they work. One employee at a public university said: “Six of us share a very small office, and I have to share a desk with my colleague, which causes our documents to mix. We also lack space for person-

al belongings, making it difficult to feel comfortable at work.” A newly hired employee in the Ministry of Higher Education and Scientific Research added: “When we were appointed, we discovered that the government had not considered the infrastructure of institutions, which are no longer able to accommodate the growing number of employees. These buildings were designed for far fewer staff. I even have to share a chair with my colleague because there aren’t enough available, not to mention the lack of other basic services.” A university professor also commented that the issue extends beyond administrative staff: “Even faculty members don’t have private offices. I face challenges when meeting with students because I share my office with other colleagues, which makes it uncomfortable. Additionally, the offices are very small and in poor condition.”

Figure (25): There are clean restrooms designated for female employees in the workplace.

هناك حمامات نظيفة و مخصصة للموظفات داخل مكان العمل
131 responses



The highest percentage of responses came under the “Disagree” option, at 49.6%, followed by 32.8% under “Agree” and 17.6% under “Somewhat Agree.” This question elicited strong reactions from women, as it directly addresses one of the most critical workplace needs, which many participants noted in the open-ended question about their requirements. Institutions where women work often lack clean restrooms, and these are frequently shared with men, causing discomfort.

A female employee from the Ministry of Higher Education shared: “The issue of restrooms is a significant problem for female employees in the public sector. In our department, there was no restroom available, so we had to walk to a restroom in a distant section, which was both inconvenient and embarrassing. Many of us tried to avoid us-

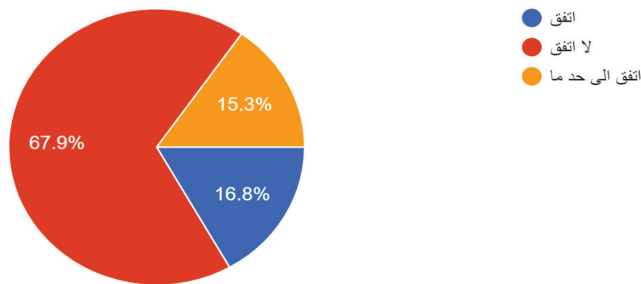


ing it, which led to kidney issues and other health concerns. We pooled our money to build a small restroom in our section, but it became a shared facility for both men and women, and we were responsible for its cleaning due to the lack of janitorial staff. This is a pressing issue that the administration continues to overlook.”

Figure (26): There are enough janitorial staff responsible for cleaning the workplace.

هناك عدد كافي من عمال الخدمات المسؤولين عن التنظيف

131 responses

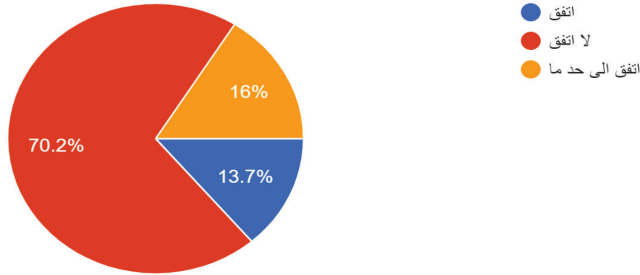


The highest percentage (67.9%) responded with “Disagree,” followed by 16.8% who chose “Agree” and 15.3% who selected “Somewhat Agree.” Women face significant challenges due to the insufficient number of janitorial staff in the institutions where they work. Ministries often employ older workers or individuals with special needs for cleaning services, offering them very low wages, which negatively impacts the quality of the services provided. A female employee from the Ministry of Education, echoed by her counterparts in the Ministry of Higher Education, shared: “We, as female employees, are often forced to clean the offices ourselves due to the lack of sufficient cleaning staff. Many of the janitors are elderly, so we hesitate to ask them to clean, and even when we do, the cleaning is often inadequate, so we no longer rely on them. The frustrating part is not the cleaning itself but that it has become an expectation solely for female employees. This reflects a form of gender stereotyping since male employees never offer to help or take the initiative. They feel either embarrassed or believe it is not their responsibility, but in truth, it shouldn’t be ours either.”

Figure (27): Health services for female employees are available within the institution for emergency cases.

تتوفر الخدمات الصحية للموظفات داخل المؤسسة للحالات الطارئة

131 responses



The highest percentage (70.2%**) responded with “Disagree,” followed by 16% for “Somewhat Agree” and 13.7% for “Agree.” These results, along with observations about the health infrastructure in ministries and affiliated institutions such as schools and universities, clearly highlight the lack of healthcare services for employees in emergency situations. Few institutions, primarily some universities, have health centres, but even these centres lack basic necessities and fail to provide proper care.

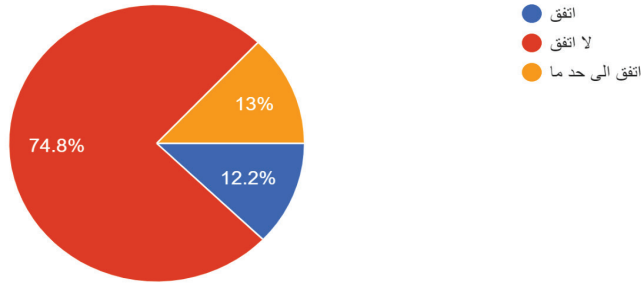
A female employee from an Iraqi university noted: “The few health centres in universities have essentially become administrative offices that only issue medical leave approvals and offer basic medications anyone could find in a personal bag. Recently, a university professor experienced a severe health issue, but the university’s health centre couldn’t provide any assistance, and unfortunately, he passed away while waiting for the ambulance to arrive.” In contrast, institutions under the Ministry of Education, including schools, lack any form of healthcare facilities or emergency care altogether.

Figure (28): The institution provides all necessary work supplies, so you do not need to spend your own money on work-related materials.



توفر المؤسسة كل مستلزمات العمل ولا تضطرين لانفاق المال على مستلزمات العمل الوظيفي

131 responses



In Figure (28), the highest percentage (74.8%) was for “Disagree,” followed by 13% for “Somewhat Agree,” and 12.2% for “Agree.” These figures, along with the feedback from female employees about spending personal money on work supplies, highlight a significant issue. Women pointed out that the lengthy bureaucratic processes required to approve work supply requests often force them to purchase the necessary items themselves to avoid work disruptions.

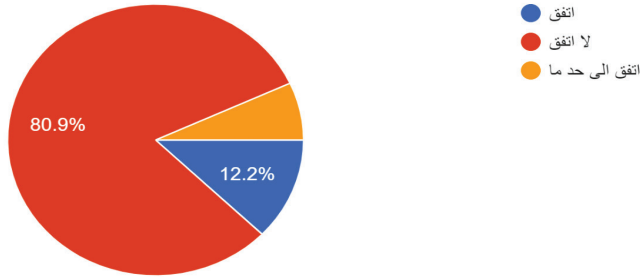
This issue extends beyond work supplies. Institutions fail to provide petty cash for office needs, which forces employees to buy basic items like cleaning supplies and even drinking water. One employee shared: “Due to the lack of essential office provisions, we end up purchasing cleaning materials and water with our own money since the administration does not provide them.”

Figure (29): The institution provides appropriate and adequate transportation services for female employees.



هناك خطوط نقل خاصة بالموظفين ملائمة ومناسبة للنساء

131 responses

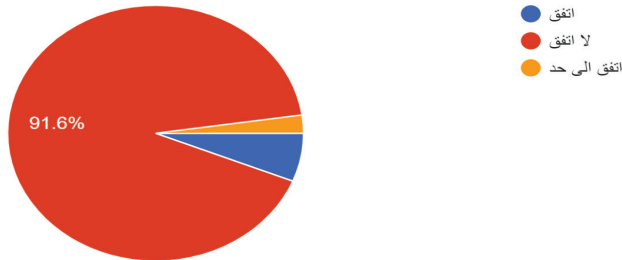


In Figure (29), the highest percentage (80.9%) corresponds to “Disagree,” followed by 12.2% for “Agree” and a minimal 5% for “Somewhat Agree.” Despite some ministries providing transportation services, the available routes are insufficient compared to the number of employees, particularly women. Moreover, the vehicles are rarely maintained, and bus drivers often collect maintenance fees directly from employees. Female employees frequently face issues with the drivers’ lack of punctuality and erratic behaviour, which forces many to rely on expensive private transportation. Women are particularly dependent on government buses due to a lack of personal vehicles.⁶⁵

Figure (30): The institution provides on-site childcare facilities. such as nurseries or

تتوفر حضانة وروضة داخل المؤسسة للموظفات اللواتي لديهن اطفال

131 responses



In Figure (30), a striking 91.6% of respondents selected “Disagree,” highlighting the lack of on-site childcare facilities. The remaining options, “Agree” and “Somewhat Agree,” each garnered only 5%. Women with children face significant challenges due to the absence of ministry-run nurseries or kindergartens. Even the few existing facili-

65. In this regard, the research paper «Women and Transportation in Baghdad» by Hayam Ali Al-Marhaj, Al-Bayan Centre for Studies and Planning, can be reviewed.



ties often fail to provide adequate services, such as insufficient staff and early closing times that do not align with work schedules. Consequently, many women are forced to enrol their children in expensive private childcare.

Open-Ended Question: Needs and Challenges in the Workplace

Question: What do you need to make your work environment more suitable and comfortable to help you be more productive? What other challenges do you face at work that you think should be addressed?

Key responses from women regarding their needs and challenges in the workplace can be summarized as follows:

- **Improved Infrastructure:** The need for private, suitable offices for female employees.
- **Adequate Service Staff:** Employing appropriate cleaning staff since most current workers are elderly and cannot be relied upon for thorough cleaning.
- Provide clean restrooms, as this is one of the biggest struggles for women at work, as the restrooms are often dirty and unsuitable for use.
- Provide government-run daycare centres and nurseries near or within each institution, and ensure they are well-equipped for children's needs. Some institutions have nurseries, but employees are reluctant to leave their children there due to poor care and conditions.
- Maternity leave should be paid, as women are not in a position of luxury during this time. They often face financial needs and are unable to work due to childcare responsibilities.
- Increase wages to match the cost of living and work conditions.
- Provide a comfortable, healthy, and fair working environment.
- Provide necessary tools specific to the education sector, such as modern and advanced teaching aids, like projectors and suitable classrooms that match the number of students and teachers. This requires building new schools with modern specifications. Additionally, the number of vacation days should be increased, as teachers are entitled to only one week off during an entire school year, and regular teacher holidays are limited to just one day, which



puts a significant amount of pressure, especially on women working in education.

- Provide modern and suitable transportation that is regulated. Since women use transportation more frequently, they are often subjected to poor treatment and exploitation by drivers of government vehicles, such as not adhering to schedules, cancelling rides without notice, and charging for continuous repairs. As a result, many employees have to abandon the transportation provided by the institution and resort to private transportation (private lines), which is often very expensive.
- Encourage exemplary female employees through an annual or semi-annual performance evaluation that is realistic and fair, with additional allowances or rewards granted based on the evaluation.
- Organize work schedules and designate breaks between shifts for meals and rest to alleviate the stress and pace of work.
- Hold seminars, training sessions, conferences, and lectures specifically for women, encouraging those with ideas and proposals to contribute. Ensure that these events address the real needs of women in the workplace, with tangible outcomes that positively impact their work experience, especially considering that the majority of women hold administrative positions in institutions.
- Establish specialized unions representing women employees within each ministry to listen to their concerns, issues, and opinions.
- Foster stronger relationships between male and female employees and between staff and management by organizing joint activities and periodic meetings to break the monotony of both work and home routines. This helps create a meaningful connection between employees and the institution they work for.
- Ensure the availability of health services, such as dedicated health centres for employees, in every ministry and affiliated institution.

Results in Light of the General Context of the Research and Recommendations

After completing all stages of the research, including the survey, personal interviews, and discussion tables, we recorded observations, gathered responses, and identified



commonalities. The study concluded that female employees did not distinctly express their needs as women first and employees second. Therefore, it is possible to generalize the needs expressed by women employees to all employees, regardless of gender. This suggests that women do not exhibit sensitivity toward gender-specific needs. For instance, when questions pertain specifically to them as women, responses vary, whereas there is greater consensus on issues not perceived as discriminatory.

This can also be interpreted as women lacking the luxury of clearly identifying their needs as female employees due to the absence of basic necessities such as fair wages, leave policies, proper office spaces, clean restrooms, and essential work supplies. The lack of a conducive work environment prioritizes basic needs over more nuanced concerns.

We observed that infrastructure and burdensome administrative processes have the most significant impact on the working conditions of female employees. Women described their institutions as “dilapidated,” lacking basic services such as clean restrooms, healthcare facilities, and daycare centres. Additionally, the complex bureaucracy related to promotions, leave approvals, and the allocation of financial resources for work essentials exacerbates the challenges they face.

One of the primary difficulties for women is the lack of government-operated daycare and nursery facilities within or near their workplaces. Even the few available options often do not meet the required standards of care or align with working hours, making it difficult for women to balance work and childcare responsibilities.

One encouraging observation from the study is the absence of gender discrimination in promotions, salary increases, and job advancements, as these are governed by standardized procedures applied equally to all employees. However, when it comes to letters of appreciation and other forms of recognition, these tend to be influenced by managerial discretion. Women noted that men, due to their broader social networks and opportunities for interaction, often receive greater benefits in the form of appreciation letters, participation in conferences, and inclusion in official delegations.

The wages and salaries received by female employees are inadequate in meeting the cost of living and do not reflect their years of service. Additionally, there is considerable concern regarding the deduction of half their salaries during maternity leave,



which places a significant financial burden on working women.

Recommendations

- ❖ **Nurseries and Kindergartens:** The Ministry of Education and the Ministry of Labor and Social Affairs are, according to the law, the authorities responsible for establishing and licensing nurseries and kindergartens. Based on the findings of this study, it is evident that working women with children have a critical need for nurseries and kindergartens to be available within or near their workplaces, offering affordable fees and an adequate level of service. The Ministry of Education can coordinate with other ministries to assess the needs of female employees and work towards the implementation of Kindergarten Regulation No. (11) of 1978 and Law No. (1) of 1991 concerning nurseries. These legal frameworks address many of the challenges highlighted by women in the study, including the need to extend working hours when the majority of enrolled children are those of working mothers.

- ❖ **Improving Ministry Infrastructure:** One of the primary needs identified by female employees relates to the infrastructure of ministries. It is well known that the Ministries of Education and Higher Education, along with their facilities, were established during a time when the number of employees was significantly lower than it is today. Additionally, the lack of regular maintenance and continuous oversight has left these institutions unable to meet current demands, with many of them in a deteriorated state. Therefore, ministries must seriously consider enhancing the infrastructure of their institutions, as it is a critical factor influencing employee performance and job satisfaction. For the Ministry of Higher Education: It is recommended to establish new university branches in various regions, similar to what is practiced in other countries. This would alleviate the congestion within current university campuses and faculties. Additionally, the ministry headquarters should be updated to better accommodate the number of employees and their needs. The ministry should work toward



eliminating the triple-shift system in schools by constructing new schools with infrastructure that meets the aspirations of employees and students alike.

- ❖ **Cleaning Services in Ministries:** Female employees suffer from poor cleaning services within institutions, particularly in the restrooms designated for them. This is due to the ministries employing cleaning staff at low wages, who are often either elderly or unmotivated due to the low pay. As a result, female employees are often forced to clean the facilities themselves. Therefore, the Ministries of Education and Higher Education must change their approach in this regard by contracting specialized companies to provide services worthy of state institutions or by increasing wages for workers, focusing on employing younger staff, and ensuring serious supervision of their work.
- ❖ **Evaluation System and Enhancing Efficiency:** The study results clearly indicate that the current evaluation system is not realistic, and its outcomes do not impact employees' status. Therefore, the evaluation must lead to rewards or promotions for competent employees. Above all, it is essential to provide support to employees and enhance their capabilities through training courses. These courses should be designed according to a specialized curriculum based on the needs of each department. This should be done in collaboration between continuous education programs and the departments to identify the types of training courses required by the employees.
- ❖ **Maternity Leave:** According to Iraqi law, maternity leave is granted for one year, divided into two phases: the first six months with full pay, and the second six months with half pay. Maternity leave is not considered as service for the purposes of civil service law, except for job security, as stated by the Ministry of Finance in paragraph (10) of its regulations. If a female employee on maternity leave works for wages or compensation during her leave, the leave is cancelled, and any salary she received must be refunded, with her leave being considered as unpaid leave. Furthermore, paragraph (9) of the Ministry of Finance's regulations stipulates that a female employee on maternity leave is not allowed to travel outside Iraq unless the travel is for the purpose of treating the child, based on a report from a specialized medical committee. This is unfair to the female employee, especially since she receives half her salary for six months after giving birth and has additional family needs. Moreover, with the advancement of technology, remote work has become possible, so a mother



could potentially work from home to earn additional income despite the salary deduction, yet the law prohibits this, as well as her right to travel as guaranteed by the constitution. Therefore, the law could be amended to provide alternatives. For instance, a woman on maternity leave could work remotely for full pay instead of a salary deduction. Another option is to introduce “parental leave” or “paternity leave,” which would involve both parents in child-rearing, allowing the leave to be divided between them. Additionally, the regulations that prevent the mother on maternity leave from traveling could be abolished.

- ❖ **Ministry Transportation Lines:** Considering the number of employees, the current number of buses is insufficient to transport all employees. Since women are the primary users of government buses, they are the most affected by the issues related to the ministry’s transportation services. Therefore, the Ministries of Education and Higher Education should focus on increasing the number of buses, which can be done in collaboration with the Ministry of Transport. Additionally, regulations should be put in place to monitor the bus drivers’ performance, ensure they adhere to schedules, and prevent employees from paying for maintenance costs.
- ❖ **Healthcare:** The Ministries of Higher Education and Education suffer from a lack of health centres within the institutions under both ministries, with only a few available in some universities, and these are lacking basic medical facilities. Both ministries could coordinate with the Ministry of Health to open more health centres and equip them with the necessary medical equipment and treatments.
- ❖

Book Title	Author
------------	--------



The Future of Iraqi Oil	Robin Mills
Moscow's Flexible Alliances in the Middle East	Hannah Notty
Fulfilling Education Promises Through the Learning Process	The World Bank
The Second Annual Al-Bayan Conference (1) (- (2	A Group of Researchers
National Development Strategies in Iraq	Ali Al-Mawlawi
The Sultanate of Oman... Its Regional and International Positions and Neutrality in Its Foreign Policy	Ayman Abdul Karim Al-Faisal
Higher Education in Iraq. Critical Approaches and Foresight Visions	A Group of Researchers
The Iraqi Constitution: Analysis of Controversial Articles - Solutions and Proposals	Zaid Al-Ali - Yousef Awf
(Education Plan in Malaysia 2013 - 2025 (1 - 2	Malaysian Ministry of Education
Strategic Glimpses in Combating Corruption	Firas Tariq Makiya

Building the State in Iraq.. Policy Visions towards Sustainable Democracy	Hashim Al-Rikabi - Ali Al-Mawlawi - Ali Al-Saffar
An Introduction to Integrity and Combating Corruption in Iraqi Legislation and International Agreements	Haider Al-Amara - Rahim Al-Akeili - Bilal Abdul-Hay
The Institutional Status of the National Oil Company	Prof. Dr. Jawad Kazim Lafta Al-Kaabi
The Forgotten Solution... The Federal Council: Rationalizing Power and Strengthening Legislation	Dr. Ali Abdul-Hussein Al-Khatib - Dr. Bassem Ali Khresan
Features of Constitutional Justice in Light of the New Internal Regulations of the Federal Supreme Court	Dr. Wael Munther Al-Bayati
A Strategic Roadmap for Energy Transformation in Iraq	Harry Estebanian - Noam Redan
The October 2019 Protests in Iraq from the Perspective of Participants	Fares Kamal Nazmi - Mazen Hatem
The Genocide Continues	Saad Salloum
ISIS Children... The Legacy of Conflict and the Darkness of the Future	Dr. Adnan Yassin - Dr. Asmaa Jamil Rashid



Promoting Justice in Iraq: Specialized Procedures for Various Issues

Book Title	Author
Justice and Political Stability in Iraq	Ali Al-Maamouri
Towards a Fair Electoral System in Iraq by Benefiting from the Japanese Experience	Dr. Abdul Aziz Aliwi Al-Issawi
Before Thirst Overtakes Us ... The Water Crisis in Iraq from State Policy to Land Policy	Prepared and edited by: Ali Abdul Hadi Al-Maamouri
Drug Crimes in Basra ... Analysis of Reality and Future Visions for Combating It	Dr. Ahmed Ali Ahmed Al-Tamimi
Static Society and Dynamic Society ... Iraq's Paths in Confronting Population Growth	Edited by Dr. Adnan Subaih Thamer
A Guide to the Political Opposition	A Group of Researchers
Combating Corruption in Iraq ... Policy Papers	Prepared and edited by Dr. Ali Taher Al-Hamoud
Documents and facts of the Iraqi state and the American project	Qais Qasim Al-Ajrash
Dialogue and participation strategy in Iraq	Dr. Ali Taher Al-Hamoud - Ali Abdul Hadi Al-Maamouri



Youth and the business environment in Iraq	Dr. Salam Jabbar Shihab
Prevention of corruption in government contracts	Dr. Moataz Faisal Al-Abbasi
The Mesopotamian marshes and wetlands: origin, population and climate change	Hamza Sharif
The Brazilian experience in combating poverty towards a vision in long-term economic and social strategies	Dr. Lawrence Yahya Saleh - Muntadhar Salman Al-Jourani
Digital banks and easy access to finance	Dr. Falah Hassan Thuwaini





This book is the result of a project implemented by the center over the course of a year titled "Enhancing Justice in Iraq." The center worked for an entire year on this project by holding numerous focused discussion sessions with stakeholders and target groups on the topics and sectors that were identified. Over 250 people participated in these sessions, including experts, academics, decision-makers, and the target groups.

During the project implementation journey, the center worked on developing the skills and capabilities of more than 30 young men and women from various provinces in the south, center, and north of Iraq. These young individuals were trained in facilitation skills and advocacy campaign design aimed at gaining social and political support for the five issues the project focused on.

The final phase of the project culminated in an advocacy campaign that aimed to gain support and discuss the papers on a national level in provinces outside Baghdad, in partnership with many civil society organizations and associations in various provinces such as Najaf, Karbala, Babil, Anbar, Salah al-Din, and others.

