



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

Draft proposal for a Transparency Law

Series of publications by the Al-Bayan Center for Planning and Studies

Draft proposal for a transparency law

About the Center

Al-Bayan Center for Planning and Studies is an independent, nonprofit think tank based in Baghdad, Iraq. Its primary mission is to offer an authentic perspective on public and foreign policy issues related to Iraq and the region.

Al-Bayan Center pursues its vision by conducting independent analysis, as well as proposing workable solutions for complex issues that concern policymakers and academics.

Mission

The mission of Al-Bayan Center is to be a leading source of independent analysis on Iraq and a forum for informed debate on the transformations taking place in the country and the region. Furthermore, it aims at strengthening the capacity of educational institutions and civil society organizations to prepare future decision makers and experts in the fields of politics, economy, administration, education, oil and gas, and international relations, who can be relied upon to set agendas and craft new initiatives.

The Center carries out this mission by conducting research and analysis, providing grants for research and fieldwork, convening conferences and workshops, and providing training services to governmental institutions, universities and employees.

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Goals

To engage in the key policy debates concerning Iraq by contributing thoughtful, independent analysis that is based on primary research conducted by scholars and specialists.

To encourage informed debate among key stakeholders, including policymakers, journalists and academics, about the challenges affecting Iraq and the region, and to generate fresh ideas about how to approach them.

To develop strategic thinking skills in decision making and policy formation in Iraq.

To help Iraqi academics, politicians, and government practitioners

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Al-Bayan center introduction

“Corruption is not a culture. The phrase was the summary of the World Bank’s Georgian Anti-Corruption Experience report, which was translated as the first paper Al-Bayan Center published about a decade ago. Since then, Al-Bayan Center’s interest has been great in combating corruption, as what Iraq lacks in this field is several government measures, legislation, and institutions to confront this phenomenon. In this way, Al-Bayan Center has produced many paper publications, an enriching curriculum for the faculties of law and administration, and hundreds of specialized studies and research on combating corruption.

Although Iraq has suffered from dealing with the legacy of four decades of wars and political problems, which was reflected in the structure of the state and its institutions on the one hand, and in the Iraqi society and the nature of its dealings with official laws and institutions on the other hand, there is an institutional imbalance that strikes the Iraqi state and its political system reflected on the efficiency of the economic system, the effectiveness of the political system, and the system’s ability to achieve social stability, while at the last level, any social, the Iraqi citizen lacks confidence in this state, and therefore he is unable or unable to participate effectively in its decisions, once by his choice, and once for not knowing the mechanisms and participation.

Four years ago, Al-Bayan Center for Planning and Studies was interested in a special project, the Transparency Law, which aimed many objectives, including enhancing the level of prevention of corruption, which are those measures that the institutional system in the state administration lacks. It also includes enhancing the participation of citizens in the making of policies, plans, and strategies issued by the various state institutions in the three authorities, independent bodies, governorates, parties, and private sector institutions contracted with and beneficiaries of the public sector. One of the objectives of the drafting law was also to enhance citizens' confidence in the political system, which domestic and international data pointed out concern about its legitimacy (i.e. its acceptability to people) due to the weak efficiency of institutions at the time, and the worrying indicators of corruption at other times.

While proceeding with this project, the center's experts learned about rich international and regional experiences, while the drafts and proposals of applicable laws such as the Law on the Right to Information, the Law on Freedom of Expression, and Information Crimes, had a great impact on guiding the dialogues and discussions that led to the draft proposal of the transparency law, in a way that does not conflict with the aforementioned projects.

The center held many in-depth thinking workshops in which stakeholders and the decisions in the legal departments

of state institutions in the ministries, the Integrity Commission, the State Council, the Legislation Department in the House of Representatives, various parliamentary committees such as integrity, legal and economic, the judiciary, advisers to the Presidency of the Republic and ministers, academics, law experts, various unions, activists and civil society organizations active in the field of combating corruption.

The outcome of the above workshops was the drafting, amendment, and merger of dozens of legal materials proposed by experts that produced the draft end that is in your hands, which is characterized by several qualities:

- First: The legal wording of the draft is prepared within the Iraqi context and by the experts of the same institutions that produce the laws of the Iraqi state.

- Second: The draft is a proposed law and not a draft law so that the state does not assign new positions, privileges, or financial costs.

- Third: The draft is a realistic draft and not perfect, the experts have prepared the paragraphs of the draft to increase the likelihood that the parliamentary political forces will agree to pass this proposal, not that the draft is shocking to the freezing or rejection, as happened with similar drafts and proposals of laws that are still in the drawers of the House of Representatives.

Fourth: The draft guarantees the implementation of legal articles by the highest pyramid of authority and also includes open standards and mechanisms in implementation or exception.

- Fifth: The draft guarantees an important presence of academics, activists, civil society organizations, unions, the media, and the private sector in the implementation and control of state institutions.

- Sixth: The draft law guarantees the presence of citizens in the sessions of elected councils - (such as the House of Representatives and its committees, provincial councils, trade union councils, and others), or at least guarantees the publicity of these sessions, and the draft also included the “participation” of citizens from stakeholders in the formulation of policies, plans, and programs for each public institution in the country.

- Seventh: The draft guarantees reasonable penal penalties for violators, as well as protection for state employees who implement the text of the law.

It is also worth mentioning that Al-Bayan Center experts were keen to adopt the legal definitions established in Iraqi law when addressing the basic concepts in the draft proposal of the transparency law. They were also keen to direct the course of the law to ensure reasonable exposure, and periodic disclosure to the institutions concerned of their data, which is other than the path that the draft law on the right to information wanted,

for example, wanted in drawing a mechanism for those who request and search for information.

Al-Bayan Center for Planning and Studies hopes that the draft proposal for the transparency law will receive the attention of the legislative institution, and it is ready to provide all the necessary facilities to explain and clarify the draft in preparation for its approval by the House of Representatives.

We would like to express our gratitude to all those who have played a part in the development of the draft law, including officials, employees, experts, activists, and other stakeholders. We hope that the implementation of this law will serve as an effective means of preventing and combating corruption-related crimes and misdemeanors in Iraq, and contribute to the promotion of good governance practices in the country. Our goal is to create a robust legal framework that will help eliminate the root causes of corruption and promote greater transparency and accountability in all areas of public life.

Expert Committee Introduction

In recent years, transparency in administrative work has become the model adopted in many countries of the world and a demand that other countries seek to achieve by simply providing its legal and material components with the presence of the will to work according to it. This is because democratic societies intend to establish a basis for the work of state bodies and institutions according to which matters are not conducted behind closed doors, as all legislative, executive, and judicial procedures should be available to the public, to know how decisions are made and verify them easily, by knowing the identity and rules of decision-makers, which contributes to reducing the emergence of improper behaviors in the management of countries.

Adopting transparency laws is a major leap in reducing cases of corruption, as it reduces the barriers between members of society and information, allowing for scrutiny and popular monitoring, according to the Organization for Economic Cooperation and Development¹.

thus transparency is important, It is vital to enhance public confidence in the government and effectively deter and expose

1. The Organization for Economic Cooperation and Development (OECD) is an intergovernmental economic organization of 38 member States, founded in 1961 to stimulate economic progress and global trade. It is a forum for countries that describe themselves as committed to democracy and the market economy, providing a platform for comparing policy experiences, seeking answers to common problems, identifying good practices and coordinating their members' domestic and international policies.

corruption. Transparency also contributes to facilitating the participation of individuals in influencing government spending, policies, and decision-making. It means the ability to see things placed behind walls, which gives the ability to see them and reveal their reality.

The importance of transparency:

The importance of adopting transparency as a principle of managing public bodies of the state lies in the fact that it falls within the scope of indispensable means for achieving the development goals of countries working to raise the living standards of people, and implementing true democracy, And human rights protection. creating a legal environment for transparency, through which we can work to lay the foundations for an institutional state, through which the public can hold rulers accountable for their actions related to public affairs.

Transparency is also an urgent necessity for countries that aim to achieve development and democratic governance, as the adoption of their laws enhances the activation of the citizen's role in political participation, combating administrative corruption, and enhancing the legitimacy of the administration, to achieve effective economic development.

Transparency tools:

The legal regulation of transparency is based on creating legislatively approved tools through which the basic goals behind its approval can be reached, including: -

1. Publicize the decisions taken by the various forms of State bodies, with a comprehensive explanation of the reasons and objectives that led to their adoption.

2. Publicize decisions taken by the executive branch through its discretion, such as exemption from obligations or granting concessions.

3. Obliging incumbents to disclose their financial information, sources of income and property.

4. Publish political and social organizations such as parties, trade unions, organizations and federations about their various sources of financing and subject their financial accounts to scrutiny and control.

5. Informing citizens and the media of the mechanisms and procedures adopted in government departments and departments, in a clear and accessible manner.

Foundations of transparency:

The idea of transparency is based on several foundations, some of which are related to legislative frameworks, and some of which are outside this framework. To clarify the issue briefly,

it is necessary to explain the non-legislative foundations, as they are the ideas around which the legislation that regulates the subject of transparency revolves.

The most important of these foundations is related to linking the idea to the democratic system. Because there is a direct relationship between transparency and the democracy of the political system, the former is strengthened whenever the system moves towards expanding the base of democracy at all levels, leading to rule by the people for the benefit of the people in form and substance through real manifestations of this desired goal, not limited to recognizing and allowing political pluralism and the transfer of power peacefully and periodically. Rather, it turns the individual into an essential element in the decision-making process, Whenever he possesses the knowledge base that enhances his ability to express his opinion and is based on the transparency of the work of state institutions, especially the administration, as it is the closest contact to him.

Historical Background:

Highlighting government work and making it clear and known to all individuals, By making information about your activity available, it is a condition for individuals' participation in democracy, It is an indication of the good functioning of the system in countries².

2. Roy Peled and Yoram Rabin, The constitutional rights to Information, Columbia Human Rights Law Review, Vol. 42, No. 2, 2011 , p.360.

Democracy is a way of life that is not limited to the various state bodies but extends to all aspects of society. It is directed towards the effective participation of the individual in various fields, as he is an important element in them and a contributor to their various manifestations, through oversight over them. Which requires transparency in this field to meet the requirements for the success and activation of popular oversight³.

Another basis stems from the idea of democracy, the basic idea of which revolves around the ownership of information and the entity to which the right to extend control over whoever possesses this information is based on the democratic idea that requires returning to the people as the owner of sovereignty and the source of authority, as there is no rule for the people except through them, and accordingly, The official authorities, with the information and documents in their possession, are nothing more than a container for preservation and archiving that allows the citizen to retrieve them whenever he wants, because the original ownership of them goes back to them, and their presence with the authorities is only to preserve them since they acquired them by using the powers delegated to them in managing public by popular will.

3. Michel Prieur ,La convention d'Aarhus, instrument universel de la démocratie environnementale, Revue Juridique de l'Environnement ,Vol 24 , N 1,1999, p15 .

The adoption of the principle of the return of information to the people as their property has had an impact on the decisions of some regional international organizations, as the General Assembly of the Organization of American States adopted a resolution in which it affirmed the ownership of government information by members of the public as a basis for protecting the right to information and the transparency of public work. The Commission's Special Rapporteur for the Organization in his annual report (1999) also endorsed this basis, when he stated that the individual is the owner of the information and that the state, in its use and extraction of information, relies on taxpayers' money⁴.

The role of the state's public bodies in administrative documents and information is that of the holder or depositary, who is committed to preserving them, for the benefit of the original owner, which is the people.

We also find this idea stipulated in several constitutions of different countries, as the Constitution of Kenya for the year (2010) stipulated in Article (35/1) that "every citizen has the right to obtain information in the possession of the state." As stipulated in the Constitution of the Republic of Montenegro in Article (51) there of: "The right to access information held by state authorities and organizations exercising public authority".

4. Organization of American States, Report of the office of the special rapporteur for freedom of expression 1999, <http://www.summit-americas.org/Human%20Rights/Freedom-Expression-1999.htm>.

The Mexican Constitution of 1917 (amended) increased the description of the state's retention of information in Article (6/1) of it, and considered it public information, and that its retention is temporary for reasons related to the public interest, meaning that the information, since it is public, is shared between individuals. The people are like air and water. They do not belong to the state except to achieve the public interest and preserving it is one of the duties of the state towards the members of the people, therefore it cannot Enveloped Confidential or Withheld against the original owner of this information.

On the other hand, we find that other constitutions have gone further than recognizing the right, such as the Austrian Constitution of 1920, It made the information owned by professional associations available to its members only to the extent that it does not hinder the performance of its legal functions, in Article 20/4 thereof, while the 1996 South African Constitution went, Even further when he made transparency in Article (32/1) mandatory! All administrative state bodies and private legal persons whenever the information they have are required to exercise or protect any of the constitutional rights guaranteed to individuals.

Legislative establishment for transparency:

If we return to the legislative system to justify the idea of transparency, we find it distributed vertically on several levels, starting from international frameworks and ending with the legislation of countries that have adopted this idea. In the international context, the Universal Declaration of Human Rights issued in 1948 came to enshrine the human right to embrace ideas and obtain news without restriction. This indirectly indicates the necessity of respecting transparency in Article (19), which stipulates that “Every person has the right to enjoy freedom of opinion and expression, and this right includes his freedom to hold opinions without harassment, and to seek, receive, and impart information and ideas to others, by any means and without regard to the borders. He restored the International Covenant on Civil and Political Rights (1966) and Article 19 as well! The content of the previous article made the idea linked to freedom of information and its circulation, and the United Nations devoted its efforts to convening (the United Nations Convention against Corruption of 2004), which clarified the importance of transparency as a key to combating corruption. Article 10 specifically states the following:

Comparative analysis:

Each State Party shall, under the fundamental principles of its domestic law and bearing in mind the need to combat corruption, take such measures as may be necessary to enhance

transparency in its public administration, including with regard to how it is regulated, functional, and, where appropriate, decision-making processes. Article 10 then provides examples of transparency measures that Governments can take, including:-

1. Establishing procedures that enable citizens to access information related to public administrations in the country.
2. Simplifying procedures for public access to authorities.
3. Disseminate information.

At the international and regional level, there are several efforts, including the adoption of the General European Council. (1982) Declaration on Freedom of Expression and Information, which committed member States to an open media policy in the public sector, culminating in the adoption of the Council of Europe Convention on Access to Public Official Documents. (2008), at the level of the African Union, the latter adopted the African Charter on Democracy, Elections and Public Governance. (2007) Article 10, paragraph 2, of the Charter stipulates: “One of the objectives of this Charter is to promote the creation of conditions conducive to the promotion of citizen participation, transparency, access to information and freedom of the press.” “ . The American Commission on Human Rights of the Organization of American States (OAS) proclaimed the American Principles on Public Freedom of Expression (2000): “We are convinced that ensuring access to information held by

the state will ensure greater transparency and accountability of government activities and the strengthening of democratic institutions.”

If we turn to the national legal system, we find that the constitutions of many countries have approved the right of individuals to access as well as enacted various legislation in this aspect, we find constitutionally the text of the Portuguese Constitution of 1976 in Article. (268/2) Citizenship as a condition of access to and access to administrative documents and records, without prejudice to the laws on the protection and regulation of internal and external security, and in the same context and with the same controls and conditions came Article (105) of the Constitution of Spain of 1978.

The Belgian Constitution of 1831 is enshrined in the article. (32) The State guarantees citizens’ right to access and obtain copies of administrative documents, leaving to the law the question of regulating cases and circumstances in which the administration refrains from making information available as determined by the will of the competent authority to legislate the House of Representatives and Senate, as well as the Constitution of the State of Pakistan of 1973 and the amendment of 2015, as enshrined in Article (19/a) The State shall guarantee citizens access to all matters of public interest, regulated by a law governed by the principle of reasonableness in restriction or regulation.

As for the constitutions of the Arab countries, the Moroccan Constitution of 2011 came in Article. (27) It is explicit in granting the right of access to information held by public administrations and elected institutions as well as moral persons entrusted with the tasks of managing public utilities, or the Egyptian Constitution of 2014 when stipulated in Article. (68) “Information, data, statistics and official documents belong to the people, and disclosure from their various sources is a right guaranteed by the State to every citizen, and the State is obliged to provide them and make them available to citizens transparently, and the law regulates the controls of access, availability and confidentiality, rules of deposit and preservation, and grievance against refusal to give them, and also determines the penalty for withholding information or deliberately giving false information” The Tunisian Constitution of 2014 stipulates in Article 15 that “public administration in the service of the citizen and the public interest shall be organized and shall operate in accordance with the principles of neutrality, equality and continuity of the public facility, and in accordance with the rules of transparency, integrity, efficiency and accountability.”

As for the legislation adopted by various countries, Sweden adopted in 1766 a basic law guaranteeing freedom of the press, and together with other documents formed the Swedish Constitution in time, and the legislature formulated the rule of transparency by giving all citizens the right to penetrate or access to official administrative documents and under the

conditions specified by a law enacted by the legislature.⁵

Article 15 of the Declaration of the Rights of the French Citizen of 1789 stipulates “the right of society to demand explanations from every civil servant about his administration.” This was followed by the passage of the 17-78 Law of 1978 on Automated Media, Files, and Freedoms and the provision of access to individuals and the protection of their private lives, as well as the 753-78 Law on the Development of the Relationship between Individuals and Management, which regulated the process of access to documents held by the administration, while in Japan, the principle of transparency has become legally protected under the Disclosure Law. (1999), and in the year (2001) expanded the scope of transparency to include private companies that provide public services and other countries that approved the idea of transparency, and if we count the number of laws in the different countries of the world we find that there are. 119 States have adopted laws on freedom of information and transparency in administrative documents.

Hence, the existence of a legal organization that regulates the proactive dissemination of information as a precondition for transparency is an integral part of Iraq commitment to meet the requirements of the International Convention and harmonize its national legislation with its provisions after the

5. The Law on the Republic of Iraq's Accession to the United Nations Convention against Corruption was published in the Iraqi Fact Sheet, No. 4047, dated: 30/08/2007.

law of accession to it was enacted by Law No. 35 of 2007. This leads us to question the adequacy of Iraq legislative system to achieve transparency?

The legislative system lacks an integrated law that regulates the mechanisms for ensuring that the minimum and maximum limits are set to oblige bodies and institutions to disclose the information they have to the public. Although there is a set of laws that include adopting the rule of transparency for administrative work in Iraq, we will review them to prove that there is no complete separation. Between transparency as a term and the national legislative system, even though it constitutes a very small aspect of achieving complete transparency, we need to support an integrated legal system in this context, and with a unified legal framework that brings together its goals, means, and organizing mechanisms in a single legal code that enhances the chances of its success and achieving the goals. It is hoped that it will be placed under legal regulation.

Referring to the legal system in Iraq.

Iraqi contextual analysis:

We find that several legislations bear some aspects of transparency, the most important of which is what is stated in Article (38) of the Constitution, which stipulates freedom for freedom Expressing opinion by all means, and freedom of the press, printing, advertising, media and publishing.

In addition to what was stated in the amended Law of Publication in the Official Gazette No. (78) of 1977, which stated in the reasons for its issuance that facilitating public knowledge of the legal rules regulating society is one of the conditions for the establishment of a modern, democratic state, as the Ministry of Justice was entrusted with the task of issuing the Official Gazette, Provided that all laws and texts of international treaties, as well as regulations issued by the executive authority, decrees issued by the President of the Republic, as well as internal regulations and instructions, and everything that legislation stipulates must be published in the official newspaper, are published there. Justice requires individuals to know the obligations imposed on them.

We find that the Integrity and Illegal Gains Commission Law No. (30) of 2011, as amended, enumerated in Article (3) the work carried out by God. In preventing and combating corruption by adopting transparency in governance affairs, at all different levels, it was also entrusted with the issue of developing a culture of uprightness and integrity and adopting transparency and submission to oversight and accountability through the awareness programs it prepares in this context, in addition to obliging it, through the head of the authority, to submit a report. Annually to the House of Representatives and the Council of Ministers, including its activities and achievements in combating corruption, as well as its efforts to develop a culture of transparency and integrity, while working

to make the report available to the media and the public⁶.

The same applies to the Federal Office of Financial Supervision, which stipulates that (28) of its Law No. 31 of 2011 amending the Council of the Audit Bureau to submit an annual report to the House of Representatives containing the results of the implementation of its annual plan and the opinions, observations and proposals that go into the financial, administrative, legal and economic aspects Evaluating government actions regarding transparency and effectiveness in revenue collection and public expenditure, In addition, it is possible to submit a report on important matters in the field of financial, administrative and economic control, which it may publish after obtaining the approval of the House of Representatives.

The Office also publishes all supervisory and audit reports that are completed by it and provides them to media correspondents except with regard to national security, where the approval of the House of Representatives is required before publication, and the President of the Office may also issue a resolution that includes the publication of reports through various media after obtaining the approval of the Financial Supervision Council.

One of the most important laws that provide access to administrative documents in Iraq is the Preservation of Documents Law No. 37 of 2016, which aims to preserve all documents belonging to the three authorities of the state in

6. Article 26 of the Integrity Authority Act No. 30 of 2011, as amended.

addition to everything related to the cultural heritage of the community or related to the history of Iraq, where Article (3) of the law divided the documents into:

1. Public documents: May be viewed by anyone with an interest.
2. Special Documents: These can only be viewed with the consent of the parties specified by law.
3. Confidential documents: These cannot be disclosed to affect the security of the state or the damage that may result from disclosure.

Access to these documents is linked to the issue of their deportation after the passage of the specified periods from the departments that held them to the National House of Books and Documents, as part of the cultural heritage and administrative archive of the Iraqi state.

This legislative system, despite its importance in the field of enhancing transparency, is no longer sufficient to meet the requirements of achieving the goal of citizens' freedom of access to information sources so that they can freely choose and decide. The constant and real flow of information, the clarification of administrative decision-making methods and procedures, and the demonstration of accountability for inefficiencies or irregularities in an inexpensive manner have become a common asset in describing the state as a democracy.

Therefore, there had to be an effort to work on a draft law to regulate transparency legislatively and serve as a basis for freedom of information in the Iraqi state.

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Proposed Transparency Law

In the name of the people

Presidency of the Republic

Resolution No. ()

Based on what has been passed by the Council of Representatives and ratified by the President, pursuant to the provisions of the (first) paragraph of article 61 and (third) paragraph of article 73 of the constitution

The President of the Republic decided to pass the law (transparency)

No. () of the Year

Article 1: For the purposes of this law, the following expressions shall mean the following:

First- Transparency: Transparency: Disclosure of information and procedures of state departments and other entities in a manner that enables the public and individuals to access them in accordance with the law.

Second - Information: Data, resolutions, documents, and texts, whether in written, audible, visual, or computational form, within state departments and other entities.

Third - Confidentiality: Information that is not disclosed in accordance with the law

Fourth - State departments: Federal authorities and their components, including ministries and independent entities, entities not affiliated with a ministry, and the councils of governorates not incorporated into a region, as well as provincial, judicial, and regional departments and any entity that contributes to or participates in the state's budget or capital.

Fifth - Other Entities: The mixed sector, cooperative sector, private sector, non-governmental organizations, unions, syndicates, associations, and political parties, and any entity not covered by the definition of state departments.

Sixth - Publication: Displaying information to society in a format that is accessible and general, using any means possible.

Article 2: This law aims to achieve the following:

First: Enhancing Public Trust in the Political System

Second: Supporting Citizen Participation in Public Affairs and Decision-Making

Third: Achieving Good Governance in State departments and Other Entities through the Application of the Principle of Accountability

Fourth: Consolidating Transparency in State departments and other entities and elevating It in All Spheres

Fifth: Mandating State departments and other entities to disclose their procedures and available information

Article 3: this Law seeks to achieve its objectives using the following means:

First: Streamlining procedures for information disclosure

Second: Periodically updating information and making it available in accordance with the law

Third: Establishing legal safeguards to protect information providers

Fourth: Developing and implementing policies and measures that enhance transparency

Fifth: Classifying information to provide as many opportunities for access as possible

Article 4:

First; Establishment of a committee named (Higher Committee for Transparency), hereinafter referred to as the Higher Committee, under the chairmanship of the Prime Minister or one of his deputies, and the membership of the following:

1- Members from state departments in the official capacity. These members include:

- a. Minister of Justice (Member)
- b. Head of Federal Commission of Integrity (Member)
- c. Head of Federal Board of Supreme Audit (Member)

- d. Head of General Prosecution (Member)
- e. Representative of the Council of Representative, with special status (Member)
- f. Representative of the Presidency of the Republic, with special status (Member)

2- Members from other entities in a secondary capacity shall be invited periodically by the committee, ensuring their participation in discussions, without the right to vote on decisions, these members include:

- 1- Representative of non-governmental media (Member)
- 2- Representative of active non-governmental organizations (Member)
- 3- Representative of the private sector (Member)
- 4- Representative of syndicates, vocational unions and associations (Member)

Second: In the absence or inability of the High Committee Chairman to attend, for any reason, the Vice Chairman shall assume his duties.

Third: the Higher Committee shall undertake the following tasks:

- 1- Development of plans and general programs to achieve transparency.
- 2- Review of plans proposed by state departments and other entities.

3- Monitoring the implementation by state departments and other entities of the provisions of this law.

Fourth: The High Committee may seek assistance from a number of specialists and employees to carry out its duties in accordance with the law

Article 5:

The High Committee shall regulate its work through instructions issued by the Committee's Chairman, taking into consideration the following:

First: The Committee shall hold at least one meeting monthly.

Second: The quorum for High Committee meetings shall be achieved with the attendance of the majority of its members.

Third: Decisions in the High Committee shall be made by a majority of the present members, and in case of a tie, the side supported by the Chairman of the Committee shall prevail.

Fourth: The High Committee shall issue an annual report to the Cabinet on the progress of implementing the provisions of this law, including implemented decisions and measures, areas of deficiency in the work of state departments and other entities, and it shall be made available to the public and the media.

Article 6:

First: The High Committee shall establish subcommittees in state departments to implement its decisions.

Second: Other entities shall adjust their conditions to ensure the implementation of the provisions of this law and the decisions of the High Committee.

Article 7:

Subcommittees shall be committed to monitoring and detecting instances of negligence or refusal to implement the provisions of this law. It shall submit regular reports to the High Committee.

Article 8:

First: State departments shall commit to publishing and announcing information on their official website, detailing their organizational structure, staff, movable and immovable properties, annual budgets, and closing accounts, and whether they have been approved by the Federal Board of Supreme Audit, provided that information shall be continuously updated.

Second: Other entities shall disclose their certificates of establishment, detailed organizational structures, certified financial accounts according to the law, movable and immovable properties, provided that information shall be annually updated.

Third: The private sector, which does not engage with state departments, is exempted from the provisions of the second paragraph of this article.

Article 9:

State departments are committed to publishing the nature of the services they provide to individuals, along with the mechanisms, enabling understanding and access to details. This information shall be made available on their official website, including all employment and job opportunities.

Article 10:

State departments shall commit to publishing the following:

First: Periodically updated statistics about their financial and accounting status, including donations and grants.

Second: Statistics and information about their legal status, including both criminal and civil lawsuits, as well as arbitration cases brought by or against them.

Third: Their policies, plans, programs, and future projects.

Article 11:

Individuals have the right to access and disseminate non-confidential information related to the activities and services of state departments and other entities.

Article 12:

First: State departments and other entities refrain, explicitly and in written form, from publishing information in the following cases:

- a. Endangering the internal and external security of the state.
- b. b. Harming the financial stability of the state.
- c. c. Endangering the lives of individuals.
- d. d. Undermining the integrity of criminal or administrative investigation procedures.
- e. e. Compromising trade, industrial, or banking secrets in a way that disrupts the principle of fair competition.
- f. f. Personal information of individuals that they do not wish to disclose without their consent.

Second: The High Committee for Transparency shall issue instructions specifying the grounds for prohibiting the publication of information according to the provisions of the (first) paragraph of this article.

Article 13:

First: Legislative authority sessions and councils of governorates not incorporated into a region shall be publicized in full detail regardless of the topic being discussed.

Second: Sessions of syndicates, unions, and elected associations shall be public, and their decisions shall be published within three days of their adoption.

Third: Councils stipulated in the (First) and (Second) paragraphs of this article shall enable citizens of attending its public sessions.

Article 14:

The councils stipulated in Article 13 of this law commit to announcing, in each session, whether a quorum is achieved or not, listing the names of attendees and absentees from the session, declaring the names of individuals who voted in favor, against or abstained from voting, and whether required majority for voting has been achieved or not.

Article 15:

The Council of Representatives' exercise of powers shall be subject to transparency according to the following:

First: The procedures of legislation, public discussions, readings, and voting until the enactment of the law and its submission to the presidency of the republic.

Second: Recommendations of parliamentary committees.

Third: Discussion of treaties and international conventions and the issuance of laws ratifying or acceding to them.

Fourth: The appointment of those specified in the fifth paragraph of Article 61 of the Constitution and effective laws, by announcing their names and providing details of their personal and professional backgrounds, along with the names that voted in favor, against, or abstained.

Fifth: The accountability and dismissal of the President and his deputies.

Sixth: The procedures of oversight in the Council of Representatives, including the publication of requests, inquiries, discussion topics, and interrogations to the public. In addition to the responses issued through official letters, the results of these discussions, and correspondences according to the law.

Seventh: The vote for confidence or no-confidence, whether it concerns the Cabinet, the Prime Minister, or ministers and those subject to a vote of confidence or dismissal from their positions.

Eighth: The replacement of members of the Council of Representatives upon the expiration of their term for any reason.

Ninth: The dismissal of the Council of Representatives' Presidency members.

Article 16:

The Council of Representatives shall publish the federal general budget bill and closing accounts before endorsement. It shall also announce the measures it has taken, related to the reallocation of funds between tabulations and chapters of the budget, as well as cases of reduction or increase in amounts.

Article 17:

Transparency is ensured in any case where the Council of Representatives is dissolved by announcing the names of the members calling for the dissolution or the request submitted by the

Prime Minister after obtaining the President's approval. These requests shall be presented to the public.

Article 18:

First: The components of the judicial authority shall publish electronic data available to the public, including statistics on criminal and civil cases, in annual reports according to instructions issued by the Higher Judiciary Council.

Second:

a. The State Council shall publish statistics on the number of cases before the Higher Administrative Court and cases brought before the Administrative Judiciary and Employees Judiciary courts in annual reports.

b. The State Council shall regularly publish its resolutions, opinions, and fatwas.

Article 19:

First: Political parties shall publish their bylaws and financial data, including expenditures, revenues, grants, donations, moveable and immovable properties.

Second: Political parties shall announce the members of their leadership body according to their bylaws, including their personal backgrounds and their headquarters, through their official website.

Article 20:

The following entities shall commit to the following:

First: The Companies Registrar at the Ministry of Trade shall publish a list containing the names of local and foreign companies, as well as the names of their shareholders, founders, and their agents, along with a statement specifying the company's activities and the extent of its dealings in both domestic and foreign markets.

Second: The Ministry of Planning shall publish the names of national companies, along with the names of their shareholders, founders, and agents, and shall announce the activities and tenders in which the company is involved.

Third: The Department of Non-Governmental Organizations at the General Secretariat of the Council of Ministers shall publish the names of local organizations operating in Iraq, along with the nature of their work and activities.

Fourth: Ministries shall commit to announcing associations, consultancy offices, and funds affiliated with them, providing details regarding their activities and the extent of their transactions.

Fifth: Entities specified in this article shall be subject to the supervision of the Higher Committee for Transparency.

Article 21:

The Companies' Registrar Authority at the Ministry of Trade shall publish the names of companies that have lost financial capacity to conduct their activities. It shall also announce the names of companies that make false and deceptive advertisements to the public and blacklisted companies. Furthermore, it shall commit to announcing the names of active and inactive companies, as well as companies under establishment.

Article 22:

The Higher Committee for Transparency shall coordinate with the Ministries of Defense and Interior, the Popular Mobilization Commission, the National Security Service, the

National Intelligence Service, the Counterterrorism Service, and the National Security Advisory to identify information classified as security secrets.

Article 23:

Security authorities shall commit to disclosing information related to their administrative work, legislation, regulations, instructions, and the limits of their powers in dealing with individuals. They shall coordinate with the judiciary to monitor individuals, communications, written and electronic conversations. The monitoring entities shall be subject to supervision by a subcommittee formed by the Higher Committee for Transparency, linked to the Commander-in-Chief of the Armed Forces or the Chairman of the Higher Committee for Transparency.

Article 24:

Competent State Departments shall publish the names of organizations they prohibited to deal with, to raise public awareness and explain the reasons for prohibiting dealings with them.

Article 25:

Without prejudice to any more severe penalty stipulated by the Penal Code or any other law, anyone who does the following shall be punished by imprisonment for a period not exceeding (6) six months, and/or a fine:

First: Alters or conceals information in their possession.

Second: Deceives, evades, or refrains from publishing information.

Third: Refuses to provide information despite its classification as publishable.

Fourth: Providing or publishing information by the responsible official is not considered a crime punishable by transfer or dismissal from position.

Article 26:

The Prime Minister shall issue the necessary instructions to facilitate the implementation of this law.

Article 27:

Any provision conflicting with the provisions of this law shall not be effective.

Article 28:

This law shall come into effect 60 days after its publication in the Official Gazette.

Justifications

In order to promote the principle of transparency, prevent corruption, improve legislations and ensure the provision of services to citizens, their knowledge and participation in public affairs and decision-making, facilitate and clarify administrative procedures to the public and the need for disclosure in pursuit of open government, in compliance with international conventions and treaties ratified or acceded to by Iraq in order to strengthen the democratic system and citizens' trust in the political system and to oblige state departments and other actors to publish and publicize their actions to the public and to consolidate the principles of good governance.

This law has been legislated

Four years ago, Al-Bayan Center for Planning and Studies was interested in a special project, the Transparency Law, which aimed many objectives, including enhancing the level of prevention of corruption, which are those measures that the institutional system in the state administration lacks. It also includes enhancing the participation of citizens in the making of policies, plans, and strategies issued by the various state institutions in the three authorities, independent bodies, governorates, parties, and private sector institutions contracted with and beneficiaries of the public sector. One of the objectives of the drafting law was also to enhance citizens' confidence in the political system, which domestic and international data pointed out concern about its legitimacy (i.e. its acceptability to people) due to the weak efficiency of institutions at the time, and the worrying indicators of corruption at other times.