

# The Iraqi Criminal Policy in Curbing Financial and Administrative Corruption Through Economic Reform

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## ABSTRACT

The economic growth that has accompanied the comprehensive renaissance of most countries of the world has resulted in several crimes that often hinder it and inhibit its ambition and deny it the advancement and access to the use of development and the resources available for optimal use, which is the task of economic development and its role in building a society of sufficiency and well-being. The crimes of administrative and financial corruption are one of the most important obstacles to economic development. Corruption is a complex phenomenon that includes economic, social, cultural and political dimensions. Consequently, it may have multiple reasons, such as inconsistent laws, social life burden, and the lack of effective monitoring. Consequently, most cases of corruption have repercussions, the most important of which is its negative impact on development, thus transforming its objectives, squandering resources and capabilities, impeding progress, undermining the effectiveness and efficiency of development processes and thus creating a state of anxiety and dissatisfaction.

To maintain integrity and combat corruption, it requires comprehensive reform programs, with strong political support, and a special strategy to identify the problem and remedy its causes. This requires government agencies' cooperation, the participation of society and its institutions, the inculcation and enhancement of ethical principles and values in management and society, and benefiting from international experiences.

This study attempts by adopting modern mechanisms to measure the size of the phenomenon of corruption in government institutions, so in order to address a problem, we must define the problem, and then limit it and measure it to know its size and the extent of its penetration and spread in the specified places, as well as corruption, so we must know what corruption is?

What is the extent of its penetration into the structure of the Iraqi government? Which government facilities are the most corrupt? Since many studies have discussed the concept of corruption, its forms, types and effects, so the researcher found that it is necessary to conduct surveys to determine its size as it happens in developed countries. The means for measuring and determining the extent of corruption are appropriate for the Iraqi environment.

We reached the Integrity Commission's specific competence and found that all the crimes that fall within the jurisdiction of the Integrity Commission are those crimes listed in the Penal Code. Most of them are related to the public office, except that it is noticed that the authority's jurisdiction does not include moral crimes committed by the employee or the person charged with public service. We recommend the Iraqi legislator include such cases with the Authority of the Authority because most of these crimes lead to harming the public office's reputation and squandering public money.

**Keywords:** criminal policy, economic reform, financial corruption, administrative corruption, integrity commission.

### Introduction

The concept of economic reform has emerged on the international level in the capitalist system's corridors in the last fifty years. The contents of economic reform in its various frameworks were one of the modern concepts that ran as invitations from the International Monetary Fund. Soon, it turned into a global economic phenomenon that pushed capitalist regimes and international economic organizations towards their application and expansion of their role.

In Iraq, international bodies and donor countries have escalated calls since 2003 to implement economic reform steps, but they collided with the enormous devastation caused by Iraq's US occupation. Nevertheless, these trends continued and found an (official) outlet for them through the intervention to address the Iraqi debt crisis, and then imposed part of the formulas of its intervention by stipulating a reduction in support for the ration card items and raising the prices of oil derivatives in exchange for the contribution to reducing Iraqi debts and in cooperation and coordination with the Paris Club.

The research starts from the hypothesis that "the required national economic reform process in Iraq is supposed to be within the framework of a carefully studied scientific plan in accordance with the requirements of the Iraqi economy and society, and to be an integral whole of comprehensive reform that extends to the political, social and security aspects ... and others in Framework for a well-defined integration process".

### **The first requirement: the concept of economic reform and its relationship to the preventive criminal policy**

(The criminal policy reveals and organizes in a logical way the best possible solutions to the various problems of the subject and

the problems raised by the criminal phenomenon)<sup>1</sup>.

It is defined as (the science that includes the study and appreciation of social interests that appear worthy of criminal protection)<sup>2</sup>

It is defined as a set of principles that outline a society in a certain place and time, its basic trends in criminalization and combating the phenomenon of crime and its prevention and treatment of criminal behavior.<sup>3</sup>

Criminal policy is also known as (a set of plans that the state sets to prevent crime and respond to it, providing security and safety to the citizen, as it is a policy that has limited goals that it aims to achieve through a specific strategy)<sup>4</sup>

It also knew that it is (a branch of knowledge that defines the principles that must be followed to prevent crime by measures taken, whether at the individual level or at the collective level, and the principles that must be followed in the treatment of criminals in order to avoid their crimes again)<sup>5</sup>

Many sources and researches have dealt with this concept through study and analysis, perhaps the most important of which is that it is a comprehensive and continuous economic, social, political, and cultural process that calls for disengagement between economic and social variables and reformulating them again so that this leads to the emergence of new ideas, values and

<sup>1</sup> Sorour, Ahmed Fathy, *The Fundamentals of Criminal Policy*, Cairo Dar Al-Nahda Al-Arabiya, 1973 p. 15

<sup>2</sup> Suleiman, Abdel Moneim, *Criminology and Punishment*, Al-Halabi Legal Publications, 1st Edition, 2005, pg. 166

<sup>3</sup> Al-Sarraj, Abboud, *Criminology and Punishment*, That Al-Salasil for Printing and Publishing, 1990, p. 79

<sup>4</sup> Al-Awji, Mustafa, *Lessons in Forensic Science*, Al-Halabi Human Rights Publications, 2017, p. 137

<sup>5</sup> Behnam, Ramses, *The Criminal in Training and Correction*, Knowledge Institute, Alexandria, 2008, p. 265.

economic and social relations that lead to an increase in economic growth rates and improvement Living for citizens "1

It is also "an expression of the policies that work to make domestic expenditures in harmony with the available resources by creating a combination of financial, monetary, commercial and exchange rate policies to ensure that there is an aggregate demand that matches the composition of the supply and by adopting measures that stimulate the sectors of goods and services as well as adopting economic policies. Partial aimed at improving efficiency in the use of resources by removing price distortions, enhancing competition and easing administrative control."2

"Reforming" is a comprehensive economic, social, political and cultural process that includes all productive and service sectors, and all social groups and strata, so that everyone is affected and influenced by the reform steps. And the content of economic reform.

### **The second requirement: Developments in combating financial and administrative corruption in Iraqi legislation**

This research gains its importance from the seriousness of the topic it deals with. Administrative and financial corruption affects the individual and the citizen's relationship to the authority that controls matters such as the public office, the public interest, etc.

<sup>1</sup> Ali Kanaan, Banking Reform in Syria, The Economic Sciences Association in Syria, a research published on the International Information Network (Internet) at the link: [www.http://mafhoum.com/syr/articles\\_03/kanaan4-10.htm](http://mafhoum.com/syr/articles_03/kanaan4-10.htm)

<sup>2</sup> The second strategic report, (Babel: Hammurabi Center for Research and Strategic Studies, June 2009), p. 221  
[www.http://mafhoum.com/syr/articles\\_03/kanaan4-10.htm](http://mafhoum.com/syr/articles_03/kanaan4-10.htm)

And the spread of these crimes and this deadly disease affects this organic and important relationship in the proper continuity of the government's work, in addition to its impact on the overall economic, political, social and cultural conditions surrounding society, and it is important to develop effective solutions to this social dilemma to limit its spread and continuous increase.

It has even become of the utmost importance to address this crime, especially with its simultaneous attempts at reform and the attempt to eliminate corruption in government agencies in Iraq, all by explaining the methods of combating it and its punishment approved by the Iraqi legislator and in Islamic law.

And it has become a scourge that gnaws at the joints of the state despite the presence of the legal articles that govern it in both the Iraqi penal code in addition to the institutions and bodies established to combat it. However, this crime has developed and has become practiced at high levels and modern methods that are difficult to detect and punish the perpetrators in addition to the development of these crimes3, so that It has become one of the organized crimes that consist of several parties that they carry out, i.e. participate in its commission, which has earned it the power not to disclose it except through modern methods and methods or recognition by its perpetrators. They take over the tasks of managing the state's affairs through its institutions, and for this, we have come across these problems and have addressed them in this discussion.

And Transparency International indicated in the Global Report on Corruption for the World 2016 that Iraq is ranked No. 178 in which it shares with the State of Myanmar,

<sup>3</sup> Nidal Al-Olayan, Administrative and Financial Corruption in Iraq and Its Economic Effects, An-Nahar Newspaper (Al-Baghdadia), Issue 34, February 2012, p.174

and it is the second in terms of corruption in the world, which comes after Somalia. In other words, Iraq is the third most corrupt country in the world, according to Transparency International. Despite the reservations expressed by the Integrity Commission about the experts who included their personal views and opinions, it is an indicator that should be paid attention to and taken seriously.<sup>1</sup>

The Integrity Commission is considered one of the most important institutions that fight corruption and the Integrity Commission Law No. (30) of 2011 as well as the First Amendment to the Federal Integrity Commission Law No. (30) of 2019 and the purpose of establishing this body and according to what is stated in the first part of the order is to apply anti-corruption laws and standards Public service, proposing additional legislation when necessary, and strengthening the demand for an honest and transparent leadership that is responsible and accountable, and among the most important duties of this body is to verify which one referred to the articles/corruption case and the meaning of a corruption case. According to the matter as a criminal case, according to what is mentioned in the section that is considered corruption, The authority also issues binding regulations requiring officials to disclose their financial interests, according to the section.

So we can summarize the tasks of the Integrity Commission in the fight against corruption is to investigate suspected corruption cases that are practiced by members of the Iraqi government, such as accepting gifts and bribes, using favoritism methods and discrimination on an ethnic, sectarian or tribal basis in dealing or using public funds other than for the purposes assigned to it and exploiting official power

and influence. To achieve personal interests, set principles and standards for ethics contained in the Code of Professional Conduct, adopt transparent standards to reveal the financial interests of senior state officials, and prepare awareness and educational programs for the masses to demand a fair and impartial government that is subject to accountability, enactment of the legislation, amendments to laws, or any measure, depending on the circumstances, to eradicate corruption.

It is worth noting that the commission performs its duties as a constitutional institution and an independent and principal body in Iraq in the field of corruption and is subject to exclusive oversight by the House of Representatives, and this is what Article 102 of the Constitution stipulates, and this is what ensures that the commission carries out its duties fully.

And by enhancing the people's trust in the Iraqi government through officials disclosing their financial interests and other programs, and by developing its culture in the government and in the private sector, personal integrity, public service ethics and accountability are valued through public awareness and education programs.<sup>2</sup>

The commission may develop and propose enacting additional legislation, issuing regulations that are authorized by this matter, and carrying out any action it deems necessary and appropriate to achieve its objectives<sup>3</sup>

<sup>1</sup> OECD•Private Sector Development in the Middle East and North Africa•Supporting Investment Policy and Governance Reforms in Iraq•2007-2008

<sup>2</sup> Abdullah Salem Ali Hammouda, Administrative and financial corruption and ways to confront it criminally, a comparative study, the Emirati researcher, Sharjah, 2011, p. 178

<sup>3</sup> El-Salah, Mohamed Soliman, "Utilizing Control and Risk Management Tools to Serve Corporate Governance," Research and working papers of the first Arab Conference on Internal Auditing in the Framework of Corporate Governance, Cairo, 2005, p. 5

### **The third requirement: the Integrity and Graft Law**

Law No. (30) of 2019<sup>1</sup> was enacted, which is the law of the first amendment of the Integrity Commission Law No. (30) of 2011 where the name of the Commission on Integrity was amended to become (the Integrity Commission Law and Illicit Gain) , The new amendment to the law introduced new crimes and considered them among the crimes of administrative and financial corruption, as it is considered the case of corruption in the criminal lawsuits that are being investigated in connection with the crime of theft of state funds, bribery, embezzlement, graft, and employees exceeding the limits of their jobs following Articles 328, 329, 330, 331, 332, 334 and 335. And 336, 338, 340 and 341 of the Iraqi Penal Code No. 111 of 1969 as amended.

Corruption is a case of corruption crimes, including breach of trust committed by non-governmental organizations granted the status of public benefit and by federations, trade unions and professional associations in which the state contributes to its funds or whose funds have been granted the status of public funds or whose affiliates have been granted the status of those charged with public service and non-governmental organizations are civil society organizations. And professional unions such as the bar association, the medical union, the engineers union, or others, Among the professional unions formed according to the law and associations such as the housing association and unions such as the General Federation of Trade Unions. Corruption cases include bribery crimes in the national and foreign private sector in actions related to the public sector and foreign employee bribery crimes, in recognition of the Iraqi legislature in protecting the public office from the weak

and a contribution to strengthening the culture of integrity In the private sector and that the person assigned to submit a statement of financial interests is legally obligated to submit a financial disclosure, and that the children of the taxpayer are his minor children, unmarried children and those who have not been financially independent of him even if they are married or have reached the legal age.

And what is meant by illegal gain is every increase above (20%) annually in the money of the taxpayer or the money of his spouse or not commensurate with their regular resources and the taxpayer has not proven a legitimate reason for this increase, and it is considered an illegal gain the money that a natural person has obtained in conjunction with the taxpayer by decree. Judicial and conflict of interest are every situation in which the taxpayer, spouse, children, or those with a second-degree kinship have a material interest that conflicts with his position or job.

The Integrity Commission undertakes the preparation and implementation of the general anti-corruption policy and the head of the Integrity Commission shall be with the rank of a minister and appointed upon the proposal of the Council of Ministers and with the approval of the House of Representatives for five years. The competent judge and its president must provide the requirements and requirements for their use to detect corruption crimes, prevent them, or prosecute their perpetrators.

The amendment added to those covered by the financial disclosure the heads of associations, federations, trade unions, organizations, founders and heads of political parties, chairmen and members of the boards of directors of public and mixed sector companies, the chairperson and members of boards of directors and directors of departments in the National Investment

<sup>1</sup> The new amendment to the Integrity Law was published in the official Iraqi newspaper Al-Waqi'a, Issue (4568) on 12/23/2019



Commission and investment authorities in all governorates.

The authority may assign any employee or person charged with a public service that it deems necessary to disclose his financial responsibility based on news associated with credible evidence of illegal gain in his money, the money of his wife, or the money of his children that is inconsistent with their regular resources, and it may also assign this to those suspected of obtaining funds jointly with the taxpayer. The authority may assign any political organization or non-governmental organization, union, union, or association to prove the legitimacy of the sources of funding, donation, and spending in accordance with the rules followed in the disbursement taking into account its internal regulations, and the taxpayer is obligated to submit a statement of financial interests within (90) days from the date of assuming the position.

During January of each year, and if the commission finds a large increase in the money of the taxpayer or the money of his spouse or children that is not commensurate with their regular resources, they must summon the taxpayer to inform him of this and clarify the increase. The investigation of the increase shall be referred to the investigating judge.

The Financial Supervision Bureau checks and examines the financial disclosure forms for the president and vice president of the Integrity Commission and stops the payment of the taxpayer's salary and allowances if he submits the form within the legally stipulated period, and whoever refuses to submit the financial disclosure form without a legitimate excuse is punished with imprisonment for a period not exceeding one year. The punishment shall be imprisonment for no less than seven years, With an acceptable equivalent to the value of the illicit gain, the court shall rule to refund the value of the illicit gain, and the convicted

person shall not be released. The criminal lawsuit's expiration does not preclude death without implementing the judgment to return the illicit gain. Information related to the form and the penalty shall be imprisonment for no less than one year for anyone who deliberately conceals required information in the form or provides false information that has been proven related to the realization of illegal gain.

It is forbidden for the employee or assigned to public service to appoint someone related to him to the second degree in the permanent jobs under his management. Workers in the Integrity Commission are prohibited from working in the private or mixed sectors, and according to the amendment of the Integrity Commission Law, the law on the illegal gain at the expense of the people No. 15 is abolished. ) of the year 1958.

Other crimes have been added to administrative and financial corruption crimes, which are the crime of stealing state funds, graft, employee overstepping the limits of their jobs, and damaging public money in Articles 340 341 of the Penal Code. It is considered a corruption crime, including a breach of trust committed by non-governmental organizations granted status. The public interest and in unions, trade unions and professional societies whose funds the state contributes to or whose funds have been granted the status of public funds, bribery crimes in the national and foreign private sector in actions related to the public sector and foreign employee bribery crimes. Heads of associations, unions, unions organizations, founders, and heads of political parties are obligated by submitting a financial disclosure, as well as the chairperson and members of the boards of directors and directors of the departments in the National Investment Commission and the investment authorities in all the governorates, the directors of all departments in the governorates not

organized in a region, and the heads and members of the board of directors of public and mixed sector companies.

The payment of the salaries of the person charged with submitting the financial liability shall be stopped if he does not submit the form within the legally specified period, and the commission may assign any political organization, non-governmental organization, union, union, or association to prove the legitimacy of the sources of funding and donation. It shall be punished with imprisonment for a period not exceeding one year. Submit the form without a legitimate excuse, every taxpayer who is incapable of proving the legitimate reason for the large increase in his money, his wife's money, or his children's money shall be punished by imprisonment for no less than seven years and an acceptable equivalent to the value of the graft. The court shall rule to refund the value of the illicit gain. The graft value.

The expiry of the criminal case with the death does not prevent the implementation of the ruling for the restitution of the illicit gain, and a penalty of imprisonment for not less than one year shall be imposed on every taxpayer who intentionally conceals information required in the form or provides false information that is proven to be related to the illicit gain. (20%) annually in the taxpayer's money or the money of his wife or children that are not commensurate with their regular resources and the taxpayer has not proven a legitimate reason for this increase. The scientific investigation and investigation devices and machines, gathering evidence, and summoning the concerned persons for investigation with them directly after the issuance of a decision by the competent judge. 15) Of the year 1958.

#### **Fourth requirement: the beginnings of economic reforms in Iraq**

The problems afflicting the country were not the result of a short period, but rather a long-term cumulative process. Its power increased during the previous regime's rule after political factors exercised their effect on the economic movement. The economic problems were due to mishandling of economic resources and the absence of rationality in allocating resources according to economic logic, aggression directed towards the home and abroad, imbalance of financial and monetary balances, poverty, and inflation.<sup>1</sup>

It resulted in the destruction of the main anchor structures and the aggravation and degradation of local economic activities' performance while restricting society's economic efficiency.<sup>2</sup>

As for the economic changes that occurred after April 2003, they were based on external decisions, the most important of which are the following:

**4-1- Monetary and fiscal policy:** Since the first weeks following the war, ambitious goals have been set for the process of rebuilding Iraq and building a free economy based on the foundations of a market economy, but there was no specific and clear program of steps to achieve these goals. Rather, it was decisions and measures taken by the Coalition Provisional Authority, under the

<sup>1</sup> Iraq, 7,000 Years of Civilization, National Report on the Status of Human Development 2008, Ministry of Planning and Development Cooperation and House of Wisdom, (Amman: Central Press, 2009), p. 110.

[www.http://mafhoum.com/syr/articles\\_03/kanaan4-10.htm](http://mafhoum.com/syr/articles_03/kanaan4-10.htm)

<sup>2</sup> Iraq 7,000 Years of Civilization, previously mentioned source, p. 111.

supervision of the American civil administrator Paul Bremer, to issue decisions aimed at transforming the central economy into a market economy and stopping the deterioration in it. The Coalition Authority adopted the "shock" treatment method, and reforms focused on the banking sector, confirmed the Central Bank of Iraq's independence, and began to change the currency successfully on January 15, 2004.<sup>1</sup>

As a result, the United Coalition Authority printed (2,200) tons of new Iraqi dinars, distributed them all over Iraq, and collected (2,800) tons of old dinars and destroyed them.<sup>2</sup>

In terms of monetary policy, the so-called informational or signal-based rules have been adopted to generate stability in the financial market, and it is an alternative approach to direct intervention in that market, with the lowest level of annual inflation that usually does not exceed (3%) annually, which is known in indicators of macroeconomic stability.

The Iraqi economy had previously relied on oil, especially in recent years, and was clearly affected by its global market prices. Despite the

adoption of the general budget of Iraq as the most important financial policy tool on oil resources, however, those who follow its annual figures for the past five years will make it clear to him that they were disappointing and not commensurate with the size of the needs of the Iraqi economy, which is burdened with problems.<sup>3</sup>

It is clear from the preceding that both the monetary and fiscal policies applied in Iraq after 2003 were characterized by volatility.

**4-2- Structuring state institutions:** After 2003, the Coalition Provisional Authority has taken a series of decisions with double political and economic dimensions, represented in the Coalition Authority Order No. (2) Of May 23, 2003, which ordered the dissolution of (21) Iraqi institutions, including the Ministry of Defense, Information and the Ministry of State for Military Affairs.<sup>4</sup>

**4-3- Oil policy:** After the US occupation of Iraq in April 2003, the Iraqi ministries, institutions, and departments were extensively destroyed in most of the governorates of Iraq, whether by the occupation forces or the gangs that stole and burned the assets of these institutions except the Iraqi Ministry

<sup>1</sup> Iraq, 7,000 Years of Civilization, National Report on the Status of Human Development 2008, Ministry of Planning and Development Cooperation and House of Wisdom, (Amman: Central Press, 2009), p. 110.

[www.http://mafhoum.com/syr/articles\\_03/kanaan4-10.htm](http://mafhoum.com/syr/articles_03/kanaan4-10.htm).

<sup>2</sup> Iraq 7,000 Years of Civilization, previously mentioned source, p. 111.

<sup>3</sup> Khudair Abbas Al-Nadawi, The Impact of the Collapse of Oil Prices in Global Markets on the Iraqi Economy, (Baghdad: Political Issues Journal, Sixteenth Issue, 2009), p. 265

<sup>4</sup> Al-Waqi'i Al-Iraqiya, Official Gazette of the Republic of Iraq, Issue No. (39 77) Date: 06/17/2003



of Oil building. In this regard, Paul Braemer admits that the American forces succeeded in protecting the Ministry of Oil by ordering to guard the sites to maintain records and data on the northern and southern oil fields. This step indicates US economic and political objectives by focusing on preserving its documents and records. Simultaneously, the American forces ignored other ministries' protection, which confirms US economic interests linked to the oil sector in Iraq.

**4-4- External indebtedness:** Iraq entered as a debtor country in the External Public Debt Scheduling Agreement, and this has been done since 2005 in three stages. In early 2009, the Ministry of Finance announced the end of Iraq's obligations towards the prevailing support agreement (CBA), and that the remainder of the debt owed by it was agreed to be scheduled over the coming years until 2020/2021.

The Public Debt Department at the Ministry of Finance revealed the size of Iraq's debts, war compensation, and the benefits resulting from that, indicating that a large part of it was extinguished through the Paris Club agreement and bilateral agreements while clarifying the mechanisms for paying the remaining amounts and negotiating with countries that have not yet extinguished their debts and that if the country fulfilled it With its obligations and the end of the

prevailing support agreement on 31/12/2008.

The last (20%) of Paris Club debts were amortized thanks to Iraq's commitment to the agreement's terms and conditions. As for the remaining (20%) of the original amount after the reduction of the (80%) rate, which amounted to (10,329) billion dollars, it has been scheduled until 2021, during which Iraq pays the interest from this amount.

The step of dealing with financial debts in Iraq reflects a double trend, as it represents a positive trend that the step served the Iraqi economy in all aspects, and perhaps it is the most positive step of other decisions and reforms. At the same time, it represented a direct intervention by the United States of America and international organizations, represented by the International Monetary Fund and the World Bank, through the mechanisms of applying Iraqi debt reduction and rescheduling formulas.

The economic scene is no less complex than the political scene in Iraq, and in this context, it is possible to refer to the most prominent features of the deterioration of the country's economy and the nature of the challenges facing economic reform:

- The sharp and continuous decline in oil prices on the world market.

- The fierce war with ISIS and its military and civilian costs. Iraq is fighting a fierce war with ISIS terrorist gangs in a war that has entered its second year, and according to sources in the Parliamentary Finance Committee, the cost of the ongoing war exceeds 10 million dollars per day, not to mention the costs of armaments contracts and the costs of assisting the displaced, sheltering them and rebuilding the liberated areas, all of which need open funding. No austerity balance.
- Poor infrastructure and deteriorating business environment capable of stimulating the private sector.
- Sectarian quotas and the competition of technocrats in managing the economic and service file.
- The increasing phenomenon of unemployment, especially among graduates, and the high rates of poverty.
- Financial and administrative corruption and the domination of political mafias over the country's resources: It has withdrawn hundreds of billions of oil dollars in fake projects and in government expenditures dedicated to covering the requirements of the ruling

political class, and no development achievement has been achieved at the level of education, health, or public services.

- Government slack, huge administrative apparatus and low productivity.
- The chronic disagreement between the center and the region over oil revenues.

It is noted that the recent political consensus has not succeeded in defusing the crisis between the center and the region over oil revenues, as the region still insists on its right to export its oil abroad and at the same time demands its full share in the federal budget.

- The erosion of the central bank's reserves of the dollar.
- Dumping the Iraqi market with various imported products.
- Government borrowing has huge benefits.

The economic reform in Iraq faces multiple obstacles in various economic, political and social aspects, which in their entirety constitute an obstacle to preparing and implementing a constructive reform plan for a new Iraq, the most important of which can be summarized as follows:

#### **4-5- The lack of clarity of the state's role in the Iraqi economy.**

The state, any state, should assume new roles in the transitional stages, as it relinquishes the traditional roles of hegemony and leadership, and sometimes even leads the transition

by itself before it is dismantled. The objective conditions in Iraq imposed a shift in the nature and philosophy of the existing economy from the central system (Based on state dominance),

To a system (that embraces the philosophy of economic freedom) and believes in market forces and its mechanisms, which represents the essential tool for economic reform and which was based on legal legislation, but the reality of the situation does not indicate clarity of vision, as the state's interference in economic life through expansionary financial policy has increased significantly since the change, Thus, the state moved away from the corrective role it is supposed to play.

### **The spread of the phenomenon of unemployment and poverty in the Iraqi society**

Unemployment is one of the most serious obstacles facing economic reform in Iraq, due to its economic, social, and political implications, in addition to being a waste of the human element. The state's policy of absorbing workers in state agencies, especially the military and security agencies, has not absorbed the growing workforce. It had negative results, as disguised unemployment appeared in the public sector, making it more difficult to combat it because of the negative returns. Its percentage was about (53%) according to the statistics of the Iraqi Ministry of Planning and Development Cooperation, and other estimates indicate that more than (50%) of the Iraqi population was

completely unemployed in 2006 or working in precarious jobs. While the employment and unemployment survey conducted by the Central Bureau of Statistics and Information Technology in the second half of 2005 estimated the unemployment rate at (18%).

On the other hand, Minister of Labor and Social Affairs Muhammad Sheikh Radi stated that the (18%) rate would continue in 2007 and then decreased in 2008 to reach (15%). Despite the variation in statistical data on Iraq's unemployment rate, it is still high and constitutes one of Iraq's most critical chronic economic problems.<sup>1</sup>

Among the effects of high unemployment rates is a similar rise to poverty levels in Iraq, which in turn is reflected in economic reform, even including broad sectors of the Iraqi people, as a quarter of Iraqi children suffer from acute malnutrition and the probability of death of children under five has become (40%), with a decrease Basic services such as providing safe water, electricity, sanitation, and other health and social services. About (40%) of Iraqi families in cities suffer from sewage water that floods their streets, and about (722) thousand Iraqi families lack drinking water and liquid water. In Baghdad alone, 92% of residential homes suffer from power outages.

While 70% of the Iraqi countryside suffers from the lack of safe drinking water, the average Iraqi income per capita decreased from (3600) US dollars in 1980 to between (770-1020) dollars by the year 2001 and to

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<sup>1</sup> Khudair Abbas Al-Nadawi, the source previously mentioned, p. 253

between (450-610) dollars by the end of 2003.<sup>1</sup>

Consequently, the phenomenon of unemployment and its repercussions became one of the most significant obstacles that faced and are still the political and economic decision-maker in Iraq to achieve economic reform with political and economic feasibility in the previous stages.

### **The spread of the phenomenon of administrative corruption**

Administrative corruption occupies an important position in economic reform programs in various countries of the world, and that is one of the main obstacles that stand in the way of these programs. Transparency International defined it as (the abuse of power for the sake of private benefit), and the World Bank developed a definition of activities that could fall under the definition of corruption, when it said that corruption is (misuse of the public office for private gain).

Corruption usually occurs when an employee accepts, demands, or extorts a bribe, to facilitate a contract or procedure for a public tender, as it occurs when agents or intermediaries of companies or private businesses offer bribes to benefit from public policies or procedures, to overcome competitors and achieve profits outside the framework of applicable laws. Corruption can also occur through the exploitation of the public office without resorting to

bribery, by appointing relatives or stealing state funds directly)<sup>2</sup>.

The collapse of the Iraqi state in 2003 as a result of the US occupation of the country has a great role in the collapse of the system of administrative, social and economic values, to open the door wide for the expansion of the phenomenon of administrative corruption, and to place Iraq, according to the Corruption Perceptions Index issued by Transparency International on 9/26/2007, in the pre-rank. The last in the so-called failed states' scale, as Iraq ranked (178) countries at the global level. According to what Judge Musa Farag, Vice President of the Integrity Commission in Iraq announced on 10/4/2008, the losses in Iraq during the last five years amounted to about (250) billion US dollars<sup>3</sup>. This reflects the magnitude of the negative impact of administrative corruption on the progress of Iraqi economic reforms.

### **External indebtedness**

At the beginning of 1980, Iraq was an indebted country with a financial surplus of (38) billion dollars. Because of the war with Iran during the eighties of the last century, Iraq emerged a country heavily indebted, which amounted to about (63.5) billion dollars in 1991, of which about (21) billion dollars of debt for the Gulf States. In the nineties, and after the second Gulf War in 1991, Iraq's external debts increased, reaching their highest in 2003, as the World Bank and the Bank for International

<sup>1</sup> Wasan Ihsan Abdel Moneim, Directions of Economic Policy in Iraq after 2003, Hammurabi Press for Research and Strategic Studies, 2016 p. 180

<sup>2</sup> For more, see: Munir Al-Hamash, The Political Economy of Corruption, (Beirut: Al-Mustaqbal Al-Arabi Magazine, Issue (328), June 2006), p. 60

<sup>3</sup> Khudair Abbas Al-Nadawi, a previously mentioned source, p. 255

Settlements estimated at (127) billion US dollars.<sup>1</sup>

The financial obligations of this significant role in undermining the process of economic reform in Iraq, as they lead to determining the optimal use of funds in it, in two ways<sup>2</sup>:

- The heavy debt burden that Iraq inherited from the previous regime will lead to depriving the country of large financial resources that could have been used to revive the Iraqi economy.
- The issue of Iraq's foreign debt and other financial obligations constitute obstacles to economically introducing the country to the major international markets.

Iraqi governments are seeking to build and restore life to the people and keep pace with the process of progress after confronting the scourge of administrative and financial corruption, which is considered the most deadly after terrorism, as the government has specialized monitoring bodies that pursue all types of corruption, represented by the Bureau of Financial Supervision and the Integrity Commission. The government made a great effort in dealing with corruption Administrative and financial through the following:

- A- Facilitating the task of the regulatory authorities, overcoming the difficulties encountered in their

work, and coordinating between these bodies

- B- Activating the judiciary's role to decide on corruption cases and follow them up by the Integrity Commission, refer them to criminal courts or other courts, and implement penalties for the corrupt.
- C- Activating the media aspect exposes corruption practices in all their forms and mobilizes citizens to confront corruption and report about it.
- D- Using 70% of supervisory energies in completing auditing tasks and directing 20% of these energies to complete performance evaluation tasks
- E- The formation of a supreme committee for contracts in the prime minister's office to audit and control the legal, commercial and financial conditions for large contracts, audit contracts with amounts exceeding 150 million Iraqi dinars and refer them to the supervisory authority operating in the contracting party's activity.
- F- Join professional organizations concerned with fighting corruption.<sup>3</sup> Many measures have been taken in Iraq to confront corruption in terms of approving some legislations and laws and supporting national bodies concerned with combating corruption in state institutions. However, challenges and risks face

<sup>1</sup> The previous source, p. 253

<sup>2</sup> Oner Ozilo, Development and Reconstruction of the Iraqi Economy, Translated by: The Iraq Research Center, (Baghdad: Al-Hawraa Company for Trade, Printing and Publishing, 2006), p 100

<sup>3</sup> Abdul Amir Kazem Ammash Al-Issawi, Criminal Policy for Administrative and Financial Corruption Crimes in Iraqi Law (a comparative study), Master Thesis submitted to the College of Law, University of Babylon 2012, p.73



the process of combating corruption in Iraqi institutions, so it is necessary to confront and address it. It cannot be underestimated because it is threatening the country, feeding terrorism and feeding on it, and impedes development in all aspects. Among these challenges and risks are:

- A- Terrorism and insecurity, where the threat faces people working in anti-corruption agencies.
- B- Challenges facing regulatory institutions, c- Lack of experience and professionalism required in some state agencies and institutions.
- C- Not using transparency at work and not agreeing to structural reforms in state institutions.
- D- The administrative and mental structures that see reform as transcendence and open new doors for concepts that are not used to them, and therefore refuse to implement the reform process for the phenomenon of corruption.

As for dealing with and combating corruption, it is worth noting that the phenomenon of administrative and financial corruption is one of the scourges that impede the country's progress and society as a whole, helping to plunder its wealth and prevent urbanization progress

and achieve economic prosperity.<sup>1</sup>

The study worked on a set of procedures and solutions to produce positive results, as shown below:

- A- Gaining qualified, trained and honest cadres and not leaking them into the private sector or traveling outside Iraq.
- B- Activating the monitoring work in the supervisory bodies and all their branches, conducting periodic inspections between all the departments and branches of the authority, making use of the reports of the control bodies, and applying laws and legislations in all areas of work to protect employees and taxpayers, evading compliance with laws, achieving many materials and moral gains for the offenders.
- C- Study setting work mechanisms according to each activity that will help prevent corruption of all kinds and cooperate all in combating it and fighting the corrupt.
- D- Implementing several electronic work systems that enable the highest detection of negatives and deviations at work.
- E- The commission shall study coordination with all government agencies by collecting data and information about administrative and financial corruption, cooperating and giving rewards to everyone who

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<sup>1</sup> Daoud, Emad Salah Al-Sheikh, (2004), Transparency and Control of Corruption, in the Book of Corruption and Good Governance in the Arab Countries, 1st Edition, Center for Arab Unity Studies, Beirut, p. 133.

contributes to uncovering corruption and assists the regulatory bodies to restore the public right.

- F- Follow-up of the state of administrative laxity and applying legal procedures and accountability in absence from work.
- G- Follow-up transactions, scrutinize their procedures, consider all citizens' objections and complaints, and deal with them by the supervisory authorities transparently and make room for everyone.
- H- Attempting to uncover manipulation of funds, embezzlement, misuse, forgery and bribery, holding accountable violators and manipulating public funds, and not tolerating the application of the law.
- I- Educating employees by holding meetings on commitment to ethical values, patriotism and employment, and motivating them to concerted efforts to prevent the phenomenon of administrative and financial corruption and correct the debts of those in charge of it in case they exist.
- J- Scientific evaluation based on the competence, experience and productivity of employees and motivating the good from them.

It turned out that administrative and financial corruption is an old phenomenon that has afflicted the administrative apparatus in Iraq since the establishment of the Iraqi government, as Dr. Mahdi Al-Hafiz, the former Minister of Planning and Development Cooperation, revealed that "there is a process of waste of wealth that is

being carried out rapidly and embezzlement of funds received from donor countries as a result of administrative corruption inherited from the rampant, defunct regime." In-state institutions"<sup>1</sup>

It is necessary to undermine the moral values based on honesty, honesty, justice, equality and equal opportunities, and turn these moral values into negativity, irresponsibility, and the spread of crimes due to the absence of values, because corruption leads to poor investment and money escaping outside the country at a time when these funds were supposed to be used in establishing economic projects developmental services serving citizens by providing job opportunities.

In addition to the emigration of wealthy individuals, corruption leads to the migration of the most qualified and economic minds out of the country due to favoritism and mediation in occupying public office. This leads to a weakening of the citizen's sense of citizenship and belonging to the country.

This research clarifies that the legislative authority in Iraq should initiate an anti-corruption law, a better alternative to the Coalition Authority's orders, which take into account Iraq's ratification of the United Nations Convention against Corruption of 2004 and all international standards in this field.

The Integrity Commission should be granted broad powers to track down the phenomenon of corruption by granting it the

<sup>1</sup> Amjad Nazem Sahib Al-Fatlawi, The Integrity Commission specializes in investigating and investigating cases of government corruption, a master's thesis submitted to the Faculty of Law, University of Babylon, 2010 AD, p. 84.

power to issue warrants of arrest, investigation and inspection, especially in matters of severe and direct concern to the national economy and national wealth.

It is also necessary to develop educational and cultural curricula through various media to establish a culture of integrity and preserve public money through a long-term strategy to achieve loyalty and belong between the individual and the state, as the law is not the only deterrent to corruption, but rather there must be a culture of integrity and preservation of public money.

### Findings and recommendations

The legacy of corruption and its culture's spread require treatment and quick solutions, as it undermines economic reform. In order to build the capacities of institutions to combat corruption at all levels of government, the following must be done: -

- Strengthening the capacities of the National Integrity Commission, and the debt of financial supervision.
- Applying accounting and auditing standards, activating the role of internal control and its independence, adopting a policy to reduce corruption before it occurs, and adopting rules and controls for the government employees' performance and raising their standard of pension.
- Serious application of the public income law, disclosure of assets, and officials' financial disclosure in the Iraqi state.
- Adopting a comprehensive national awareness campaign on combating corruption and highlighting it as a

negative and dangerous situation for the present and future of Iraqis, not only because it violates the reputation, honor and good behavior, and that the law punishes its perpetrators, but is rejected by virtue and Sharia, and exposing the perpetrators of corruption and fraud is an important means to combat it.

- Activating the role of the media and civil society institutions in censorship.

As for good governance, we mean by it "ensuring the success of management in order to reach the righteous ruler that requires good selection and regulation of the behavior of officials and leaders in accordance with the new rules of conduct, values and ethics for the institution they manage, to take into account the needs and interests of the various groups in society, away from mediation and favoritism, and efficiency and loyalty to the homeland increases in management."

In most countries, the regulatory authorities are not given the power to impose sanctions on cases of deviation and corruption that they uncover to not lead to these agencies becoming the opponent and the arbiter at the same time and standing without impartiality in their work. The political situation and partisan quotas are one reason that does not lead to the success of the monitoring process in general and the monitoring of the regulatory agencies in particular.

We offer recommendations and suggestions for the following:

- 1- The government's serious endeavor to simplify and facilitate government administrative procedures to reduce

the complex review department and adopt modern (electronic) technologies that prevent direct contact between the two parties to the relationship.

- 2- Strengthening regulatory agencies' role, such as the Integrity and Financial Supervision Authority, will be reflected in these regulatory bodies' effectiveness.
- 3- Amending the punitive legislative texts that deal with administrative and financial corruption cases increases the penalty prescribed for those to whom these legal articles apply.

And the Iraqi legislator is obliged to take into account the crimes mentioned in that agreement, which are not included in the penal code, as the agreement stipulates, for example, the criminalization of bribery of foreign public officials and employees of public international institutions - (Article 16) and the crime of bribery in the private sector - (Article 21) and embezzlement of property in the private sector (M 22). We recommend that the Iraqi legislator address this issue to prevent the conflict between the agreement and the Iraqi penal code.

- 4- Concerning the specific jurisdiction of the Integrity Commission, we found that all the crimes that fall within the jurisdiction of the Integrity Commission are those crimes listed in the Penal Code, and most of them are related to the public office, except that it is noticed that the authority's jurisdiction does not

include moral crimes committed by the employee or the person charged with public service. We recommend the Iraqi legislator include such cases in the Authority of the Authority because most of these crimes lead to harm to the public office's reputation and squandering public money.

- 5- The multiplicity of regulatory agencies in the country, although it has some positives, its negative aspects are beyond doubt beyond their positives, and experience has shown that. Likewise, the surveys conducted by international organizations or institutions concerned with monitoring corruption confirmed the increase in corruption and what this multiplicity causes in terms of confusion in professional work and the reluctance of the human energies of competent employees to confront administrative positions. The Integrity Commission with specific competence coupled with quasi-judicial procedures with the Federal Financial Supervision Bureau with financial and administrative expertise increases the regulatory body's activity.

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