



Partnerships: its importance in the development of Iraq

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Dedication

This thesis is dedicated to my late grandfathers, Dr. Malik Dohan Al-Hassan and Dr. Sadiq Hamid Alwash, both of whom passed away in 2021 while I was completing this thesis. I also extend my heartfelt dedication to my family members: my father, Anas Al-Jabori; my mother, Wihad Alwash; and my sisters, Heyam, Zainab, and Maryam. Without their unwavering support, encouragement, and daily assistance, I would not have found the dedication, strength, and perseverance to successfully complete this thesis.

Dr. Malik Dohan Al-Hassan and Dr. Sadiq Hamid Alwash both held esteemed positions within the Iraqi Government. Dr. Malik Dohan Al-Hassan, a respected legislator in Iraq, inspired me to pursue the study of law. He earned his PhD in law from Paris 1 Panthéon-Sorbonne University in 1957 and returned to Baghdad to become a law professor at the University of Baghdad. In 1965, he assumed the role of head of the Teachers Syndicate and became the president of Mustansariya University in 1966. Dr. Malik Dohan Al-Hassan was appointed as the Minister of Culture and Information in 1967, then was arrested during the July 17 coup in 1968. After enduring 18 months of imprisonment, he was released on January 17, 1970, and resumed his career as a law professor at Mustansariya University until his retirement in 1983. He continued to contribute to the legal profession by working as a lawyer and was elected as the head of the Iraqi Bar Association in 2004. In 2005, he served as the Minister of Justice. He survived 2 assassination attempts during his tenure in the first Iraqi government post the Baath Regime. He passed away in Amman, Jordan, on May 23, 2021. Dr. Malik Dohan Al-Hassan possessed vast experience in the Iraqi jurisprudence and, as such, strongly criticized the Iraqi Oil and Gas law. He was one of the few Iraqis who opposed the adoption of the Iraqi Constitution at the time, actively lobbying against it. Unfortunately, the constitution was passed regardless, and many of the challenges faced by Iraq since 2005 can be attributed to its flawed writing and implementation.

Dr. Sadiq Alwash pursued his medical studies at the University of Glasgow in the mid-1960s and obtained his MRCP and FRCP in cardiac and internal diseases. Upon returning to Iraq, he held numerous positions between 1975 and 1979, including Director of Ibn Sina Hospital, head of the Medical City of Baghdad, head

of the Medical Association, and head of the Doctors Syndicate in Iraq. Subsequently, he graduated from military training and was appointed as the head of Al-Rashid Military Hospital, with the rank of Major General Doctor. Dr. Sadiq was also selected as the personal physician of the President of the Republic during the time of Ahmed Hassan Al-Bakr. Following his tenure as Minister of Health from July 27, 1982, to May 11, 1988, Dr. Sadiq assumed the role of President of the Iraqi Red Crescent Society and later served as an advisor in the Presidency of the Iraqi Republic. Dr. Sadiq Alwash passed away in Amman on January 19, 2021.

Their dedication, expertise, and accomplishments in their respective fields have been a source of inspiration to me throughout my academic journey. I pay tribute to their legacy and the invaluable impact they have had on my life and aspirations.

May their souls rest in eternal peace.



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Abstract

This doctoral thesis comprehensively examines the multifaceted challenges faced by Iraq in its ongoing post-war reconstruction and development phase after the US invasion in 2003. A significant impediment to progress lies in the pervasive lack of robust infrastructure and efficient delivery of essential services across diverse sectors. These issues long preceded the US invasion as the Iraqi Government has endeavoured to engage the private sector since the 1950s to meet the escalating demands for public services and infrastructure. However, the role of the private sector in Iraq continued to be unstable due to the ever-evolving policies pursued by successive governments. Notably, the enactment of the agrarian reforms law in 1958 disrupted the social and economic fabric of Iraq, resulting in the nationalization of the economy and the subsequent exclusion of the private sector from its crucial role in development. Consequently, the responsibility for managing and operating the Iraqi economy has predominantly rested with the public sector, while the private sector continues to grapple with challenges, including inadequate legal frameworks, regulations, infrastructure, and bureaucratic inefficiencies. This prevailing structure has led to substandard service delivery, encompassing inadequate water and sanitation facilities, unreliable electricity supply, and limited access to healthcare and education. Despite experiencing intermittent periods of economic and social prosperity between 1966 and 1990, Iraq's heavy dependence on oil exports as the primary source of income has impeded sustained economic growth and overall development.

To address these complex challenges, this study advocates a collaborative partnership framework approach that fosters concerted efforts between public and private entities in developing critical infrastructure and enhancing service delivery. Drawing on extensive research and analysis, the findings of this study underscore the transformative potential of partnership frameworks in attracting domestic and foreign investment, enhancing the quality of infrastructure, and optimizing service delivery efficiency. Accordingly, the thesis presents a set of evidence-based recommendations for Iraqi policymakers to establish an enabling environment that supports the successful implementation of partnership frameworks. Key factors include cultivating and sustaining strong political will, fostering effective governance structures that encourage transparency and

accountability, and allocating sufficient financial and human resources for implementation. Moreover, the thesis underscores the urgent need for a more coherent and effective constitutional framework that promotes equitable governance and revenue sharing between the central government and regional authorities. By addressing these fundamental constitutional issues, Iraq can effectively navigate conflicts, nurture social cohesion, and accelerate economic integration. Building on historical precedents, such as the successful implementation of a framework akin to the Development Board established in the 1950s, which oversaw the execution of infrastructure and service projects that continue to benefit society today, the thesis elucidates best practices for advancing development through partnership models in Iraq.

This doctoral research contributes to the scholarly discourse on development strategies and policy implementation in post-conflict settings. By shedding light on the intricate challenges impeding Iraq's development trajectory, the study provides policymakers, academics, and practitioners with valuable insights into the role of collaborative partnerships and effective governance in driving sustainable economic growth and social progress. Ultimately, this thesis aims to foster a comprehensive understanding of the potential of partnership frameworks as catalysts for development and to guide Iraq in charting a path towards inclusive and resilient development.

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Abbreviations

B

BCE- Before Common Era

BLT - Build, Lease, Transfer

BOO - Build, Own and Operate

BOOT- Build, Own, Operate and Transfer

BOOT- Build, Own, Operate and Transfer

BOR- Build, Operate and Renewal of Concession

BOT- Build, Operate and Transfer

BRT- Build, Rent, Transfer

BTO- Build Transfer, Operate

C

CCP- The Civil and Commercial Procedures Law of 1969 as amended by Law number 10 of the year 2016.

Companies Law- Iraqi Companies Law number 21 of the year 1997 as amended by law number 17 of the year 2019.

CPA- Coalition Provisional Authority

CSO- Central Statistical Organization

D

DBFO- Design, Build, Finance and Operate

DCMF- Design, Construct, Manage and Finance

E

ECA- export credit agency

Enforcement Law- Law of Enforcement number 40 of the year 1980

F

Federal Income Tax Law- Federal Income Tax Law number 113 of the year 1982

Foreign Enforcement Law- The Foreign Enforcement Law number 30 of the year 1928

G

GDP- Gross Domestic Product

I

Investment Law– Investment Law number 13 for the year 2006 as amended by law number 50 for the year 2015.

IPC- Iraq Petroleum Company

IRCC- Iraqi Revolutionary Command Council

ISIS- Islamic State

J

JKAS - Public Private Partnership Committee in Malaysia

L

Law on Accession – Law on Accession number 14 of the year 2021

M

MOOT- Modernize, Own, Operate and Transfer

N

NHS- National Health Service

NIC- National Investment Commission

O

OECD- Organisation for Economic Co-operation and Development

OPEC- The Organization of the Petroleum Exporting Countries

P

PFI- Private Finance Initiative

PPM- Parts Per Million

PSC- public sector comparator

Public Contracts Regulation- Public Contracts Regulation Guidance Number 2 for the year 2014

R

Real Estate Registration Law- Real Estate Registration Law Number 43 for the year 1971 as amended by law number 31 for the year 1982.

Riyadh Convention- Riyadh Arab Agreement for Judicial Cooperation of 1983

ROO- Rehabilitate, Own, Operate

S

SLR- Systematic Literature Review

T

TBI- Trade Bank of Iraq

TDS- Total Dissolved Solids

The Constitution- The Iraqi Constitution of 2005

The New York Convention- New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards

U

UAS- Iraqi Uniform Accounting Standards

UK-United Kingdom

UKAS- Public Private Partnership Unit in Malaysia

UN- United Nations

Z

ZPEC- Zhongman Petroleum and Natural Gas Group Corporation

Chapter 1 Introduction

1.1 Background

From the establishment of Iraq in 1932 to the present day, the Iraqi government has played a crucial role in directing and stimulating the country's economy through the public sector. Despite facing war with Iran in the 1980s, Iraq boasted one of the most advanced economies in the Middle East.¹ The country possessed a robust industrial sector, a well-developed transportation system, adequate infrastructure, and reliable services. Iraq's population included a substantial middle class, and its education system ranked among the best in the Arab world, attracting Arab students due to its high teaching standards and affordable living conditions. Additionally, the country provided quality healthcare services.² However, political instability, the invasion of Kuwait, the subsequent UN sanctions in 1990, the US invasion in 2003, and the territorial gains made by the Islamic State (ISIS) in 2014 left Iraq with a deteriorated infrastructure and a dire need for urgent development in basic services. In addition, the Iraqi economy has exhibited weaknesses, fluctuations, and a heavy reliance on crude oil production and exports as the primary driver of gross domestic product (GDP), general budget financing, and foreign currency generation.³ As a result, Iraq's economy has become one-sided, lacking diversification and major commodity production sectors such as industry and agriculture. This economic structure leaves Iraq vulnerable to international economic fluctuations, as any changes in global oil prices directly impact the overall local economic conditions. Furthermore, fluctuations in the pricing of imported commodities have a direct influence on the general price level and monetary inflation within the country, leading to additional economic challenges.⁴

The country's dependence on oil exports and the volatility of global oil prices have contributed to an unstable private sector in Iraq, which has experienced

¹ Tripp, C., 2007. A History of Iraq. Cambridge: Cambridge University Press.

² Smith, J. A., 2005. The Iran-Iraq War: Assessing the Impact on Iraq in the 1980s. Middle East Journal

³ Sanford, J., 2003. Iraq's Economy: Past, Present, Future. 1st ed. Congressional Research Service: The Library of Congress

⁴ The World Bank., 2020. Breaking Out of Fragility: A country economic memorandum for diversification and growth in Iraq. World Bank Publications.

significant changes in its influence and contribution to the overall economy. Moreover, political instability, ongoing revolutions, and power transitions have further complicated the economic landscape. The Iraqi Constitution, ratified in 2005 and serving as the legal foundation, has also been a primary source of the issues facing Iraq today. Its hasty drafting process and linguistic errors have allowed for multiple interpretations of its provisions, resulting in unresolved problems.⁵

Addressing these structural imbalances requires urgent attention to legal and economic reforms, as well as the implementation of new policies. The goal is to achieve economic diversification, establish a solid foundation for sustainable development, and align economic policies, tools, and procedures with a comprehensive development strategy. Additionally, it is imperative to ensure transparent and accountable governance in the utilization of oil revenues, as stated in Article 111 of the constitution, which mandates that oil and gas in Iraq belong to all its people, necessitating government expenditure to benefit the people exclusively. To achieve these objectives, the Iraqi government must focus on reconstructing institutions and regulations that facilitate long-term development, establish an effective banking and financial system, and provide support for small to medium-sized projects through loans and credit to private sector companies.

Partnership models have been successfully utilized by many countries worldwide to foster development.⁶ These structures enable governments to share financial and operational risks associated with complex and large-scale infrastructure and service projects with the private sector, which possesses the necessary management, resiliency, and financing capabilities. Governments, in turn, focus on policy setting, development planning, and overseeing the private sector's work. At the end of the partnership agreement, the relevant government entity assumes responsibility for operating and managing the project's assets. Throughout the project's operation, the entity's employees receive training alongside private

⁵ March, A. F. ,2007. Iraq's Troubled Constitution: A Critical Assessment of Its Formation and Substance. Arab Studies Quarterly, 29(3) pp 31-48.

⁶ Yescombe, E. R.,2019. Public-Private Partnerships: Principles of Policy and Finance. Amsterdam: Elsevier.

sector experts to ensure effective project management beyond the contractual period. One successful example is the United Kingdom's Private Finance Initiative (PFI), which facilitated public project funding across various sectors, including health, transport, infrastructure, energy, and education. Although the UK government discontinued the PFI framework in 2018 due to the financial crisis of 2008,⁷ which led to stricter regulations and increased costs for long-term projects, the model successfully financed over 700 projects worth £57 billion.⁸ Similarly, Malaysia has achieved significant infrastructure development through public-private partnerships since the 1980s.⁹ Notable projects include the North-South Highway, the longest highway in the country, and the Kuala Lumpur International Airport, the largest airport in Malaysia. To date, Malaysia has invested \$53.718 billion in 600 public-private partnership projects.¹⁰ Considering the achievements of these countries, it is worth exploring whether Iraq can implement a similar partnership framework to facilitate government financing and operation of projects through the more capable private sector. Partnerships, particularly public-private partnerships, hold great potential for enhancing Iraq's infrastructure and service delivery. Like many other developing countries, Iraq faces numerous challenges, including limited financial resources, political instability, and a scarcity of technical expertise, in improving its infrastructure. Embracing partnerships can effectively address these obstacles and expedite infrastructure development across the nation.

Infrastructure development requires significant investment, often constrained by financial limitations faced by governments. Public-private partnerships allow private sector entities to inject substantial capital investment, motivated by potential returns. This enables more efficient financing of infrastructure projects. Additionally, the private sector brings technical expertise and efficient project management capabilities to the table, significantly enhancing project execution.

⁷ Hellowell, M.,2020. The End of PFI? Assessing the UK's new approach to infrastructure financing. *Public Money & Management*, 40(2) pp 141-150.

⁸ Hellowell, M.,2020. The End of PFI? Assessing the UK's new approach to infrastructure financing. *Public Money & Management*, 40(2) pp 141-150.

⁹ New Straits Times. 2014. Malaysia keen on developing Public Private Partnership centre with Commonwealth countries, says DPM [ONLINE] Available at: <https://www.nst.com.my/news/2015/09/malaysia-keen-developing-public-private-partnership-centre-commonwealth-countries-says>. [Accessed 15 March 2023].

¹⁰ King and Wood Mallesons, 2023. Public-private partnerships in Malaysia

Private partners leverage their experience, specialized skills, and innovative approaches to ensure timely and cost-effective project delivery, mitigating the delays, cost overruns, and inefficiencies typically associated with public sector-led projects.¹¹ Additionally, infrastructure projects inherently entail risks, especially in regions like Iraq characterized by uncertain political and economic environments.¹² Partnerships facilitate risk sharing between the public and private sectors. Well-structured agreements allocate risks related to financing, construction, operations, and maintenance to the party best equipped to manage them. This reduces the burden on the government and creates a more favourable investment climate. Furthermore, private sector involvement provides access to advanced technologies, best practices, and management expertise. The transfer of knowledge and technology greatly benefits Iraq's infrastructure development and service delivery. Government entities can learn from their private partners, enhance their own capabilities, and adopt modern approaches that have long-term positive impacts beyond specific projects.

Private sector participation enhances service delivery by introducing competition, efficiency, and customer-oriented approaches. With private companies involved, there is increased emphasis on meeting performance targets and delivering high-quality services to end-users, resulting in improved infrastructure operations, maintenance, and customer satisfaction. Partnerships offer opportunities for capacity building and skill development within the public sector.¹³ Collaborating with private partners allows government officials and agencies to gain exposure to industry best practices, project management methodologies, and new technologies. Over time, this strengthens the public sector's capacity to independently plan, implement, and manage infrastructure projects. However, it is crucial to structure partnerships with transparency, accountability, and fairness in mind.¹⁴ Iraq's current political instability and insecurity can discourage

¹¹ Sinha, T.K.,2016. Public-Private Partnerships for Infrastructure Development: A Critical Review of Theoretical and Empirical Perspectives. *International Journal of Academic Research in Business and Social Sciences*, 6(12) pp 457-470.

¹² Al-Mufti, A.A.,2019. Identifying and Managing Risk in Infrastructure Projects in Iraq. *International Journal of Civil Engineering and Technology*, 10(3) pp 727-739.

¹³ Smith, J.A.,2018. Capacity Building and Skill Development through Public-Private Partnerships: A Literature Review. *Public Administration Review*, 78(2) pp 223-236.

¹⁴ Johnson, R.E.,2020. Transparency, Accountability, and Fairness in Public-Private Partnerships: A Critical Review. *Public Integrity*, 22(3), pp 291-307.

potential private sector investors and partners. To attract international private sector investments, Iraq must prioritize establishing a stable and predictable business environment through effective governance, adherence to the rule of law, and robust security measures. Clear regulations, effective governance frameworks, and robust monitoring mechanisms are essential to ensure that partnerships deliver the intended benefits while safeguarding the public interest.

Partnerships, including public-private partnerships, have the potential to accelerate infrastructure development, improve service delivery, and support Iraq's overall socio-economic development. By leveraging the strengths of both the public and private sectors, Iraq can overcome financial and technical constraints, mobilize investment, enhance project efficiency, and transfer knowledge and technology. Carefully designed and well-managed partnerships can be a valuable tool in addressing Iraq's infrastructure and service delivery needs.

1.2 Research Objectives

The objective of this thesis is to investigate the root causes of the Iraqi state's failure to build a self-sufficient and robust economy with adequate basic public services and infrastructure since 2003, despite its significant revenue from crude oil exports, which recently amounted to over \$115 billion in 2022.¹⁵ A considerable portion of the funds generated by the Iraqi state is allocated to public employee salaries, accounting for 65% of the annual budget. This allocation hinders the government's ability to invest in crucial infrastructure and service projects. Moreover, while the public sector in Iraq was once successful in implementing projects and attracting foreign investment, subsequent Iraqi governments have been unable to establish institutions capable of effectively managing the country's economic structure. This thesis explores into the legal and bureaucratic hurdles faced by investors, the public sector, and the private sector operating in Iraq, offering a detailed review and recommendations for changes and reforms.

¹⁵ Alarabiya News., 2023. Iraq oil revenues in 2022 exceed \$115 billion.

Many countries have successfully turned to partnerships, which provide flexibility in their framework and structure, allowing for development and adaptation to a country's specific legal, economic, cultural, and social characteristics. Such partnerships enable governments to finance projects that exceed their financial capacity. Since 2017, the researcher has been actively promoting partnerships in Iraq, including organizing the "Public Private Partnerships in Iraq to Rehabilitate and Establish Developed and Enhanced Infrastructure Conference," held at the Iraqi Prime Minister Guest House under the patronage of the Iraqi Prime Minister on December 3rd and 4th, 2017. The researcher also participated as a panellist in the "Promotion of Investment to Develop the Iraqi Health Sector Conference," held at the Iraqi Prime Minister Guest House under the patronage of the Iraqi Minister of Health on June 10th and 11th, 2019. Additionally, the researcher served as a legal expert committee member in the Iraqi Prime Minister's Advisory Commission (PMAC) Development of Airports through Investments and Public Private Partnerships Committee during February, March, and April 2019. These experiences and engagements in conferences and meetings with high-level government officials have provided the researcher with first-hand knowledge of the challenges facing the Iraqi government's operations, allowing for the development of practical solutions and recommendations. This thesis serves as a guidance document for operating in Iraq and a recommendation paper for the Iraqi government and policymakers, highlighting the need for reforms in all aspects.

Specific focus should be placed on the thematic areas of procurement and partnerships, guided by principles such as transparency, equal treatment, value for money, anti-corruption measures, and good administration. Adhering to these principles ensures the fair and efficient allocation of public resources, promotes competition and innovation, prevents corruption, and ultimately enhances the delivery of public services to the citizens of Iraq.

- 1) Transparency: Transparency is a foundational principle that should underpin procurement processes and partnerships, ensuring openness, accountability, and accessibility to all stakeholders. In Iraq, transparent procurement practices and partnerships play a vital role in building public trust, preventing favouritism or nepotism, and fostering fair competition among bidders. By implementing transparent processes, the Iraqi

government enables the public to understand how public funds are allocated, leading to greater accountability, and reducing the risk of corruption.

- 2) **Equal Treatment:** The principle of equal treatment ensures that all potential partners are provided with fair and equal opportunities to participate in procurement processes and partnerships. Upholding this principle in Iraq is critical for promoting competition and preventing discrimination or bias against any particular entity. By treating all bidders impartially and evaluating them based on predetermined criteria, Iraq can create a competitive environment that encourages innovation and delivers better value for public funds.
- 3) **Value for Money:** The pursuit of value for money is a central objective in procurement and partnerships. It involves obtaining the best possible outcomes from public spending by considering both cost-effectiveness and the quality of services. Prioritizing value for money in Iraq ensures efficient utilization of public resources, maximizing benefits for citizens. This principle necessitates a careful evaluation of costs, benefits, and risks associated with different procurement options or partnership models, empowering decision-makers to select the most advantageous solutions.
- 4) **Anti-Corruption Measures:** Combating corruption is essential for ensuring integrity and trust in procurement and partnerships. Iraq acknowledges the significance of anti-corruption measures and has taken steps to strengthen its institutional framework for preventing corruption in public procurement. These measures encompass robust legal frameworks, comprehensive ethics codes, stringent oversight mechanisms, and the promotion of whistleblowing. By effectively implementing anti-corruption measures, Iraq can mitigate the risks of fraud, bribery, and embezzlement, thereby safeguarding public funds and fostering a transparent and accountable system.
- 5) **Good Administration:** Good administration involves the efficient, effective, and accountable management of procurement processes and

partnerships. It encompasses clear rules, competent staff, streamlined procedures, and proper documentation. In Iraq, good administration is pivotal to ensuring the prompt delivery of public services that meet required standards. This principle entails establishing clear roles and responsibilities, maintaining accurate records, monitoring performance, and conducting periodic evaluations. By upholding good administration practices, Iraq supports the overall objectives of transparency, equal treatment, value for money, and anti-corruption measures, thereby enhancing the overall efficiency and effectiveness of public service delivery.

1.3 Research Methodology

The research aims to identify success and failure factors for the implementation of infrastructure and service projects in Iraq through partnership frameworks. Due to the lack of published statistics regarding projects in Iraq, qualitative methods were employed, specifically through empirical stages of semi-structured interviews with various government officials and private sector companies operating in Iraq. This method was deemed most suitable for gathering information from individuals engaged in projects from both the public and private sectors, enabling the collection of valuable data and insights related to participants' experiences. During the interviews, participants provided the researcher with data, statistics, and information pertaining to the points of discussion, to the best of their knowledge. Although many questions were predetermined, the researcher also allowed for spontaneous questions to benefit from the participants' expertise. Objectivity was maintained throughout the interviews and conversations, ensuring a fair and unbiased exploration of the research topic.

The researcher's previous involvement in organizing and attending conferences related to partnerships in Iraq enabled the researcher to establish connections with policy and law makers in Iraq. As a recognized researcher in this field, the researcher had the opportunity to meet with several ministers, deputy ministers, Prime Minister advisers and other policy makers, including the Minister of Industry and Minerals, Minister of Planning, Deputy Minister of Planning, Director General of Mixed Companies, Director General of Al Kindy Company, and many more.

The thesis utilizes qualitative and semi-structured interviews with various stakeholders, including government officials, private sector investors, and international pioneers in partnerships. These interviews aimed to understand the challenges faced by stakeholders while managing mega projects in Iraq and to gather their recommendations on resolving these issues.

In addition to the interviews, the researcher conducted a literature review on the success of partnerships in Malaysia and the development projects that took place in Iraq during the 1950s. Additionally, further literature review involved reviewing books, newspapers, reports, and research papers related to procurement and investment in Iraq. The secondary data collection served to develop themes and concepts that were already introduced in the thesis. The desk-top analysis for the literature review involved reviewing a range of primary and secondary sources to gain insights into procurement and partnerships in delivering public services in Iraq. The review period spanned from the early 1950s to May 2023. Primary sources included academic research papers, scholarly articles, government reports, and official publications directly addressing procurement and partnerships in Iraq. These sources provided first-hand accounts, empirical data, and case studies related to the implementation, challenges, and outcomes of procurement practices and partnership projects in Iraq. Primary sources were particularly valuable in understanding the specific context and nuances of the Iraqi procurement system, legal frameworks, and practical experiences on the ground.

Secondary sources included books, meta-analyses, policy papers, and reputable international organization reports. These sources synthesized and analysed primary research findings, offering broader perspectives, theoretical frameworks, comparative studies, and policy recommendations. Secondary sources were instrumental in providing a comprehensive understanding of key concepts, principles, best practices, and emerging trends in procurement and partnerships across different countries and regions. They also helped identify gaps in the existing literature and potential areas for further research.

To ensure a structured approach, a Systematic Literature Review (SLR) was conducted within the desk-top analysis. This involved developing search criteria, conducting searches across multiple databases, screening and selecting the

most relevant sources based on predetermined inclusion and exclusion criteria, extracting data, and analysing the findings. The SLR allowed for the codification and classification of key developments and concepts, organizing the literature into themes, sub-themes, and categories. By systematically analysing the literature, patterns, trends, and knowledge gaps were identified, enabling a comprehensive understanding of partnerships in delivering public services in Iraq.

The significance of partnerships in the development of Iraq has been widely acknowledged. However, this thesis offers a unique and original contribution to the existing body of knowledge by specifically focusing on partnerships in Iraq. By delving into the intricacies of partnerships within the Iraqi context, this research sheds light on the distinctive challenges and opportunities that arise in a post-conflict nation. It provides a comprehensive analysis of the historical, political, economic, and social factors that shape the legal framework in Iraq and partnerships in Iraq, offering a nuanced understanding of their impact on development efforts. This original research is essential for academia as it expands the theoretical framework surrounding partnerships and offers new insights into their application within a specific geopolitical context. Furthermore, this thesis has substantial implications for policy and law-making in Iraq. As the country seeks to rebuild and progress, effective partnerships play a pivotal role in promoting stability, fostering economic growth, and ensuring sustainable development. By identifying key success factors and potential obstacles in partnerships, this research provides valuable guidance for policymakers, governmental agencies, and international organizations involved in Iraq's development process. The findings and recommendations derived from this study have the potential to inform policies, strategies, and legal frameworks that promote and facilitate partnerships, thereby contributing to the overall advancement and prosperity of Iraq.

In summary, this thesis on partnerships in the development of Iraq offers a novel and distinctive contribution to academia, policy, and law-making. By focusing on the Iraqi context, this research provides an original perspective on the significance of partnerships and their impact on the country's development. The insights gained from this study will contribute to scholarly discussions, inform policy decisions, and assist in the formulation of effective strategies for sustainable development in Iraq.

1.3.1 Limitations of the research

- 1) **Time Constraints:** The literature review was conducted within a specific timeframe, and the analysis was limited to the available literature up until May 2021. As a result, more recent developments, emerging research, and updated policies or practices may not have been included in the review. Future studies should consider incorporating the latest literature to ensure comprehensive coverage of the topic.
- 2) **Language Translation:** The literature review focused on sources available in both English and Arabic. However, the choice of these languages may have introduced a language or translation bias, potentially excluding relevant studies published in other languages. This limitation could restrict the diversity and inclusiveness of perspectives and findings in the research. It is recommended for future studies to consider incorporating a broader range of languages to mitigate this limitation.
- 3) **Accessibility of Sources:** The availability and accessibility of certain sources, such as unpublished reports or internal documents, may have been limited during the literature review. These sources could provide valuable insights and data that were not accessible for analysis. Researchers should explore additional avenues to access a wider range of sources, including collaboration with relevant organizations and stakeholders, to enhance the comprehensiveness of the research.
- 4) **Geographical Focus:** While the research primarily focused on procurement and partnership practices in Iraq, there may be valuable insights and experiences from other countries or regions that were not extensively covered in the literature review. Comparative studies and cross-country analysis could provide a broader perspective on the topic, allowing for a deeper understanding of the challenges and best practices in procurement and public-private partnerships. Future research could expand the geographical scope to include a more diverse range of countries, enabling a more comprehensive analysis.
- 5) **Data Reliability:** The data collected through semi-structured interviews relied on the participants' knowledge and experiences. Despite efforts to

ensure objectivity, there is a possibility of bias or incomplete information from the interviewees. It is essential for future studies to implement rigorous data validation techniques, such as triangulation with multiple sources or independent verification, to enhance the reliability and validity of the data collected.

- 6) **Generalizability:** Due to the qualitative nature of the research and the specific context of Iraq, the findings and conclusions of this study may have limitations in terms of generalizability to other countries or regions. The unique political, social, and economic conditions of Iraq could influence the dynamics of partnerships and their outcomes. Researchers should exercise caution when applying the findings of this study to other contexts and consider conducting comparative research to validate and generalize the findings.
- 7) **Scope of Research:** The research focused on identifying success and failure factors for the implementation of infrastructure and service projects in Iraq through partnership frameworks. While this provided valuable insights into specific aspects of partnerships, there may be other factors or dimensions not fully explored in this study. Future research could consider expanding the scope to cover a broader range of topics or dimensions related to partnerships to provide a more comprehensive understanding of the subject matter.

1.3.2 Prospect of further research

- 1) **Comparative Studies:** Conducting comparative studies between Iraq and other countries with similar contexts or challenges could provide valuable insights into the effectiveness of different procurement and partnership models, allowing for cross-learning and the identification of best practices.
- 2) **Long-Term Impact Assessment:** Assessing the long-term impact of procurement and partnership projects in Iraq, including their sustainability, cost-effectiveness, and service delivery outcomes, would provide a deeper understanding of the effectiveness of these approaches in the Iraqi context.

- 3) **Stakeholder Perspectives:** Exploring the perspectives of various stakeholders involved in procurement and partnership processes, such as government officials, private sector entities, civil society organizations, and citizens, would shed light on their experiences, challenges, and recommendations for improvement.
- 4) **Institutional Frameworks:** Investigating the institutional frameworks, legal frameworks, and governance structures related to procurement and partnerships in Iraq, and analysing their strengths and weaknesses, would contribute to identifying areas for reform and enhancing the overall effectiveness and transparency of the system.
- 5) **Capacity Building and Training:** Examining the capacity building efforts and training programs aimed at improving the skills and knowledge of procurement professionals, policymakers, and stakeholders in Iraq would provide insights into the effectiveness of these initiatives in promoting good governance and best practices.
- 6) **Case Studies:** Conducting in-depth case studies of specific procurement projects or partnership initiatives in Iraq, including their planning, implementation, and outcomes, would allow for a comprehensive analysis of the factors that contribute to success or failure in different contexts. By addressing these research prospects and overcoming the limitations of the current research, a more comprehensive and up-to-date understanding of procurement and partnerships in delivering public services in Iraq can be achieved, facilitating evidence-based decision-making and policy development in the future.

1.4 Chapter Outlook

- **Chapter 1** serves as an introduction and overview of the research conducted in this thesis. It aims to provide a comprehensive understanding of the project objectives, research methodology, and the overall structure of the thesis. The focus of this research is to address the developmental

challenges faced by Iraq, specifically its heavy dependence on oil as the primary source of state revenue. The chapter highlights the significance of this issue and emphasizes the need to explore alternative approaches to enhance infrastructure and service delivery.

- **Chapter 2** provides a comprehensive analysis of Iraq's political, economic, and administrative history, delving into the complexities of its governance system. The central focus is on the Iraqi Constitution of 2005 and its far-reaching implications for the country's economic, social, and political stability. This chapter critically examines the Constitution, highlighting its flaws and offering well-considered recommendations for necessary reforms to address these issues effectively. To comprehend the governance structure in Iraq, the chapter delves into the country's political landscape and explores its historical context. Key events and transitions that have shaped Iraq's governance system are highlighted, providing valuable insights into the intricacies of its political framework and its profound impact on the nation's development. A particular aspect of governance explored in this chapter is the Iraqi legal system, with a specific focus on the Civil Code. The legal framework governing commercial disputes, arbitration, and other crucial aspects is thoroughly examined. Understanding the strengths and weaknesses of the legal system is paramount in assessing its effectiveness in promoting good governance and its impact on economic development. In addition to the legal system, the chapter places significant emphasis on the judiciary in Iraq, underscoring the utmost importance of an independent and efficient judicial system in ensuring fair and transparent governance. It examines the pivotal role of the judiciary in resolving disputes and upholding the rule of law, which is essential for fostering an environment conducive to economic growth and societal progress. A comprehensive examination of the governance structure is imperative in highlighting the necessity of establishing a coherent and effective governance system to facilitate economic development in Iraq. The chapter firmly underscores the urgency for reforms in multiple facets of governance, including the Constitution, legal system, judiciary, local governance, and independent commissions. Implementing these well-reasoned recommendations will

pave the way for Iraq to create a more conducive environment for economic growth, stability, and social progress.

- **Chapter 3** provides a comprehensive examination of the various sectors operating in Iraq, with a specific focus on the public sector and government procurement. The chapter explores the intricacies of the Iraqi public sector, scrutinizing the existing rules and regulations and identifying inherent flaws. By conducting this detailed review, the chapter aims to shed light on the challenges and limitations that hinder the efficiency and effectiveness of the public sector in Iraq. Furthermore, the chapter investigates the difficulties faced by companies and businesses operating in Iraq. It explores the obstacles encountered in establishing a company, acquiring land, navigating the taxation system, and addressing infrastructure issues. These challenges pose significant barriers to the smooth operation and growth of businesses in the country. An important aspect of the analysis in this chapter is the assessment of investment in Iraq. It critically analyses the investment climate, highlighting both its strengths and weaknesses. The chapter offers constructive criticism and recommendations for improvement to foster a more favourable investment environment that can attract both domestic and foreign investments. The role of the private sector in Iraq is also explored in this chapter. It examines the extent of private sector participation in the country's economic development and identifies the challenges and opportunities faced by private enterprises. Additionally, the chapter addresses the privatisation efforts in Iraq, critically evaluating their success and identifying areas where improvements are needed. This analysis provides valuable insights into the dynamics of the private sector and its potential for driving economic growth and development. By conducting a thorough analysis of the sectors operating in Iraq, this chapter provides a comprehensive understanding of the challenges and opportunities present in the country's business environment. It emphasizes the need for reforms in the public sector, government procurement, and investment policies to enhance efficiency and promote a more conducive business environment. The chapter also highlights the importance of fostering a vibrant and supportive private sector to drive economic growth and diversification.

- **Chapter 4** introduces the concept of partnerships and its potential application within the context of Iraq, this chapter commences by spotlighting successful mixed-sector enterprises operating in the country during the 1930s. Emphasis is placed on the positive results stemming from collaborative endeavours and joint ventures in Iraq's historical landscape. The chapter delves into projects implemented during that era, showcasing their achievements and lessons learned. Subsequently, the narrative delves into the domain of public-private partnerships, providing an intricate analysis of this cooperative approach. This exploration encompasses Iraq's regulatory framework for partnerships, dissecting the legal guidelines and criteria governing the implementation of public-private partnership projects. Furthermore, it underscores the pivotal necessity of establishing a robust governance framework to effectively manage these partnerships. Additionally, the chapter navigates through the lifecycle of partnership projects, examining various partnership models. Notably, the focus narrows onto Build, Operate, and Transfer (BOT) contracts, a preference of the Iraqi government. This analysis proffers invaluable insights into specific contractual arrangements that underpin successful public-private partnership projects. Moreover, a comprehensive dissection of the legal framework enveloping public-private partnership contracts is presented, elucidating key provisions and requisites. The mechanisms for risk allocation and financing within these contracts are explored, addressing pivotal facets that contribute to the triumph and enduring viability of public-private partnership projects. The chapter emphasizes the significance of conducting thorough feasibility studies for such initiatives, accentuating the need for meticulous planning and evaluation to ensure their viability and ultimate success. The discourse extends to the significance of refining land ownership and transfer processes in Iraq. Effective land management is identified as pivotal in attracting private sector engagement. Additionally, the chapter delves into the process of selecting private sector entities for participation in partnership projects, underscoring the imperatives of transparency, impartiality, and competitiveness. Notably, the criteria for success in applying partnerships

in Iraq are delineated, outlining essential elements that pave the way for favourable outcomes.

- **Chapter 5** explores a significant best practice in Iraq, which was embodied by the Development Board during the 1950s. The researcher firmly believes that this era represented a golden period for development projects in Iraq, and as such, it is crucial for the current government to draw lessons from the experiences and accomplishments of the Development Board. The chapter begins by recognizing both the positive and negative aspects of the Development Board framework. It acknowledges the successes achieved during this period, such as the implementation of major infrastructure projects and the improvement of public services. These achievements serve as a testament to the effectiveness of a centralized approach to development planning and execution. However, the chapter also acknowledges the challenges and shortcomings encountered by the Development Board. It critically examines the limitations of the framework, including issues related to transparency, accountability, and sustainability. By analysing these aspects, the chapter aims to provide a comprehensive understanding of the lessons learned and areas for improvement. Moreover, the chapter highlights the significance of learning from historical best practices while adapting them to the present context. It advocates for a forward-looking approach that combines the lessons of the past with contemporary knowledge and expertise. This synthesis can guide the government in Iraq towards adopting effective strategies and mechanisms to address the challenges faced in infrastructure development and service delivery.
- **Chapter 6** concludes this research by presenting a recommended approach to enhance infrastructure and service provision in Iraq, ultimately benefiting its citizens. Additionally, the chapter highlights major findings that emerged from the study. It emphasizes the crucial role of partnerships in the development of infrastructure and service delivery in Iraq. As a result, a recommendation is made to establish an Investment and Partnership Ministry, responsible for overseeing all investments and partnerships within the country. Drawing lessons from the successful Development

Board, this ministry would aim to improve the development process while considering Iraq's current economic and legal conditions.

Chapter 2 Governance Landscape in Iraq: Issues and Prospects

2.1 Introduction

Iraq, as a nation with a rich tapestry of ethnicities, religions, and cultures, faces a distinctive set of challenges in governance.¹⁶ Its history, marked by a series of conflicts, invasions, revolutions, and wars, has left an indelible imprint on the country's governance structure. Understanding the concept of governance in Iraq requires an exploration of its historical, political, administrative, economic, and legal components, as well as their intricate interactions with the expectations and aspirations of the various stakeholders involved.

Governance, often used interchangeably with the term "government," stems from the same Greek origin.¹⁷ However, unlike government, governance lacks a universally recognized definition. In this context, governance refers to the complex relationship between the governor and the governed, encompassing the mechanisms by which a government utilizes its authority to manage the political, economic, and social resources of the country for the betterment of its citizens.¹⁸ It serves as a crucial indicator of the capacity of public institutions to effectively administer their affairs and allocate resources in a manner that promotes the welfare of the population. The concept of governance in Iraq extends beyond the boundaries of the nation's citizens and encompasses any entity or individual with interests or activities in the country, including foreign investors and companies.

When governance is characterized by good practices, it signifies that a government can meet the expectations of its citizens through the implementation of effective policies, efficient management of public affairs, and responsible utilization of resources. Good governance forms the bedrock for societal prosperity and development by establishing a solid foundation upon which governments can deliver essential services to their citizens, reduce poverty,

¹⁶ Robson, L., 2015. Iraq: Ethnicity, Religion, and the Quest for National Identity. *Journal of Contemporary Iraq & the Arab World*, 9(3) pp 295-311.

¹⁷ Rose, R. and Peiffer, C., 2018. *Bad Governance and Corruption*. Springer.

¹⁸ The World Bank, 1992. *Governance and Development*. Washington, D.C.: The International Bank for Reconstruction and Development

attract foreign investment, and maintain stability. It implies that the government is responsive to the needs of the people, fosters transparency and accountability, upholds the rule of law, and ensures the equitable distribution of resources. In a country as diverse as Iraq, good governance becomes even more vital, as it provides a framework for harmoniously managing the interests and aspirations of the various ethnic, religious, and linguistic groups within the nation. Conversely, bad governance signifies a failure on the part of the government to fulfil its basic functions and implement effective policies. This failure impairs citizens' access to essential public services, undermines trust in government procedures, and mismanages resources, resulting in adverse consequences for the population. Bad governance can manifest in a variety of forms, such as corruption, lack of transparency, arbitrary decision-making, and disregard for the rule of law. When governance falters, it becomes a breeding ground for crises, social and political instability, and a sense of disillusionment among the citizens.¹⁹

The complexity of governance in Iraq is further compounded by its historical legacy and the diverse nature of its population. Throughout history, Iraq has been home to ancient civilizations, such as Babylon, which boasted one of the earliest recorded legal codes known to humanity.²⁰ Under the rule of King Hammurabi, the Code of Hammurabi was developed in 1790 BC, comprising 282 rules that regulated commercial dealings and sought to ensure justice in Babylonian society.²¹ Although criticized for its strict "an eye for an eye" approach, the Code of Hammurabi incorporated principles that continue to hold relevance in contemporary commerce. These principles aimed to protect the rights of citizens in commercial transactions and established clear guidelines for builders and homeowners.²² For instance, Law 232 states that if a builder constructs a house that collapses due to construction faults, the builder bears the responsibility of rebuilding the house at their own expense. Additionally, Law 233 stipulates that if the builder constructs a house that fails to meet requirements and a wall collapses, the builder is obligated by law to reinforce the wall at their own

¹⁹ Augustin, B. and Kubena, J., 2006. Iraq. Children's Press. pp 81

²⁰ History. 2022. Code of Hammurabi: Laws & Facts - HISTORY. [ONLINE] Available at: <https://www.history.com/topics/ancient-history/hammurabi>. [Accessed 15 January 2022].

²¹ Brouwer, M., 2008. Governance and Innovation. Routledge. pp 37

²² Yahya, H., 2012. Hammurabi. Createspace Independent Pub.

expense.²³ These straightforward rules make the responsibilities and rights of both the builder and the house owner explicit, ensuring practical justice in society. Another noteworthy aspect of these laws is risk calculation and analysis. The builder, seeking to avoid the cost of constructing a new house should it collapse or fall due to their errors, employs quality materials, engineering techniques, and contingency plans. Law 229 of the Hammurabi Code prescribes the death penalty for a builder who constructs an unstable house causing the death of the house owner. While Law 229 may appear brutal by modern standards, it imparts crucial lessons. By aligning incentives and punishments in commercial transactions, a fair system is created wherein builders, possessing greater commercial and technical knowledge than their clients, cannot exploit this advantage for unlawful profit at the expense of clients seeking structurally sound homes. Law 229 penalizes builders who resort to unviable practices solely for increased profits, thereby aligning the interests of both parties. The client receives a suitable and secure dwelling, while the builder is remunerated for their work. The principles embodied in the Code of Hammurabi illustrate the importance of aligning incentives and punishments in commercial dealings, ensuring fairness and equity for all parties involved. By doing so, the interests of both the customer and the builder were safeguarded. The customer received a structurally sound house, while the builder was duly compensated for their work. These fundamental principles remain relevant today and provide valuable insights for crafting clear, concise, and fair rules and regulations that govern partnerships in Iraq.

Governance in Iraq is a multifaceted concept that reflects the intricate relationship between the government and the governed. Good governance serves as a catalyst for societal progress, enabling the government to meet the expectations of its citizens, deliver essential services, reduce poverty, attract investments, and maintain stability. Conversely, bad governance hampers progress, erodes trust in government institutions, and deprives citizens of essential services. The challenges facing governance in Iraq are unique due to its diverse ethnic, religious, and linguistic composition.

²³ The Avalon Project: Code of Hammurabi. 2022. The Avalon Project: Code of Hammurabi. [ONLINE] Available at: <https://avalon.law.yale.edu/ancient/hamframe.asp>. [Accessed 15 January 2022].

The institutional structure of Iraq has faced numerous challenges in its relationship with the concept of governance. These challenges have hindered the effective functioning of institutions, undermined public trust, and impeded the country's progress towards a stable and inclusive governance system. Over the years, Iraq has experienced various forms of governance, ranging from monarchy to military rule and, more recently, a parliamentary democracy. This chapter will explore the intricacies of the institutional framework, decision-making processes, and the mechanisms that drive the functioning of Iraq's governance framework along with the historical context that has shaped the country's governance system and its impact on state-society relations. Moreover, the chapter will assess the current state of governance in Iraq, addressing the key issues and areas that demand attention and reform. By drawing upon historical lessons, and by navigating the intricate societal dynamics, Iraq can strive towards more effective and inclusive governance that benefits all its stakeholders.

2.2 Political, Economic and Administrative History

Since the 9th century, Iraq has been governed by Islamic principles, which persisted until the era of the Ottoman Empire when the territory was divided into three regions: Baghdad, Basra, and Mosul.²⁴ In 1914, the British Army occupied Iraq and appointed the British High Commissioner as the supreme authority, exerting complete control over executive and legal affairs in the country. Subsequently, in 1925, a monarchy was established. However, economic development during the monarchy was slow, primarily due to the far-reaching impact of World War II on a global scale.²⁵

Throughout its history, Iraq's economy has heavily relied on agriculture.²⁶ In the 1920s, the government provided support for industrial activities by enacting a law in 1927 that abolished customs fees on the importation of machinery and tools used in the cotton and grain industries.²⁷ However, with the surge in oil revenues

²⁴ Çetinsaya, G., 2006. *The Ottoman Administration of Iraq, 1890-1908*. Routledge. pp49

²⁵ Tripp, C., 2002. *A History of Iraq*. Cambridge: Cambridge University Press.

²⁶ Al-Khalidi, K., & Sabr, A. I., 2019. Assessment of Agriculture Sector in Iraq. *International Journal of Recent Technology and Engineering*

²⁷ Najim, A., Al-Shaw, A. and Mohamed, A., 2011. The state's role in supporting the industrial sector in Iraq: An Empirical Study. 89th ed. Al-Mustansyriah University: *Journal of Administration and Economics*.

during the 1950s, the government shifted its focus towards the establishment of a conventional market-based economy. In 1950, the Development Board was created, allocating the income generated from oil to the development of sectors such as agriculture, transportation, construction, and communication.²⁸ The government distributed extensive agricultural lands to tribal leaders and tradesmen to secure their loyalty to the monarchy deepened the discontent among the educated elite, the working class, and various segments of Iraqi society.²⁹ This discontent, coupled with opposition to Iraq's ties with the West, eventually led to a coup orchestrated by a group of armed officers in 1958. The coup resulted in the assassination of the King and prominent officials, and the subsequent establishment of a republic by moderate Arab nationalists.³⁰

General Abd al-Karim Qasim, the leader of the 1958 coup, severed all of Iraq's ties with Western powers and implemented policies influenced by socialist values. Motivated by these principles, General Qasim devised a planned economy aimed at eliminating foreign economic influence, particularly in the oil sector.³¹ This period witnessed the construction of numerous factories, positioning Iraq as the most industrialized country in the Middle East. Moreover, a robust national healthcare system was established during this time.³² In 1961, General Qasim implemented Law Number 80, which resulted in the acquisition of 99.5% of the concessionary area of the Iraq Petroleum Company (IPC). The IPC, owned by some of the world's largest oil companies and partly by Britain,³³ had enjoyed a monopoly over oil production and exploration in Iraq from 1925 until 1972 when it was fully nationalized.³⁴ Additionally, under General Qasim's leadership, significant economic changes were introduced, including a comprehensive land reform program aimed at redistributing land by dismantling the existing system of

²⁸ AL-Habib, M., 1955. The Iraqi Development Board. *The Southwestern Social Science Quarterly*, 36(2). pp 185–190.

²⁹ Warriner, D., 1957. *Land Reform and Development in the Middle East: A Study of Egypt, Syria and Iraq*, London: Royal Institute of International Affairs. pp 75

³⁰ Marr, P., & Al-Marashi, I., 2017. *The Modern History of Iraq* (4th ed.). Routledge.

³¹ Al-Marashi, I., 2005. *Iraq's armed forces: An analytical history*. Routledge.

³² Bacon, D., 2004. "Privatized Iraq: Imposed economic and social policies raise human rights questions". *Race, Poverty & the Environment*. 11 (1). pp 46

³³ Metz, H., 1988. *The Turkish Petroleum Company. Iraq: A Country Study*. Washington: GPO for the library of Congress.

³⁴ Sanford, J., 2003. *Iraq's Economy: Past, Present, Future*. 1st ed. Congressional Research Service: The Library of Congress.

land ownership. Many lands that had been previously allocated to tribal leaders and tradesmen were transferred back to farmers. However, domestic unrest, regional conflicts, and Kurdish insurgency led to another coup, resulting in the overthrow and death of General Qasim in 1963.³⁵ General Abd Al Salam Arif succeeded him in 1964 and pursued socialist policies, leading to the nationalization of industries in the country later that same year.³⁶ While General Arif re-established Iraq's ties with the West, he simultaneously intensified socialist economic policies and expanded the role of the public sector in managing the economy. This led to the nationalization of productive and successful private-sector companies and entities, including foreign and national banks, 27 of the largest industrial companies in the country, and insurance companies, while foreign oil companies remained unaffected by these measures.³⁷ These government actions created a volatile relationship between the private sector and the government, as the private sector's participation in medium and large-scale investment projects was disengaged, further contributing to the decline of industrial development in Iraq. General Abd Al Salam Arif died in a helicopter crash in 1966, and his brother, General Abdul Rahman Arif, who served as the Chief of Staff of the Iraqi Armed Forces, assumed power. Nevertheless, General Abdul Rahman Arif's government lasted only until 1968 when the Baath Arab Socialist Party seized power through a coup.

The Baath Arab Socialist Party continued to implement socialist economic policies until the Iraq-Iran war, which took place between 1980 and 1988. The devastating war led to a severe economic decline, prompting the government to partially abandon the socialist system and embark on economic reforms. In 1987, the government decided to privatize various state-owned companies and offered incentives for foreign companies to invest in Iraq, facilitating foreign direct investment.³⁸ Prior to 1990, Iraq possessed a relatively advanced economy compared to other Arab nations, with a significant portion of its population belonging to the middle class and enjoying high standards of education and

³⁵ Al-Marashi, I., 2005. *Iraq's armed forces: An analytical history*. Routledge.

³⁶ Röder, T., 2012. *Constitutionalism in Islamic Countries: Between Upheaval and Continuity*. OUP USA.

³⁷ The New York Times, 1964. *Iraqis Nationalize Some Businesses, But Oil Is Spared*. pp 1

³⁸ Al-Atrushi, K. and Al-Muhamed, N., 2020. *Economic liberalization, FDI inflows, and economic growth in Iraq*. *Journal of Economic Studies*, 47(6), pp. 1249-1265.

healthcare.³⁹ However, this progress was severely hindered in 1990 when Iraq invaded Kuwait, leading to the depletion of its economy and infrastructure.⁴⁰ In response to this act of aggression, the United Nations imposed devastating economic sanctions on Iraq through Resolution 661 on August 6, 1990, which remained in effect until May 22, 2003.⁴¹ Commentators have deemed these sanctions as one of the most severe humanitarian catastrophes ever imposed, effectively prohibiting all imports and exports to and from Iraq, with only limited exceptions for medicine and food.⁴² Under Article 25 of the United Nations Charter, all member states were obligated to adhere to the resolutions and decisions of the United Nations, including the economic sanctions imposed on Iraq. To mitigate the impact of the sanctions on its people, the Iraqi government implemented a rationing system and increased agricultural production to safeguard against famine. However, approximately a year after the imposition of the sanctions, the United States led a coalition of 35 nations in a military operation known as Desert Storm, which commenced in January 1991 and lasted for six weeks.⁴³ This operation resulted in the destruction of a significant portion of Iraq's infrastructure, including power stations, telecommunication networks, oil facilities, schools, bridges, and hospitals.⁴⁴ The remaining assets that survived the onslaught were rendered dysfunctional due to the demolition of power-generating facilities. It is evident that the objective of Desert Storm was to systematically dismantle Iraq's infrastructure. A UN envoy described the situation in the country as one of complete despair and approaching a "near apocalyptic" state.⁴⁵

Prior to the imposition of sanctions, Iraq relied heavily on food imports. However, Resolution 661, interpreted by countries such as Britain, Canada, and the United States, permitted the export of food to Iraq only for humanitarian purposes. The resolution stated that such exports would be allowed in dire situations, preceding

³⁹ Id pp 5

⁴⁰ El-Baz, F. and Makharita, R., 2016. *The Gulf War and the Environment*. 1st ed. London: Routledge.

⁴¹ United Nations Security Council.,1990. Resolution 661. New York: United Nations.

⁴² Gordon, J., 2020. *The Enduring Lessons of the Iraq Sanctions*. Middle East Report. pp 294.

⁴³ Zarzour, K.,2012. *Operation Desert Storm: Evaluation of the Land Component's Performance*. United States Army War College.

⁴⁴ Andoni, L., 1991. *Fearful yet defiant*. Middle East International. pp 6.

⁴⁵ de Cuellar, J., 1991. *Report to the Secretary General on humanitarian needs in Kuwait and Iraq in the immediate post-cris environment by a mission to the area led by Mr. Martti Ahtisaari, Under-Secretary-General for Administration and Management*. 1st ed. Security Council: United Nations.

a famine.⁴⁶ As a result, Iraq was prohibited from importing food for nearly eight months until the Security Council granted permission. In 1995, the Oil-for-Food Program was introduced, allowing the Iraqi government to trade oil and utilize the generated revenue to purchase humanitarian goods.

The sanctions imposed on Iraq persisted until the United States and its allies launched a military invasion in March 2003. This invasion further devastated the already fragile infrastructure and economy of Iraq, ultimately resulting in the removal of the Baath Arab Socialist Party from power.⁴⁷ In the aftermath of the invasion, the Coalition Provisional Authority (CPA) was established in May 2003, assuming executive, legislative, and judicial powers until 2004. The primary objective of the newly formed authority was to lay the groundwork for the reconstruction of a ravaged nation and economy. To facilitate this process, it became necessary to develop a constitution that would serve as the foundation for a new system of governance. However, the rules implemented by the CPA during the post-2003 occupation period were met with significant criticism and exhibited numerous disadvantages.

One of the key shortcomings of the CPA rules was their imposition by an external authority, which resulted in a lack of local ownership and limited participation of Iraqis in decision-making processes. Consequently, the Iraqi population harboured a sense of resentment and questioned the legitimacy of these rules.⁴⁸ Moreover, the individuals tasked with designing and implementing the CPA rules often possessed limited understanding of the intricate complexities, cultural dynamics, and political landscape of Iraqi society. This lack of contextual understanding led to policies and decisions that were ill-suited to the specific needs and realities of Iraq. The CPA rules also entailed the dismantling of essential state institutions, including the Iraqi military and civil service, through the process of de-Ba'athification.⁴⁹ This hasty dismantling resulted in the loss of experienced personnel and institutional memory, thereby posing significant

⁴⁶ Gordon, J., 2010. *Invisible War: The United States and the Iraq Sanctions*. 1st ed. Cambridge: Harvard University Press.

⁴⁷ Tripp, C., 2007. *A History of Iraq*. Cambridge University Press.

⁴⁸ Al-Darraji, M., 2017. *The ashes of Babylon*. Al Hikma.

⁴⁹ Lynch, M., 2009. *After the fall: The rebuilding of Iraq and the challenges ahead*. Foreign Affairs.

challenges to effective governance and administration during the post-occupation period. Furthermore, the abrupt introduction of market-oriented economic policies and liberalization measures under the CPA rules caused economic disruptions and exacerbated inequalities. Privatisation of state-owned enterprises and the removal of trade barriers had adverse effects on employment, local industries, and social welfare programs.⁵⁰ Additionally, the dissolution of the Iraqi military and security forces without a comprehensive plan for maintaining law and order created a security vacuum.⁵¹ This vacuum allowed for the emergence of insurgency, sectarian violence, and other security challenges that persisted long after the CPA period.⁵² Consequently, many Iraqis perceived the CPA rules as an extension of foreign occupation rather than a genuine effort to rebuild and stabilize the country. This perception contributed to a widespread sense of resistance and hostility towards the rules and the occupying forces.

2.3 Iraqi Constitution of 2005 and the Legislature

2.3.1 The Constitution

The governance system in Iraq derives its authority and is delineated by the Iraqi constitution.⁵³ A constitution serves as the cornerstone of governance, comprising a set of rules and principles that define the duties, powers, and responsibilities of the government.⁵⁴ It also establishes the fundamental rights and protections afforded to citizens. In most countries, like Iraq, constitutions are codified into a single document that outlines the structure and operation of the state. In contrast, countries such as the United Kingdom rely on a combination of statutes, judicial decisions, conventions, and treaties to define their constitution.⁵⁵ The constitution assumes a pivotal role in upholding the rule of law and laying the

⁵⁰ Daws, S., 2007. *The UN's Role in Nation-Building: From the Congo to Iraq*. Cambridge University Press.

⁵¹ O'Leary, B., 2006. *The Iraq War: Origins and Consequences*. Polity Press.

⁵² Cordesman, A. H., & Khazai, I., 2008. *Security in Iraq: A Framework for Analyzing Emerging Threats as US Forces Withdraw*. Center for Strategic and International Studies (CSIS) Report

⁵³ Jawad, S., 2013. *The Iraqi constitution: structural flaws and political implications*. LSE Middle East Centre Paper Series, 01. LSE Middle East Centre, London, UK.

⁵⁴ UCL., 2022. What is a constitution? | The Constitution Unit - UCL – University College London. [ONLINE] Available at: <https://www.ucl.ac.uk/constitution-unit/explainers/what-constitution>. [Accessed 15 January 2022].

⁵⁵ The House of Commons., 2015. *The UK Constitution: A summary, with options for reform: Political and Constitutional Reform Committee*.

groundwork for effective national governance. It confers authority upon the executive branch, serving as the embodiment of the central power of the state. Simultaneously, it furnishes the essential rules and principles that govern the legislative and judicial bodies, entrusted with the responsibility of administering and overseeing the affairs of the state. The legitimacy of national governments is derived from their adherence to the constitution, as it delineates the functioning of diverse institutions and guides their interactions in the pursuit of serving the public sector.

As the highest legal authority, constitutions are not easily amended and serve as a benchmark for lawmakers when enacting new legislation. Any law that contradicts the provisions of the constitution is deemed invalid. While constitutions aim to provide clarity, establish governance procedures, and define the relationship between the state and its citizens, complications can arise when constitutions are poorly drafted or inadequately implemented. Additionally, when new political regimes assume control of a state through conflict, revolution, or succession, they often enact new constitutions to align with their interests and vision of state sovereignty. However, the process of enacting new constitutions and policies can hinder positive economic and social progress, as witnessed in the case of Iraq.

On October 15, 2005, a new permanent constitution, (The Constitution) was ratified by an overwhelming majority of 79% of votes in a national referendum. The primary objective of the constitution was to rebuild the war-torn economy and infrastructure of the state, which had been severely depleted due to years of conflict and economic sanctions. The Constitution aimed to strengthen the separation of powers by establishing independent branches of government, namely the executive, legislature, and judiciary.⁵⁶ However, it emphasized the importance of constructive collaboration among these branches to achieve good governance, fulfil the basic expectations of citizens, and maintain stability.

⁵⁶ Article 47 of the Iraqi Constitution

2.3.2 Flaws of the Constitution

The legislative power, known as the Iraqi Parliament or the Council of Representatives, was entrusted with the responsibility of enacting laws within the federation.⁵⁷ The executive branch, referred to as the Council of Ministers or the government, assumed the day-to-day management of the country.⁵⁸ The judiciary comprised various courts and judges, tasked with upholding the rule of law and ensuring accountability for unlawful acts. Each branch had distinct responsibilities and tasks outlined in the constitution and existing laws. The separation of powers, enshrined in the 2005 Constitution, aimed to dismantle the centralized authority previously held by the Iraqi Revolutionary Command Council (IRCC). Established in 1968, the IRCC had wielded ultimate decision-making power in the country, assuming both executive and legislative roles. No laws could be passed without the approval of its members. The introduction of separation of powers marked a significant shift in governance structure. However, the new Iraqi regime that succeeded the adoption of the Constitution failed to fully comprehend and embrace the new authority structure. As a result, various obstacles emerged, hindering the issuance of important laws, regulations, and decisions crucial for promoting good governance. This lack of recognition and understanding of the new governance framework impeded the advancement of effective governance practices.

According to the 2005 Iraqi Constitution, the legislature was intended to consist of two legislative bodies: the Council of Representatives and the Federation Council.⁵⁹ However, to this day, the Federation Council has not been formed, granting the Council of Representatives complete and extensive legislative power. This includes the functions of passing laws, scrutinizing the government's performance, entering into international treaties, and approving appointments.⁶⁰ For a bill to become law through the Council of Representatives, it must be presented by the Prime Minister, President, 10 members of the Council of Representatives, or a parliamentary committee. The bill is then voted upon by the

⁵⁷ Id Article 61

⁵⁸ Id Article 80

⁵⁹ Ahdar, R. J.,2016. The Constitution of Iraq: A Contextual Analysis

⁶⁰ Qayyum, T.,2020. Constitutional Law in Iraq: A Comparative Perspective

Council of Representatives, with a majority vote required for it to pass.⁶¹ The Council of Representatives also holds the responsibility of approving or disproving a government cabinet. Once the cabinet is formed, the Council inspects the government's performance and can remove its members through a majority vote. Additionally, the Council of Representatives is responsible for approving ambassadors in foreign countries, appointing high government officials, and selecting judiciary members.⁶² The Council of Representatives is established on the principle of having one representative in the council for every 100,000 citizens. These representatives act as the voice of the people, and the election law, which is passed by the Council, determines the details of the election process.⁶³

The failure to implement Article 65 of the 2005 Iraqi Constitution, which calls for the establishment of the Federation Council as a higher chamber representing governorates and regions, has hindered the realization of a legislative body that aligns with the aspirations of lawmakers and policymakers in Iraq. The Federation Council would have acted as a second chamber alongside the Council of Representatives to provide a mechanism for inter-governmental cooperation and to ensure a balance of power between the central government and the regions. It would have been involved in matters concerning regional and local governance, representing the interests of the various regions and acting as a forum for consultation on federal legislation. The absence of the Federation Council means that the Council of Representatives remains the sole legislative body in Iraq's federal government. This delay in implementing a key provision of the constitution highlights yet another setback in the effective implementation of the country's supreme law. The formation of the Federation Council could play a pivotal role in expediting the passage of significant laws that are currently stalled in the Council of Representatives. Furthermore, it could introduce an additional level of oversight in the political process. Important laws such as the oil and gas law, public-private partnerships law, and retirement and social security law, among others, have been lingering without progress. The absence of the Federation

⁶¹ Ahdar, R. J., 2016. *The Constitution of Iraq: A Contextual Analysis*

⁶² Al-Ali, Z., 2014. *The Unmaking of the Iraqi Constitution*

⁶³ Ruhl, J. M., 2009. *The Iraqi Constitution: A Comparative Perspective*

Council exacerbates these delays, impeding the resolution of crucial matters and leaving both citizens and the government in a state of uncertainty.⁶⁴ The Iraqi Constitution contains more than 60 articles that necessitate the enactment of new laws for their activation and implementation. Unfortunately, many of these laws have yet to be passed by the Council of Representatives, resulting in unresolved issues and ambiguity in various vital areas. This creates challenges and complexities for both the populace and the government. The failure to establish the Federation Council, along with the consequent delays in passing essential legislation, demonstrates a significant gap between the constitutional framework and the practical implementation of laws in Iraq. Rectifying these shortcomings and effectively executing the provisions of the constitution are crucial steps towards fostering a more functional and accountable legislative system that aligns with the needs and aspirations of the Iraqi people.

Iraq's economy heavily relies on its oil income, which constitutes approximately 90% of the government's revenue and is under complete state control.⁶⁵ According to Article 111 of the Constitution, oil and gas resources in the country are owned by the Iraqi people. However, the constitution delegates the regulation of oil and gas management rights and revenue distribution to the legislature, requiring the passage of a specific law. Despite numerous attempts to enact an oil and gas law, all efforts have thus far been unsuccessful. This uncertainty surrounding the regulation of the oil sector has resulted in complications in the political relationship between the central government in Iraq and the Kurdish Federal Government, particularly concerning issues related to oil, including export and extraction rights, oil field management, and contractual agreements with international entities. Although the Constitution designates Iraq as a federal state, currently, there is only one semi-autonomous region, Kurdistan. The lack of clarity regarding the distribution of powers to the federal state has led to significant criticism of the federation's status, as unresolved disputes persist with

⁶⁴ Jawad, S. 2013. The Iraqi constitution: structural flaws and political implications. LSE Middle East Centre Paper Series, 01. LSE Middle East Centre, London, UK.

⁶⁵ AP NEWS. 2022. Iraqi parliament approves budget of \$89 billion for 2021 | AP News. [ONLINE] Available at: <https://apnews.com/article/financial-markets-financial-crisis-iraq-coronavirus-pandemic-state-budgets-11076ab2570db9288ee975d35eabadaa>. [Accessed 08 January 2022].

Kurdistan, largely stemming from inconsistencies and ambiguities within the constitution.

To address the issue of conflicting legislation between regional and national authorities, the Constitution, in articles 115, 121, and 126, attempted to provide a resolution. These articles stipulate that, in matters outside the exclusive authority of the federal government, regional authorities are permitted to act independently and modify the application of national legislation. Consequently, regional governments possess full authority to implement their own policies and legal procedures. However, exclusive powers such as foreign policy,⁶⁶ national budget,⁶⁷ trade and monetary policy,⁶⁸ and crucially, the management of oil and gas resources in cooperation with producing and regional governorates,⁶⁹ are allocated to the federal government. This allocation of exclusive powers has led to turmoil in the relationship between the central government in Iraq and the federal government in Kurdistan. The Iraqi central government maintains that the authority to develop oil fields, market, and export oil lies with the Iraqi Ministry of Oil. However, the federal government in Kurdistan believes it has the right to do so without seeking approval from the central government in Iraq, citing Kurdish Federal Law 22 of 2007 which supports their claim. The Iraqi government on the other hand argues that this law is unconstitutional as it contradicts Article 112 of the 2005 constitution. Both governments rely on the ambiguous wording of Article 112(1) of the constitution to support their respective claims. When the Kurdish Regional Government exports oil, the Iraqi government expects the financial revenue to be credited to the central treasury in accordance with Iraqi national law. However, the Kurdish Regional Government contests this and retains the revenues from the sale of oil. This confusion, along with other unresolved disputes stemming from the inadequately written constitution, has led the Kurdish Federal Government to hold a referendum on September 25, 2017, with the aim of gaining full independence from Iraq. The Iraqi government deemed the referendum to have no legal basis, while over 92% of voters in Kurdistan supported it. In response, the Iraqi government, led by the Prime Minister,

⁶⁶ Article 107(1) of the Iraqi Constitution

⁶⁷ Id 107(7)

⁶⁸ Id 107(3)

⁶⁹ Id 109

ordered various departments of the Iraqi Army to seize control of Kirkuk, a disputed area between the Kurdish and Iraqi governments, along with military bases, oil and gas fields, state-owned company offices, airports, and borders in Kurdistan.⁷⁰ This action caused significant disruption. These incidents highlight clear discrepancies in the understanding and implementation of the provisions of the constitution.

Although the Constitution entrusted the judiciary with the oversight of constitutional interpretation and dispute resolution, numerous matters concerning the application of the constitution remain unresolved. Article 126 of the 2005 Constitution further complicates the situation by stating that articles in the constitution pertaining to the powers of regions, which are not considered exclusive powers of federal authorities, may not be amended unless approved by the legislative authority in the respective region and through a general referendum. This provision makes it exceedingly difficult for Iraqi governments and the legislature to make necessary changes to the constitution as they see fit.

Efforts to pass a comprehensive public-private partnership law in Iraq have been made to enhance collaboration between the public and private sectors, yet no law has been enacted. On August 7, 2019, the draft law on public-private partnerships was approved by the Iraqi Council of Ministers.⁷¹ Typically, once a draft is approved by the Council of Ministers, it is forwarded to the Council of Representatives for review, approval, and subsequent publication in the official gazette. However, these necessary steps have not yet taken place. Consequently, there is uncertainty surrounding the implementation of partnership projects in Iraq. Several partnership projects are already in operation prior to the enactment of the law. One such project is the \$1.8 billion refinery agreement between the Iraqi Ministry of Oil and PetroChina.⁷² In the absence of a specific law governing partnerships, the public sector relies on Article 15 of the Iraqi Companies Law,

⁷⁰ Rudaw., 2017. Abadi: Peshmerga must come under Iraqi control or downsize. Available at: <https://www.rudaw.net/english/middleeast/iraq/31102017> (Accessed: 23 June 2023).

⁷¹ The Government of Iraq., 2019. Cabinet approves draft law on public-private partnership. [ONLINE] Available at: <https://gds.gov.iq/cabinet-approves-draft-law-on-public-private-partnership/>. [Accessed 26 March 2023].

⁷² MEED., 2022. MEED | EXCLUSIVE: Iraq awards \$1.8bn refinery contract to Chinese company. [ONLINE] Available at: <https://www.meed.com/exclusive-iraq-awards-1-8bn-refinery-contract-chinese-company/>. [Accessed 02 January 2022].

which allows public sector companies to enter partnerships with the private sector, while ministers and other commissions are prohibited from doing so. However, the Companies Law does not define the legal framework, rights, and responsibilities for such arrangements. Consequently, each sector operates under its own set of laws, and projects are governed by general contract principles and the civil code. Issues arise when sectors lack defined regulations, as exemplified by the oil and gas sector, leading to implementation problems and diminished confidence in the private sector. Furthermore, the Iraqi government's approach to partnership projects reveals inconsistencies in governance. The General Governmental Contracts Department, part of the Ministry of Planning, oversees all government contracts in Iraq. This department has, in various instances, refused to authorize certain projects under the partnership framework due to the absence of guidance or regulations governing such projects. In a letter dated December 1, 2021, addressed to the Office of the Deputy for Administrative Affairs of the Mayorality of Baghdad (reference number 4/7/30861), the General Governmental Contracts Department advised that a project involving the automation of the Baghdad Mayorality system, in collaboration with a private sector company from Saudi Arabia, could not be contracted as a Build Operate Transfer (BOT) partnership. Instead, it stated that partnership projects should be considered investment opportunities falling within the domain of the Investment Commission. This inconsistency in granting approvals for partnership projects has had detrimental effects on several initiatives.

The Council of Representatives in Iraq has yet to pass an important law regarding retirement and social security. Enacting such legislation would provide essential security and improve working conditions for employees in industrial, private commercial, and leisure projects. The law would enable employees in these sectors to receive retirement benefits upon the completion of their service, similar to the benefits received by public sector employees. The absence of this law is one of the primary reasons why Iraqi citizens often choose to work in the public sector rather than the private sector.

Official statistics reveal a significant increase in the number of public sector employees in Iraq, from approximately 850,000 in 2003 to 4,500,000 in 2021 as this substantial growth in public sector employment has imposed a considerable burden on the government, with annual salaries amounting to over 31 billion

dollars.⁷³ In 2020, the government faced challenges in meeting the salary obligations of public sector employees due to declining oil prices. Consequently, the government had to borrow funds from currency reserves to secure the delayed salary payments. The proposed retirement and social security law aims to incentivize employees seeking job security and retirement benefits to consider employment in the private sector. This initiative seeks to reduce the excessive number of public sector employees, which is economically unsustainable. It is essential to recognize that a high number of public employees does not necessarily correlate with increased productivity, as will be further explored in this thesis.

Iraq is progressing slowly in the ratification of laws and the development of institutions necessary for executing the government's economic policy and encouraging greater involvement of the private sector in the economic cycle. Implementing political reforms is also crucial to address concerns raised by investors regarding the uncertain business environment. The Iraqi government is actively seeking to attract foreign companies and investments into the country. However, several obstacles impede progress, including an unstable political system, volatile security conditions, social instability, corruption, inadequate infrastructure, and outdated laws that hinder developmental efforts. Notably, the hierarchy of legal sources further exacerbates the challenges, as highlighted in the structure outlined below.

⁷³ AP NEWS. 2021. Bloated public salaries at heart of Iraq's economic woes | AP News. [ONLINE] Available at: <https://apnews.com/article/financial-markets-baghdad-iraq-middle-east-cf1789e0fa482600f133aae71a8d34d8>. [Accessed 02 December 2021]

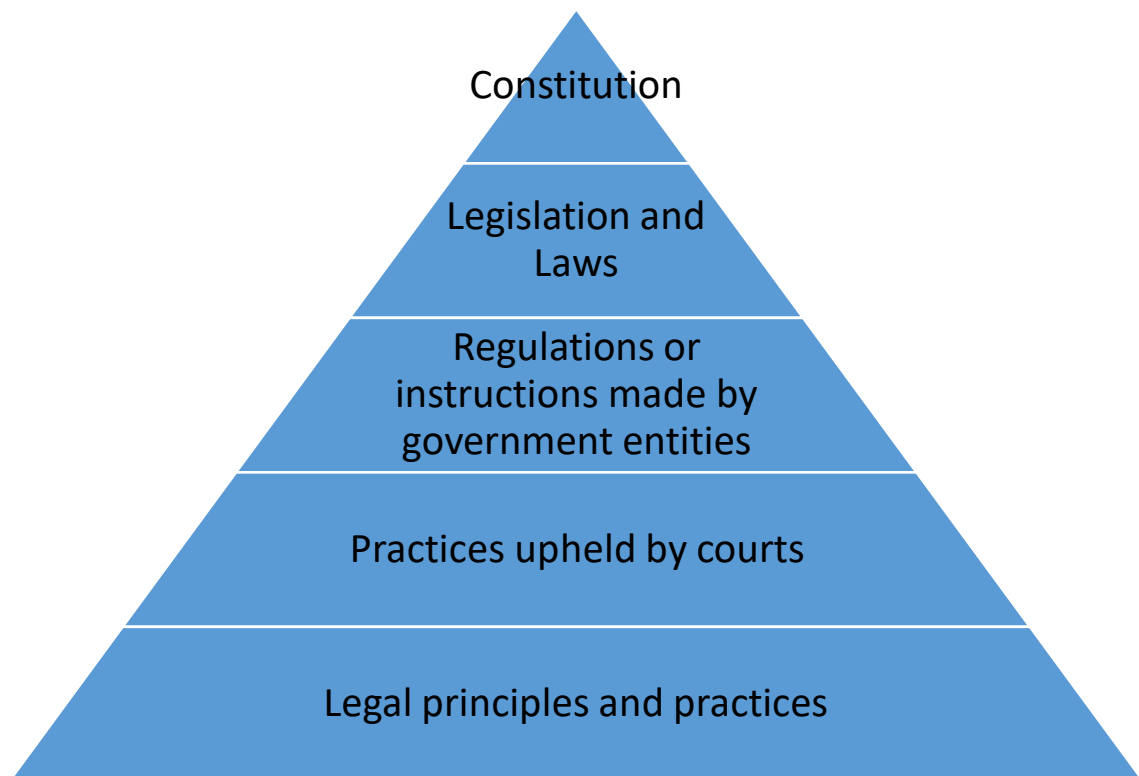


Figure 1: Hierarchy of legal sources

2.4 Iraqi Legal System

2.4.1 Iraqi Civil Code

The Iraqi legal system relies on Law No. 40 of 1951, also known as the Civil Code, as the primary source of contract law within the country. This comprehensive code establishes the foundational principles of the commercial legal system in Iraq. Drawing inspiration from the French Civil Code, the Iraqi Civil Code adopts a balanced approach that combines elements of both Islamic Sharia and French law.⁷⁴ Its provisions play a vital role in regulating commercial transactions and relationships. According to the Civil Code, a contract is formed through the mutual agreement of the parties, involving an offer and acceptance. Unlike common law jurisdictions, Iraqi law does not require the concept of consideration to validate a contract.⁷⁵ Additionally, contracts can be concluded verbally, as long as the

⁷⁴ Mallat, C. and Professor, P., 2007. Introduction to Middle Eastern Law. Oxford University Press. pp 240

⁷⁵ Iraqi Civil Code Article 77(1)

parties demonstrate the intention to be bound by the terms. However, such contracts must not contradict Islamic Sharia principles. In cases where the provisions of the Civil Code conflict with other laws, the Civil Code takes precedence.⁷⁶ Article 1(2) of the Civil Code states that when Iraqi laws are silent on a particular matter, the courts will make decisions based on customary practices. If no applicable custom exists or if the matter is novel, Islamic Sharia principles may be applied. Alternatively, the court may resort to principles of equity.⁷⁷ In all cases, the courts are guided by Iraqi jurisprudence, as well as the jurisprudence of countries with similar legal systems.⁷⁸

The Civil Code recognizes the need for adaptation to changing circumstances and the introduction of new legal matters.⁷⁹ Therefore, its provisions can be amended to accommodate these changes. However, newly enacted laws generally do not have retrospective effects, unless expressly specified or when the law pertains to matters of morality or public order.⁸⁰ The Iraqi Civil Code recognizes certain entities and individuals as juristic persons,⁸¹ including public institutions, independent administrations, political divisions, religious sects, and civil and commercial companies.⁸² Each juristic person is required to have a representative and is entitled to the same rights as natural persons under Iraqi law, except for inheritance.⁸³ Juristic persons exist as separate legal entities and are capable of entering into commercial transactions.

Foreign commercial companies conducting business in Iraq are considered domiciled in Iraq for the purpose of legal jurisdiction and are subject to all applicable Iraqi laws and regulations.⁸⁴ Contracts must be executed in accordance with the provisions of the Civil Code and in good faith.⁸⁵ Parties to a contract are also bound by customary practices and principles of equity.⁸⁶ When

⁷⁶ Id Article 1(1)

⁷⁷ Id Article 1(2)

⁷⁸ Id Article 1(3)

⁷⁹ Id Article 5

⁸⁰ Id Article 10

⁸¹ Id Article 47

⁸² Id Article 47

⁸³ Id Article 48 (1)

⁸⁴ Id Article 48 (6)

⁸⁵ Id Article 150(1)

⁸⁶ Id Article 150(2)

interpreting contracts, the Civil Code emphasizes the intentions of the contracting parties, giving priority to their intended meanings⁸⁷ rather than relying solely on the literal interpretation of the contract's wording.⁸⁸ Compliance with the provisions of the Civil Code is essential for all parties engaging in commercial transactions in Iraq. The Civil Code establishes certain requirements for the validity of a contract, including lawfulness, capacity of the parties, absence of defects, and a lawful cause and object.⁸⁹ Conversely, a contract will be deemed invalid and void if it is subject to a condition and established under fraud, duress, mistake, or if any party is legally incapacitated.⁹⁰ Once deemed lawful, a contract is binding, and parties are generally not allowed to withdraw from or amend its provisions without mutual consent or as permitted by law.⁹¹ However, a court may modify a contract if unforeseen events render an obligation excessively burdensome, in accordance with principles of equity.⁹² In cases of contract disputes, the applicable law is determined by the common domicile of the contracting parties.⁹³ If the parties have different domiciles, the law of the jurisdiction where the contract was concluded will apply.⁹⁴ However, the Civil Code grants parties with different domiciles the freedom to agree on the governing law for their contract, provided that the chosen law is in accordance with applicable legal principles.

The Constitution of Iraq, adopted in 2005, established a legal system in the country that is based on Civil Law with Islamic foundations.⁹⁵ Article 2(a) of the Constitution prohibits the enactment of any law that contradicts the principles of Islam or the principles of democracy.⁹⁶ Furthermore, Article 2 of the Constitution aims to align the laws of Iraq with the principles of Islam, which has a significant impact on the Iraqi Civil Code. The Iraqi Civil Code, particularly in Articles 1(1) and 2, recognizes Sharia Islamic law as a supplementary source of law, with the

⁸⁷ Id Article 156

⁸⁸ Id Article 155

⁸⁹ Id Article 133(1)

⁹⁰ Id Article 134(1)

⁹¹ Id Article 146(1)

⁹² Id Article 146(2)

⁹³ Id Article 25(1)

⁹⁴ Id Article 26

⁹⁵ Mallat, C. and Professor, P., 2007. Introduction to Middle Eastern Law. Oxford University Press. pp 240

⁹⁶ Article 2 of the Iraqi Civil

provisions of the Civil Code taking precedence. This change in the legal hierarchy influences the interpretation and application of the Civil Code. According to Article 1(2) of the Civil Code, when the written law is silent on a matter, the courts are to decide based on custom, and Islamic Sharia law is only considered in the absence of relevant custom.⁹⁷ This modified legal framework established by the Constitution elevates the role of Sharia Islamic law, undermining certain provisions of the Civil Code.

The introduction of the Constitution modifies the sources of law and the interpretive authority vested in the Civil Code. In line with the constitutional mandate, Sharia Islamic law is expected to serve as the foundation of the legal system, which poses challenges to provisions derived from the continental civil law tradition found in the Civil Code. As a result, the interpretation of contracts and the resolution of conflicts often rely on customary practices rather than strict adherence to Islamic Sharia law, leading to potential discrepancies with the literal understanding of Article 2 of the Constitution. This tension between the constitutional emphasis on Islam as a basis for law and the prevailing civil law tradition in the Civil Code raises unresolved conflicts in legal interpretation. The need to harmonize these differing sources of law and ensure consistency remains an ongoing challenge, requiring careful examination and consideration of both Islamic principles and civil law concepts.

2.4.2 Judiciary

The judicial system in Iraq is comprised of various institutions, including the Federal Supreme Court, the public prosecutor's office, the Court of Appeal, and other courts that may be established by law. The Higher Judicial Council is responsible for overseeing the management and supervision of the judiciary. This council is entrusted with the appointment of the Chief Justice and members of the Court of Appeal. The Federal Supreme Court holds the highest authority in Iraq's judicial system. It is entrusted with critical tasks, such as interpreting the constitution, validating election results, settling legal disputes arising from the constitution, resolving conflicts between the federal government and other

⁹⁷ Id Article 1(2)

entities, and adjudicating disputes between different branches of the government. Additionally, the Federal Supreme Court plays a pivotal role in resolving conflicts between various judicial bodies.

The Civil Courts are responsible for handling commercial disputes and have jurisdiction over all civil and commercial matters. These courts, which are overseen by the Ministry of Justice, are organized into Courts of First Instance, Courts of Appeal, and the Court of Cassation. Courts of First Instance are presided over by a single judge and handle cases related to contracts, real estate, debt, and compensation for illegal activities. The decisions made by these courts are considered initial and are often subject to review by the Courts of Appeal, which are composed of three judges.⁹⁸ Due to the lack of clarity in certain provisions of the Constitution, the Federal Supreme Court has played a significant role as an interpreter and enforcer of the Constitution. Since its establishment, it has been instrumental in resolving disputes and ensuring the proper implementation of constitutional principles and laws.⁹⁹ The judiciary in Iraq, through its various institutions, works to uphold the rule of law, safeguard constitutional rights, and provide a framework for the fair resolution of legal disputes. The role of the Federal Supreme Court is crucial in maintaining the integrity and stability of the judicial system.

2.4.3 Commercial disputes including foreign investors

In the case of commercial disputes involving foreign investors, the parties involved may choose to resolve their issues in the Commercial Court, which was established in 2011 under Article 22 of the Judicial Regulation Code of 2010. The Commercial Court has jurisdiction over cases that are commercial in nature and involve foreign companies or individuals. Parties opt for the Commercial Court due to its perceived transparency and expedited procedures. Unlike regular court proceedings, notices to parties are not required to be sent through the Iraqi Ministry of Foreign Affairs, which often leads to delays. Instead, the Commercial Court utilizes registered mail for serving notices. Additionally, the Commercial

⁹⁸ Pedrozo, R., 2010. *The War in Iraq: A Legal Analysis*. 86th Vol. Military Studies Press: International Law Studies.

⁹⁹ Al-Bayati, R., 2020. "The Iraqi Federal Supreme Court and the Interpretation of the Constitution." *Arab Law Quarterly*, 34(4) pp 324-347.

Court handles a relatively small number of cases, allowing judges to resolve disputes more efficiently compared to civil courts.

The Commercial Court has gained trust and credibility in handling commercial disputes, with a significant portion of cases involving foreign companies. As a result, the Higher Judicial Council has established two additional commercial courts in Basra and Najaf. However, decisions made by the Commercial Court are subject to appeal through the regular process of the Iraqi Court of Appeal, which can cause delays in the enforcement of verdicts. One advantage of resolving contractual disputes in Iraqi courts is the direct enforceability of court decisions, as they do not require the special procedures necessary for enforcing foreign judgments in Iraq. Consequently, foreign contracting parties in Iraq may choose to settle their contractual disputes in foreign jurisdictions. According to Article 16 of the Iraqi Civil Code, foreign judgments are not enforceable in Iraq unless specifically recognized by law. In this regard, the Foreign Enforcement Law of 1928 addresses the enforceability of foreign judgments in Iraq, setting certain conditions for judgments to be recognized and enforced. Furthermore, the Enforcement Law of 1980 outlines the procedures for enforcing all judicial awards in Iraq, including foreign judgments.

Article 12 of the Enforcement Law stipulates that foreign judgments are not enforceable in Iraq unless they comply with the provisions of the Foreign Enforcement Law or with international agreements to which the Iraqi government is a party. Article 30 of the Foreign Enforcement Law specifies that only judgments issued in countries that have bilateral agreements with Iraq, as designated by Iraqi regulations and recognize Iraqi court judgments based on the principle of reciprocity, can be enforced in Iraq. According to Article 2 of the Foreign Enforcement Law, a foreign judicial award can only be enforced in Iraq after it is approved by an Iraqi court. The party seeking enforcement of a court decision in Iraq must submit an application to the Civil Court of First Instance at the defendant's place of residence. The application must include a translated and authenticated copy of the original foreign court judgment, along with the reasons for the verdict. Upon receiving the application, the Court of First Instance will set a date for a court hearing and notify the defendant to attend. If the court determines that the foreign judgment meets the requirements outlined in the Foreign Enforcement Law, it will issue an execution order, thereby enforcing the

foreign award in Iraq. The conditions for enforcing a foreign judgment are specified in Articles 6, 7, and 7 of the Foreign Enforcement Law. The court will review whether the defendant had the opportunity to present their defence in the foreign court. Additionally, the Iraqi court will verify if the foreign judgment is final in the foreign jurisdiction and enforceable in that country. Another condition examined by the Iraqi court is whether the foreign court had jurisdiction over the case and if the decision was rendered by a competent foreign court. Moreover, only judgments pertaining to defined monetary claims, debts, or cases involving criminal matters and civil compensation can be enforced in Iraq.

It is important to note that the Foreign Enforcement Law specifically addresses the enforcement of foreign court judgments and does not explicitly mention the enforcement of arbitral awards. However, if a foreign arbitral award has been rendered and subsequently enforced by a court decision in the jurisdiction where the arbitration took place, such awards may be enforced in Iraq.¹⁰⁰ Furthermore, it should be emphasized that the Iraqi court can only accept or reject the foreign judgment and does not have the authority to modify the verdict of the foreign court. However, it is important to note that the Iraqi court has the discretion to reject the application for enforcement if it determines that the foreign judgment was obtained through fraudulent means or if the proceedings in the foreign court were conducted in violation of principles of equity, public order, and justice.¹⁰¹ This subjective and vague approach to rejecting the enforcement of a judgment can be problematic, as it leaves room for potential abuse or political interference in the Iraqi judicial system. The lack of clear criteria for rejecting the enforcement of foreign judgments may create uncertainty and undermine the confidence of international investors and the international private sector in conducting business in Iraq. This subjective approach raises concerns about the consistency and impartiality of the Iraqi courts in enforcing foreign judgments. Without transparent and objective standards, there is a risk of arbitrary decisions that may not be in line with international legal principles and practices. International investors and the international private sector rely on clear and predictable legal frameworks to protect their rights and enforce their judgments. The lack of clarity in the criteria

¹⁰⁰ Article 4 and Article 5 of the Foreign Enforcement Law number 30 of the year 1928

¹⁰¹ Article 8 of the Foreign Enforcement Law number 30 of the year 1928

for rejecting the enforcement of foreign judgments in Iraq may deter foreign parties from engaging in business transactions and seeking recourse through the Iraqi legal system. To foster foreign investment and encourage the participation of the foreign private sector in projects within Iraq, it is crucial to undertake significant reforms in the procedures governing the enforcement of foreign awards. Specifically, it is essential to eliminate any subjective approaches that Iraqi courts may employ to reject the enforcement of foreign judgments. Foreign investors rely on a transparent and predictable legal framework that provides clear and well-defined rules, ensuring fair treatment when seeking to enforce their claims in Iraq.

2.4.4 Arbitration

Previously, the enforcement of arbitral awards from foreign countries in Iraq was limited to cases where the country in which the arbitration proceedings took place was a signatory to the Riyadh Arab Agreement for Judicial Cooperation of 1983 (Riyadh Convention), or if that country had entered into a judicial collaboration agreement with Iraq. However, it posed significant challenges for foreign entities working with the Iraqi public sector as claims against the State or its entities could not be enforced under the provisions of the Riyadh Convention.¹⁰² In March 2021, the Iraqi Council of Representatives approved Iraq's accession to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) through the Law on Accession, numbered 14 of the year 2021.¹⁰³ This significant development was aimed at enhancing confidence for foreign investors engaging in commercial transactions in Iraq.

By becoming a signatory to the New York Convention, Iraq gained the ability to enforce arbitral awards rendered in countries that are also parties to the Convention. Moreover, it now became possible to enforce judgments against the Iraqi State or its departments, addressing a major concern for foreign entities. However, it is important to note that the Law on Accession introduced certain

¹⁰² Articles 25(C) and 37 of the Riyadh Convention

¹⁰³ New York Convention. 2022. Iraq accedes to the New York Convention » New York Convention.

[ONLINE] Available at:

<https://www.newyorkconvention.org/news/iraq+accedes+to+the+new+york+convention>. [Accessed 09 January 2022].

exceptions. Only arbitral awards rendered after the ratification of the New York Convention by the Iraqi Council of Representatives can be enforced in Iraq. This means that awards issued prior to the enactment of the Law on Accession cannot be enforced retrospectively.¹⁰⁴ Additionally, for a foreign arbitral award to be enforceable in Iraq, it must originate from a country that recognizes the enforceability of arbitral awards granted in Iraq (reciprocity).¹⁰⁵ Furthermore, the foreign arbitral award must pertain to commercial contractual matters, excluding civil, criminal, and family cases.¹⁰⁶ These amendments, including Iraq's accession to the New York Convention, signify a positive step towards creating a more favourable legal framework for foreign investors. The ability to enforce foreign arbitral awards and the inclusion of the State and its departments within the scope of enforcement contribute to instilling confidence in conducting commercial transactions with the Iraqi public sector. The exceptions outlined in the Law on Accession provide clarity and ensure that only relevant arbitral awards falling within the specified parameters can be enforced in Iraq, aligning with international standards and practices.

2.4.4.1 Arbitration in Iraq

The arbitration procedure in Iraq is governed by the Civil and Commercial Procedures Law number 83 of the year 1969, as amended by Law number 10 of the year 2016 (CCP). Under this law, parties to a contract may agree to resolve their disputes through arbitration by including a written arbitration clause in the contract or through a separate agreement.¹⁰⁷ However, it should be noted that in insurance disputes, the arbitration clause must be included in a separate contract as per Article 985 of the Iraqi Civil Code.¹⁰⁸ Arbitration is generally available for all contractual disputes, provided that the nature of the dispute allows for a compromise, as defined in Article 704 of the Iraqi Civil Code.¹⁰⁹ However,

¹⁰⁴ Article 1(1) of Law on Accession number 14 of the year 2021

¹⁰⁵ Id Article 1(2)

¹⁰⁶ Id Article 1(3)

¹⁰⁷ Article 252 of the Civil and Commercial Procedures Law of 1969

¹⁰⁸ Id Article 251

¹⁰⁹ Id Article 254

criminal and public policy disputes are excluded from arbitration, unless they involve the possibility of financial compensation or damages.¹¹⁰

The number of arbitrators should be specified by the disputing parties, and it must be an even number.¹¹¹ If a party fails to nominate an arbitrator, the other party can seek the court's assistance in appointing one or more arbitrators, and the court's decision in this regard is final.¹¹² There are no specific qualifications required for arbitrators under Iraqi law, but they must be neutral, possess full legal capacity, and there is no prohibition on appointing foreign arbitrators. The appointment of an arbitrator can be challenged in the same court that made the appointment on grounds such as employment association, hostility or companionship between the arbitrator and a party, or if the arbitrator has received a monetary benefit or expressed an opinion on the dispute.¹¹³ The appointment can also be challenged if the arbitrator is related by blood or marriage to any of the parties. If no challenge is raised, an appointed arbitrator cannot resign unless there are reasonable and justified grounds, and no party can unilaterally dismiss the appointed arbitrator.¹¹⁴

In arbitration proceedings taking place in Iraq, the parties have the freedom to choose any procedural rules, such as UNCITRAL, and any substantive law to govern their proceedings, provided that they do not contradict public order or morals in Iraq.¹¹⁵ The arbitration tribunal is required to render its decision within a specified period if stipulated in the arbitration agreement. In the absence of such stipulation, the award should be issued within 6 months from the tribunal's acceptance of the proceedings, by a majority or unanimous written vote.¹¹⁶ After an award is issued, the parties can seek enforcement by applying to a competent Iraqi court.¹¹⁷ The court examines the award from a legal perspective and may either approve or reject it.¹¹⁸ In case of rejection, the court can refer the matter

¹¹⁰ Article 704(2) of the Iraqi Civil Code

¹¹¹ Article 257 of the Civil and Commercial Procedures Law of 1969

¹¹² *Id* Article 256

¹¹³ *Id* Article 261

¹¹⁴ *Id* Article 92

¹¹⁵ Al-Allam, A., 1990. *Commentary on the Code of Civil Procedures*. 4th ed. Baghdad. pp 463-466

¹¹⁶ Article 262 of the Civil and Commercial Procedures Law of 1969

¹¹⁷ *Id* Article 272

¹¹⁸ *Id* Article 274

back to the arbitration tribunal to issue a new decision. There is no specific time limit for parties to apply for enforcement of an arbitration award in an Iraqi court. However, the court has the discretion to refuse enforcement based on grounds outlined in Article 273 of the CCP. These grounds include the invalidity of the arbitration agreement, the tribunal exceeding its jurisdiction, and if the award is contrary to public order or morality. The subjective interpretation of public order or morality by the court raises concerns and undermines the confidence of foreign and local investors in the enforcement of arbitration awards in Iraq. It is crucial for the Iraqi Council of Representatives to provide a clear and inclusive definition of public order and morality or modify the rules to ensure that the judges' ability to reject enforcement of arbitral or judicial awards is more objective and well-defined. Furthermore, the enforcement of foreign arbitral awards in Iraq follows similar rules as the enforcement of court judgments and is subject to the Foreign Enforcement Law. It is strongly recommended that the Iraqi Council of Representatives enact a new law specifically addressing international arbitration and the enforcement of foreign awards. Such a law would simplify procedures for foreign investors and parties involved in arbitration, promoting a more investor-friendly environment.

2.5 Executive

The executive branch of Iraq comprises of the President and the Prime Minister, with distinct roles and responsibilities. The President serves as the ceremonial head of state, representing Iraq both domestically and internationally. Their duties include signing and enacting laws, appointing the Prime Minister, and receiving foreign ambassadors. However, the President's powers are limited, primarily involving the ratification of treaties and laws that have been approved by the legislature. On the other hand, the Prime Minister holds significant authority as the head of government. They are responsible for the implementation of government policies, overseeing the administration of ministries, and coordinating the work of the Council of Ministers, which they lead. The Prime Minister plays a crucial role in the day-to-day functions of the government and can propose legislation to the legislature.

The Council of Ministers, consisting of all ministers of the cabinet, convened by the Prime Minister, meets regularly to address important matters pertaining to the

governance of the state. These include the preparation of the annual budget, negotiation of international treaties, and granting exemptions to specific regulations that impact the conduct of commercial activities within the country. The executive branch holds the responsibility of forming the government through the nomination and appointment of ministers. The executive branch actively participates in the formulation and approval of policies, regulations, and legislation across sectors such as the economy, security, infrastructure, and social welfare. Furthermore, the executive branch is responsible for the administration and implementation of government policies, programs, and projects. It ensures the functioning of government agencies, institutions, and ministries, guaranteeing the delivery of public services and the enforcement of laws. Safeguarding national security and defence is also a vital role played by the executive branch. This involves the maintenance of the armed forces, protection of Iraq's territorial integrity, and ensuring internal and external security. Additionally, the executive branch represents Iraq in international relations. It engages in diplomatic efforts, negotiates treaties and agreements, and maintains relationships with other countries, regional organizations, and international bodies. Through these diplomatic activities, the executive branch promotes Iraq's interests on the global stage.

Overall, the executive branch of Iraq plays a pivotal role in the governance, policymaking, defence, and international representation of the country. Its functions encompass a wide range of responsibilities aimed at ensuring effective governance, promoting national welfare, and fostering international cooperation.

2.6 Local Governments

Iraq is administratively divided into 18 governorates, each with its own governor and council responsible for daily affairs. The government's approach to decentralizing governance, as outlined in Article 115 of the Constitution, has transferred security, financial, and administrative powers from the federal government to the provisional governorate authorities. This decentralization also involves allocating a budget for administrative spending. Law number 21 of the year 2008, known as 'The Law of Governorates not Incorporated into a Region,' was amended in 2013 to establish the relationship between local provinces and the central government. The aim of this law was to decentralize the operations of

eight ministries to the governorates, enhancing service delivery and promoting local control.¹¹⁹ These ministries include Youth and Sports, Health, Finance, Labour and Social Affairs, Municipalities and Public Works, Education, Agriculture, and Construction and Housing. Additionally, regional councils were granted the power to directly issue investment licenses for projects up to \$250 million through the Provisional Investment Commissions located in the Governorates. However, the law did not achieve its intended goals as it was only partially implemented. In 2017, three governors in Iraq were indicted for financial and administrative corruption by their respective provincial councils.

According to the World Bank's Systematic Country Diagnostic conducted in 2017, Iraqi citizens expressed significant dissatisfaction with their access to basic services. For example, the study revealed that less than 20% of the population were satisfied with the quality of health services.¹²⁰ In October 2019, public discontent with the provision of services, dire living conditions, and government decisions culminated in protests, which tragically resulted in the deaths of over 500 protestors and the blocking of major roads, ports, and oil facilities. This ultimately led to the resignation of the government, and a new interim government assumed power.

Critics have recognized that for decentralization to be successful, the central government itself must possess the necessary strength to devolve power. In Iraq, however, the central government is considered weak, which poses challenges to the effective devolution of power to the provinces.¹²¹ This weakness in the central government raises concerns about the prospects of successful decentralization in Iraq. Overall, the administrative structure in Iraq involves the division of the country into governorates with their respective authorities. Efforts have been made to decentralize governance and empower local provinces, but significant

¹¹⁹ Culbertson, S. & Robinson, L., 2017. Making Victory Count After Defeating ISIS: Stabilization Challenges in Mosul and Beyond. Santa Monica, CA: RAND Corporation.

¹²⁰ World Bank, 'Iraq - Systematic Country Diagnostic', 2021.
<<http://documents.worldbank.org/curated/en/542811487277729890/Iraq-Systematic-Country-Diagnostic>> accessed 5 December 2021

¹²¹ LSE Middle East Centre., 2018. Iraq and its regions: Baghdad-provincial relations after Mosul and Kirkuk. Sleiman-Haidar, R. & McGinn, J. (eds.), London, UK: LSE Middle East Centre.

challenges remain, including the need for a stronger central government to support effective decentralization.

2.7 Independent Commissions

The concept of independent commissions in Iraq was introduced with the 2005 Constitution, recognizing the importance of establishing such bodies in a modern society and the increasing need for additional layers of administrative entities to manage specific affairs in the country. Presently, Iraq boasts over 28 independent commissions that operate independently from the executive and judicial authorities. The establishment, purpose, and structure of these commissions are outlined in laws and regulations.

The primary objective of granting independence to these commissions is to enable them to fulfil their assigned tasks in a flexible manner, free from political, executive, and judicial interference. Their work is aimed at achieving political, economic, social, and transparency goals. Several independent bodies were established by the 2005 Constitution, including the Human Rights Commission, Independent High Electoral Commission, Integrity Commission, Central Bank of Iraq, Board of Financial Audit, and Media and Communication Commission, among others. Furthermore, the 2005 Constitution allows for the establishment of additional commissions as deemed necessary. The creation of these commissions requires the approval of a law by the Council of Representatives, specifying their purpose and defining their roles and responsibilities. Each commission is designed to administer matters related to specific aspects of governance. In the context of this thesis, the following commissions are considered crucial for the effective implementation of partnerships, projects, and investments in the country. It is important to recognize that the existence of these independent commissions provides a framework for transparent and accountable governance in Iraq. By operating independently, they can carry out their respective mandates without undue influence, ensuring the promotion of good governance, protection of human rights, fair elections, integrity in public administration, financial oversight, and effective communication.

The establishment of independent commissions in Iraq, as mandated by the 2005 Constitution, reflects the country's commitment to modern governance practices. These commissions play a vital role in various aspects of governance and are

instrumental in facilitating partnerships, projects, and investments in Iraq. Their independence from political and executive interference is crucial for ensuring transparency, accountability, and the attainment of national objectives.

2.7.1 Integrity Commission

The Integrity Commission in Iraq operates as an independent body with the primary objective of preventing and combating corruption within the various public entities of the country. It achieves this by implementing transparent governance practices and conducting effective oversight of government affairs. The Commission holds the responsibility of investigating corruption allegations and cases involving government entities. Within its organizational structure, the Commission employs investigators and judges who possess the authority to issue arrest warrants and investigation reports in accordance with the Iraqi Criminal Code. Furthermore, the Integrity Commission plays a vital role in developing a comprehensive framework at the national level that fosters integrity, transparency, accountability, and ethical conduct. It accomplishes this through educational programs, seminars, and awareness campaigns. Additionally, the Commission prepares and advocates for draft laws aimed at preventing and combating corruption, presenting them to the Council of Representatives for consideration and approval.

The main objective of the Integrity Commission is to enhance the confidence of Iraqi citizens and foreign investors in the government by ensuring that government officials are held accountable and do not engage in corrupt practices. One of the key mechanisms employed by the Commission is the requirement for government officials to disclose their financial statements, liabilities, investments, assets, and foreign activities. However, despite the importance of the separation of powers among the three principal institutions of the state in safeguarding citizens' interests against autocracy, the efficient collaboration between these institutions is equally crucial for promoting good governance. Unfortunately, the lack of effective coordination has posed challenges, leading to the postponement or non-passage of significant laws that are essential for the advancement of the economy and the welfare of the citizens. This is often a result of political agendas overshadowing institutional responsibilities and adherence to the provisions of the Iraqi Constitution. Consequently, such shortcomings have a negative impact on the private sector's willingness to invest in projects in Iraq. Investors and the

private sector seek an established rule of law with clear and well-defined rules and regulations that enable them to understand their responsibilities and obligations while also scrutinizing government actions.

The Integrity Commission serves as an independent body dedicated to preventing and combatting corruption in Iraq. Its efforts are aimed at promoting transparency, accountability, and ethical conduct within the government. However, the effective collaboration and adherence to responsibilities among the different institutions of the state need to be improved to ensure the enactment of vital laws and regulations that promote economic development and instil confidence in both domestic and foreign investors.

2.8 Governance Problems in Iraq

Key problems of governance in Iraq include:

- 1) **Political Instability:** Iraq has experienced significant political instability since 2003. Frequent changes in leadership, revolutions, weak political coalitions, and power struggles among different factions have resulted in a lack of continuity and consistency in governance. This instability has made it difficult to implement long-term policies, address pressing issues, and maintain public confidence in the government's ability to govern effectively.
- 2) **Sectarian and Ethnic Divisions:** Iraq is ethnically and religiously diverse, with Arab Shia Muslims, Arab Sunni Muslims, and Kurds being the largest groups. Sectarian and ethnic divisions have been deeply ingrained in the country's politics, creating challenges for governance. These divisions have often resulted in political polarization, exclusionary policies, and a lack of trust and cooperation among different groups. Building a cohesive and inclusive governance system that addresses the concerns of all communities remains a significant challenge.
- 3) **Corruption:** Corruption has plagued Iraq's governance system and remains a major obstacle to its development. Widespread corruption, nepotism, and bribery have permeated various levels of government and

institutions, undermining accountability, transparency, and the rule of law. Corruption not only drains public resources but also erodes public trust in the government's ability to provide essential services and address citizens' needs. Combatting corruption and establishing robust anti-corruption measures are crucial for improving governance in Iraq.

- 4) **Security Challenges:** Iraq has faced significant security challenges, including insurgency, terrorism, and sectarian violence. These security threats have strained the institutional structure and governance processes. Maintaining security and stability is essential for effective governance, as it provides the necessary conditions for institutions to operate, citizens to participate freely, and essential services to be delivered. The ongoing security challenges have hampered the government's ability to ensure the rule of law and protect citizens' rights.

- 5) **Weak Public Institutions:** Iraq's public institutions have often been weak and susceptible to political interference. Limited capacity, lack of expertise, and insufficient resources have undermined the efficiency and effectiveness of these institutions. Weak institutions lead to inadequate service delivery, slow decision-making processes, and a lack of public trust. Strengthening public institutions, promoting meritocracy, and investing in capacity building are critical for improving governance and delivering quality services to the citizens.

Resolving these problems requires sustained efforts and comprehensive reforms. Enhancing political stability, promoting inclusivity, tackling corruption, strengthening security, and building robust public institutions are essential for improving the institutional structure and governance in Iraq. Furthermore, fostering a culture of transparency, accountability, and citizen participation is crucial for ensuring that governance processes are responsive to the needs and aspirations of all Iraqis. Examining governance in Iraq provides insights into the roles and interactions of the public, private, and mixed sectors in the country's development. It helps identify challenges, such as regulatory barriers, corruption, lack of transparency, and policy gaps that impede their effective functioning. Each sector plays a significant role in contributing to Iraq's economic growth, social

development, and overall progress. Understanding their interactions and dynamics is crucial for shaping effective policies and strategies for sustainable development.

Effective governance mechanisms, such as transparent and inclusive policy formulation processes, regulatory frameworks that foster fair competition, and mechanisms for public-private collaboration, can facilitate the development of each sector and maximize their contribution to Iraq's overall development goals. Additionally, understanding the dynamics between these sectors is crucial for promoting sustainable development, addressing social inequalities, and ensuring that economic growth benefits all segments of society. It requires balancing the interests of different stakeholders, including citizens, businesses, and public institutions, and creating an enabling environment for their productive engagement. The examination of governance in Iraq sheds light on the roles of the public, private, and mixed sectors in the country's development. By addressing governance challenges, fostering transparency, promoting public-private collaboration, and creating an enabling environment, Iraq can harness the full potential of each sector to achieve sustainable and inclusive development goals.

Chapter 3 Sectoral Dynamics in Iraq: Analysis of the Public Sector, Private Sector, and Investment Landscape

3.1 Introduction

In Iraq, the provision of services, goods, and infrastructure projects is carried out by three sectors: public, mixed, and private. However, the roles and development of these sectors have been heavily influenced by the political and economic policies implemented by Iraqi governments throughout history and up to the present day.

Following Iraq's independence in 1932 and the establishment of the modern Iraqi state, the monarchy government sought to consolidate the country's political independence by developing a robust and independent economy capable of managing internal resources to provide services and infrastructure projects.¹²² Previously, significant projects in the country were primarily implemented through direct involvement and execution by international banks and companies. However, after gaining independence, the Iraqi government aimed to reduce colonial influence by asserting control over the economic cycle, projects, and the country's affairs.¹²³ This shift in approach contributed to the promotion and development of a strong public and private sector in Iraq, which successfully undertook various projects. The sale and export of oil played a crucial role in supporting the government's financing of projects and served as the primary source of economic revenue. To optimize the benefits of both the public and private sectors while mitigating their shortcomings, the government established a mixed sector that operated as a partnership structure between the two.¹²⁴

¹²² Tripp, C., 2002. A history of Iraq. Cambridge University Press.

¹²³ Chaudhry, K., 2002. Consuming Interests: Market Failure and Social Foundations of Iraqi Etatism. 1st ed. in Kamil Mahdi (ed.): Iraq's Economic Predicament.

¹²⁴ Ali, S. A., & Al-Obaidi, A. A., 2018. The mixed sector: An empirical analysis of Iraq's economic diversification.

Starting in 1951, with the agreement between the government and the Iraqi Petroleum Company (IPC), which was responsible for oil exploration and production in Iraq at the time, a profit-sharing arrangement was established, entailing a fifty-fifty split of concession royalties.¹²⁵ As part of this arrangement, the government established the Development Board in 1950 and allocated 70% of oil revenues to finance large-scale development projects.¹²⁶ This initiative significantly increased investment, economic policy implementation, and overall development. To further support these efforts, the government established the Industrial Bank and Agricultural Bank, which provided loans for development and investment projects utilized by both the private and public sectors, including mixed sector projects.¹²⁷

However, the revolutionary governments that came to power in Iraq from 1958 to 1968 adopted a different economic policy and embraced socialism.¹²⁸ They implemented measures that increased the role of the public sector at the expense of the private sector, leading to a significant decline in the latter's role and development. This period witnessed the complete nationalization of banks, successful private sector industrial companies, and mixed sector enterprises. Consequently, private sector investors and their capital fled the country, resulting in a decline in Iraq's economic development.¹²⁹ The public sector-maintained control over Iraq's economy, service provision, and infrastructure development until 1987. However, during the Iraqi Iranian war, the government implemented various policies to address the country's infrastructure and capability challenges. These measures included abolishing the labour law, which had previously guaranteed full government employment for citizens. As a result, many government employees were laid off or relocated to factory jobs.¹³⁰ The

¹²⁵ Yergin, D., 1991. *The Prize: The epic quest for oil, money, and power*. Simon & Schuster, New York. pp 409

¹²⁶ Seyed Ali, A., 1990. 9 Investment Policies in Iraq, 1950–87. In *Investment Policies in the Arab Countries, USA: International Monetary Fund*. pp 207

¹²⁷ *Id* pp 208

¹²⁸ Batatu, H., 1978. *The Old Social Classes and the Revolutionary Movements of Iraq: A Study of Iraq's Old Landed and Commercial Classes and of Its Communists, Ba'athists, and Free Officers*. Princeton University Press.

¹²⁹ Seyed Ali, A., 1990. 9 Investment Policies in Iraq, 1950–87. In *Investment Policies in the Arab Countries, USA: International Monetary Fund*. pp 214

¹³⁰ Mohsin, H., 2009. Economic performance and reforms in Iraq. *Journal of Asian Economics*

government also embarked on privatisation efforts, selling off public-owned entities and factories, and incentivizing foreign private sector companies to conduct business in Iraq. The consequences of the American invasion and United Nations sanctions imposed in 1990 had a significant destructive impact on the Iraqi economy and its citizens and the provision of services and infrastructure suffered immensely.¹³¹ As a result, the current Iraqi regime faces the critical task of rebuilding the economy and bridging the trust gap between the public and private sectors. Since the American invasion in 2003, the economic and political support for governance related to the three sectors has remained uncertain.

The transition from a socialist system, where the government controlled most economic activities, to an open economy where the state monitors and facilitates economic activities, has yet to be fully realized in Iraq. The Constitution under Article 25 outlines the restructuring of the Iraqi economy according to contemporary economic principles and the encouragement of the private sector . However, the state continues to dominate the economic cycle, acting as the primary service provider and infrastructure developer in the country. Meanwhile, the private sector and mixed sector face significant challenges. The lack of basic services and infrastructure provided by the public sector has led to the suffering of Iraqi citizens, as demonstrated by the mass protests that began in October 2019. These protests, the longest and largest public movement since 2003, demanded better services, job opportunities, and an end to corruption.¹³² Iraq ranks poorly in the World Bank's Doing Business report, which assesses the ease of doing business based on various indicators. It is ranked 173 out of 190 globally, indicating unfavourable policies, regulations, and implementation.¹³³ Starting a business in Iraq is particularly challenging, with a ranking of 152 out of 190 countries, considering costs, procedures, and time required for company establishment.¹³⁴ Additionally, the country is deemed highly difficult for tax filings

¹³¹ Al-Bayan Center for Planning and Studies.,2017, Voter Attitudes Towards the Next Round of Elections in Iraq, Baghdad: [ONLINE] Available at: <https://www.bayancenter.org/en/wp-content/uploads/2017/11/08976545.pdf>. [Accessed 05 February 2022].

¹³² The National., 2022. A year of protests and 600 deaths, but little changes in Iraq. [ONLINE] Available at: <https://thenational.shorthandstories.com/one-year-of-protests-at-least-600-deaths-little-change-in-iraq/index.html>. [Accessed 05 February 2022].

¹³³ World Bank. 2020. Doing Business Report

¹³⁴ World Bank. 2020. Doing Business Report

due to the lack of effective systems and policies, making tax compliance more burdensome than in other countries.

The absence of laws, regulations, policies, and a coherent economic vision and strategy has led to the deterioration of service provision and infrastructure in Iraq. The Ministry of Planning estimates that there are around 6,250 incomplete projects, many of which have been halted and suffered significant damage due to equipment theft. Resuming construction on these projects requires substantial financial resources, which the Iraqi government is unable to provide. The Integrity Commission states that completing these projects would require over 100 billion dollars, potentially leading the government to cancel or transfer some of them to the private sector for investment after making necessary modifications to reduce costs.¹³⁵

The public sector holds the majority and largest share in managing and leading development in Iraq, thanks to its significant assets, human resources, and financial capabilities. On the other hand, the role of the mixed sector appears to be modest and not as effective as it should be. The public and private sectors in Iraq are seen as competitors due to their capabilities, while the mixed sector represents a transitional stage or a link between the two poles of public and private development. It operates within the framework of transitioning from a "socialist economy" to a "free economy."

There is a critical need to reactivate the mixed sector in Iraq, considering its previous success and potential. Mechanisms and frameworks should be implemented to revive its important role. Given the significant losses and lack of success experienced by many public sector companies, it is necessary to consider converting these companies into mixed sector entities or involving the

¹³⁵ Independent Arabia., 2020. 6 thousand projects suffer, and the government is looking for alternatives. [ONLINE] Available at: <https://www.independentarabia.com/node/157731/%D8%B3%D9%8A%D8%A7%D8%B3%D8%A9/%D8%AA%D9%82%D8%A7%D8%B1%D9%8A%D8%B1/%D8%AA%D8%B9%D8%AB%D8%B1-6-%D8%A2%D9%84%D8%A7%D9%81-%D9%85%D8%B4%D8%B1%D9%88%D8%B9-%D8%A7%D8%B3%D8%AA%D8%AB%D9%85%D8%A7%D8%B1%D9%8A-%D8%A8%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82-%D9%88%D8%A7%D9%84%D8%AD%D9%83%D9%88%D9%85%D8%A9-%D8%AA%D8%A8%D8%AD%D8%AB-%D8%B9%D9%86-%D8%A8%D8%AF%D8%A7%D8%A6%D9%84>. [Accessed 15 January 2023].

private sector. Some argue that privatizing these companies may be a first step towards success. However, this would entail the government relinquishing its assets and control over these important companies and projects, which is widely opposed in Iraq.

During the implementation of a development policy, it is crucial for the state to manage such development through the public sector, as seen in many countries that have pursued similar policies and achieved significant results. The idea of converting public sector establishments into mixed sector entities may be met with resistance, as there is an ongoing fear of privatisation being perceived as a blind transfer of authority. There are concerns about the economy and society being subjected to a merciless machine dominated by a monopolistic approach of the private sector. However, other experiences have shown that such fears are not necessarily valid, especially when there are laws and regulations in place to control the performance of the mixed or private sector. This ensures the rights of both parties, the consumers, and the producers, without prejudice, arbitrariness, or oppression from either side. Based on this understanding, advancing the mixed sector, or fostering partnerships between the public and private sectors requires a review of policies, mechanisms, procedures, and laws. This should facilitate the process of converting public companies into mixed sector entities or advancing the private sector through partnerships, implemented gradually to avoid confusion or lack of clarity regarding roles and responsibilities. Iraq will be embarking on a new economic process that may not be easily absorbed, thus necessitating the formation of a specialized unit or authority to manage and develop the mixed sector and partnership projects.

This chapter focuses on analysing and discussing the public and private sectors in Iraq, along with the associated challenges and issues impacting the country's development. By examining the intricacies of each sector and the problems they face, a comprehensive understanding of the obstacles hindering Iraq's progress in terms of service delivery and infrastructure development is noted. The significance of this chapter lies in its contribution to the overarching theme which emphasizes the importance of partnerships in advancing Iraq's service delivery and infrastructure. By exploring the strengths and weaknesses of the public, private, and mixed sectors, we can identify areas where collaboration and cooperation among these sectors can lead to more effective and sustainable

development outcomes. Through delving into the problems facing each sector, such as inefficiencies in the public sector, profit-driven motives in the private sector, and coordination challenges in the mixed sector, this chapter sets the stage for highlighting the critical need for partnerships. It underscores the necessity of leveraging the strengths of each sector while addressing their limitations through collaborative efforts. This approach ultimately fosters the optimal utilization of resources, promotes innovation, and enhances the overall service delivery and infrastructure landscape in Iraq. By understanding the dynamics between the sectors and the specific challenges they face, this chapter contributes to a broader understanding of the complexities involved in developing Iraq's service delivery and infrastructure. It establishes the context and rationale for advocating partnerships as a viable and sustainable solution to overcome these challenges, leading to improved service quality, expanded infrastructure networks, and ultimately, enhanced socio-economic development for the country.

3.2 Public Sector

3.2.1 Iraq dependence on oil

The Iraqi economic structure has been characterized by substantial state control and the active involvement of the public sector in providing goods, services, and infrastructure projects.¹³⁶ The Iraqi Government holds direct ownership of the major financial resource generator in the country, namely oil production. The economy and budget of Iraq heavily rely on oil, allowing the government to utilize oil revenue to facilitate development in both the oil sector and other sectors of the economy, as well as to promote economic stability and development policies. However, the government's ability to effectively and productively allocate these funds is contingent upon well-structured processes that align the willingness to spend with the capability to spend.

Oil revenue received by the government only increases the government's bank deposit and has no immediate effect on the national economy until the government injects it into the government budget. Government expenditure and

¹³⁶ Sanford, J., 2003. Iraq's economy: Past, Present, Future. Washington, D.C.: Congressional Research Service, Library of Congress, pp 8.

the financing of state projects through the public sector heavily depend on the revenue generated from oil, which accounted for approximately 98% of the state budget in 2003 and around 90% in 2021.¹³⁷ In contrast, taxation in Iraq is not well established, neglected, and not effectively utilized as a fiscal instrument to generate income.¹³⁸

The heavy reliance of the Iraqi Government on oil revenue as the main source of income for state expenditure, without effectively diversifying or stimulating the non-oil economy, poses significant risks. There is no substantial substitute that the government can employ to finance the economy, especially given the uncertainty and unpredictability of global oil prices.¹³⁹ This vulnerability to oil market fluctuations was evident during the emergence of the COVID-19 pandemic in early 2020 when global oil prices plummeted. In fact, for the first time in history, the price of oil turned negative on April 20, 2020, due to a lack of global demand and oversupply, which led to producers having no storage space for excess oil.¹⁴⁰ The sharp decline in oil prices globally resulted in a significant liquidity crisis for the Iraqi government. Consequently, the government defaulted on payments and expenditures, most notably the salaries of civil servants, pensions, and welfare. To address this crisis, the Iraqi government had to borrow nearly \$5 billion from its reserves to fulfil its obligations.¹⁴¹ The root cause of this situation was the discrepancy between the projected oil price of \$56 per barrel in the 2020 budget and the actual average price, which was half of that projection, creating a deficit in available funds for government expenditure.¹⁴² In order to

¹³⁷ AP NEWS., 2022. Iraqi parliament approves budget of \$89 billion for 2021 | AP News. [ONLINE] Available at: <https://apnews.com/article/financial-markets-financial-crisis-iraq-coronavirus-pandemic-state-budgets-11076ab2570db9288ee975d35eabadaa>. [Accessed 08 January 2022].

¹³⁸ Al-Kassar, T. and Soileau, J., 2014. New development: Accounting and accountability for government revenues in Iraq, *Public Money & Management*. pp 67

¹³⁹ Al-Mawlawi, A., 2019. Public Payroll Expansion in Iraq: Causes and Consequences, LSE Middle East Centre Report, London: London School of Economics

¹⁴⁰ The Guardian., 2020. Oil prices dip below zero as producers forced to pay to dispose of excess. [ONLINE] Available at: <https://www.theguardian.com/world/2020/apr/20/oil-prices-sink-to-20-year-low-as-un-sounds-alarm-on-to-covid-19-relief-fund>. [Accessed 26 January 2022].

¹⁴¹ Financial Times., 2020. Iraq warns over threat to public sector pay from oil price collapse. [ONLINE] Available at: <https://www.ft.com/content/3afc240b-2a3d-49df-b3c5-f5427222a5d9>. [Accessed 20 March 2022].

¹⁴² Financial Times., 2020. Iraq warns over threat to public sector pay from oil price collapse. [ONLINE] Available at: <https://www.ft.com/content/3afc240b-2a3d-49df-b3c5-f5427222a5d9>. [Accessed 20 March 2022].

address the deficit caused by the decrease in oil revenues and to pay outstanding salaries of public sector employees, the Central Bank of Iraq made the decision to devalue the Iraqi Dinar by 23% against the US dollar. While this austerity measure was unavoidable given the lack of alternative means to generate revenue for government expenditure, it was met with significant criticism from the Iraqi people. This devaluation triggered high inflation in the country, causing prices of goods and services to rise, particularly since the Iraqi economy heavily relies on imports.¹⁴³

The graph below illustrates the fluctuation of global oil prices, which directly impacts Iraqi government expenditure.



Figure 2: Fluctuation of global oil prices

In addition to the challenges posed by fluctuating and unpredictable global oil markets, many countries are actively transitioning away from oil and gas

¹⁴³ Global Risk Insights., 2022. Public Sector Reform: A Way Forward for Iraq? [ONLINE] Available at: <https://globalriskinsights.com/2021/03/public-sector-reform-a-way-forward-for-iraq/>. [Accessed 20 March 2022].

dependence by embracing clean and renewable energy sources for power generation. The United Kingdom, for instance, has set ambitious goals in this regard. Prime Minister Boris Johnson has announced the aspiration for all electricity in the United Kingdom to be produced from clean sources by 2035.¹⁴⁴ Similarly, numerous countries are undertaking this transition by implementing policies and laws that prioritize green energy and address climate change concerns, as demonstrated by the commitments made during the 2021 United Nations Climate Change Conference. More than 140 countries, representing over 90% of global GDP, have pledged to achieve net-zero emissions by 2030.¹⁴⁵

The increasing global momentum towards clean energy solutions and the shift away from reliance on oil poses a mounting risk for Iraq, where oil serves as the primary revenue generator to finance government expenditures. Failing to adapt and implement necessary reforms in response to these changing dynamics could potentially lead to the collapse of Iraq's economic and social systems. Hence, it is crucial for Iraq to recognize and address this risk by diversifying its economy, reducing dependence on oil revenue, and embracing renewable energy sources. By adopting policies and strategies that promote sustainable and green economic development, Iraq can position itself to mitigate the risks associated with oil market fluctuations and align with the global movement towards a clean and renewable energy future. The global transition away from oil dependence towards clean and renewable energy sources presents significant challenges and opportunities for Iraq. The risks associated with heavily relying on oil revenue to finance government expenditures emphasize the urgent need for comprehensive reforms to diversify the economy and embrace sustainable and green energy solutions. By doing so, Iraq can not only reduce its vulnerability to oil market fluctuations but also actively contribute to global efforts in combating climate change and building a more sustainable future. Iraq must prioritize reducing its reliance on oil revenue and diversifying its economy by developing other sectors

¹⁴⁴ The Independent., 2022. UK electricity to be powered by clean energy sources from 2035, Boris Johnson says [ONLINE] Available at: <https://www.independent.co.uk/climate-change/boris-johnson-energy-renewable-clean-b1931797.html>. [Accessed 26 January 2022].

¹⁴⁵ France 24., 2022. New Glasgow Climate Pact offers some 'breakthroughs' but also 'deep disappointment'. [ONLINE] Available at: <https://www.france24.com/en/europe/20211114-new-glasgow-climate-pact-offers-some-breakthroughs-but-also-deep-disappointment>. [Accessed 26 January 2022].

such as agriculture, manufacturing, and tourism. This diversification will not only provide alternative sources of income but also generate employment opportunities and decrease vulnerability to oil market fluctuations. Additionally, it is crucial for Iraq to establish effective taxation systems, promote private sector growth, and encourage investment in non-oil sectors to achieve a more sustainable and resilient economy. These efforts will strengthen Iraq's economic foundation, enable it to adapt to changing global dynamics, and create a more prosperous and sustainable future for its people.

3.2.2 Government expenditure

Government expenditure on salaries and pensions for Iraqi government employees has been steadily increasing over the years. In 2004, these payments accounted for 4 trillion Iraqi Dinars, representing 12.4% of the total government expenditure of 31 trillion Iraqi Dinars.¹⁴⁶ The number of government employees has since grown exponentially, leading to a substantial rise in the cost of their salaries. Between 2005 and 2006,¹⁴⁷ government employee salaries constituted 30% of the 30 trillion Iraqi Dinars government budget, and this figure increased to 38% of the 70 trillion Iraqi Dinars government budget between 2010 and 2011.¹⁴⁸ In the 2021 government budget, the salaries of 3.26 million permanent government employees were estimated at around 53.8 trillion Iraqi Dinars. In addition, 31.4 trillion Iraqi Dinars were allocated for social services, resulting in a total of 85.2 trillion Iraqi Dinars. This amount exceeds the projected revenue from oil, which is expected to be around 81.2 trillion Iraqi Dinars, and accounts for approximately 65% of the total government expenditure budget for 2021. Alongside the high expenditure on public employee salaries, there is a widespread belief in Iraq that civil servants have low productivity, with estimates suggesting they are only productive for about 17 minutes out of an eight-hour

¹⁴⁶ The Government Budget of the year 2004, published by the Iraqi Ministry of Finance and Iraqi Ministry of Planning

¹⁴⁷ The Government Budget of the year 2005, published by the Iraqi Ministry of Finance and Iraqi Ministry of Planning

¹⁴⁸ The Government Budget of the year 2010, published by the Iraqi Ministry of Finance and Iraqi Ministry of Planning

workday.¹⁴⁹ The high number of public employees can be attributed to the benefits offered by the government, including job security, privileges, allowances, social security, retirement plans, housing benefits, and financial loans.¹⁵⁰ Given the weak private sector in Iraq and the lack of benefits provided to private sector employees, many young Iraqis, including recent graduates, see the public sector as the primary employment option.¹⁵¹ However, the high employment rate in the public sector cannot be justified solely on the basis of benefits. It is essential that state-owned companies are profitable, employees are productive, and adequate services are provided to the Iraqi citizens. Unfortunately, this is not the case. According to Dr. Muthar Muhammad Salih, the financial advisor to Iraqi Prime Minister Mustafa al Kadumi, only 28% of the 173 public and state-owned companies employing over 400,000 employees in Iraq are operational and profitable, while the remaining 72% operate at a loss.¹⁵²

Furthermore, the challenges at hand underscore the need for reform in Iraq's public sector employment policies. It is imperative to focus on improving productivity, streamlining the number of government employees, and addressing the financial viability of state-owned companies. Concurrently, efforts should be directed towards developing the private sector to create alternative employment opportunities and alleviate the burden on the public sector. Through the implementation of effective reforms and the establishment of a more balanced and sustainable employment landscape, Iraq can enhance its economic development and better utilize its resources for the benefit of its citizens.

Iraq stands at a critical juncture in its economic development, where the global transition towards clean and renewable energy sources necessitates

¹⁴⁹ Al-Mada Paper., 2014, 'Expert: Average productivity of public employees is 17 minutes each day out of 8 hours', [ONLINE] Available at: <https://almadapaper.net/view.php?cat=115294> [Accessed 05 February 2022]

¹⁵⁰ The World Bank., 2017. Iraq Systematic Country Diagnostic. 1st ed. Washington D.C., pp 51

¹⁵¹ Middle East Institute., 2022. Once again, Iraq is at a crossroads | Middle East Institute. [ONLINE] Available at: <https://www.mei.edu/publications/once-again-iraq-crossroads>. [Accessed 11 February 2022].

¹⁵² Al Jazeera., 2021. 72% of state-owned companies are "losing". [ONLINE] Available at: <https://www.aljazeera.net/ebusiness/2021/4/17/r-%D9%85%D9%86-%D8%A7%D9%84%D8%B4%D8%B1%D9%83%D8%A7%D8%AA-%D8%A7%D9%84%D9%85%D9%85%D9%84%D9%88%D9%83%D8%A9-%D9%84%D9%84%D8%AF%D9%88%D9%84%D8%A9-%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82%D9%8A%D8%A9>. [Accessed 11 February 2022]

comprehensive reforms and a proactive approach. By reducing its dependence on oil revenue, diversifying its economy, and embracing sustainable practices, Iraq can overcome the challenges it faces, contribute to global efforts in combating climate change, and pave the way for a more prosperous and sustainable future.

3.2.3 Government procurement

Government procurement plays a crucial role in managing public sector expenditure for the benefit of citizens, making it an imperative economic system. The effectiveness of this process relies heavily on transparency, accountability, and proper management, guided by laws and regulations governing government procurement. In Iraq, the significance of the government procurement process is underscored by the dominant role of the public sector in the economy, as it serves as the largest employer and operator of major economic activities, as well as shapes the federal budget.

Budgeting is a critical function exercised by the Iraqi government, with the federal budget being a key component for successful governance. The budget allocates resources, designs priorities, and provides institutional and economic stability by converting government expenditure into economic activities. The process of budgeting in Iraq typically begins in the preceding year, when the Ministry of Finance, in collaboration with the Ministry of Planning, releases a fiscal policy circular based on the priorities set by the Iraqi Council of Ministers. Every public entity in Iraq, including ministries, state-owned enterprises, and public institutions, submits their proposed projects requiring financing to the Ministry of Planning. These proposals undergo careful review, considering their feasibility study and economic benefits. If approved by the Ministry of Planning, the projects are included in the policy circular as budget proposals, which are then presented to the Council of Representatives. The Council of Ministers examines, reviews, and suggests amendments to the proposed budget. Once agreed upon, a final federal budget is announced and ratified into law.

Following the completion of this process, public entities receive financial allocations from the Iraqi Ministry of Finance based on the approved budget. These allocations enable entities to finance their operations, including employee salaries and the provision of services and infrastructure projects through the

public procurement process. However, there have been instances of budget delays or failure to materialize in Iraq, such as in 2014, 2020, and 2022. The delays negatively impact public entities' ability to pay employee salaries and allocate funds to public services and infrastructure projects. In such cases, public entities receive monthly expenditure payments equal to one-twelfth of the previous year's appropriations, limiting their ability to invest in crucial projects.

Another challenge that the federal budget in Iraq may face is the global fall in oil prices. As mentioned earlier, the federal budget heavily relies on revenue generated from oil sales in Iraq. If oil prices drop below the government's projected estimates, public entities face a decrease in available funds, leading to a reduction in expenditure on public services and infrastructure projects. This situation occurred with the 2020 budget when the government's estimated revenue was based on an average price of \$56 per barrel of Iraqi oil. However, due to the impact of the COVID-19 pandemic, global oil prices sharply decreased throughout the year, falling well below the Iraqi government's projections. Consequently, a significant deficit emerged, reducing the actual funds available to the government, as illustrated in the diagram below.¹⁵³

¹⁵³ BBC News., 2022. Oil price rises above \$80 for first time in three years - BBC News. [ONLINE] Available at: <https://www.bbc.com/news/business-58727437>. [Accessed 03 April 2022].



Figure 3: Price of crude oil in US dollars

The financing of public procurement projects in Iraq is influenced by various factors that can impede the government's ability to allocate sufficient funds for essential services and infrastructure projects. This challenge is compounded by the substantial number of public employees, which strains the government's allocated budget. As a result, the government faces difficulties in financing priority projects and industries aimed at improving the availability of adequate services, especially considering the years of war and instability that have afflicted the Iraqi people. Consequently, the government has resorted to borrowing money from international institutions, accumulating external public debt, which further reduces the available funds for public services and infrastructure projects. The estimated external debt of Iraq stands at \$20 billion, as stated by the Iraqi Prime Minister's adviser for financial affairs.¹⁵⁴

In addition to financial constraints, the budgeting process and the prioritization of projects play a crucial role in the development of public service delivery. However, the COVID-19 pandemic has exposed a significant problem that the Iraqi government failed to prepare for. Even before the pandemic, the Iraqi health

¹⁵⁴ Reuters. 2021. Iraq's external public debt drops to \$20 bln -INA | Reuters. [ONLINE] Available at: <https://www.reuters.com/world/middle-east/iraqs-external-public-debt-decreases-20-bln-ina-2021-11-13/>. [Accessed 03 July 2023].

sector was on the verge of collapse, characterized by a scarcity of drugs, hospital beds, and medical staff. This situation arose due to insufficient funding allocated to the Ministry of Health, with only 2.5% of the 2019 budget approved for healthcare services. In contrast, the security forces, including the Ministry of Defence, received 18% of the budget in a year of relative peace.¹⁵⁵ This lopsided allocation reflects a skewed prioritization, which has further exacerbated the challenges faced by the health sector. Moreover, the invasion of ISIS resulted in the destruction or transformation of over 5,300 educational institutions in the country, as highlighted by a World Bank study conducted in 2017. Rebuilding and restoring the damage caused by IS requires significant effort and investment. However, the Iraqi government allocated only 5.7% of its budget to the education sector in 2016, which is significantly lower than the United Nations' recommended allocation of 20% of the national budget for education.¹⁵⁶ This inadequate funding has led to a deficient infrastructure for schools and universities, contributing to a low quality of education in a country where over 60% of the population is under the age of 25.¹⁵⁷

In Iraq, the government procurement process is governed by the Public Contracts Regulation Guidance Number 2 for the year 2014 (Public Contracts Regulation), issued by the Iraqi Ministry of Planning. This regulation covers the entire procurement cycle, including pre-tendering arrangements, tendering, bid analysis, and post-award contractual administration. It mandates that the awarding public institution must conduct a feasibility study on the project before issuing any specific tender. The institution is required to demonstrate to the Ministry of Planning the financial, economic, and social significance of the project. Projects can only be included in the budget if the Ministry of Planning approves the economic and technical feasibility studies, technical reports, cost and benefit studies, and bill of quantities submitted by the awarding public institution.

The Public Contracts Regulation also establishes specific committees within awarding public institutions to receive, review, and evaluate tenders. Another

¹⁵⁵ The World Bank., 2017. Iraq - Systematic Country Diagnostic. Washington, D.C.: World Bank Group.

¹⁵⁶ The World Bank., 2017. Iraq - Systematic Country Diagnostic. Washington, D.C.: World Bank Group.

¹⁵⁷ Al Jabori, M.,2021 'Iraq · conflicts, protests and bad management: Is there a way out for Iraq's public procurement problems?', European Procurement & Public Private Partnership Law Review.

committee is responsible for awarding contracts. Additionally, financial guarantees are required from the awarded entity as a measure to ensure the proper performance of contracts. While the Public Contracts Regulation appears to align with international procurement practices at a general level, a closer examination reveals discrepancies in the rules and their implementation in practice. The regulation applies to the performance of general contracts, consultancy contracts, and contracts for the supply of goods and services funded by the Iraqi budget. However, projects funded by foreign governments, international organizations, and non-governmental organizations are excluded. The regulation does not apply to contracts related to the supply of armaments, security, and military equipment with the Ministry of Defence, Ministry of Interior, security entities, or contracts performed by state-owned companies.

According to the Public Contracts Regulation, tender publications must be announced in at least three widely circulated newspapers, the public entity's website, commercial attaches at Iraqi Embassies, and the United Nations Business Development Site (DG market).¹⁵⁸ However, in practice, this requirement is not consistently met, as public entities have broad discretion in advertising tender announcements. Often, public entities only announce the release of public tenders on their websites, stating the bidding requirements and specifications. In some cases, the public entity may only publish tenders in local newspapers. This lack of consistency allows for potential bias, as the method of tender announcement can favour local companies if tenders are primarily released through local newspapers. Conversely, if tenders are primarily released through Iraqi Embassies abroad, local companies may face disadvantages in accessing tender documents and requests. Furthermore, when examining the United Nations Business Development Site (DG market) and comparing the tenders released on that platform with those published on different public entities' websites, it was observed that most of the published tenders were unavailable on the DG market website.

The tender document issued by the public entity must include a clearly stated deadline for bid submission, and bids submitted after the deadline will not be

¹⁵⁸ Regulation 2 (A, B, C) of the Public Contracts Regulation Guidance Number 2 for the year 2014

accepted. However, according to Regulation 2 (C-1) of the Public Contracts Regulation, the duration of the tender announcement period is between 10 and 60 working days, depending on the determination of the contract's importance by the head of the public entity. This provision grants subjective discretion to the head of the public entity in determining the appropriate timeframe for bid submission in public procurement tenders. This approach can be problematic, as setting a minimum period of 10 days for bid submission may compromise the ability of interested companies to prepare comprehensive and well-structured bids. Inadequate time can prevent bidders from presenting high-quality offers, leading to disqualification or the submission of subpar bids. Additionally, a minimum period of 10 days may not provide sufficient time for companies to thoroughly study and assess the feasibility of the project. Best practices in various jurisdictions recommend a minimum bid submission period of 30 days, allowing bidders adequate time to evaluate and prepare well-informed bids for public procurement projects.¹⁵⁹

Moreover, the Public Contracts Regulation outlines specific criteria and percentage weights for bid evaluation. These criteria include previous related work, years of experience, technical expertise of consultants (each graded at 20%), support entities (graded at 10%), competitive pricing (graded at 25%), and work methodology (graded at 5%). The award committee in each public entity is responsible for assigning grades to each of these criteria. However, the absence of clear guidance on how the grades should be awarded introduces the possibility of subjective biases in the evaluation process.

In addition to open tenders, the Public Contracts Regulation in Iraq allows for several other procurement methods that public entities can utilize based on specific conditions. These methods provide flexibility in the procurement process while adhering to certain criteria. The first method is the direct nomination of three companies, which can be employed under the following circumstances: when contract performance requires confidentiality, when there are security considerations, when the contract involves medications and medical equipment,

¹⁵⁹ European Commission., 2015. Public procurement guidance for practitioners on the avoidance of the most common errors in public procurement of projects funded by the European Structural and Investment Funds. Luxembourg: EUR-OP, pp 28.

or during times of emergency and natural disasters. In such cases, the public entity has the authority to directly nominate three companies for the procurement process. The second method is the one-bid procedure, which involves a direct invitation to a single company. This method is used when the procured goods or services are exclusive to that company or when the contract is related to maintenance or spare parts. The third method is the direct contracting procedure, which requires the approval of the related sector committee in the Council of Ministers, based on the recommendation of the review committee in the public entity. This method is employed under certain circumstances, including when contracts are required for national security and sovereignty in urgent cases, when the contract necessitates highly sophisticated technical specifications, when the selected company is accredited and reputable, when the technical report of requirements is approved by the public entity's review committee, and when a testing entity has been approved to ensure compliance with the specified requirements. Lastly, there is a provision for direct purchases by public entity companies from accredited companies, subject to the approval of the company's board of directors.

The state of public procurement procedures in Iraq is characterized by subjectivity, a lack of coordination, and a failure to harmonize regulations. These deficiencies create a high probability of mismanagement of public funds and foster corruption, contributing to Iraq's dismal ranking of 157 out of 180 countries on Transparency International's Corruption Perception Index.¹⁶⁰ The consequences of poor public procurement regulations and mismanagement have been severe, resulting in substantial losses for the public sector.

Dr. Muthar Muhammad Salih, the financial advisor to the Iraqi Prime Minister, has highlighted that a staggering 72% of public and state-owned companies operate at a loss.¹⁶¹ This dire situation has had a detrimental impact on the availability of

¹⁶⁰ Transparency International., 2022. Iraq - Transparency.org. [ONLINE] Available at: <https://www.transparency.org/en/countries/iraq>. [Accessed 30 March 2022].

¹⁶¹ Al Jazeera., 2021. 72% of state-owned companies are "losing". [ONLINE] Available at: <https://www.aljazeera.net/ebusiness/2021/4/17/r-%D9%85%D9%86-%D8%A7%D9%84%D8%B4%D8%B1%D9%83%D8%A7%D8%AA-%D8%A7%D9%84%D9%85%D9%85%D9%84%D9%88%D9%83%D8%A9-%D9%84%D9%84%D8%AF%D9%88%D9%84%D8%A9-%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82%D9%8A%D8%A9>. [Accessed 11 February 2022]

basic services and has caused a rapid deterioration of the country's infrastructure. Mismanagement and the misappropriation of public funds are clear indicators of the weaknesses within the state and the malfunctioning of the governance system, specifically in the realm of public procurement policy.¹⁶² Iraqi citizens have suffered greatly from inadequate access to crucial basic needs such as electricity, water, healthcare, and education. The discontent among the Iraqi population regarding the services they receive is glaringly evident. Data collected through the Arab Barometer opinion survey in April 2021 reveals that only 26% of respondents expressed satisfaction or partial satisfaction with healthcare services, while a mere 17% reported satisfaction with the education system.¹⁶³

3.2.3.1 Health services

Accessibility to healthcare in Iraq is woefully low, with approximately 40% of Iraqis having access to hospitals.¹⁶⁴ This can be attributed to the unequal distribution of healthcare facilities, particularly affecting those residing in remote areas or those who have been forcibly displaced. Consequently, Iraq has experienced a disproportionately high ratio of deaths and diseases compared to neighboring countries. Iraq faces significant shortages in medical staff, primarily due to unsuitable working conditions and mass immigration of healthcare professionals.¹⁶⁵ This scarcity is compounded by a lack of hospital beds, with the Iraqi healthcare system providing a mere 1.3 beds for every 1,000 individuals¹⁶⁶ and only 0.7 doctors.¹⁶⁷ In neighboring Saudi Arabia, by contrast, the numbers are nearly double, with 2.2 hospital beds¹⁶⁸ and 2.6 doctors available per 1,000

¹⁶² Dodge, T. and Mansour, R., 2021. *Politically Sanctioned Corruption and Barriers to Reform in Iraq*. 1st ed. London: Chatham House.

¹⁶³ Kayyali, A., 2021. *Arab Public Opinion on Domestic Conditions: Findings from the Sixth Wave of Arab Barometer*. 1st ed. Arab Barometer: Princeton.

¹⁶⁴ The World Bank., 2017. *Iraq - Systematic Country Diagnostic (English)*. Washington, D.C.: World Bank Group. c

¹⁶⁵ The Arab Weekly., 2022. Medical doctors, a disappearing profession in Iraq | Oumayma Omar [ONLINE] Available at: <https://the arabweekly.com/medical-doctors-disappearing-profession-iraq>. [Accessed 01 April 2022].

¹⁶⁶ The World Bank., 2022. Hospital beds (per 1,000 people) - Iraq Data. [ONLINE] Available at: <https://data.worldbank.org/indicator/SH.MED.BEDS.ZS?locations=IQ>. [Accessed 01 April 2022].

¹⁶⁷ World Bank. 2020. Physicians (per 1,000 people) - Iraq Data. [ONLINE] Available at: <https://data.worldbank.org/indicator/SH.MED.PHYS.ZS?locations=IQ>. [Accessed 01 April 2022].

¹⁶⁸ The World Bank., 2022. Hospital beds (per 1,000 people) - Saudi Arabia Data. [ONLINE] Available at: <https://data.worldbank.org/indicator/SH.MED.BEDS.ZS?locations=SA>. [Accessed 01 April 2022].

people.¹⁶⁹ The World Health Organization's data highlights the minimal expenditure by the Iraqi government on healthcare compared to its much poorer neighboring countries. On average, Iraq spends a meager \$161 per citizen annually, whereas Jordan's expenditure amounts to \$304 and Lebanon allocates \$649.¹⁷⁰ Such limited funding severely hampers the provision of adequate healthcare services and adversely impacts the availability of life-saving and essential drugs. In 2018, it was estimated that more than 85% of these crucial medications were either unavailable or in short supply.¹⁷¹ A poignant example of the consequences of inadequate funding is evident in the case of the Basra Children's Cancer Centre. The center's chief administrator has stated that it requires more than four times the funding it received from the Ministry of Health in 2019 to operate efficiently.¹⁷² Insufficient financial resources hamper the center's ability to provide essential treatments and support to young patients, compounding their already difficult circumstances.

To address these pressing issues, concerted efforts are needed at various levels. Improving working conditions for healthcare professionals is paramount to retain and attract talented individuals. This may involve providing better salaries, ensuring a safe and conducive work environment, and offering professional development opportunities. Additionally, the government should implement measures to curb the mass immigration of medical personnel, such as creating incentives to encourage them to remain in Iraq. Increasing the number of hospital beds and doctors is crucial to meet the healthcare needs of the population. This necessitates targeted investments in healthcare infrastructure and expanding medical education programs to produce a greater number of qualified healthcare professionals. Collaborating with international partners and organizations can also facilitate knowledge exchange and capacity building in the healthcare sector. Furthermore, the government must prioritize healthcare spending and allocate a

¹⁶⁹ The World Bank., 2020. Physicians (per 1,000 people) - Saudi Arabia Data. [ONLINE] Available at: <https://data.worldbank.org/indicator/SH.MED.PHYS.ZS?locations=SA>. [Accessed 01 April 2022].

¹⁷⁰ Reuters., 2022. Iraq's healthcare system is in crisis. Patients are suffering. [ONLINE] Available at: <https://www.reuters.com/investigates/special-report/iraq-health/>. [Accessed 01 April 2022].

¹⁷¹ The World Bank., 2022. Hospital beds (per 1,000 people) - Saudi Arabia Data. [ONLINE] Available at: <https://data.worldbank.org/indicator/SH.MED.BEDS.ZS?locations=SA>. [Accessed 01 April 2022].

¹⁷² The World Bank., 2022. Hospital beds (per 1,000 people) - Saudi Arabia Data. [ONLINE] Available at: <https://data.worldbank.org/indicator/SH.MED.BEDS.ZS?locations=SA>. [Accessed 01 April 2022].

larger budget to address the chronic underfunding in the sector. This will enable the procurement of essential drugs and the improvement of medical facilities and equipment. Transparent and accountable financial management practices should be implemented to ensure that funds are utilized efficiently and effectively. The shortage of medical staff, inadequate hospital bed capacity, and minimal healthcare expenditure in Iraq present significant challenges to the provision of quality healthcare services. By enhancing working conditions, increasing investments, and improving financial management, Iraq can begin to address these issues. Investing in the healthcare sector is not only crucial for the well-being of its citizens but also for the overall development and prosperity of the nation.

3.2.3.2 Electricity sector

Another complex problem plaguing Iraq is the persistent lack of reliable electricity supply. In the capital city of Baghdad, residents are only able to access an average of 8 hours of electricity from the official government grid per day.¹⁷³ This dire situation forces most of the population to rely on expensive power generators to meet their electricity needs for the remainder of the day. Consequently, majority of Iraqis endure chronic power cuts, particularly during scorching summer temperatures when the demand for electricity is at its peak.¹⁷⁴ According to the World Bank's poverty assessment, the unreliable electricity supply poses a significant burden on Iraqi citizens, limiting their access to essential services and impeding socioeconomic development. The inadequate power infrastructure and frequent outages not only disrupt daily life but also hinder economic activities, hampering the growth of businesses and industries. Total electricity shutdowns are not uncommon, especially when the electricity network operates at its maximum capacity or experiences defects in the electric transmission lines and distribution facilities. Additionally, the lack of a consistent supply of Iranian gas, which is used to power the country's power stations, further exacerbates the

¹⁷³ BBC News., 2021. Iraq 10 years on: In numbers - BBC News. [ONLINE] Available at: <https://www.bbc.co.uk/news/world-middle-east-21752819>. [Accessed 18 May 2021].

¹⁷⁴ The World Bank., 2018. Iraq Economic Monitor, Spring 2018: From War to Reconstruction and Economic Recovery. Washington, D.C.: World Bank.

electricity crisis.¹⁷⁵ This dependency on external resources leaves Iraq vulnerable to disruptions in the supply chain, further compounding the electricity shortage. The severity of the situation became evident on July 2, 2021, when the temperature reached a scorching 52 degrees Celsius, prompting widespread public outrage and protests due to a power outage. The public outcry following this incident ultimately led to the resignation of the Minister of Electricity, highlighting the public's frustration and dissatisfaction with the prevailing electricity crisis.¹⁷⁶

Resolving the electricity shortage in Iraq requires a multifaceted approach. Firstly, it is crucial to invest in the modernization and expansion of the power infrastructure. This entails upgrading the aging transmission and distribution networks, enhancing their capacity, and improving their reliability to minimize power outages and ensure a stable electricity supply. Furthermore, diversifying the energy mix and reducing dependence on a single source, such as Iranian gas, is essential to enhance energy security. Exploring alternative energy sources, including renewable energy, can contribute to a more sustainable and resilient power system. Investing in renewable energy projects, such as solar and wind power, can help harness Iraq's abundant natural resources and reduce reliance on fossil fuels. Moreover, improving governance and management in the electricity sector is paramount. Enhancing transparency, accountability, and efficiency in the administration of electricity resources, including procurement processes and financial management, can help mitigate corruption and mismanagement issues that exacerbate the electricity crisis.

Engaging in international cooperation and attracting foreign investment can also play a pivotal role in addressing Iraq's electricity challenges. Collaborating with international partners and leveraging their expertise and resources can support capacity building, technology transfer, and knowledge sharing in the energy sector. The lack of reliable electricity supply in Iraq severely hampers the daily lives of its citizens and undermines socioeconomic development. By investing in

¹⁷⁵ Ashwarya, S., 2020. Iraq's power sector: Problems and prospect, Georgetown Journal of International Affairs.

¹⁷⁶ BBC., 2021. Iraq power cuts stir protests as summer temperatures scorch country. [ONLINE] Available at: <https://www.bbc.com/news/world-middle-east-57693688>. [Accessed 1 April 2022].

infrastructure, diversifying the energy mix, improving governance, and fostering international cooperation, Iraq can make significant strides in alleviating the electricity crisis. Providing the population with consistent access to electricity is not only essential for meeting basic needs but also crucial for driving economic growth, improving living standards, and fostering stability and prosperity in the country.

3.2.3.3 Water sector

The Iraqi population faces a severe lack of access to clean water, despite the country's abundant water resources, including the Tigris and Euphrates rivers that flow throughout the region and the Shatt Al Arab waterway, which connects to the Arabian Gulf in the south. Shockingly, approximately three out of five children in Iraq, as well as less than half of all schools in the country, do not have access to clean water.¹⁷⁷ The city of Basra, a major port city in Iraq, particularly suffers from a significant clean water crisis. In 2018, the city experienced a devastating water contamination incident that resulted in the infection of nearly 100,000 people.¹⁷⁸ This catastrophe led to mass demonstrations, as the citizens of Basra had been enduring a lack of access to safe drinking water for over three decades, as highlighted by a Human Rights Watch report.¹⁷⁹ The report emphasized the failure of the Iraqi state to effectively manage and regulate water resources for Basra's population of four million people. It underscored the urgent need for investments to improve the accessibility of clean water in the region. In response, the Iraqi Government initiated a tender process and awarded a contract in 2019 to an English-led consortium led by the British company Bi-Water for the construction of the Basra seawater desalination project. However, to date, the project has not commenced, exacerbating the water crisis in the city. The

¹⁷⁷ UNICEF., 2021. Running Dry: water scarcity threatens lives and development in Iraq. [ONLINE] Available at: <https://www.unicef.org/iraq/press-releases/running-dry-water-scarcity-threatens-lives-and-development-iraq#:~:text=Baghdad%2C%2029%20August%202021%2D%20Nearly,cognitive%20development%2C%20and%20future%20livelihoods.> [Accessed 1 April 2022].

¹⁷⁸ The National., 2018. Basra hospitals overwhelmed as water poisoning cases near 100,000. [ONLINE] Available at: [https://www.thenationalnews.com/world/mena/basra-hospitals-overwhelmed-as-water-poisoning-cases-near-100-000-1.773822.](https://www.thenationalnews.com/world/mena/basra-hospitals-overwhelmed-as-water-poisoning-cases-near-100-000-1.773822) [Accessed 01 April 2022].

¹⁷⁹ Human Rights Watch., 2022. Iraq's Failure to Manage the Water Crisis | HRW. [ONLINE] Available at: [https://www.hrw.org/report/2019/07/22/basra-thirsty/iraqs-failure-manage-water-crisis.](https://www.hrw.org/report/2019/07/22/basra-thirsty/iraqs-failure-manage-water-crisis) [Accessed 02 April 2022].

researcher has met with the project manager who stated that there are many underlying reasons for the failure to implement the project namely the lack of coordination between the UK Export Finance Department and the Iraqi Government and also due to the lack of capacity of Bi-Water company whom have failed to implement similar projects around the world leading the Iraqi Government to re-issue a new tender and invite more companies to present their proposals. Tackling the water scarcity issue in Iraq requires concerted efforts and comprehensive strategies. Firstly, there is a need for enhanced water management practices to ensure the sustainable utilization of available water resources. This involves implementing effective policies and regulations to prevent water pollution, manage water allocations, and promote conservation measures. Additionally, investments in water infrastructure, such as water treatment plants and distribution networks, are crucial to improve the quality and availability of clean water.

In the case of Basra, urgent action is necessary to address the long-standing water crisis. The delayed implementation of the Basra seawater desalination project is a significant setback. The Iraqi Government must prioritize the project and expedite its commencement to alleviate the suffering of the population and ensure access to safe drinking water. This requires efficient coordination among government agencies, international partners, and private entities involved in the project. Furthermore, community engagement and awareness campaigns are essential to promote responsible water usage and conservation practices among the Iraqi population. Education programs can play a crucial role in teaching individuals about the importance of water preservation and methods to reduce water waste in households, schools, and businesses. Moreover, international cooperation and support can significantly contribute to help resolve Iraq's water challenges. Collaboration with neighbouring countries and regional organizations can foster joint initiatives for water management and sharing of best practices. Technical assistance, knowledge transfer, and financial aid from international partners can also facilitate the implementation of sustainable water projects and infrastructure development. The lack of access to clean water poses a significant threat to the well-being and development of the Iraqi population. The government must prioritize water management, invest in infrastructure, and expedite projects to address the water crisis. By adopting comprehensive strategies, engaging the

community, and seeking international cooperation, Iraq can take significant strides towards ensuring access to clean and safe water for all its citizens.

3.2.3.4 General statistics on government procurement in Iraq

According to reports from the Iraqi Ministry of Planning, there are currently 7,000 ongoing projects in the country, while 1,452 projects have been defaulted.¹⁸⁰ These defaulted projects encompass various sectors, including hospitals, schools, healthcare centres, roads, bridges, entertainment centres, tourist resorts, agriculture, industry, and housing. The estimated value of money spent on these incomplete, yet fully paid projects is around \$300 billion, as per information provided by parliamentary sources.¹⁸¹

During a meeting with a public employee working in the Iraqi Ministry of Planning, official statistics revealed that between 2005 and 2014, the Iraqi government allocated approximately 120 trillion dinars (\$101 billion) to rehabilitate publicly owned companies. These funds were sourced from donor countries and the Ministry of Finance. However, a significant number of these companies failed to generate any profits since 2003. Out of the 67 companies affiliated with the Ministry of Industry, 46 companies incurred losses, while all companies associated with the Ministry of Defence and those involved in military industries suffered losses as well. Similarly, public companies under the Ministry of Electricity also reported losses. One notable example of the failure of public procurement in Iraq is a project that commenced in 2010, involving the demolition of 1,000 schools across different parts of the country with the promise of building new schools to replace them. Unfortunately, the government of Iraq did not fulfil its commitment to replace the demolished schools, leaving many students without proper educational facilities. This situation exacerbates the educational crisis in the country.

¹⁸⁰ Al Hadithi, A., 2022. Fake projects in Iraq... Hundreds of billions go into the pockets of the corrupt. [Online]. Noonpost. Available at: <https://www.noonpost.com/content/45748#:~:text=%D9%81%D9%8A%20%D9%85%D8%AD%D8%A7%D9%81%D8%B8%D8%A9%2> [Accessed 28 December 2022].

¹⁸¹ Yaqinnews 2021. Fake projects drain billions of Iraq. [Online]. Available at: <https://yaqinnews.net/files/298682> [Accessed 28 December 2022].

Furthermore, urgent measures are needed to address the unequal distribution of healthcare facilities and to improve accessibility, particularly for those in remote areas and forcibly displaced individuals. This may involve increasing investment in healthcare infrastructure, incentivizing healthcare professionals to work in underserved regions, and implementing targeted programs to address the specific healthcare needs of vulnerable populations. Additionally, enhancing the education system is crucial for the future of Iraq. Investing in infrastructure, teacher training, and curriculum development can help improve the quality of education and provide Iraqi students with the skills necessary for their personal and professional development.

In another concerning case, the Iraqi Ministry of Planning and Ministry of Finance approved a budget of over \$800 million in 2011 to construct five hospitals.¹⁸² However, to this day, none of these projects have even commenced, despite the funds allocated for their completion having already been disbursed. These examples illustrate the systemic failures and mismanagement within the public procurement system in Iraq. The lack of proper coordination, transparency, and oversight has resulted in substantial financial losses, uncompleted projects, and a significant negative impact on essential sectors such as education and healthcare.

According to anti-corruption expert Mr. Mohammad Raheem, a significant portion of Iraq's annual budget, estimated at 25% to 45%, is wasted on fake projects that provide little value for the money spent. These projects are often of poor quality, and the actual expenditure does not reflect their true worth. Additionally, former Member of the Council of Representatives, Falah Al-Khafaji highlighted the issue of incomplete projects that have been ongoing since 2008. He emphasized that several provinces in Iraq, such as Babylon, Muthanna, and Dhi Qar, face extreme poverty and lack of adequate infrastructure with even minor rainfall causing significant flooding in their streets.

¹⁸² Al Hadithi, A. 2022. Fake projects in Iraq... Hundreds of billions go into the pockets of the corrupt. [Online]. Noonpost. Available at: <https://www.noonpost.com/content/45748#:~:text=%D9%81%D9%8A%20%D9%85%D8%AD%D8%A7%D9%81%D8%B8%D8%A9%2> [Accessed 28 December 2022].

The lack of periodic statistics on the success rates of procurement in various Iraqi government departments adds to the challenges of the public procurement process in Iraq. In 2019, the Federal Board of Supreme Audit published a report on the achievements and success rates of government departments for that year, shedding light on the nature of the Iraqi government's work and its low achievement rates despite having the necessary resources.¹⁸³ According to the report, the average success rate for all Iraqi government departments did not exceed 28%, with some departments even scoring a success rate of 0%. The following table displays the completion percentages for each department, as stated in the Supreme Board of Audit Bureau's report on the implementation of the general budget of 2019:

Name of Department	Running Budget	Investment Budget	Total Budget
	Execution percentage	Execution percentage	Execution percentage
Parliament	70.7%	0.4%	67.8%
Presidency	47.4%	0	45.4%
Council of Ministers	66.1%	23%	56.9%
Ministry of Foreign Affairs	26.7%	0	25.7%
Ministry of Finance	61.2%	4.7%	60.9%
Ministry of Interior	73.3%	0.2%	70.4%
Ministry of Labour and Social Affairs	55.3%	0	53.6%
Ministry of Health and Environment	45.5%	2.9%	40.9%

¹⁸³ The Federal Board of Supreme Audit., 2019. 2019 report. [Online]. FBSA. Available at: <https://www.fbsa.gov.iq/ar/reports/view/1489> [Accessed 29 December 2022].

Ministry of Defence	61.8%	0.2%	46.9%
Ministry of Justice	54.4%	8.9%	51.7%
Ministry of Education	68.3%	8.4%	64.4%
Ministry of Youth and Sports	61%	68.5%	65%
Ministry of Trade	48.7%	0	47.9%
Ministry of Culture	56.7%	43.2%	56.6%
Ministry of Transport	44.5%	1.2%	8.4%
Ministry of Construction, Housing, Municipalities, and Public Works	52.3%	4.1%	12.5%
Ministry of Agriculture	18.7%	1.3%	15.3%
Ministry of Water Resources	52.7%	25.2%	37.3%
Ministry of Oil	0.9%	50%	40.4%
Ministry of Planning	27.9%	5.2%	20.7%
Ministry of Industry and Minerals	66.5%	48.3%	65.2%
Ministry of Higher Education and Scientific Research	63.4%	3.6%	60.6%
Ministry of Electricity	17.7%	3.7%	11.1%
Ministry of Telecommunication	45.6%	40.5%	43.7%

Ministry of Displacement and Migration	13%	0	13%
Kurdistan Government	49.8%	0	41.7%
Entities not linked to a ministry	40.1%	64.8%	45.3%
Basra Governorate	70.8%	48.1%	59.6%
Nineveh Governorate	41.6%	0.6%	26.6%
Baghdad Governorate	72.1%	33.1%	65.9%
Dhi Qar Governorate	74.1%	24.1%	65.3%
Diyala Governorate	73.7%	6.5%	66.1%
Babylon Governorate	73.8%	0	57.8%
Anbar Governorate	54%	73%	67%
Maisan Governorate	68.7%	0	46.2%
Wasit Governorate	72.7%	21.5%	62.3%
Najaf Governorate	73.5%	41.8%	69.1%
Diwaniya Governorate	77.5%	11.4%	68.6%
Al Muthana Governorate	70%	13.4%	61%
Karbala Governorate	70.7%	56.5%	68.8%

Salah Al Din Governorate	65.5%	-	65.5%
State Council	55.9%	-	55.9%
Supreme Judicial Council	74.1%	20.9%	74%
Federal Supreme Court	16.5%	-	16.5%
Total	57%	28.4%	49.9%

Figure 4: Supreme Board of Audit Bureau's report on the implementation of the general budget of 2019

The report emphasizes the alarming state of Iraq's public procurement process, particularly concerning the expenditure of the investment budget and the performance of service ministries. The data reveals a significant failure on the part of the executive authority, with only 28% of the investment budget, equivalent to \$7.8 billion out of \$27.8 billion, being utilized. This indicates a lack of effective resource allocation and project implementation. The figures related to service ministries, which directly impact the needs of the citizens, further underscore the failure witnessed by the executive authority. For instance, the Ministry of Electricity expended a mere 3.7% of its investment allocations, while the Ministry of Construction, Housing, Municipalities, and Public Works settled with 4.1%. Similarly, the Ministry of Agriculture, Ministry of Education, and Ministry of Health spent only 1.4%, 3.6%, and 2.9% of their respective investment budgets. These inadequate expenditure percentages demonstrate a lack of efficiency and effectiveness in delivering essential services to the Iraqi population.

The situation is equally dire in the governorates, where the expenditure percentages remain disappointingly low. Baghdad, the capital, managed to utilize only 33.1% of its allocated budget, while Basra, Karbala, Dhi Qar, Diwaniya, and Babylon fared even worse, with expenditure percentages of 48.1%, 56%, 24.1%, 11.4%, and 0% respectively. These statistics reveal the extent of the failure within the public procurement process, which can be attributed to poor management, rampant corruption, and the absence of effective oversight mechanisms to monitor government performance. Consequently, these systemic failures led to the eruption of large-scale demonstrations in October 2019, which persisted until

the onset of the COVID-19 pandemic in mid-2020. The demonstrations were a direct response to the deteriorating economic and social conditions in the country, fuelled by the mismanagement of public funds and the lack of accountability. The dissatisfaction with the governance system were exacerbated by the failure to address their basic needs and deliver essential services.

These statistics indicate the widespread challenges and inefficiencies within the Iraqi government's procurement processes. The low success rates demonstrate a lack of effective project management, accountability, and transparency, resulting in significant financial losses and unfulfilled commitments. To resolve these issues, it is crucial for the Iraqi government to prioritize comprehensive reforms in its procurement practices. This includes implementing robust monitoring and evaluation mechanisms, enhancing transparency and accountability, and combating corruption at all levels. Regular reporting and publication of procurement success rates can foster transparency and enable stakeholders to assess the effectiveness of government departments. Moreover, there is a need for capacity building initiatives to enhance the skills and expertise of government officials involved in procurement processes. Training programs should focus on project management, risk assessment, contract management, and ethical conduct to ensure efficient utilization of public funds and the successful execution of projects. Collaboration with international organizations and donor countries can also provide valuable support in strengthening Iraq's procurement system. Drawing upon international best practices, technical expertise, and knowledge sharing can help in designing and implementing effective procurement reforms. The wastage of Iraq's annual budget on fake projects, the prevalence of incomplete projects, and the low success rates in government departments highlight the urgent need for comprehensive reforms in Iraq's public procurement process.

Contract enforcement in Iraq poses significant challenges, as evident from its low ranking of 147 out of 190 countries in this regard.¹⁸⁴ Numerous companies awarded public procurement contracts encounter substantial difficulties in implementing these contracts due to complex rules, bureaucratic decision-

¹⁸⁴ World Bank., 2020. Doing Business Report

making processes, delayed payments, customs regulations, and ambiguous tax liabilities. These obstacles hinder project implementation and create significant challenges for companies involved. During an interview with a British company owner, who requested anonymity, it was revealed that their company had signed a contract with an Iraqi Commission on 10/10/2022, with a duration of 6 months. However, the company faced challenges in fulfilling the contract requirements. The government party insisted that the company establish a registered branch office in Iraq to carry out the project. Consequently, the company completed all necessary paperwork and submitted a request to register a branch office in Iraq. Unfortunately, as of 3/1/2023, the company had not received any response from the Ministry of Trade- Registrar Department regarding the registration process. Despite multiple visits to the Registrar Department, the company was informed that their documents were still under review. The delayed approval of the company's registration in Iraq effectively halted project implementation, as the Commission refused to proceed with the contract or pay the company until the branch office was officially registered. The company's visits to both the Commission and Registrar Department revealed that the antiquated communication system between government entities in Iraq, relying on mail correspondence, significantly prolonged the process. Letters took several days to be transferred between entities, further delaying work and communication between involved parties. Additionally, the company was required to submit a performance bond equivalent to 5% of the contract value, payable to the Commission. However, due to the company's UK-based status, it faced challenges in securing the performance bond from UK banks. The lack of trust, confidence, and transparency in the Iraqi banking sector led UK banks to refuse the money transfer directly to Iraq. Consequently, the company had to transfer funds from the UK to Dubai and then from Dubai to Iraq, incurring additional expenses and costs to comply with the performance bond requirement.

These examples highlight the complexities and inefficiencies within the contract enforcement process in Iraq. The lengthy registration procedures, outdated communication methods, and lack of trust in the banking sector not only led to significant delays but also impose financial burdens on companies. To address these challenges, there is a need for comprehensive reforms in the regulatory framework, streamlining administrative processes, adopting modern

communication technologies, and enhancing transparency and trust in the banking sector. Improving the efficiency of contract enforcement and reducing bureaucratic hurdles will promote a more conducive environment for companies to operate in Iraq. By fostering a transparent and reliable procurement system, Iraq can attract more investments, enhance project implementation, and ultimately contribute to its economic development and prosperity.

To resolve the obstacles faced by the Iraqi government in public procurement and the delivery of basic public services, it is essential to examine successful practices implemented in other countries. One such example is the United Kingdom, where the government conducted a comprehensive review of public procurement expenditure. Based on evidence and data provided by the Office for National Statistics (ONS), which collects and publishes a wide range of statistics and reports available to the public online, a detailed list of recommendations was formulated to improve the public procurement process.¹⁸⁵ In Iraq, the policymaking and statistical information gathering process is fragmented, lacking an effective data-collection infrastructure that could assist the government in understanding challenges and resolving them. Although a Central Statistical Organization (CSO) exists within the Ministry of Planning to manage data collection, ministries and other public departments often fail to share data efficiently. Additionally, the CSO's limited authority hampers its ability to gather information from various entities within the Iraqi government. Critical information, such as the breakdown of the federal budget and epidemiological data, is dispersed among different ministries, leading to delays and inefficiencies as officials struggle to gather reliable and up-to-date data for decision-making.

After the defeat of the ISIS in June 2014, the Iraqi government initiated an economic recovery plan under Prime Minister Haider Al-Abadi. However, the Economic Reform Unit established within the Prime Minister's office faced challenges in implementing programs due to the need to collect accurate information and data from various ministries. Frequently, officials had to verify the statistical information they received, as figures from ministries or the CSO were

¹⁸⁵ Knight, L., Harland, C., Telgen, J., V., K., Callender, G. and McKen, K., 2012. Public Procurement: International Cases and Commentary. United Kingdom: Routledge.

often questionable and required substantiation.¹⁸⁶ Another issue plaguing the CSO is the lack of regular data updates. For instance, the latest available data on the CSO's website regarding the industrial sector in Iraq was published four years ago and has not been renewed since. Enhancing the authority of the CSO and encouraging ministries to provide accurate information and data is crucial for improving the public procurement process. Without reliable data, genuine projects that should be prioritized may be disregarded and excluded from the budget. Misleading and imprecise statistics hinder the Iraqi government's ability to optimize the budget, leading to ineffective public expenditure and the wastage of valuable resources.

In contrast, the UK government enhanced its cooperation with the private sector to provide high-quality services to its citizens at competitive prices during the COVID-19 pandemic. Through efficient programs and partnerships with the private sector, the government prioritized the procurement of medical supplies.¹⁸⁷ The Independent Health Care Providers Network, representing 70 healthcare provider groups in the UK, made available a significant number of hospital beds, ventilators, and clinical staff to support the National Health Service (NHS). This collaboration ensured that the healthcare system could effectively respond to the pandemic and prevent its collapse.¹⁸⁸ This example underscores the significance of an effective public procurement policy not only for the efficient delivery of services but also for social and economic recovery. By learning from successful practices like those implemented in the UK, the Iraqi government can improve its public procurement processes, enhance data collection and sharing, foster cooperation with the private sector, and optimize the allocation of public resources to prioritize critical projects.

A pressing issue in the Iraqi public sector is the existence of internal debts among different government entities. During a meeting with Mr. Wadah Salah AL Najjar,

¹⁸⁶ Chatham House., 2022. Establishing a data analytics unit. International Affairs Think Tank. [ONLINE] Available at: <https://www.chathamhouse.org/2020/06/public-sector-reform-iraq-0/establishing-data-analytics-unit>. [Accessed 03 April 2022].

¹⁸⁷ Cabinet Office., 2021. Transforming public procurement.: Parliamentary Secretary at the Cabinet Office.

¹⁸⁸ HSJ., 2020. NHS block books almost all private hospital sector capacity to fight covid-19. [ONLINE] Available at: <https://www.hsj.co.uk/policy-and-regulation/nhs-block-books-almost-all-private-hospital-sector-capacity-to-fight-covid-19/7027196.article>. [Accessed 4 April 2022].

the General Director of the General Company for Communication Equipment and Power, a subsidiary of the Iraqi Ministry of Industry and Minerals, he shed light on the challenges his company faces regarding debts owed by various ministries. Specifically, his company has successfully completed several projects for the Iraqi Ministry of Electricity; however, the Ministry has failed to pay the outstanding dues, resulting in a debt exceeding 22 billion Iraqi Dinar, equivalent to nearly \$15 million. Mr. Wadah further explained that the Ministry of Industry and Minerals has also completed projects for the Ministry of Electricity, amounting to approximately 300 billion Iraqi Dinars, equivalent to \$205 million, that remain unpaid. The accumulation of internal debts among government institutions severely hampers their ability to finance new projects due to the lack of available funds. This issue extends to the private sector as well. In many cases, when a public entity is awarded a contract from another public entity, they subcontract the obligations of the contract to private sector entities. Consequently, when the performing public entity does not receive payment for their services, the private sector entities are also left unpaid. This situation creates a host of problems and disputes among all contracting parties involved. Settling the issue of internal debts is crucial for the effective functioning of the Iraqi public sector and the smooth operation of project implementation. Timely payment of dues between government institutions and the private sector is vital to maintain trust, foster a conducive business environment, and ensure the successful execution of contracts. Implementing measures to address internal debts, such as improved financial management systems, effective coordination between ministries, and timely payment mechanisms, will alleviate financial strains and facilitate the development and completion of essential projects.

Effective management of government expenditure, along with the motivation and proper management of public employees within a transparent and rule-of-law framework, are essential for governments to improve the delivery of public services, infrastructure projects, and meet the public's requirements.¹⁸⁹ Despite the allocation of significant funds, exceeding \$1.37 trillion, to Iraqi government budgets since 2003, only a limited number of productive and strategic projects

¹⁸⁹ Organisation for Economic Cooperation and Development., 2010. Progress in Public Management in the Middle East and North Africa: Case Studies on Policy Reform, Paris

have been successfully implemented.¹⁹⁰ Based on these observations, it is clear that the Iraqi government and public sector lack the necessary tools, mechanisms, and regulations to effectively meet public needs. Therefore, it is crucial for the international and local private sectors to support the government in managing, operating, financing, and implementing these projects. By leveraging the expertise and resources of the private sector, the government can benefit from their experience in successful project management and implementation. To improve efficiency and effectiveness, the Government of Iraq should transition from traditional correspondence and letter-based communication between government entities to an electronic system. This transformation will significantly enhance the speed and efficiency with which important matters are addressed and resolved. By adopting sound financial management practices, fostering a supportive regulatory environment, and engaging the private sector, the Iraqi government can ensure the successful delivery of public services, infrastructure projects, and meet the needs of its citizens in a more efficient and effective manner. This holistic approach will contribute to the overall development and prosperity of the country.

Iraq's public procurement system faces significant challenges that hinder the financing and successful implementation of public procurement projects. These challenges include limited funds, inadequate prioritization of budget allocations, and insufficient investment in crucial sectors like healthcare and education. To address these issues and improve public services and infrastructure development, comprehensive reforms are necessary. While the Public Contracts Regulation provides a framework for government procurement, discrepancies in its implementation lead to inconsistencies and potential biases in tender announcements. Enhancing transparency and equal access to tender information for local and international companies is essential to promote a fair and competitive procurement process. This can be achieved by establishing objective and standardized guidelines for bid submissions, allowing sufficient time for proposal preparation, and implementing clear and transparent evaluation

¹⁹⁰ Ali Kareem Itheeb., 2022. A turbulent investment reality in Iraq despite the enactment of its law in 2006. Find out the reasons. [Online]. AlJazeera. Available at: <https://www.aljazeera.net/ebusiness/2022/9/25/%D9%88%D8%A7%D9%82%D8%B9-%D8%A7%D8%B3%D8%AA%D8%AB%D9%8> [Accessed 29 December 2022].

procedures. Alternative procurement methods such as partnerships offer flexibility in addressing specific situations, but it is crucial to maintain transparency, fairness, and accountability throughout the process. Strengthening public procurement regulations, coordinating relevant government agencies, and elevating transparency and accountability is essential for tackling the present challenges effectively. Urgent reforms in Iraq's public procurement policies and practices are necessary. Establishing transparent and accountable mechanisms that foster fair competition, enhance project monitoring and evaluation, and ensure efficient utilization of public funds is paramount. Additionally, capacity building initiatives should be implemented to enhance the skills and knowledge of government officials involved in procurement processes. Training programs that focus on best practices, international standards, and effective project management methodologies are crucial. Promoting a culture of integrity and ethical conduct within the public sector is also essential for rebuilding trust and ensuring efficient project execution. Fostering collaboration and knowledge sharing with international organizations and donor countries can provide valuable support in improving Iraq's public procurement system. Learning from the experiences of countries that have successfully implemented robust procurement practices can provide valuable insights and guidance.

The challenges faced by Iraq's public procurement system necessitate comprehensive reforms. By implementing transparent and accountable practices, strengthening regulatory frameworks, and investing in capacity building, Iraq can enhance the efficiency and effectiveness of its public procurement processes. This, in turn, will contribute to the successful execution of projects, the judicious use of public funds, and the provision of essential services to the Iraqi people. Efforts to combat corruption and promote ethical practices should also be intensified through the enforcement of anti-corruption laws, the establishment of independent oversight bodies, and the cultivation of a culture of integrity and transparency within the public sector.

3.3 Challenges Facing Companies Operating in Iraq

Iraq has endured a prolonged period of adversity, necessitating significant investments and development across various sectors. Furthermore, with a population of over 42 million consumers, Iraq represents a vast market hungry

for progress and economic growth. However, engaging in business activities in Iraq comes with a range of risks and challenges that impact investors, private sector companies, and individuals.

One of the key challenges faced by investors in Iraq is the security situation. The country has experienced ongoing security concerns, including political instability, armed conflicts, and the presence of extremist groups which create an uncertain business environment, deterring potential investors and impeding the flow of foreign direct investment. Addressing the security risks and establishing stability is crucial to attracting investment and fostering economic growth. Another significant challenge in Iraq is the weak institutional framework and governance structure. Insufficient regulatory frameworks, corruption, bureaucratic hurdles, and inconsistent enforcement of laws pose obstacles to conducting business efficiently and transparently. Resolving these issues requires comprehensive reforms, including strengthening institutions, enhancing transparency and accountability, and promoting good governance practices. Implementing such reforms would provide a more conducive business environment, instilling confidence in investors and facilitating the growth of the private sector.

Infrastructure deficiencies also present a substantial challenge for businesses operating in Iraq. Decades of conflicts and underinvestment have left Iraq's infrastructure in disrepair, particularly in sectors such as transportation, energy, and telecommunications. Insufficient road networks, unreliable power supply, and limited access to modern communication systems hinder business operations and increase costs. Investment in infrastructure development is crucial to improve logistics, connectivity, and overall business efficiency. Additionally, Iraq faces challenges related to bureaucracy and administrative procedures. Cumbersome licensing processes, complex taxation systems, and excessive red tape can impede the establishment and growth of businesses. Streamlining administrative procedures, simplifying regulations, and reducing bureaucratic barriers are necessary to promote entrepreneurship, attract investment, and foster economic development.

Moreover, Iraq's legal system poses challenges to conducting business. Inadequate intellectual property protection, inconsistent interpretation and enforcement of contracts, limited access to legal remedies contribute to an

uncertain business environment and bureaucracy in owning land and establishing a local company. Strengthening the legal framework and ensuring the rule of law are essential for fostering investor confidence and facilitating business transactions. Access to financing is another area of concern for businesses in Iraq. Limited availability of credit, high interest rates, and lack of financial infrastructure pose challenges for entrepreneurs and businesses seeking capital for investment and expansion. Encouraging the development of a robust financial sector, implementing supportive policies, and enhancing access to financing options are crucial for promoting business growth and economic development.

While Iraq presents immense potential as a market for investment and development, numerous risks and challenges must be addressed. Enhancing security, improving the institutional framework and governance, investing in infrastructure, streamlining administrative procedures, strengthening the legal system, and promoting access to financing are critical steps towards creating a conducive business environment in Iraq. Through concerted efforts and comprehensive reforms, Iraq can unlock its potential, attract investment, and achieve sustainable economic growth, ultimately benefiting both investors and the Iraqi people.

3.3.1 Establishing a company in Iraq

Foreign investors encounter numerous barriers when establishing companies in Iraq. While legal restrictions on foreign ownership were lifted in the early 2000s, the procedures and bureaucracy involved in establishing entities remain costly and time-consuming. According to Article 3 of Order Number 5 for the year 1989, international companies awarded contracts or conducting business in Iraq are obligated to establish an Iraqi legal entity, either through a company or a branch office. However, there is no clear definition of what constitutes "conducting business," but typically, this obligation arises when a foreign company provides services or products in Iraq. Failure to register the enterprise can result in penalties.

There are various entity structures that can be formed in Iraq, including joint stock companies, joint liability companies, sole owner enterprises, representative offices, and limited liability companies. Among these options, limited liability companies and branch offices are generally favoured by foreign investors in Iraq.

However, according to Article 12 Secondly of the Companies Law, newly established limited liability or joint stock companies must have at least 51% Iraqi ownership, limiting the ability of foreign investors to hold a majority share in these structures. Consequently, many international companies choose to establish branch offices instead to avoid this restriction.

The process of establishing a company in Iraq is lengthy and difficult to estimate due to the high levels of bureaucracy and the exhaustive steps required before registration can occur. This process typically takes anywhere from 1 to 12 months, while registering branch offices of foreign companies is generally faster. Globally, when companies wish to enter a joint business opportunity, they often establish a new entity known as a special purpose vehicle (SPV). The SPV is tasked with undertaking the project on behalf of both entities, and its main purpose is to delineate the obligations and responsibilities of the involved companies. However, in Iraq, there is an unclear requirement that has puzzled lawyers and researchers. It states that any branch office established in Iraq necessitates the mother company to have been incorporated for at least two years. This contradictory provision in the law prevents companies seeking to establish an SPV to protect their rights from practicing in Iraq due to the peculiar requirement for the mother company's enactment to be at least two years old.

Foreign and Iraqi investors can establish companies in partnership with various government departments and entities in Iraq through the formation of mixed sector companies. In such cases, the government's involvement in shareholding and capital injection must be a minimum of 25%. Mixed sector companies can be incorporated as either limited liability or joint stock companies, but the joint stock option is typically preferred. According to the Companies Law, when a mixed sector company is formed as a joint stock company, the state and private shareholders are required to initially contribute between 30% and 55% of the total company shares. This includes the government's minimum stake holding of at least 25%. After 30 days of approval for establishing the joint stock company, the remaining shares can be offered to the public. However, this offering can only take place within a period of not less than 30 days and not more than 60 days. During the initial 30-day period, the initial contributors, comprising the government and private sector, are prohibited from contributing additional shares. If, after 60 days, more than 25% of the total company shares remain

unsubscribed, the period for public offering can be extended for an additional 60 days. However, if the extended period ends and the subscription for the entire shares of the company does not reach 75%, the initial subscribers are required to either reduce the capital of the company and the issued shares to be equivalent to 75% of the reduced nominal capital or revoke the formation of the company.

Once the public subscription for a joint stock mixed sector company reaches over 75% and is fulfilled, a certificate of incorporation is issued. For a period of 6 months following the issuance of the certificate, the company's board of directors can offer the remaining shares to the public through either the stock exchange or public offering. If the company fails to issue some shares during this process, the company's capital must be reduced, and the subscribed shares need to be adjusted to match the decreased nominal capital. It's important to note that these procedures are specific to joint stock mixed sector companies, while limited liability mixed sector companies are not subject to the same conditions. The Companies Law does not impose any restrictions on initial ownership and subscription of shares for limited liability mixed sector companies, except for the minimum requirement of 25% of shares to be initially held by the government.

There are several restrictions on transferring shares in joint stock mixed sector companies. Both government and private shareholders are prohibited from transferring their shares during the first year of establishment. Furthermore, no shares can be transferred until the company has distributed dividends to the shareholders with a value that is not less than 5% of the total paid nominal capital. The Companies Law imposes additional restrictions on private sector shareholders, preventing them from transferring shares if the shares are mortgaged, confiscated, or repossessed based on a court decision. Similarly, if the share certificates have been lost and a replacement has not been issued, or if there is company debt associated with the shares to be transferred, or if the transferee is legally prohibited from holding shares in the company, the private sector shareholder is not allowed to transfer their shares.

In contrast, the process of transferring shares in a limited liability mixed sector company involves the transferor informing the other shareholders of their intention to sell their shares through a notice. The notice should specify the number of shares to be transferred and the selling price requested by the

transferor, or the price being offered by the purchaser. The other shareholders of the company then have the right of first refusal, which can be exercised within a period of 30 days. If no shareholder wishes to purchase the shares during this period, the transferor may proceed to sell the shares to the offeror. Additionally, there are limitations on the number of shareholders in a limited liability mixed sector company. The total number of shareholders should not exceed 25. On the other hand, a joint stock mixed sector company can have up to 100 founding shareholders, and there is no limit beyond that.

The primary distinction between limited liability and joint stock companies lies in their management structure. In joint stock mixed sector companies, a board of directors is established through a resolution passed by the general assembly. The board of directors then appoints a general manager, who can be one of the company's directors or chosen externally. On the other hand, in limited liability mixed sector companies, there is no board of directors. Instead, the management of the company is conducted by the general manager, who is directly selected from the general assembly.

The general assembly, consisting of all shareholders, whether government or private, is responsible for decision-making in both types of companies. Voting rights are exercised based on the percentage of shareholding for each shareholder. According to the Companies Law, each company is required to appoint a single manager who represents the company based on the powers and authorizations granted by either the general assembly (in the case of a limited liability company) or the board of directors (in the case of a joint stock company). However, some international companies have policies that require two signatories for transactions exceeding \$100,000, which is not permitted in Iraq. The Companies Law provides detailed provisions regarding company management, which can be seen as overly restrictive for companies that should ideally have the freedom to operate in a manner suitable for their needs. Nevertheless, the Companies Law does not impose any restrictions on the nationality of individuals who can be appointed as company managers.

In joint stock mixed sector companies, the composition of the board of directors is clearly defined by the Companies Law, with 7 members and an additional 7 reserve members. Some board members in joint stock mixed sector companies

are not selected by the general assembly but are directly chosen by the government authority involved. When the government's shareholding in the company ranges from 25% to 50%, two board members are directly appointed by the minister or their deputy. If the government's share exceeds 50%, then 3 out of the 7 board members must be government-appointed, increasing the influence of the government over private investor shareholders. Additionally, government shareholders have voting rights to appoint the remaining board members through their participation in the general assembly. There is uncertainty regarding the removal of government-elected board members, as the Companies Law does not explicitly grant the general assembly the authority to remove them. This suggests that the removal of government-appointed board members can only be done by the same government authority that appointed them. This situation can potentially lead to undesirable outcomes if the decisions or behaviour of government-selected board members conflict with the company's interests.

The first step in registering a company in Iraq involves obtaining initial approval for the company name from a local chamber of commerce. The chamber conducts a search to determine if the proposed name is available or already in use. Once approved, the application is forwarded to the Federal Chamber of Commerce for another name search. Upon approval, the applicant is required to pay a fee, which varies based on the company's intended activities. A trade name letter is then signed.

Next, a minimum deposit, determined by the company's activities, must be made in an accredited bank. The deposit is supported by a bank statement and a letter confirming the deposit. The deposited amount remains blocked until the company's certificate of registration is issued, at which point the funds can be withdrawn. The entrepreneur can then apply online through the Registrar of Companies website.¹⁹¹ The application should include the trade name confirmation letter, bank deposit confirmation, identification documents of the individuals establishing the company, a lease agreement for office space, and a

¹⁹¹ <https://www.tasjeel.mot.gov.iq/>

memorandum of association drafted by a local Iraqi lawyer.¹⁹² An approval email is sent, requiring the entrepreneur to personally visit the company's registrar and submit hard copies of all the mentioned documents.

Upon approval, an official badge is obtained, and the trade name is confirmed. The company's registrar then notifies various institutions, including Rashed Bank, the Social Security Agency, Ministry of Planning, the tax authority, the Central Bank, the Ministry of Trade, and Bank Al Rafidain, about the company's registration.¹⁹³ While the company is now registered, it is not legally permitted to operate until its employees are registered for social security. Additionally, many investors and business owners need to obtain specific licenses from specialized government departments and local authorities to operate in particular sectors.¹⁹⁴

The figure below provides a visual representation of the steps and associated costs involved in establishing a company:¹⁹⁵

¹⁹² World Bank. 2020. Doing Business 2020: Comparing Business Regulation in 190 Economies. Washington, DC. pp 8

¹⁹³ World Bank., 2020. Doing Business Report

¹⁹⁴ The Legal 500., 2023. The Legal 500's Guide to Doing Business in Iraq – Special Reports - The Legal 500. [ONLINE] Available at: <https://www.legal500.com/special-reports/the-legal-500s-guide-to-doing-business-in-iraq/>. [Accessed 26 March 2023].

¹⁹⁵ Deloitte., 2021. Doing business guide: Understanding Iraq's tax position.

Indicators for starting a business in Iraq

Number	Procedure	Time to complete	Associated cost
1	Reserve a unique company name at the Baghdad Chamber of Commerce	1 day	IQD 250,000
2	Reserve a unique company name at the Federation of Chambers of Commerce	1 day	IQD 250,000
3	Hire a lawyer to draft articles of association	1 day	About IQD 1,500,000
4	Deposit the initial capital at a commercial bank and obtain proof thereof	2 days	IQD 5,000 – IQD 25,000
5	Apply for registration at the Companies Registry	15 days	IQD 250,000 - 350,000
6	Obtain the registration certificate	1 day	Included in procedure 4
7	Make a company seal	2 days	IQD 20,000
8	Register employees for social security	3 days	IQD 20,000

Source: Doing business report Iraq 2019, World Bank Group

Figure 5: Indicators for starting a business in Iraq

The process of establishing a company in Iraq is characterized by significant bureaucracy and challenges, even with the introduction of electronic registration. Unlike countries like the UK, where business owners can incorporate their companies online and complete the registration in a single day, Iraq's administrative procedures for company establishment are complex and outdated.

Foreign entities that wish to conduct business in Iraq without having an Iraqi individual as a majority stakeholder are required by law to establish a branch entity. These branch companies are considered an extension of the parent company and are granted permission to operate in Iraq. However, specific regulations must be followed to establish a branch. Firstly, the foreign company must have a contract with the Iraqi government or be a subcontractor of a government-contracted company. This contract must meet certain minimum duration and financial requirements to enable the foreign company to register in Iraq. Establishing a foreign branch office allows the parent company to use its brand name in Iraq, rather than being restricted by the naming guidelines for Iraqi entities. It is important to note that a branch does not limit the potential liability exposure of the parent company, unlike a Limited Liability Company (LLC).

The process of setting up a branch involves submitting an application to the Registrar of Companies using the appropriate ministry form. Several supporting

documents are required, including authenticated copies of the parent company's constitutional documents, a power of attorney appointing the branch office manager, the parent company's previous year's accounts, and a power of attorney appointing a locally licensed lawyer to handle the foreign branch office registration with local authorities. Moreover, an authenticated branch manager appointment letter, an authenticated and legalized undertaking assuming the legal and financial responsibilities of the foreign branch office in Iraq, and a letter of support from the contracting government party addressed to the Ministry of Trade are also necessary. Like other non-Iraqi applications, the registration of a branch is subject to obtaining a no objection letter from the Ministry of Interior. This letter, addressed to the Registrar of Companies, allows for the completion of the registration process and the issuance of relevant registration certificates. After the branch is registered, it must fulfil various requirements, such as entering into a lease agreement for office space in a commercially designated area and appointing a locally licensed accountant and lawyer. Additionally, branches are obligated to display their full names and office addresses in Iraq on all documents and papers they issue.

Establishing companies in Iraq involves navigating through a complex and bureaucratic process. Despite the lifting of legal restrictions on foreign ownership, foreign investors still face significant barriers and challenges. The registration procedures are lengthy and involve both personal and electronic registration, unlike more streamlined processes in countries like the UK. The outdated procedures, centralization, and limited use of technology contribute to the complexities. Limited liability companies and branch offices provide more flexibility in ownership structure, but certain requirements, such as the two-year incorporation provision for branch offices, can limit foreign companies' ability to protect their rights. The complex registration process and bureaucratic hurdles hinder the efficient establishment of companies in Iraq. The process of establishing companies in Iraq requires careful navigation of legal requirements, bureaucratic procedures, and specific regulations. Foreign investors must be prepared for the challenges and complexities involved, seeking local expertise and assistance to ensure compliance with the applicable laws and regulations.

3.3.2 Owning land in Iraq

Foreign investors encounter numerous complications regarding their ability to own property in Iraq. The Real Estate Registration Law Number 43 of 1971, as amended by Law Number 31 of 1982, establishes the general rule that only Iraqi nationals can acquire real estate. However, there are exemptions in place that extend this right to foreigners. Article 154 of the Real Estate Registration Law outlines the conditions under which foreigners can own land in Iraq. These conditions include reciprocity between Iraq and the foreigner's country, the absence of administrative or military impediments to the acquisition (confirmed by the governor and relevant military authority), the property being more than 30 kilometres from the Iraqi borders, and approval from the Iraqi Minister of Interior.

Companies registered in Iraq are also allowed to acquire real estate, as stipulated in Articles 152 and 153 of the Real Estate Registration Law. This is contingent upon the company's articles of association permitting real estate acquisition, the property being within the borders of a city, and approval from the Minister of Interior. However, it is important to note that the regulations permitting non-Iraqi nationals to acquire real estate were suspended in 1994 by the Iraqi Revolutionary Command Council, which invalidated all policies, laws, and decrees that previously allowed foreigners to own real estate in Iraq. Currently, under Article 23 (Third -A) of the Constitution, the right to acquire properties and real estate in Iraq is exclusively granted to Iraqi nationals, unless otherwise authorized by law.

Under Article 10 of the Investment Law, there has been a reversal in the policy regarding land ownership by foreign investors in Iraq. Foreign investors are now granted the right to acquire land owned by the state or the private sector specifically for the purpose of developing residential projects, provided that the land is used solely for its intended residential development. Additionally, foreign investors are allowed to acquire land designated for industrial or agricultural use, but only if they enter partnership arrangements with local investors. This promotes collaboration between foreign and local entities in these sectors.¹⁹⁶

¹⁹⁶ Article 10 (Secondly-2) of the Investment Law.

To ensure compliance with the investment requirements, Article 10 (Secondly-2-G) of the Investment Law places a lien on the land registration, preventing any disposal of the real estate until the investor fulfils their obligations regarding the investment. The investor is restricted to using the property for the approved investment purpose and must refrain from engaging in any other activities. If an investor fails to meet their obligations within the specified timeframe, the Investment Authority has the right to request the revocation of the property registration and its return to the previous owner. The investor is entitled to receive compensation, which is determined by deducting the corresponding rent for the occupancy period from the purchase price paid for the property. The Investment Law explicitly prohibits the nationalization or expropriation of investment projects, except when it is deemed necessary for public interest purposes. In such cases, the investor is entitled to receive compensation for their losses. Furthermore, foreign investors are permitted to rent and lease land for non-residential and commercial investment projects for a period of 50 years, with the possibility of renewal.

According to Article 23 of the Companies Law in Iraq, companies incorporated in Iraq are considered Iraqi entities regardless of the nationality of their shareholders. This means that Iraqi companies, irrespective of foreign shareholding, are legally allowed to acquire real estate in Iraq. The acquisition of real estate by Iraqi companies has been confirmed by a request made by the Iraqi Minister of Justice, who sought clarification from the State Council regarding the ability of banks and enterprises owned directly or indirectly by foreigners to acquire real estate in Iraq. In response, the State Council issued Decision No. 54/2010 on May 5, 2010, stating that banks, regardless of foreign shareholding, are permitted to acquire real estate as long as it aligns with the objectives outlined in their memorandum of association. However, despite the Companies Law considering Iraqi companies as Iraqi entities and the decision made by the State Council, practical challenges and complications arise when Iraqi companies with foreign shareholders attempt to acquire properties. In some cases, certain companies have been successful in registering properties, while others have faced denials

or difficulties in their requests.¹⁹⁷ Additionally, complications arise specifically for branches of foreign companies established in Iraq. According to Law No. 5 of 1989, a branch company is considered an extension of its parent company and is not recognized as an independent Iraqi entity. As a result, branch companies are generally not permitted to acquire property or real estate in Iraq. The same restriction applies to branches of foreign banks, with the exception that they can obtain approval from the Central Bank to register mortgages under their name.

The restrictions on foreign ownership of real estate in Iraq underscore the importance of having comprehensive legislation and clear guidelines that facilitate foreign investment in the real estate sector. The current legal provisions present complexities and inconsistencies, particularly for Iraqi companies with foreign shareholders and branch companies established by foreign entities. Foreign investors must carefully navigate these legal provisions and seek expert advice to ensure compliance with the applicable laws and regulations governing property ownership in Iraq.

To promote a more favourable investment climate, it is crucial for Iraq to consider reviewing and updating its laws and regulations related to real estate ownership, streamlining the procedures for foreign investors, and providing clearer guidelines on property acquisition. By implementing comprehensive and transparent legislation, Iraq can attract greater foreign investment in its real estate sector, contributing to economic growth and development. Foreign investors and companies should diligently study the legal framework, engage qualified legal professionals, and establish effective communication channels with relevant authorities to navigate the complexities and ensure compliance. This will enable them to make informed decisions and maximize their investment opportunities in the Iraqi real estate market. Ultimately, creating a more favourable and predictable environment for foreign investment in real estate will not only benefit foreign investors but also contribute to the overall economic development of Iraq.

¹⁹⁷ Norri, M., 2017. Foreigners right to own real estate in Iraq. Al Tamimi Lawfirm

3.3.3 Taxation

The Federal Income Tax Law, specifically Law No. 113 of 1982 as amended in 2003, serves as the primary source of tax legislation in Iraq, with the General Commission for Taxes (GCT) acting as the country's main tax authority. The GCT comprises a corporate branch responsible for overseeing Iraqi companies and a large taxpayer department that administers foreign companies' tax affairs. Taxable income in Iraq generally encompasses all income earned, regardless of its source, and is generally calculated as total income minus permissible and documented deductions and expenses incurred in the process of generating taxable income.¹⁹⁸ Article 5 of the Federal Income Tax Law stipulates that income tax is imposed on Iraqi residents, including both natural persons and legal persons (such as branches of foreign companies and registered Iraqi companies), regardless of where the income is derived from or received.

Registered companies in Iraq are obligated to prepare annual financial statements in Arabic, adhering to the Iraqi Uniform Accounting Standards (UAS). Corporate income tax is calculated based on profits, usually applying a percentage to the company's turnover, typically ranging from 20% to 25%, depending on the industry. The GCT has developed an internal guide that provides estimated profit rates for different industries, which is typically updated annually. It's important to note that this guide is not legally binding on either the taxpayer or the tax authority, but it is often used by the GCT in cases where a company is unprofitable or when audited UAS financial statements indicate low profits.

To incentivize investments in Iraq, companies that obtain an investment license from the Investment Commission are granted tax and fee exemptions for a period of 10 years.¹⁹⁹ This exemption can be extended to 15 years with the approval of the Investment Commission.²⁰⁰ However, it's worth noting that these exemptions generally apply to corporate income taxes, while employment taxes related to employees remain payable. Furthermore, Article 17(4) of the Investment Law

¹⁹⁸ Article 8 of the Federal Income Tax Law

¹⁹⁹ Article 15(1) of the Investment Law

²⁰⁰ Article 15(3) of the Investment Law

provides additional exemptions from taxes and duties on furniture, furnishing, and equipment for upgrading and renewal purposes every four years for hospitals, health and tourist institutions, hotels, rehabilitation centres, educational and scientific organizations, provided that the imported items are solely used for the approved project and within three years from the date of approval by the Investment Commission. Additionally, investment projects conducted in free zones are exempt from income tax and stamp duty according to Council of Ministers Decree No. 170 of 1998. Goods and items imported to free zone areas are also exempt from customs duties, and the income of non-Iraqi employees in free zones is exempt from income tax.

Despite an increase in tax revenues, their significance to public revenues in Iraq remains weak and uneven. The government's heavy reliance on oil revenues has led to neglect in developing revenue generation through taxation. Moreover, the lack of security and stability has hindered effective tax collection in various entities, and many entities evade tax payments due to administrative and financial corruption resulting from weak oversight of the taxation system. In a statement made by Mr. Shaker Al-Zubaidi, the Director General of the Iraqi General Tax Authority, it was revealed that various institutions have been conducting business in Iraq since 1999 without paying a single Iraqi Dinar in taxes.²⁰¹ This highlights the need for enhanced efforts to combat tax evasion and strengthen the oversight and enforcement of the taxation system in Iraq.

In a high-profile corruption case that unfolded in Iraq in 2022, dubbed "the heist of the century" by the Iraqi public, auditors have exposed a massive scheme involving officials and private sector companies, resulting in the theft of approximately \$2.5 billion from the Iraqi tax authority. This staggering amount accounts for approximately 2.8% of the Iraqi 2021 budget.²⁰² To gain deeper insights into the scandal, the researcher conducted interviews with two government officials who preferred to remain anonymous due to the sensitive

²⁰¹ Al-Monitor: The Pulse of the Middle East., 2022. Iraqi government considers sales tax to relieve budget crisis: The Pulse of the Middle East. [ONLINE] Available at: <https://www.al-monitor.com/originals/2020/12/iraq-economy-tax-finance-parliament.html>. [Accessed 26 June 2022].

²⁰²Simona Foltyn., 2022. 'Heist of the century': how \$2.5bn was plundered from Iraqi state funds. The Guardian. [Online]. Available at: <https://www.theguardian.com/world/2022/nov/20/heist-century-iraq-state-funds-tax-embezzlement> [Accessed 30 December 2022].

nature of the subject. These officials shed light on the intricate workings of the scheme. According to the officials, an internal audit conducted by the Iraqi Ministry of Finance in October 2022 revealed that the Iraqi General Commission for Taxes had deceitfully transferred 3.7 trillion Iraqi dinars, equivalent to around \$2.5 billion, to five private sector Iraqi companies. This illicit transfer was executed through the redemption of 247 cheques from the state-owned Al Rafidain bank branch, located within the tax commission premises, between September 9, 2021, and November 8, 2022. The Al Rafidain bank account involved in the scandal had received several billions of US dollars in deposits from private sector companies as a guarantee for the completion of their projects. These deposits were supposed to be returned to the companies once they settled their tax obligations and provided up-to-date financial statements. However, the five accused companies managed to illegally withdraw refunds from the account without having made any deposits in the first place. The scandal came to light when Ihsan AbdulJabbar, the Iraqi Minister of Oil and acting Minister of Finance, initiated an investigation after receiving numerous inquiries from oil companies. These companies complained that they were unable to withdraw their tax deposits, which had been made to the Al Rafidain bank. Subsequently, the investigation committee discovered that the account held only \$100 million instead of the \$2.5 billion claimed by the tax authority. This revelation indicated the occurrence of a significant scandal.

The scandal was made possible, in part, by a proposal submitted by the head of the Finance Committee in the Iraqi Council of Representatives to the tax authorities. The proposal recommended the termination of the Federal Board of Supreme Audit's duty to review withdrawals from the tax authorities' accounts, citing complaints from private sector companies about delays in the audit process. Following the investigation committee's findings, a report exposing the crime was presented to the finance committee in the Iraqi Council of Representatives. The cash withdrawals were made feasible by the registration of three out of the five companies in the Registrar of Companies using fraudulent documents, enabling them to access the funds. Financial auditors employed by the tax authorities were unable to trace the money as it had all been withdrawn in cash. Once the scandal gained public attention, the newly elected Prime Minister, Mr. Mohammad Shia Al Sudani, issued a statement, leading to the arrest of a well-known Iraqi

businessman named Nour Zohair. Two other tax authority officials were also apprehended. Investigation reports indicated that Nour Zohair served as the CEO of two of the five companies involved, and he had managed to acquire over \$1 billion from the Al Rafidain bank account. As a result, several villas, properties, and over \$120 million were seized.

The implementation of an effective tax system in Iraq faces numerous challenges and obstacles that impede its success. One of the primary hindrances is the absence of a robust electronic payment structure in the country. Given that a significant portion of transactions in Iraq are conducted in cash, it becomes difficult to accurately estimate tax liabilities. Businesses can manipulate their revenues to show lower income, leading to underreported tax obligations.²⁰³ This issue is exacerbated by the prevalence of corruption within the tax authorities themselves. Many employees responsible for assessing taxes engage in corrupt practices, accepting bribes to reduce tax burdens on individuals and citizens.²⁰⁴ Furthermore, there is a lack of tax awareness among the general population in Iraq. Citizens do not fully understand the importance of contributing taxes to the country's revenue. This lack of awareness is rooted in widespread mistrust of the government and its utilization of public funds. The country suffers from inadequate access to basic services and infrastructure, leading citizens to be reluctant to fulfil their tax obligations. The inefficiency of the tax-collecting cadre, coupled with corruption within the tax authorities, further exacerbates the problem.²⁰⁵

Another significant issue is the leniency of the laws and penalties related to tax evasion in Iraq. The current legal framework does not impose severe consequences on tax evaders, allowing them to evade taxes with minimal repercussions. This lack of deterrence encourages continued tax evasion, resulting in a detrimental impact on the economy. The evasion of taxes reduces

²⁰³ Dougherty, B., 2019. Historical Dictionary of Iraq. 3rd ed. London: Rowman & Littlefield. pp 131

²⁰⁴ Al-Monitor: The Pulse of the Middle East., 2022. Iraqi government considers sales tax to relieve budget crisis: The Pulse of the Middle East. [ONLINE] Available at: <https://www.al-monitor.com/originals/2020/12/iraq-economy-tax-finance-parliament.html>. [Accessed 26 June 2022].

²⁰⁵ ReliefWeb., 2022. Iraq's People Still Awaiting Political Class Capable of Addressing Critical Domestic Challenges, Top Official Tells Security Council - Iraq. [ONLINE] Available at: <https://reliefweb.int/report/iraq/iraqs-people-still-awaiting-political-class-capable-addressing-critical-domestic-challenges-top-official-tells-security-council>. [Accessed 26 June 2022].

the available revenues for the government, restricting public expenditure and perpetuating the heavy reliance on oil as the primary source of revenue generation. To resolve these challenges, the government needs to enact comprehensive reforms and interventions. The establishment of a robust electronic payment system would enhance transparency and facilitate accurate assessment of tax obligations. Combating corruption within the tax authorities necessitates stringent measures, including increased oversight, enforcement of ethical standards, and severe penalties for offenders. Improving tax awareness among citizens requires effective communication campaigns to emphasize the significance of tax contributions in supporting public services and infrastructure development. Additionally, enhancing the efficiency of the tax-collecting cadre through training and capacity building programs can contribute to more effective tax administration. Revising and strengthening the laws and penalties related to tax evasion would serve as a deterrent and discourage individuals and businesses from evading taxes. These measures collectively aim to increase tax compliance, enhance revenue generation, and reduce the government's heavy reliance on oil income.

3.3.4 Infrastructure and public services

The development of a country is intricately tied to the availability of adequate infrastructure, as it plays a pivotal role in enhancing the standard of living and driving economic growth. From a governmental perspective, economic infrastructure encompasses the facilities and services that support the operation, development, and productivity of economic sectors within a country. This includes fundamental necessities such as access to clean water, electricity, roads, internet connectivity, airways, communication networks, and other essential public utilities. These facilities are vital for economic development and are crucial in attracting companies and institutions to operate and invest in a country. Without sufficient economic infrastructure, the growth and development of the economy become challenging.

Despite substantial investments made to improve basic public services and establish robust infrastructure in Iraq following years of successive wars, instability, and international sanctions, the country continues to suffer from inadequate access to these essential services and infrastructure. This deficiency has had a negative impact on the implementation of projects within the country,

primarily due to mismanagement, corruption, and inconsistent enforcement of laws. Most recently, the fight against ISIS has resulted in \$45.7 billion in damages and losses to infrastructure, necessitating significant redevelopment and reconstruction efforts by the government.²⁰⁶ Prior to the US invasion in 2003, an industrial city was built on a 500,000 square meter land in Diwaniya Governorate, located in the south of Iraq. This city comprised several factories that were intended to produce sanitizing products, salt, milk, and other goods. However, this project never came to fruition due to the lack of necessary infrastructure required to operate these factories.²⁰⁷ Mr. Ali Jadaan, one of the factory owners, stated that the factories belonged to the municipality of Diwaniya Governorate, and the land on which they were built was leased from the Governorate. However, the projects were disrupted due to the absence of essential services and infrastructure. The government failed to provide the area and the factories with water and electricity, which are required conditions under the Industrial Investment Law for the Private and Mixed Sectors (Law No. 20 of 1998). The government's failure to provide infrastructure support for this project has resulted in significant losses for the investors who had intended to establish their factories. The inability of the government to supply both electricity and water has caused the projects to come to a halt.

There is a pressing need for the Iraqi government to prioritize and improve the infrastructure within the country to encourage both local and international private sector investment. The current underdeveloped state of Iraq's infrastructure, which has been greatly impacted by years of war, conflict, and sanctions, is a significant deterrent for companies interested in conducting business in Iraq. Moreover, it is a major contributing factor to the failure of various projects within the country.

²⁰⁶ The Wall Street Journal., 2018. Defeat of ISIS in Iraq Caused \$45.7 Billion in Damage to Infrastructure, Study Finds. [ONLINE] Available at: <https://www.wsj.com/articles/defeat-of-isis-in-iraq-caused-45-7-billion-in-damage-to-infrastructure-study-finds-1518389411>. [Accessed 18 June 2022].

²⁰⁷ Al Jazeera., 2021. Spending \$100 billion to rehabilitate it. What are the reasons for the disruption of Iraq's factories despite the high rates of unemployment and poverty? [ONLINE] Available at: <https://www.aljazeera.net/ebusiness/2021/5/25/%D8%A3%D9%86%D9%81%D9%82%D8%AA-%D8%A3%D9%83%D8%AB%D8%B1-%D9%85%D9%86-%D9%85%D8%A6%D8%A9-%D9%85%D9%84%D9%8A%D8%A7%D8%B1-%D8%AF%D9%88%D9%84%D8%A7%D8%B1-%D9%84%D8%AA%D8%A3%D9%87%D9%8A%D9%84%D9%87%D8%A7>. [Accessed 20 June 2022]. (Arabic)

3.3.4.1 Banking system

The banking sector in modern-day Iraq experienced significant development during the mid-1930s, thereby playing a pivotal role in the expansion of the Iraqi economy.²⁰⁸ The Iraqi Government strategically established specialized banks to promote diverse sectors within the Iraqi economy, notably exemplified by the inception of the Industrial Agricultural Bank in 1935. This financial institution, while providing loans to both farmers and industrialists, placed a distinct emphasis on extending credit primarily to agricultural projects. Consequently, this deliberate prioritization effectively propelled the agricultural sector into becoming the predominant industry in the country during that era.²⁰⁹

The Industrial Agricultural Bank effectively catered to the financial requirements of farmers, producers, associations, and processor companies, facilitating their business development activities. This encompassed offering financial assistance for procuring or leasing agricultural apparatus, fertilizers, cattle, seeds, and, in select instances, even assuming the role of an authorized sales agent. By meticulously channelling credit towards agricultural projects, the bank played an instrumental role in fostering the growth and development of the agricultural sector, which emerged as the cornerstone industry of the time.²¹⁰ Recognizing the impressive success and growth witnessed in the agricultural sector, coupled with the escalating demands emanating from both the farming and industrial sectors, the Iraqi Government made a strategic decision in 1946 to bifurcate the Industrial Agricultural Bank into two autonomous financial institutions. This momentous step sought to amplify support specifically towards the industrial sector while ensuring that the banks would assume specialized roles. By undertaking this measure, the authorities effectively acknowledged the imperative of sustaining the positive momentum generated by the agricultural

²⁰⁸ Looney, R., 2004. 'Banking on Baghdad: Financial Change in Postwar Iraq', Strategic Insights, vol. III, no. 5. pp 1.

²⁰⁹ Sassoon, J., 2015. Economic Policy in Iraq, 1932-1950. Routledge. pp 155

²¹⁰ International Bank for Reconstruction and Development., 1959. Data on Development Banks: Iraq. pp 66.

sector's triumph and simultaneously catering to the burgeoning demands originating from both the farming and industrial realms.²¹¹

The Agricultural Bank provides consultancy services and loans to support the farming industry, while the Industrial Bank plays a crucial role in fostering the development of the Iraqi industrial sector. The Industrial Bank offers short, medium, and long-term loans to both public and private industrial entities. Additionally, it participates in the equity capital of various industrial companies. The bank facilitates the importation of machinery and raw materials necessary for industrial projects and is also equipped to establish and operate warehouses. Moreover, it assists in preparing feasibility studies for industrial ventures. As a result, the Industrial Bank serves not only as a credit institution but also as a multifaceted entity supporting the growth of the industrial sector.²¹² The specialization of the Industrial Bank has significantly contributed to the advancement of the industrial sector within the country. It has played a pivotal role in the success of mixed sector companies, which have been instrumental in meeting the diverse needs of Iraqi citizens by providing a wide range of products.

The government's policy of establishing specialized banks has proven to be highly successful, prompting the establishment of the Real Estate Bank in 1949. The primary objective of this bank is to encourage Iraqis to build and purchase their own homes through accessible loans.²¹³ In 1964, a law was issued that authorized any loans within the state to be facilitated exclusively through the Real Estate Bank. This government move helped develop and enhance the role of the Real Estate Bank as during the time, various departments were established to initiate housing projects that took on the responsibility of providing loans to their members, particularly for home purchases, independently from the Real Estate Bank. After 1968, the Real Estate Bank became more active in its operations to meet the increasing volume of lending transactions. For instance, the bank's transactions from its establishment until 1968 amounted to 100,913 (one hundred

²¹¹ Sassoon, J., 2015. *Economic Policy in Iraq, 1932-1950*. Routledge. pp 155

²¹² Jalal, F., 2015. *The Role of Government in the Industrialization of Iraq 1950-1965 (RLE Economy of Middle East)*. Routledge. pp 89

²¹³ Link, J., 2005. *Land Registration and Property Rights in Iraq*. Prepared for USAID: RTI International. pp 15

thousand, nine hundred and thirteen transactions) with loan amounts ranging between 500 to 1200 dinars. However, this activity escalated, and by the year 1991, the bank's transactions had reached a million.

In 1997, the Real Estate Bank initiated lending for various activities, including and started providing loans to investors in the field of constructing tourist facilities and establishments. These loans were characterized by substantial cash amounts and low interest rates, enabling investors to build first-class tourist hotels, particularly in Baghdad and the northern region. Additionally, the bank facilitated the construction of residential buildings and commercial purposes in major cities. The bank additionally engaged in a social lending activity, specifically providing loans to individuals nominated by the Ministry of Labour and Social Affairs. These loans were aimed at constructing or modifying residential facilities to serve as day care centres for children. This initiative provided tangible assistance to families where mothers were unable to care for their children due to their employment commitments. This growth trajectory continued, and the bank's lending activities expanded until 1995, reaching a total of 5,014,324 dinars (five billion, fourteen million, three hundred and twenty-four thousand dinars). These loans were distributed among 980,990 transactions, representing newly constructed housing units. The Real Estate Bank still operates till today and has enhanced the ability of Iraqi citizens to purchase houses through providing long term loans and many Iraqi's depend on the Real Estate Bank to purchase their houses.²¹⁴

In 1941, the Rafidain Bank, a private financial institution, was established. It held the distinction of being the largest Arab commercial bank in terms of gross assets and deposits for many years. It served as the sole commercial bank in Iraq and operated 152 local branches, in addition to 9 branches abroad.²¹⁵ Subsequently, two other Iraqi private banks, namely the Baghdad Bank in 1956 and Al Rasheed Bank in 1963, were established.²¹⁶ The Iraqi National Bank, established in 1947, evolved into the Iraqi Central Bank, which emerged as one of the pioneering

²¹⁴ <https://www.reb.gov.iq/>

²¹⁵ Maher, J., 2003. *The Middle East and North Africa*. 49th ed. Routledge: Europa Publications. pp 458

²¹⁶ Jasem, A., 2007. *Banking development in Iraq*. 3rd ed. Baghdad: Iraqi Journal for Economic Sciences. pp 129

central banks in the Arab region, functioning as a monetary authority, it has played a vital role in the country's financial landscape.²¹⁷

Several private Arab and international banks expanded their presence in Iraq with the aim of promoting trade and fostering economic relations. Among these banks were the Palestinian Arab Bank, established in 1938, the Lebanese Union Bank, founded in 1952, the French National Bank for Trade and Industry, commonly known as Banque Nationale Pour le Commerce et L'industrie, established in 1954, and the Lebanese Intra Bank, which opened its branch in 1960.²¹⁸ However, in 1964, in accordance with the Iraqi Government's nationalization policy, private banks operating in Iraq underwent a significant transformation. They were amalgamated and brought under the umbrella of the Rafidain Bank. This policy aimed to consolidate the banking sector under state control and centralize decision-making authority within the government. As a result, the private banks that had previously established a presence in Iraq were nationalized, and their operations were merged into the Rafidain Bank.

In 1990, the United Nations imposed economic sanctions on Iraq, effectively prohibiting countries from engaging in financial and trade relations with the country. In response to these sanctions, the Iraqi government made the decision in May 1991 to dismantle the monopoly on the banking system and permit the operation of private banks. This move was intended to counterbalance the adverse effects of the sanctions. However, by 2003, Iraq faced significant challenges in its banking sector. Alongside the economic sanctions, the country experienced two wars, which severely impacted its financial institutions. The immediate aftermath of the US invasion in 2003 witnessed widespread looting of key institutions, including the Iraqi Central Bank, Al Rafidain and Rasheed banks, the Ministry of Finance, the Baghdad Stock Exchange, and various other state and private banks. This resulted in a severe disruption of the banking sector, leaving the entire country without a functional banking system for at least a year.

²¹⁷ Jalal, F., 2015. *The Role of Government in the Industrialization of Iraq 1950-1965* (RLE Economy of Middle East). Routledge. pp 162

²¹⁸ Jasem, A., 2007. *Banking development in Iraq*. 3rd ed. Baghdad: Iraqi Journal for Economic Sciences. pp 130

Therefore, cash became the primary medium for commercial transactions in Iraq during that period.²¹⁹

Since 2003, over 70 banks have been established in Iraq, operating through 920 branches. However, despite this growth, the banking sector in the country remains undercapitalized.²²⁰ A significant challenge lies in the fact that less than 20% of Iraqis possess bank accounts, with majority of daily commercial transactions still being conducted in cash. This prevalent use of cash hinders the development of a robust banking sector, and the country's banking infrastructure remains largely underdeveloped. Furthermore, reports from the Iraqi Central Bank reveal that most deposits held in Iraqi banks are short term. Approximately 82% of bank deposits are classified as current deposits, while only 18% are considered fixed deposits, ranging from six months to one year. This imbalance undermines the banks' ability to provide loans and credit to their customers, as majority of deposited funds are not available for long-term lending purposes.²²¹

The Iraqi banking sector has been predominantly controlled by the state, with the three largest banks, namely Rafidain Bank, Trade Bank of Iraq (TBI), and Rasheed Bank, all being state-owned entities. Together, these banks account for approximately 85% of the total assets in the Iraqi banking sector.²²² However, this state dominance has posed significant challenges to the development of the Iraqi banking system. State-owned banks in Iraq primarily function as financial institutions to provide loans to the government and facilitate the payment of public sector salaries and activities. On the other hand, privately-owned banks mainly operate as currency exchange centres. This division of roles has limited the scope and capabilities of the Iraqi banking system, hindering its ability to serve as a dynamic catalyst for economic growth and development. During the global

²¹⁹ Los Angeles Times., 2022. Iraqi Banks Struggle to Get Back on Their Feet - Los Angeles Times. [ONLINE] Available at: <https://www.latimes.com/archives/la-xpm-2003-apr-30-war-bank30-story.html>. [Accessed 29 May 2022].

²²⁰ International Trade Administration., 2021. Iraq - Country Commercial Guide: Trade Financing. US Department of Commerce

²²¹ Alsudany, M., 2019. Features Of Iraqi Banking System (Evaluation Government and Private Commercial Banks In Iraq, And Comparing Iraqi Banks to Some Banks of Neighbouring Countries). 8th ed. International Journal of Scientific and Technology Research. pp 457

²²² International Trade Administration. 2021. Iraq - Country Commercial Guide: Trade Financing. US Department of Commerce

economic crisis triggered by the COVID-19 pandemic in 2020, the state-owned banks were compelled to step in and extend loans to the government due to a sharp decline in Iraq's revenue resulting from the global decrease in oil prices. The economic crisis left the Iraqi government unable to meet its obligations, including paying salaries to public sector employees. As a result, the government had to devalue the Iraqi Dinar by 22% and borrow around 25 trillion Iraqi dinars (equivalent to approximately 17 billion dollars) from public sector banks to cover significant deficits in its revenue.²²³ In 2021, the Iraqi government's total internal debt borrowed from the public sector banks reached 68 trillion Iraqi dinars, equivalent to nearly \$50 billion.²²⁴

The TBI was established in 2003 as a state-owned institution with the primary purpose of supporting the Iraqi government in its international commitments, import activities, and trade facilitation. At the time of its establishment, other banks faced significant challenges in issuing letters of credit due to the risks imposed by the UN sanctions. TBI played a crucial role in filling this gap and became the main provider of letters of credit, enabling the government to engage in international trade. While some privately-owned banks have been permitted to engage in commercial lending programs, their activities are limited due to the absence of a robust credit monitoring system and inadequate networking with international banks. As a result, privately-owned banks face constraints in providing commercial loans. The government's financial transactions, including the issuance of certified cheques, letters of credit, and deposits from Iraqi ministries and government entities, are predominantly conducted through state-owned banks. This practice limits and marginalizes the role of private sector banks, leading to a monopolization of the government's banking transactions and generating substantial profits for state-owned banks. Although there is no legal prohibition on the government and its agencies using private banks for their commercial dealings, there is a lack of trust in the private banking sector in Iraq.

²²³ AP NEWS., 2022. Iraq's central bank devalues dinar by 22% amid public anger | AP News. [ONLINE] Available at: <https://apnews.com/article/middle-east-baghdad-iraq-state-budgets-3068822946d926f9130812e42f1bb1f9>. [Accessed 06 June 2022].

²²⁴ Middle East Monitor., 2022. Iraq: \$20bn foreign debts, \$48bn internal debts. [ONLINE] Available at: <https://www.middleeastmonitor.com/20220409-iraq-20bn-foreign-debts-48bn-internal-debts/>. [Accessed 06 June 2022].

This lack of trust has been reinforced by incidents where various banks declared bankruptcy, resulting in the loss of earnings and deposits for many depositors. Consequently, almost all the Iraqi government's letters of credit are issued exclusively by the TBI.²²⁵

The Iraqi banking sector currently faces significant limitations in its ability to provide crucial services that support and stimulate economic growth in the country. In the international context, banks play a vital role in granting credit to companies and entities, enabling them to access funds that would otherwise be unavailable to them. This facilitates their expansion, investment in projects, and overall development. However, data and various indicators reveal that access to credit in Iraq is low, challenging to obtain, and expensive, which poses a major obstacle to the growth and development of the private sector.²²⁶ One notable disparity within the Iraqi banking sector is the significant difference between interest rates on credits and fixed deposits. Banks offer interest rates for savings and fixed deposits ranging between 2% and 7%. In contrast, the interest rates for granting credit range between 10% and 15%.²²⁷ This creates a difference of about 8% between the two figures, which is considerably higher compared to the 5% difference observed in other Middle Eastern countries. The high interest rates on credit have significantly reduced the amount of credit awarded in Iraq. A study conducted by a USAID project team revealed that less than 5% of small to medium enterprises have ever obtained bank loans.²²⁸ The majority of banking activities in Iraq revolve around consumer transactions, such as wire transfers or money exchange services, rather than providing loans and credit to businesses. Consequently, businesses operating in Iraq largely rely on self-financing.²²⁹ According to the World Bank's 2020 Doing Business Report, Iraq ranks 186 out

²²⁵ Alsudany, M., 2019. Features Of Iraqi Banking System (Evaluation Government and Private Commercial Banks In Iraq, And Comparing Iraqi Banks to Some Banks of Neighbouring Countries). 8th ed. International Journal of Scientific and Technology Research. pp 453.

²²⁶ Nasr, S., 2011. Republic of Iraq: Financial Sector Review. 1st ed. Washington DC: The World Bank. pp 24

²²⁷ Alsudany, M., 2019. Features Of Iraqi Banking System (Evaluation Government and Private Commercial Banks In Iraq, And Comparing Iraqi Banks to Some Banks of Neighbouring Countries). 8th ed. International Journal of Scientific and Technology Research. pp 456

²²⁸ Nasr, S., 2011. Republic of Iraq: Financial Sector Review. 1st ed. Washington DC: The World Bank. pp xviii

²²⁹ Tabaqchali, A., 2021. 'Cash is King: Money and the Banking Sector in Iraq', Expanding Access to Banks in Iraq: Cash is King: Money and the Banking Sector in Iraq, pp 1.

of 190 countries in terms of ease of access to credit.²³⁰ The total amount of credit granted to the private sector in Iraq, considering personal loans given by state-owned banks to public employees, amounted to 26.5 trillion Iraqi Dinars by the end of March 2021.²³¹ This figure is significantly small when compared to the size of the economy, estimated at around 255.6 trillion Iraqi Dinars by the IMF, representing only around 10% of the GDP for 2021.²³² This correlation between the total credit given to the private sector as a fraction of the estimated GDP reflects the limited role of the private sector in advancing economic growth through access to credit.

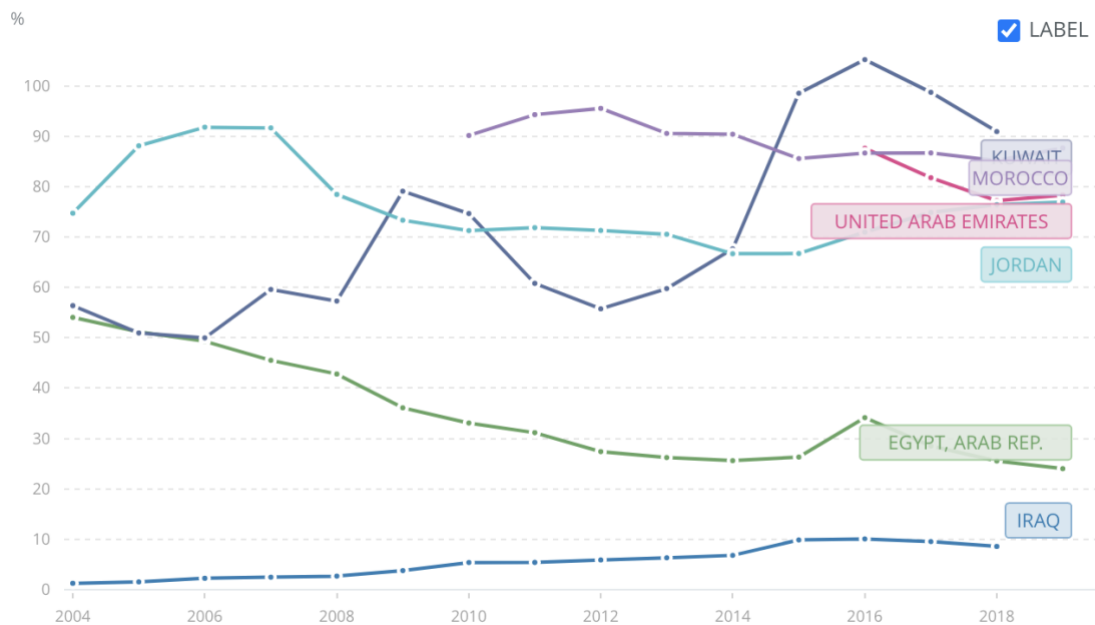


Figure 6: Domestic credit to private sector (% of GDP)²³³

²³⁰ The World Bank., 2020. Doing Business Report. World Bank Publications.

²³¹ Tabaqchali, A., 2021. 'Cash is King: Money and the Banking Sector in Iraq', Expanding Access to Banks in Iraq: Cash is King: Money and the Banking Sector in Iraq, pp 11

²³² International Monetary Fund Press Release No. 21/37. 2021. IMF Executive Board Concludes 2020 Article IV Consultation with Iraq. [ONLINE] Available at: <https://www.imf.org/en/News/Articles/2021/02/11/pr2137-iraq-imf-executive-board-concludes-2020-article-iv-consultation>. [Accessed 2 June 2022].

²³³ The World Bank., 2020. Domestic credit to private sector (% of GDP) - Iraq, Egypt, Arab Rep., Kuwait, United Arab Emirates, Jordan, Morocco. [ONLINE] Available at: <https://data.worldbank.org/indicator/FS.AST.PRVT.GD.ZS?end=2020&locations=IQ-EG-KW-AE-JO-MA&start=1960&view=chart>. [Accessed 2 June 2022].

The graph provides a clear depiction of the limited accessibility of credit to the private sector in Iraq when compared to other Middle Eastern countries. It highlights the small amount of credit, relative to GDP, that is available to Iraqi businesses. This demonstrates the minimal role played by the private sector in Iraq and its inability to assume the primary driver position in the economy, largely due to the weak state of the country's financial institutions.

The Iraqi government, in collaboration with privately-owned banks and various initiatives led by the Iraqi Central Bank, has made efforts to support small and medium-sized projects within the private sector through different types of loans. One such initiative was the "1 Trillion Dinars Initiative" introduced by the Iraqi Central Bank. Under this program, Iraqi citizens were eligible to apply for loans ranging from 5 to 50 million Iraqi dinars, equivalent to \$3,500 to \$35,000, to support their projects.²³⁴ However, these loans were relatively small and insufficient to support significant investments in large-scale projects that could have a meaningful impact on the economy. On September 6, 2022, after a three-year investigation, the Integrity Commission released a statement revealing that approximately \$700 million of public funds had been embezzled from state-owned banks, including the Agricultural Bank branch in Maysan province and four branches of Rasheed Bank in Maysan and Baghdad. The embezzlement involved activities such as forgery, money laundering, and abuse of power.²³⁵ These scandals within the Iraqi banking system are highly problematic and contribute to public mistrust in the banking sector.

The Iraqi banking sector requires significant reforms to play a proactive role in driving the economy and supporting the private sector's involvement in the country's reconstruction efforts. Historically, prior to the imposition of sanctions on Iraq, the Iraqi banks played a crucial and influential role in the development of various economic sectors, particularly in industry and agriculture. Iraq boasted

²³⁴ The Iraqi Government Website., 2020. Iraqi government's finance schemes to support SMEs and business innovation. [ONLINE] Available at: <https://gds.gov.iq/iraqi-government-finance-schemes-to-support-smes-and-business-innovation/>. [Accessed 6 June 2022].

²³⁵ Alarabiya., 2022. Nearly \$700 million stolen from Iraq state banks: Anti-corruption commission | Al Arabiya English. [ONLINE] Available at: <https://english.alarabiya.net/News/middle-east/2022/06/09/Nearly-700-million-stolen-from-Iraq-state-banks-Anti-corruption-commission->. [Accessed 10 June 2022].

one of the earliest banking institutions in the Middle East. However, the current state of the banking sector in Iraq is widely regarded as one of the weakest in the region.²³⁶ The contribution of Iraqi banks to the country's economic development is severely limited, primarily due to the inadequate availability of credit and loans for financing projects. Many banks in Iraq refrain from providing credit and loans to the private sector due to the perceived risks associated with operating in the country. As a result, numerous Iraqi businessmen and companies have resorted to seeking financial services from banks outside the country to facilitate their activities and transactions. State-owned banks in Iraq predominantly focus on providing services to the government, such as pension and salary payments to government employees, as well as extending loans to cover unforeseen government expenditures. Conversely, private sector banks primarily function as currency exchange establishments. However, for the banking sector to effectively contribute to economic activities and foster economic growth, the government needs to compel both state-owned and private banks to actively support economic activities in the country. This entails providing loans and credit to companies, promoting an effective mechanism to bridge the gap between interest rates on loans and deposits, and encouraging more businesses and individuals to apply for loans to finance their projects.

Expanding the role of Iraqi banks in financing economic activities requires comprehensive measures and reforms. The government should prioritize strengthening regulatory oversight and implementing effective risk management systems to address the perceived risks associated with lending to the private sector. Additionally, it is crucial to enhance transparency, integrity, and accountability within the banking sector to restore public confidence and encourage greater trust in the system. Moreover, developing a robust credit monitoring system, establishing credit bureaus, and implementing comprehensive credit reporting mechanisms will facilitate better assessment of borrowers' creditworthiness and reduce the risk of default. Furthermore, fostering collaboration between Iraqi banks and international financial institutions, as well

²³⁶ Alsudany, M., 2019. 'Features Of Iraqi Banking System (Evaluation Government and Private Commercial Banks In Iraq, And Comparing Iraqi Banks to Some Banks of Neighbouring Countries)', *International Journal of Scientific and Technology Research*, vol. 8, no. 9. pp 458.

as encouraging knowledge sharing and capacity building initiatives, can help strengthen the capabilities and competitiveness of the banking sector. These efforts should be accompanied by policies aimed at improving financial literacy among the population, promoting entrepreneurship, and supporting the development of a vibrant private sector. By undertaking these reforms, the Iraqi banking sector can become a catalyst for economic growth, supporting the diversification of the economy, and enabling sustainable development in the country.

3.3.4.2 Security

Security and safety form the cornerstone of a prosperous nation, providing a conducive environment that attracts investments and foreign businesses seeking stability and predictability. A secure and stable environment not only fosters economic growth but also reduces insurance costs, liabilities, and other expenses that companies would otherwise incur in risk-prone regions. This, in turn, enhances business revenue, profitability, and operational efficiency. In contrast, companies operating in conflict zones or countries with unstable security face significant long-term expenses and inherent risks to the safety of their employees and assets. Such businesses are vulnerable to organized attacks, kidnappings, and other security threats. Consequently, they are compelled to allocate substantial resources towards insurance premiums, security measures, and risk mitigation strategies.

The high costs associated with operating in insecure states create an economic burden for businesses, as they must allocate substantial portions of their budgets to safeguarding their operations. These expenses include investments in security personnel, equipment, surveillance systems, and fortifications. Moreover, insurance premiums rise significantly due to the heightened risks and uncertainties prevalent in these regions. In addition to the financial burdens, businesses operating in insecure environments face numerous challenges in terms of operational continuity and resilience. The constant threat of security incidents disrupts supply chains, hinders logistics, and imposes restrictions on the movement of goods and personnel. Companies must divert resources and efforts towards implementing stringent security protocols and contingency plans, further straining their operational efficiency and profitability. Furthermore, the

safety of employees becomes a paramount concern in conflict zones or areas with unstable security. Businesses are compelled to invest heavily in protective measures, such as training programs, personal security equipment, and secure transportation arrangements, to ensure the well-being of their workforce. Failure to adequately address these safety concerns not only jeopardizes the lives of employees but also creates an adverse working environment that hampers productivity and job satisfaction.

The adverse impact of insecurity extends beyond individual businesses. The reputation of a nation as a secure investment destination plays a crucial role in attracting foreign direct investment and fostering economic growth. Countries that can provide a safe and predictable environment for businesses benefit from increased investments, job creation, and technological advancements. Conversely, nations plagued by insecurity face significant hurdles in attracting foreign businesses, leading to missed opportunities for economic development and prosperity. Over the past three decades, Iraq has faced a series of challenges including economic sanctions, wars, occupation, and invasion, leading to a significant deterioration in security and a deep crisis of confidence in the state and its institutions. While the security situation has improved since the Iraqi forces regained control of territories occupied by ISIS in December 2017, the government continues to grapple with internal threats and external interference, creating a security imbalance that hampers both foreign and domestic investments in the country.

Iraq has experienced various security issues, prompting numerous countries worldwide to issue travel warnings against visiting the country. The UK government, for instance, advises against travel to Iraq on its foreign travel advice website, citing regional tensions and the uncertain security situation.²³⁷ The UK government specifically warns its citizens about the threat posed by militia groups targeting Western presence in Iraq, including potential attacks on international military bases, diplomats, and foreign nationals. They emphasize that the security situation in Iraq is unpredictable and can deteriorate rapidly. The UK government

²³⁷ Government UK, 2022. Safety and security - Iraq travel advice [ONLINE] Available at: <https://www.gov.uk/foreign-travel-advice/iraq/safety-and-security>. [Accessed 20 May 2022].

advises against staying in hotels in Baghdad, avoiding large crowds, and minimizing movement near restaurants, shopping malls, and banks. Additionally, they recommend that UK businesses operating or considering operations in Iraq should always travel with close protection security teams, despite the associated costs. Similar warnings have been issued by the Australian Government, which advises its citizens and companies not to travel to Iraq due to the volatile security situation and the elevated risk of violence, kidnapping, and terrorism.²³⁸ These travel advisories highlight the prevailing security concerns in Iraq and the potential risks faced by individuals and businesses operating in the country. The security situation remains uncertain, and there is a real and immediate threat to the safety of foreign nationals and their interests. The warnings specifically mention the presence of militia groups and their potential to target Western entities, underscoring the complex security landscape in Iraq.

Companies operating in Iraq have faced significant security challenges, resulting in attacks that have caused substantial losses and disruptions to their operations. One such example is the Chinese oil company, Zhongman Petroleum and Natural Gas Group Corporation (ZPEC), which was targeted twice by rockets and gunfire in the Dhi Qar province, in December 2021 and March 2022. An official from ZPEC revealed that these attacks were intended to pressure the company into employing more Iraqis, highlighting the issue of limited job opportunities for Iraqi citizens and graduates. This issue has led to protests by unemployed Iraqis demanding their constitutional right to employment.²³⁹

Another Chinese oil company, Sinopec, operating in Maysan Province, was also attacked by gunmen in January 2022 while their employees were being transported locally.²⁴⁰ These attacks on oil companies demonstrate the security

²³⁸ Smartraveller., 2022. Iraq Travel Advice & Safety. [ONLINE] Available at: <https://www.smartraveller.gov.au/destinations/middle-east/iraq>. [Accessed 23 May 2022].

²³⁹ Arab Jerusalem., 2022. Representative of Al-Maliki's coalition: 75,000 foreigners work in southern oil companies and graduates are sleeping on the streets | Arab Jerusalem. [ONLINE] Available at: <https://www.alquds.co.uk/%D9%86%D8%A7%D8%A6%D8%A8%D8%A9-%D8%B9%D9%86-%D8%A7%D8%A6%D8%AA%D9%84%D8%A7%D9%81-%D8%A7%D9%84%D9%85%D8%A7%D9%84%D9%83%D9%8A-75-%D8%A3%D9%84%D9%81-%D8%A3%D8%AC%D9%86%D8%A8%D9%8A-%D9%8A%D8%B9%D9%85/>. [Accessed 23 May 2022].

²⁴⁰ Asia Financial., 2022. Iraqi Gunmen Open Fire on Sinopec Cars, Injuring 2 Guards - Asia Financial News. [ONLINE] Available at: <https://www.asiafinancial.com/iraq-gunmen-open-fire-on-sinopec-cars-injuring-2-guards>. [Accessed 21 May 2022].

risks faced by foreign businesses operating in Iraq, particularly in the energy sector. In addition to attacks on oil companies, protests against the Iraqi government and its policies have also impacted the operations of both foreign and local companies. For instance, in April 2021, unemployed protesters with oil specialization certificates blocked the entrances of the Dhi Qar Oil Company, Dhi Qar oil refinery, and the Oil Products Distribution Company in Dhi Qar Province, halting production in three oil facilities. Similarly, in Wasit Province in January 2020, protests resulted in the shutdown of production in the Al Ahdab oil field.²⁴¹ In February 2022, violent protests in Nassriyeh Province led to confrontations between protesters and local police, resulting in the death of an Iraqi engineer working for the Ministry of Oil who was shot while working on a gas pipeline.²⁴² In June 2019, a compound that houses several international oil companies was attacked by a rocket in Basra injuring three people and due to the incident ExxonMobil company evacuated 21 of its foreign employees to Dubai as a precaution.²⁴³

These attacks and protests not only target civilians, foreigners, and international companies but also pose a threat to the overall stability and security of the country. The security situation in Iraq is further underscored by incidents such as the drone attack on the residence of the Iraqi Prime Minister inside Baghdad's high-security Green Zone in November 2021. These security challenges, including targeted attacks, protests, and acts of violence, create a highly unstable and unpredictable environment for businesses operating in Iraq. Such incidents result in significant financial losses, damage to infrastructure, and the potential loss of life, leading to increased insurance costs and security expenses for companies operating in the country.

²⁴¹ Anadolu Agency., 2022. Protesters shut 3 oil facilities in southern Iraq. [ONLINE] Available at: <https://www.aa.com.tr/en/middle-east/protesters-shut-3-oil-facilities-in-southern-iraq/2195132>. [Accessed 21 May 2022].

²⁴² Iraq Oil Report., 2022. Dhi Qar unrest raises oil sector risks. [ONLINE] Available at: <https://www.iraqoilreport.com/news/dhi-qar-unrest-raises-oil-sector-risks-44530/>. [Accessed 21 May 2022].

²⁴³ The Guardian., 2022. Iraq rocket attack: oil firms begin evacuating staff from Basra site [ONLINE] Available at: <https://www.theguardian.com/world/2019/jun/19/iraq-rocket-attack-basra-injured-foreign-oil-companies>. [Accessed 21 May 2022].

The unstable political and security environment in Iraq, coupled with the frequent attacks and protests, creates a significant deterrent for companies considering doing business in the country. The inherent risks associated with operating in such an environment result in increased costs and challenges for businesses. One of the major expenses incurred by foreign companies in Iraq is hiring close protection security teams to ensure the safety of their employees during transportation and other activities. These security teams come at a substantial cost, with a minimum daily charge of \$5,000. Over time, these expenses can significantly impact the overall operational costs of foreign businesses operating in Iraq. Furthermore, insurance coverage for employees working or visiting Iraq is exorbitant due to the security risks mentioned earlier. Foreign workers are strongly advised to obtain comprehensive insurance coverage that includes medical protection, political and natural disaster evacuation expenses, personal accident cover, kidnapping cover, and emergency medical repatriation and evacuation. This is particularly necessary given the limited healthcare system and medical facilities in Iraq, which may require air ambulance evacuation in the event of serious illness or accidents.

To promote Iraq as an attractive destination for work and investment, it is imperative for the Iraqi government to prioritize and improve the overall security situation in the country. Moreover, investing in security and stability has a positive ripple effect on various aspects of the economy. It reduces insurance costs, liabilities, and other expenses that companies would otherwise incur to mitigate risks. By creating a safe and predictable operating environment, Iraq can attract more foreign businesses, leading to job creation, technology transfer, and knowledge sharing. These investments contribute to economic development, infrastructure improvement, and the overall well-being of the Iraqi population.

3.3.4.3 Electricity

Electricity and electric power services are crucial for the functioning of modern society and the advancement of economic development. They serve as a primary source of energy for various sectors, including manufacturing, transportation, services, and households. However, Iraq has grappled with chronic electricity

shortages, frequent power cuts, and blackouts for the past three decades.²⁴⁴ This predicament originated during the first Gulf War (1990-1991), when the national grid and power plants in Iraq were severely damaged by air and missile strikes carried out by the United States, resulting in the destruction of the country's electricity infrastructure.²⁴⁵ The situation worsened due to the subsequent United Nations sanctions imposed on Iraq, which hindered the importation of essential components necessary for restoring the damaged power stations. The inability to repair and upgrade the electricity infrastructure significantly hampered the supply of electricity in Iraq. The damage to the electricity sector was further exacerbated following the US-led invasion in 2003, with looting and airstrikes inflicting additional harm. Despite various attempts to rehabilitate the electricity sector, the country continues to face persistent challenges, resulting in inadequate and unreliable national power supply.

The magnitude of the issue is exemplified by the significant financial investment made by Iraq since 2005, totalling over \$81 billion, without yielding significant improvements to the national grid or the provision of reliable electricity supply.²⁴⁶ The political situation in Iraq, marked by ongoing conflict and instability, has had a detrimental impact on the electricity sector. Instability disrupts infrastructure development, impedes the implementation of effective policies, and hinders the allocation of sufficient resources to address the underlying issues plaguing the electricity system.

During the period of 2014-2018, Iraq faced significant challenges in the electricity sector as a result of the occupation of several governorates by ISIS. This occupation resulted in substantial financial losses, estimated at \$7 billion.²⁴⁷ Even after the defeat of ISIS in July 2017, attacks on the electricity infrastructure

²⁴⁴ Anadolu Agency., 2022. Oil-rich Iraq grapples with power outages for 30 years. [ONLINE] Available at: <https://www.aa.com.tr/en/middle-east/oil-rich-iraq-grapples-with-power-outages-for-30-years/2297835>. [Accessed 25 May 2022].

²⁴⁵ Mills, R. and Salman, M., 2020. Powering Iraq: Challenges Facing the Electricity Sector in Iraq. Jordan: Friedrich-Ebert-Stiftung. pp 6

²⁴⁶ Gulf International Forum., 2022. Iraq's Perennial Electricity Problem and its Implications for Social Stability. [ONLINE] Available at: <https://gulffif.org/iraqs-perennial-electricity-problem-and-its-implications-for-social-stability/>. [Accessed 18 June 2022].

²⁴⁷ The Wall Street Journal., 2018. Defeat of ISIS in Iraq Caused \$45.7 Billion in Damage to Infrastructure, Study Finds. [ONLINE] Available at: <https://www.wsj.com/articles/defeat-of-isis-in-iraq-caused-45-7-billion-in-damage-to-infrastructure-study-finds-1518389411>. [Accessed 18 June 2022].

continued to occur. According to Iraqi local media reports, in 2021 alone, more than 70 electricity pylons were targeted by ISIS extremists, leading to prolonged power outages in government buildings, airports, hospitals, and other essential institutions.²⁴⁸ For instance, in Salaheddin, over 13 pylons were attacked, causing a complete electricity blackout in the province and the disruption of critical facilities in the country.²⁴⁹ While security concerns play a significant role in the electricity crisis, it is not the sole reason behind the inadequate electricity supply in Iraq. A substantial portion of the electric power, estimated to be between 30% and 50% according to the Iraq Energy Institute, is lost due to the poor state of the transmission and distribution line systems.²⁵⁰ The transmission network in Iraq is outdated, inadequate, and urgently requires upgrading and development. As a result, the current network is incapable of handling the increased load resulting from the growing demand, particularly during the scorching summers when temperatures can reach an average of 50 degrees Celsius.²⁵¹

The challenges in Iraq's electricity sector extend beyond infrastructure and security concerns. Inefficiencies and inaccuracies in metering and billing systems exacerbate the problem. In many cases, metering systems are inefficient or non-existent, leading to unmetered electrical supplies. This situation creates opportunities for citizens to engage in illegal connections to the national grid and steal electricity. As a result, it is estimated that only one-third of electricity consumption is paid for by consumers, leading to significant financial losses.²⁵² The non-payment of customers for their electricity usage has substantial implications for the government's revenue. Iraqi officials estimate that they lose

²⁴⁸ Deutsche Welle., 2021. How to solve Iraq's hellishly hot power crisis | Middle East | News and analysis of events in the Arab world. [ONLINE] Available at: <https://www.dw.com/en/why-are-iraqs-electricity-issues-so-hard-to-solve/a-58189500>. [Accessed 18 June 2022].

²⁴⁹ Arab News., 2022. Areas of Iraqi province lose power after attack on pylons. [ONLINE] Available at: <https://www.arabnews.com/node/1906141/middle-east>. [Accessed 18 June 2022].

²⁵⁰ Georgetown Journal of International Affairs., 2020. Iraq's Power Sector: Problems and Prospects. [ONLINE] Available at: <https://gjia.georgetown.edu/2020/01/13/iraqs-power-sector-problems-and-prospects/>. [Accessed 18 June 2022].

²⁵¹ VOA., 2022. Iraqis Protest Electricity Cuts as Temperatures Top 50 C. [ONLINE] Available at: https://www.voanews.com/a/middle-east_iraqis-protest-electricity-cuts-temperatures-top-50-c/6207718.html. [Accessed 18 June 2022].

²⁵² Inside Arabia., 2019. Iraq's Electricity Sector at a Critical Juncture. [ONLINE] Available at: <https://insidearabia.com/iraq-electricity-sector-critical-juncture/>. [Accessed 19 June 2022].

approximately 60% of potential revenue due to non-payment by customers.²⁵³ This financial strain further hampers efforts to improve and expand the electricity infrastructure, hindering the government's ability to provide a reliable power supply to its citizens. Moreover, the persistent electricity crisis in Iraq has taken a political toll. The Minister of Electricity in Iraq has repeatedly faced public discontent and protests, leading to resignations year after year. The anger and frustration of the people, especially during the summer season when demand for electricity peaks, have fuelled widespread dissatisfaction and contributed to the resignation of the minister.²⁵⁴ This cycle of discontent and political instability in the electricity sector further complicates efforts to address the ongoing challenges and find sustainable solutions.

The Iraqi electricity sector faces a critical challenge in its heavy reliance on Iran for a significant portion of its electricity supply, with nearly one-third of Iraq's electricity being sourced from Iran. This dependence is primarily due to the reliance of Iraqi power stations on gas as a fuel source. However, this arrangement has proven problematic, as the Iraqi government has encountered difficulties in paying its outstanding debt to Iran. In 2022, the Iranian government claimed that Iraq owed nearly \$6 billion for gas supply, leading to a drastic reduction in gas supply from 50 million cubic feet to 8.5 million cubic feet.²⁵⁵ As a result, Iraq has experienced severe cuts and shortages in electricity supply. The mismanagement of the electricity problem by the Iraqi government is evident in its failure to harness its own significant reserves of natural gas for electricity generation instead of relying on imports from Iran. Iraq possesses substantial natural gas reserves, a by-product of its oil extraction activities. However, rather than utilizing this valuable resource to meet its electricity needs, Iraq continues to flare a large amount of methane gas associated with oil extraction. According to the World Bank, in 2017 alone, Iraq flared over 600 billion cubic feet of natural

²⁵³Inside Arabia., 2019. Iraq's Electricity Sector at a Critical Juncture. [ONLINE] Available at: <https://insidearabia.com/iraq-electricity-sector-critical-juncture/>. [Accessed 19 June 2022].

²⁵⁴ AW., 2022. Iraqis struggle with sizzling temperatures as blackouts hit. [ONLINE] Available at: <https://thearabweekly.com/iraqis-struggle-sizzling-temperatures-blackouts-hit>. [Accessed 19 June 2022].

²⁵⁵ Alarabiya., 2022. Iraq faces further power cuts as Iran gas debt missed | Al Arabiya English. [ONLINE] Available at: <https://english.alarabiya.net/News/middle-east/2022/06/01/Iraq-faces-further-power-cuts-as-Iran-gas-debt-missed->. [Accessed 19 June 2022].

gas.²⁵⁶ This problem has only intensified over time, as increased oil production leads to a higher volume of flared gas. If the Iraqi government were to capitalize on its natural gas reserves and refrain from flaring it, it could create a more balanced energy portfolio and alleviate its national electricity challenges. By capturing and utilizing the natural gas emitted from its oil reserves, Iraq could significantly enhance its electricity generation capacity and reduce its dependence on external sources such as Iran. However, the failure to do so will only deepen Iraq's reliance on Iran for natural gas imports, exacerbating the country's vulnerability to supply disruptions and increasing the strain on its electricity sector.

According to Mr. Ihsan Ismaeil, the Iraqi Minister of Oil, the Iraqi government currently pays \$8 per million British thermal units for gas imported from Iran, whereas the cost of utilizing its own natural gas reserves would be less than \$2 per million British thermal units.²⁵⁷ This significant price disparity highlights the economic advantage of utilizing Iraq's own resources to meet its gas demands instead of relying on imports. However, the situation is further complicated by the fact that Iran is subject to economic sanctions imposed by the United States. These sanctions prohibit countries from engaging in economic and financial transactions with Iran. Despite this, since 2018, Iraq has obtained annual waivers from the US government, allowing it to import Iranian gas without facing the risk of sanctions. However, this arrangement is highly political, and the Iraqi government has limited control over it. The US government retains the authority to revoke these waivers at any time, which would prevent Iraq from importing gas from Iran, leading to a significant electricity shortage affecting a third of the country's population.²⁵⁸

The dependency on Iranian gas and the political nature of the waivers poses significant risks and challenges to Iraq's electricity sector. To mitigate these risks, the Iraqi government should focus on developing its domestic gas infrastructure

²⁵⁶ Bamji, Z., 2021. Global Gas Flaring Tracker Report. Washington DC: The World Bank.

²⁵⁷ Gulf International Forum., 2022. Iraq's Perennial Electricity Problem and its Implications for Social Stability. [ONLINE] Available at: <https://gulff.org/iraqs-perennial-electricity-problem-and-its-implications-for-social-stability/>. [Accessed 18 June 2022].

²⁵⁸ Iran International., 2022. US Extends Waiver on Iran Energy Supply for Iraq. [ONLINE] Available at: <https://www.iranintl.com/en/202203299556>. [Accessed 19 June 2022].

and promoting the utilization of its own natural gas reserves. By reducing reliance on Iranian imports, Iraq can achieve greater energy independence and security. This requires investment in gas infrastructure, including pipelines, processing plants, and power generation facilities, to harness and utilize its abundant natural gas resources effectively. Furthermore, the Iraqi government should actively engage with international partners and explore opportunities for collaboration and investment in the development of its gas sector. By diversifying its gas supply sources and strengthening its domestic gas industry, Iraq can enhance its energy resilience, stabilize electricity supply, and reduce vulnerabilities associated with geopolitical factors. Overall, it is crucial for Iraq to prioritize the development of its own gas resources and establish a sustainable and self-reliant energy infrastructure. This approach will not only contribute to a more stable and affordable electricity supply but also strengthen the country's overall economic resilience and promote its long-term energy security.

The issues above highlight the evident mismanagement of the Iraqi government in resolving the challenges faced by the electricity sector. This mismanagement extends its negative impact to all other sectors of the Iraqi economy, as they rely heavily on a continuous and reliable supply of electricity for their operations. To compensate for the inadequate power supply from the government, many households, companies, industries, and facilities resort to using diesel generators, either shared within neighbourhoods or individually purchased. However, these generators can only provide a limited amount of electricity, resulting in significant expenses for big industries and companies that need to invest in their own expensive diesel generators to meet their electricity requirements. One of the fundamental problems plaguing the electricity sector in Iraq is the low rate of payment by consumers. Only a small fraction of the population pays the government for the power they consume, while a significant portion of the revenue generated by consumers is directed to private diesel generator operators who offer costly, insufficient, and environmentally harmful services. Experts in the electricity field emphasize that one of the major obstacles to resolving the electricity predicament in Iraq is the presence of a well-established network of businesses that profit greatly from providing generators. This network has no interest in supporting the development of an efficient national grid and, moreover,

exerts pressure on the government and parliament to hinder sustainable solutions to the electricity problem.²⁵⁹

To enhance the development and partnerships in the electricity sector, the Iraqi government needs to create a conducive business environment that attracts both domestic and international investors. This can be achieved through regulatory reforms that promote transparency, competition, and accountability. By fostering a culture of fair practices and combating corruption, the government can encourage private sector participation and facilitate the implementation of innovative solutions in power generation, transmission, and distribution. Additionally, it is crucial for the Iraqi government to prioritize maintenance and investment in the electricity infrastructure, including transmission and distribution systems. This will improve the overall reliability and quality of electricity supply, contributing to economic development and ensuring social stability in Iraq.²⁶⁰ To support these efforts, the government should also consider engaging in partnerships and collaborations with international organizations, development banks, and energy companies that can provide technical expertise, financial resources, and knowledge transfer. These partnerships can help accelerate the modernization and development of the electricity sector, leading to a more resilient, efficient, and sustainable energy system in Iraq.

Managing the electricity problem in Iraq requires a multi-faceted approach that includes investing in local resources, reducing dependence on imported gas, improving metering and billing systems, promoting a favourable business environment, prioritizing maintenance and infrastructure development, and seeking partnerships for technical and financial support. By implementing these strategies, the Iraqi government can overcome the challenges and pave the way for a reliable and sustainable electricity sector that supports economic growth, social stability, and the overall development of the country.

²⁵⁹ The Arab Weekly., 2021. Blame game is Iraq's solution to electricity disaster [ONLINE] Available at: <https://the arabweekly.com/blame-game-iraqs-solution-electricity-disaster>. [Accessed 19 June 2022].

²⁶⁰ The New Arab., 2021. What's behind Iraq's chronic electricity shortages? [ONLINE] Available at: <https://english.alaraby.co.uk/analysis/whats-behind-iraqs-chronic-electricity-shortages>. [Accessed 19 June 2022].

3.3.4.4 Water

Access to clean water presents a significant challenge for companies and businesses operating in Iraq.²⁶¹ Clean water is essential for a wide range of industries, including agriculture, energy, food and beverage production, pharmaceuticals, and, most importantly, human consumption. Unfortunately, for nearly three decades, Iraq has faced numerous issues related to the management of water resources, inadequate regulation of sewerage and pollution, and mismanagement of the water infrastructure. These factors have resulted in a deterioration of the quality of water available to both businesses and citizens, leading to various economic and social consequences.

The poor management of water resources in Iraq has contributed to the degradation of water quality and quantity. Factors such as unsustainable water extraction practices, contamination from industrial and agricultural activities, and the absence of proper water treatment and sanitation systems have all played a role in exacerbating the water crisis. Inadequate regulation of sewerage and pollution further compounds the problem, as untreated wastewater is often discharged into rivers and other water bodies, contaminating freshwater sources. The deterioration of water quality has significant economic implications. Industries that rely on clean water for their operations, such as agriculture and food production, face challenges in maintaining quality standards and meeting regulatory requirements. Water scarcity and contamination also pose risks to energy production, particularly in cooling processes, as well as to the overall supply chain of various industries. Moreover, the availability of clean water directly impacts public health, leading to increased healthcare costs and reduced productivity. The social consequences of inadequate access to clean water are far-reaching. Communities, particularly those in rural areas, suffer from limited access to safe drinking water, resulting in increased vulnerability to waterborne diseases. Women and children, who are often responsible for water collection, bear a disproportionate burden in areas where water sources are scarce or

²⁶¹ Human Rights Watch., 2022. Basra is Thirsty: Iraq's Failure to Manage the Water Crisis | HRW. [ONLINE] Available at: <https://www.hrw.org/report/2019/07/22/basra-thirsty/iraqs-failure-manage-water-crisis>. [Accessed 25 May 2022].

contaminated. Additionally, water scarcity and poor quality can exacerbate social inequalities, as marginalized groups may face greater challenges in accessing clean water.

The availability of water in Iraq's various provinces is subject to legal provisions that govern its distribution and management. The Ministry of Water Resources in Iraq, as stipulated in Article 3 of the 2017 Irrigation Law numbered 83, is responsible for allocating, managing, and supervising water resources. However, these allocations set by the Ministry of Water Resources are frequently violated by businesses and individuals, leading to disputes among different stakeholders, particularly between provinces. An example of such disputes occurred on November 24, 2017, when the Council of Maysan Governorate announced its intention to file a lawsuit against both Dhi Qar and Wasit Governorates. The lawsuit alleged that Maysan's allocated water quota had been unjustifiably reduced by these two governorates, resulting in significant economic and societal consequences for Maysan and its residents.²⁶²

In July 2018, the Governor of Muthana, along with local armed forces, took unilateral action by entering Al Qadisiya Governorate without authorization. Their aim was to address obstacles that were impeding the flow of water to Muthana Governorate.²⁶³ Additionally, the Governorate of Dhi Qar accused Wasit Governorate of violating its allocated water quota, resulting in adverse effects on Dhi Qar's agricultural income.²⁶⁴ The scarcity of available water not only weakens local economies but also contributes to internal migration. In 2019, the United Nations International Organization for Migration reported that 21,314 Iraqis living

²⁶² The Voice of Iraq., 2017. The Water Crisis in Iraq Is the Result of Internal Mismanagement and a Turkish Desire to Dominate the Region. [ONLINE] Available at: <http://www.sotaliraq.com/2017/11/25/%d9%85%d8%aa%d9%89-%d9%8a%d8%b3%d8%aa%d9%8a%d9%82%d8%b8-%d9%88%d8%b2%d9%8a%d8%b1-%d8%a7%d9%84%d9%85%d9%88%d8%a7%d8%b1%d8%af-%d8%a7%d9%84%d9%85%d8%a7%d8%a6%d9%8a%d8%a9-%d9%85%d9%86-%d8%ba%d9%81%d9%88/>. [Accessed 21 June 2022]. (Arabic)

²⁶³ Dockx, P., 2019. Water Scarcity in Iraq: From Inter-Tribal Conflict to International Disputes. Institute of Peace and Conflict Studies. pp 10

²⁶⁴ Wattan News Agency., 2018. A Struggle over Water in the Southern Iraqi Governorates. [ONLINE] Available at: <https://wattanna.net/%d8%b5%d8%ad%d9%8a%d9%81%d8%a9-%d8%b5%d8%b1%d8%a7%d8%b9%d8%b9%d9%84%d9%89-%d8%a7%d9%84%d9%85%d9%8a%d8%a7%d9%87-%d9%81%d9%8a%d9%85%d8%ad%d8%a7%d9%81%d8%b8%d8%a7%d8%aa-%d8%a7%d9%84%d8%ac%d9%86%d9%88/>. [Accessed 21 June 2022].

in southern and central Iraq were internally displaced due to a lack of potable water.²⁶⁵

The water situation in Iraq is perplexing considering its statistical abundance of water resources. Geographically, Iraq is considered one of the water-rich countries in the Middle East, as the Tigris and Euphrates rivers flow from the northern regions to the southern tip, eventually reaching the Arabian Gulf.²⁶⁶ However, despite the presence of these rivers, Iraq's water supply is heavily influenced by neighbouring countries and their water resource policies, which have had a detrimental impact on Iraq's water availability. The flow of the Euphrates and Tigris rivers extends beyond Iraq's borders, and as a result, the water supply of the country depends on the actions and decisions of other nations through which the rivers pass. The management and utilization of water resources in upstream countries can directly affect the quantity and quality of water that reaches Iraq. Factors such as dam construction, water diversions, and agricultural practices in these neighbouring countries have contributed to a reduction in Iraq's water supply. The political dynamics surrounding water resources in Iraq have had a profound impact on the quality and quantity of water supply. One crucial aspect is the competition and disputes between Iraq and its neighbouring countries over the limited water resources and control. Both the Tigris and Euphrates rivers, which are vital water sources for Iraq, originate in Turkey. Additionally, the Euphrates River passes through Syria and Iran. Throughout history, Iraq was known as a country with abundant water resources. However, this perception changed when Turkey began constructing dams on both rivers, significantly reducing the water supply to Iraq.²⁶⁷ The Turkish government initiated the South-eastern Anatolia Project, comprising 22 dams and 19 power plants.²⁶⁸ Turkey has refused to engage in negotiations with Iraq and Syria regarding their water allotment, leading to a decrease in water supply to

²⁶⁵ International Organization for Migration., 2020. IOM, Netherlands' Deltares Issue Report, Webtool in Face of Iraq's Looming Water Crisis [ONLINE] Available at: <https://www.iom.int/news/iom-netherlands-deltares-issue-report-webtool-face-iraqs-looming-water-crisis>. [Accessed 21 June 2022].

²⁶⁶ Maulood, B. and Hassan, F., 2022. Tigris and Euphrates Rivers: Their Environment from Headwaters to Mouth. Springer. pp 556

²⁶⁷ China Dialogue., 2022. The Ilisu Dam's uncertain future. [ONLINE] Available at: <https://chinadialogue.net/en/energy/3223-the-ilisu-dam-s-uncertain-future/>. [Accessed 20 June 2022].

²⁶⁸ Bilgen, A.,2018. The Southeastern Anatolia Project (GAP) revisited: The evolution of GAP over forty years. *New Perspectives on Turkey*. pp 125

Iraq. Moreover, Turkey holds the capability to even cut off the water flow entirely. This political stance by Turkey has posed a considerable challenge to Iraq's water supply.

The flow of the Euphrates River, which passes through Iran, provides 40% of the water in Iraq's Shatt al-Arab. Iran, too, has constructed over 600 dams in the last three decades, significantly impacting the water supply to Iraq's eastern governorates.²⁶⁹ Iran has either cut off or diverted the river's flow, keeping the water within its borders and preventing it from reaching Iraq. Unfortunately, the Iraqi government has failed to effectively negotiate with Iran to safeguard Iraq's primary water sources.²⁷⁰ The Minister of Water Resources in Iraq has reported a sharp decline in the water flowing from Turkey to Iraq through the Tigris and Euphrates rivers, with a decrease of approximately 50% in 2020.²⁷¹ A research study conducted by the Mediterranean Institute for Regional Studies revealed that the water flow into Iraq from the Euphrates River reduced from 30 billion cubic meters in 1993 to only 9.5 billion cubic meters in 2021.²⁷² The water levels in both rivers continue to decrease at an alarming rate. If the water policies of Iran and Turkey, coupled with the weak governance and negotiation efforts of the Iraqi government, persist, it is projected that the rivers in Iraq will run dry by 2040.²⁷³

The scarcity of water in Iraq has a profound impact on the country's economy and the well-being of its population. The economy of Iraq relies heavily on its oil sector, which necessitates significant quantities of water for various processes.²⁷⁴ In oil production, water is crucial for cooling and injection purposes throughout the

²⁶⁹ Keynough, B., 2019. Water diplomacy not enough to fix Iran-Iraq's water dispute, Pacific Council on International Policy. Available at: <https://www.pacificcouncil.org/newsroom/diplomacy-isn%E2%80%99t-not-enough-fix-iran-iraq%E2%80%99s-water-dispute> [Accessed: 10 August 2023].

²⁷⁰ Rudaw., 2022. Alarming drop in Iraqi water levels due to Iranian dams. [ONLINE] Available at: <https://www.rudaw.net/english/middleeast/iraq/100420221#:~:text=Around%20600%20dams%20have%20been,from%20its%20territory%20into%20Iraq.> [Accessed 20 June 2022].

²⁷¹ Arab News., 2020. Minister: Iraq to face severe water shortages as river flows drop. [ONLINE] Available at: [https://www.arabnews.com/node/1706126/middle-east.](https://www.arabnews.com/node/1706126/middle-east) [Accessed 20 June 2022].

²⁷² Jaafar, B., 2021. The water shortage crisis in Iraq: its risks, manifestations, and mechanisms for dealing with it. 1st ed. Iraq: Mediterranean Institute for Regional Studies.

²⁷³ Hurst, C., Adams, L., Chapman, R. and Cowling, D., 2020. Geography for Edexcel A Level Year 2. Oxford: Oxford University Press. pp 41

²⁷⁴ CNN., 2019. Iraq's oil boom could be derailed by a lack of water. [ONLINE] Available at: [https://edition.cnn.com/2019/04/25/business/iraq-oil-water-shortage/index.html?hidemenu=true.](https://edition.cnn.com/2019/04/25/business/iraq-oil-water-shortage/index.html?hidemenu=true) [Accessed 21 June 2022].

drilling process.²⁷⁵ The oil-rich governorates of Iraq, particularly those in the south, require substantial amounts of water to sustain continuous oil production, which is the backbone of the Iraqi economy. While 88% of Iraq's oil reserves are in the southern region, the northern part of the country also considers the oil sector vital.²⁷⁶ According to Mr. Ahmed Adhem, the Deputy General Director of the state-owned Basra Oil Company, the water issues negatively impact the mega oil fields in southern Iraq. In 2022, the production of these oil fields is estimated at around 2.95 million barrels per day, which is lower than the 3.5 million barrels per day produced in 2020.²⁷⁷ The decline in production is attributed to water injection problems. Water injection is a process used to apply pressure to underground oil reservoirs, facilitating oil extraction and increasing production. The reduced availability of water has resulted in a decrease in water injection capacity to 4 million water barrels per day, which according to Mr. Adhem is insufficient. Consequently, Iraq's capability for oil production is hindered. The scarcity of clean water presents extensive costs and challenges for companies operating in the oil industry in Iraq. British Petroleum (BP), for example, took over the management of the Qarmat Ali Water Treatment Plant when operating the Rumaila oil field and invested in its renovation to ensure the supply of the required amount of clean water for the field's operation.²⁷⁸ Such efforts highlight the significant hurdles faced by companies in securing sufficient water resources for their operations. Furthermore, the agricultural sector, another crucial component of Iraq's economy, heavily relies on water for irrigation purposes. The lack of water availability hampers agricultural productivity and exacerbates the economic challenges faced by farmers. Insufficient water resources lead to reduced crop yields, affecting food security and livelihoods.

²⁷⁵ Mehdi, A. and Al Saffar, A., 2020. Compounding crises: Iraq's oil and energy economy. The Oxford Institute for Energy Studies.

²⁷⁶ Al-Furaiji, M., Karim, U., Augustijn, D., Waisi, B., and S., Hulscher. 2016. Evaluation of water demand and supply in the south of Iraq. 1st ed. Journal of Water Reuse and Desalination. pp 214

²⁷⁷ S&P Global., 2022. Water issues at Iraq's giant southern oil fields could hamper output boost: BOC. [ONLINE] Available at: <https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/oil/020422-water-issues-at-iraqs-giant-southern-oil-fields-could-hamper-output-boost-boc>. [Accessed 21 June 2022].

²⁷⁸ International Energy Agency., 2019. Iraq's Energy Sector: A Roadmap to a Brighter Future. Paris: OECD. pp 24

The construction of dams and the diversions caused by Iran have not only resulted in reduced water supply but have also exacerbated the issue of water salinity in Iraq. The increased salinity of water has given rise to various health-related crises due to the deteriorating water quality. In 2018, the operation of Iraq's largest oil refinery had to be halted due to the excessively high salinity levels in its water, which were found to be at least four times higher than the acceptable limits.²⁷⁹ The province of Basra, located in southern Iraq, has been particularly affected by the water crisis. Approximately 90% of its population faces limited to no access to clean water, especially during the summer season. The dire situation in Basra reached a critical point in August and October of 2018 when over 100,000 individuals were hospitalized due to water-related health infections.²⁸⁰ This alarming statistic highlights the severe consequences of the water crisis on public health and well-being. The heightened salinity of water poses significant challenges for industries, agriculture, and human consumption. The excessive levels of salt in the water can damage machinery and equipment used in various industrial processes.

In the agricultural sector, high salinity affects crop growth and decreases agricultural productivity, further impacting food security and the economy. Additionally, the consumption of saline water poses health risks to the population, leading to various waterborne diseases and infections. Water plays a crucial role in the agricultural sector of Iraq, serving as a primary source of livelihood for a significant portion of the population. Agriculture employs nearly 20% of the Iraqi workforce and ranks as the second-largest contributor to the country's GDP.²⁸¹ However, the escalating salinity of water in Iraq has posed numerous challenges, making it increasingly difficult for farmers to sustain their agricultural activities and livestock, resulting in a substantial decrease in their incomes.²⁸² During the peak

²⁷⁹ International Energy Agency., 2019. Iraq's Energy Sector: A Roadmap to a Brighter Future. Paris: OECD.

²⁸⁰ UNICEF., 2019. Multi-Tiered Approaches to Solving the Water Crisis in Basra, Iraq. New York

²⁸¹ Gunter, F., 2021. The political economy of Iraq: restoring balance in a post-conflict society. Edward Elgar Publishing Limited. pp 135

²⁸² International Energy Agency., 2019. Iraq's Energy Sector: A Roadmap to a Brighter Future. Paris: OECD.

of the water crisis in 2018, the total dissolved solids (TDS) measurement ²⁸³ of the Shatt al-Arab, a vital waterway in Iraq, recorded a brininess level of 22,000 parts per million (PPM). ²⁸⁴ This measurement is approximately 22 times higher than the level deemed suitable for drinking water by the World Health Organization. ²⁸⁵ The high brininess of the irrigation water reservoirs significantly impacts the viability and productivity of farmlands, leading to long-lasting effects on agricultural sustainability. ²⁸⁶ A survey conducted by the Norwegian Refugee Council in 2020-2021 assessed the impact of water scarcity and increased salinity on agricultural activities in Iraq. The findings revealed that over 37% of farmers reported failed wheat crops, while approximately 30% experienced unsuccessful barley crops. These figures underscore the severe consequences of water salinity on agricultural production, further exacerbating the challenges faced by farmers and threatening food security in the country. The decline in agricultural productivity not only affects the income of farmers but also has broader socio-economic implications. Reduced agricultural output leads to increased food prices, limited availability of locally produced goods, and heightened reliance on imported products. This, in turn, impacts the overall economy and the well-being of the population.

Compounding the challenges faced by Iraq's agricultural sector, the Russian-Ukrainian war has had a profound impact on global food supply, particularly in relation to wheat. Ukraine, one of the largest global wheat suppliers, has seen shipments cease because of the conflict, leading to a global shortage of food.²⁸⁷ In Iraq, wheat holds strategic importance as it accounts for 70% of the country's total cereal production. Previously, Iraq was self-sufficient in wheat production,

²⁸³ Total dissolved solids (TDS) portray the quantity of inorganic salts and small amounts of matter existing in water. The manner in which it is measured is through evaporating the water and the remaining salt is weighted.

²⁸⁴ Parts Per Million (PPM) is the measurement in water chemistry.

²⁸⁵ Human Rights Watch., 2022. Basra is Thirsty: Iraq's Failure to Manage the Water Crisis | HRW. [ONLINE] Available at: <https://www.hrw.org/report/2019/07/22/basra-thirsty/iraqs-failure-manage-water-crisis>. [Accessed 22 June 2022].

²⁸⁶ Human Rights Watch., 2022. Basra is Thirsty: Iraq's Failure to Manage the Water Crisis | HRW. [ONLINE] Available at: <https://www.hrw.org/report/2019/07/22/basra-thirsty/iraqs-failure-manage-water-crisis>. [Accessed 22 June 2022].

²⁸⁷ Reuters., 2022. Russia, Turkey to pursue talks on Ukraine grain exports | Reuters. [ONLINE] Available at: <https://www.reuters.com/world/russia-turkey-agree-more-consultations-grain-exports-ukraine-2022-06-22/>. [Accessed 23 June 2022].

meeting local demand estimated at 5-6 million tons per year.²⁸⁸ Nevertheless, the country's local wheat production has been on a decline. In 2020, the Iraqi Ministry of Agriculture reported wheat production at 6.2 million tons, which dropped to 4.2 million tons in 2021. Projections indicate that in 2022, the production may reach a mere 2.5 million tons under the best scenario.²⁸⁹ This significant reduction in wheat production has forced the Iraqi government, once self-sufficient, to rely on costly wheat imports due to the global shortage caused by the Russian-Ukrainian war. Consequently, the prices of essential food items dependent on wheat have increased in Iraq. The impact of declining wheat production extends beyond economic consequences. Livestock farming, which plays a crucial role in Iraq's agricultural practices, has also suffered. Over 37% of households have reported the loss of their sheep, cattle, or goats.²⁹⁰

To sustain their agricultural practices and secure revenue, some Iraqi farmers have resorted to illegal extraction of freshwater from canals.²⁹¹ Additionally, unauthorized fish farms have been established, further diminishing water resources. These illegal activities not only violate Iraqi regulations but also disrupt the allocation of water quotas.²⁹² An example of such unauthorized fish farming can be seen in Kirkuk, where the Agriculture Office's Director, Mr. Mahdi Mubarak, revealed that only 41 fish farming ponds had been licensed by the Agriculture Department since 1987 due to water scarcity. However, in 2018, it was discovered that over 400 unlicensed fish farming ponds had been created, disregarding Kirkuk's water policies.²⁹³ These unlawful activities strain water resources and undermine the fair distribution of water allocation quotas set by the Iraqi government. The Water Resources Minister, Mr. Mahdi Rasheed, has highlighted the severity of the water crisis, noting that river levels in 2022

²⁸⁸ Brown, W., 2015. *Undoing the Demos: Neoliberalism's Stealth Revolution*. New York: Zone Books. pp 145

²⁸⁹ AP News., 2022. Severe water shortages strain wheat harvest in Iraq | AP News. [ONLINE] Available at: <https://apnews.com/article/politics-technology-agriculture-iraq-57c49a6c08e293f6c08e07bb26e6a489>. [Accessed 23 June 2022].

²⁹⁰ Norwegian Refugee Council,.2021. Iraq's drought crisis and the damaging effects on communities. pp 6

²⁹¹ Ewaid, S., Abed, S. and Al-Ansari, N., 2019. *Water Footprint of Wheat in Iraq*. 3rd ed. MDPI. pp 535

²⁹² Khalil, S., 2018. *Overriding fish lakes in Iraq exacerbate the water crisis*. 1st ed. Baghdad: Rawabet Center for Research and Strategic Studies.

²⁹³ FAO., 2018. *Overriding fish lakes in Iraq exacerbate the water crisis*. Baghdad: Food and Agriculture Organization of the United Nations. pp 111

decreased by 60% compared to 2021.²⁹⁴ This alarming drop in water availability further exacerbates the challenges faced by Iraq's agricultural sector, posing a threat to food security and the overall well-being of the population.

The lack of a comprehensive water policy and inadequate water supply management by the Iraqi government has had severe repercussions on the country's key industries, particularly oil and agriculture. The competition for water resources and the increasing salinity levels have further exacerbated the crisis. However, it is crucial for the government to address these issues promptly and effectively to attract investors, foster economic growth, and ensure sustainable development. One of the immediate steps the Iraqi government should take is to formulate a comprehensive water policy that addresses the challenges faced by the country. This policy should focus on equitable water allocation, efficient water management practices, and the preservation of water quality. By establishing clear regulations and enforcement mechanisms, the government can ensure that water resources are used judiciously and that the needs of various sectors are adequately met. Investments in water infrastructure are essential to enhance water supply and distribution networks. Upgrading and expanding the country's water infrastructure, including dams, reservoirs, and irrigation systems, can help optimize water usage and reduce losses. Furthermore, the government should prioritize the development of modern water treatment plants to address the issue of water salinity and improve the quality of water supplied to industries and households. To attract investors, the government needs to create a conducive business environment by providing incentives and establishing transparent regulations. Streamlining bureaucratic processes and offering tax breaks or subsidies for companies investing in water treatment and conservation technologies can encourage private sector participation in tackling the water crisis. International partnerships and cooperation can also play a vital role in managing Iraq's water challenges. The government should actively engage with neighbouring countries, such as Turkey and Iran, to negotiate water-sharing agreements that ensure a fair distribution of water resources. Collaborating with

²⁹⁴ AP News. 2022. Severe water shortages strain wheat harvest in Iraq [ONLINE] Available at: <https://apnews.com/article/politics-technology-agriculture-iraq-57c49a6c08e293f6c08e07bb26e6a489>. [Accessed 23 June 2022].

international organizations, such as the United Nations and regional water management bodies, can provide technical expertise, financial support, and knowledge sharing to develop sustainable solutions. Furthermore, promoting research and development in water-efficient agricultural practices, drought-resistant crop varieties, and innovative water conservation technologies can enhance productivity in the agriculture sector. Encouraging farmers to adopt modern irrigation techniques, such as drip irrigation, and providing them with training and access to affordable loans can contribute to water conservation efforts and agricultural sustainability.

Resolving the water crisis in Iraq is not only crucial for the well-being of its population but also for the development of key industries and attracting investment. By implementing a comprehensive water policy, investing in water infrastructure, fostering partnerships, and promoting sustainable practices, the Iraqi government can address the water challenges and pave the way for economic growth, social well-being, and environmental sustainability.

3.3.4.5 Internet

Access to the internet plays a crucial role in enabling secure business transactions, facilitating communication between clients and suppliers, and enhancing productivity and efficiency for businesses. However, in Iraq, internet access is characterized by slow speeds, underdevelopment, and extensive government control.²⁹⁵ The government's decisions, including frequent internet shutdowns, have had far-reaching negative consequences, impacting all sectors of society in Iraq. During the civil unrest and protests in Baghdad in October 2019, the government resorted to shutting down the internet across the entire country to control the flow of information and suppress news related to the protests. This measure severely disrupted the operations of all industries, businesses, schools, and households, causing significant harm to individuals and businesses alike. The economic impact of the week-long internet shutdown alone was estimated to be approximately one billion US dollars, with additional losses of around 40

²⁹⁵ International Trade Administration., 2022. Iraq - Telecommunications. [ONLINE] Available at: <https://www.trade.gov/country-commercial-guides/iraq-telecommunications>. [Accessed 25 May 2022].

million US dollars per day for the subsequent 12 days when mobile networks and social media were also affected.²⁹⁶

Online businesses have been particularly affected by these internet shutdowns. One example is a delivery company that heavily relies on online operations. They experienced a loss of over 50% in daily business due to the loss of access to customer, retailer, and courier locations. Although they attempted to continue deliveries using offline maps, the process was significantly delayed and incurred additional costs as they had to resort to traditional telephones for customer communication.²⁹⁷ Start-up companies, including around 15,000 stores offering online shopping services hosted on social networks, suffered substantial losses during the 12-day internet shutdown. These businesses estimated losses in the tens of millions of US dollars, leading some companies to announce a 30% reduction in employee salaries to offset their losses.²⁹⁸ The Iraqi government regularly cuts internet and fixed line coverage during exam periods to prevent cheating and discourage students from using their phones during state exams. However, this measure also negatively impacts various businesses operating in the country.²⁹⁹

The internet outages in Iraq have significant financial implications, costing the economy millions of dollars. Instead of implementing complete network shutdowns, the government could explore alternative approaches, such as setting up jamming systems to block access to specific networks, thereby targeting specific areas of concern while minimizing disruptions to millions of citizens and businesses that rely on internet connectivity. To foster economic growth and stability, it is crucial for the Iraqi government to prioritize the

²⁹⁶ Iraq Business News., 2019. Iraq's Internet Shutdown cost nearly \$1bn. [ONLINE] Available at: <https://www.iraq-businessnews.com/2019/10/16/iraqs-internet-shutdown-cost-nearly-1bn/>. [Accessed 25 June 2022].

²⁹⁷ France 24., 2022. Iraq cut the internet, and the economy suffered [ONLINE] Available at: <https://www.france24.com/en/20191015-iraq-cut-the-internet-and-the-economy-suffered>. [Accessed 26 June 2022].

²⁹⁸ France 24., 2022. Iraq cut the internet, and the economy suffered [ONLINE] Available at: <https://www.france24.com/en/20191015-iraq-cut-the-internet-and-the-economy-suffered>. [Accessed 26 June 2022].

²⁹⁹ The Guardian., 2022. Iraq shuts down the internet to stop pupils cheating in exams. [ONLINE] Available at: <https://www.theguardian.com/technology/2016/may/18/iraq-shuts-down-internet-to-stop-pupils-cheating-in-exams>. [Accessed 26 June 2022].

development of a robust and reliable internet infrastructure. This includes investing in network expansion, improving internet speeds, and ensuring affordable and accessible internet services for all. Moreover, adopting policies that promote internet freedom, protect digital rights, and encourage a competitive and innovative digital marketplace will contribute to the overall development and prosperity of Iraq's economy.

3.4 Investment in Iraq

Investment in Iraq is governed by several laws and regulations, with the primary law being the Investment Law number 13 of 2006. This legislation serves as a comprehensive framework for promoting, protecting, and facilitating investments in the country. It ensures that foreign investors are granted the same treatment as domestic investors and offers them a range of incentives and benefits.

One key aspect of the Investment Law is the equal treatment of foreign and domestic investors, which establishes a level playing field. Foreign investors enjoy various advantages, such as tax and customs exemptions,³⁰⁰ the right to own land,³⁰¹ and the freedom to transfer profits and capital out of the country.³⁰² These incentives are designed to attract and encourage foreign direct investment in Iraq. To streamline the investment process, the Investment Law establishes a One-Stop Shop, which acts as a centralized authority responsible for issuing licenses and approvals for investment projects. This streamlined approach aims to simplify administrative procedures and enhance efficiency for investors.

The Investment Law also includes Article 12 (Third) provides investors with the guarantee that the government will not seize or nationalize investment projects covered by the provisions of the law, except in cases where a final judicial judgment has been issued. In addition to the Investment Law, specific sectors and industries in Iraq are governed by sector-specific laws and regulations. For instance, the Oil and Gas Law and the Electricity Law outline the regulatory framework and investment opportunities in the respective sectors. Investors considering opportunities in Iraq should familiarize themselves with these laws

³⁰⁰ Provision 15 (Firstly) A&B of the Investment Law

³⁰¹ Provision 10 (Secondly) (A-1) of the Investment Law

³⁰² Provision 11 (Firstly) of the Investment Law

and regulations to ensure compliance and to understand their rights and obligations. Seeking legal advice and guidance is strongly recommended to navigate the complexities of the Iraqi legal system and ensure a smooth and successful investment experience.

The National Investment Commission (NIC) plays a crucial role in promoting and facilitating both foreign and local investments in Iraq. It was established in accordance with the Investment Law number 13 of 2006, which was subsequently amended by law number 50 of 2015. Additionally, provisional investment commissions were created in each Iraqi province to support investment activities. Founded in 2007, the NIC operates as a high-level government entity, working closely with investors to provide recommendations and assistance throughout the investment process. The Investment Law grants special privileges, benefits, and guarantees to investors, aiming to create an enabling environment for investment in the country. These measures are designed to expedite the application and approval processes for investments in Iraq. To obtain an investment license from the NIC or a Provisional Investment Commission, investors are required to follow specific steps outlined in the Investment Law. The Investment Law establishes a clear framework for investment procedures, ensuring transparency and accountability. It provides investors with a predictable and structured process for obtaining the necessary licenses and approvals. By adhering to these established procedures, investors can navigate the regulatory landscape and enjoy the benefits and protections afforded to them.

The role of the NIC and the establishment of the One-Stop Shop Directorate demonstrate the Iraqi government's commitment to facilitating investment and creating a favourable investment climate. These initiatives contribute to attracting both foreign and local investors, stimulating economic growth, and fostering partnerships for the development of Iraq. Investors seeking to engage in investment activities in Iraq should familiarize themselves with the Investment Law and collaborate with the NIC or the relevant Provisional Investment Commission. By following the prescribed procedures and leveraging the support and guidance offered by these institutions, investors can navigate the investment landscape in Iraq and contribute to the country's economic progress:

- 1- The investor is required to submit a request by filling out an electronic form (a request for granting a license) which is available on the official website of the NIC. When submitting the application, the investor must present the feasibility study of the project, which is an initial economic feasibility study and the request must include a financial plan for the project and other investor activities, if any.
- 2- The NIC will study the investor's request, study the economic feasibility study, verify all legal documents, and obtain approval from the relevant authorities. The investor will be assisted in obtaining land to establish the investment project and the NIC response to the investor's request shall be within 45 from the date of submission of the application.
- 3- The NIC then addresses the relevant sectoral authorities and the land-owning authorities that were chosen to establish the investment project. The relevant sectoral authorities study the economic and technical feasibility study of the project and express their opinion on the investment project and the relevant sectoral authorities must respond to NIC within 15 days. After obtaining the license, the investor will be able to start carrying out the investment project, but the investor must adhere to a number of matters stipulated by the law and the relevant instructions and controls, which are as follows:
 - a. Inform the NIC in writing the date of commencing the commercial operation of the investment project.
 - b. Maintaining accounts that are audited by a chartered accountant in Iraq.
 - c. Adhere to the Iraqi laws in force regarding salaries, vacations and working conditions.
 - d. Maintaining records of imported resources for the project that are exempt from taxes.
 - e. Commitment to match the work progress schedule with reality. Preserving the safety of the environment and adhering to the quality control systems in force in Iraq, as well as the internationally applicable quality standards (ISO).

- f. Giving priority to Iraqi workers and committing to educating and training workers.

Under Iraqi law, foreign investors are granted the opportunity to invest in Iraq under conditions that are generally similar to those applicable to Iraqi investors. Importantly, there are no specific limitations on the extent of foreign investor participation in investment opportunities within Iraq. The Investment Law enables foreign investors to own land designated for housing projects and engage in co-ownership of land plots utilized for industrial projects. However, for industrial projects, it is mandatory to have Iraqi partners involved.³⁰³

Nevertheless, it is crucial to note that the Investment Law imposes certain restrictions on foreign investors concerning the direct and indirect ownership of the majority of natural resources, particularly pertaining to the extraction and processing of these resources. This provision ensures that control over such vital assets remains primarily in the hands of Iraqi entities. To promote the welfare of Iraqi citizens and encourage the utilization of local talent, the Investment Law stipulates that a minimum of 50% of the workforce engaged in any investment project should consist of Iraqi individuals. This provision serves to prioritize the employment of skilled Iraqis and encourages foreign investors to collaborate with local industries and companies, while also fostering the training and development of the local workforce for the successful implementation of investment projects in the country.

The Ministerial Liaison Department within the National Investment Commission (NIC) plays a crucial role in facilitating the swift implementation of investments by obtaining all necessary approvals and requirements from various Iraqi entities. Foreign investors enjoy several privileges, including a 10-year tax exemption, a 3-year exemption from import fees, the ability to own land and properties for their projects, a guarantee against nationalization by the government once the investment license is granted, and the ability to employ foreign workers.

³⁰³ Article 10 (Secondly) (A-1) of the Investment Law

An amendment made to the Companies Law through law number 17 for the year 2019 allows foreign companies to establish branches in Iraq for conducting business, irrespective of the ownership nationality. However, if individuals wish to establish an Iraqi limited liability company, it must be owned by at least 51% Iraqi citizens. Foreign entities can establish branches in Iraq and conduct business even if they are fully foreign-owned, provided that the parent company has been established for at least two years prior to the establishment of the branch office. The establishment of a limited liability company in Iraq requires a minimum of 51% Iraqi ownership. While Iraqi laws generally permit contractors to resolve their disputes in Iraqi or foreign courts, the Investment Law establishes a specific mechanism for resolving disputes related to investment contracts. Consequently, investors are not allowed to resolve their disputes through civil law or law of pleadings unless they have exhausted all procedures outlined in the Investment Law.

Disputes relating to investment projects in Iraq may arise in situations where a granted license is subsequently withdrawn. In such cases, the investor has the right to file a complaint with the head of the granting body within 15 days of receiving the notification of the withdrawal. The head of the granting body is obligated to respond to the complaint within 15 days. If the head of the granting body rejects the complaint or fails to respond within the specified period, the complaint is considered rejected. Subsequently, the investor has the option to file another complaint with the NIC within 15 days of the rejection of the initial complaint. The NIC is expected to respond to the complaint within 15 days. If the NIC rejects the complaint or fails to respond within the given timeframe, the complaint is considered rejected, and the investor may then file a case before a competent Iraqi court. This dispute resolution procedure has posed challenges for investors and has led to various issues for companies like Saya Company in their projects, as mentioned below. In cases where a license application is rejected, investors may submit a request to the head of the granting body for reconsideration. If the request is refused, the investor can then submit an objection to the Head of the NIC. If the request is also rejected, the matter will ultimately be considered by the Council of Ministers.

According to Suha Najjar, the Head of the National Investment Commission (NIC), from the commission's establishment in 2007 until 2021, approximately 2,400

investment licenses were issued to investors in Iraq. However, the number of completed projects stands at around 500, with 970 projects showing zero percent completion and 800 projects trailing behind schedule.³⁰⁴ These statistics highlight a significant weakness in the administration and implementation of investment opportunities in Iraq. Furthermore, the Investment Law in Iraq has not achieved its intended goal of attracting investments and providing incentives for investors to invest in the country. To shed light on the challenges faced by investors in Iraq, an interview was conducted with Mr. Jawad Al Kassab, a successful Iraqi businessman with numerous projects worldwide. One of his companies, Saya, holds an investment license to build a housing project named Al Kawthar in Babylon province, Iraq, consisting of 1061 housing units.

Issues surrounding the project arose as soon as construction began. According to provision 10 (Secondly)(B) of the Investment Law and common practice, parties involved in a project are expected to sign a contract that documents the responsibilities of each party. However, when Saya attempted to sign the contract received from the Babylon Investment Commission, it was refused, with the commission stating that the contract should be signed between the investor (Saya) and the landowner (Ministry of Finance). Both the Ministry of Finance and the Babylon Investment Commission refused to sign the contract, leading to a lack of clarity regarding the responsibilities and obligations of each party, thereby stalling project progress. According to the Investment Law, the Babylon Investment Commission is responsible for connecting the project to the necessary infrastructure to enable the investor to commence work. However, this obligation was not fulfilled. The Babylon Investment Commission failed to connect the project to the national electricity grid and did not provide clean water to the project area. As a result, the investor had to build their own power station and sewage treatment plant, increasing costs and expenses.

In the project plan submitted for Al Kawthar, the investor included areas for a commercial centre, including stores and supermarkets. However, the relevant

³⁰⁴ Iraqi Investment Commission.,2021. There are 970 alien projects and 800 halted projects. Rudaw.

authorities in Iraq have not approved the establishment of such stores to date. Additionally, the investor planned to build a school, nursery, and kindergarten, which also remain unapproved. The Babylon Investment Commission, instead of facilitating the investor's problems with different Iraqi ministries and departments as required by the Investment Law, has exacerbated the issues faced by the investor. To discourage the investor from continuing the project, the commission issued a warning letter, claiming that the project was not progressing according to plan and threatening to withdraw the license.

Mr. Jawad, as the investor, considered this move unfair since several circumstances in Iraq had contributed to the project's halt. Initially, ISIS occupied a third of Iraq, with their soldiers near the project location, leading Saya to withdraw its employees for safety reasons. After the defeat of ISIS, the COVID-19 pandemic struck, and the Iraqi government enforced lockdown measures, requiring non-essential workers to stay at home to control the spread of the disease. Saya requested multiple extensions to the license, which were rejected by the Babylon Investment Commission. Instead, the Babylon Investment Commission imposed delay penalties on Saya for the project's late completion, which is both illegal and unjust. Following the issuance of delay penalties, the Babylon Investment Commission decided to withdraw the company's license and sent letters to relevant government departments, instructing them not to provide any services for the Al Kawthar project. This example clearly demonstrates that the Babylon Investment Commission disregarded the law and regulations meant to support investment and, instead, contributed to pressuring the investor to fail in their investment in Iraq. Currently, Saya has filed a lawsuit against the Babylon Investment Commission in Iraqi courts. However, it is estimated that the case will take at least three years to reach a verdict, resulting in additional costs and expenses for Saya.

As part of the research, the author conducted interviews with 15 Iraqi citizens between the ages of 30 and 60 to gather their opinions on investments in Iraq. The respondents unanimously expressed their dissatisfaction with the current investment framework in Iraq, stating that it is inadequate for attracting investments. They cited several reasons for their belief, primarily focusing on the types of investments that have been completed in the country. According to the interviewees, most investments in Iraq have been directed towards the

establishment of restaurants, malls, parking spaces, and entertainment centres. However, they argued that these types of investments do not address the fundamental needs of the Iraqi people, such as access to basic services and essential infrastructure. The lack of decent healthcare facilities, clean water, residential areas, and reliable electricity supply were highlighted as pressing issues that need urgent attention. The interviewees expressed the view that instead of prioritizing the construction of malls and leisure centres, the Iraqi government, represented by the NIC, should have focused on incentivizing investors to invest in crucial sectors that would provide essential services to the population. They cited the example of Diwaniya Province, where construction on the Australian Hospital began in 2008. Despite the availability of funds, the hospital remains incomplete to this day, further exemplifying the shortcomings of the current investment framework.

These insights from Iraqi citizens underscore the need for a shift in investment priorities, with a greater emphasis on sectors that directly contribute to improving the well-being and quality of life for the Iraqi population. The findings suggest that the government, through the NIC, should proactively encourage investments in areas such as healthcare, infrastructure, water supply, and electricity to address the pressing needs of the Iraqi people and promote sustainable development in the country. Based on the aforementioned interviews, it is evident that both foreign and local investors encounter numerous challenges when implementing investment projects in Iraq. The NIC and the PICs face difficulties due to the lack of clear authority, absence of well-defined rules and regulations, and operational measures.

The NIC and PICs currently lack the necessary authoritative tools to effectively intervene when investors encounter bureaucratic hurdles and other difficulties with various Iraqi ministries and departments. Rather than assisting investors in overcoming these obstacles, the NIC and PICs often add further impediments, hindering the completion of investment projects. This contradicts the provisions set forth in Article 2 of the Investment Law, which obligates the NIC and PICs to support investors and provide them with the necessary facilities to encourage their work in Iraq. Furthermore, these actions run counter to the objectives outlined in Article 26 of the Commission, which emphasizes the government's commitment to attracting foreign investment across different sectors.

Investors in Iraq continue to face significant administrative challenges, corruption, and a weak banking sector, which greatly hampers the successful conclusion of investment deals. As previously mentioned, the banking system in Iraq is notably weak, with state-owned banks primarily focused on processing payroll for public sector employees, while privately owned banks have traditionally operated as currency exchange businesses. Although a small number of privately owned banks have recently initiated commercial lending programs, the lack of a robust credit monitoring system, insufficient legal guarantees for creditors, and limited connectivity to international banks severely impede commercial lending activities. Investors heavily rely on assistance from both local and international banks to secure financing for their projects. Unfortunately, the Iraqi government has not implemented any guidance or processes to facilitate banking services for investors. This absence of support further exacerbates the challenges faced by investors seeking financial resources to fund their projects. Moreover, the Iraqi government has failed to provide adequate infrastructure, which is a crucial enabling factor for smooth project implementation. Insufficient infrastructure greatly hinders the performance of investment projects, making it even more difficult for investors to achieve success.

Another disadvantage of the Investment Law is evident in Provision 29(1), which prohibits investments in the oil or gas sectors. This provision is perplexing, considering that the oil sector is a prime attraction for investors in Iraq. Iraq is renowned for its abundant oil production and reserves, and it would have been highly advantageous if the Iraqi lawmakers had allowed investors to participate in refining oil and gas to enhance production capabilities.³⁰⁵ Given that Iraq's hydrocarbon resources are among the least explored in comparison to major global producers, the International Energy Agency's prediction that Iraq alone will contribute around 46% of global oil production by 2035, accumulating approximately \$5 trillion, should serve as a clear signal to the Iraqi government. This vast opportunity underscores the potential for significant investment in

³⁰⁵ Vogler, G., 2017. Iraq and the Politics of Oil: An Insider's Perspective. University Press of Kansas.

energy infrastructure and extraction to fulfil the predictions set forth by the International Energy Agency.³⁰⁶

Investors seeking to invest in the banking system or insurance sector do not benefit from the exemptions and guarantees offered by the Investment Law. Instead, investments in these sectors fall under the jurisdiction of the Iraqi Banking Law number 4 of 2004. This distinction highlights a limitation in the Investment Law's applicability and its failure to encompass all sectors of the economy. Furthermore, Provision 10(Secondly)(J) of the Investment Law prohibits investments in areas of conflict, including Kirkuk and Salah Al Din. This prohibition has significant disadvantages for these provinces, as it restricts the government's ability to leverage the resources in those regions. It also hinders potential investment projects that could benefit the local citizens. Moreover, this restriction poses a disadvantage to investors who may be interested in investing in these provinces. From a constitutional perspective, this provision appears to contradict Article 25 of the Iraqi Constitution, which mandates that the government ensure the reformation of the Iraqi economy in accordance with modern economic principles. This includes fully utilizing the country's resources, diversifying revenue sources, and promoting the development of the private sector.

Additionally, investors in Iraq face numerous other challenges, with political instability and conflict being among the most significant. These factors create ambiguity and risks for investors operating in the country. There have been notable incidents, such as an attack on the Golden City company in its investment project in Dhi Qar Governorate on October 19, 2022, where an RPG and light ammunition were used.³⁰⁷ Furthermore, on September 10, 2022, the house of the director of one of the prominent investment companies in Dhi Qar Governorate was targeted with gunfire in Nasiriyah. The targeted company, Nour Al-Nazir Contracting Company, is a key player in the private sector and is engaged in a significant urban landscape project in Al-Haboubi Square worth

³⁰⁶ International Energy Agency., 2012. Iraq Energy Outlook, World Energy Outlook Special Report. Paris:

³⁰⁷ Nasnews.,2022. An investment company attacked with RPGs in Dhi Qar. [Online]. Available at: <https://www.nasnews.com/view.php?cat=95956> [Accessed 29 December 2022].

billions of Iraqi dinars.³⁰⁸ The recurrent attacks on investment companies and their directors in Iraq serve as a significant deterrent for potential investors considering investment opportunities in the country. These attacks send a negative signal and create an atmosphere of insecurity and risk, which can discourage both foreign and local investors from engaging in business activities in Iraq. Consequently, it is imperative for the Iraqi government to take decisive action to enhance security measures and protect investment companies and their employees from such attacks. By strengthening security forces and implementing comprehensive security strategies, the government can provide a safer environment for investors to operate and contribute to the country's economic growth.

Furthermore, Iraq faces substantial challenges in terms of limited infrastructure, which can pose significant obstacles for investors seeking to establish and operate their projects. The availability of basic services such as water, roads, and electricity are essential for the success and sustainability of investment ventures. However, the inadequate infrastructure in Iraq can make it difficult for investors to access these vital resources and services. This issue was exemplified by the case highlighted by the Iraqi Minister of Agriculture, where Saudi Arabian companies expressed interest in establishing cow-raising projects in Muthanna, Anbar, and Najaf Governorates. However, during negotiations, the Iraqi Ministry of Water Resources revealed its inability to provide sustainable water supply for the proposed projects. As a result, the Saudi Arabian companies were compelled to apologize and withdraw from the investment opportunity.³⁰⁹

The researcher had the opportunity to meet with Mr. Alaa Harba, a former head of the Babylon Investment Commission and a current senior advisor to the President of the National Investment Commission. Based on his extensive experience in the Investment Commission, he identified significant issues with

³⁰⁸ Hurianews.,2022. An attack on the house of the director of an investment company Southern Iraq. [Online]. Available at: <https://huria.news/2022/09/10/%D9%87%D8%AC%D9%88%D9%85-%D9%85%D8%B3%D9%84%D8%AD-%D8%B9%D9%84%D9%89-%> [Accessed 29 December 2022].

³⁰⁹ Russia Today Arabic., 2020. Saudi Arabian companies "apologies" on investing in Iraq. [Online]. Available at: <https://arabic.rt.com/business/1175947-%D8%A7%D9%84%D8%B4%D8%B1%D9%83%D8%A7%D8%AA-%D8%A7%D9%84%D8%B3> [Accessed 29 December 2022].

the Investment law and its implementation in Iraq. To address these problems effectively, it is crucial to consider the challenges faced by the technical departments within the Investment Commission and the difficulties encountered by investors during the implementation of their projects. By understanding these issues, a realistic approach can be developed to resolve the investment problems in Iraq. One of the most prominent issues facing investors today is the inefficiency of the One-Stop Shop, which is intended to streamline and facilitate the investment process for both domestic and foreign investors. The One- Stop Shop aims to provide a centralized service, offering a single point of contact and ensuring efficient and transparent procedures for establishing and operating businesses in the country. However, the current system's inability to deliver the services as intended has resulted in various problems for both investors and the Investment Commission. Delays in obtaining necessary approvals and licenses have occurred, hindering the investor's ability to commence operations.

Additionally, the Investment Law's provisions can be subject to flexible interpretations by different legal experts, leading to confusion for both investors and the Investment Commission. For instance, the Investment law specifies a 14-day period for the Investment Commission to approve a license. If this timeframe elapses without a decision, the law stipulates that the license is approved. This provision caused issues in a specific case involving a Basra company applying for a license to invest in oil derivatives. Approval for this project required personal authorization from the Minister of Oil. However, during that period, the Minister was unavailable due to travel, and the 14-day period expired. As a result, the investor was granted the license. Subsequently, when the request letter finally reached the Minister, it was discovered that the designated area for the license was situated on an oil reserve, rendering any construction on top of it illegal. This situation caused significant confusion and problems for both the investor and the Investment Commission, which had granted the license without full knowledge of the circumstances.

Despite the passage of several years since the adoption of the Investment Law in Iraq, it has failed to achieve its intended purpose of attracting both local and foreign investment to the country. Critics argue that the problem lies not only in the wording of the law itself, but also in its implementation, where officials often interpret the laws arbitrarily. This has resulted in the dispersion of investors

among numerous ministries and government institutions, causing confusion and inefficiency in the investment process. One of the key issues is the lack of adherence to the law by different departments within the Investment Commission. The One-Stop Shop Directorate, which is meant to facilitate the investor's interactions with various government departments, has fallen short of its intended role. Instead of acting as a central point of contact for investors, it often requires investors to personally navigate through different departments and ministries to complete necessary arrangements and transactions. This undermines the purpose of the Investment Law and diminishes its economic impact.

To address these challenges, the Iraqi Government can learn from the experience of other countries, such as Egypt, where representatives from each ministry are stationed at the headquarters of the Investment Commission. This allows for more effective follow-up on investors' matters and outstanding approvals or requirements, streamlining the process and reducing the burden on investors. Additionally, the inadequate infrastructure in Iraq, including the weak banking system and limited access to essential services such as water, electricity, and transportation, further deters potential investors. To attract foreign investment, it is crucial to draft the Investment Law in a manner that protects foreign investor interests while safeguarding the interests of the Iraqi government. This includes easing the facilitation of approvals and reducing bureaucratic hurdles. Furthermore, providing an official English translation of the Investment Law would alleviate confusion and enhance transparency for foreign investors, allowing them to better understand their rights and obligations under the law. Foreign investment not only brings much-needed capital into the country but also facilitates the transfer of advanced technology, modern management practices, and the training of Iraqi citizens, thereby creating new job opportunities. In light of these considerations, it is imperative for Iraq to undertake comprehensive reforms to the Investment Law and its implementation. By overcoming the issues outlined, streamlining the investment process, and improving the country's infrastructure, Iraq can create a more favourable investment environment, attracting both local and foreign investors and driving economic growth and development in the country.

3.5 Private Sector

The Iraqi economy has historically been dominated by the public sector; however, the private sector has played a significant role in the country's development.³¹⁰ In the 1920s, the private sector focused on industrial activities, particularly in grain mills, cotton production, and crafts industries. The government recognized the importance of industrial growth and took steps to support it. In 1927, a law was established to facilitate the industrial movement by removing customs duties on imported industrial machinery. Additionally, the Agricultural Industrial Bank was formed in 1935 to provide further support to the private sector. Unfortunately, the development of the private sector was curtailed when the government nationalized the economy in 1964. The political climate in Iraq during this period was characterized by instability, including the Iraqi-Iran war from 1980 to 1988 and the Iraqi invasion of Kuwait in 1990. These events had significant repercussions on the country's economy, particularly with the imposition of UN sanctions in 1991, which severely restricted imports and exports. The economic conditions in Iraq underwent further upheaval with the US invasion in 2003 and the subsequent occupation. The country faced significant challenges, including the rise of ISIS and their occupation of a third of the country in 2014.

The economic approach pursued by the Iraqi government after 2003 was aimed at transitioning towards a capitalist system and establishing a free market economy, where the private sector would play a prominent role. This involved restructuring the Iraqi economy on capitalist principles and granting the private sector greater influence. In accordance with Article 8 of the Companies Law, a private sector company is defined as one established through an agreement between two or more individuals, independent of the public sector, and utilizing private capital. Globally, the private sector is recognized as a vital component of national economies, operating independently of direct government control, and functioning to generate economic profits. The Iraqi Constitution, in Article 25, supports the development of the private sector and underscores its significance in the country's economic cycle. However, the successful engagement of the

³¹⁰ Smith, J., 2022. The Role of the Private Sector in Iraq's Economic Development. Middle East Economic Studies. pp 45-62.

private sector in delivering public services and infrastructure projects is heavily reliant on the quality of the national investment framework. It is crucial that legislation and administrative practices that directly impact private sector companies, their employees, and other stakeholders are clear, objective, and effectively enforced. Investors and the private sector are likely to be hesitant to invest capital at risk unless their rights, obligations, and responsibilities towards the public sector, the public, and other entities are clearly defined and enforced. This is particularly true in the infrastructure sector, where projects often involve significant scale and asset ownership, making it challenging for the private sector to disengage if necessary.

In Iraq, the state exerted a strong influence over the economy, particularly following the nationalization decisions implemented in the 1960s and 1970s. These nationalization efforts encompassed various productive sectors, including oil, industry, banking, insurance, petrochemicals, foreign trade, and contracting. However, it became evident that excessive state intervention in managing the economy and undertaking investment projects, ranging from minor to major, did not serve the interests of the development process. Nationalized establishments began to suffer from noticeable performance and productivity weaknesses, prompting the state to reassess their operations and address the challenges they faced. Consequently, there emerged a recognition of the need to involve the private sector in the development process. A series of decisions and measures were implemented to remove restrictions and barriers hindering the private sector's return to an active role in economic activity. These measures included the privatisation of ownership in poorly performing government companies and the privatisation of management in others.³¹¹ Amidst the profound structural changes that Iraq underwent, characterized by wars, political and economic crises, and the imposition of sanctions since the early 1990s, the Iraqi private sector managed to assert itself in the economic landscape. It assumed full responsibility for agricultural sector production, and its influence in other sectors grew.

³¹¹ Al-Ramahi, M.,2017. Privatisation in Iraq: Historical Development and Implications. International Journal of Economics and Financial Issues. pp 101-105.

In Iraq, the private sector's involvement in commercial and service-oriented activities, such as tourism, hotels, entertainment facilities, and transportation support services (excluding public services like electricity, water, and communications), has historically been limited.³¹² However, the war, occupation, and extensive destruction that Iraq experienced after 2003 necessitated a reassessment of the state's economic priorities. This situation compelled the public sector to assume an active and significant role in the reconstruction process, including the preparation of infrastructure and other essential elements to enable the private sector to operate efficiently. Unfortunately, since 2003, the private sector in Iraq has faced marginalization. Successive governments have struggled to establish rules, regulations, and policies that would foster the development and protection of the private sector's role in business operations and the provision of public services and infrastructure projects. According to data from the General Directorate of Industrial Development, nearly 80% of the recorded 30,000 private sector industrial projects, which employ over half a million individuals, are not operational.³¹³ The challenges faced by the private sector in Iraq are multifaceted, with many stemming from procedural complexities, bureaucratic hurdles, political instability, security concerns, outdated legislation, lack of regulatory bodies and enforcement mechanisms, limited access to financial services and investment credit, ambiguous and cumbersome business establishment and closure procedures, and a shortage of qualified personnel. Additionally, the private sector grapples with inadequate energy supply and infrastructure, pervasive corruption, and unfair competition from the public sector. These issues have rendered the private sector an ineffective player in the Iraqi economy, hindering GDP growth, economic diversification, and job creation. The high costs imposed on companies operating in Iraq further exacerbate the challenges faced by the private sector.

³¹² Al-Abdali, N., & Al-Abdali, M., 2015. Privatisation in Iraq: Challenges and Future Prospects. *International Journal of Academic Research in Accounting, Finance, and Management Sciences*. pp 100-111.

³¹³ Almaalomah., 2010. The mixed sector is calling for help, is there an answer?!. [ONLINE] Available at: <https://almaalomah.me/2019/02/21/390038/>. [Accessed 13 March 2022].

To revitalize the private sector and unlock its potential for economic development, it is crucial for the Iraqi government to address these obstacles. This entails streamlining bureaucratic procedures, enhancing political stability and security, modernizing legislation, establishing effective regulatory bodies, facilitating access to financial services and investment credit, simplifying business establishment processes, investing in energy infrastructure, combatting corruption, and ensuring fair competition between the public and private sectors. By mitigating these issues, Iraq can create an enabling environment that empowers the private sector to contribute significantly to economic growth, diversification, and job creation.

3.5.1 Privatisation

Privatisation in the economy represents a comprehensive transformation of economic activity, shifting it from the public sector to the private sector and reinforcing the role of private entities in owning and managing the means of production. It involves transferring the ownership and management of state-owned goods and services, previously operated by the public sector, to individuals, local private companies, and foreign entities.³¹⁴ It is important to differentiate between privatisation and investment. Investment entails adding new productive resources to existing assets within society through establishing new projects or expanding current ones. On the other hand, privatisation involves the transfer of public ownership, selling state-owned assets to private sector companies, and subsequently relying on the private sector to deliver services that were previously provided directly by the state. The process of privatisation can bring about several advantages for an economy. It introduces market dynamics, competition, and efficiency to sectors that were previously monopolized by the state. Privatisation can enhance productivity, encourage innovation, attract foreign investment, and stimulate economic growth. By transferring ownership and management responsibilities to the private sector, governments can focus on regulatory and oversight functions, creating a more conducive business environment and enabling the private sector to thrive.

³¹⁴ Alwan, A. A., & Lafta, R. K., 2013. Privatisation in Iraq: An Overview of the Current Situation and Future Challenges. *International Journal of Economics, Commerce, and Management*. pp 1-11.

Due to the Iraqi government's inability to effectively improve the delivery of basic services and develop efficient infrastructure, proponents of the private sector advocated for the privatisation of specific sectors. The private sector in Iraq previously played an active and highly successful role in the country's economy. Prior to 1958, the agriculture sector was predominantly managed by the private sector, and during the period between the establishment of modern-day Iraq and 1958, the private sector exerted significant control over Iraq's internal and external trade, while government involvement in this sector remained limited. The success of the private sector in Iraq can be largely attributed to the enactment of several laws aimed at regulating the country's economic cycle. For example, in 1923, the Customs Tariff Law was enacted, which provided various incentives and exemptions from customs duties, encouraging the private sector to import machinery and tools. This, in turn, resulted in the establishment of a robust mechanical industry in Iraq. In 1929, Law number (14) was enacted, which further encouraged the establishment of industrial projects. The enactment of the Customs Tax Law numbered (11) in 1933 and the establishment of the Agricultural and Industrial Bank of Iraq in 1936 aimed to support companies interested in investing in industrial and agricultural projects by providing loans.³¹⁵

The nationalization of Iraqi oil in the 1970s brought substantial financial returns to Iraq, which were subsequently reflected in the economy through government investments in extensive economic and social projects, infrastructure development, and the expansion of the manufacturing industries. The public sector thrived during this period. However, from 1968 until the end of the late Baath Regime in 2003, political agendas prevailed, leading to the decline of the economic cycle that the country had been able to build. The outbreak of the war with Iran from 1980-1988, followed by the invasion of Kuwait in 1990 and the resulting sanctions and economic blockade on Iraq, created economic, social, and political crises.³¹⁶

³¹⁵ Al-Dabbagh, S. A., & Majid, A. A.,2016. The Role of Privatisation in the Development of the Iraqi Economy: A Comparative Study. *Journal of Business and Economic Policy*. pp 29-40.

³¹⁶ Alwan, A. A., & Lafta, R. K.,2013. Privatisation in Iraq: An Overview of the Current Situation and Future Challenges. *International Journal of Economics, Commerce, and Management*. pp 1-11.

Following the nationalisation of oil, there was a notable expansion of the public industrial sector at the expense of the private industrial sector. However, the Iraqi government introduced Law Number 22 of 1973, known as the "Development and Regulation of Industrial Investment for the Private and Mixed Sectors," with the intention of promoting private sector investment. This law offered additional tax and customs exemptions to the private sector for importing machinery, equipment, and raw materials. Despite these efforts to encourage private sector investment, the war with Iran had a significant negative impact on the growth rates of the gross domestic product (GDP). Additionally, there was a decline in investment and saving rates, and a substantial increase in foreign debt, estimated at \$20 billion, which further impeded Iraq's economic development and resulted in an increase in the public budget deficit.³¹⁷

To address the crises and challenges faced by the public sector, the government took measures in 1987 to expand the role of the private sector. Law No. 64 of 1988 was enacted, granting Arab investors a wide range of tax and customs exemptions to incentivize their participation in development projects. Furthermore, Law No. 45 of 1989 aimed to encourage private sector involvement in trade. The Iraqi government pursued a strategy of removing various restrictions that had hindered the operations of the private sector. This strategy involved measures such as the release of the nominal capital of private companies through Resolution 132 of 1987, the provision of soft credit facilities, and the enactment of Law No. 46 of 1988, which granted Arab investors specific privileges, tax exemptions, and customs exemptions to encourage their contribution to development projects in sectors including agriculture, industry, services, tourism, construction, and others.³¹⁸ Law No. 52 of 1988 granted the private sector the right to import without external transfer, while Law No. 74 of 1988 exempted private projects from taxes and fees for a period of ten years.³¹⁹ Additionally, Law No. 45 of 1989 was enacted to stimulate increased private sector participation in

³¹⁷ Al-Najjar, R.,2016. Privatisation in Iraq: Problems and Prospects. *Journal of Business and Retail Management Research*. pp 156-162.

³¹⁸ Al-Dabbagh, S. A., & Majid, A. A.,2016. The Role of Privatisation in the Development of the Iraqi Economy: A Comparative Study. *Journal of Business and Economic Policy*. pp 29-40.

³¹⁹ Al-Dabbagh, S. A., & Majid, A. A.,2016. The Role of Privatisation in the Development of the Iraqi Economy: A Comparative Study. *Journal of Business and Economic Policy*. pp 29-40.

commercial activities and commercial agencies as part of the overall development process. The government also transformed public institutions engaged in economic activities into legally independent companies operating on a commercial basis across various sectors, such as agriculture, commerce, industry, services, and construction. This transformation aimed to foster competition between the private and public sectors in these aforementioned sectors.³²⁰

These measures were undertaken with the aim of revitalizing the private sector, attracting investments, and diversifying the economy. The intention was to strike a balance between the public and private sectors, and to leverage the capabilities of the private sector in driving economic growth and development in Iraq. However, those steps did not yield significant success, as government-owned companies, which relied on self-financing, encountered numerous financial problems and crises. These difficulties led to employee layoffs and early retirements, and in some cases, these companies were unable to pay their employees' salaries for several months, prompting protests demanding fair treatment and remuneration. The process of transferring ownership from the public sector to the private sector unfolded in two phases.

During the first phase, spanning from 1978 to 1990, a total of 76 industrial projects were transferred to the private sector.³²¹ Additionally, several non-strategic public sector projects, such as gas stations, car services, and government shopping centres, were sold to private entities. Furthermore, 16 mixed-sector companies were established during this period. As part of this privatisation drive, the management and operation of Sheraton hotels in Baghdad and Basra, as well as the tourist centre in Habbaniya, were also transferred to private hands.³²²

The second phase involved the transfer of partial ownership of certain projects belonging to the Ministry of Industry and Minerals. These projects were

³²⁰ Jumaah, A. A., & Al-Wardi, M. A., 2019. Privatisation in Iraq: A Review of Achievements, Challenges, and Lessons Learned. *Al-Qadisiyah Journal for Administrative and Economic Sciences*. pp 291-307.

³²¹ Matar, T., & Abed, S., 2020. Privatisation in Iraq: A Case Study of State-Owned Enterprises. *International Journal of Economics, Commerce, and Management*. pp 83-94.

³²² Hashim, R. H., & Al-Yassiri, Y., 2019. The Role of the Mixed Sector in the Iraqi Economy. *Al-Muhandis Journal*. pp 36-56.

transformed into joint-stock companies by the end of 1993.³²³ This phase aimed to further facilitate private sector participation and ownership in various sectors of the economy. Despite these efforts to transfer ownership and promote private sector involvement, the challenges faced by government-owned companies and the broader economic circumstances hindered the smooth progress of the privatisation initiative. The financial difficulties experienced by these companies, including delays in salary payments, adversely impacted employee morale and resulted in protests. Consequently, the success of the privatisation process was limited, and further measures were necessary to address the underlying issues and create an environment conducive to private sector growth and stability.

Following the overthrow of the Baath Regime in 2003, the CPA implemented various measures to promote private sector involvement in Iraq. One significant step was the drafting of the foreign investment law, known as Law Number 39 of 2003. This law allowed multinational corporations to operate in Iraq, particularly in the reconstruction efforts, and facilitated the establishment of private banks. Additionally, private foreign companies were invited to participate in foreign direct investment for Iraq's reconstruction.³²⁴ Numerous prominent local private companies entered contracts with government agencies and international organizations to contribute to the reconstruction initiatives in Iraq. However, the US invasion of Iraq had a profound impact on the functioning of public factories and public sector companies. Widespread looting and the subsequent instability greatly disrupted their operations. In September 2003, the Ministry of Industry and Minerals offered 35 of its factories for rent, and in March 2004, the Ministry proposed temporary partnerships to rehabilitate and modernize these factories, while also benefiting from the expertise of specialized foreign companies. These two approaches (renting and temporary partnerships) were introduced as novel methods for implementing privatisation in Iraq. The primary motivation behind involving the private sector was the poor efficiency and performance of the public sector, which yielded low returns on the capital invested in public sector enterprises. Additionally, Iraq's high level of debt and the economic blockade

³²³ Hashim, R. H., & Al-Yassiri, Y., 2019. The Role of the Mixed Sector in the Iraqi Economy. *Al-Muhandis Journal*, 16(2), 36-56.

³²⁴ U.S. Department of State., 2009. The Coalition Provisional Authority's Economic Initiatives in Iraq.

imposed on the country after its invasion of Kuwait led to a cessation of oil revenues. Iraq relied heavily on crude oil exports as its primary source of revenue and had failed to diversify its income sources. The government's lack of sound financial and monetary policies resulted in a significant devaluation of the Iraqi dinar and a sharp decline in its exchange rate against the US dollar.

The notable aspect gleaned from the Iraqi experience in privatisation is its early breakthrough that predates the global trend towards such economic reforms. This pioneering step was primarily propelled by the dominance of pure economic considerations, which took precedence over ideological and political factors that had previously influenced nationalization decisions. The impetus for this paradigm shift stemmed mainly from the inherent weaknesses of the public sector, which struggled to manage production and service facilities effectively and efficiently. Moreover, the prevailing arduous political and economic conditions necessitated the intervention of the private sector, gradually prompting the state to relinquish its erstwhile roles in numerous economic activities. The privatisation drive in Iraq reached its zenith after the US invasion in 2003. This period epitomized a clear-cut case of shock therapy, forcibly thrusting the nation into a distorted and corruption-riddled "market economy" due to external occupation and the destabilization of foundational structures of the state. Nonetheless, the move to empower private enterprises to assume leadership in economic management encounters substantial obstacles and predicaments for two primary reasons. Firstly, private companies tend to prioritize the pursuit of expeditious rentier profits, resulting in an unprecedented surge in price levels. As exemplified in Kurdistan, the cost of a kilowatt of electricity has soared to four times that of certain European countries. This underscored the imperative to strike a delicate balance between profit-driven motives and ensuring affordability and accessibility for consumers. Secondly, both domestic and foreign companies exhibit reluctance in investing significant capital within a country like Iraq, characterized by its classification as a failed state grappling with financial and administrative corruption as well as security instability. The prevailing atmosphere of chaos and absence of a conducive business environment dissuade potential investors, impeding the influx of substantial capital that could catalyse economic development.

Privatisation entails a multitude of negative consequences that manifest in diverse ways. One prominent outcome is the erosion of competition, particularly when state-owned public companies transform into monopolistic entities. This grants them the ability to inflate prices of goods and services to exorbitant levels, prioritizing swift profits at the expense of consumer. ³²⁵ Consequently, privatisation engenders a dearth of competitive market forces, impeding consumer choice and fair pricing mechanisms. Furthermore, the process of privatisation leads to workforce reductions within institutions and companies undergoing privatisation. This, in turn, triggers mass layoffs, exacerbates the problem of unemployment, and precipitates economic and financial crises, resulting in a deterioration of living conditions for affected individuals. Exploiting its substantial financial clout, close ties with the state, and the protection afforded by legislation, the private sector often resorts to exploiting workers within its institutions. This exploitation manifests through layoffs, wage reductions, and extended working hours, as companies prioritize their own financial gains over the well-being of their employees. ³²⁶

Another consequence of privatisation is the contraction of the economy under state control, coupled with the expansion of the private sector's dominion. This process weakens the role of the state in providing support and assistance to vulnerable segments of society, subjecting them to the whims of market forces. ³²⁷ As a case in point, the Ministry of Electricity's decision to privatize the collection of electricity fees in Iraq resulted in substantial financial gains. However, this privatisation project failed to bring about tangible improvements or advancements in the generation of electricity, thus leaving many Iraqis viewing it as a failed initiative.

Numerous members of the Iraqi Council of Representatives have vehemently opposed privatisation, expressing their concerns and reservations. Haybat Al Halboosi, the head of the Oil and Energy Committee, firmly stated that privatizing

³²⁵ Jenkins, G. P., & Kuo, M. C.,2018. Privatisation and public management reform: An international perspective. Routledge. (Chapter 7: Privatisation: Costs and Benefits)

³²⁶ Stiglitz, J. E.,2002. Globalization and its discontents. WW Norton & Company. (Chapter 6: Privatizing the World)

³²⁷ Stiglitz, J. E.,2002. Globalization and its discontents. WW Norton & Company. (Chapter 6: Privatizing the World)

any sector in Iraq poses significant dangers. He argued that such a move would involve selling the country's financial assets, agricultural land, and real estate to profit-driven private companies, who prioritize their own financial gains over the provision of quality services.³²⁸ Mazen Al Faily, another Member of the Council of Representatives, further emphasized the injustice of selling state buildings and lands, which the government has already invested billions of dollars in. He pointed out that Iraq is plagued by administrative and financial corruption within its government institutions, adding to the reasons why privatisation is seen as problematic. When members of the Iraqi public were asked about their opinions on privatisation, the majority expressed concerns about its negative impact on the Iraqi economy. They highlighted that when a public entity or project is privatized, the new private owners often terminate the employment of public sector employees, leaving them without benefits or incentives and exacerbating the already high unemployment rate in the country. According to the Iraqi Ministry of Planning, the unemployment rate stood at 14.19% in 2021, leading to widespread protests and road blockages by disgruntled graduates in major cities across Iraq.³²⁹ The newly elected Iraqi Government, led by Prime Minister Mohammad Al Soudani, faces immense pressure to address these issues. As a response, the government has promised in its 2023 budget to create over 850,000 new job opportunities in the public sector.³³⁰ These concerns raised by members of the Council of Representatives and the public demonstrate the apprehensions surrounding privatisation in Iraq. The potential negative consequences, such as job losses, further exacerbation of unemployment, and the exploitation of resources for private gain, underscore the need for careful

³²⁸ Independent Arabia. 2021. Privatisation and the sale of public assets faces opposition in Iraq. [ONLINE] Available at:

<https://www.independentarabia.com/node/189966/%D8%A7%D9%82%D8%AA%D8%B5%D8%A7%D8%AF/%D8%A7%D9%84%D8%A7%D9%82%D8%AA%D8%B5%D8%A7%D8%AF-%D8%A7%D9%84%D8%B9%D8%B1%D8%A8%D9%8A/%D8%AE%D8%B5%D8%AE%D8%B5%D8%A9-%D9%88%D8%A8%D9%8A%D8%B9-%D8%A7%D9%84%D9%85%D9%85%D8%AA%D9%84%D9%83%D8%A7%D8%AA-%D8%A7%D9%84%D8%B9%D8%A7%D9%85%D8%A9-%D9%8A%D9%88%D8%A7%D8%AC%D9%87%D8%A7%D9%86-%D9%85%D8%B9%D8%A7%D8%B1%D8%B6%D8%A9-%D9%81%D9%8A-%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82>. [Accessed 14 January 2023].

³²⁹ Anadolu Agency. 2021. Iraqi university graduates rally to demand jobs. [ONLINE] Available at: <https://www.aa.com.tr/en/middle-east/iraqi-university-graduates-rally-to-demand-jobs/2169709>. [Accessed 15 January 2023].

³³⁰ Anadolu Agency. 2021. Iraqi university graduates rally to demand jobs. [ONLINE] Available at: <https://www.aa.com.tr/en/middle-east/iraqi-university-graduates-rally-to-demand-jobs/2169709>. [Accessed 15 January 2023].

consideration and evaluation of the impact of privatisation on the broader society and the economy.

Infrastructure plays a crucial role in maintaining economic activity and supporting the success of various projects that rely on effective infrastructure systems. However, the Iraqi government's unsuccessful management, operation, and investment in service provision and infrastructure have created significant challenges. This situation is exacerbated by the increasing demand for infrastructure projects and services due to population growth, coupled with a decline in economic resources available to the government. Considering these circumstances, it is imperative for the Iraqi government to explore alternative approaches used globally to enhance its economic performance. A notable example can be found in the United Kingdom during the 1980s when privatisation measures were introduced. This policy led to prolonged confrontations between trade unions and the British government, led by Prime Minister Margaret Thatcher. In several instances, reactions against privatisation resulted in economic instability and, in some countries, even political turmoil.³³¹ Consequently, to address the negative repercussions associated with the implementation of privatisation as an economic transformation mechanism, a new and clearer approach emerged, granting the state broad powers to monitor and control economic development. Instead of outright selling public sector assets to the private sector, the concept of inter-sectoral cooperation gained prominence. This approach aims to complete strategic projects, particularly those related to infrastructure and services, benefiting both the public sector and citizens. It enables the development and provision of services while offering financial benefits to the private sector. Moreover, this approach contributes gradually to overall economic transformation.³³²

Partnership between the public and private sectors has garnered significant interest from governments, societies, and research centres worldwide since the

³³¹ Canning, H., & O'Mahony, M.,1997. Privatisation in the UK: Lessons from Experience. National Institute Economic Review. pp 113-124.

³³² Hart, D. M.,1995. Understanding the privatisation process: A political economy perspective. World Development. pp 1667-1676.

early 1990s.³³³ Partnership projects between the public and private sectors have proliferated globally since the 1990s for several reasons. One factor was the collapse of the Soviet Union, which prompted Eastern European countries, former Soviet states, and Russia to move away from absolute state ownership of production means. Governments began involving the private sector in various capacities to manage state affairs.³³⁴ Additionally, the escalating debt levels and increasing government budget deficits faced by many countries compelled them to seek mechanisms to reduce deficits without compromising investment in strategic projects.³³⁵ Public-private partnerships emerged as a solution to share the financial burden with the private sector while maintaining the state's investment capacity.

Importantly, the partnership arrangement between the public and private sectors does not entail the privatisation of resources or infrastructure, nor does it involve the state relinquishing ownership of modernized facilities. Instead, within the framework of partnership contracts, the private partner provides financing and expertise to construct new infrastructure or rehabilitate existing ones. Ownership of the infrastructure is typically transferred to the state at the project's completion, or the state retains ownership in accordance with the project contract's requirements. By adopting a partnership approach, the Iraqi government can harness the strengths of both the public and private sectors to address infrastructure challenges and enhance service delivery. However, effective planning, transparency, and robust governance mechanisms are essential to ensure that these partnerships serve the best interests of the country, its citizens, and the overall economy. Drawing on successful global models, Iraq can strike a balance that promotes efficient infrastructure development, safeguards public interests, and fosters sustainable economic growth.

³³³ Geddes, M.,2000. Partnership and the legacy of New Labour. Policy & Politics. pp 3-16.

³³⁴ Provan, K. G., & Kenis, P.,2008. Modes of network governance: Structure, management, and effectiveness. Journal of Public Administration Research and Theory. pp 229-252.

³³⁵ Osborne, S. P.,2010. The new public governance? Emerging perspectives on the theory and practice of public governance. Routledge.

Chapter 4 Partnerships and Their Role in Iraq's Development

4.1 Introduction

Research indicates that partnerships as a means of conducting commercial transactions have a rich historical legacy dating back to the 14th century BCE in Ancient Assyria, an area encompassing present-day Northern Iraq, Northeast Syria, Southeast Turkey, and Northwest Iran.³³⁶ During this period, partnerships were widely utilized by individuals seeking to accomplish transactions that surpassed the capabilities of a single person. Notably, when traders in the Assyrian colonies faced financial constraints for their investments, they would enter into commercial contracts with influential figures or rulers in Assur who provided the necessary financing.³³⁷ It is important to note that partnerships in Assyrian times were informal and lacked a legal framework to govern such arrangements, which resonates with the current situation in modern-day Iraq.³³⁸ Presently, the Iraqi Council of Representatives has not enacted specific legislation directly addressing partnership regulations. However, various enacted laws allude to the establishment of partnerships and serve as the basis for granting numerous partnership projects. The historical evidence of partnerships in Ancient Assyria provides valuable insights into the enduring significance and effectiveness of this collaborative approach in commercial transactions. Despite the absence of a formal legal framework, partnerships served as a practical solution for individuals seeking to pool resources, share risks, and pursue economic opportunities that exceeded their individual capacities.

³³⁶ Larsen, M., 1977. 'Partnerships in the Old Assyrian Trade' in *Iraq*. 1st ed. British Institute for the Study of Iraq: Cambridge University Press. pp 123

³³⁷ Larsen, M., 1977. 'Partnerships in the Old Assyrian Trade' in *Iraq*. 1st ed. British Institute for the Study of Iraq: Cambridge University Press. pp 124

³³⁸ Larsen, M., 1977. 'Partnerships in the Old Assyrian Trade' in *Iraq*. 1st ed. British Institute for the Study of Iraq: Cambridge University Press. pp 123

Partnership, as a concept, encompasses various dimensions of collaboration and togetherness. For the purpose of this dissertation, partnership is defined as a comprehensive framework of activities aimed at utilizing economic and social indicators to bolster the country's economy and elevate societal well-being. Within this context, partnership entails the implementation of a contractual agreement that brings together government agencies, private partners, or a combination thereof, to fulfil specific obligations related to the provision of public services or the execution of infrastructure projects. This contractual agreement encompasses crucial elements such as risk allocation and operational management.³³⁹ It is important to recognize that while partnership can be a valuable approach for delivering public services and undertaking infrastructure projects, it is not always the optimal solution. Consequently, government agencies responsible for entering partnership arrangements must exercise caution and engage in deliberate planning. They should thoroughly assess relevant factors and considerations while making necessary preparations and arrangements for partnership projects.³⁴⁰ Partnerships offer the potential for addressing complex challenges associated with service provision, infrastructure development, and the operation of critical government facilities. However, it is essential for government agencies to carefully evaluate and tailor partnerships to suit the specific requirements of each project. This involves adopting different types of partnerships that distribute risks and responsibilities in ways that align with project specifications.

The chronic inability of the Iraqi government to shoulder the burden of investment expenditures, primarily due to the escalating volume of the country's public debt, necessitates the implementation of specific measures to enhance liquidity and finance strategic projects. Iraq's infrastructure has suffered severely as a result of prolonged wars, while the provision of essential services has been hampered by years of sanctions and ineffective governance. The successive governments have demonstrated poor management of the substantial annual sums allocated to the country from oil revenues, leading to a failure in the development and

³³⁹ Grimsey, D., & Lewis, M. K., 2004. Public-private partnerships: The worldwide revolution in infrastructure provision and project finance. Edward Elgar Publishing.

³⁴⁰ Patrinos, H.A., Osorio, F.B. and Guâaqueta Juliana., 2009. Role and impact of public-private partnerships in Education. Washington DC: World Bank.

modernization of Iraq. Furthermore, the escalating number of public employees places a tremendous strain on the annual Iraqi budget, making it challenging for the government to secure funds for strategically important projects. This challenge is exacerbated by the government's heavy reliance on oil revenues to finance its expenditures. In 2021, the government's expenditure amounted to 84.2 trillion Iraqi Dinars, surpassing the expected oil revenue for the same year and accounting for approximately 65% of the government's total expenditure. While many governments worldwide resort to higher taxation to generate funds for vital projects, the Iraqi tax authorities have proven ineffective, resulting in the loss of significant revenue that could have been available to the government.³⁴¹

Moreover, Iraq's substantial internal debt, amounting to nearly \$50 billion, and foreign debt, amounting to approximately \$20 billion, coupled with stringent terms and conditions imposed by international financial institutions on these loans, pose challenges for the government in raising and servicing the loans along with their associated interest rates for critical projects in the country.³⁴² Therefore, the Iraqi government is compelled to explore alternative frameworks for developing the country's infrastructure and improving service delivery. It must address the pressing need for sustainable financing models that reduce dependency on oil revenues and explore avenues for attracting domestic and international investments. By diversifying funding sources, implementing effective tax reforms, and engaging in strategic partnerships, the government can overcome the liquidity crisis and fund essential projects that contribute to the development and growth of Iraq's infrastructure and public services.

4.2 Mixed Sector

The concept of a legally established partnership between the public and private sectors in Iraq emerged in the late 1930s through the introduction of mixed sector companies.³⁴³ Following Iraq's independence in 1932, the government sought to

³⁴¹ Ismail, W., 2009. *The Legal Problems Raised by the BOT Contracts*. Cairo: Dar Al-Nahzha Al- Arabia.

³⁴² Middle East Monitor. 2022. Iraq: \$20bn foreign debts, \$48bn internal debts. [ONLINE] Available at: <https://www.middleeastmonitor.com/20220409-iraq-20bn-foreign-debts-48bn-internal-debts/>. [Accessed 06 June 2022].

³⁴³ Al-Hayali, N. H., & Alshami, H., 2018. *The Mixed Sector in Iraq and Its Role in Economic Development*. International Journal of Economics, Commerce, and Management. pp 213-220.

reduce reliance on foreign companies and financial institutions for direct involvement in projects. Due to limited financial resources available to the private sector for implementing these projects, the government established the Agricultural Industrial Bank in 1935.³⁴⁴ The bank aimed to provide financing for agricultural and industrial projects in Iraq, catering to the needs of diverse agricultural and industrial businesses.

Recognizing the increasing need for investment and loans in both sectors, the government established a separate Industrial Bank in 1946 to focus on investments in the industrial sector. Through the Industrial Bank, a total of 20 mixed sector companies were established between 1946 and 1961. These companies had varying levels of financial contribution from the bank, ranging from 5% to 30%, while the private sector held majority shares and took charge of their operation and monetary contributions.³⁴⁵ Nonetheless, in 1963, the Iraqi government implemented a nationalization policy, resulting in the nationalization of all mixed sector companies except for four. As part of the government's economic policy, the bank established new mixed sector companies with increased capital investment, with the public sector holding a majority share of 72% to obtain operational rights.³⁴⁶ The status of mixed sector companies was formally addressed in Law number 103 of 1964, which amended the law regulating the status of certain companies and institutions. This law defined mixed sector companies as those in which the public sector contributes at least 51% of the capital. Over time, changes in Iraq's economic policies and the Companies Law led to alterations in the public sector's capital share in mixed sector companies. The requirement for public sector capital contribution was reduced to a minimum of 25%, allowing the private sector to hold majority shares and take operational control of these companies.

The state plays a crucial role as a partner and major contributor to the capital of mixed sector companies, which instils confidence in the partnership and

³⁴⁴ Hashim, R. H., & Al-Yassiri, Y.,2019. The Role of the Mixed Sector in the Iraqi Economy. *Al-Muhandis Journal*, 16(2), 36-56.

³⁴⁵ Al-Dujaili, M. S.,2018. The Role of the Industrial Bank in the Development of Industrial Investment in Iraq (1945-1959). *Journal of University of Babylon for Humanities*. pp 110-126.

³⁴⁶ Al-Hamdani, M. A.,2007. The Role of the Industrial Bank in the Development of Industry in Iraq (1945-1959). Unpublished master's thesis, University of Mosul, Iraq.

motivates the private sector and individuals to invest in their shares. The flexibility of the mixed sector, governed by its boards of directors, allows it to prioritize the production of quality and economically viable products. This sets it apart from the public sector, which often suffers from inefficiencies and lack of productivity due to excessive employee numbers, and the private sector, which may prioritize competition and profit over product quality and economic feasibility. The advantages of mixed sector companies are manifold. Firstly, their ownership is considered social ownership, enabling many individuals and citizens to invest in economic development and promote the public good. This not only helps the state develop and strengthen its industry and industrial research capabilities but also allows for the employment of a significant number of university and institute graduates, thereby addressing unemployment levels and fostering economic prosperity in the country.

The structure of social ownership further contributes to the production of superior-quality goods. Shareholders have a vested interest in monitoring and overseeing the activities of the companies, often holding positions on the board of directors. This collective influence ensures a focus on maintaining high standards and quality in the production process. Over the past four decades, mixed sector companies in Iraq have successfully manufactured a wide range of high-quality products, competing with international counterparts and catering to the needs of diverse segments, including citizens, industrialists, agriculturalists, and various sectors of the state. These products encompass a broad spectrum of items such as refrigerators, freezers, cookers, heaters, televisions, telephones, radios, computers, solar heaters, coolers, agricultural covers, plastic panels, construction materials, construction blocks, doors, iron pipes, office and home furniture, small and large digital switches for electricity, electric power units, various communication systems, renewable energy systems, computer software, and systems.³⁴⁷ The diversity of locally produced goods by mixed sector companies has contributed to the development of a specialized Iraqi workforce skilled in manufacturing, production, maintenance, and after-sales services. This

³⁴⁷ Mohamed, S., & Almaliky, A., 2017. Public-Private Partnerships in Iraq: Prospects and Challenges. *Journal of Construction in Developing Countries*. pp 35-51.

shift towards domestic production has reduced dependence on imports, benefiting the national economy.

The researcher had the privilege of meeting with His Excellency, the Iraqi Minister of Industry and Minerals, in Baghdad on February 20, 2022, to discuss the status of mixed sector companies in Iraq. At present, there are 15 mixed sector companies operating under the supervision of the Iraqi Ministry of Industry and Minerals.³⁴⁸ Nonetheless, these companies have faced significant challenges, including extensive damage and looting in the aftermath of the 2003 invasion and during the period of UN sanctions imposed on Iraq. These companies have also suffered substantial losses due to the exorbitant prices of imported raw materials, which have rendered their operations financially unsustainable. Consequently, a considerable number of these companies have been forced to liquidate their assets. The table below provides an overview of the number of mixed sector companies, the percentage of government shares, the company capital, and the operational status:

Number	Name of Company	Percentage of government shares	Company Capital in Iraqi Dinars	Is the company in operation or not?	Number of employees	Number of factories
1	Electronic Industries Co.	51%	18 billion	In operation but losing	211	7
2	Light industries Co.	51%	16 billion	In operation but losing	225	5

³⁴⁸ Assabah Newspaper. 2020. The rise of the mixed sector companies. [ONLINE] Available at: <https://alsabaah.iq/37414/نهوض-القطاع-المختلط>. [Accessed 24 January 2022]. (Arabic)

3	Al Hilal Industrial Co.	25%	12 billion	In operation	136	5
4	National Company for Chemical and Plastic Industries	58%	1.5 billion	In operation	160	8
5	National Metal Industries and Bicycles Co.	54%	500 million	In operation but losing	250	3
6	Modern Paints Manufacturing Co.	60%	7.5 billion	In operation	150	5
7	The Iraqi Carton Manufacturing and trading	60%	7.5 billion	In operation but losing	79	1
8	Iraqi Engineering Works Co.	34%	1.5 billion	Not in operation	16	2
9	Al-Kindi Company for the production of veterinary medicines and vaccines	29%	5.9 billion	In operation and not losing	118	1
10	Ready Made Clothes Co.	64%	1.5 billion	In operation and profitable company	37	1

11	Fallujah for Construction Materials Co.	25%	3 billion	In operation but losing	21	2
12	Modern Construction Materials Industry Co.	85%	5 billion	Not in operation	14	4
13	Al Khazer for Construction Materials Co.	25%	1 billion	Not in operation	24	7
14	Kirkuk Company for Producing Construction Materials	26%	744 million	Not in operation	2	9
15	National Household Furniture Industry Co.	25%	1.6 billion	In operation but losing	3	71

Figure 7: Statistics on the Mixed Sector companies

Number	Name of Company	Products company produces	Current company status
1	Electronic Industries Co.	Electronic products including mobile phones, TVs, radio, laptops, key boards home security gadgets etc.	Operating company with loses and paying employees' salaries in instalments with 20 billion Iraqi Dinar debt to other Iraqi government departments

2	Light industries Co.	Fridges, freezers, kitchen appliances and heaters.	Operating company with loses and paying employees' salaries with 30 billion Iraqi Dinar debt to other Iraqi government departments
3	Al Hilal Industrial Co.	Air-conditions, caravans, finished houses and welding wires etc.	Operating company paying employees' salaries in instalments with 13 billion Iraqi Dinar debt to other Iraqi government departments
4	National Company for Chemical and Plastic Industries	Sponges, agricultural covers, bags, crates, panels, leather,	Operating company without any debt of loans, and had settled their financial deficit in 2020
5	National Metal Industries and Bicycles Co.	Bicycles, metal tubes and furniture	Operating company with loses determined at 12 billion Iraqi Dinars and has difficulty in securing employee salaries
6	Modern Paints Manufacturing Co.	All paint types	Operating company with loses and has been banned from trading with due to a suspension note for not paying back a loan from the Industrial Bank worth 4 billion Iraqi Dinars
7	The Iraqi Carton Manufacturing and trading	All types of carton boxes	Operating company with loses paying employees' salaries with 5 billion Iraqi Dinar debt to the Industrial bank and pension fund
8	Iraqi Engineering Works Co.	Discs and filters	Company not operating and is in lose but remains to pay employees' salaries

9	Al-Kindi Company for the production of veterinary medicines and vaccines	Veterinary vaccines and medicines	Operating company with no loses and paying employees' salaries
10	Ready Made Clothes Co.	Military and civilian clothes	Profitable operating company that is paying employees' salaries
11	Fallujah for Construction Materials Co.	All types of tiles including mosaics	Losing company that is not in operation due to damages to the company factories during the ISIS invasion and until today no compensation was paid for the company
12	Modern Construction Materials Industry Co.	Tiles and hollow concrete blocks	Losing company that is not in operation due to damages to the company factories during the ISIS invasion and until today no compensation was paid for the company
13	Al Khazer for Construction Materials Co.	Manufacturing of and trading construction material and housing investment and general construction	Losing company that is not in operation due to damages to the company factories during the ISIS invasion and until today no compensation was paid for the company however still pays for its employees through its trading activities
14	Kirkuk Company for Producing Construction Materials	Different types of construction equipment	Losing company that is not in operation

15	National Household Furniture Industry Co.	Different home furniture	Losing company that is in operation however could barely pay its employees' salaries.
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Figure 8: Mixed Sector Companies current status

The provided statistics reveal a concerning reality within the mixed sector in Iraq. Out of the 15 companies examined, 5 are operating at a loss, 4 are operating without significant profit or loss, 5 are not operating at all, and only 1 company is profitable. These figures highlight the dire circumstances faced by the mixed sector, emphasizing the urgent need for sector-wide reform. It is worth acknowledging that the mixed sector was once a thriving industry, particularly during the war and siege periods of the 1980s and 1990s, where it played a crucial role in providing essential products and goods to the Iraqi market.

Several factors have contributed to the decline of the mixed sector. One key factor is the inability of these companies to modernize their production and assembly lines over the years. Consequently, they have struggled to compete with imported goods and equipment, which have come to dominate the Iraqi market. Compounded by cash flow issues, these companies have faced challenges in securing new loans from banks, as they have not settled their existing loan obligations. Furthermore, outstanding debts to tax authorities and pension funds have further strained their financial stability.³⁴⁹ The cost of raw materials for production has significantly increased due to the cumulative impact of wars and UN sanctions that Iraq has endured. Consequently, there has been a notable decline in quality, production capacity, and an increase in the cost of goods manufactured by the mixed sector. The unfortunate looting of production lines and equipment during the war has also exacerbated these challenges.³⁵⁰

The issue of inadequate electricity supply poses a significant setback not only for the mixed sector but also for all sectors of the Iraqi industry. Frequent power outages lasting up to 20 hours, and at times even total country-wide outages,

³⁴⁹ Naji, H.,2014. Public-Private Partnership in Iraq: Constraints and Prospects for Economic Development. International Journal of Public Administration. pp 889-898.

³⁵⁰ Al-Dujaili, M. S.,2017. The Challenges and Prospects of the Service Sector in Iraq. The Iraqi Journal for Mechanical and Material Engineering. pp 18-27.

have severely hampered manufacturing capabilities. To mitigate this, factories and production facilities have been forced to rely on costly generators for power generation.³⁵¹ Moreover, numerous mixed sector companies continue to face unpaid dues from state-owned companies in Iraq, particularly since 2003. This includes outstanding payments for services, equipment, products, and raw materials that were provided and delivered but remain unpaid.

The lack of protection for locally manufactured products, coupled with the influx of cheap and substandard imported goods from neighbouring countries, has further eroded the competitiveness of the mixed sector companies in the Iraqi market, exacerbating their current state of distress. One overarching issue affecting the entire Iraqi industrial sector is the absence of qualified banks operating in Iraq to support industry development.³⁵² The transformation of the Industrial Bank from a catalyst for the success of the mixed sector industry to a profit-driven commercial bank has hindered its ability to provide the necessary support to the industry, largely due to high loan interest rates. Combined with the aforementioned factors, this has resulted in many mixed sector companies suspending production due to a lack of financial liquidity.

The researcher held a meeting with Mr. Mohammad Dawood Taher, the head of the Mixed Sector and Private Sector Directorate in the Ministry of Industry and Minerals, to discuss recommendations for the revival of mixed sector companies. The following recommendations were put forth:

- 1) Provide financial support through long-term loans with low interest rates: Offering financial assistance to mixed sector companies in the form of favourable loans will help alleviate their financial burden and support their operations.

- 2) Grant tax and customs exemptions for imported raw materials: To facilitate the production cycles of mixed sector companies, it is recommended to

³⁵¹ Gebeily, M. 2022. Iraq's power cuts show privilege of staying cool in a heatwave | Reuters. [ONLINE] Available at: <https://www.reuters.com/article/climate-change-iraq-temperature-idUSL5N2OH2LG>. [Accessed 01 March 2022].

³⁵² Ali, J. A., & Al-Zubaidi, A. S., 2017. Determinants of Bank Loans in Iraq. *Banks and Bank Systems*. pp 18-26.

exempt them from taxes and customs duties on imported raw materials that are essential for their manufacturing processes.

- 3) Ensure uninterrupted electricity supply: To bolster national manufacturing efforts, it is crucial to provide uninterrupted electricity to factories and assembly lines owned and operated by mixed sector companies during official working hours. Additionally, offering discounted electricity prices will further support their production capabilities.
- 4) Review imported goods and incentivize local manufacturing: Conducting a comprehensive assessment of imported goods and incentivizing domestic production can stimulate the growth of the mixed sector. This can be achieved by imposing customs duties on imported items that are also manufactured within Iraq.
- 5) Compensate companies for war-related damages: Mixed sector companies that suffered looting and damage to their factories and equipment during the 2003 war should be compensated for their losses. Despite reporting the extent of damage sustained, these companies have not yet received any compensation.
- 6) Establish a development bank for funding projects and procuring technology: The establishment of a dedicated development bank can provide financial support to mixed sector companies for procuring new assembly lines and transferring technology from abroad. This will enhance their production capabilities and competitiveness.
- 7) Review and update relevant laws: A comprehensive review and update of laws related to the operation of mixed sector companies, particularly the Manufacturing Investment Law for the Private and Mixed Sectors (Law No. 20 of 1998), is essential. It is important to address issues such as the timeline for tax and customs exemptions, as currently, many mixed sector companies do not benefit from these exemptions due to the time of their establishment.

- 8) Provide government incentives for exports: Offering government incentives for mixed sector companies to export their goods and products internationally will expand their market reach and increase their competitiveness.
- 9) Include mixed sector companies in the national budget: Considering the government's shares in mixed sector companies, it is recommended to include them in the national budget. This would ensure that these companies receive an annual budget allocation from the Iraqi Ministry of Finance, supporting their operations and growth.
- 10) Review laws and regulations affecting mixed sector companies: It is crucial to conduct a comprehensive review of all laws and regulations that directly impact the operation of mixed sector companies. This will enable the identification of any outdated or restrictive provisions that hinder their growth and competitiveness.

The transformation of the Iraqi economy from its agricultural focus during the establishment of the Kingdom of Iraq to an urban society with industrial aspects under Republican Iraq marked a shift towards developing a productive mixed and public sector. The government aimed to harness the available capabilities and establish an effective partnership with the private sector. This transformative process began with the importation and operation of 17 large factories, which supplied the private sector with raw materials and semi-manufactured goods, reducing the reliance on imports.³⁵³ This approach laid the foundation for collaboration and partnership between different national productive sectors in Iraq. However, the role of the mixed sector was diminished in 1964 when the government implemented a nationalization policy, leading to the state ownership of previously successful and productive mixed sector companies and factories. Consequently, the effectiveness of these industries was significantly reduced.

³⁵³ Hassan, A.,2015. Public-Private Partnership in the Development of Infrastructure Projects in Iraq. International Journal of Public Administration.

While some mixed sector companies still exist today, their role in the economy has diminished over time. Implementing the recommendations could serve as a steppingstone for the Iraqi government to revive the mixed sector. By doing so, the government can restore the sector to its former prominence, capable of providing a diverse range of products and materials for the public's benefit. This revival would contribute to the overall economic growth and development of Iraq, fostering cooperation between sectors and strengthening the country's industrial landscape.

4.3 Public-Private Partnerships

The partnership between the public and private sectors has evolved into a significant framework that enables governments to finance infrastructure projects in their countries without exerting a significant impact on the government budget and expenditure.³⁵⁴ This partnership also allows the government to shift its focus from operating infrastructure and public services to setting policies and strategies for the infrastructure sector, while monitoring and upgrading service providers.³⁵⁵ Public-private partnerships aim to leverage the administrative, technical, and financial capabilities of the private sector, involving it in taking risks and delivering assets and services that were traditionally provided directly by the public sector.³⁵⁶ These contractual arrangements involve various forms of outsourcing, management transfer, or decision-making sharing, granting the private sector a more substantial role in planning, financing, designing, constructing, operating, and maintaining public services.

The partnership between the public and private sectors helps alleviate the financial burden on the state's budget and facilitates sustainable growth in the private sector. This, in turn, leads to the expansion of the labour market and the creation of continuous and sustainable job opportunities. Public-private partnerships have become a common approach for developing significant

³⁵⁴ Levy, D.,1996 Bot and Public Procurement: A Conceptual Framework. Indiana International & Comparative Law Review. pp 100

³⁵⁵ Mahmoud, W., 2010. The Build, Operate and Transfer Contracts. Amman: House of Culture for Publishing and Distribution. pp36

³⁵⁶ OECD.,2012. Public-Private Partnerships: In Pursuit of Risk Sharing and Value for Money. OECD Publishing.

infrastructure projects, demonstrating a higher level of private sector involvement compared to traditional procurement methods.³⁵⁷ The objective is to enhance the project's efficiency and effectiveness throughout its lifecycle, from development to the operational phase. However, it is crucial to note that the public sector's role and involvement in public-private partnership contracts should be most extensive during the project's preliminary and planning phases. As the project progresses, the government's role gradually shifts to that of monitoring and regulatory oversight, while the private partner's role expands.³⁵⁸ Public-private partnerships also enable the cost of a project to be spread out over a longer period, freeing up public funding for investments in sectors where private involvement is impractical or inappropriate. It is important to use public-private partnerships as a means of delivering successful and cost-effective projects and related services, rather than solely addressing public-sector budget or financing deficits. Furthermore, it is essential to distinguish public-private partnerships from private sector acquisition or operation of public infrastructure without significant investments or rehabilitation and modernization. Similarly, any private sector involvement in infrastructure projects without fixed asset investment (excluding financing) should be considered outsourcing rather than a true public-private partnership.³⁵⁹

A public-private partnership project involves complex contractual arrangements among stakeholders that formally address and allocate risks, responsibilities, and financial benefits. The fundamental purpose of creating such partnerships is to leverage the distinctive characteristics and capabilities of both the public and private sectors, enabling them to add value to service and project delivery. A successful partnership arrangement should capitalize on the strengths of each sector and establish a harmonious association. From the perspective of the public sector, the government faces constant pressure to enhance the delivery of effective public services to the Iraqi population. Additionally, the Iraqi government is tasked with promoting economic growth, development, and improving social

³⁵⁷ Hodge, G. A., & Greve, C., 2017. Public-Private Partnerships: Policy and Governance Challenges Facing Infrastructure Development. *Public Administration Review*. pp 380-390.

³⁵⁸ Grimsey, D., & Lewis, M. K., 2004. *Public Private Partnerships: The Worldwide Revolution in Infrastructure Provision and Project Finance*. Edward Elgar Publishing.

³⁵⁹ Yescombe, E. R., 2007. *Public-Private Partnerships: Principles of Policy and Finance*. Butterworth-Heinemann.

well-being. By sharing these responsibilities with the private sector, which possesses expertise in managing and operating large-scale infrastructure projects and services, the government can benefit from the potential positive outcomes achieved through projects such as water, railroads, transportation, energy, roads, bridges, and agriculture, thereby fostering national economic development. On the other hand, the private sector engages in such projects primarily driven by profit-seeking motives. The private sector benefits from the exemptions and incentives granted by the government and shares the project risks with the public sector partner, thereby enabling foreign private sector companies to access new markets. Although a significant portion of risk is transferred to the private sector partner, the government ultimately remains responsible to the Iraqi citizens for providing services. For instance, if the private sector partner goes into liquidation, only the government is held accountable for ensuring the provision of services to the citizens. Therefore, it is important for the government to understand that while contractual risks may be transferred to the private sector partner, the government is ultimately responsible if the private sector fails to successfully deliver the adequate service or infrastructure project to the public.³⁶⁰

4.3.1 Public-private partnerships in Malaysia

Public-private partnerships have played a pivotal role in fostering growth and facilitating economic development in Malaysia. This concept was initially introduced in the 1980s with the aim of promoting collaboration between the public and private sectors to undertake complex and expansive infrastructure projects.³⁶¹ To date, Malaysia has successfully implemented over 600 public-private partnership projects valued at \$53.718 billion. These projects have spanned various sectors, including healthcare, water, education,

³⁶⁰ OECD.,2008. Public-Private Partnerships: In Pursuit of Risk Sharing and Value for Money. OECD Publishing.

³⁶¹ Abdul Rahman, I.,2015. Malaysian Experience in Implementing Public-Private Partnership (PPP) Projects. In Proceedings of the 3rd International Conference on Management, Leadership and Governance (ICMLG) pp 8-15.

telecommunication, and transportation, with a particular emphasis on power plants and road networks.³⁶²

By leveraging the expertise and resources of both the public and private sectors, Malaysia has been able to achieve significant advancements in its infrastructure development. Public-private partnerships have provided a framework for effective collaboration, enabling the government to tap into the innovative capabilities and efficiency of the private sector while leveraging public resources and regulatory oversight to ensure the public interest is safeguarded. These partnerships have resulted in the successful completion of numerous projects that have had a transformative impact on Malaysia's economic landscape. The investments made in healthcare infrastructure have improved access to quality healthcare services for the population, while investments in the water sector have enhanced water supply and management systems. In the education sector, public-private partnerships have led to the establishment of modern educational facilities and improved educational outcomes. Additionally, these partnerships have supported the development of robust telecommunication networks and efficient transportation systems, facilitating connectivity and driving economic productivity.

In Malaysia, although there is no dedicated legal framework specifically governing public-private partnerships, the procurement laws outlined in the Financial Procedure Act of 1957, along with relevant guidelines and instructions released by the Malaysian government, serve as the basis for regulating these partnerships. The establishment of the Public-Private Partnership Unit (UKAS) in 2009 has played a crucial role in facilitating the success of public-private partnerships in the country.³⁶³ Operating under the authority of the Prime Minister, UKAS serves as a central coordinating agency and has released several reports and policy papers providing guidelines for implementing public-private

³⁶² Abdul Aziz, A. R., Mohd Salleh, N. A., & Mohamed, Z., 2018. Public-Private Partnership (PPP) in Malaysia: An Analysis of Challenges and Success Factors. *International Journal of Business and Society*. pp87-104.

³⁶³ Ibrahim, Y., 2012. Public-Private Partnership (PPP) in Malaysia: A Case Study. *Procedia-Social and Behavioral Sciences*. pp 698-707.

partnership projects in Malaysia. These guidelines establish a general framework and methodology for executing such projects.³⁶⁴

To initiate a public-private partnership project in Malaysia, the project proposal must first be submitted to the relevant ministry or department for feasibility assessment. If the proposal proves viable, it is then reviewed by the Public-Private Partnership Committee (JKAS) in Malaysia. Upon approval by JKAS, the proposal, along with JKAS's recommendations, is forwarded to the Malaysian Cabinet for initial approval.³⁶⁵ Once approved, the relevant ministry or department initiates the tendering process, evaluating all submitted bids and recommending the preferred bidder to JKAS for endorsement. Subsequently, the relevant ministry or department finalizes all contractual agreements in consultation with the Cabinet, culminating in the signing of the contract to commence the public-private partnership project. However, challenges have surfaced during the implementation of public-private partnership projects in Malaysia. In certain cases, the contracts have placed a disproportionate amount of risk on the private sector compared to the public sector, even when it is evident that the government is better positioned to manage such risks. For example, in waste-to-energy project contracts, the Malaysian government did not guarantee the quantity and consistency of waste supply. Instead, the private sector concession company assumed the risk of potential waste shortages and variations in waste composition.³⁶⁶

The reluctance of the government to share project risks in partnership projects can create apprehension among lenders and financiers, as they become wary of assuming risks that are beyond their control. This is particularly true when such circumstances introduce uncertainty into revenue streams. Consequently, the success of projects relies heavily on the collaboration and understanding between the private and public sectors, aiming to maximize project benefits for

³⁶⁴ Abdul Rahman, I.,2015. Malaysian Experience in Implementing Public-Private Partnership (PPP) Projects. In Proceedings of the 3rd International Conference on Management, Leadership and Governance (ICMLG) pp 8-15.

³⁶⁵ Abdul Rahman, I.,2015. Malaysian Experience in Implementing Public-Private Partnership (PPP) Projects. In Proceedings of the 3rd International Conference on Management, Leadership and Governance (ICMLG) pp. 8-15.

³⁶⁶ Ibrahim, Y.,2012. Public-Private Partnership (PPP) in Malaysia: A Case Study. Procedia-Social and Behavioral Sciences, 50, pp 698-707.

end-users while ensuring satisfactory returns for the private sector. Moreover, the presence of bureaucratic processes and administrative obstacles among various government authorities has added complexity to these projects. Lengthy procedures for obtaining licenses and authorizations from government departments have posed significant risks in achieving timely financial closure according to contractual obligations. To mitigate these challenges, it is highly recommended to streamline approvals and coordination at the national level. This approach would expedite procedures and optimize the delivery of services.

By fostering cooperation, effective risk-sharing mechanisms, and streamlined administrative processes, both the public and private sectors can work together to create an environment conducive to the successful implementation of partnership projects. This would not only enhance project outcomes and attract private investment but also contribute to the overall growth and development of the Malaysian economy.

4.3.2 Regulatory framework in Iraq for public-private partnerships

To formalize partnerships between the public and private sectors in Iraq, the Public Companies Law No. 22 of 1997, Article 15, allowed Iraqi public sector companies to collaborate with Arab and foreign companies and institutions for project execution within Iraq. However, this law solely permits partnerships between the public and private sectors without providing specific regulations for structuring such partnerships differently from regular companies established in Iraq. Consequently, participants in these arrangements have the freedom to regulate their activities through contractual agreements, leading to several challenges in project implementation. Another criticism directed at Public Companies Law No. 22 of 1997 is that it allows partnerships between the Iraqi public sector and Arab and foreign companies and institutions, without explicitly mentioning partnerships with the Iraqi private sector. This has led to different interpretations, suggesting that partnerships between the Iraqi public and private sectors are not allowed unless structured as mixed-sector companies. However, the public sector utilizes Article 15 of the law to enter partnerships with the private sector. Consequently, Iraqi ministries, commissions, and departments are excluded from forming partnerships, limiting the ability of government entities to engage in such arrangements. This limitation further hampers the success of

proposed partnerships, as each partner must be well-developed and possess expertise and knowledge to contribute value to the partnership.

As previously stated, public sector companies in Iraq are struggling and largely unprofitable, with only 28 percent reporting profitability. Therefore, public-private partnerships involving the public sector in Iraq, under the current legal framework, are prone to failure. The existing law permits only under-capacity public sector partners, increasing the likelihood of unsuccessful partnerships. Consequently, it is essential to focus on reforming the current legislation, particularly Article 15 of Public Companies Law No. 22 of 1997, to enable all government entities in Iraq, including ministries, commissions, departments not affiliated with any ministry, and parliament, to enter partnership arrangements.

In August 2019, the Iraqi Council of Ministers approved a draft public-private partnership law. However, the law was deemed inadequate as it failed to address several crucial issues that the researcher considers integral to its effectiveness. The researcher obtained the draft law from the Head of the Legal Directorate of the Iraqi Ministry of Industry and Minerals, following its approval by the Iraqi State Council and subsequent review by various ministries. However, the law's implementation was delayed due to protests and civil unrest in Iraq in October 2019, which shifted the Council of Ministers' priorities.

On November 19, 2022, the current Iraqi Council of Representatives scheduled the second reading of the public-private partnership law. Upon reviewing the law, the researcher identified numerous significant provisions that were missing. As a result, the researcher reached out to prominent Council of Representatives member, Mrs. Alia Naseef, who is also a lawyer and had been a student of the researcher's grandfather. They discussed the flaws of the draft law together. Leveraging her influence as a Council of Representatives member, Mrs. Alia Naseef was able to garner support from several other Council of Ministers members. They collectively signed a letter requesting the Head of the Council of Ministers to postpone the second reading to allow for further consideration of their comments (a copy of the signed letter is included in Figure 9 below). During the Council of Representatives session on November 19, 2022, Mrs. Alia Naseef expressed her concerns regarding the draft public-private partnership law presented by the government. She emphasized that the current Iraqi state and

its public entities and companies are weak. Mrs. Alia also advocated for the removal of provisions allowing the sale of Iraqi assets and land to foreign investors. Instead, she proposed that partnership projects in Iraq should stipulate the transfer of land ownership back to the state upon completion of the project and contract period. Furthermore, Mrs. Alia highlighted the weaknesses of the Iraqi state in arbitration and its local courts, as well as the deficiencies of Iraqi government entities in negotiating and constructing robust contracts with international entities and companies.

In light of these concerns, the researcher recommends that the Iraqi government engage the services of international consultants, similar to the practices of the Development Board 70 years ago, to benefit from their planning expertise and legal capabilities in drafting strong contracts that safeguard the state's rights. This approach would help address the identified shortcomings and strengthen the overall framework for public-private partnerships in Iraq.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

السيد سيب محمد النواب المحترم

ع / اعتذار

استناداً الى المادة ١٤٥ من النظام الداخلي المتعلقة
باعتذار من على لقانون من حيث المبدأ بعرضه من قبل
النواب بالقبول او الرفض والمتعلقة بعرض
قانون الترتيبات القلمية العام والخاص
لكونه القانون حتمياً الراسخ في حاليه
وتكونه دليلاً على الابهت والضعف عند
والدخول بالتعليم لزيد فطلب اعاد
الكلوم لدراسة ذاتها فتمت
وقعتنا

- ١- عاليه رقيب هاجم
 - ٢- النائب د. لينا دربرها المحيي
 - ٣- النائب ميان دهن
 - ٤- النائب د. سعاد لولائي
 - ٥- النائب منصور
 - ٦- النائب احمد ابو الهيثم
- النائب / عاليه
النائب خالد الخزعلي
عاليه
عاليه
عاليه

- ١- النائب محمد الطيب
 - ٢- النائب موهان لاسا
 - ٣- النائب عبد العباس
 - ٤- النائب رهنماي
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- اعادته للحكم من
اصوات طائفة
اعادته للحكومة
التقاع من
اعادته للحكم من
الكلوم وكالة

- 3) Efficiency and Speed: The private partner should be capable of executing services or projects in a faster and more effective manner compared to the government.
- 4) Market Demand: The project should have a significant user base or market demand that motivates private partners to engage in the partnership.
- 5) Competition: The presence of competition among partners can lead to cost reductions and improved service quality in the provision of public services.
- 6) Regulatory Environment: The absence of regulatory or legislative obstacles that restrict private sector participation in service provision or project implementation is crucial.
- 7) Measurable Outputs: The outputs of the service should be easily measurable and quantifiable, allowing for effective evaluation and pricing.
- 8) Cost Recovery: The cost and expenses of the service should be recoverable through user fees in a timely manner.
- 9) Innovation and Technology: Private sector participation in services can foster innovation, technological advancements, and modernization in the services being provided.
- 10) Economic and Financial Growth: Partnerships should create opportunities that contribute to economic and financial growth.

Considering these conditions and criteria, public-private partnerships can be applied effectively to complex projects that involve critical infrastructure or service provision. It is essential to carefully evaluate project suitability and ensure alignment with the outlined criteria to achieve successful outcomes and maximize the benefits for all stakeholders involved.

Furthermore, the NIC and the PICs in Iraq have faced significant criticism for granting investment licenses and allocating valuable government land to projects that are less essential, such as supermarkets, malls, and large stores.

Many private sector entities in Iraq take advantage of the benefits provided by the Investment Law, such as tax exemptions and access to government land, for projects that do not contribute significantly to the Iraqi economy. As a result, the Iraqi government is losing substantial amounts of revenue by granting licenses for such projects. Considering these concerns, it is crucial for the government to conduct thorough and extensive studies to understand the needs and requirements of the citizens. It is essential to align the project criteria with the social benefits and prioritize projects that will have a positive impact on the Iraqi economy. This careful evaluation should be conducted before deciding to implement a project using the partnership framework. By doing so, the government can ensure that the projects chosen for partnerships are of utmost importance and will effectively contribute to the well-being of the citizens and the overall development of Iraq.

4.3.4 Life cycle of public-private partnership projects

A partnership project involves a series of activities and decisions that follow a sequential framework, considering the conditions of the time, spatial factors, and the work environment. During the initial phase of each project, the responsibility lies with the public sector partner, who assesses the project's needs, requirements, and associated risks. The government then determines the most suitable procurement approach to implement the project, deciding whether it aligns with the public procurement framework or the public-private partnership framework.³⁶⁸

To differentiate and compare project costs between the regular public procurement procedure and various public-private partnership frameworks, a tool called the public sector comparator (PSC) has been developed.³⁶⁹ The PSC aims to assess which procurement method offers better value for money and risk distribution. If the PSC analysis indicates that the project would be more effectively financed and operated by the private sector, with high risks that can be transferred from the government to the private sector partner, it is generally

³⁶⁸ Andrews, M., & Entwistle, T., 2010. *Public-Private Partnerships: Theory and Practice in International Perspective*. Routledge.

³⁶⁹ Oliveira, C. and Cunha, R., 2013. *Infrastructure Public-Private Partnerships*. Springer Science & Business Media. pp 152

recommended that the government proceed with implementing the project through the public-private partnership framework. In conducting a comprehensive assessment, the government must evaluate the projected costs, including the costs associated with risks, throughout the entire lifespan of the project. The PSC considers not only financial costs but also societal benefits and conducts an operational review based on risk allocation, quality requirements, and quantity requirements. However, it is often criticized that the public sector fails to include various project costs in the evaluation, which compromises the effectiveness of the PSC assessment.³⁷⁰

This below stages serve as a guide to assist government agencies in evaluating the frameworks and conditions of the partnership environment to be implemented. It is important to note that not all partnership projects need to follow the exact same life cycle outlined below:

- 1) Initiation stage: This stage focuses on determining the feasibility of applying the partnership framework and exploring the different types of partnerships available.
- 2) Analysis stage: During this stage, a thorough feasibility study and risk analysis are conducted to assess the viability of the project and distribute risks accordingly.
- 3) Request stage: This stage involves the process of requesting information and proposals for the project from potential partners.
- 4) Private partner stage: In this stage, negotiations take place with potential private partners, including discussions on financing, evaluation, and selecting the most suitable partner for the partnership project.

³⁷⁰ Oliveira, C. and Cunha, R., 2013. Infrastructure Public-Private Partnerships. Springer Science & Business Media.

- 5) Contract management stage: This stage involves the signing of contracts, determining service levels, taxes, and profits, and establishing arrangements that benefit both parties involved. This stage also includes monitoring and evaluating key performance indicators.
- 6) Project management stage: This stage focuses on project implementation, risk management, and the overall management of project operations. It involves managing interrelated project relationships and networks.
- 7) Review or audit stage: During this stage, auditors are identified, and their responsibilities are defined. Reviews and audits are conducted, and reports are published to assess the progress and performance of the project.
- 8) Administrative review stage: This stage involves implementing corrective measures and closely monitoring their effectiveness until project closure.
- 9) Closing stage: In the closing stage, the contract is terminated, and a comprehensive analysis is conducted to identify lessons learned. Errors that occurred during the project life cycle are documented and studied to ensure they are not repeated in future projects.

4.3.5 Different types of partnerships

Partnership contracts are highly variable and depend on the specific conditions and nature of each project. They consider factors such as the duration of the partnership and allocate risks, resources, and participation between the partners. Partnership projects can range from scenarios where the private sector plays a dominant role to situations where the public sector takes the lead.³⁷¹ One commonly used type of partnership contract is the concession contract. In this arrangement, the private sector partner assumes either full or partial

³⁷¹ UNESCAP.,2017. Public-Private Partnership Models: A Comparative Overview. United Nations Economic and Social Commission for Asia and the Pacific.

management of services, including operational, developmental, and reclamation aspects. The private sector partner is responsible for covering all implementation and operating expenses, as well as capital expenditures. At the end of the project period, all project assets are returned to the government agency, and project revenues and risks are distributed according to the terms outlined in the concession contract. In most cases, the private sector partner assumes most of the risks associated with the project.³⁷² Concession contracts often involve the private sector partner taking over an existing infrastructure/service asset or constructing a new facility while the ownership of the asset remains with the state. The private sector partner can recover their costs and generate profits by imposing user fees over the duration of the concession contract. These fees may be subject to change according to a predetermined schedule agreed upon by the partners.³⁷³ The key advantage of concession contracts is that they enable the public sector to transfer the risk and operation of critical service or infrastructure projects to the more capable private sector. The private sector partner assumes responsibility for construction, expansion, modernization, and maintenance costs of the project. Depending on the purpose of the concession project, partners may engage in public works concessions, which involve the construction and management of a new facility for a specified period, or service concession contracts, which involve the management of a publicly provided service and facility.

Service contracts are another type of partnership that focuses on the operational aspects of specific projects or services. In service contracts, the government grants rights to the private sector to manage various aspects of the project, such as service fee collection, equipment and vehicle maintenance, and the reclamation and maintenance of facilities. Management contracts are focused on the operational aspects of a project, granting the private sector the rights and responsibilities for the operation, maintenance, provision of specific services, and development of the project. The private sector partner assumes all operating

³⁷² Estache, A., & Gomez-Lobo, A.,2005. Concession contracts for private sector involvement in infrastructure: Some efficient and inefficient outcomes. World Bank Policy Research Working Paper Series.

³⁷³ Engel, E., Fischer, R., & Galetovic, A.,2014. The basic public finance of public-private partnerships. Journal of the European Economic Association. pp 767-805.

expenses and capital expenditures associated with the project. In contrast to service contracts, management contracts require the private sector partner to bear the commercial and operational risks of the project, while the government retains ownership of all project assets. The private sector partner is compensated with a fixed sum, which is often linked to the efficiency and quality of the service provided.³⁷⁴

Lease contracts, on the other hand, allow the private sector to rent government assets for the purpose of operating and maintaining them. The private sector partner takes on all commercial risks associated with the operation, while the ownership of the assets remains with the state. In lease contracts, the government has the authority to determine the type of investment to be implemented using its assets.³⁷⁵

³⁷⁴ UNESCAP.,2016. Management Contracts: A Comparative Overview. United Nations Economic and Social Commission for Asia and the Pacific.

³⁷⁵ Cronin, B., Hynes, S., & McCartan-Quinn, D.,2019. Understanding the Development of Lease Financing: A Critical Review of the Literature. *Journal of Business Finance & Accounting*. pp 737-768.

Branch	Service contracts	Management contracts	Lease contracts	Concessions	BOT
Scope	Multiple contracts for a variety of support services such as meter reading, billing, etc.	Management of entire operation or a major component	Responsibility for management, operations, and specific renewals	Responsibility for all operations and for financing and execution of specific investments	Investment in and operation of a specific major component, such as a treatment plant
Asset Ownership	Public	Public	Public	Public/Private	Public/Private
Duration	1–3 years	2–5 years	10–15 years	25–30 years	Varies
O&M Responsibility	Public	Private	Private	Private	Private
Capital Investment	Public	Public	Public	Private	Private
Commercial Risk	Minimal	Public	Shared	Private	Private
Overall Level of Risk Assumed by Private Sector	Unit prices	Minimal/moderate	Moderate	High	High
Compensation Terms	Intense and ongoing	Fixed fee, preferably with performance incentives	Portion of tariff revenues	All or part of tariff revenues	Mostly fixed, part variable related to production parameters
Competition	Useful as part of strategy for improving efficiency of public company;	One time only; contracts not usually renewed	Initial contract only; subsequent contracts usually negotiated	Initial contract only; subsequent contracts usually negotiated	One time only; often negotiated without direct Competition
Special Features	Promotes local private sector development	Interim solution during preparation for more intense private participation	Improves operational and commercial efficiency; Develops local staff	Improves operational and commercial efficiency; Mobilizes investment finance; Develops local staff	Mobilizes investment finance; Develops local staff
Problems and Challenges	Requires ability to administer multiple contracts and strong enforcement of contract laws	Management may not have adequate control over key elements, such as budgetary resources, staff policy, etc.	Potential conflicts between public body which is responsible for investments and the private operator	How to compensate investments and ensure good maintenance during last 5–10 years of contract	Does not necessarily improve efficiency of ongoing operations; May require guarantees

Figure 10: Different forms of partnerships³⁷⁶

There is a wide-ranging number of partnership frameworks where the roles of the public and private sectors differ according to what is required by each project, and they include the following: ³⁷⁷

- 1) (BOT)- Build, Operate and Transfer
- 2) (BOO)-Build, Own and Operate
- 3) (BOR)- Build, Operate and Renewal of Concession

³⁷⁶ Asian Development Bank., 2007. Public Private Partnership Handbook. Philippines: ADB. pp28

³⁷⁷ Miranda, S.,2018. Public-Private Partnerships in Infrastructure: An Essential Guide for Policy Makers. Routledge.

- 4) (BLT)- Build, Lease, Transfer
- 5) (BRT)- Build, Rent, Transfer
- 6) (BTO)- Build Transfer, Operate
- 7) (DBFO)- Design, Build, Finance and Operate
- 8) (DCMF)- Design, Construct, Manage and Finance
- 9) (BOOT)- Build, Own, Operate and Transfer
- 10)(MOOT)- Modernize, Own, Operate and Transfer
- 11)(ROO)- Rehabilitate, Own, Operate.
- 12)(EPC)- Engineering, procurement, and construction
- 13)(EPCF)- Engineering, procurement, construction and Finance

The graph below illustrates the different types of public-private partnerships along with the different degree of private sector involvement and private sector risk.

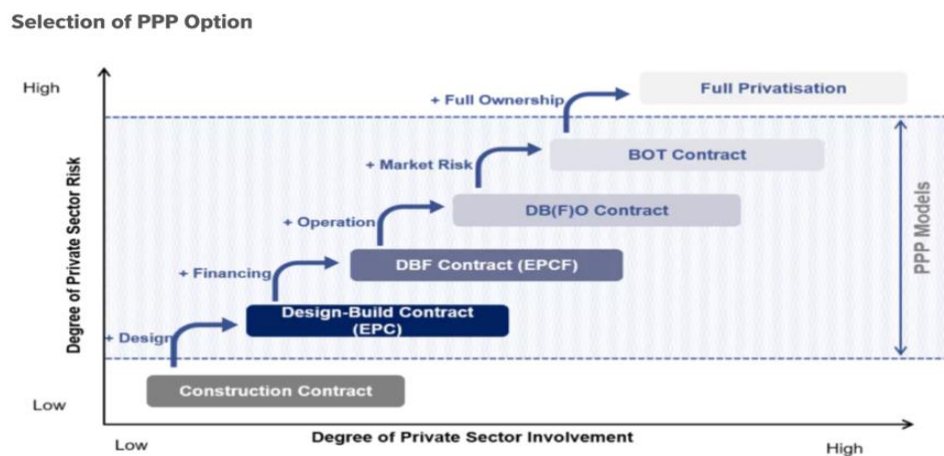


Figure 11: Selection of different public-private partnership options with degrees of risk

4.3.6 Build, Operate and Transfer contracts

Governments and countries have increasingly turned to BOT (Build-Operate-Transfer) contracts as an effective means of financing infrastructure projects without relying solely on the state budget. This approach is beneficial because it shifts the financial risks and burdens associated with establishing such projects to the private sector. The private sector, in turn, bears the high risks, including the financial burdens, in exchange for the revenue generated from operating

and/or providing services related to the project. By doing so, the financing burdens and risks on the state are reduced.³⁷⁸

BOT contracts are particularly helpful for countries facing challenges such as poor investment policies, financial constraints, and economic problems that hinder the government from completing vital projects requiring substantial funding beyond what the government can provide. Through BOT contracts, the private sector is granted a license by the government or a specific government entity to undertake the construction or execution of a project in accordance with pre-approved technical specifications. This arrangement is typically established for a specified period.³⁷⁹ While BOT contracts are often considered turnkey projects, there is a distinction. In turnkey projects, one party designs, builds, and equips a facility before transferring it to a purchaser who assumes responsibility for its operation. In contrast, BOT contracts are a variation of turnkey projects in which the private entity not only builds and operates the project but also transfers all project assets to the government at a later stage, as outlined in the agreement.³⁸⁰

The generated returns from project revenue and collected user fees are distributed among the partners in accordance with the contractual arrangements that consider each partner's respective tasks, obligations, and risks. Once the contract is completed, the private sector partner transfers all project assets to the government or government entity, allowing them to benefit from the project's returns and facilities. In addition to the financial benefits for the state, the public sector also gains from the technical expertise of the private sector in managing and operating projects, particularly in terms of technology transfer. Throughout the project timeline, public sector employees receive training in the latest technical, management, and operational skills. This contributes to the development of a robust human resource base within the administrative and technical teams of the public sector, ultimately benefiting the citizens who are the end users of the infrastructure and services provided. BOT projects aim to

³⁷⁸ Levy, D., 1996. Bot and Public Procurement: A Conceptual Framework. Indiana International & Comparative Law Review. pp 100

³⁷⁹ World Bank.,1994. World Bank Operational Manual: Build-Operate-Transfer Arrangements: Country Experiences and Legal Profiles. World Bank Publications.

³⁸⁰ UNESCAP.,2011. Guidelines on Build-Operate-Transfer (BOT) Projects in Infrastructure Development. United Nations Economic and Social Commission for Asia and the Pacific.

improve, develop, and establish new infrastructure and service projects that require a significant allocation of funds. By leveraging the resources and expertise of the private sector, these projects can be efficiently executed and operated, leading to the advancement and growth of the country's infrastructure and services.

The BOT framework necessitates the sharing of risks between government agencies and the private sector to ensure the success of the partnership contract.³⁸¹ These risks can manifest as cost overruns resulting from price inflation, challenges in meeting project schedules or service delivery timelines due to emergency conditions during implementation, difficulties in complying with environmental and other regulations, or the risk of initial revenue being insufficient to cover operating costs. The origins of these risks can be attributed to two main factors: political reasons such as expropriation, nationalization, wars, and instability. To mitigate these risks, the Public-Private Partnership law in Iraq needs to include provisions stating that any approved partnership project cannot be nationalized by any authority unless mandated by a court decision.

Another common risk faced by the private sector, particularly in Iraq, is the non-payment or delayed payment for services rendered. To safeguard the private sector's rights and ensure timely payment, it is recommended that the project company establishes a dedicated bank account for the project. The project company's manager can then instruct the bank to distribute the funds from the project account to the partners based on the agreed-upon percentage. This practice has proven successful in Iraq, providing assurance to both parties regarding payment receipt upon transfer to the project company's bank account. Implementing these risk mitigation measures enhances the stability and effectiveness of BOT projects, fostering a conducive environment for private sector participation in Iraq's infrastructure development.

³⁸¹ Lam, P. T. I., & Tummala, V. M. R.,2001. Risk Allocation in Build-Operate-Transfer Projects: Lessons from Asia. *Journal of Construction Engineering and Management*. pp 93-100.

4.3.7 Legal framework of public-private partnership contracts in Iraq

Understanding the legal framework of public-private partnership contracts is crucial, especially in Civil Law Jurisdictions where both administrative and regular judiciary systems exist, in contrast to countries with Common Law Jurisdiction that have a single regular judiciary system without an administrative court structure. The distinction between these legal systems is significant because the state acts as a contracting party in public-private partnership contracts, and this has legal implications if these contracts in Iraq are classified as private or public law contracts.³⁸²

If public-private partnership contracts are deemed to be private law contracts, they would fall under the jurisdiction of the regular judiciary system, governed by the rules outlined in the Civil Code. In this case, the principle of equality between contracting parties would apply, ensuring that the legal status, rights, and obligations of both partners in a public-private partnership are equitable.³⁸³ However, if public-private partnership contracts are considered to be part of the administrative procedure, they would be subject to the administrative court system, and the legal status of the contracting parties would be unequal. This is because the state or a government department is involved as a party to the contract within the public-private partnership framework. Under administrative law, the state possesses certain superior rights, such as the autonomy to modify contracts unilaterally and the authority to impose punitive fines.

Advocates of the administrative framework argue that public-private partnership contracts should be classified as investment contracts, as they encompass three essential elements that define administrative contracts:

- 1) The state acts as a party to the contract: In public-private partnership contracts, the state or a government entity participates as a contracting party alongside the private sector. This distinguishes these contracts from purely private law agreements.

³⁸² Smits, J. M., 2014. *Contract Law: A Comparative Introduction*. Edward Elgar Publishing.

³⁸³ Zweigert, K., & Kötz, H., 1998. *An Introduction to Comparative Law* (3rd ed.). Oxford University Press.

- 2) The contract is related to public utility or benefit: Public-private partnership contracts are centred around providing a public utility or benefiting the public. These contracts involve projects and services that are crucial for public welfare and aim to enhance the efficiency of public service delivery.
- 3) The contract includes expectational terms and conditions: Public-private partnership contracts often incorporate special provisions and conditions that go beyond standard commercial agreements. These may include granting guarantees to the private sector, providing tax exemptions, or allocating free land. Such expectational terms reflect the unique nature of these contracts and their focus on achieving public interest objectives.

By categorizing public-private partnership contracts within the administrative framework, the state is empowered to enforce punitive fines and modify contracts autonomously.³⁸⁴ This recognizes the distinct balance of interests between the profit-driven private sector entities and the state's objective of ensuring efficient and effective delivery of public services. Furthermore, it allows for the inclusion of additional safeguards and incentives to encourage private sector participation in public infrastructure and service projects.

On the opposing side, proponents of public-private partnership contracts being governed by private law argue that when engaging in contractual transactions with the state, the state should be treated as a legal entity with equal status to any private sector investor.³⁸⁵ They contend that public-private partnership projects often involve commercial arrangements and transactions that should be subject to the principles and rules of private law. Additionally, they emphasize the inclusion of constancy and contract stability clauses in public-private partnership contracts. The constancy clause serves to protect the private sector from adverse effects of new laws or regulations introduced by the state. For example, if a new law is enacted that increases taxes or restricts the transfer of funds abroad, contracts signed under the previously applicable law would be shielded from

³⁸⁴ Hussein, A., 2010. BOT contract study in the legal regulation of the construction contract, Build, Operation and Transfer. Anbar: Journal of Anbar University for Law and Political Sciences.

³⁸⁵ Hassabu, A., 2002. The Modern Development of Contracts of Commitment Utilities Public According to B.O.T System. Cairo: Dar al Nahda Alarabia.

these changes. This ensures that the provisions and guarantees given by the government to the private sector remain unaffected by subsequent legal developments.³⁸⁶

The contract stability clause, on the other hand, prevents the government contracting partner from unilaterally amending the contract.³⁸⁷ This provides stability and predictability to the private sector, assuring them that the terms of the agreement will remain unchanged during the contract period. Furthermore, the transfer of ownership of public assets to the private sector poses a challenge to categorizing public-private partnership contracts within the administrative contract framework. In administrative contracts, ownership of public utilities typically remains with the government and cannot be assigned to the private sector. However, in many public-private partnership arrangements, ownership of project assets is transferred to the private sector, and upon contract completion, the entire project, including its assets, is transferred back to the government. This transfer of ownership deviates from the traditional administrative contract structure. Some commentators argue that public-private partnership contracts are inherently unique, as each project possesses its own distinctive qualities and characteristics. Consequently, they assert that public-private partnerships defy a one-size-fits-all categorization, making it challenging to classify them uniformly under either civil or administrative law.³⁸⁸

When examining countries with a Civilian legal system, such as Egypt, public-private partnership contracts are considered to fall under private law. Furthermore, international business practices require that the state, when acting as a party to a contract, is treated as a natural person with equal rights as the private sector.³⁸⁹ In light of this, it would be more effective and efficient for Iraq to consider public-private partnership contracts as private law agreements, ensuring that the state does not possess an unequal advantage when contracting

³⁸⁶ Ismail, M. and Koura, R., 2015. *International Construction Contracts Arbitration in the Mena Region.*: LAP Lambert Academic Publishing.

³⁸⁷ Haddad, H., 1996. *The Concluded Contracts Between the States and The Foreign Persons.* Cairo: Dar Al-Nahdha Al Arabia.

³⁸⁸ Al- Bahaji, E., 2008. *B.O.T Contract is a Way to Building the Modern State's.* Cairo: Dar Al-Jamiah Al-Jadida.

³⁸⁹ Ismail, W., 2009. *The Legal Problems Raised by the BOT Contracts.* Cairo: Dar Al-Nahza Al- Arabia.

with the private sector. This approach is crucial for attracting successful investments to Iraq and promoting the development of services and infrastructure.

Legally, it can be argued that public-private partnership contracts in Iraq do not benefit from exceptional conditions that are considered pillars of administrative contracts. Instead, these contracts enjoy the benefits and guarantees provided under the Investment Law, including tax and customs exemptions,³⁹⁰ land ownership rights,³⁹¹ and the freedom to transfer profits and capital out of the country.³⁹² Additionally, public-private partnership projects should benefit from the investor guarantees outlined in Article 12 (Third) of the Investment Law, which ensures that the government will not seize or nationalize the investment project unless a final judicial judgment has been issued. Moreover, it is worth noting that many investors and private sector entities prefer to resolve any disputes arising from public-private partnerships through international arbitration rather than local courts. If public-private partnerships were considered public law contracts, they would be subject to local courts, which could undermine the neutrality of these contracts and the balance of bargaining power. Therefore, in Iraq, it is advisable to view public-private partnerships as private law contracts, ensuring that all parties operate on an even and equal platform.

One of the challenges faced by investors and private sector companies in Iraq is the risk of substantial financial loss due to fluctuations in the exchange rate between the Iraqi Dinar and the US dollar. These fluctuations have recently caused numerous problems in Iraq, as the prices of the Iraqi Dinar have been experiencing daily volatility, and the exchange offices are not adhering to the official exchange rate set by the Central Bank of Iraq. This situation poses significant difficulties for investors and private sector companies operating in the country. For instance, on February 8, 2023, the Central Bank of Iraq set the official exchange rate at 1,300 Iraqi Dinars per US dollar. However, in the actual market within the country, the exchange rate stood at 1,560 Iraqi Dinars for each US dollar, resulting in significant discrepancies. While major companies may receive payment based on the official exchange rate, local subcontractors,

³⁹⁰ Article 15 (Firstly) A&B of the Investment Law

³⁹¹ Article 10 (Secondly) (A-1) of the Investment Law

³⁹² Article 11 (Firstly) of the Investment Law

service providers, and employees may face losses due to the disparity between the official and actual exchange rates. Furthermore, unexpected fluctuations in the value of the Iraqi Dinar can lead to price increases in materials and machinery required for the project. This, in turn, can cause delays in the implementation period, resulting in substantial losses for the project company.³⁹³

To mitigate these risks, it is crucial for investors and private sector companies engaging in public-private partnerships in Iraq to carefully consider measures to address exchange rate fluctuations. This may involve incorporating clauses in the partnership contracts that account for currency risks, including mechanisms for adjusting payment terms or incorporating hedging strategies. By proactively alleviating the potential impact of exchange rate fluctuations, investors and private sector companies can better safeguard their financial interests and ensure the successful execution of their projects.

4.3.8 Risk sharing and financing public-private partnerships

Risk management is a fundamental aspect of the public-private partnership framework, aiming to effectively mitigate and minimize risks throughout the entire project lifecycle. While it is impossible to eliminate risks entirely, managing them is crucial for the success of any project.³⁹⁴ The public-private partnership framework offers the opportunity for government policymakers and the private sector to collaborate to enhance risk management practices associated with large-scale infrastructure projects. Leveraging the private sector's expertise in risk management is a key advantage of the public-private partnership framework. By transferring project-specific risks and responsibilities to private-sector investors and lenders, risks can be effectively addressed during the development, construction, and operation phases, while legal ownership of the project often remains with the public sector.³⁹⁵ This approach frequently involves a risk

³⁹³ Reuters. 2023. Iraq revalues currency to 1,300 dinars per USD, state news agency says | Reuters. [ONLINE] Available at: <https://www.reuters.com/markets/currencies/iraq-revalues-currency-1300-iqd-per-usd-cabinet-statement-2023-02-07/>. [Accessed 07 March 2023].

³⁹⁴ Hodge, G. A., & Greve, C., 2007. Public-Private Partnerships: An International Performance Review. *Public Administration Review*. pp 545-558.

³⁹⁵ Yescombe, E. R., 2013. *Public-Private Partnerships: Principles of Policy and Finance* (2nd ed.). Butterworth-Heinemann.

premium, which plays a significant role in determining project costs and should be considered when calculating the overall cost of partnerships.

Governments worldwide increasingly rely on the assistance of the private sector to enhance infrastructure and service delivery for their citizens.³⁹⁶ In theory, one of the main advantages of public-private partnerships is the sharing of risks that were previously solely borne by the government, allowing for a more balanced distribution of risk between the public and private sectors. However, it is essential for the private sector partner to be prepared to assume and manage these risks. Failure to do so can undermine the feasibility of the project. Consequently, project financiers are typically cautious about undertaking projects with excessive risk unless the risk is appropriately shared among multiple parties, ensuring greater benefits for project stakeholders.

Optimizing the level of private sector involvement and risk transfer is crucial for achieving timely and cost-effective completion of projects, ensuring efficient utilization of public resources, and ultimately benefiting society. However, public-private partnerships often fall short of expectations and fail to achieve the optimal level of private sector participation due to differences in how the public and private sectors approach risk. In recent years, there has been an increase in the sophistication of risk management practices within many public sector organizations. However, these organizations often have a narrow focus on openness and compliance with procurement requirements, which can hinder the efficacy and efficiency of projects. They face financial limitations, a weak deal flow, and other challenges that divert their attention from effectively managing operational, commercial, and construction risks. When risks such as cost overruns or construction delays do materialize, they often have limited impact on governments. Governments rarely face cash issues, and the credit rating of a government is typically unaffected by the failure of a specific project. The benefits of the project may still be realized over time, but the additional funding required may come from government budgets or taxpayers in subsequent years.

³⁹⁶ World Bank.,2017. Maximizing Finance for Development: Leveraging the Private Sector for Growth and Sustainable Development. Washington, DC: World Bank.

This narrow focus on compliance and delayed consequences for the public sector can result in a lack of emphasis on comprehensive risk management. While operational, commercial, and construction risks are constantly present in projects, they are often not given sufficient attention. This disparity in risk management approaches between the public and private sectors is a significant factor contributing to the challenges faced by public-private partnerships. To address these issues, it is essential to strike a balance between openness and compliance with procurement requirements on the one hand, and comprehensive risk management on the other. Public sector organizations need to recognize the importance of actively managing all types of risks throughout the project lifecycle to ensure successful outcomes. By giving due attention to operational, commercial, and construction risks, governments can mitigate the negative impact of these risks and optimize the benefits for society.

In contrast, construction and commercial risks can have significant consequences for the private sector. For example, a 10% cost overrun in a project may result in the private sector company not earning any profit, and in the case of a large-scale project, it could even lead to bankruptcy. Successful private sector companies have developed robust risk management capabilities throughout the project life cycle. They do not simply accept or assume risk, but actively price and manage it. This dynamic risk management is considered integral in the private market, where risks carry costs, and organizations that take on risk expect to be compensated for it.³⁹⁷ The divergent approaches to risk management between the public and private sectors create misalignments in determining risk allocation measures. The consequences of risks differ for each partner, necessitating different approaches to managing those risks. When bidding or considering participation in a project, private sector entities typically assess all risks, including construction, commercial, and operational risks. They factor in the associated costs of managing and mitigating those risks, in addition to the regular project costs, by charging a risk premium.³⁹⁸ From the government's perspective, some risk premiums may appear excessive and result

³⁹⁷ Barton, D., Horváth, D., & Kipping, M., 2015. Bringing Strategy Back into Financial Risk Management. McKinsey Quarterly.

³⁹⁸ Estache, A., & Romero, M., 2000. Competition in Infrastructure Services: An Overview. Policy Research Working Paper Series 2381. World Bank.

in avoidable costs. While this analysis may seem like good governance, it is a limited approach that focuses solely on budgetary elements without adequately considering risks throughout the project lifecycle.

During the discussions between the government entity and the private sector company in a public-private partnership, the issue of project risk often arises. The private sector company typically insists on a risk premium to cover the potential risks involved. On the other hand, the government entity may attempt to address the risk by providing additional support through guarantees or similar mechanisms. While these measures may eliminate the need for a risk premium, they do not eliminate the risks themselves. This approach fails to leverage the private sector's expertise in risk management.³⁹⁹ At first glance, this approach may make the project appear less expensive. However, the initial savings are likely to be costly for both partners if risks materialize at a later stage.⁴⁰⁰ In such cases, the project cannot be considered a true public-private partnership but rather resembles a conventional public procurement process. By shifting the risks back to the government, which may not be as proficient in managing them, the project becomes vulnerable to delays, cost increases, and other undesirable outcomes. In most instances, the resulting costs from these issues far exceed the initial risk premium that the private sector requested. This is a logical consequence since problems and issues are typically easier and less expensive to prevent than to resolve once they have materialized.

The application of public-private partnerships is not suitable for all projects, especially those that are highly complex and require comprehensive planning, structuring, operation, delivery, and financing. These projects involve various uncertainties and risks throughout their lifecycle. The private sector, as a partner in such projects, can provide robust risk management processes starting from the initial planning stages.⁴⁰¹ When the private sector takes on the role of the risk taker and is responsible for delivering and operating the project, it often requires

³⁹⁹ Hertz, D., & Thomas, H., 2010. Premiums in Project Finance Transactions. *Journal of Applied Corporate Finance*. pp 71-79.

⁴⁰⁰ Flyvbjerg, B., Bruzelius, N., & Rothengatter, W., 2003. *Megaprojects and Risk: An Anatomy of Ambition*. Cambridge University Press.

⁴⁰¹ Akintoye, A., & Beck, M., 2009. *Policy, Finance and Management for Public-Private Partnerships*. Taylor & Francis.

equity ownership in the project implementation vehicle, which is typically a company.

The public-private partnership project company is funded by banks, investors, and other stakeholders entering contractual relationships with insurance companies, suppliers, consultants, and shareholders, including landowners. The project company is solely engaged in activities related to the public-private partnership project.⁴⁰² Another layer of risk management exists through the project lenders, who receive a fixed and lower risk premium compared to the private sector company (equity investor). Lenders tend to be more risk-averse and adopt a detailed approach to analysing, managing, and monitoring risks. However, according to Article 3 of Order Number 5 for the year 1898 and as mentioned in Chapter 3.3.1 (Establishing a Company), any entity wishing to conduct business in Iraq is required to establish a local Iraqi legal entity. This can be done by either forming an Iraqi company or opening a branch office in Iraq. If an entity chooses to establish an Iraqi local company, Article 12 Secondly of the Companies Law requires at least 51% Iraqi ownership of the company. In some cases, international companies may not want to allow the Iraqi government entity to hold majority shares in the project implementation company, especially when the private company assumes majority of the risk. As a result, international companies often opt to establish a branch office. The establishment of such companies can be time-consuming as it involves extensive documentation requirements. These documents need to be stamped and authenticated by the company's home country and the Iraqi Foreign Mission in or closest to that country. Additionally, the documents must be sent to Iraq to be translated and stamped by the Iraqi Translation Association and the Iraqi Ministry of Foreign Affairs.

The risk profile of public-private partnership projects varies depending on several factors, including the project's location, sector, budget, timeline, construction and operation costs, political significance, competency of the public sector partner, and other economic considerations.⁴⁰³ It is crucial to identify these risks before

⁴⁰² Baxter, D., Corrigan, P., & Frost, M., 2015. Financing Public-Private Partnerships.

⁴⁰³ Danquah, J. K., Appiah-Dankwah, K., & Al Farisi, M., 2018. Risk Management in Public-Private Partnership Infrastructure Projects: A Review. Built Environment Project and Asset Management.

initiating a project and allocate responsibilities and obligations to the partners accordingly. Once the risks are identified and assigned, there are various successful tools and strategies used internationally to mitigate specific risks.

In the past, between 2006 and 2014, the Iraqi government issued numerous guarantees to international companies to secure their payments in case the contracting Iraqi side defaulted. While this type of guarantee protects the international companies, it often places a burden on the Iraqi government and taxpayers, as they become committed to long-term payment obligations even if their capacity to fulfil them is limited. Private sector companies, especially those operating in risky countries, often prefer to secure their payments through letters of credit, which act as guarantees for customers to withdraw funds upon presenting specific documents.

In many tender processes, governments require competing companies to provide bid bonds as a guarantee that they will not default on entering a contractual arrangement with the government entity.⁴⁰⁴ A risk premium, also known as a contingency payment, is often granted to account for unforeseen events that may increase the project's cost. This risk premium covers such events and helps manage the associated risks. Partners in public-private partnerships often include provisions in their contracts that allow for concession or tariff adjustments.⁴⁰⁵ These provisions incentivize the private partner to deliver a better service with a suitable return on investment by adjusting the tariffs charged for service delivery to account for uncontrollable events. Many international companies operating in foreign countries issue insurance policies to protect their investments. Additionally, governments require contracting companies to provide performance bonds as security against non-performance or non-compliance. For the performance bond to be effective, it needs to be a significant amount of the contract price. In Iraq, according to the Public Contracts Regulation, all private

⁴⁰⁴ Assan, J. K., Bofo, R., & Musah, B.,2018. "The Use of Letters of Credit in International Trade: A Review." International Journal of Academic Research in Business and Social Sciences.

⁴⁰⁵ Smith, J., & Stewart, D.,2016. Risk Premiums in Complex Projects: A Multi-Dimensional Approach. International Journal of Project Management.

entities awarded government contracts must present a performance bond equivalent to 5% of the contract value.

The financing of public-private partnership projects involves a risk management approach from the lenders, who typically adopt a loan cycle perspective. Project finance in public-private partnerships is often structured as non-recourse or limited recourse financing. Non-recourse financing means that the lenders can only seek repayment from the project's earnings, while limited recourse financing restricts the liability of the project company shareholders to their actual investment in the project.⁴⁰⁶ Lenders primarily rely on the project's cash flow for repayment, considering all project assets, interests, and rights as secondary collateral. To protect their interests, lenders conduct thorough financial and risk analyses throughout the project's lifespan. While their main role is to provide financial support, lenders may also influence the contractual arrangements that allocate risks, responsibilities, and obligations among the project stakeholders. During project implementation, lenders monitor risks over the loan period.⁴⁰⁷

The project finance life cycle plays a crucial role in risk management for public-private partnership projects. Effective risk allocation among stakeholders, considering the private sector's competence in economic and financial risk management, highlights the importance of involving the private sector to absorb some of the risks that would otherwise fall on the public sector in traditional procurement processes. Involving the private sector in service and infrastructure projects, with their financial investment at risk, can lead to efficiency gains. However, this can only be achieved if the private sector effectively employs their risk management expertise within a well-defined framework that appropriately allocates risks and responsibilities. This approach differs from regular public procurement procedures, as it incorporates considerations of commercial and financial risks. The private sector not only provides risk management skills but also benefits from the long-term public-sector interests, influence, and ability to absorb certain risks. Private sector companies, along with policymakers, government departments, and the state, need to reach an agreement on how

⁴⁰⁶ Eberhard, A.,2014. Infrastructure Finance in the Developing World: An Overview of Key Issues.

⁴⁰⁷ Engel, E., Fischer, R., & Galetovic, A.,2014. The Basic Public Finance of Public-Private Partnerships. In *The Economics of Public-Private Partnerships: A Basic Guide*. Cambridge University Press.

they assess and price risks. This initial step can greatly benefit the project in the long run.

The researcher spoke to Dr Dietrich Stiller, a renowned German international lawyer who is specialised in international public-private partnership projects and financing who stated that as a general principle, project finance is a finance model that at least in theory is frequently based on non-recourse lending. With other words, lenders are expected to rely on the cash flow of the contemplated project and hence participate to a considerable degree in the project risk. For this reason, a bankable project finance model requires a robust business model and a stable political and economic environment. In practice, lenders frequently insist on a limited recourse structure, where the sponsors guarantee the borrower's debt at least during the construction phase and frequently also during the start-up phase until the project satisfies a set of financial covenants. In case of projects that are entirely in the private sector, these sponsors may be strong international and/or local investors, whereas in public infrastructure quite frequently an involvement of the government may be expected to procure bankability. Such involvement may take different forms depending on the details of the project. If the sponsor is an entity (a private corporation or a public entity) owned by the government, this may be a direct parent guarantee to be issued by the government. In other projects where a close co-operation with the government is required (e.g., in airports, ports, highways or other traffic infrastructure) bankability may require that the government guarantees certain prices or revenues, e.g., by stepping in as an intermediary. Such model is frequently seen in case of toll roads where the government pays availability fees to the investor, while private individuals using the toll road in turn pay toll to the government. In this regard each project is different and must comply with local laws and regulations as well as with the conditions of the relevant market.

Bearing in mind that project finance structures frequently show a high level of complexity, structuring them correctly is time consuming and sometimes expensive. In contrast thereto, export finance transactions show a much lower level of complexity, because here a considerable share of the credit risk is taken over by an export credit agency (ECA) in the jurisdiction of the exporter. This does not mean that bankability requirements can be ignored. Also, in export finance transactions bankability requires a sound risk analysis, and frequently

export finance loans are supported either by guarantees or by other forms of collateral securing the Borrower's debt. In many cases it is the ECA that determines which form of collateral is required as a minimum standard (on a case-by-case basis). These requirements are then stipulated in the ECA cover document and the establishment of such required collateral forms a condition precedent for the ECA cover. As ECAs cover up to 95% of the export value (after deduction of a down payment of at least 15% that must be financed by the borrower from other sources, such as equity, local loans or otherwise), the risk to be taken by the lender shall be substantially reduced, compared to a classic project finance structure. This allows also more borrower-friendly conditions of the loan, although the ECA costs are to be borne by the Borrower and usually financed in a separate tranche. The amount of the ECA premium depends on several factors, including the country risk and the borrower's risk.

Not every project is suitable for a full export finance solution, inter alia because of limitations regarding the eligibility of local costs for financing. Hence, projects with a high share of export content in the project costs are more suitable than projects with extensive local costs. In practice, the market frequently sees solutions, where export finance and project finance are combined in different tranches, sometimes granted by different syndicates of lenders. This requires, however, large project volumes because small projects (e.g., a school project) should have a simple finance structure to increase efficiency and to avoid unnecessary costs. In conclusion, the financing of partnership projects is the responsibility of the private sector partner who needs to be held responsible for financing the project however support from the government is integral to facilitate financings major products nonetheless without transferring significant financial and commercial risk to the government.

4.3.9 Feasibility study for public-private partnership projects

A comprehensive feasibility study is a crucial requirement for the successful implementation of projects. It thoroughly examines various aspects of the project

to determine its viability, desirability, and economic feasibility.⁴⁰⁸ The feasibility study evaluates legal, financial, social, technical, environmental, economic, and risk factors associated with the project. Based on these evaluations, it establishes a project implementation timeline for public-private partnership projects, outlining the specific model of the partnership.⁴⁰⁹ The content of the feasibility study may vary depending on the nature of the project. Capital expenditure (capex) projects, for example, require more detailed studies compared to other projects. Alongside the feasibility study, conducting due diligence analysis is essential to ensure that project planning has been carried out appropriately, with particular emphasis on risk analysis, risk allocation, and commercial feasibility.⁴¹⁰

Identifying, allocating, and mitigating risks adequately in a public-private partnership project is of utmost importance, and an effective feasibility study can greatly assist in this regard. The feasibility study elucidates the technical, commercial, and impact aspects of the project, assessing its feasibility and attractiveness to both the government and the private sector. It also helps identify the level of government support required and delineates the obligations and responsibilities of the private sector. This enables project managers to accurately calculate costs, thereby minimizing the likelihood of future cost overruns. A feasibility study serves as a tool that provides a clear and organized description of a proposed project. It offers a comprehensive assessment of the project's viability, aiding in visualizing its potential success in the future. Moreover, the study is crucial for obtaining accreditation from relevant bodies, as it covers all key aspects of the project.⁴¹¹

The feasibility study is a requirement for investors who wish to apply for investment licenses in Iraq and commonly they include:

⁴⁰⁸ Gatti, S.,2012. Project Finance in Theory and Practice: Designing, Structuring, and Financing Private and Public Projects. Academic Press.

⁴⁰⁹ Flyvbjerg, B., Bruzelius, N., & Rothengatter, W.,2003. Megaprojects and Risk: An Anatomy of Ambition. Cambridge University Press.

⁴¹⁰ Hoppe, E. I., & Schmitz, P. W.,2013. Public-Private Partnerships versus Traditional Procurement: Innovation Incentives and Information Gathering. Journal of Public Economics. pp 3-12.

⁴¹¹ O'Brien, W. J.,2010. The Importance of Feasibility Studies for Project Development, Implementation, and Operation. In A Guide to the Project Management Body of Knowledge. Project Management Institute.

- 1) Demand, commercial requirement and need and supply quantity for the project.
- 2) Commercial, technical, and purchasing options.
- 3) Operational impact.
- 4) Market readiness.
- 5) Beneficiaries and their needs.
- 6) How to price services and the amount of income sharing between partners.
- 7) Designs, drawings, implementation plan, schedule, and other technical matters.
- 8) The resources required from the government partner and its obligations.
- 9) Risk assessment and analysis.
- 10) Implementation strategy.
- 11) Contract management tools and processes.
- 12) Reviewing and auditing of the project.
- 13) Economic value and financial benefits.
- 14) Evaluation and analysis of social benefits.
- 15) Scheduling of audit reports, monitoring, and evaluation during the contract period.
- 16) Indication of the stages of termination of project, method of delivery and transfer, and data coding for project and its documentation during the partnership period.

In Iraq, a significant number of projects have faced failure primarily because investors have relied on poorly executed feasibility studies. This lack of emphasis on conducting thorough and accurate feasibility studies has resulted in detrimental consequences for project profitability and overall success. Therefore, it is crucial for partners engaged in public-private partnerships to recognize the

utmost importance of developing a well-organized and effective feasibility study. Investing in a comprehensive feasibility study may require a significant financial commitment upfront. However, this initial expenditure serves as a prudent investment to prevent partners from encountering unexpected risks and challenges during the later stages of the project. By conducting a robust feasibility study, partners can gain valuable insights into the project's viability, potential challenges, and long-term implications. A well-executed feasibility study enables partners to assess various critical factors that may impact the project's success. These factors include legal considerations, financial feasibility, social impact, technical requirements, environmental concerns, economic viability, and risk assessment. By thoroughly analysing these aspects, partners can make informed decisions and develop a realistic timeline for the implementation of their public-private partnership project.

One of the key advantages of a comprehensive feasibility study is its ability to identify and address potential risks and uncertainties. It allows partners to anticipate and mitigate challenges that may arise throughout the project lifecycle. By proactively identifying risks, partners can allocate responsibilities, establish appropriate risk-sharing mechanisms, and develop effective risk management strategies. This proactive approach significantly reduces the likelihood of costly delays, unforeseen expenses, and project failures. Moreover, a well-organized feasibility study provides partners with a clear understanding of the level of government support required for the project. It also helps delineate the obligations and responsibilities of the private sector, ensuring a balanced distribution of risks and rewards. Additionally, the feasibility study aids in accurate cost estimation, preventing future cost overruns that can negatively impact project profitability. Partners involved in public-private partnerships should view a feasibility study as an indispensable tool for informed decision-making and project planning. Investing in a well-structured feasibility study demonstrates a commitment to long-term success and sustainability. It serves as a foundation for developing realistic project goals, attracting potential investors, and securing necessary funding.

4.3.10 Ownership of land in public-private partnership projects in Iraq

The government plays a vital role in supporting public-private partnership projects by providing assistance in the form of government and state-owned assets. This

support often includes granting land or other assets to the project as a preliminary capital grant. By providing these assets, the government alleviates the burden on the partnership to acquire suitable project land either from private owners or through separate arrangements with the government. In some public-private partnership projects, the private sector partner may require the transfer of project assets, including land, from the government to the private sector for the duration of the contract. However, in Iraq, there are legal hurdles that restrict foreign private sector companies from directly acquiring land. The Iraqi Constitution, specifically Article 23 (Third A), prohibits foreigners from owning land in Iraq, unless otherwise permitted by law. The Investment Law in Iraq is the only legislation that allows foreigners to own real estate. Under Article 10 of the Investment Law, foreign investors with a valid investment license issued by the NIC or the PIC are allowed to own land. However, this permission is limited to residential projects, and for industrial or agricultural projects, foreign investors must have an Iraqi partner. It is crucial to consider the specific conditions outlined in Chapter 3.3.2 regarding the ownership of land by foreigners in Iraq.⁴¹² Alternatively, if the public-private partnership project decides to establish a new Iraqi company to undertake the project, the partners must adhere to complex rules and regulations and undergo a time-consuming process to establish a local Iraqi company, as described in Chapter 3.3.1. Furthermore, it is important to note that public-private partnership projects requiring the transfer of ownership should be classified as investment projects. For the private sector to legally own property in Iraq, they must obtain an operating license from either the NIC or a PIC. Without an investment license, the transfer of ownership to the private sector is not legally permissible.

In certain cases, even if a public-private partnership project successfully secures approval for the use of specific land, there can still be challenges in transferring ownership from the state to either the project company or the private sector company. This is primarily due to the overlapping laws and authorities governing land ownership, particularly when the NIC does not have direct ownership of the land in question. For example, consider a project company that wishes to

⁴¹² Article 10 (Secondly-2) of the Investment Law

construct a project near the Basra Port. Despite the completion of a feasibility study by the company, the only available state lands in that area may be owned by the Ministry of Oil. The Ministry of Oil may refuse to lease or transfer ownership of its assets to the project company, creating a significant obstacle for the entire project. In such cases, the investment license process initially proceeds without the allocation of project land, pending approvals from the relevant departments. This issue has caused significant problems in the past, as seen in the case of the Saya Company project Al Kawthar. The contract for the investment project was not signed with the Ministry of Finance, the owner of the land, as the ministry refused to sign a contract for the transfer of land ownership. Such situations can pose major challenges for public-private partnership projects that require temporary land ownership. Hence, it becomes imperative for the government to tackle this concern by expressly endorsing it as a provision within the public-private partnership legislation. It is worth noting that the Kurdistan Regional Government has taken steps to address this problem within its jurisdiction. Article 4 of the Investment Law Kurdistan, enacted in 2006, allocates all investment land projects to the Kurdistan Investment Commission. As part of its responsibilities, the commission facilitates the transfer of land to investors, providing a framework that streamlines the process and mitigates potential conflicts over land ownership.

In Iraq today, the number of public-private partnership projects is relatively limited, although there has been a gradual increase in their implementation. The Iraqi Government initiated the Grand Fao Port Project in 2021 as a public-private partnership, and in 2022, a Memorandum of Understanding was signed for another project, the Shalamcheh-Basra Railway, also to be executed through a public-private partnership framework. The current Iraqi Government has set ambitious goals to rebuild Iraq's infrastructure, aiming for a substantial budget of over \$150 billion. However, it is important for the government to acknowledge the challenges of attracting investors given the current economic, social, and political conditions in Iraq. To overcome these challenges, the Iraqi Government and the Council of Representatives must collaborate to enact laws and regulations that facilitate the participation of foreign private sector companies. This includes streamlining the public-private partnership law, making amendments to the Investment Law, revising the Companies Law to facilitate company registration in Iraq, supporting the banking system, and establishing a centralized entity

responsible for major strategic projects, including public-private partnerships. By implementing these measures, the Iraqi Government can create a favourable investment environment, provide regulatory clarity, and enhance the attractiveness of public-private partnership projects. It is crucial for the government to prioritize these reforms and work in close coordination with relevant stakeholders to realize the desired outcomes of infrastructure development and economic growth.

4.3.11 Success of public-private partnerships in Iraq

According to Dr. Azhar Al Rubai, the Deputy Minister of Planning, there have been significant challenges and failures in the implementation of partnership projects in Iraq. One of the main reasons behind these failures is the absence of a comprehensive legal framework that governs partnership projects in the country. As a result, the contracting parties have been left to negotiate and agree on contractual terms without clear guidelines or regulations. For example, the Iraqi Ministry of Industry and Minerals has awarded public-private partnership contracts to private companies in sectors such as cement, phosphate, and medicine. However, none of these projects have been successful in achieving the desired development outcomes in their respective sectors. The lack of a well-defined legal framework for partnership projects has contributed to various issues and obstacles. It creates uncertainties and ambiguities in contractual arrangements, making it challenging to effectively allocate risks, responsibilities, and obligations between the public and private partners. This situation hampers the successful implementation and achievement of project goals.

The researcher had an insightful discussion with a General Manager from the Ministry of Oil regarding the partnership framework in the oil sector in Iraq. The General Manager shared some concerning observations, indicating that the current partnership framework tends to favour the private sector partner at the expense of the public sector. In the downstream sector, the Iraqi government made several attempts to develop the Beiji Refinery. Extensive tests, inspections, and feasibility studies were conducted since 2021, with a significant expenditure of 2 million dollars. However, the project was ultimately cancelled after local experts determined that it would likely fail. On the other hand, the Karbala Refinery, which was inaugurated on April 4, 2023, involved a partnership between a Korean consortium and the Wasat Refinery Company to produce 140,000

barrels per day. However, experts identified operational problems in the refinery. Instead of the international norm of having two distillation units installed to prevent production shortages in case of unit failure, only one unit was installed. Furthermore, it was discovered that the water injected into the Karbala Refinery did not meet international specifications, resulting in a loss of over 35% of production.

In the midstream sector, the Iraqi government signed a contract with Shell, which holds a 49% stake, and Basra Gas Company, which owns 51%, to develop facilities. As part of the partnership, assets were quantified and paid for by Basra Gas Company. However, there was no significant improvement in production levels, and the salaries and benefits of Shell engineers were disproportionately high compared to the development achieved, while Iraqi employees received their regular salaries. These observations highlight potential issues in the implementation of partnership projects in the oil sector in Iraq. It suggests a need for closer scrutiny of the contractual arrangements, risk allocation, and overall management of these partnerships. Efforts should be made to ensure a fair and balanced distribution of benefits and responsibilities between the public and private sector partners, with a focus on achieving sustainable development and maximizing the potential of Iraq's oil resources.

For partnerships to thrive in Iraq, it is crucial that both local and foreign private sector entities have access to comprehensive information, laws, regulations, and guidance pertaining to all necessary procedures and requirements throughout the project duration. Simultaneously, the government must ensure transparency in all internal processes. Equally important is the selection of suitable projects to be implemented through the public-private partnership framework. This necessitates meticulous and detailed analysis of each project's financial and economic feasibility, as well as a commitment to fulfilling responsibilities throughout project implementation, including preparedness to assume control and ownership after the contract period concludes.

The transition towards partnerships also requires robust political support, which must be translated into tangible actions and compliance with project requirements. Partners involved in a partnership framework should diligently examine and review all commercial and technical aspects of the project, allocating risks to the

party best equipped to manage them. The contractual relationship between partners during project implementation should be carefully outlined in the legal contract, clearly delineating each party's responsibilities and obligations. The government should retain control and monitoring powers over the project within the public-private partnership framework, thereby enhancing efficiency and ensuring the quality of service or infrastructure delivered and constructed.

Given the existing challenges related to the allocation of investment land, it is imperative for the Iraqi Government and the Council of Representatives to collaborate and resolve this issue to attract private sector investment and encourage participation in large-scale infrastructure projects. Drawing inspiration from Kurdistan's approach, whereby all land allocated for investment is initially transferred to their Investment Commission, can help circumvent problems associated with transferring ownership among various Iraqi ministries and entities. Since many BOT contracts require land ownership transfer, which often leads to legal obstacles and project performance hindrances, the Iraqi legislature must address this issue to facilitate foreign investment. Moreover, the enactment of a public-private partnership law is recommended. This law should incorporate internationally accepted practices, and it is essential that it be formulated in both English and Arabic languages to attract foreign investors and companies, while ensuring clear understanding of the law's provisions and obligations. By managing these considerations, Iraq can create an enabling environment for successful partnerships and foster sustainable economic growth through infrastructure development and private sector participation.

Chapter 5 Best Practice for Partnerships in Iraq: Adopting and Implementing Norms and Structures for Facilitating the Development of an Effective Environment Between Public and Private Sectors

5.1 The Development Board

In September 1950, the Iraqi Government, under the leadership of Prime Minister Nuri Said Pasha, announced its commitment to implementing policies aimed at resolving the pressing issues of unemployment and economic stagnation.⁴¹³ Recognizing the gravity of the situation, the government employed unorthodox methods in its efforts to address the high unemployment rate. In December 1949, a notable measure was undertaken by broadcasting a plea for unemployed individuals to register their names and pertinent details at specific government offices.⁴¹⁴ This initiative proved highly successful, as approximately 17,000 people registered within a mere two days. This rapid response provided the government with valuable data, enabling them to estimate the extent of the unemployment crisis in Iraq.

The economic situation in the country was dire in 1950, necessitating government intervention through increased expenditure and monetary injections to enhance Iraq's financial stability.⁴¹⁵ Many of the challenges faced by the Iraqi economy during this period could be traced back to the aftermath of the 1948 war in Palestine. This conflict prompted a substantial migration of Iraqi Jews, resulting in the loss of skilled workers. The departing Iraqi Jews possessed expertise in financial management, entrepreneurship, and accounting, leaving a void in these critical areas.⁴¹⁶ Moreover, the urgent need for intervention was exacerbated by the catastrophic flood of 1946.⁴¹⁷ This devastating event highlighted the necessity

⁴¹³ Atiyah, H., 1973. *The Iraqi Development Board (1950-1958)*. Beirut: American University of Beirut. pp 45

⁴¹⁴ Alwan, A., 1956. *The Process of Economic Development in Iraq with Special Reference to Land Problems and Policies*. University of Wisconsin. pp 176

⁴¹⁵ Al-Hasani, A., 1953. *History of Iraqi Cabinet*. Vol 3. Al Irdan Press. pp 177-178.

⁴¹⁶ Basri, M., 1954. *An Opinion on the Economic Development of Iraq*. 6th ed. Baghdad: Baghdad Chamber of Commerce. Pp 9.

⁴¹⁷ Jawad, L.A., 2021. *Tigris and Euphrates Rivers*. Cham: Springer International Publishing AG.

of controlling the flow of the Tigris River and protecting the urban area of Baghdad from future floods. To address this concern, the Wadi Tharthar project was designed to mitigate potential flooding risks and safeguard agricultural productivity. However, due to the scarcity of available funds, the Iraqi Government sought a loan from the International Bank for Reconstruction and Development (IBRD). This loan was granted under stringent conditions, necessitating the establishment of an independent entity responsible for planning, and implementing the Wadi Tharthar project.⁴¹⁸

In February 1950, the Iraqi Government expressed its intention to establish a development agency funded by oil royalties due to the increase in oil prices and revenue generated for the Iraqi government. This decision followed an agreement with the IPC, which agreed to raise the royalty rate from 4 to 6 shillings.⁴¹⁹ Subsequently, in May of the same year, Law number 23 for the year 1950 was enacted, creating the Development Board. The primary objective of the Development Board was to harness Iraq's resources and enhance the standard of living for the Iraqi people. Initially, the Development Board was financed by all oil royalties received by the Iraqi government. However, in 1952, this funding was reduced to only 70% of all oil royalties. Additionally, the Council of Representatives was given the authority to allocate funds to the Development Board for its projects.⁴²⁰

The Development Board was empowered to issue bonds, secure loans, and lease its assets, subject to approval from the Council of Ministers and the Council of Representatives. The Prime Minister led the Development Board, and its membership included the Minister of Finance and six executive members. These executive members were not permitted to be civil servants and were also prohibited from engaging in any commercial activities. The executive members

⁴¹⁸ Balboul, Y., 1950. *The International Bank's Loan and the Tharthar Project*. 1st ed. Baghdad: Baghdad Chamber of Commerce. pp 248

⁴¹⁹ Al-Hasani, A., 1953. *History of Iraqi Cabinet*. Vol 3. Al Irdan Press. pp 2.

⁴²⁰ Habermann, S., 1955. *The Iraq Development Board: Administration and Program*. Middle East Journal Vol.9 No.2: Middle East Institute. pp182

consisted of three irrigation experts, one economic expert, one finance expert, and a final expert elected by the Council of Ministers.⁴²¹

The Development Board was required to present a commercial and economic plan, along with a list of crucial projects, to the Iraqi Council of Ministers. In addition, the Development Board received an additional allocation of funds for research and studies. With this funding, the Development Board employed international consultancy firms to prepare reports and studies for its projects. Furthermore, the government facilitated the training and education of Iraqi skilled laborers abroad using these funds.⁴²² The effectiveness of the Development Board's decisions was largely attributed to its organizational structure, with the Prime Minister at the helm and several political officials among its members. Initially, the Development Board was responsible for planning and executing projects. However, due to political pressure aimed at ensuring transparency, the government established a separate entity tasked with either executing projects or overseeing their execution.

In 1953, the Ministry of Development was established, and its Minister became an executive member of the Board of Development, assuming the responsibility of executing the Development Board's strategies.⁴²³ The Ministry of Development comprised seven distinct departments, namely the Legal Department, Administration Department, Accounts and Audit Department, Special Bureau (serving as an overseer), Economic Advisor (filled by British Lord Salter), the head of development of Miri Sirf lands, and the head of Summer Resorts.⁴²⁴ Similar to other Iraqi ministries, the Ministry of Development encompassed various departments and offices tasked with responsibilities such as filing, accounting, examination, and supervision of project implementation. To facilitate effective coordination, a top-tier coordination bureau was established, entrusted with receiving reports and information from other Iraqi ministries and departments,

⁴²¹ Atiyah, H., 1973. *The Iraqi Development Board (1950-1958)*. Beirut: American University of Beirut. pp49

⁴²² Atiyah, H., 1973. *The Iraqi Development Board (1950-1958)*. Beirut: American University of Beirut. pp47

⁴²³ Al-Habib, M., 1953. *The Southwestern Social Science Quarterly*, September 1955. Baghdad: Wiley. Pp 179

⁴²⁴ Habermann, S., 1955. *The Iraq Development Board: Administration and Program*. Middle East Journal Vol.9 No.2: Middle East Institute. pp184

which were subsequently presented to the Minister of Development for approval. Of particular significance within the Ministry of Development were the technical sections, which previously operated under the purview of the Development Board. Following the establishment of the Development Ministry, these technical sections were transferred to the Ministry. The First Technical Section focused on flood control, irrigation, and drainage sectors, while the Second Technical Section concentrated on roads, buildings, and bridges. The Third Technical Section assumed responsibility for power, mining, and industry, while the Fourth Technical Section dealt with land reclamation, underground water, and forestry.

In subsequent years, two additional technical sections were established within the Ministry of Development. The first was dedicated to housing and was created in 1956, while the second, focused on rural development, was established in 1958. These sections were subdivided to include employees possessing specialized expertise in their respective sectors. However, the rural development section faced challenges in operating effectively, as it was only established shortly before the dismantling of the Development Board. Additionally, two entities were transferred from the Ministry of Agriculture to the Ministry of Development. The Resort and Tourism Directorate, along with the Agency for Development of Miri Sif Land, were relocated.⁴²⁵ This move occurred because, during that period, under the authority of the Ministry of Agriculture, the Agency for Development of Miri Sif Land was unable to efficiently achieve its aims and fulfil its duties.

Within the Ministry of Development, the heads of the seven departments and the heads of the four Technical Sections all reported to the Minister. However, the Technical Sections, responsible for project planning, consultant assessment, contractor recommendations, and project administration, often faced delays due to differences of opinion between themselves and the heads of the departments. These differences required review and resolution by the Minister of Development, leading to time-consuming processes and frequent project delays.⁴²⁶

⁴²⁵ Salter, L., 1955. The Development of Iraq; A plan of Action issued by the Iraq Development Board. Iraq, pp 102

⁴²⁶ Habermann, S., 1955. The Iraq Development Board: Administration and Program. Middle East Journal Vol.9 No.2: Middle East Institute. pp184

The executive members of the Development Board were appointed and discharged by the Council of Ministers, serving a standard term of five years, which could be extended if deemed necessary. An executive member could only be dismissed under specific circumstances, such as committing a crime or felony that tarnished their reputation, being unable to fulfil their duties due to illness, or being absent without consent for a period exceeding one month. Moreover, an executive member automatically relinquished their position if appointed as a minister, public employee, parliament member, or if they were engaged in business activities that could potentially benefit from the projects.

The technical sections within the Ministry of Development engaged numerous foreign experts, receiving support from over 100 experts from the United States and the United Nations in various fields. These foreign experts were utilized to supervise several projects.⁴²⁷ However, the substantial presence of foreign experts faced opposition, with some labelling it as a form of "new colonization." In response, the Iraqi Government reduced their numbers, permitting foreigners to work solely in assisting with the identification of project consultants, managing consultant activities when necessary, facilitating communication between consultants and the Development Board, and liaising with other government entities involved in the projects. With the establishment of the Development Board, many government employees left their positions and sought employment within the Board. Projects were classified as major or small, with the Development Board responsible for implementing major projects, while small projects were executed by various Iraqi government entities but funded by the Development Board through the Ministry of Finance. However, the Development Board faced challenges in overseeing the funds directed to these ministries, as there was a clear lack of administrative coordination between the Board members and the Iraqi Ministries.⁴²⁸

⁴²⁷ Al-Jalili, A., 1968. *Development in Iraq: Its policy, objectives, and achievements*. 1st ed. Beirut: Dar Maktaba Al Haya. pp 26

⁴²⁸ Langley, K., 1961. *The Industrialization of Iraq*. Cambridge: Harvard University Press. pp 205

The formation and autonomy of the Development Board encountered opposition from several ministers, who viewed it as a government within a government. These ministers perceived the Board's decision-making process as bypassing the Council of Ministers, undermining their authority, and potentially leading to duplication in governmental policymaking. Dealing with these concerns became a pressing necessity during that timeframe.⁴²⁹

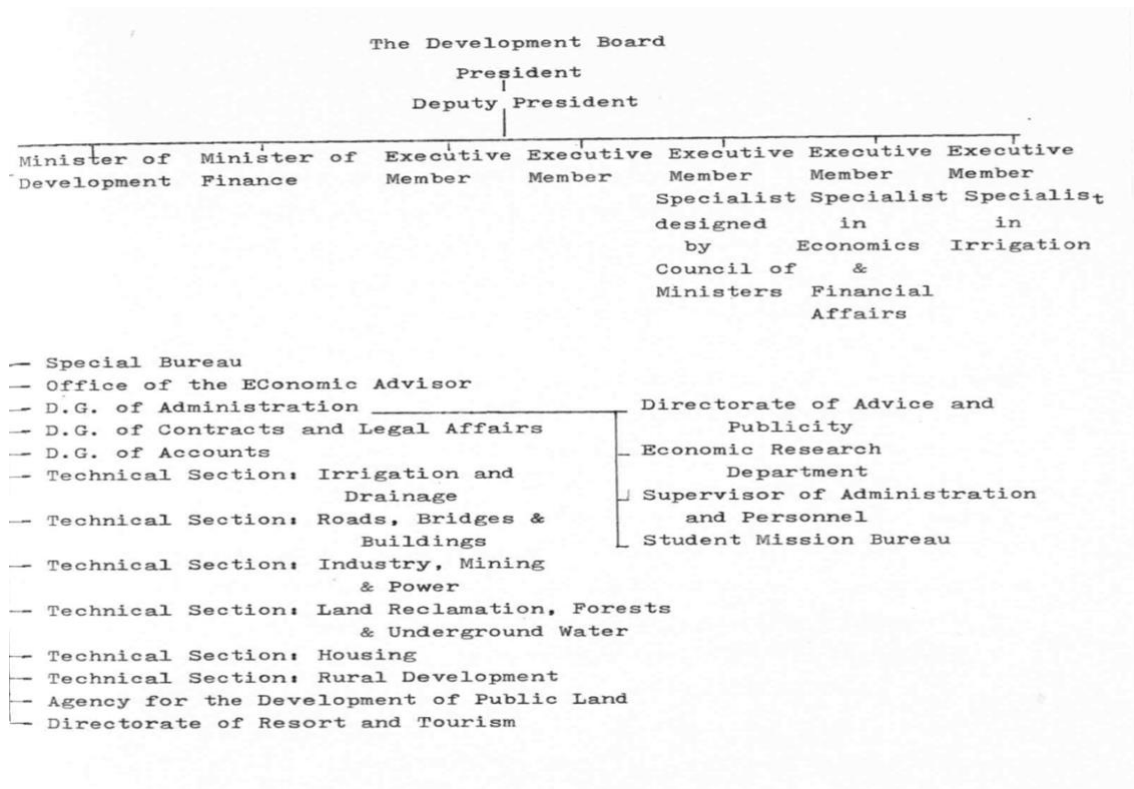


Figure 12: Administration hierarchy in the Development Board⁴³⁰

5.1.1 Development Board projects

The establishment of the Development Board by the Iraqi Government was driven by the desire to secure funding and successfully complete major projects. These projects were identified and carried out in two stages, the first taking place in the

⁴²⁹ Badre, A., 1972. "Economic Development of Iraq," in Cooper, C., Alexander, S. Economic Development and Population. New York: American Elsevoir Publishing Company. pp 287.

⁴³⁰ Atiyyah, H., 1973. The Iraqi Development Board (1950-1958). Beirut: American University of Beirut. pp 58

first week of April 1956, followed by the second in the second week of March 1957.⁴³¹ To finance the Wadi Tharthar Project, the Iraqi Government engaged in negotiations with the IBRD and successfully obtained a loan of \$12.8 million.⁴³² It is worth noting that the loan amount was used outside Iraq to procure necessary equipment and machinery.

According to the loan agreement, the Iraqi Government was expected to contribute \$16 million towards the project. However, by 1955, the government had only paid \$6.4 million.⁴³³ Surprisingly, the project's feasibility proved to be highly favourable, as revenues exceeded expenditures. As a result, the Iraqi Government realized that it no longer required the loan to finance the project. Consequently, the loan was repaid and settled with the IBRD in 1955. The Development Board was primarily engaged in various activities, including commissioning surveys and studies, appointing consultancy companies, allocating projects, drafting long-term plans and schedules, awarding contracts, and making administrative and day-to-day decisions. These responsibilities constituted the core functions of the Board in fulfilling its mandate.⁴³⁴

The Development Board actively engaged with various ministers, inviting them to discuss their ministry's project requirements. On many occasions, the Development Board approved the financing of ministry projects using its own budget. However, despite its responsibilities, the Development Board did not possess complete autonomy. In 1954, the Council of Ministers decided to establish a housing program to be financed by the Development Board's funds without taking the Development Board's opinion into consideration.⁴³⁵ This highlighted the Board's lack of full authority and decision-making power.

⁴³¹ Al-Dahhan, M. N., 2017. Evaluating the performance of mixed-sector projects in Iraq. *Journal of Economics and Sustainable Development*.

⁴³² Atiyah, H., 1973. *The Iraqi Development Board (1950-1958)*. Beirut: American University of Beirut. pp 58

⁴³³ Mutwali, H., 1964. *Iraqi Economics*. Damascus: Economic Studies Centre. pp 105

⁴³⁴ Al-Qaisi, A., 2019. The role of mixed sector projects in the development of the Iraqi economy. *International Journal of Social Sciences and Humanities Research*

⁴³⁵ Atiyah, H., 1973. *The Iraqi Development Board (1950-1958)*. Beirut: American University of Beirut. pp 77

Under the established process, project proposals were initially passed from the Minister of Development to the Development Board. The technical experts within the Development Board, in collaboration with consultancy firms, thoroughly studied and reviewed the project details and associated documentation. Based on their analysis, a final report was generated, either approving or disapproving the proposed project. This report was then presented to a steering committee comprising all members of the Development Board, except for the Prime Minister and the Minister of Finance. The steering committee was responsible for selecting which projects would be implemented under the auspices of the Development Board. Once a project received approval from the Development Board, it had to undergo further scrutiny and approval by the Council of Ministers or the Council of Representatives. This entailed presenting a comprehensive plan, encompassing the project's cost, economic justification, potential impacts, anticipated national income growth, and the proposed implementation strategy.⁴³⁶ The project's overall feasibility and national significance were evaluated at this stage, ensuring a thorough examination and assessment of its potential benefits and implications.

Once a project receives approval, the Development Board, in collaboration with a consultancy firm, prepares a tender document that is published in various channels such as the Ministry of Development, Development Board offices, and Iraqi embassies abroad. Interested international companies are given a period of 3 to 6 months to submit their final bids for the project. The appointed consultancy firm collects all the bids from interested companies, reviews them thoroughly, and prepares a report to be presented to the Board of Development. Consultancy firms played a crucial role in assisting the Development Board by providing support in preparing and training Iraqi staff and workers in project management and operation.⁴³⁷ This helped build capacity and ensure the smooth functioning of projects after their completion.

Once a project is successfully completed, the assets, management responsibilities, operation, and maintenance of the project are transferred to the

⁴³⁶ Article 12, Law Number 27 for the year 1953

⁴³⁷ Al-Qaisi, A.,2019. The role of mixed sector projects in the development of the Iraqi economy. International Journal of Social Sciences and Humanities Research.

relevant ministry. Consequently, the role of the Development Board comes to an end, and the ongoing management and maintenance of the project become the responsibility of the respective ministry. During the operational period of the Development Board, Iraq had only two auditing firms, namely Saba and Woodman, available in the country. The Council of Ministers selected Saba to audit the accounts of the Development Board. In 1953, the Controller General, the entity responsible for auditing all government accounts, was assigned the task of auditing, and submitting audit reports to the Council of Representatives. This ensured transparency and accountability in the financial operations of the Development Board and its projects.

The success of the Development Board in implementing various projects that continue to operate today can be largely attributed to the availability of financial resources from oil revenues. These funds provided the necessary capital for the Development Board to undertake its projects. Furthermore, the Development Board benefited from a workforce consisting of skilled professionals in their respective fields. The expertise and knowledge of these employees, combined with the guidance and support of international consultants, played a significant role in the planning and execution of projects. These consultants assisted in identifying suitable international private sector entities to carry out the projects.⁴³⁸ A crucial aspect of the Development Board's effectiveness was its ability to issue orders and make decisions that could be implemented, subject to approval by the Council of Representatives and the Council of Ministers. This authority empowered the Development Board to take necessary actions and ensure the progress of projects. One of the key responsibilities of the Development Board was to transfer completed projects to the relevant Iraqi entities for operation and management. For example, flood control projects were assigned to the Irrigation Department in the Ministry of Agriculture, which assumed the daily operations, management, and maintenance of these projects. However, challenges arose when completed roads were transferred to the Department of Public Works in the Ministry of Communication and Public Works. The Department of Public Works struggled to effectively maintain the roads, resulting in the need for additional

⁴³⁸ Al-Habib, M., 1953. *The Southwestern Social Science Quarterly*, September 1955, Vol. 36, No. 2. Baghdad: Wiley. pp187

repairs and maintenance in various sections of the roads, particularly in the Hilla-Najaf highway.⁴³⁹

The contract for the initial phase of the Tharthar Project, which involved the construction of a dam on the Tigris River along with a water canal for flood control purposes, was awarded to two international companies: Balfour Beatty from the United Kingdom and Ed Zublin from Germany. The primary objective of the project was to divert approximately half of the water from the Tigris River during anticipated floods, thereby mitigating the risk of flooding. Moreover, in cases where the water level in the Tharthar reservoir exceeded its capacity, the surplus water could be utilized to compensate for water shortages in both the Euphrates and Tigris Rivers.⁴⁴⁰ The inauguration of the first phase of the Tharthar Project took place in the initial week of April 1956, with the presence of King Faisal II at the opening ceremony. The conception of the project was credited to Sir William Wilcox, a distinguished British engineer renowned for his expertise in advising on irrigation and flood-related issues in Iraq.⁴⁴¹ Presently, the Tharthar dam continues to operate effectively, providing numerous vital benefits to the Iraqi population. Its key functions include diverting floodwaters and facilitating irrigation activities. Additionally, the government undertook maintenance work on the dam in 2016 to ensure its continued operation and efficiency.⁴⁴²

The Development Board, despite undertaking projects that were initiated prior to its establishment, played a significant role in expanding and enhancing various initiatives. One such example is the Habbaniya Project in Ramadi, which was further developed by the Development Board to serve as an additional flood control mechanism. Furthermore, the board spearheaded the construction of Dokan and Darbandi Khan dams for similar purposes. In the realm of irrigation, the Development Board successfully completed major projects such as those in Hilla, Musayyab, Shamiya, and Gharraf Canal. Notably, these projects

⁴³⁹ Atiyah, H., 1973. *The Iraqi Development Board (1950-1958)*. Beirut: American University of Beirut. pp120

⁴⁴⁰ Al-Jaf, M. N., & Al-Jumaily, R. T., 2019. The role of mixed sector projects in achieving sustainable development in Iraq. *Journal of Economics and Sustainable Development*

⁴⁴¹ Sissakian, V., 2011. *Genesis and Age Estimation of the Tharthar Depression, Central West Iraq*. Baghdad: Iraqi Bulletin of Geology and Mining. pp 52

⁴⁴² Al-Taie, K., 2016. *Tharthar restoration revives Anbar agriculture*. Baghdad: Diyaruna

encompassed drainage systems, as identified by the Development Board's consultants who highlighted the significance of addressing inadequate drainage as a key factor leading to low crop yields.⁴⁴³

The efforts of the Development Board revitalized numerous lands, rendering them suitable for agricultural purposes. These lands were subsequently distributed to landless peasants, while farmers were trained in contemporary cultivation techniques.⁴⁴⁴ Recognizing the distinction between industries that could be effectively managed by the government and those more suitable for private sector operation, the Development Board facilitated the financing of industrial projects through the Industrial Bank.⁴⁴⁵ Understanding the limited local supply of cement in Iraq for dam construction, the Development Board made strategic decisions to establish cement factories in Sinjar in 1957 and Hamam Al Alil in 1959. These locations were chosen for their proximity to the intended dam sites, ensuring easy access to raw materials.

The Bitumen Refinery in Qayarah was constructed by Lummus, an American company. The refinery aimed to produce asphalt, which was previously imported at a cost of 30 Iraqi Dinars per ton, whereas local production only incurred 8 Iraqi Dinars per ton.⁴⁴⁶ In a 1951 report by the IBRD, it was recommended to finance the construction of textile mills in Iraq to meet 25% of the country's cotton textile demand. However, the Iraqi Government, under the purview of the Development Board, chose to undertake the project without external financing. Consequently, the mill was completed in 1957 and produced over 25 million yards of cotton textiles annually.⁴⁴⁷ It was subsequently transferred to a board of directors appointed by the Ministry of Economy for operation. Despite the IBRD advising against the establishment of local sugar factories in Iraq due to the limited

⁴⁴³ Al-Qaisi, A., 2019. The role of mixed sector projects in the development of the Iraqi economy. *International Journal of Social Sciences and Humanities Research*

⁴⁴⁴ Atiyah, H., 1973. *The Iraqi Development Board (1950-1958)*. Beirut: American University of Beirut. pp127

⁴⁴⁵ Jalal, F., 2018. *The Role of Government in the Industrialization of Iraq 1950-1965*. Taylor & Francis Group. pp 89

⁴⁴⁶ Qubain, F., 1958. *The Reconstruction of Iraq 1950-1957*. New York: The Foreign Policy Research Institute. pp 170

⁴⁴⁷ Atiyah, H., 1973. *The Iraqi Development Board (1950-1958)*. Beirut: American University of Beirut. pp 131

availability of raw materials, the Development Board initiated the formation of farms that cultivated sugar beet. The successful yield in 1952 and 1953 prompted the Development Board to engage a consultancy company for an extensive study on the construction of sugar factories in Iraq, given the rising sugar imports.⁴⁴⁸ The resulting report from the consultancy company endorsed the construction of two sugar plants in Mosul and Sulaimaniya.

In 1951, the Iraqi Ministry of Economy approved a proposal submitted by an American company to construct a refinery with an annual capacity of one million tons. Consequently, the Oil Refineries Agency obtained a loan from the Development Board to finance the construction. By 1955, the refinery was completed, and due to the growing local consumption, the Development Board planned to expand its capacity. As a result, the Dora Refinery was constructed in 1959 and remains operational to this day.⁴⁴⁹ In 1956, the Development Board formulated plans for the construction of three electric plants with capacities of 200,000 kilowatts in Baghdad, 150,000 kilowatts in Basra, and 150,000 kilowatts in Dibis.⁴⁵⁰ Before 1952, Iraq had only 2,500 kilometres of surfaced roads across the country. However, following the establishment of the Development Board, over 500 kilometres of main roads connecting major cities were constructed. Additionally, local governorates, with financing from the Development Board, built more than 1,500 kilometres of roads.⁴⁵¹ The roads that were built included:

- 1) 72km Hilla-Najf road completed in 1956
- 2) 35 km Baghdad-Mahmoodiya Road
- 3) 26 km Hilla-Mahaweel road.
- 4) 57 km Baghdad-Falluja Road completed in 1957
- 5) 50 km Tasluja-Dokan road
- 6) 27 km Baghdad-Hilla (uncompleted parts) completed in 1958
- 7) 168km Basra-Amara Road
- 8) 75 km Hilla- Diwaniya road

⁴⁴⁸ Atiyah, H., 1973. *The Iraqi Development Board (1950-1958)*. Beirut: American University of Beirut. pp 132

⁴⁴⁹ Maher, J., 2003. *The Middle East and North Africa 2003*. 49th ed. London: Europa Publications.

⁴⁵⁰ Atiyah, H., 1973. *The Iraqi Development Board (1950-1958)*. Beirut: American University of Beirut. pp134

⁴⁵¹ Hassan, M., 1966. *Studies on the Iraqi Economy*. Beirut: Dar Al Talia. pp 145

9) 8 km Khadmiya passage road⁴⁵²

The Development Board also helped in constructing the Iraqi the Council of Representatives, the Royal Palace, hospitals, police stations and schools all around Iraq. Furthermore, various important bridges were built namely:

- 1) Adthamiya Bridge in Baghdad completed in 1957
- 2) South Gate Bridge in Baghdad completed in 1957
- 3) Kufa Bridge completed in 1956
- 4) Tuwaireej Bridge completed in 1956
- 5) Mosul Bridge completed in 1957
- 6) Taqtaq Bridge completed in 1957
- 7) Amara Bridge completed in 1957
- 8) Samawa Bridge completed in 1957
- 9) Nassriya Road Bridge completed in 1958
- 10) Baquba Railway Bridge completed in 1958
- 11) Al Qurnah Bridge completed in 1957⁴⁵³

By 1958, the Development Board had constructed 2,400 housing units to accommodate the employees working in the cement factory in Sinjar and the cotton textile mill in Mosul. Furthermore, additional housing projects were undertaken in Baghdad, Kirkuk, and Basra.⁴⁵⁴ The Development Board also contributed to the establishment of 9 hospitals, 31 dispensaries, and 66 elementary schools. The extensive development activities witnessed during the period of the Development Board resulted in a significant boom in the building materials industry. In 1956, the Iraqi Government issued over 10,000 building licenses, a substantial increase compared to the mere 3,000 licenses granted in 1951.⁴⁵⁵ Moreover, the projects executed by the Development Board played a crucial role in combating unemployment in Iraq. A survey conducted in 1954 revealed that it was challenging to find an unemployed individual, as the number

⁴⁵² Al-Hasani, A., 1961. History of Iraqi Cabinets. 1st ed. Baghdad: Arfan Press.

⁴⁵³ Iraq Development Board.,1958. Development Board Publication. Baghdad. pp 21-23

⁴⁵⁴ Qubain, F., 1958. The Reconstruction of Iraq 1950-1957. New York: The Foreign Policy Research Institute. pp 247

⁴⁵⁵ Atiyah, H., 1973. The Iraqi Development Board (1950-1958). Beirut: American University of Beirut. pp138

of employed workers exceeded 90,000, a notable rise from the mere 8,000 recorded in 1951.⁴⁵⁶ Although the Development Board did not directly employ all 90,000 individuals, the projects implemented by the Board facilitated employment opportunities in the overall economy.⁴⁵⁷ It is noteworthy that all projects and their assets remained under state ownership, with none of them being sold to private entities.⁴⁵⁸

The pictures show King Faisal II inaugurating Queen Alia Bridge which is currently known as the Jumhuriya bridge that links Karada Maryam from Karkh side with Bab Sharqi from Risafa side alongside Crown Prince Abdulillah and Prime Minister Nuri Saed Pasha.



Figure 13: King Faisal II inaugurating Queen Alia Bridge

The Development Board's ambitious plans for project execution were tragically interrupted by the violent events that unfolded following the execution of King Faisal II, Crown Prince Abdulillah, and Prime Minister Nuri Saed Pasha. The Free Officers movement, led by Abdul Kareem Qasim, successfully overthrew the Iraqi monarchy on July 14, 1958, bringing an end to the Development Board and

⁴⁵⁶ Al-Hasani, A., 1953. History of Iraqi Cabinet. Vol 3. Al Irdan Press. pp 248.

⁴⁵⁷ Manufi, A., Omar, H. and Hashim, J., 1970. Review of growth of Iraqi economy between 1950-1970. Baghdad: Iraqi Ministry of Planning. pp 246.

⁴⁵⁸ Al-Habib, M., 1953. The Southwestern Social Science Quarterly, September 1955, Vol. 36, No. 2. Baghdad: Wiley. pp189

transforming Iraq into a republic.⁴⁵⁹ Regrettably, many of the projects envisioned by the Board remain incomplete to this day. Notably, prominent projects like the opera house in Karrada, envisioned by renowned American architect Frank Lloyd Wright, the Dora airport, and the Hilton Hotel in Baghdad, were among the endeavours left unfinished after the 1958 revolution. However, there has been recent development in resuming the opera project. On February 23, 2023, Prime Minister Mohammad Shia Al Soudani issued an order for the Ministry of Culture to engage an international company to proceed with the construction of the opera house, which had been halted since 1958.⁴⁶⁰

Despite the successful implementation of numerous projects during the period of the Development Board, certain challenges and criticisms emerged. The establishment of the Ministry of Development introduced instability in decision-making processes, as the appointment of a new Minister with each cabinet reshuffle resulted in inconsistencies and disruptions in the functioning of the Development Board. This issue raised concerns regarding the effectiveness and operational efficiency of the Board.⁴⁶¹ Furthermore, criticism was directed at the Development Board for its emphasis on industrial and strategic projects while neglecting essential sectors such as education and social planning.⁴⁶² The disproportionate focus on specific areas led to discontent among various segments of society. In September 1956, for instance, protests erupted in Mosul, demanding the acceleration of development projects in the Governorate and highlighting concerns about regional disparities.⁴⁶³

One notable aspect of the Development Board's approach was its utilization of local contractors and traders for implementing smaller projects, as opposed to

⁴⁵⁹ Romero, J., 2011. *The Iraqi Revolution of 1958*. University Press of America. pp 111

⁴⁶⁰ Independent Arabia. 2023. Baghdad removes rubble from the Opera House project. [ONLINE] Available at:

<https://www.independentarabia.com/node/424671/%D8%B3%D9%8A%D8%A7%D8%B3%D8%A9/%D8%AA%D9%82%D8%A7%D8%B1%D9%8A%D8%B1/%D8%A8%D8%BA%D8%AF%D8%A7%D8%AF-%D8%AA%D8%B2%D9%8A%D9%84-%D8%A7%D9%84%D8%B1%D9%83%D8%A7%D9%85-%D8%B9%D9%86-%D9%85%D8%B4%D8%B1%D9%88%D8%B9-%D8%AF%D8%A7%D8%B1-%D8%A7%D9%84%D8%A3%D9%88%D8%A8%D8%B1%D8%A7>. [Accessed 1 March 2023].

⁴⁶¹ Qubain, F., 1958. *The Reconstruction of Iraq 1950-1957*. New York: The Foreign Policy Research Institute. pp 40

⁴⁶² Harris, G., 1958. *Iraq*. Horf Press: New York. pp 164.

⁴⁶³ Atiyah, H., 1973. *The Iraqi Development Board (1950-1958)*. Beirut: American University of Beirut. pp 144.

exclusively relying on major international corporations.⁴⁶⁴ This decision not only stimulated the Iraqi private sector but also helped bolster the overall economy and national income. By engaging local businesses as contractors, traders, and suppliers, the Development Board contributed to the growth of domestic enterprises. However, it is important to note that the heavy reliance on imports persisted due to the substantial outflow of funds for international project implementation. If the Development Board had continued its operations beyond its eight-year tenure, it is likely that more significant investments would have been allocated to developing industrial projects within Iraq, aiming to reduce the nation's dependence on imported goods.

The Development Board encountered challenges related to its contracting practices for road construction projects, particularly its preference for lowest price bids.⁴⁶⁵ This approach, which is still a concern for public employees today, sometimes posed difficulties for the implementing companies. Many contractors found that the contract price was insufficient to complete the projects and subsequently requested the Development Board to revise the contract terms. In one instance, the French Company Gugerolle, responsible for constructing the Baaquba-Kirkuk Road, decided to withdraw from the contract after 18 months of work when the Development Board refused to increase the project price. This led to significant delays in project completion.⁴⁶⁶ It is worth noting that international companies, particularly French and German firms, submitted lower bids to secure contracts in Iraq. These companies took advantage of subsidies provided by their respective governments, aiming to establish an early presence in Iraq's development efforts.⁴⁶⁷ While this contributed to the Development Board's achievements, it also created challenges in contract execution and project management.

⁴⁶⁴ Al-Zahawi, N., 1953. Iraq. Al- Tujara. pp 28

⁴⁶⁵ Habermann, S., 1955. The Iraq Development Board: Administration and Program. Middle East Journal Vol.9 No.2: Middle East Institute. pp 183

⁴⁶⁶ Atiyah, H., 1973. The Iraqi Development Board (1950-1958). Beirut: American University of Beirut. pp147

⁴⁶⁷ Habermann, S., 1955. The Iraq Development Board: Administration and Program. Middle East Journal Vol.9 No.2: Middle East Institute. pp 182

Despite these difficulties, the Development Board successfully accomplished many of its goals, such as constructing vital infrastructure for a modern and developed country, including roads, bridges, hospitals, housing, energy projects, and refineries. Additionally, the Board's projects played a crucial role in mitigating the threat of floods in Iraq in 1956. The enduring success of the Development Board lies in the fact that many of the projects implemented during its short operational period continue to function and serve their intended purposes to this day. However, it is reasonable to assume that if the Development Board had operated for a longer period, even greater accomplishments and larger-scale projects could have been realized. Recognizing the accomplishments of the Development Board is vital, yet equally important is gleaning insights from its strategies and errors. This understanding can shape the enhancement of contemporary infrastructure and service provision in Iraq, effectively meeting the nation's urgent requirements in these domains.

The establishment of the Ministry of Development alongside the Development Board aimed to ensure a clear separation of functions and mitigate potential conflicts of interest. However, an alternative approach could have been considered for a more effective model. One suggestion is for the Development Board to retain its role as the financier of projects, funded by 70% of all oil royalties. This approach would be strengthened by the inclusion of experts and consultants who would contribute to the planning process. Instead of having a separate executing entity, the Development Board could engage a combination of Iraqi and foreign experts as contracted advisors. These experts would assist the Development Board in project planning and oversee their execution. The projects would then be delegated to the relevant Iraqi ministries, who would assume ownership of the projects upon completion. During the construction phase, the Development Board's experts could continue to provide consultation and guidance to the ministries involved. To ensure efficient project management, the Development Board would need to employ qualified accountants and project managers who would review the progress of work in accordance with project programs and schedules. This approach would enable the Development Board to focus on formulating a comprehensive long-term development plan, prioritizing projects that address the critical needs of the Iraqi population. By implementing this framework, the Development Board could enhance its effectiveness and

contribute to the realization of a sustainable and citizen-centric development strategy.

The Development Board's ability to act as a financing entity for planned projects is crucial, but its ultimate success hinges on effective administration, management, and monitoring of its activities. Over its 8-year term, the Development Board played a pivotal role in transforming and modernizing Iraq's infrastructure and economy. Significantly, it was instrumental in developing Iraq's oil industry, which remains a primary source of revenue for the country today. Given the pressing need for a similar development movement in present-day Iraq, the government could consider establishing another development board or a comparable entity responsible for economic development. However, lessons learned from the previous Development Board underscore the importance of several key factors for success. These include political stability, effective leadership, good governance, and adequate resources and funding. The Iraqi government currently faces significant economic challenges due to heavy reliance on oil exports for revenue and limited diversification in other sectors. Therefore, a new development board could help shift the focus towards stimulating growth in non-oil sectors such as industry, agriculture, tourism, and transportation. To achieve this, collaboration and support for the Iraqi private sector are essential to inject capital into the economy and align new initiatives with market and societal needs. The support of the Iraqi Council of Representatives is also vital in enacting legislation that facilitates the activities of the newly established entity.

Drawing inspiration from the past, the Iraqi the Council of Representatives' enactment of various laws during the 1950s played a pivotal role in the Development Board's success. For example, Law Number 89 of 1954 empowered the Development Board to grant tax exemptions and other incentives to entities and corporations investing in priority sectors identified in the national economic development plan. Similarly, Law Number 90 of 1954 established the Industrial Bank as a financial institution providing loans to the industrial sector, while Law Number 95 of 1955 created the Agricultural Bank of Iraq to finance the agricultural sector. Given the current inefficiencies in Iraq's banking system, it is crucial for banks to receive government support, with the Industrial and

Agricultural Banks focusing solely on providing loans and financial assistance to priority infrastructure and service delivery projects. ⁴⁶⁸

The success of the Development Board from 1950 to 1958 offers valuable lessons for the economic development of Iraq. One crucial lesson is the meticulous focus on the initial planning phase, which involved gathering statistics and information on the development needs of the citizens and the country. This emphasis on thorough planning was instrumental in ensuring the successful implementation of projects and fostering nationwide development. It is essential for the Iraqi Government today to recognize the importance of effective planning as a foundation for development. Additionally, the Development Board's ability to identify priorities and implement projects that complemented each other was key to its success. This approach prioritized the development of infrastructure, which in turn facilitated the establishment of other projects. Iraq today must adopt a similar approach, placing emphasis on identifying and addressing infrastructure needs that support the overall development of the country. The government should develop a clear and detailed development plan that outlines key projects aligned with the requirements of the citizens. An action implementation plan should accompany this development strategy. Furthermore, each proposed project should undergo careful examination of its economic feasibility, availability of funds, and its role in the overall development of the country. This comprehensive evaluation process ensures that projects contribute to real economic growth and deliver social benefits to the Iraqi population.

To support the implementation of development projects, the Iraqi Government should focus on developing and supporting institutions like the Industrial Bank. Although the Industrial Bank still operates today, it requires increased capital and active involvement in projects. Strengthening the role of such institutions can serve as a crucial pillar for successful development, as demonstrated during the 1950s.

⁴⁶⁸ Al-Jaf, M. N., & Al-Jumaily, R. T.,2019. The role of mixed sector projects in achieving sustainable development in Iraq. *Journal of Economics and Sustainable Development*



Figure 14: Iraq Development Board projects

During its operation, the Development Board spearheaded the modernization and transformation of Iraq's infrastructure. This success highlights the importance of effective planning, project implementation, and resource management in achieving infrastructure development goals. By showcasing the achievements of the Development Board, it becomes evident that strategic partnerships are vital for driving infrastructure development in Iraq today. The Development Board's experience in collaborating with local and international companies underscores the value of partnerships in project implementation. By partnering with organizations possessing the necessary expertise, resources, and technologies, the Development Board expedited project completion, overcame knowledge gaps, and ensured efficient resource utilization. This underscores the potential of partnerships in enhancing infrastructure and service delivery projects in Iraq.

The Development Board's engagement of local contractors and traders exemplifies the significance of partnerships in promoting private sector participation in development initiatives. Through partnerships, Iraq can tap into its entrepreneurial potential, stimulate economic growth, and enhance service delivery. These collaborations foster investment, job creation, and the transfer of technology and know-how, leading to sustainable development outcomes. Partnerships formed by the Development Board facilitated knowledge transfer from international entities to Iraq. This highlights the potential for partnerships to

enable the exchange of expertise, best practices, and innovative approaches in infrastructure development and service delivery. By leveraging partnerships, Iraq can access the knowledge and skills necessary to address its specific infrastructure and service delivery challenges effectively. Additionally, the Development Board's role in coordinating and managing development projects underscores the importance of effective governance and institutional capacity. Partnerships contribute to the development of robust governance structures and institutional frameworks that promote transparency, accountability, and efficiency in infrastructure and service delivery projects. Collaborating with experienced partners helps Iraq build institutional capacity, improve project management practices, and enhance the effectiveness of public-private partnerships.

The experience of the Development Board in Iraq provides valuable insights into the importance of partnerships for infrastructure development and service delivery. By leveraging partnerships, Iraq can replicate the Development Board's achievements, foster private sector participation, promote knowledge transfer, strengthen governance, and enhance the implementation of infrastructure projects. Through effective partnerships, Iraq can address its current infrastructure and service delivery challenges, leading to improved living standards and sustainable development in the country.

Chapter 6 Recommendations and Conclusion

6.1 Introduction

Iraq, as the second largest crude oil producer in OPEC and possessing substantial oil reserves, has historically neglected its non-oil infrastructure.⁴⁶⁹ Despite its significant oil wealth and revenues, Iraq's over-reliance on oil returns to finance its expenditure has hindered the development of other sectors. The 2021 Iraqi budget reveals that a substantial portion, around 65%, is allocated to public employee salaries, leaving minimal funding available for other government expenses and projects. Furthermore, Iraq faces a substantial foreign debt of approximately \$40 billion. Former Minister of Oil, Issam Aljalabi, highlighted that Iraq's oil revenues from 1933 to 2003 amounted to \$283 billion, while from 2003 to 2023, it reached \$1,500 billion. The pressing question arises: where has this money been spent? It is evident that post-2003, Iraq's infrastructure and service delivery in various sectors were lacking, despite the significant oil revenues and expenditures by subsequent Iraqi governments. Comparing the budgets and oil returns post-2003 to those of the 1950s, when the Development Board was successfully established, reveals a stark contrast in the level of development achieved.

During the Development Board's era, the Board held 70% of all oil sales revenue generated by the Iraqi Government, which effectively financed numerous projects. Many of these projects completed during that period continue to operate successfully today. However, given the current large number of government employees and their salaries, funding such extensive projects solely from the government budget is no longer feasible. Additionally, the Ministry of Planning's latest statistics indicate that Iraq's population exceeded 42 million in 2023, nearly double the population from 25 years ago.⁴⁷⁰ Projections suggest that Iraq's

⁴⁶⁹ OPEC. 2023. Iraq facts and figures. [ONLINE] Available at: https://www.opec.org/opec_web/en/about_us/164.htm. [Accessed 23 March 2023].

⁴⁷⁰ Al Araby. 2023. Iraqi Ministry of Planning states that Iraq population is nearing 42 million. [ONLINE] Available at: <https://www.alaraby.co.uk/society/%D8%B9%D8%AF%D8%AF-%D8%B3%D9%83%D8%A7%D9%86-%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82-%D9%8A%D8%AA%D8%AE%D8%B7%D9%89-%D8%B9%D8%AA%D8%A8%D8%A9-%D8%A7%D9%84%D9%80->

population growth rate will double within the next 25 years. Consequently, the Iraqi Government must create a favourable business environment to absorb the high number of annual graduates. Relying heavily on the government as the primary employer in Iraq poses risks and is economically unsustainable. Therefore, a new framework must be established to address this alarming issue, as failure to do so could have disastrous consequences for the Iraqi economy. Moreover, the government's inability to deliver infrastructure projects and basic services to its citizens necessitates transferring such responsibilities to the private sector. The private sector possesses the financial capability, operational capacity, and management mechanisms required to implement these projects effectively. By involving the private sector, Iraq can tap into their expertise and resources, accelerating the development of infrastructure and improving service delivery throughout the country.

6.1.1 The significance of foreign investment enhancement

Post-conflict countries often rely on foreign investment to harness the economic and social benefits that the private sector brings, particularly due to limited government funds available for major projects. Iraq, despite its wealth of natural resources, faces a shortage of capital and requires technical and scientific expertise for its development. However, foreign investment in Iraq faces numerous obstacles, including legal and regulatory challenges, decision-making processes, and other factors that hinder investment opportunities. These obstacles necessitate serious attention from the government and relevant authorities to attract and facilitate foreign investment in Iraq. One advantage for Iraq is the government's experience in initiating a development revolution in the country during the 1950s. However, this progress was cut short due to the political changes that occurred in 1958. Additionally, there is a significant number of successful Iraqi businessmen with substantial financial resources who currently reside abroad but prefer to invest their money outside of Iraq. In a meeting with Dr. Majed Al Saadi, the head of the Iraqi Business Council in Jordan, it was revealed that Iraqi direct investments in Jordan alone amount to over \$40 billion,

42-%D9%85%D9%84%D9%8A%D9%88%D9%86-%D9%86%D8%B3%D9%85%D8%A9. [Accessed 23 March 2023].

with cash deposits exceeding \$20 billion. These figures highlight the potential for Iraqi businesspeople abroad to contribute significantly to Iraq's development by investing their resources in local projects. To leverage this potential, the Iraqi Government can initiate an initiative to attract Iraqi businessmen working abroad and encourage them to invest their capital in development projects within Iraq. This can be achieved through partnerships and support from the government, fostering a conducive investment environment, and providing necessary incentives. By collaborating with these Iraqi investors, the government can tap into their expertise, financial resources, and networks to accelerate the country's development.

In present-day Iraq, the Investment Commission holds the responsibility of overseeing all investments in the country and granting licenses to foreign investors and private sector companies for major investment projects. On the other hand, each ministry is responsible for executing projects funded solely by the Iraqi public budget. However, the administration, monitoring, and evaluation of these projects by each ministry are often lacking. This can be attributed to each ministry's individual agendas and the pervasive corruption in Iraq, which hinders genuine development. Moreover, the Investment Commission has faced challenges in promoting and developing investment in Iraq, primarily due to bureaucratic decision-making processes, difficulties in land allocation for investments, poor management, and ineffective laws. Therefore, the researcher recommends the dissolution of the Investment Law and Investment Commission, advocating for the establishment of a new entity responsible for investment and major development projects in Iraq. Drawing from the insights of Mr. Alaa Harba, the senior advisor of the Head of the Investment Commission, it becomes apparent that although licenses worth over \$100 billion have been granted, the actual completed projects amount to only \$16 billion. This substantial disparity highlights the need for a more effective investment framework.

6.1.2 Lessons learned from the Development Board

To address these issues, the government could consider implementing a structure similar to the Development Board while incorporating the lessons learned from past experiences to initiate a new development initiative. This approach would entail comprehensive planning and the deployment of

appropriate tools to ensure its success. It is crucial to introduce new laws that encourage investment, accompanied by clear rules, regulations, and procedures for investors. Additionally, procedural, and legal changes should be implemented to facilitate and streamline the transfer of land ownership for projects. The government should also enhance its support for investment projects. To mitigate corruption and mismanagement, the Iraqi government needs to establish a new entity directly linked to the Prime Minister, thereby empowering it to administer development throughout the country. This new entity would be responsible for planning and monitoring investment, strategic initiatives, as well as infrastructure and service projects. It would work in collaboration with relevant Iraqi ministries, departments, or through independent studies conducted by the entity itself.

The recommended new entity should adopt a similar structure to the Development Board and be endowed with clear mandate, ample resources, and capable personnel. It should have a proficient workforce comprising employees and experts, as well as the ability to engage international consultants to effectively implement its plans and initiatives. The Development Board's success in constructing major infrastructure projects that are still functional today, such as dams, ports, refineries, energy facilities, roads, bridges, hospitals, and airports, underscores the importance of meticulous planning. Dr. Azhar highlights that the Development Board's inception led to the establishment of the Ministry of Planning, which played a crucial role in long-term development project planning in Iraq. Consequently, the new entity should benefit from the expertise of consultants, the collaboration of private sector entities, and the participation of public sector employees dedicated to planning and prioritizing development projects. However, an entity lacking executive and implementation powers would hinder progress. Therefore, the new entity must possess both planning and executive authority to ensure effective implementation.

Furthermore, the Development Board's success was facilitated by the enactment of new laws that empowered it to attract foreign investment. Similarly, the new entity requires a dedicated law to confer specific powers, including land transfer capabilities, registration of foreign companies, and financial incentives such as tax exemptions and import exceptions. Additionally, the government should foster a conducive investment climate, both politically and economically, to support the implementation of development projects. A comprehensive list of priority projects

must be established, with a particular focus on vital infrastructure initiatives such as roads, bridges, hospitals, and energy projects, which form the foundation for modernizing the country's infrastructure and facilitating further investment projects.

In the current context, Iraq is in dire need of rehabilitating existing infrastructure and constructing new strategic projects that leverage the latest technologies. This necessitates the establishment of a single government entity with enhanced powers and authority to plan, organize, finance, and monitor the execution of these projects. Moreover, this new entity should invest in human capital by providing training and capacity building programs in collaboration with international entities. This approach will develop the necessary expertise within Iraq to effectively operate and manage projects once they transition from the private sector to the public sector.

The success of the Development Board was largely attributed to its effective collaboration with the private sector in driving social development and economic growth. Similarly, the new entity should foster strong partnerships with Iraqi and international private sector entities that possess expertise, financial resources, and risk appetite. These partnerships will allow for risk sharing during project implementation and operation. In a country like Iraq, where public sector entities may not have the necessary capabilities to undertake and procure major projects, the establishment of a new entity becomes even more crucial. This entity will plan projects, contract with the private sector for implementation, supervise execution, and subsequently transfer project ownership to the relevant public sector department for operation.

This revised framework, inspired by the previous success of the Development Board, emphasizes partnerships as a means for the Iraqi government to finance and manage complex infrastructure and service projects that it cannot undertake alone. Partnerships have proven to be beneficial in post-conflict countries. Once the project is completed, the private sector operator assumes management and operation responsibilities, while the public sector acts as a regulator and monitor during execution. Throughout the contract period, public sector employees will receive training from the private sector operator. This ensures that when the contract ends and project ownership is transferred back to the public sector, the

staff are equipped with the necessary skills and expertise to effectively operate and manage the infrastructure or service project. Ultimately, this approach serves the best interests of the Iraqi citizens.

The Development Board in Iraq faced challenges and did not achieve the desired success for several reasons. First and foremost, there were issues with the implementation and execution of projects. Despite the availability of funds, there were inefficiencies and delays in project completion, leading to a lack of tangible development outcomes. This was often attributed to bureaucratic hurdles, corruption, and mismanagement within the government agencies responsible for project execution. Another significant factor contributing to the Development Board's lack of success was the absence of proper oversight and accountability mechanisms. There was a lack of transparency in decision-making processes, including the allocation of funds and the selection of projects. This lack of transparency eroded public trust and confidence in the effectiveness of the Development Board and its ability to prioritize projects that would truly benefit the country. Furthermore, the Development Board faced challenges in effectively diversifying the economy beyond its dependence on oil revenues. Despite the initial intention to develop non-oil sectors, the efforts in this regard fell short. Insufficient focus and investment in sectors such as industry, agriculture, and tourism limited their growth potential and hindered the country's overall economic diversification.

To improve the situation and learn from the shortcomings of the Development Board, the Iraqi government should consider several recommendations. First, there should be a strong emphasis on transparency and accountability throughout the project lifecycle. This includes transparent decision-making processes, proper monitoring and evaluation mechanisms, and consequences for corruption and mismanagement. Secondly, the government should prioritize capacity-building efforts within government agencies responsible for project execution. This includes providing training and resources to enhance their technical expertise and project management skills. Additionally, streamlining bureaucratic processes and reducing red tape can help expedite project implementation. Thirdly, it is crucial for the government to actively promote and support the development of non-oil sectors. This can be achieved through targeted investments, incentives for private sector participation, and the creation

of a conducive business environment. Diversifying the economy will reduce its vulnerability to fluctuations in oil prices and enhance long-term sustainable growth. Lastly, engaging with international partners and leveraging their expertise and financial support can contribute to the success of development projects. Collaborating with international organizations, donor countries, and development agencies can bring in additional resources, knowledge, and best practices to support Iraq's development goals.

By implementing these recommendations and learning from the shortcomings of the Development Board, the Iraqi government can foster a more successful and impactful approach to development, leading to tangible outcomes and sustained progress for the country. The significance of the Development Board lies in its ability to redirect oil revenues from being solely consumed by society towards becoming a tool for investment. This shift allows for the development of non-oil sectors and facilitates actual progress and development instead of mere expenditure. The government often spends substantial amounts of money without achieving tangible development outcomes. The Development Board helped ensure that these funds were allocated towards the implementation of projects that contribute to the country's advancement. The economic and political conditions in Iraq have undergone changes, necessitating an active role by the state to stimulate the private sector and enhance its involvement in the development process. This should be done within the framework of a partnership model between the public and private sectors. Consequently, the framework should consider the current needs and conditions of the Iraqi economy. This framework should be led by the Prime Minister and comprise ministers, technicians, and specialists in investment affairs, with the number of members determined by the law. The framework should enjoy financial and administrative independence, have the authority to make investment decisions and enter contracts. Its executive tools should involve specialized companies in construction and project implementation, adhering to economic and professional standards. These companies can potentially become mixed joint-stock companies in the future, with the state determining its participation percentage. This ensures effective planning and execution of development projects and crucial infrastructure required by the different governorates in Iraq. Additionally, projects should be implemented based on economic and social feasibility studies.

This approach also necessitates a review of the work of investment commissions and other relevant entities responsible for project implementation within government agencies.

The need for an active state role in reforming the investment sector and executing government projects is reinforced by the requirements of the current stage. Extensive investments are necessary to address two types of challenges. Firstly, reconstruction projects are needed for the governorates affected by military operations. Given the scale of destruction and devastation in these areas, the financial allocations in the general budget alone will not be sufficient. Therefore, it is imperative to leverage international grants and aid earmarked for reconstruction. Implementation mechanisms should prioritize economic criteria, efficiency, and transparency in the disbursement of funds. Establishing a governmental institutional framework responsible for construction projects can motivate donor countries to fulfil their financial obligations towards Iraq's reconstruction projects. Secondly, Iraq's development experience has revealed an increased reliance on oil revenues, with the productive sectors (such as industry and agriculture) contributing minimally to the country's gross domestic product. This overdependence on imports and the neglect of important economic activities, such as tourism, hinder diversification of income sources and the reduction of reliance on oil revenues. Unlocking the potential of tourism, which is supported by Iraq's rich historical, cultural, and religious heritage, requires investment projects as part of the broader effort to diversify the national economy. These development objectives necessitate significant government investments and projects that surpass the scope of traditional reconstruction councils from the 1950s. They also exceed the current capacity of executive bodies within ministries, governorates, and investment commissions, as evidenced by previous experiences. Therefore, a new institutional framework is required to assume the planning and implementation of government projects, fostering a strong momentum for the investment activities crucial to Iraq's economy.

Implementing a partnership framework is not a straightforward task due to the inherent complexity and uncertainty associated with long-term projects. Such partnerships do not transfer all risks to the private sector; instead, the government partner plays a crucial role in the development and management of the partnership project. To ensure the success of the framework, it is vital for the

government to provide clear indications to private partners that it will fulfil all responsibilities and contractual commitments.

The lessons learned from Iraq's experience with the Development Board highlight the importance of continuous government support and political stability in promoting economic and social development. The decision to cancel the Development Board by the government that came into power after overthrowing the monarchy in 1958 resulted in a decline in the country's development. Therefore, it is imperative for successive governments to maintain their support and provide a stable political environment, which is crucial for financing strategic projects.

In many countries that have implemented partnership frameworks, a dedicated unit is established within the government to streamline the framework. This unit serves as a central hub for decision-making, project planning, and management by a team of experts. It acts as a one-stop shop for investors and facilitates collaboration among different government entities in Iraq. The establishment of such a unit is essential for optimizing resources that would typically be dispersed across various departments. It takes on a leadership role in developing country policies, issuing guidelines and recommendations, overseeing implementation, and managing procurement processes. The unit's responsibilities are critical, including identifying and assessing potential projects, selecting the appropriate partnership framework for implementation, contracting with consultants to develop project documents, evaluating proposals, and selecting private sector partners. By centralizing these tasks, the unit ensures efficiency, expertise, and consistency in partnership projects across different sectors in Iraq.

To establish a comprehensive partnership policy, it is crucial for the various government agencies in Iraq to have a clear understanding of the concept of partnerships and how they can be utilized to achieve the government's policy objectives. This policy should be well-documented and articulated to instil confidence and attract private investors and financial institutions. The clarity of the partnership policy helps reduce costs associated with potential investors' assessments when considering investing in a country. However, it is important for the government to acknowledge that partnerships are not a one-size-fits-all solution and may not be suitable for all projects. To gain public confidence in the

government's initiative, it is essential to prioritize projects that promote the social well-being of the public. Conducting an inclusive feasibility study is integral to assess the relevance and suitability of projects for the partnership framework. The government should adopt a transparent policy that encompasses all aspects of the partnership projects, making all relevant information readily available for public involvement and scrutiny. Transparency plays a vital role in building trust and ensuring accountability in the partnership process.

The dedicated entity responsible for implementing partnerships in Iraq should prioritize the recruitment of a highly skilled and diverse workforce comprising professionals with expertise in project management, finance, law, procurement, and engineering. The government should invest in additional training programs to enhance the capabilities of its employees and consider hiring experienced advisors and consultants who possess practical knowledge of partnership and procurement processes. Collaborating with advisors and consultants can lead to improved project delivery by thoroughly assessing project priorities and specifications, thereby reducing costs for all partners involved.

To attract private sector investment, the government should provide project-specific support and guarantees, such as tax exemptions and facilitation of fund transfers. However, it is crucial that these exemptions are thoroughly studied, reviewed, and measured before being granted, as the government assumes financial risks in the event of payment defaults. Establishing a comprehensive regulatory and legal framework is equally important, as it instils confidence and certainty for investors and private sector companies operating in the country. Long-term investments and projects require reliable, applicable, and enforceable laws and contracts that clearly delineate the rights and responsibilities of each partner. It is essential to ensure that the contracts serve the interests of both the private sector and the public sector companies in Iraq, without favouring one party at the expense of the other. The enactment of a partnership law is essential, as it provides clarity to the various Iraqi government bodies, international investors, and companies regarding the terms and conditions of their partnership arrangements. This law should empower the dedicated unit responsible for partnerships and clearly define the different types of project ownership, as well as outline the government's roles, responsibilities, and authority in the partnership process.

The investment potential in Iraq is substantial, as highlighted in discussions with officials from the Investment Commission. Currently, there are 192 investment-ready projects within the Ministry of Industry and Minerals, encompassing various sectors such as construction, manufacturing, and chemical processing plants. These projects are associated with 28 state-owned companies under the ministry and offer opportunities for rehabilitation, development, partnerships, and investments across different cities and provinces in Iraq. However, these state-owned companies face challenges in terms of efficiency and productivity, mainly due to outdated facilities, lack of technological advancements, and inadequate provision of electricity and infrastructure by the Iraqi Government. It is important to note that the aforementioned projects represent only a fraction of the available investment opportunities in Iraq, which can be leveraged by both local and international private sector entities. As stated by the Minister of Construction, Housing, and Public Municipalities, Mr. Bangeen Rekani, on 9 April 2023, Iraq has a significant demand for approximately 250,000 units of real estate annually. This presents a promising and substantial opportunity for experienced local and international contractors specializing in housing construction.

6.1.3 Establishment of Investment and Partnership Ministry

To ensure the success of investment and partnership projects in Iraq, it is recommended to undertake comprehensive reforms of the existing Investment law and Investment Commission by transforming it into an Investment and Partnership Ministry. This strategic move will play a pivotal role in driving economic prosperity and sustainable growth in the country. By elevating the status of the Investment Commission to a Ministry, the investment process can be streamlined and aligned with the government's vision for fostering partnerships between the public and private sectors. The establishment of an Investment and Partnership Ministry will facilitate a more efficient and effective investment climate, attracting foreign direct investment and promoting collaboration between the government and private sector. This transformation will contribute to the economic development of Iraq by creating an environment that is conducive to investment and conducive to sustainable growth. To enhance the attractiveness of Iraq as an investment destination, the government can draw inspiration from the successful practices of Dubai. By creating specific investment zones and areas equipped with essential infrastructure, such as water, electricity,

roads, and internet connectivity, the government can provide a reliable foundation for the success of investment and partnership projects. Designating these zones for different sectors requiring investment and development will further reassure both foreign and local investors that their projects will not encounter infrastructure-related challenges. This proactive approach by the government to provide necessary infrastructure support can be seen as a valuable contribution to the partnership or investment projects. Furthermore, it is recommended that each governorate in Iraq develops a preliminary master plan and concept design to identify their specific needs and requirements. This will enable a more systematic approach to granting licenses based on the master plan and concept design, ensuring that investments are aligned with the long-term development goals of each governorate. The transformation of the Iraqi Investment Commission into an Investment and Partnership Ministry would convey a resolute message to both domestic and international investors. Elevating its status to that of a ministry demonstrates the government's unwavering commitment to creating a conducive investment climate. This strategic move would provide enhanced institutional support, thereby ensuring utmost transparency, accountability, and efficiency in investment processes. Strengthening investor confidence in Iraq is paramount to attract the much-needed foreign direct investment, stimulate job creation, and ignite robust economic growth.

The dedicated Investment and Partnership Ministry would serve as an indispensable facilitator, promoting seamless coordination and effective implementation of investment policies. By acting as a central focal point for various government agencies, the ministry would streamline decision-making processes and alleviate bureaucratic hurdles. Furthermore, it would offer a centralized platform for formulating investment strategies, coordinating efforts across different sectors, and advocating for public-private partnerships. The coherence derived from such an approach would be instrumental in attracting investors, showcasing a unified front, and enabling smoother collaboration with the government.

6.1.4 Conclusion

Iraq, endowed with immense untapped potential for investment, particularly in sectors such as energy, infrastructure, and agriculture, stands to benefit

significantly from the transformation of the Iraqi Investment Commission into a ministry. This elevated status would enable a more proactive stance in attracting foreign direct investment. The ministry could actively engage in targeted marketing campaigns, conduct international roadshows, and negotiate bilateral investment treaties to promote Iraq's investment opportunities on a global scale. Through a concerted effort in pursuing foreign direct investment, Iraq can gain access to vital capital, cutting-edge technology, and invaluable expertise, which in turn would drive economic diversification and employment opportunities. The establishment of an Investment and Partnership Ministry would foster an environment conducive to public-private partnerships. Collaborative ventures between the government and the private sector have the potential to address critical infrastructure gaps, enhance service delivery, and spur sustainable development. The ministry, in this regard, can actively facilitate and promote public-private partnership projects, offering technical assistance and establishing frameworks to ensure fairness, transparency, and accountability within such partnerships. By encouraging greater private sector participation, these partnerships would amplify the impact of government investments and accelerate economic growth.

Access to accurate on-ground statistics is of paramount importance for infrastructure development and service provision, and the Investment and Partnership Ministry can play a pivotal role in ensuring the availability and utilization of such data. On-ground statistics provide invaluable insights into the current state of infrastructure and service provision by offering data on population demographics, economic indicators, existing infrastructure networks, and service coverage. By having access to comprehensive and reliable statistics, the Investment and Partnership Ministry can make well-informed decisions regarding resource allocation, identify areas in need of improvement, and prioritize infrastructure development projects. This data-driven approach ensures efficient resource utilization and maximizes the impact of investments. Accurate on-ground statistics enable the identification of specific areas or regions that require infrastructure development and improved service provision. These statistics help target investments and resources to address the specific needs and demands of different regions or population segments. For instance, data on population density, income levels, or transportation networks can guide the planning and

allocation of resources for constructing schools, hospitals, roads, or utilities in underserved areas. This targeted approach ensures that resources are allocated where they are most needed, leading to more effective infrastructure development and service provision.

On-ground statistics also provide insights into existing infrastructure gaps and needs. By analysing data on service coverage, quality, and accessibility, the Investment and Partnership Ministry can identify areas where infrastructure is lacking or inadequate. For example, statistics on electricity access, water supply, sanitation facilities, or transportation networks can reveal areas that require immediate attention and investment. This information aids in prioritizing infrastructure projects, setting development goals, and formulating policies to bridge the gaps and meet the needs of the population. Likewise, adequate access to on-ground statistics allows for the monitoring and evaluation of infrastructure development and service provision initiatives. By regularly collecting and analysing data, the ministry can assess the impact and effectiveness of projects, identify areas for improvement, and make necessary adjustments. Statistics related to service quality, user satisfaction, utilization rates, or infrastructure maintenance provide insights into the performance of existing infrastructure assets and help devise strategies to enhance service delivery. Reliable on-ground statistics are essential for attracting investments and forming partnerships with the private sector. Investors and potential partners require accurate data on market demand, infrastructure availability, and service gaps to make informed decisions. The Investment and Partnership Ministry can serve as a reliable source of such data, facilitating evidence-based discussions and negotiations. Access to comprehensive statistics instils confidence in investors and enables effective collaboration between the government and the private sector in developing infrastructure and delivering services.

Economic growth and job creation are closely intertwined, and an Investment and Partnership Ministry can play a pivotal role in promoting both aspects. Through increased investment, new industries and businesses can thrive, leading to a surge in job opportunities for the Iraqi population. Additionally, the ministry can prioritize skill development initiatives to bridge the existing skills gap and align the capabilities of the workforce with the evolving needs of the private sector. By placing a strong emphasis on job creation and skill enhancement, the ministry

can improve livelihoods and contribute to socio-economic progress. The transformation of the Iraqi Investment Commission into an Investment and Partnership Ministry represents a critical step towards accelerating economic prosperity in Iraq. By bolstering investor confidence, fostering policy coordination, attracting foreign direct investment, and facilitating public-private partnerships, this ministry will unlock the country's potential and create an environment conducive to sustainable growth. Through such initiatives, Iraq can build a resilient and vibrant economy, generating opportunities and enhancing the well-being of its citizens.

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