

ANNEX 1 TO THE 4TH QUARTER REPORT 2013

S-NEAIR-11-GR-138

Providing Support to the Offices of the Inspectors General (OIGs) in Iraq

**Enhancing the Role of the Inspectors General within
their Ministries**



Assessment study on governance and performance indicators:
A Window to the latest international developments and Prospects for Iraq

**This project is being implemented by UNDP Iraq and
Funded by the US Department of State**

**Providing Support to the Offices of the Inspectors General (OIGs)
in Iraq**

Assessment study on governance and performance indicators

**Developed by:
Dr. Wassim Harb**

December 2013

Table of Contents

I. Project Synopsis.....	Error! Bookmark not defined.
II. Objective of the Report:	4
III. Methodology:	5
IV. Governance: Multiple Definitions, a Common Direction	6
V. Good Governance:.....	9
VI. Governance Indicators:	10
VII. A Further Focus: Governance from the Perspective of Public Administration:	16
A. The Rule of Law:	17
B. Control and Accountability:.....	20
C. Meritocracy in Public Administration:.....	25
D. Integrity and Ethics of Public Sector Employees:	28
E. Transparency: Access to Information.....	32
VIII. The Governance Control Entities in Iraq:	36
A. The Commission of Public Integrity:.....	36
B. The Board of Supreme Audit:	41
C. The Office of the Inspector General:	45
D. The Civil Service in Iraq:.....	52
IX. Challenges to an Effective Governance Structure and Practices in Iraq:	54
X. Conclusion:	59

I. Objective of the Report:

The objective of this report is to define and explain the concepts of “Governance” and “Good Governance” as presented by scholars and international organizations, and as being practiced in a selected number of countries that have a democratic heritage, as well as in Iraq that has been trying to re-build its State institutions after 2003. Since the Governance concept is wide in scope to include several components that reflect the various definitions provided by experienced authors and institutions, the report emphasizes the managerial aspects of the concept with their impact on public sector performance.

Thus, respecting the aim of this paper generated basically to serve the inspector general’s office in Iraq. Other aspects are not less important than the ones presented in the report, but the highlighted dimensions are directly relevant to the effectiveness of the Government machinery with its diversified types of organizations.

II. Methodology:

The author of the report has collected documents that are relevant to the topic under discussion by retrieving available sources at the Arab Center for Development of the Rule of Law and Integrity (ACRLI) and at the American University of Beirut (AUB). In addition to desk-research, intensive search for relevant material has been conducted by surfing the internet to explore what has been written on the topic by experts and organizations and to get exposed to the latest literature, guidelines, laws, regulations and practices in the field. As for the material on the Iraqi experience, the author remained in contact with the National Expert in Iraq and with the UNDP Office in Baghdad to collect as many documents as possible about the applied legal and organizational Governance frameworks. Meetings with the National Expert in Iraq took place in Beirut allowing the author to exchange views, to get some answers about the local conditions and applications and to underscore priority issues.

III. Governance: Multiple Definitions, a Common Direction

“Governance” is a loose concept. The term is associated by many people with “Government”. However, “Government” is too narrow compared to “Governance”. The latter is more inclusive of other actors in the society, in addition to Government. A researcher of the subject can come up with dozens of definitions of what “Governance” is. Despite the fact that many scholars have tried to explain the meaning of “Governance”, the more they have provided definitions, the more the concept seemed obscure.

The United Nations Development Program (UNDP) defines Governance as *“the system of values, policies and institutions by which a society manages its economic, political and social affairs through interactions within and among the state, civil society and private sector. It is the way a society organizes itself to make and implement decisions – achieving mutual understanding, agreement and action. It comprises the mechanisms and processes for citizens and groups to articulate their interests mediate their differences and exercise their legal rights and obligations. It is the rules, institutions and practices that set limits and provide incentives for individuals, organizations and firms. Governance, including its social, political and economic dimensions, operates at every*

level of human enterprise, be it the household, village, municipality, region or globe”¹.

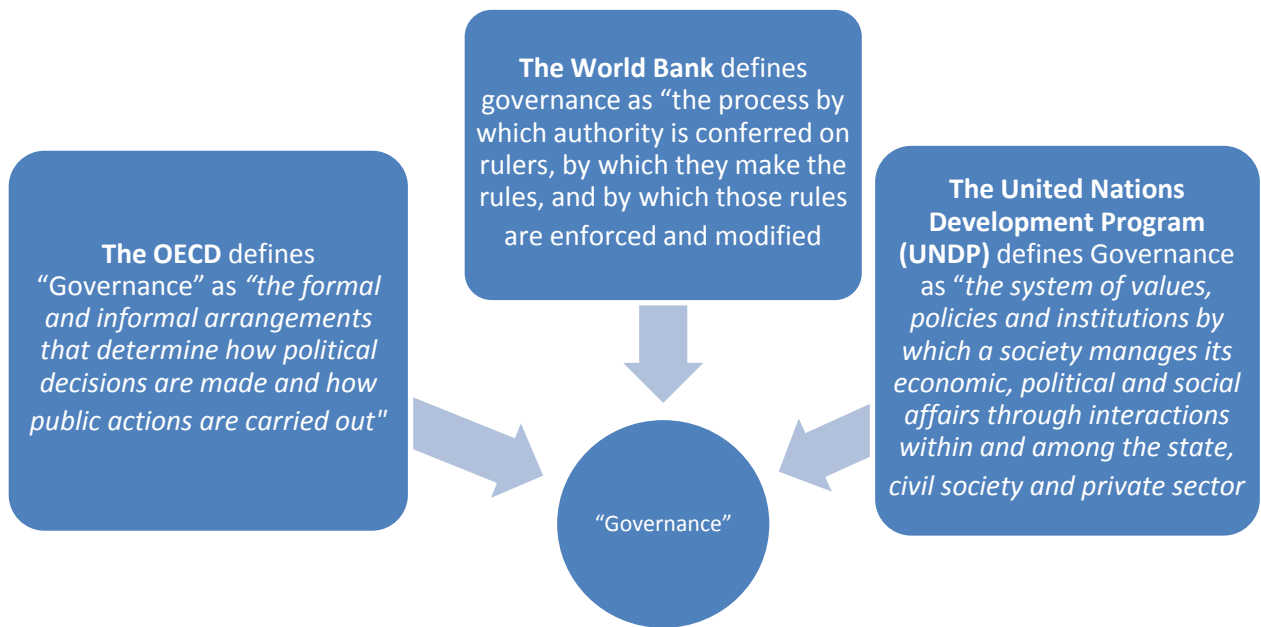
The World Bank defines governance as “the process by which authority is conferred on rulers, by which they make the rules, and by which those rules are enforced and modified. Thus, understanding governance requires an identification of both, the rulers and the rules, as well as the various processes by which they are selected, defined, and linked together and with the society generally”².

The OECD defines “Governance” as *“the formal and informal arrangements that determine how political decisions are made and how public actions are carried out from the perspective of maintaining a country’s constitutional values in the facing of changing problems, actors and environments”*.³

¹ Governance Indicators, **A User’s Guide**, Second Edition, p. 1; UNDP Publication.

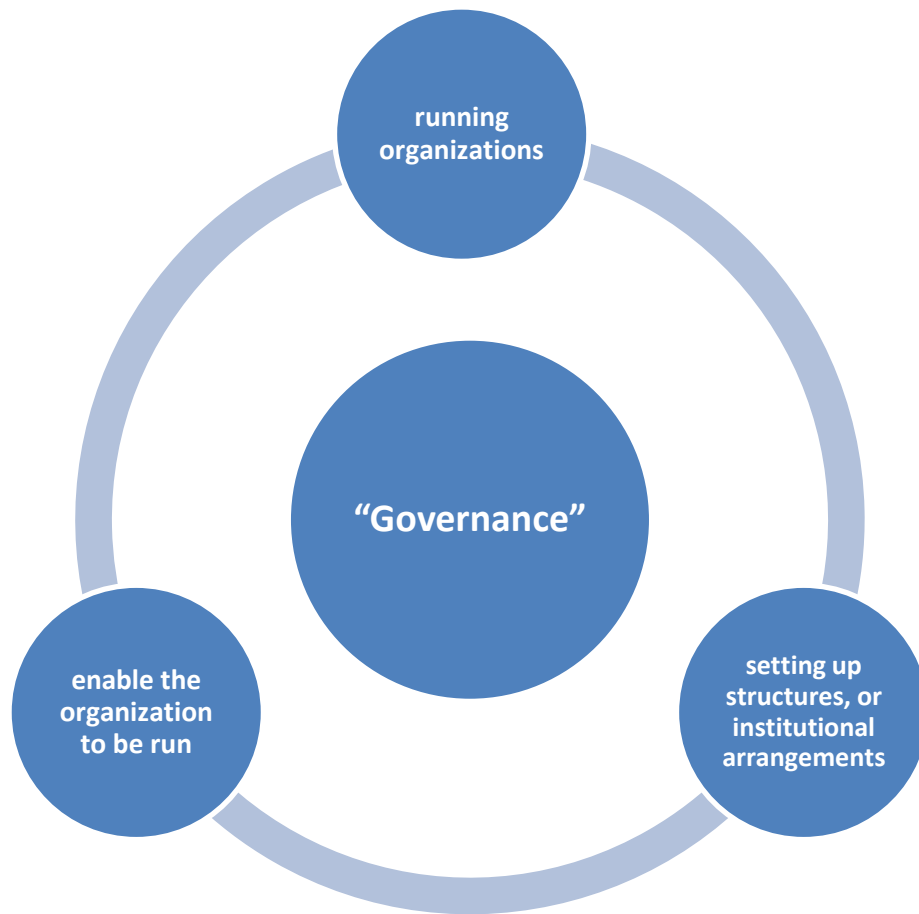
² <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES>.

³ Public Sector Modernization: Modernizing Accountability and Control; OECD, 2005 (www.oecd.org/dataoecd/56/42/34904246.pdf)



In spite of the various definitions, one can conclude a standard meaning of "Governance" that has a wide acceptance amongst scholars and international organizations. Governance is about "running organizations, setting up structures, or institutional arrangements to enable the organization to be run".⁴ This common meaning has important repercussions on the management of the public sector with its merit principles, integrity and accountability mechanisms.

⁴ Owen Hughes, **Public Management and Administration**, 4th ed. (UK: Palgrave Macmillan, 2012).



IV. Good Governance:

In order for "Governance" to be described as "Good", the processes for making and implementing decisions must be "good".

✚ According to the OECD,

"Good Governance" encompasses the role of public authorities in establishing the environment in which economic operators function and in determining the

distribution of benefits as well as the relationship between the ruler and the ruled.⁵

✚ **The World Bank** epitomizes “Good Governance” by

“predictable, open and enlightened policy making; a bureaucracy imbued with a professional ethos; an executive arm of government accountable for its actions; and a strong civil society participating in public affairs; and all behaving under the rule of law.”⁶

The World Bank, a major international donor that provides aides to developing countries, was interested in exploring how countries receiving aid programs are managing them in order to ensure that the assistance provided to these countries are managed effectively and that societies, therefore, are well-run.

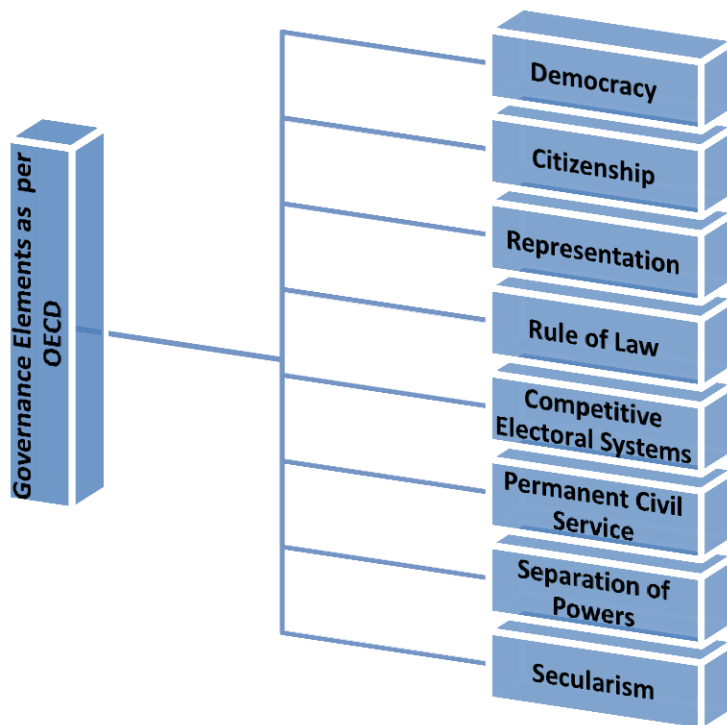
V. Governance Indicators:

Looking for measurements to gauge “Governance” in different countries has been an area of concern for several international bodies.

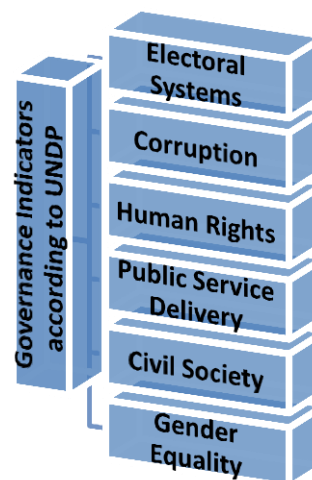
✚ With the evolution of the modern state, the **OECD** member countries share core governance elements that include: **Democracy**, **Citizenship**, **Representation**, **Rule of Law**, **Competitive Electoral Systems**, a **Permanent Civil Service**, **Separation of Powers** and **Secularism**.

⁵ www.oecd.org/dac

⁶ World Bank 1994: *Governance: The World Bank's Experience*.



- ✚ When measuring “Governance”, the **UNDP** takes into consideration the following issues: the electoral systems, corruption, human rights, public service delivery, civil society and gender equality.



Governance indicators that are related to the above mentioned issues ought to inform users about:

- The business environment,
- Allocation of public funds,
- Civil society advocacy, and
- The performance of the political and administrative systems.

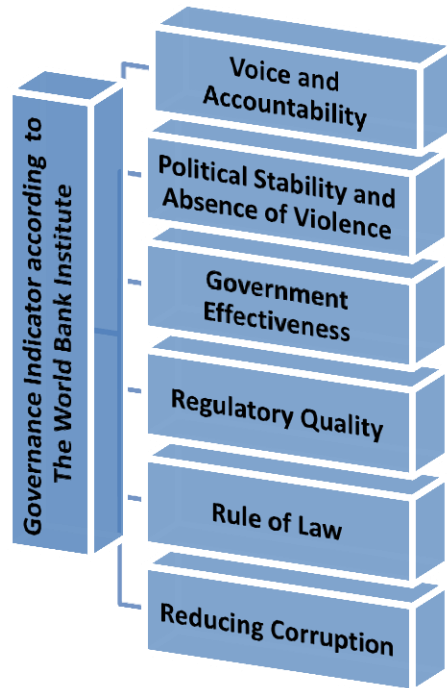
Such indicators are also used for:

- Planning (as a directive)
- Academic research; and for
- Setting benchmark targets in the context of development.

Indicators can be set at the various levels of the management process from input, to activities, to output, to outcome.⁷

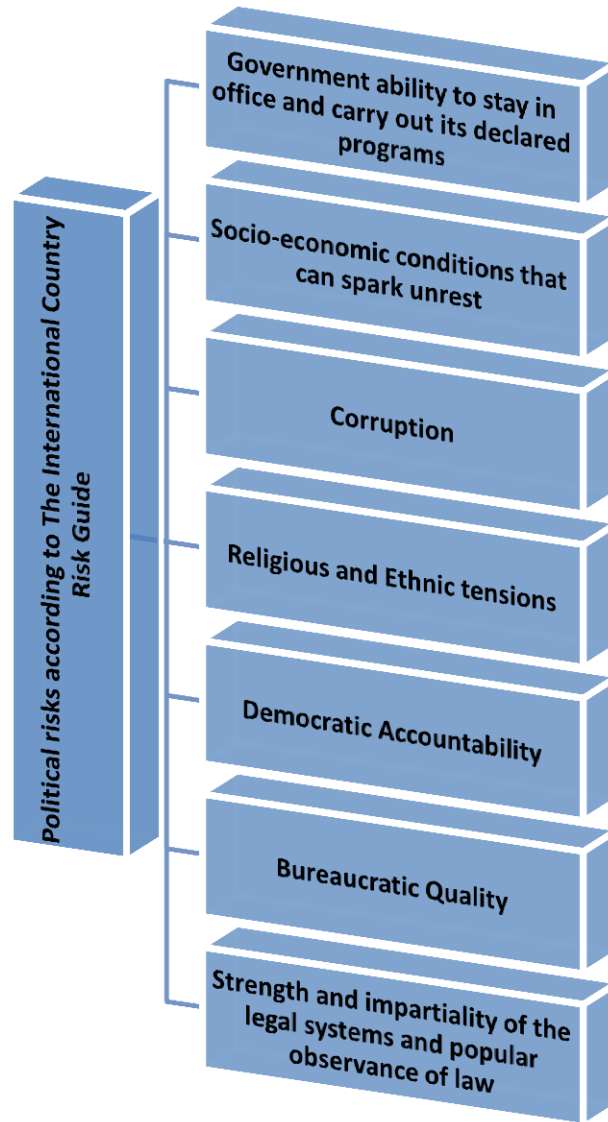
The World Bank Institute adopts the following Governance principles: **Voice and Accountability**, **Political Stability** and **Absence of Violence**, **Government Effectiveness**, **Regulatory Quality**, **Rule of Law** and **Reducing Corruption**.

⁷ refer to our report titled: "Assessment of Current Practices in Organizational Performance Measurement and Inspection: Trends and Applications on the International Scene and in the Context of Iraq", Section V on **Best Practices: Establishing Logical Models**



The International Country Risk Guide, a privately owned rating system, assesses the financial, economic and political risks in countries and compare them with each other to analyze the potential risks to international business operations. “Political risks include: government ability to stay in office and carry out its declared programs; socio-

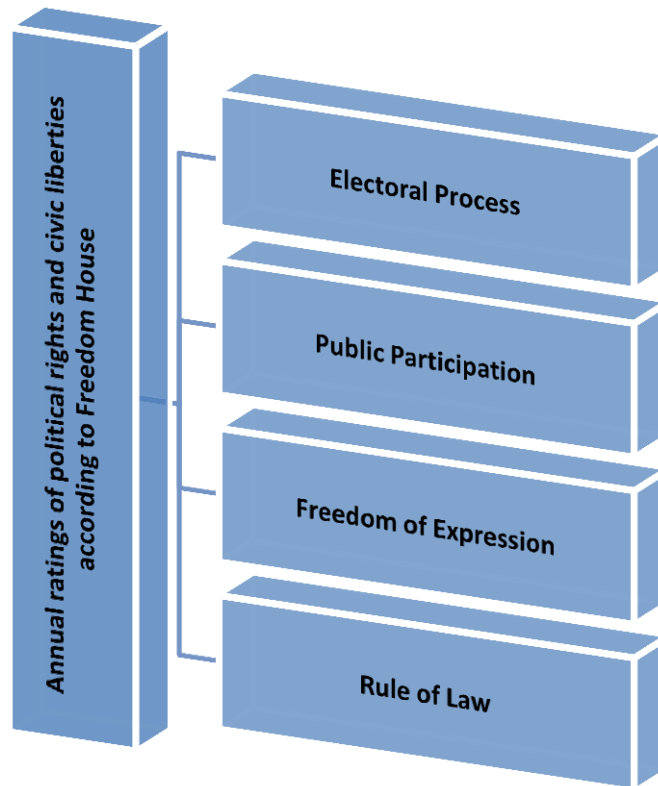
economic conditions that can spark unrest; corruption; religious and ethnic tensions; democratic accountability; Bureaucratic quality; and Strength and impartiality of the legal systems and popular observance of law.⁸



Freedom House develops annual ratings of political rights and civic liberties with special focus on issues like the electoral process; public participation, freedom of expression and rule of law.⁹

⁸ Christiane Arndt and Charles Oman, **Uses and Abuses of Governance Indicators**, OECD, 2006.

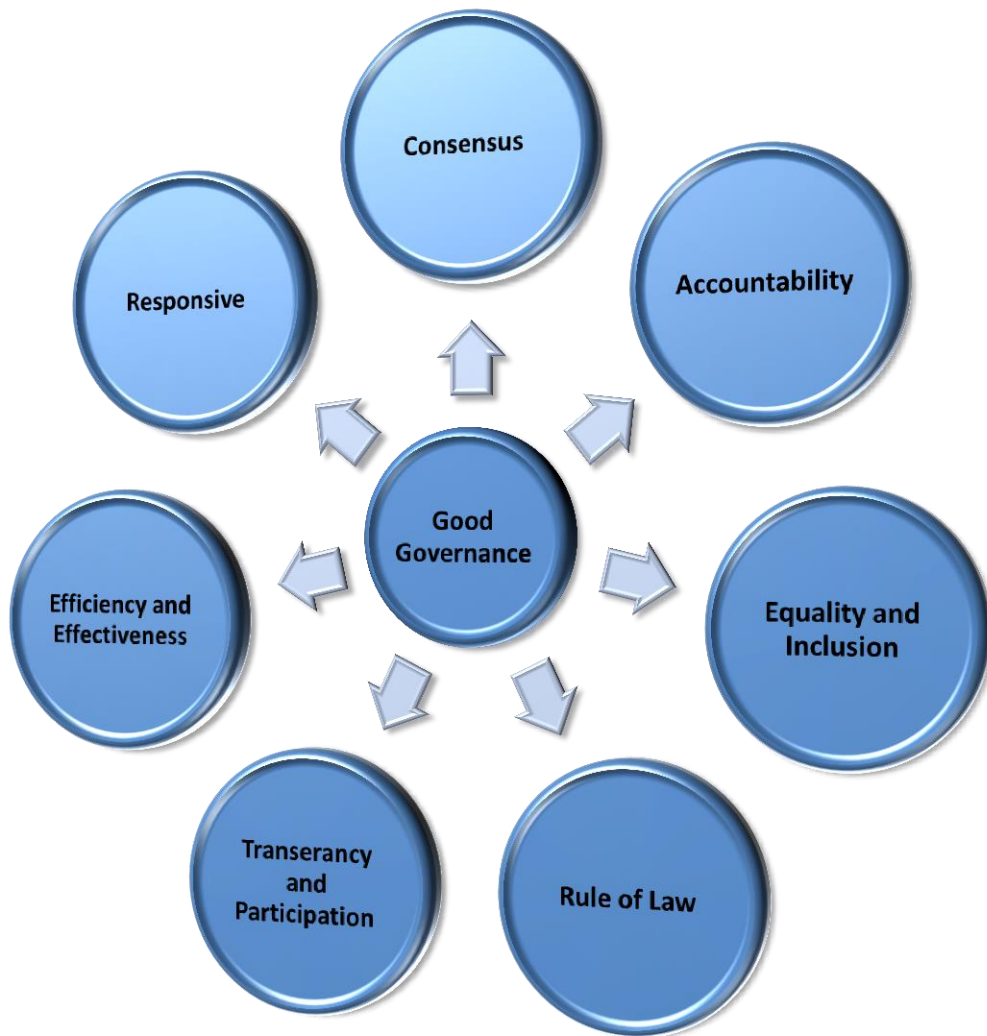
⁹ Christiane Arndt and Charles Oman, **Uses and Abuses of Governance Indicators**, OECD, 2006.



Transparency International, on the other hand, conduct regular surveys to measure public perception of corruption in different countries.

Characteristics of Good Governance¹⁰

¹⁰ The Australian Good Governance Guide: www.goodgovernanceguide.org.au



VI. A Further Focus: Governance from the Perspective of Public Administration:

Since the concept of Governance is broad in spectrum, this report focuses on Governance aspects that are directly relevant to the performance of public sector administrations, in particular on the following issues:

The rule of law, control and accountability, meritocracy, ethics of the civil servants and reducing corruption, integrity and transparency are the main areas of concern in this report.

A. The Rule of Law:

The **Rule of Law** is an ancient concept that dates back to the era of the old Greek philosophers. The basic idea that the Law should govern, in the sense that all citizens in any society should be subject to the authority of law, was promoted by Aristotle. The concept became popular in the 19th century with the British jurist A.V Dicey. It is the opposite of “might makes right” and “divine authority”. The rulers and the ruled are supposed to follow prescribed laws and regulations that must be respected and well-enforced to maintain order and to prevent chaos that is likely to drive away stability.

The Constitution is the highest law in any society, followed by other laws, decrees and regulations that are intended to organize the affairs of the society and to guarantee the proper functioning of Government institutions and other organizations.

Democratic countries that emphasize the rule of law as one of the main cornerstones of their Governance structure do not only seek to pass laws and regulations, but to ensure that they are clearly formulated, and well-implemented fairly, so that everyone in the society is treated equally before the law without discrimination or bias of any kind. These countries that have a better record of law enforcement than other non-democratic countries were not satisfied by only developing and maintaining a system of laws and regulations that protect the rights and obligations of everyone, but they are also seeking to improve the way they develop such laws and regulations. This means

that Governments must analyze the impact of any prospective law or regulation before they are officially endorsed and executed. Consultation exercises have started to grow in number in these countries to get feedback from the various stakeholders who are expected to bear the consequences once the law or regulation becomes effective. Consultation has been used as a method for improving the quality of rules and regulations and for ensuring more public receptiveness and support.

The guarantor of the rule of law is the judicial institutions. Although the judiciary is outside the scope of this report¹¹, it is wise to remember that an effective, independent judicial system that is immune to political, tribal, partisan and personal influences safeguards the proper and objective enforcement of the legal systems.

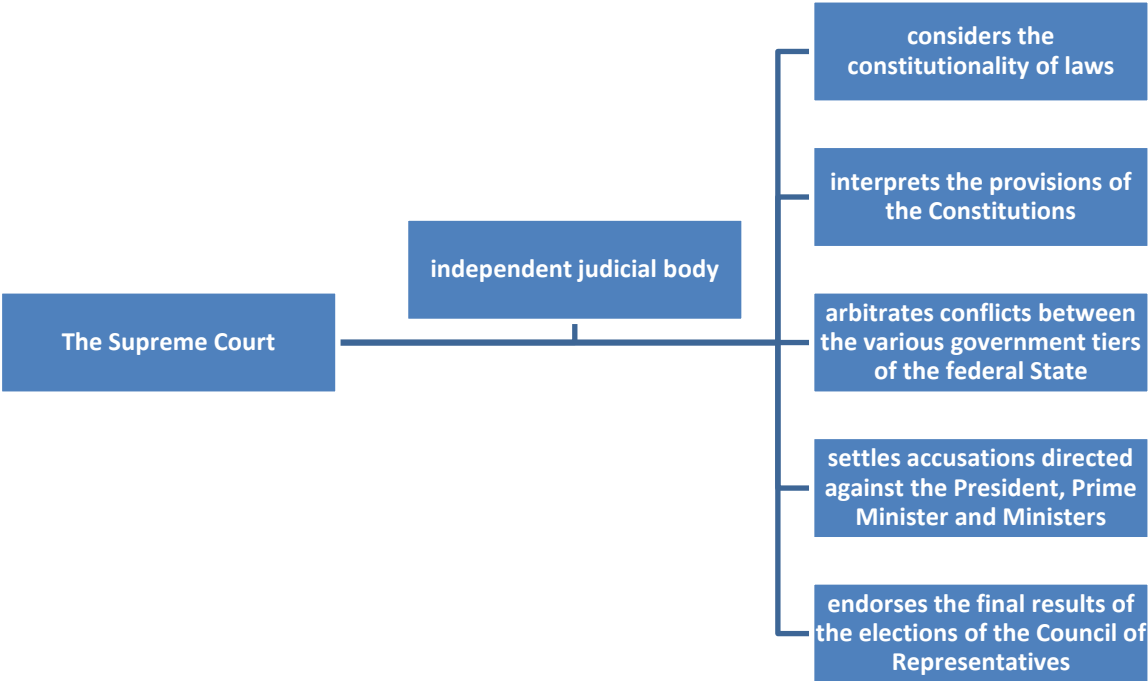
Even the Constitution might be ambiguous or interpreted in different ways. It is the judiciary that has the final say in this respect. The Supreme Court in the USA is the highest judicial umbrella and the final arbiter of the Constitution. The public perception is that *“the judiciary stands apart from the elected institutions and defends the fundamental law of the Constitution”*¹². Accordingly, there is confidence in the Court’s integrity.

In Iraq, the Supreme Court is an independent judicial body that considers the constitutionality of laws, interprets the provisions of the Constitutions, arbitrates conflicts between the various government tiers of the federal State and settles accusations directed against the President, Prime Minister and Ministers. It also endorses the final results of the elections of the Council of Representatives.

¹¹ Since it is a constitutional independent entity and it is not falling under the mandate of the inspectors general.

¹² Alan Grant, *The American Political Process*, 7th ed.; (Routledge: USA, 2005), p. 129.

Republic of Iraq



B. Control and Accountability:

The basic idea of control within the public sector is to ensure that an organization is operating within its legal and policy responsibilities and is achieving the objectives set for it. Systems of control provide assurance that management systems are operating well. Control and accountability are exercised through a wide range of mechanisms. The regular budget cycle will offer central agencies and the legislature the opportunity to review financial probity, efficiency and performance. The audit process, both internal and external, should provide a regular, independent review of financial management and performance.

Types of Accountability Relationships¹³:

Hierarchical Accountability	based on supervisory and organizational directives, including rules, standard operating procedures and close supervision of individuals. Obedience is the behavioral expectation. Traditional merit-based civil service systems that are organized around position classification schema exemplify a reliance on low discretion and supervisory control.
Legal Accountability	relationships emphasize compliance with some externally derived expectations or standards of performance and close scrutiny and oversight as the means by which employees are held to answer for their performance. The agent must comply with the principal's expectations.
Political Accountability	Political accountability relationships are about satisfying key external stakeholders, such as elected officials, clientele and other agencies. So, the official responds to someone else's expectations.
Professional	Professional accountability relationships emphasize responsibility to

¹³ Owen Hughes, **Public Management and Administration**, 4th ed. (UK: Palgrave Macmillan, 2012).

accountability expertise. Performance standards are established by professional norms, accepted protocols and prevailing practices of one's peer or work group.

The Control Dimensions:

The basic idea of control in public administration is to verify that a ministry or agency is abiding by the legal and policy frameworks within which they are supposed to operate. The ultimate objective of control is to check out that whether management systems in place are functioning well, or not. Control is exercised by various well-established mechanisms, starting with the annual budget cycle through which the ministries, control bodies and Parliament will interact to set limits and to review financial and other areas of performance. The executive authority does not have a free hand to decide on public expenditures and to spend money. It is the legislative authority that authorizes the executive authority to spend money, or to increase the ceiling of public debt. When it comes to setting limitations, in this respect, the legislative authority in a democratic system is powerful. The Government shutdown in the United States of America (USA) in October 2013 where some government facilities were closed until the power-politics showdown between the President of the USA and Congress generated a partial compromise over public spending ceilings is a fresh example of this political accountability, whereby the executive authority is accountable to the legislative authority that is, in turn, accountable to the public.

Once the executive authority has the legislative authorization to spend on public programs, projects and on administrative issues, central agencies within the executive authority play an important control function by overseeing the actual budget execution process. Examples of these central bodies are the Ministry of Finance and the Supreme Audit Institution (the Government Accountability Office in the USA; the Office of Auditor General in Canada, the National Audit Office in the United Kingdom, the Federal Board of Supreme Audit in Iraq). Although these bodies have a control function vis-à-vis other

spending ministries and public agencies, the worldwide trend has been to devolve greater managerial powers to those ministries and public agencies while their managers have the obligation to demonstrate that their resources have been used efficiently within the set legal and policy frameworks. With the increasing emphasis on building a “performance culture” in the public sector, public entities are expected to report on their achievements by providing more comprehensive and informative information that transcend the mere financial reporting data that they were used to provide in the past. The notion of audit has evolved to go beyond compliance with rules and regulations to encompass performance or value-for-money audit through which the economy, effectiveness and efficiency of Government programs, projects and activities shall be verified. Canada was amongst the first countries that realized that reporting pure financial figures to Parliament by the spending agencies is not enough to hold them accountable by the legislature. Performance audit has been introduced to be added to the already existing financial and compliance audit functions. Accordingly, the concept of comprehensive audit was born to be more inclusive of previously neglected auditing practices. In order to guarantee their independence, audit offices sought to be linked to the legislator.

Control in the public sector is of two types: internal and external.

<i>Internal control</i>	is the management processes, regulations and structures that assure senior management that the actions being carried out are legal, efficient and cost-effective and comply with regulations
<i>External control</i>	Typically means the central audit office, but it also includes central executive branch entities which provide, for example, spending authority to perform a particular function. ¹⁴

The international trend is to relax controls by providing ministries and public agencies with further flexibility to use their own resources to perform their tasks effectively, efficiently and in compliance with the set laws and regulations instead of referring

¹⁴ Accountability and Control, OECD Policy Brief, 2005.

financial transactions to a controller outside the public entity to get a prior-approval. Thus, more control functions have been devolved to the public entities themselves. While pre-audit functions have been relinquished by the audit office, internal controls within ministries had to be enhanced and the audit offices had to concentrate more on performance audit that includes non-financial aspects

*The OECD Perceptions of Internal and External Control*¹⁵

Internal Control: is designed to ensure that a ministry and agency carries out its required functions efficiently and effectively, that its financial reporting is reliable and that it complies with relevant laws and regulations. For most countries they are focused on controlling allocation of spending, accounting procedures and financial statements. Countries also differ in their use of effectiveness and efficiency audits as well as risk management techniques. All OECD countries have internal control units. Countries like the UK and Australia have formalized risk management techniques in their management control structures. These are the countries that had more elaborate internal controls as a starting point and have gone the furthest in relaxing input controls and managing by performance and contract.

Because internal control is handled within the management of the particular agency or department, its independence, impartiality and objectivity are called in question. In response to these problems, about half of the OECD countries have created central coordination, policy and / or monitoring units to oversee departmental internal control systems. Half of these units in OECD are located in the Ministry of Finance. These range from units that actively audit the internal auditors to small units which set standards and coordinate specific overlapping issues. Some countries have explicit links between the external audit institutions and internal control units. The supreme audit institutions (SAIs) evaluate the internal control system for the extent and depth of their own auditing work.

In Spain, internal auditors report to top managers and to the central unit in the finance ministry. Special reports can be addressed to ministers and the cabinet. The central unit provides the cabinet with an annual report containing the most relevant features, findings and recommendations on the financial activity.

¹⁵ Accountability and Control, OECD Policy Brief, 2005.

External Control:

The role of the Supreme Audit Institution (SAI) has evolved from the traditional task of verifying legality and regularity of financial management and of accounting to encompass efficiency and effectiveness of financial and program management. Budget offices and finance ministries in general also perform external controls – reviews of spending, processes, performance and value for money evaluations.

The most significant changes to the role of the SAIs have been to secure the independence of auditors, as well as to reinforce the links between the audit office and the legislature. Most SAIs are now independent of the executive.

As internal control focuses more on financial management and the rise of automation has made financial auditing less burdensome, the external auditors have almost universally started looking at program effectiveness or value for money. However, financial audits still encompass the majority of the SAI workload. Only in a few countries like the UK and the USA do value for money audits account for more than half of the work. Beyond the USA, most SAIs either coordinate or use reports from the internal auditors.

Conclusion: Since the links between available resources and performance are weak, internal control systems still focus primarily on financial measures. While international bodies are working on creating standards for auditors and, to a limited degree, internal control for performance audits and performance information, countries have been slow to adopt them in their systems.

C. Meritocracy in Public Administration:

Protecting the civil service from arbitrary political interventions has been one of the main drivers of the classical school of public administration in the nineteenth century. Theorists like Max Weber, Woodrow Wilson (who later became the President of the USA in 1911) and many others wanted to build a Government administration that is based on merit standards. The civil service reform movement that was initiated in the Western countries in the second half of the nineteenth century was driven by the desperate need to prevent corrupt practices in the public sector and to put an end to the then prevalent spoils system. The merit system was the ultimate objective according to which recruitment and selection shall be based on merit principles instead of political, family, tribal and personal relationships. Meritocracy is the opposite of nepotism and favoritism.

In order to ensure an objective recruitment and selection process, central personnel agencies (eg: the Civil Service Commission in the UK and USA) were created as watchdogs that do not only oversee the personnel management functions, but are also involved in the operational aspects to avoid any ministerial deviations. The situation of centralizing personnel function in one central body started to change as of the late 1970s with the Civil Service Reform Act in the USA that was passed in 1978. The Civil Service Commission was replaced by the Office of Personnel Management (OPM) that started to delegate personnel functions incrementally with more devolution of managerial responsibilities to the departments of the executive branch. Although the USA is given as an example of countries that provided their departments with flexibility to manage their resources, meritocracy remained a priority issue. In parallel to the OPM's delegation of managerial responsibilities of recruitment and selection and other personnel functions, the oversight body remained the agency that develops HR policies and standards that all departments must observe.

The **Merit System Protection Board (MSPB)** was established as a vigorous protector of the merit system. It is an independent, quasi-judicial agency in the executive branch that stands as a safeguard of the merit principles in the American federal administration. The MSPB has promulgated the merit principles that should guide every single department.

Merit System Principles¹⁶

1. *Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge and skills, after fair and open competition which assures that all receive equal opportunity.*
2. *All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.*
3. *Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.*
4. *All employees should maintain high standards of integrity, conduct, and concern for the public interest.*
5. *The Federal work force should be used efficiently and effectively.*
6. *Employees should be retained on the basis of adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.*
7. *Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.*
8. *Employees should be:*
 - a. *protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and*
 - b. *prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.*

¹⁶ US Merit Systems Protection Board; www.mspb.gov

9. *Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences--*
- a. a violation of any law, rule, or regulation, or*
 - b. mismanagement, a gross waste of funds, an absence of authority, or a substantial and specific danger to public health or safety.*

The above example from a country that strongly believes in managerial delegation while maintaining the merit standards clearly proves that managerial flexibility is not in contradiction with meritocracy in the public sector.

D. Integrity and Ethics of Public Sector Employees:

In order to embrace ethical standards in the public sector, Governments have developed codes of ethics to be applied by the civil servants. By observing these standards, the civil servant promotes the citizen's confidence in his/her Government administration.

By observing ethics standards, the civil servant promotes the citizen's confidence in his/her Government administration

The Code of Ethics sets a general framework for an ethical behavior to enhance integrity and accountability and to eliminate the negative image of the employee by reminding him/her that he/she is a public servant and hence, he was hired by the Government to serve the citizens respectfully and fairly.

The Code of Ethics does not provide minute details, but rather a set of principles that must guide the day-to-day attitudes and behavior of employees. The proper execution of the Code necessitates political and top-management commitment to avoid double-standard practices.

An example of such codes is the **Values and Ethics Code for the Public Sector of Canada**. The Code emphasizes the need to have professional, non-partisan federal public sector. It outlines the values and expected behaviors that guide public servants in all activities related to their professional duties. The Treasury Board in Canada has developed the Code. "Organizations are expected to take steps to integrate these values into their decisions, actions, policies, processes and systems. Similarly, public servants can expect to be treated in accordance with these values by their organization".¹⁷

¹⁷ Values and Ethics Code for the Public Sector of Canada; www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25049§ion=text

Values and Ethics Code for the Public Sector of Canada¹⁸

According to the Values and ethics Code for the Public Sector of Canada, federal public servants are expected to behave according to the following principles:

Respect for Democracy

Public servants shall uphold the Canadian parliamentary democracy and its institutions by:

- 1.1 Respecting the rule of law and carrying out their duties in accordance with legislation, policies and directives in a non-partisan and impartial manner.*
- 1.2 Loyal carrying out the lawful decisions of their leaders and supporting ministers in their accountability to Parliament and Canadians.*
- 1.3 Providing decision makers with all the information, analysis and advice they need, always striving to be open, candid and impartial.*

Respect for People

Public servants shall respect human dignity and the value of every person by:

- 2.1 Treating every person with respect and fairness.*
- 2.2 Valuing diversity and the benefit of combining the unique qualities and strengths inherent in a diverse workforce.*
- 2.3 Helping to create and maintain safe and healthy workplaces that are free from harassment and discrimination.*
- 2.4 Working together in a spirit of openness, honesty and transparency that encourages engagement, collaboration and respectful communication.*

Integrity

Public servants shall serve the public interest by:

- 3.1 Acting at all times with integrity and in a manner that will bear the closest public scrutiny, an obligation that may not be fully satisfied by simply acting within the law.*

¹⁸ Values and Ethics Code for the Public Sector of Canada; www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25049§ion=text

3.2 Never using their official roles to inappropriately obtain an advantage for themselves or to advantage or disadvantage others.

3.3 Taking all possible steps to prevent and resolve any real, apparent or potential conflicts of interest between their official responsibilities and their private affairs in favor of the public interest.

3.4 Acting in such a way as to maintain their employer's trust.

Stewardship

Public servants shall use resources responsibly by:

4.1 Effectively and efficiently using the public money, property and resources managed by them.

4.2 Considering the present and long-term effects that their actions have on people and the environment.

4.3 Acquiring, preserving and sharing knowledge and information as appropriate.

Excellence

Public servants shall demonstrate professional excellence by:

5.1 Providing fair, timely, efficient and effective services that respect Canada's official languages.

5.2 Continually improving the quality of policies, programs and services they provide.

5.3 Fostering a work environment that promotes teamwork, learning and innovation.

In the USA, the **Office of Government Ethics (OGE)** is the agency that seeks to enhance high ethical standards for public sector employees to increase public confidence that the government functions are executed with impartiality and integrity. The OGE neither conducts investigations nor represents citizens in legal matters. The following are the main tasks of the Office:¹⁹

- Ø It promulgates and maintains standards for ethical conduct;
- Ø Ensures that ethical programs of the departments and agencies are in compliance with laws and regulations;
- Ø Executes educational and training programs for ethics officials and civil servants;
- Ø Conducts outreach to the general public, the private sector and civil society;
- Ø Shares good practices with, and provides technical assistance to, state, local, and foreign governments and international organizations.

The Standards of Ethical Conduct for Employees of the Executive Branch in the USA became effective in 1993. The Standards of Conduct – which cover issues such as gifts, conflicting financial interests, impartiality, seeking employment, misuse of position, and outside activities – are designed to address not only actual conflicts of interest but also activities that give rise to the appearance of such conflicts.²⁰

¹⁹Office of Government Ethics; www.oge.gov

²⁰Office of Government Ethics; www.oge.gov

E. Transparency: Access to Information

In a democracy, the Government seeks to respond to the citizens' demands by developing policies, enacting laws and providing services. The public administration with its entities is the place where interactions between Government and citizens take place on a daily basis. This interaction generates a vast amount of data and information that revolve around the citizens. A traditional bureaucracy tends to work in a closed system with many barriers facing public accessibility to their records that are handled by the bureaucracy itself. A growing public demand to have access to information has been recorded in most countries. The production and archiving of a huge amount of information is costly and hence, require financial resources that are generated by taxation. **It is the people's money that helps the bureaucracy to produce and save their own records.** Therefore, they have the right to access their information without having to suffer administrative hurdles. In order to meet this increasing public demand for accessibility to information, Governments around the world have been trying to legalize, organize and enforce this accessibility right by passing and executing laws that govern the process. The right-to-know means that citizens are entitled to make a request to the Government to provide them with information without having to bear financial burdens. Information that is considered by the Government as "classified" shall be clearly identified in the law. Accordingly, Freedom of Information or Access to Information Acts have been issued worldwide.

In Canada, the Access to Information Act was proclaimed in force on July 1, 1983. The Act creates an enforceable right of access to records under the control of a government institution, in accordance with the following principles²¹:

- Ø Government information should be available to the public;

- Ø Necessary exceptions to the right of access should be limited and specific; and

²¹ Access to Information Manual; Treasury Board of Canada Secretariat; <http://www.tbs-sct.gc.ca/atip-ai/prp/tools/atim-maai01-eng.asp>

- Ø Decisions on disclosure of government information should be reviewed independently of government.

In administering this legislation, it is very important to bear these governing principles in mind.

In the United Kingdom, the Freedom of Information Act of 2000 provides citizens with the right to access information held by the public authorities. The Information Commissioner's Office (ICO) is the British independent authority that was established to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.²²

The Freedom of Information Act 2000 and the Data Protection Act 1998 in the UK

The Freedom of Information Act 2000 provides public access to information held by public authorities.

It does this in two ways:

**Public authorities are obliged to publish certain information about their activities;*

**Members of the public are entitled to request information from public authorities.*

The Act covers any recorded information that is held by a public authority in England, Wales and Northern Ireland, and by UK-wide public authorities based in Scotland. Information held by Scottish public authorities is covered by Scotland's own Freedom of Information (Scotland) Act 2002.

Public authorities include government departments, local authorities, the NHS, state schools and police forces. However, the Act does not necessarily cover every organization that receives public money. For example, it does not cover some charities that receive grants and certain private sector organizations that perform public functions.

Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings.

²² www.ico.org.uk

The Act does not give people access to their own personal data (information about themselves) such as their health records or credit reference file. If a member of the public wants to see information that a public authority holds about them, they should make a subject access request under the Data Protection Act 1998.²³

The Data Protection Act 1998 gives rules for handling information about people. It includes the right for people to access their personal data. The Freedom of Information Act and the Data Protection Act come under the heading of information rights and are regulated by the ICO.

When a person makes a request for their own information, this is a subject access request under the Data Protection Act. However, members of the public often wrongly think it is the Freedom of Information Act that gives them the right to their personal information, so you may need to clarify things when responding to such a request.

The Data Protection Act exists to protect people's right to privacy, whereas the Freedom of Information Act is about getting rid of unnecessary secrecy. These two aims are not necessarily incompatible but there can be a tension between them, and applying them sometimes requires careful judgment.

When someone makes a request for information that includes someone else's personal data, you will need to carefully balance the case for transparency and openness under the Freedom of Information Act against the data subject's right to privacy under the Data Protection Act in deciding whether you can release the information without breaching the data protection principles.²⁴

Access to Information in Iraq:

The right of access to information (Freedom of Information-FOI) that is held by public sector entities **has not been legalized in Iraq, yet.**

The Constitution of Iraq protects freedom of expression, but does not recognize public access to information. Neither does any other piece of legislation.²⁵ Non-government organizations (NGOs) have been lobbying to persuade the Government to enact a Freedom of Information Law.

²³ What is the Freedom of Information Act? Information Commissioner's Office in the UK
http://www.ico.org.uk/for_organisations/freedom_of_information/guide/act

²⁴ What is the Freedom of Information Act? Information Commissioner's Office in the UK;
http://www.ico.org.uk/for_organisations/freedom_of_information/guide/act#what-is-the-freedom-of-information-act-1

²⁵ Free Speech in Iraq: Recent Developments; Article 19 – London in collaboration with the UNDP, 2007:
<http://www.article19.org/data/files/pdfs/publications/iraq-free-speech.pdf>

The atmosphere of secrecy and the operation of the Government administration as a closed system have their deep roots in the administrative culture of the Iraqi public sector. Many old, obsolete and rigid laws, regulations and customs that have been inherited from the previous, toppled regime are of heavy burden on the shoulders of the Iraqi citizens. **This bureaucratic symptom is not conducive to transparency and integrity, but rather forms a fertile soil for corruption to grow and for public service ethics to deteriorate.**

After exposing the latest trends in Governance and its reflections on public sector performance, the report will shed light on the experience of Iraq with special emphasis on the institutions, legislations and practices that are relevant to Government accountability, integrity and transparency.

VII. The Governance Control Entities in Iraq:

The section on Iraq shall focus on the institutions that form the pillars of the accountability system in the Iraqi public administration. These institutions are the following: **The Commission of Integrity, the Federal Bureau of Supreme Audit and the Office of the Inspector General.**

Introducing briefly these entities lay the ground for a comprehensive picture on the status of measuring the performance governance indicators.

A. The Commission of Public Integrity:

The Commission of Integrity (COI) is an independent agency, subject to parliamentary control, that has a statutory authority with administrative and financial autonomy responsible for preventing and investigating corruptions at all levels of the Iraqi Government. It seeks to promote an open, honest and accountable Government. It was established in January 2004 to perform the following tasks²⁶:

1. Investigating cases of corruption through investigators under the supervision of the competent judge in compliance with the criminal legal procedures;
2. Following-up on cases of corruption that fall outside the scope of work of the COI's investigators through a legal representative;
3. Fostering the culture of integrity, public service ethics, transparency and accountability through awareness and educational programs;

²⁶ The website of the COI; www.nazaha.iq

4. Preparing draft legislations to prevent and combat corruption, submitting them to the legislative authority through the President of the Republic or the Prime Minister, or through the parliamentary committee concerned;
5. Urging Iraqi officials to disclose their financial status, assets, investments and benefits that might lead to conflict of interests. This task is done by issuing organizational instructions;
6. Issuing a code of conduct and ethical standards to ensure appropriate performance of the public service tasks.

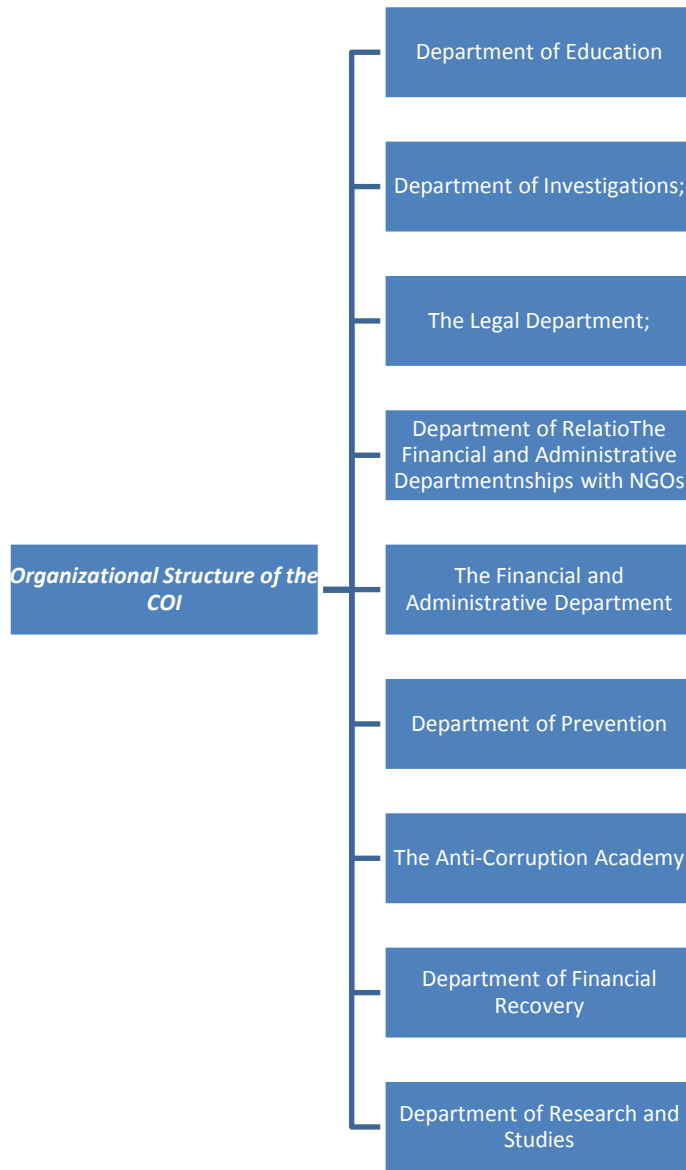
Previously, the Prime Minister used to appoint the Head of the COI who has the position of a Minister. He has immunity in the sense that he cannot be removed from office without a parliamentary consent. However, Law No. (30) of 2011 (the Law of Commission of Integrity) stipulated that the Iraqi Parliament shall establish a Committee of 9 members chosen from amongst the Parliamentary Committee of Integrity and Legality to choose 3 candidates for the position of Head of the Commission of Integrity. The Parliament decides by a majority-vote. The office-term of the Head of the Commission of Integrity is 5 years. His office-term can be renewed only once either consecutively or non-consecutively. He shall be a holder of a degree in Law with at least 10 years of practical experience in the field, and of at least 40 years of age.²⁷

The COI acts under article 6 and 36 of **the UN Convention Against Corruption** that was ratified by Iraq according to law No. (35) in the year 2007.²⁸

The Organizational Structure of the COI has the following units²⁹:

²⁷ Law No. (30); The Law of the Commission of Integrity, 2011.

²⁸ Musings on Iraq, the Undermining of the Integrity Commission; Part II of Washington's and Baghdad's Failed Attempt to Fight Corruption; musingsoniraq.blogspot.com



At the recommendation of the Director General of Investigations within the COI, the Head of the COI can decide to open investigation offices in the regions that lack a special Commission of Integrity within their geographic scope, in coordination with the parties concerned.

²⁹ Law No. (30); The Law of the Commission of Integrity, 2011.

Cases that are investigated by the COI can then be turned over to the Central Criminal Court (CCC) that decides whether to go ahead with the prosecution procedure or not. The COI relies on the Offices of the Inspectors General (OIGs) that exist in the Iraqi administrations as internal, independent control unit. If the CCC proceeds with the case, the Ministry of Interior issues arrests warrants³⁰.

Therefore, the referral procedure follows the following steps:



In February 2011, the Iraqi legislator (Council of Representatives) eliminated article 136 (b) of the Penal Code that was a serious obstacle facing the proper execution of the COI's tasks. The discarded article gave a free hand to Ministers to obstruct any case of corruption from submission to Court. However, other legal barriers continued to stand in the way of the COI. In February 2008, the Amnesty Law aimed at reconciliation included a provision that gave protection to employees involved in corruption. The COI complained that hundreds of cases had to be closed without any further processing of these cases. Although the COI has the power to transfer cases of corruption in which ministers, deputy ministers and Directors General are involved to the Central Criminal Court (CCC), the adjudication system has proven to be ineffective³¹.

³⁰ Musings on Iraq, the Undermining of the Integrity Commission; Part II of Washington's and Baghdad's Failed Attempt to Fight Corruption; musingsoniraq.blogspot.com

³¹ Musings on Iraq, the Undermining of the Integrity Commission; Part II of Washington's and Baghdad's Failed Attempt to Fight Corruption; musingsoniraq.blogspot.com

The unwillingness or inability of the CCC to deal with such cases demonstrates the weak accountability system in Iraq that is outweighed by personal and political arbitrary interventions and tribal loyalties.

The anti-corruption duties of the Commission of Integrity shall be performed in close collaboration with the Federal Board of Supreme Audit (BSA) and the Offices of the Inspectors General (OIGs).

The Head of the COI submits an Annual Report to Parliament and to the Council of Ministers within 120 days after the closing of the year. The COI is subject to the control of the BSA. The latter conveys its reports on the COI to Parliament and shall make such reports public through the mass-media.³²

The Role of the COI in Promoting Civil Service Ethics

The COI has developed a Code of Conduct for public sector staff in 2006. Through its Iraqi Anti-Corruption Academy, the COI provides training programs that target the employees of the control bodies, ministries and agencies aiming at building their capacity to combat corruption, disseminating the culture of integrity, transparency and accountability. In its recent statistics that were published on the website of the COI, the Academy has executed a total of 119 training programs that have been attended by 1807 staff members and 17 workshops.³³

³² Law No. (30); The Law of the Commission of Integrity, 2011.

³³ The website of the COI; www.nazaha.iq

B. The Board of Supreme Audit:

According to Law No. (31) of 2011, **the Board of Supreme Audit (BSA) aims at:**

1. Safeguarding the public money against waste, squander and misconduct and ensuring its effective utilization;
2. Enhancing the efficiency of audited entities;
3. Contributing to the independence of the economy and its growth and stability;
4. Spreading the national and international standard-based accounting and auditing systems continuously and improving applicable standards and criteria of management and accounting.
5. Developing the profession of accounting, audit and audit systems, and enhancing the auditees' accounting and audit performance.³⁴

The BSA is the higher authority for financial audit and is responsible for detecting any cases of corruption, fraud, waste and financial management abuse. The BSA transfers the collected evidence to the OIG within the ministry or agency concerned. The Inspector General (IG) takes the necessary measures, conducts investigations and submits their findings to the Minister concerned, or the Head of the administration. The IG shall notify the BSA or the competent investigative authorities about criminal acts. The COI is the specialized, competent authority that takes the required criminal legal measures with regard to investigations of corruption cases.³⁵

The BSA plays a leading role in performance audit. It has developed a Performance Audit Guide³⁶, a Balanced Scorecard System Guide³⁷ and sets of performance

³⁴ The Federal Board of Supreme Audit; www.d-raqaba-m.iq

³⁵ Law No. (30); The Law of the Commission of Integrity, 2011.

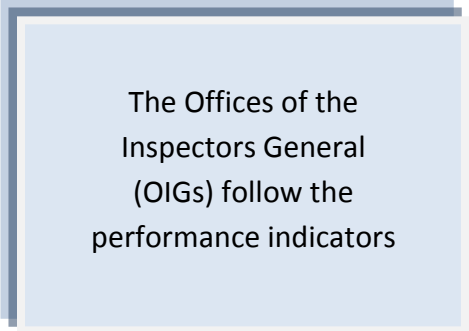
³⁶ The Guide and Program of Performance Audit 2006; http://d-raqaba-m.iq/pdf/guide_per06.pdf

³⁷ The Balanced Scorecard Guide; http://www.d-raqaba-m.iq/pages_ar/guide_balance_ar.aspx

indicators³⁸ to provide directions to the public entities on applying performance management and measurement. The aforementioned sets of performance indicators that were published by the BSA are exactly the same indicators that were included in the **Standardized Work Procedure for the Offices of the Inspectors General in Iraq** (developed by staff from the Offices of the Inspectors General and experts from MOORE STEPHENS under the sponsorship of the UNDP and supervision of the Integrity Commission)³⁹.

Therefore, **the Offices of the Inspectors General (OIGs) follow the performance indicators that are developed by the BSA** when they undertake their performance measurement tasks within their respective ministries and agencies.

According to Law (31) of 2011, the BSA develops its Annual Plan that includes the tasks that will be undertaken in the fields of: Control and performance audit; cooperation with the Commission of Integrity (COI) and the Board of Supreme Audit (BSA); priority issues to ensure Government transparency and accountability.



The Offices of the Inspectors General (OIGs) follow the performance indicators

The audit functions of the BSA are executed within the offices of the agency or at the audited public entities that are supposed to provide the BSA with all the required records, documents, data or information. In case they fail to meet their obligations, the BSA will report to their top management as well as to their Offices of the Inspectors General. If the justification provided by the audited entity was not persuasive, the BSA has the right to report the public entity concerned to the Council

³⁸ Performance Indicators; http://d-raqaba-m.iq/pages_ar/suggestion_a.aspx

³⁹ *Examples of these indicators are provided in our report titled: "Assessment of Current Practices in Organizational Performance Measurement and Inspection: Trends and Applications on the International Scene and in the Context of Iraq", Section X (f) on Performance Inspection as Conducted by the Offices of the Inspectors General in Iraq.*

of Ministers, or to the Commission of Integrity (COI) to conduct the necessary investigation and oblige it provide the requested records. In case, the public entity continued to refrain from disclosing the requested information, the BSA can report the issue to Parliament.

Once the BSA detects a violation, it can ask the OIG or the COI to investigate the matter, to take the necessary measures, and to stop the violation and eliminate its consequences. The Head of the BSA can ask the Minister or the Head of the public entity concerned to transfer the defaulter to investigation and suspend him/her from duty, to file a lawsuit due to financial irregularities, and to hold the offender responsible for compensating for all the damages endured by the audited public entity.⁴⁰

The BSA must report to the General Prosecution, Commission of Integrity, or the relevant investigative authorities, each by its jurisdiction, on every financial irregularity detected if it was recognized as an offence⁴¹.

The Iraqi Parliament shall establish a Committee of 9 members chosen from amongst the Parliamentary Committee of Integrity and Legality to choose 3 candidates for the position of President of the BSA. The Parliament decides by a majority-vote. His office-term is 4 years. His office-term can be renewed only once either consecutively or non-consecutively. He has the position of Minister of Finance with regard to the BSA's issues, staff and budget. The Parliament may interrogate the Board's President according to the Ministers Interrogation Procedures stipulated in the Constitution, and may exempt him from office as specified.⁴²

⁴⁰ Law No. (31); The Law of the Board of Supreme Audit; Article 15.

⁴¹ Law No. (31); The Law of the Board of Supreme Audit; Article 16.

⁴² Law No. (31); The Law of the Board of Supreme Audit; Article 24.

Organizational Structure of the BSA:

BSA President; the BSA Council (the President, as Chairman; and two-deputies appointed by the President and Directors General as members), the President's main Office, Office of Technical Affairs and Studies; Office of Legal Affairs; Office of Administrative and Financial Affairs.

The BSA shall be composed of 8 audit offices in Baghdad and other 8 audit offices located in the governorates, each of which shall be headed by an official of the rank of Director General.

The BSA shall submit an Annual Report to Parliament and to the Council of Ministers within 120 days after the closing of the year. During the year, if an urgent matter arises, the BSA shall submit a special report on the issue at hand to Parliament. **The BSA shall make such reports public through the mass-media and shall make them available to any relevant authority, on request, except for the reports that jeopardize the National Security, which may not be published without the consent of the BSA.**⁴³

The BSA oversees the Audit Boards that are located in the regions. The BSA reviews their reports and incorporates them in the federal report of its own, and coordinates the board's work at the federal level with that of the regional Boards of Audit. The coordination mechanisms shall be established by the BSA.

The BSA may conduct administrative investigation with regard to a financial violation detected directly in the audited entity that lacks OIGs within their structures, or when the OIG fails to fulfill the investigation within 90 days after receipt of notification from

⁴³ Law No. (31); The Law of the Board of Supreme Audit; Article 28.

the Board. In such case, the IG concerned shall hand over all the documents and initial papers including the papers related to the investigation made at the Board's request.⁴⁴

C. The Office of the Inspector General:

In an attempt to restore public confidence in the Iraqi public sector institutions, to reduce the scale of corruption and to improve the performance of ministries, the Coalition Provisional Authority (CPA) issued Order Number 57 in February 2004 that established Offices of Inspectors General (IGs). Partially, this unprecedented administrative arrangement was a reaction to the long-suffered office abuse, on one hand, and a modernization initiative that aimed at improving the performance of the civil service, on the other hand. Iraq stepped into a new political phase in 2003 paving the way for significant Government restructuring. Integrating the inspection function into the organizational structure of every Iraqi ministry was one of the remarkable reform initiatives. The total number of IGs in ministries and some other Iraqi public institutions is 36, some of them have regional offices. They are represented in the Iraqi provinces by regional branches. The Iraqi inspection model was inspired by the Federal American Inspection system that was mandated by the Inspector General Act of 1978 (with its amendments), whereby an independent Office of Inspector General was created in every Government establishment.

⁴⁴ Law No. (31); The Law of the Board of Supreme Audit; Article 28.

Duties and Responsibilities of the OIGs in Iraq:

The OIGs are considered to be internal, independent control units within ministries. Order Number 57 of February 2004 identified the main duties and responsibilities of the IGs. The Order identifies eighteen tasks that can be classified in the following categories:

- a. Audit and Investigation to ensure integrity and transparency of the ministry's operations and the appropriate performance of civil servants; report violations and cases of criminal act to the law enforcement officials; and coordinate with the competent authorities, including the Integrity Commission and the Bureau of Financial Audit.
- b. Receive and follow-up on complaints filed by citizens and people who demand a public service from a ministry of public agency. This role that the OIG plays is similar to the one assumed by the Ombudsman, the office that receives and follows up on complaints to safeguard the citizens' rights and to ensure equity before the administration.
- c. Organizational Performance Evaluation to verify the economy, efficiency and effectiveness of the ministry's operations and review their performance measurement systems; review of legislation, rules, regulations, policies, procedures and transactions to prevent fraud and inefficiencies; recommend corrective actions; monitor implementation of the office's recommendations and especially verify that the performance of employees is in compliance with the principles of Good Governance.
- d. Training and Development to upgrade the skills of the ministry' staff to prevent fraud, waste and abuse; and to develop programs that spread the culture of accountability and integrity within the ministry.

Structure of the OIGs in Iraq:

The Inspector General is the Head of the Office. While the IGs in the U.S.A are nominated by the President, who is in charge of the executive authority, with Senate confirmation, the Iraqi IGs are appointed by the Prime Minister subject to confirmation by the majority of the Council of Representatives in which legislative authority is vested. The IG directly reports to the minister concerned. Hence, the IG is the main internal control channel through which the minister would: oversee their administration's performance; ensure the proper execution of plans and programs, and avoid future deficiencies by taking preventive measures. The IG of the Ministry of Industry and Minerals has clearly stated in one of his latest reports that "the authority of the IG is derived from that of the Minister". The IG of the Ministry of Construction and Housing described the role of the Office of Inspector General (OIG) as "the eye, ear and conscience of the Minister. Accordingly, the Minister is supposed to provide the IG with support, material and moral strength.....The authority of the minister shall be respected as long as it falls within the framework of the work interest".

Every IG establishes the organizational structure that allows them to fulfill their responsibilities. The IGs have the upper hand in hiring, promoting or removing their staff, if deemed necessary. They are authorized to recruit experts and consultants to support them in handling their duties.

Since the IG has the managerial flexibility to organize their office, there is no uniform structural pattern that is adopted by all OIGs in ministries. However, there are similarities in the titles and tasks of their internal sections that are established along functional lines. An examination of the four core functions of the OIG (inspection, audit, investigation and organizational performance evaluation) with their structural frameworks reveals some differences. For example, inspection and organizational performance evaluation are charged to the same section within the OIG in the Ministry of Industry and Minerals, while the two functions are separated in the OIG of the

Ministry of Labor and Social Affairs and distributed between two distinct sections. On the other hand, the OIG in the Ministry of Telecommunication has grouped planning, monitoring and organizational performance evaluation in the same section.

Performance Inspection as Conducted by the Offices of the Inspectors General in Iraq:

The OIGs in Iraq that concentrated a big volume of their work on investigation and audit have realized the importance of shifting their efforts towards performance inspection. The Board of Supreme Audit (BSA) is the agency that took the initiative for performance measurement in the ministries with their various sectors.

The OIGs follow the guidelines of this agency. However, the OIGs, as internal audit units, also have the mandate to conduct organizational performance evaluation.

An indicator of the new growing trend of performance inspection is the development of documents that have been treated as Guides to be followed by the inspectors to evaluate public entities and to improve the quality of the OIGs' inspection missions.

The following is a list of relevant Iraqi documents related to performance inspection:

- Ø The Standardized Work Procedure for the Offices of the Inspectors General in Iraq (developed by staff from the OIGs and experts from MOORE STEPHENS under the sponsorship of the UNDP and supervision of the Integrity Commission);
- Ø The Guide of Standards and Indicators to Measure the Performance of the OIGs (developed by the Inspector General of the Ministry of Industry and Minerals, 2012);
- Ø The Elements of the Scientific Inspection Methodology (developed by the Inspector General of the Ministry of Industry and Minerals, 2010);
- Ø The Performance Audit Guide (developed by the Board of Supreme Audit in 2006).

The “Guide of Standards and Indicators” provides a set of **Key Performance Indicators (KPIs)** that are divided into Sub-Indicators. The indicators are logical indicators (Yes/No). Therefore, the inspectors would check Yes or No next to each of the sub-indicators. Accordingly, they either exist or not.⁴⁵

The Advisory Role of the Inspector General in Iraq:

Although inspection, investigation and control constitute the bulk of work of the Inspectors General and are thus, regarded as oversight bodies in the Iraqi ministries, they have been performing advisory functions in line with the provisions of Order Number 57. Such functions have their legal base in Articles 1, 8, 10 and 13. Examples of these functions are: **recommendations; draft policies; legislations; procedures; consultation studies and research; and translations of relevant documents.**

This advisory role has been recognized by some OIGs as a vital service. For example, the OIG in the Ministry of Industry and Minerals has provided 31 advisory services in the year 2012 at the request of the organizational units of the ministry, including 16 advices in the field of financial control and 15 advices in the Law field.

Some IGs have expressed the need to make **Control**, an integral part of the day-to-day management of the various ministerial units and thus, more cooperation between them and the OIGs must be established in this respect. The OIG in the Ministry of Trade concluded in one of the 2012 reports that **the Iraqi administration lacks a unified organizational culture between the executive and control entities that makes the executive leaderships better understand the basic principle of the administrative process.** *“Control must be seen as one of the most important management functions.*

⁴⁵Examples of these indicators are provided in our report titled: *“Assessment of Current Practices in Organizational Performance Measurement and Inspection: Trends and Applications on the International Scene and in the Context of Iraq”, Section X (f) on Performance Inspection as Conducted by the Offices of the Inspectors General in Iraq.*

Without control, the administration will fail to fulfill its objectives”, the above OIG reported.

Inspection as Conducted by the OIGs in Iraq within the Context of Integrity and Budget Execution:

The main functions of the Inspectors General represent one of the established safeguards for the proper execution of the Government Budget. This control framework is significantly important amid the reconstruction projects that Iraq has been initiating or hosting due to international support. Three-fourths of the estimated annual budget is allocated to operational expenditures that maintain the sustainability of the public bureaucracy. Hence, it is not only the scarcity of resources reserved for investment programs and projects that poses a serious challenge to the Government of Iraq, but also the maximum utilization of the remaining quarter of the budget according to the 3Es principles (economy, effectiveness and efficiency) is a more provocatively pressing challenge.

The 2012 reports of the U.S Special Inspector General for Iraq Reconstruction that were submitted to Congress noted that capital budget execution rates have been relatively low.

In 2010:

- 13 out of 26 ministries had capital budget execution rates below 50%.
- The Ministry of Agriculture recorded the least execution rate among Iraqi ministries (6%), while the Ministry of Electricity recorded the highest execution rate (94%).
- The Government of Iraq budget execution rate fell from 86% to 76% in the year 2010.

Consequently, the reconstruction process has been slowed down leaving the country with several uncompleted projects. These deficiencies have been attributed to **“sclerotic**

bureaucracy, inadequate contracting and project management capacities, and public corruption”.

The above causes raise concerns about the relationship between the OIGs and their relevant ministries. The lack of initiative by government employees, a negative symptom in public bureaucracy, is not only related to the inertia prevalent in a non-performance-oriented administration, but also to the fear of administrators that any actions on their part might probably invite criticism and complaints against them in a politically divided environment.

The Inspector General is viewed by many administrators as a “**police officer**” that seeks to catch mistakes and violations to the already complicated government rules and regulations. This concern reduces the motivation of government staff to be more productive and attentive to output delivery. Moreover, investigations undertaken by the OIG or by the Integrity Commission require additional elapse of time before proceeding with the execution process.

The competence and experience of the OIG and Integrity Commission is a crucial factor to expedite the control process and consequently, the execution of pending projects. In order to urge ministers to be more proactive in supervising the proper execution of their administrations’ projects, the Iraqi Prime Minister called on them to monitor the progress of projects and to investigate delays in their implementation. Ministerial visits to project sites helped to speed up the pace of some projects.

Ministers can better comply with the Premier’s instruction if they support their IGs to perform their tasks without political interventions and without obstructing their actions to access documents and information required to complete their inspection programs. The IGs are supposed to take the necessary legal steps against defaulters regardless of their political affiliation without fearing political revenge, and to contribute to the capacity building of their respective ministries.

Another important reason for the slow-down in project execution, as was documented in the Annual Inspection Report for the Year 2011 of the IG of the Ministry of Industry and Minerals is *“the insufficiency and inaccuracy of economic feasibility studies and the lack of technical opinion in the ministry, leading to many modifications and re-launching of procurement announcements due to incomplete specifications”*.

D. The Civil Service in Iraq:

Iraq had its first Civil Service Commission in 1934. It was abolished under the presidency of Saddam Hussein in 1979. In 2009, Law 4/2009 provided for the re-establishment of a Federal Civil Service Commission as an independent agency that has a legal personality with administrative and financial autonomy. The FCSC shall be linked to Parliament. However, it was not officially established by the Iraqi Council of Ministers, in line with the aforementioned law, before February 2013. Therefore, the Commission is still in its first phase of establishment with the technical support of the USAID (TARABOT project) that is working on designing its organizational structure, training the newly appointed staff, and on transferring some of the responsibilities of the Ministry of Finance to the FCSC in accordance with Law 4/2009. Provincial Civil Service Commissions that shall report to the provincial councils are also expected to be established. The Iraqi provinces have never had their own Civil Service Commissions earlier, as opposed to the deep-rooted, although obsolete, civil service system in the central Government of Iraq. A comprehensive civil service legislation is under preparation. The draft civil service law gives a special attention to training by making it mandatory and by linking it to remuneration and promotion. A Civil Service Institute shall be established within the FCSC to set training standards and to coordinate with the training centers in the Iraqi ministries. A separate Civil Service Institute Law is under development with the support of the USAID that continues to work with the High Committee for Civil Service in restructuring the personnel departments of all ministries and provinces into modern,

integrated Human Resources Management Departments that can effectively develop and manage their labor forces to full potential. The USAID, through the TARABOT project seeks to establish an HR information system that automates HR-related records from hiring, to promotion, to training, to career development and all the other facets of personnel management.⁴⁶

The Head of the FCSC shall be appointed by the Prime Minister as a special grade position. Law 4/2009 states that the FCSC aims at: enhancing the level of the civil service at the federal and local levels; creating equal opportunities to qualified individuals; planning and supervising the civil service affairs; developing the skills of civil servants in coordination with the offices concerned.⁴⁷

The new civil service law is expected to link civil service issues to administrative reform, organizational restructuring and inter-governmental relationships that are witnessing increasing powers in the hands of the provincial government tiers.

⁴⁶ TARABOT (Iraq Administrative Reform Project – USAID); tarabot-iraq.org.

⁴⁷ Issues and Options for Public Sector Modernization in Iraq; Geopolicity (international management consultancy group), November, 2009; pp. 9-10.

VIII. Challenges to an Effective Governance Scheme and Practices in Iraq:

Principles for good governance

- ✓ *Participation*
- ✓ *Fairness*
- ✓ *Decency*
- ✓ *Accountability*
- ✓ *Transparency*
- ✓ *Efficiency*

The citizens of Iraq who have suffered relentless instability for decades are eager to build effective Government institutions that respect their rights and enforce the rule of law and to mobilize the efforts and resources of the different stakeholders, on a national level, to promote the development process. Although the state-building process does not have one prescription due to cultural peculiarities, there are general principles that can guide any nation in their efforts to build reliable Governance structures. Some principles are considered to be UNIVERSAL:⁴⁸

- ***Participation:*** *the degree to which affected stakeholders are able to sense ownership and involvement in the political and administrative process;*
- ***Fairness:*** *the degree to which rules are applied equally to everyone in society;*
- ***Decency:*** *the extent to which rules are handled without humiliating or harming people;*

⁴⁸ Julius Court and GoranHyden, *Rebuilding Governance in Iraq: The Need for a Comprehensive Framework*; Discussion Paper, 2005; p. 5.

- **Accountability:** *the extent to which political actors are perceived as responsible to the public for what they say and do;*
- **Transparency:** *the degree to which rules about openness and clarity are upheld in the public realm;*
- **Efficiency:** *the extent to which rules enhance use of scarce resources without incurring waste or delay.*

The following are some of the **Governance-related challenges** that affect the performance of the public sector and that the Iraqi Government and society at large must work hard to deal with:

1. Public Engagement:

After 2003, all hidden conflicts and interests popped up in the Iraqi society. People who belong to different groups rushed in to fill the vacuum. The main concern, in this context, is to let people articulate and organize their demands in an effective manner. Mechanisms through which the general public can participate in the policy-making process ought to be devised to get the widest spectrum of the society on board.

2. Enhancing Accountability and Control in a Rule of Law Environment:

Well-performing public sector institutions cannot survive and flourish without setting and operating accountability and control frameworks that help to reduce corruption, consolidate the rule-of-law culture, incentivize people and institutions to perform better and to unleash their potentials in an atmosphere of equal treatment of everyone before the law.

Aside from the political arena, the public sector of Iraq needs to strengthen its internal and external control systems within the administration by strengthening and respecting the potentials and jurisdictions of the Board of Supreme Audit and the Offices of the Inspectors General. The Commission of Integrity has been playing a significant role in fighting corruption, but further political support is needed to bring out more fruitful results by developing and enforcing the code of ethics, eliminating political meddling and respecting the authority of the control bodies and the judiciary. Providing fair access to an objective, capable judicial system enhances the rule-of-law environment and helps to reduce tensions.

3. Building a performance-oriented culture in the public sector:

Part of the weak performance of the Iraqi public sector can be attributed to the lack of a performance-oriented culture. The deep-rooted bureaucratic structures and processes impede output-driven practices. Establishing a performance measurement system that is officially adopted and implemented by the ministries and agencies based on guidelines from the Board of Supreme Audit, as an external control body, and the Office of the Inspector General, as an internal, independent control unit is one of the main challenges of the Iraqi administration. Developing and implementing applicable key performance indicators contributes to building this new culture. The performance measurement system must not be seen by the Iraqi ministries and agencies as an externally-imposed framework, but rather as a self-management and monitoring tool for tracking and improving performance.

4. Safeguarding the merit standards in public administration:

The recent establishment of the Federal Civil Service Commission (FCSC) as an independent HR body coupled with the efforts to set up HR departments within the organizational structures of the Iraqi ministries and agencies are significant initiatives to

properly manage the human resources of the public sector. The civil service law, that is under preparation, must be visionary enough to link personnel issues to administrative development. Providing the newly established FCSC with the required capacities and applying the civil service regulations are two of the building blocks of the merit system that should replace the patron-client relationships.

5. Bringing the administration closer to citizens:

There are various tools that can be used by the Government to bridge the gap with the citizens. One of these tools that has been discussed in this paper is providing them with access to information that is held by ministries and public agencies aiming at more transparency. Iraq needs to enact a modern Freedom of Information Law that guarantees and regulates this public right and to build the organizational frameworks required for effective execution. The line between privacy protection and public information accessibility must be drawn prudently. The lobbying of the civil society organizations can be one of the vehicles for this major reform step.

6. Creating effective frameworks for inter-governmental relationships:

The new Constitution that laid the basis for a politically decentralized, federal system carries many administrative consequences. For instance, the newly established Federal Civil Service Commission has to build effective frameworks of cooperation with the prospective regional Civil Service Commissions. So is the case of the Offices of the Inspectors General. The current structure and operations of the Inspectors General do not fit the requirements and conditions of the new Iraqi constitution. The lack of political consensus on the future of the nation-state exacerbates the problem and makes the vision blurry, so far. Any reshuffling of the political structure of the State will inevitably generate organizational and functional re-arrangements in the Government machinery. Federalism is likely to re-create the inspection system by limiting the powers of the existing Inspection Offices in the ministries that make up the central

administration, and expanding the network of regional inspection offices in number and prerogatives. Any structural reforms that re-shape the intergovernmental relationships between the Central administration and the regions will impact the inspection system. This issue remains pending awaiting the evolution of the political and administrative systems.

7. Establishing a platform for Coordination between the Control Authorities:

The existence of several control authorities, like the Commission of Integrity (COI), the Board of Supreme Audit (BSA) and the Office of Inspector General (OIG) necessitate a platform for coordination. The functions of each of these bodies interrelate and intersect at several points. The BSA sets performance indicators for ministries and the OIGs ensure the implementation of these indicators and can also develop indicators within their standard operating procedures. Both bodies are also supposed to collaborate with the COI to contribute to the reform endeavors that seek to reduce corruption and to entrench the rule of law and compliance with legal frameworks. Therefore, this coordination among the control authorities must be well-structured to avoid duplication and to ensure smooth cooperation.

IX. Conclusion:

Iraq finds itself in a huge workshop for State re-building

Iraq finds itself in a huge workshop for State re-building. It is not totally starting from scratch because many laws and institutions are in place, but require further upgrading and refinement. The existence of control bodies and internal control frameworks in the Iraqi ministries form the basis for an effective accountability system, provided that the top leaders of the country and public sector institutions are open to new ideas and practices that promote the rule-of-law and a well-performing public administration. It is not only a challenge that the Government has to meet, but it should also be the target of the societal efforts to build a modern, accountable State after years of deterioration and mismanagement. Building the pillars of the State institutions with a modern approach is a safety-valve for a society that is featured with diversity. A merit-based, accountable and transparent public administration represents one of the tools for national unity. The administration provides services to everyone and to all the groups that make up the Iraqi social, religious, ethnic and political mosaic. It is the common ground that is worth to be fortified and protected.

References

#	Title	Brief description	Link
1.	Public Management and Administration, Owen Hughes, 4th ed. (UK: Palgrave Macmillan, 2012).	In recent years there has been a transformation in the management of the public sector across many parts of the world. The rigid, bureaucratic form of public administration which dominated for most of the twentieth century has been replaced in the twenty-first century by a more flexible, market-based form of public management. As public management has developed away from New Public Management, it has moved even further away from the traditional model of administration. Public Management and Administration introduces and assesses the principles and theories underlying changes in the management of the public sector. Public management models are being adopted all over the world and the basis, nature and dimensions of these - as well as their theoretical underpinnings and differences - are considered in detail. The fourth edition of this highly successful text has been substantially revised and updated throughout and includes a new chapter on governance.	http://www.waterstones.com/waterstonesweb/products/owen+e-hughes/public+management+and+administration/8837172/
2.	Governance: The World Bank's Experience World Bank 1994.	This report draws on material provided by the public sector management staff in the bank's technical departments and on contributions by the WB legal department	http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/1994/05/01/000009265_3970716142854/Rendere d/PDF/multi0page.pdf
3.	Uses and Abuses of Governance Indicators, Christiane Arndt and Charles Oman, OECD, 2006	This study seeks to clarify current trends in the use and misuse of governance indicators as those indicators are applied to developing countries	http://chenry.webhost.utexas.edu/polec/2006/oced/AE795835C8392A8111572211048C64BBAF3DA2573E.pdf
4.	Free Speech in Iraq: Recent Developments; Article 19 – London in collaboration with the UNDP, 2007	This report gives an overview of some of the progress made, and some of the areas of continuing serious concern regarding the protection and promotion of freedom of expression in Iraq	http://www.article19.org/data/files/pdfs/publications/iraq-free-speech.pdf
5.	Rebuilding Governance in Iraq: The Need for a Comprehensive Framework; Julius Court and GoranHyden, Discussion Paper, 2005	While the priority in Iraq remains on military issues, with the forthcoming election emphasis is shifting towards establishing civilian forms of governance that are legitimate and sustainable. Although driven by the noble aim of building a liberal democracy, the approach to political reform by the US-led coalition has led to real concerns: it is based on ideology and one that is badly attuned to Iraqi history and society. This paper argues that reorganizing state-society relations governance in Iraq will not be an easy task, but the chances of success will be greatly enhanced if the strategy chosen is more comprehensive, draws on evidence not ideology and focuses on processes. Based on a recent study, the paper proposes a broader, more open-ended framework for rebuilding governance in Iraq and discusses priority issues, opportunities and challenges, based on the current context in Iraq and drawing on experiences from similar efforts around the world	http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/4090.pdf
6.	Freedom of Information Frameworks: Using Actionable Indicators; Stephanie Tranpell; March 10, 2011 (presentation at a World Bank Seminar)	Presentation at the international seminar on the inter- American model law on access to information and its application in the region and Mexico	http://www.juridicas.unam.mx/inst/evacad/Eventos/2011/0310/doctos/Stephanie%20Tranpell.pdf
7.	Values and Ethics Code for the Public Sector of Canada	This Code outlines the values and expected behaviours that guide public servants in all activities related to their professional duties. By committing to these values and adhering to the expected behaviours, public servants strengthen the ethical culture of the public sector and contribute to public confidence in the integrity of all public institutions.	www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25049&section=ext

8.	Access to Information Manual; Treasury Board of Canada Secretariat	The manual is intended as a reference tool to help government institutions interpret and administer the <i>Access to Information Act</i> (the Act) and the <i>Access to Information Regulations</i> , and to meet the requirements of related policy instruments. It supports the commitment of the Secretariat to improve the administration of the Act, and to help and strengthen the Access to Information and Privacy (ATIP) community.	http://www.tbs-sct.gc.ca/atip-aiprp/tools/atim-maai01-eng.asp
9.	What is the Freedom of Information Act? Information Commissioner's Office in the UK	The Act covers any recorded information that is held by a public authority in England, Wales and Northern Ireland, and by UK-wide public authorities based in Scotland. Information held by Scottish public authorities is covered by Scotland's own Freedom of Information (Scotland) Act 2002. The Act does not give people access to their own personal data (information about themselves) such as their health records or credit reference file. If a member of the public wants to see information that a public authority holds about them, they should make a subject access request under the Data Protection Act 1998.	www.ico.org.uk/for_organisations/freedom_of_information/guide/act
10.	Issues and Options for Public Sector Modernization in Iraq; Geopolicy (international management consultancy group), November, 2009	This paper presents options for basic and first generation and advanced reforms as entry points for modernization, to strengthen the role of the national budget as the central tool of national policy and the delivery of services. Options consider the evolving balance of power between federal, regional, governorate and district governments.	http://www.geopolicy.com/upload/content/pub_1287583_233_regular.pdf
11.	Musings on Iraq, the Undermining of the Integrity Commission; Part II of Washington's and Baghdad's Failed Attempt to Fight Corruption	Attempted Reconciliation Between Iraq's Anbar And Central Government Take One Step Forward Two Steps Back	musingsoniraq.blogspot.com
12.	The Australian Good Governance Guide	www.goodgovernanceguide.org.au	
13.	Public Sector Modernization: Modernizing Accountability and Control; OECD, 2005	www.oecd.org/qov/34904246.pdf	
14.	The American Political Process, Alan Grant, 7th ed.; (Routledge: USA, 2005).	<i>BOOK</i>	
15.	US Merit Systems Protection Board	www.mspb.gov	
16.	Office of Government Ethics	www.oqe.gov	
17.	The Information Commissioner's Office in the UK	www.ico.org.uk	
18.	Governance Indicators, A User's Guide, Second Edition; UNDP Publication; 2007	http://www.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/oslo-governance-center/governance-assessments/governance-indicators-2nd-edition/governance_indicator_undp_users_guide_online_version.pdf	
19.	Law No. (30); The Law of the Iraqi Commission of Integrity, 2011	http://www.nazaha.iq/pdf_up/1545/low_nazaha.pdf	
20.	The Federal Board of Supreme Audit	www.d-raqaba-m.iq	
21.	دليل وير نامج تقييم الأداء لعام ٢٠٠٦ - ديوان الرقابة المالية الاتحادي -	http://d-raqaba-m.iq/pdf/guide_per06.pdf	

	جمهورية العراق	
22.	دليل بطاقة الاداء المتوازن - ديوان الرقابة المالية - جمهورية العراق - 2009	http://www.d-raqaba-m.iq/pages_ar/quide_balance_ar.aspx
23.	مؤشرات تقويم الاداء	http://d-raqaba-m.iq/pages_ar/suggestion_a.aspx
24.	TARABOT (Iraq Administrative Reform Project – USAID);	tarabot-iraq.org
25.	Order No. 57, 2004 (The Mandate of the Office of the Inspector General).	
26.	موجز التقرير السنوي الصادر عن هيئة النزاهة في العراق لسنة 2012	