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## Private Sector Accountability in Iraq to achieve **Sustainable Development**

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# Introduction

A growing global trend considers the private sector an essential component of the sustainable development process in developed and developing countries alike, considering its advantages and qualifications to play a pioneering role in the economy and social fields. The private sector's relationship to economic development has been subject to in-depth discussions in the international cooperation framework. Most studies highlight the positive and strong links between them and that growth in development is closely related to private investment.

Transformations in economic policies in the last two decades of the previous century led towards the market. It reinforced a heavy reliance on the private sector. Privatization programs were implemented on a wide scale. As a result, the share of private investments grew compared to other types. Some studies showed that private sector investments are one and half times more effective than public investments. Thus, private sector investments are closely linked to sustainable development and economic growth in societies with the right environment.

In Iraq, the private sector needs to be encouraged to finance sustainable development goals in the face of local and global challenges, mainly due to the crisis of the state and its diminishing ability to do so. However, private sector accountability remains a pertinent issue, considering its growing role in development, its prospective partnership in achieving the SDGs, and its involvement in providing essential public services, impacting people's lives and fundamental economic and social rights in particular.

This report seeks to bring to light private sector accountability in its activities, analyzing public policies that impact accountability and achievement criteria. The report does not aim to describe the conditions of the private sector, although it includes information necessary

to understand the sector's requirements and socioeconomic context.

The report monitors the situation in Iraq using a right-based and developmental approach and the framework of national and international obligations that delineate general social trends related to democracy, equality, and equity. Thus, it avoids the charitable and voluntary approach in dealing with the private sector's social responsibilities. Instead, it places it at the heart of the economic reform process, in line with its role and responsibility towards society, framing its practices through legal and human rights commitments while preserving its material profit-making goals without harming society and the environment.

The report includes two main sections. The first deals with the state and the private sector, challenges related to the development of this sector, and government measures to enhance its role in the sustainable development process. The second section analyzes three primary issues. The first is related to identifying critical sectors for private sector growth. The second elaborates on the crisis of renewing the mobile telecommunications license. The third discusses the private sector's involvement in providing public services in the production and distribution of electricity. The final part provides a conclusion and recommendations.

# Section I: The State, the Private Sector, and Challenges to Sustainable Development

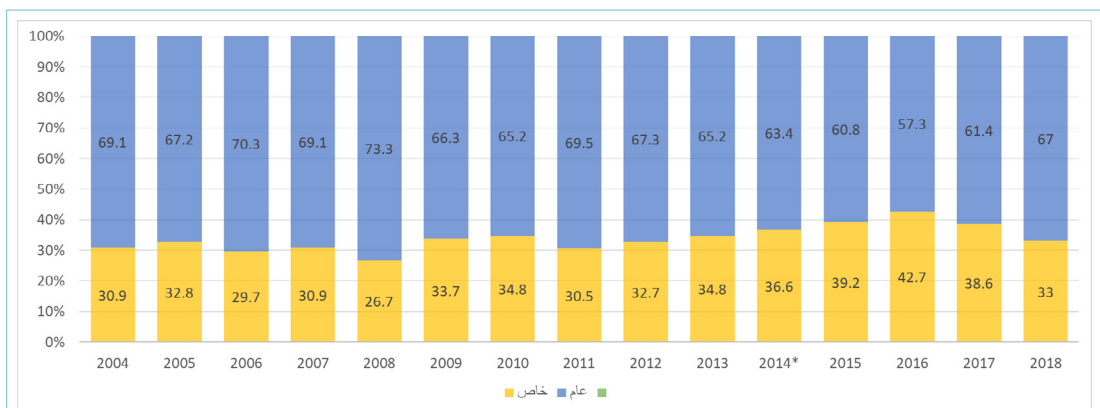
## What is the Private Sector?

Government documents use the term «private sector» despite the absence of a procedural definition. For example, the private sector strategy issued by the Council of Advisors in the Council of Ministers defines it as «the part of the national economy that is not subject to direct state control and is managed for profit.»<sup>1</sup> It is commonly used academically in the same sense, distinguishing it from the charitable or cooperative sectors. Between 2004 and 2018, the private sector contributed to about a third of Iraq’s GDP (33.8 percent). Its highest contribution was in 2016 (42.7 percent) and its lowest in 2006 (29.7 percent) (see Figure 1).

Nevertheless, the private sector seems to work in a no-enabling and non-competitive environment according to the following indicators:

- In light of the rentier economy, the oil sector contributes a large share of GDP. It usually exceeds 46 percent and made up 66 percent of the commodity sector in 2018, excluding the distribution and services sectors. Since the state controls the oil sector, GDP is led by the state through oil and not the private sector.
- Iraq’s economy suffers from a structural imbalance in the foreign trade sector. Oil

**Figure 1: Public and Private Sector Contributions to Iraq’s GDP (2018-2004)**



**Source:** Author’s calculations based on Ministry of Planning, Central Organization of Statistics & Information Technology (COSIT), Annual Statistics, Various Years

exports dominate the trade balance in commodity exports (99.8 the dominance of oil exports over commodity exports, with a rate of 99 percent). As a result, the private sector's contribution to commodity exports is almost negligible.

- The public sector's contribution to fixed capital formation was approximately 54 percent in 2017. The private sector's 46 percent focused on homeownership, which amounted to 6.2 trillion dinars (USD 42.4 billion) or about 45.1 percent of total private sector investment. Transportation and furniture came next.<sup>2</sup> Thus, the state remains the primary actor in Iraq's economy, and the private sector continues to invest in non-productive assets.
- Economic Freedom Index: The private sector takes up its proper role in the economy when there is sufficient economic freedom. Although Iraq adopted a liberal economy in its 2005 Constitution, it still suffers from a lack of freedom due to corruption and a challenging business environment. In 2020, it ranked 160 out of 180 countries in the Corruption Perceptions Index<sup>3</sup> and 172 out of 190 countries in the Ease of Doing Business Index.<sup>4</sup> The business environment is risky due to widespread corruption, favoritism, and unfair competitive practices. Although the corruption index focuses on the public sector and does not cover private-sector corruption, corruption can spread outside the public sector due to the lack of private sector governance.
- Ownership Index: Private ownership is a crucial factor in encouraging the private sector. The more it owns the means of production, the greater its role in economic activity. For example, the state owns 80 percent of the land, a critical means of production, in addition to many operational and stalled companies. It also essentially dominates the banking sector, and its assets made up 90 percent of the total in 2016.

## **Challenges to Sustainable Development**

Iraq's decades-long political, economic, social, and cultural challenges are due to the historical context of its political development and the problems it has faced since establishment. It is a history marked by turmoil and instability. It saw four international wars (the 1980 - 1988 Iran-Iraq war, and the war for the liberation of Kuwait in 1991, the 2003 US invasion, and the war against ISIS 2014-2017). The US invasion blew open the doors for more internal turmoil, turbulent international relations, and external interference. Thirteen years of economic sanctions (1990-2003) affected the structures of society and the economy, inflicting heavy damages on human and social capital, which have proven difficult to repair and handle in the short and long terms.

Putting aside historical details, the paper will focus on the most pressing current challenges related to sustainable development:

### **Social Challenge - Loss of Social Capital:**

Decades of tyranny and dictatorship, years of sanctions and occupation, and growing ethnic and sectarian conflicts struck a blow to «social capital». Social relations and their standards began to hinder the production process and cooperative relations were damaged, among community members. If the concept of social capital refers to «the features of social organization, such as trust, standards, and networks that can improve society's efficiency by facilitating coordinated action,»<sup>5</sup> then it has been struck to the core by authoritarian governments and insecure conditions. As with other forms of capital, it makes it possible to achieve certain goals that cannot be achieved in its absence, especially those related to strengthening cooperation between members of society, developing trust, and increasing the intensity of horizontal relations between its various components.

### **Political Challenge - Lack of Governance and Weak Rule of Law:**

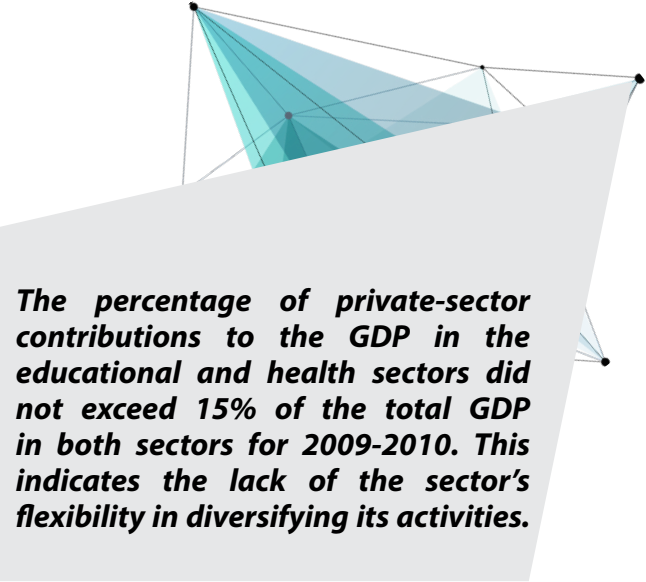
The clearest manifestations of this challenge may be rampant administrative and financial corruption, in light of weak parliamentary oversight, insufficient laws, and many exploitable loopholes. It also suffers from the growing phenomenon of partisanship, meaning the entrenchment of bureaucrats behind the parties in power or the bureaucracy turning to partisanship for protection, leading to widespread corruption in state institutions. Thus, it is no surprise that Iraq falls at the bottom of the Corruption Perceptions Index. And political parties use oil wealth to reward their supporters rather than meeting people's. In addition, oil wealth has eroded the country's economic competitiveness, reduced the need for taxes, and weakened accountability between citizens and the state. As political instability worsens, the incentive system for decision-makers has become biased towards seeking quick rewards, rather than undertaking long-term reforms.<sup>6</sup>

Private sector representatives report that corruption is pervasive in every step of import, quality control, and transport of goods. They feel that the burden of licensing and inspection regulations is heavy and harmful to business. Furthermore, paying bribes to continue to work is not conducive to business.<sup>7</sup> For example, weak customs administration is a crucial non-customs barrier to trade with the country, disrupting cross-border trade, increasing its costs, and the time it normally takes. The import management system promotes rentierism, while goods approved for import for investment purposes are exempt from duties. However, there are no controls to keep goods classified as «investment» from entering the normal flow of trade. Therefore, the customs system provides ample opportunities for Iraqi officials to allow concessions for preferred merchants in an opaque manner or to harm the interests of unfortunate traders.<sup>8</sup>

**Economic Challenge - A Fragile, One-track Economy:** Iraq's overdependence on oil is nothing new. Between 2004 and 2019, it made up about half of the country's GDP or more than

94 percent of public revenues, leading to several contradictions, mainly:

1. It created a discrepancy between the contribution of oil and the sector's employment rate that does not exceed 2 percent of the workforce.
2. It diminished the importance of other public revenues, especially taxes.
3. The economy became hostage to shifts in oil prices in global markets.



***The percentage of private-sector contributions to the GDP in the educational and health sectors did not exceed 15% of the total GDP in both sectors for 2009-2010. This indicates the lack of the sector's flexibility in diversifying its activities.***

## Government and the Private Sector

The 2005 Iraqi Constitution did not decide on a particular shape for the country's economy. However, its references to the issue and actual implementation support the trend towards a market economy, which means allowing the private sector a greater role in economic activity. Successive government programs and national strategic documents adopted since 2005 indicate support for this role, allowing it access to most activities, including those related to the provision of public services.

**Development Strategies:** The Planning Ministry drafted four economic plans covering the period between 2005 and 2022. They all prioritized revitalizing the role of the local and foreign private sector—in terms of the size of investment and number of job opportunities—to finance development. Estimates of the private sector's

contribution varied according to each plan and its basic assumptions. The 2010-2014 development plan was the most ambitious in engaging the private sector. It estimated a contribution of up to 46 percent of total planned investment, which was decreased to a mere 21 percent in the second plan. The latest plan estimates the share of private sector contribution at 40 percent. However, the estimated volume of investment remained constant in all plans (see Table 1). The 2013-2017 development plan criticized the private sectors stagnant role in previous years. «The investment policy for the private sector was characterized by a lack of diversity and a reliance on traditional models despite the plan's aim to open investment fields in all the different economic, social, and service activities,» it explained. «The percentage of private-sector contributions to the GDP in the educational and health sectors did not exceed 15% of the total GDP in both sectors for 2009-2010. This indicates the lack of the sector's flexibility in diversifying its activities.»<sup>9</sup>

**Table 1: Estimates of Private Sector Contributions in Development Plans 2010-2022**

	Private Investment		Public Investment		Total Investment	
	(Trillion USD)	%	(Trillion USD)	%	(Trillion USD)	%
2010-2014	89.5	46.3	128.5	53.7	218.0	100
2013-2017	88.0	21.0	329.0	79.0	417.0	100
2018-2022	88.6	40.0	132.0	60.0	220.6	100



## **Private Sector Development Strategy (PSDS) 2014-2030:**

It adopted a specific vision on «Developing a viable and thriving national private sector, that is regionally competitive and globally integrated, led by the business community, which contributes to economic diversification, sustainable development and job creation.»<sup>10</sup> The strategy allows for private sector development, finding solutions to the business sector's priority needs, and providing a friendly environment. It thus aims to enhance SME competitiveness and establish partnerships between them and public enterprises.<sup>11</sup> The PSDS will go through three phases. The first phase was led by the government and covered the period 2014-2017; the second phase is led by the government in partnership with the private sector (2018-2022); the third phase shall be led by the private sector and covers the remaining period until 2030.<sup>12</sup> In terms of implementation, the plan followed its predecessors in the absence of obligations and implementation commitments.

**Iraq Vision 2030:** The document placed the private sector at the core of its strategy through *Goal 3.3: Strong private sector which contributes to the development*, which aims at «expanding the private sector's participation, encouraging local and foreign investments and building national companies which support and expand diverse economic activities.»<sup>13</sup>

In general, coordination between the public and private sectors in development planning is limited. The above documents do not indicate how to integrate the private sector into the development process and measure its impact on national development plans. The two sectors have divergent goals and the latter is expected to achieve national goals without adequate incentives.

## **Commitment to SDGs**

Sustainable and balanced development is an essential human right and cannot be realized randomly through public and private sector activities. Therefore, SDG Target 17.17 aims to «encourage and promote effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships.» It should take place within a framework of real national partnership with other stakeholders to improve people's lives today and for future generations. The private sector is allowed to reap profit and political and community leaders could build bridges of trust with stakeholders, especially NGOs, to achieve these goals.

However, Iraqi businesses have not committed to the SDGs on the national level. Initiatives in support of development tracks are scarce, due to the private sector's lack of awareness of the importance of the sustainable development agenda and its implications for society and individuals. They also lack a sense of social responsibility and the role of community initiatives to support these tracks. Nevertheless, marginal initiatives by private sector institutions could be identified, such as sponsoring scientific conferences in some universities, but they have not become generalized in the business community.

The spread of COVID-19 prompted the Central Bank to launch an initiative to establish a fund to support the government's efforts. It contributed 30 billion Iraqi Dinars. Within a week contributions by banks and financial companies raised the amount to 43.989 billion<sup>14</sup> (about USD 37 million), a modest amount compared to the needs required to confront the pandemic.

Some private companies took the initiative to support the efforts of the Ministry of Health. One private company set up an integrated laboratory to detect COVID-19 cases in the holy city of Najaf.

## **Business sector contributions**

● **Job Generation:** In line with SDG 8, *Iraq's Vision for Sustainable Development 2030* included a goal to provide decent and protected work opportunities for all the unemployed. However, the failure to diversify Iraq's economy away from the oil sector meant that few job opportunities have been generated in labor-intensive and non-oil sectors. Successive governments tended to expand the public sector, providing 40 percent of all jobs and about 60 percent of employment opportunities for working women.<sup>15</sup> With about three quarters of a million young people joining the labor market annually, the government's ability to provide them with opportunities diminishes. Unemployment among young people is worsening. It rose to 27.5 percent for the age group 15-24 years in 2018, compared to total unemployment (15 years and over), which reached 13.8 percent.<sup>16</sup> On another note, a study by COSIT in collaboration with UNICEF and the World Bank revealed heads of families working in the private sector are three times more likely to see their families fall into poverty than those working in the public sector.<sup>17</sup> Accordingly, thousands lost their jobs and human security.

● **Wage Gaps:** The state's wage policy in the public sector had a strong impact on the private sector, leading it to pay high wages. Public sector institutions became a large reservoir of emerging and frozen competencies to the disservice of economic development. Furthermore, labor and civil service laws granted workers full guarantees, regardless of efforts. Private employers prefer to hire outside those laws, thus significantly expanding the informal sector, which lacks job security and safety mechanisms, across most private sector activities. It suffices to point out that among the 8-million strong workforce in the private sector, only 570 thousand were insured (until March 2021),<sup>18</sup> in flagrant violation of workers' rights, labor laws, and Iraq's international obligations.

● **Gender Equality:** The low rate of women's participation in the labor market and their preference to work in the public sector is often explained by social peculiarities and society's perception of women's work and private sector projects. Evaluating the private sector's role in gender equality is almost impossible, at a time when millions of women are reluctant to join the labor market, disregarding the opportunities it may provide them. According to 2018 data, the rate of economic activity for individuals aged 15 years and over (employed, unemployed, and looking for work) is 42.8 percent, including a wide variation by gender. It reaches 72.7 percent for men and 13.0 percent for women.<sup>19</sup> In the Kurdistan region, the public sector employed 80 percent of all working women and 45 percent of all working men,<sup>20</sup> an inevitable consequence of the high percentage of workers in the region compared to the rest of the country. Workers in the government sector in the region constitute 13.2 percent of its total population, compared to 6.7 percent in the other governorates, according to 2019 data. Gender inequality in access to job opportunities is expected to decline as the public sector retreats from its employment role and in light of the formal private sector's failure to develop and absorb the surplus of workers and newcomers.

● **Research and Development:** According to 2018 data, expenditure on research and development in Iraq is the second lowest in the world after Mauritania. Spending on research and development reached a mere 0.04 percent of GDP, compared to 2.2 percent globally.<sup>21</sup> Data on the private sector's contribution to research and development are not available, but with a low percentage, the contribution will be very marginal. Data on the private sector's contribution is unavailable, but with the low total percentage, the contribution is expected to be extremely marginal.

## Absence of Private Sector Governance

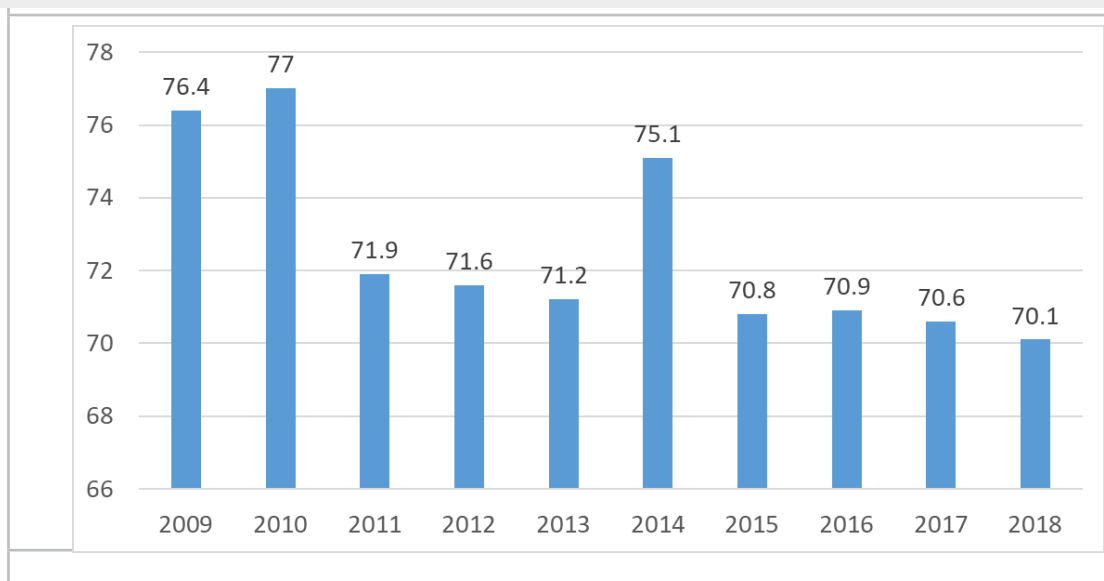
While it failed to provide basic public goods and generate employment in the public sector, the government neglected to promote and develop the private sector due to the growing rentier economy, and easy access to oil rents. It continued to see it as an area for exercising political influence rather than achieving and promoting sustainable economic growth.

The private sector in Iraq is still weak, underdeveloped, and disorganized in its operations. It consists mainly of informal trade and remains unprepared to absorb prospective changes in the labor market. The dominance of informality remains its strongest feature and main problem. According to 2019 estimates, the private sector provides between 60 percent and 70 percent of job opportunities in the formal and informal sectors.<sup>22</sup> Since then, no serious attempts have been made to govern the private sector and improve its working conditions. The new labor law, issued in 2015, has not been applied in that sector, creating more difficulties for informal workers.

On another note, there is a lack of commitment to pay taxes in Iraq. For example, one study showed that tax evasion between 1998 and 2002 had been around 60.6 percent. However, following the US occupation, it reached 90 percent, such as in 2005. Although it dropped in the following years (2009-2018), it remained above 70 percent (please see Figure 2).

The legal framework supporting the accountability and governance process is also deficient. The mandate accorded to the Federal Board Of Supreme Audit includes government institutions and the mixed sector. However, its financial controls are limited to Registrar and formal follow-up, without real supervision. The Law on Enterprises grants a supervisory role to sectoral ministries. But it does not happen in practice. The General Auditor's role is limited to submitting reports that support the soundness of the company's position. Nevertheless, Iraqi legislature expanded the Integrity Commission's mandate through Law No.30 of 2019. It amended its Law No.30 of 2011 to include corruption crimes, including breach of trust committed by NGOs and the national and foreign private sectors in public sector jobs and foreign employee bribery offenses<sup>24</sup>.

**Figure 2: Percentage of Tax Evaders 2009-2018 (%)**



Source: Alaa Hussein Alwan ; Al-Furat News

According to the Ministry of Planning, private sector governance in Iraq faced several of challenges, mainly:<sup>24</sup>

- Lack of a clear vision for private sector governance.
- Absence of a clear framework for the state to regulate the PPP process.
- Inadequate preparedness of government agencies to deal effectively with the private sector.
- The private sector's weak awareness of its role in social responsibility and its lacking willingness to bear entailed burdens (and costs).
- Lack of confidence in government institutions concerning restructuring public companies and the growing fear of all forms of privatization among all concerned stakeholders.
- Repercussions of the deteriorating security and economic situation.
- The 2018-2022 NDP included a specific goal related to private sector governance, suggesting several means for its achievement:<sup>25</sup>
- Accomplish the process of institutional building for the private sector on modern and sustainable foundations, through:
  1. conducting a survey of the formal and informal private sector,
  2. developing modern information systems for the government and private sector stakeholders,
  3. building the capacities of both the government and the private sector on using information in planning, implementation, and follow-up, and providing governmental institutions with the necessary information and data to allocate resources, increase the number of registered private sector enterprises, and develop a network of local business registration centers.

- Work on adopting policies, making decisions, and implementing procedures in a straightforward and clear manner.
- Ensure accountability of government, public sector, and private sector stakeholders regarding the goals they are assigned to achieve within the framework of the 2018-2022 NDP.

Nevertheless, none of these goals have been achieved on the practical level due to lack of means, due to the non-binding character of the NDP, absence of voluntary commitment to its goals, and lack of clarity in mechanisms for integrating the private sector into the plan.

In general, Iraq does not have clear rules for private sector governance, including the lack of a corporate social responsibility charter to evaluate the degree of private sector participation in the social aspects of the economy. The sector may be called «semi-private» and is dominated by contracting. The government and foreign





companies cooperate with a local Iraqi contractor who provides them with various services. They also act as agents for politicians and administrators needed to facilitate the workflow and obtain contracts, whether legally or illegally.

Corruption is also on the increase in the Iraqi private sector. Marginal or small social groups have risen significantly to the higher ranks after they acquired huge profits that enabled them to dominate certain activities in this sector. It had nothing to do with their entrepreneurial capabilities, but rather their proximity or connections to centers of power. Huge profits allowed for an increase in the number of benefactors, regardless of efficiency, in terms of numbers of merchants or contractors. It led to the following:

- The emergence of rent-seeking relationships between senior state officials and politicians, on the one hand, and private sector companies active in their fields of work, on the other.
- Rampant financial and administrative corruption in relations between state agencies and the private sector, leading to wasting public money and plundering state resources.

## ***Public Policy Impact on the Private Sector***

Although economic policies strongly influence its situation, the government has not yet adopted a clear-cut economic policy towards the private sector.

**Financial Policy:** The government imposes income taxes on enterprises, but the tax system has not been developed towards imposing sales taxes or value-added taxes. Austerity measures, on the other hand, have the negative effect of discouraging or shrinking private sector activities. For example, the government's plan on «salary domestication» has created financial flows in terms of services provided by private banking and

exchanges. If applied to all employees and retirees, the plan is expected to have a positive impact on electronic banking and transactions--especially if it extends to include final payment points for private sector transactions, reducing transaction costs and risks, and achieving financial inclusion. However, employees complain about the high costs of obtaining their domesticated salaries. There is also a lack of advanced, quality services and private establishments are yet to spread tools for small electronic payments. The process missed its primary goal to reform the salary payment mechanism for public sector employees, their use of ATMs and points of sale inside and outside Iraq, and their general benefit from banking services.

**Trade Policy:** Tariffs, which protect local products, have a strong influence on development of many private sector activities. Iraq is heavily dependent on imports, estimated at about USD 41.215 billion annually between 2005 and 2018.<sup>26</sup> However, Iraq is not a member of the WTO, although it is a party to a number of bilateral and multilateral agreements, perhaps the most prominent of which is the Greater Arab Free Trade Area (GAFTA), approved in 1997 and entered into force early 1998, in addition to the Trade and Investment Framework Agreement and the Partnership and Cooperation Agreement with the EU (2012).

The private sector complains about the inefficiency of the Central Organization for Standardization and Quality Control. It does not apply appropriate standards and is responsible for flooding the markets with cheap and low-quality goods. This is in addition to the ill-considered classification of importers that does not allow the proper monitoring of imported goods. Corruption related to imports, quality control, transportation, and obtaining licenses is an obstacle to the private sector's development.<sup>27</sup> With the spread of financial and administrative corruption, the local and foreign private sector is not expected to benefit much from the privileges offered by these agreements. Complications include certificates of origin, especially with regard to industrial

products, the application of quantitative quotas, cash transfers for trade, import licenses, and the government's weak ability to settle commercial disputes, activate arbitration decisions, and ensure transparency in commercial dealings.

In 2008, Iraq established the Iraqi National Committee for Transport and Trade Facilitation in the ESCWA Region,<sup>28</sup> which began working in 2015<sup>29</sup> and included representatives from the Iraqi Ministries of Trade and Transport and private sector representatives. Reports available on its website reveal that it has adopted a large number of recommendations. However, the impact of the committee's activity and the extent to which it applies the principles of WTO Free Trade Agreements is still not clear. Nevertheless, building the technical capacity of this committee and ensuring its long-term financial sustainability are of paramount importance in designing and implementing trade facilitation reforms.

The federal government established several local customs checkpoints to counter the discrepancy in trade policy between the center and KRI, whose lower tariffs led to the spread of customs competition. It began imposing duties on goods entering through KRI and going through Erbil-Kirkuk, Dohuk-Mosul, and Sulaymaniyah-Kirkuk. The movement of goods slowed down and they became more expensive. Opportunities for corruption and fraud appeared.

### **Monetary and Exchange-Rate Policy:**

Soaring inflation impacts private sector activities, the Iraqi Dinar exchange rates, and, thus, the volume of foreign trade. The Central Bank of Iraq has succeeded in maintaining a low inflation rate during the past years, as well as imposing a stable exchange rate despite the successive economic and political crises. However, the overestimated exchange rate overestimated led to two opposite effects for the private sector:

- A negative impact that entailed discouraging local production as a result of raising local production costs, which affected local industries and the agricultural sector as a result of competition from imported products.

- A positive impact for the commercial private sector, which imports commodities whose demand is growing due to their relative cheapness.

In mid-December 2020, the government took a surprise step to revalue the currency. It imposed a new exchange rate for the public at 1470 dinars per dollar, causing confusion in the markets and the private sector, which had warned of the step's repercussions.<sup>30</sup>

In the area of credit policy, access to credit remains a complicated issue. Iraq ranks 186 out of 190 countries included in the World Bank's Doing Business survey in terms of «getting credit» in 2020.<sup>31</sup> It requires guarantees that only medium and large investors can afford. According to COSIT data from 2018, the private sector obtained 2.8 percent of the total long-term loans amounting to 2 trillion dinars. Its various types of deposits (fixed, savings, current, and others) accounted for 9.8 percent of total deposits amounting to 111.7 trillion dinars and also dominated by the public sector.<sup>32</sup> These figures may appear to be the product of a fiscal policy that intends to crowd out the private sector, due to the government's need to finance the fiscal deficit through its banks, reducing the private sector's opportunities to access bank credit.

**Other policies:** The state's role in other areas, especially its capacity to manage public services, also impacts the private sector's ability to carry out its activities.

- **Agricultural policy** has a strong impact on the private sector's ability to provide for food security, which depends on government support. For example, the agricultural loan initiative launched by the government in 2007 contributed to the revival of poultry farms and further improvement of the conditions of fish farmers.
- The **electricity sector** remains a challenge for the government, in addition to its impact on private sector activities and the additional costs it imposes on producers and service providers.

- The policy of **high wages in the public sector** has had two opposing effects on the private sector. On the positive side, it led to an increase in the purchasing power of an important segment of consumers who receive direct income from the public sector. It meant more demand for goods provided by the private sector. The negative side however is an increase in average wages.
- **Education policy** can have an impact on the size and quality of the workforce, its level of qualification and, hence, its ability to join the labor market. However, the disconnection between the economic and educational systems has hindered the organic link between educational outcomes and local labor market needs. Therefore, the state's commitment to reform education and develop curricula, especially in the areas of vocational training, could positively affect labor market conditions, making it more suitable for the requirements of the private sector's growth and prosperity.<sup>33</sup>
- The government's trend towards privatization and PPPs could have a positive impact on the private sector's situation, opening the doors to accessing the industrial sector, which is still dominated by the state.
- The state's commitment to the public distribution system (the ration card) impacts economic activities, especially the situation of private sector producers of commodities distributed through that system (wheat, rice, and legumes). It also impacts traders who cannot sell at local market prices that are less than international prices for ration card commodities.
- Social policy can affect the expansion of social protection and social security for workers in the private sector.



***Although economic policies strongly influence its situation, the government has not yet adopted a clear-cut economic policy towards the private sector.***

## Section II: Critical Analysis of Case Studies

Three cases were selected. The first case relates to identifying critical areas of private sector growth in Iraq. It is based on a set of quantitative criteria related to their capacity for growth and employing a greater number of workers. The second case includes the mobile telecommunications licensing and the private sector's entry into public services (electricity as a model), as an area that can be subject to accountability.

### ***Identifying Critical Growth Areas for the Private Sector***

Three criteria were adopted to determine critical growth areas dependent on the private sector in Iraq: (1) the private sector's size compared to the public sector, (2) contribution to the GDP, and (3) the volume of employment in the critical area. Accordingly, four areas have been identified according to their importance:

- Transportation, storage, and communication.
- Real estate, rental activities, and commercial projects.
- Building and construction.
- Agriculture, hunting, and forestry.

The first step could be to pay attention to the four areas in which about two-thirds of the private sector workforce is employed, scattered throughout the Iraqi governorates and capable of serving the other sectors. For example, the development of the transport sector can contribute to an increase in the flow of goods and services within the country and abroad.

The construction sector has great growth potential in light of the growing housing supply gap in the country, caused by the accumulated

shortage in construction and the failure to meet housing needs. The formal private sector's partial success in building housing complexes in most governorates could be something to build upon.<sup>34</sup> Rural areas, containing diverse resources and with a population of more than 11 million can contribute to diversifying the economy and strengthening the private sector, especially as it absorbs a large proportion of employment and is almost completely private.

However, the informal sector poses a challenge in these activities. It constitutes an important constraint regarding accountability, governance, and socially responsible activities. The private sector avoids registering all its workers in the social security system, which undermines their rights and makes them vulnerable to fluctuations in living conditions and emergencies. They become vulnerable and the role of the law in protecting them and ensuring their rights becomes undermined. Perhaps the justifications for the private sector do not relate to the financial aspects of the legal obligation, but include the problems related to «perpetuating» employment and the lack of flexibility in laying off workers under the Labor Law No. 37 of 2015, especially Articles 43 and 138.

### ***Renewing Mobile Communications Licenses Crisis in 2020***

Since the beginning of foreign investment in the telecommunications sector in Iraq and the signing of the first contracts, political crises have been persistent. The most recent was in 2020, when the government of Mr. Mustafa Al-Kazemi renewed the contract of Zain Iraq for a period of eight years despite the opposition of various parliamentary and political figures. The main service providers in the country, in addition to Zain Iraq, are AsiaCell, Korek Telecom, Al-Kafeel Umniah, and Etisalatna. Criticism was directed at the payments made by companies to the government and accumulated debt, especially tax claims. According to a book



issued by the Communications and Media Commission (CMC), the accumulated amounts due from Zain Iraq for the period 2008-2019 amounts to 2,963 trillion Iraqi dinars and 910 million US dollars. The state's dues from AsiaCell amounted to 2.802 trillion dinars and 957 million dollars. On the other hand, Korek owed 735 billion dinars and 223 million dollars. The above amounts and the need to collect them from the companies became a matter of parliamentary and political controversy.<sup>35</sup> Voices were raised to hold these companies accountable and several MPs tried to follow up on the issue.

In 2016, Zain had succeeded in reaching a settlement with the Iraqi government according to which the General Commission of Taxes (GCT) dropped all its claims, including interests and fines. It lifted the seizure of the company's frozen assets in Iraqi banks, in exchange for the payment of an amount of 93 million dollars to the General Commission of Taxes (GCT).<sup>36</sup>

The CMC evaluated the possibility of granting national and regional 4G fixed network licenses to operating and new telecoms. It postponed issuing a fourth mobile license, in view of concerns about the expected impacts on the telecoms industry in the medium and long terms, which may include a decline in services and the failure to attract new reputable companies. However, it suddenly and urgently decided to renew the licenses of currently operating companies in July 2020 during the first meeting of the Board of Trustees headed by its new chairman.<sup>37</sup> In a statement on the issue, the CMC explained:

Based on benchmarking for a number of Arab and regional countries and taking into account the per capita share of GDP, the license period, the amount of the frequency spectrum, the regulatory wage, the population, the availability of infrastructure, taxes, fees, other contractual concessions (international telecommunications services and infrastructure), and additional operational costs compared to those countries and the specific requirements of the operational environment (electricity, protections, and infrastructure) in the

Republic of Iraq, an amount of 233,674,667.2 USD was approved for each company, i.e. 701,024,001.6 USD for the three companies, with the addition of other amounts calculated later for additional frequencies. However, this price is much higher than the average limit and is close to the upper limit of the rate of licenses recently granted in the Middle East and several Arab countries, bearing in mind that the period granted in Iraq is much less than half of the period of those licenses. It should be noted that, with time, the prices of licenses will decline due to the tremendous development in the telecommunications sector, the shift towards the Internet of things (IOT) more than voice services, and other countries' involvement of the private sector in investing in infrastructure.<sup>38</sup>

MP Muhammad Shayyaa Al-Sudani initiated a lawsuit before the Court of First Instance of Al-Karkh. On August 25, 2020, the judge issued a state order<sup>39</sup> «to stop the procedures for extending and renewing the license to operate mobile phone companies in Iraq until the case is resolved.» The CMC and the three companies (Zain, Asiaticell, and Korek) were informed of the decision<sup>40</sup> and decided to appeal, along with the Council of Ministers. However, the court rejected the appeal, upholding the state order and responded to the grievance.»<sup>41</sup>

The above crisis provides an opportunity to strengthen the governance of the private sector and develop accountability frameworks at the national level, especially as it turns into a public opinion issue and in light of strong judicial intervention.

Nevertheless, there has been no serious accountability process for telecom companies regarding the prices of their services. The scope of social responsibility towards the people of the country also remains unclear, as complaints are often heard that these companies provide much less than what is expected in light of the crises that have afflicted the country since 2014. According to the OECD's assessment of the prices of telecom services around the globe, Iraq was among the most expensive countries in 2019.<sup>42</sup> Some

believe that these companies exploit and defraud citizens.<sup>43</sup> The Parliamentary Communications and Media Committee recorded its observations on telecoms in the country. It highlighted poor services and communication networks and the lack of available applications for customers. The Deputy Speaker of Parliament recommended that the Cabinet suspend its decision to renew mobile licenses due to «poor services by telephone companies, problems related to their debts, and the high cost of communications and Internet services.»<sup>44</sup> Moreover, these companies still run 3G networks, while some countries are moving to 5G. This means that Iraq will incur economic losses due to the deteriorating quality telecom and Internet services and the subsequent inability to expand the range of electronic payment services.

## **Public Services:**

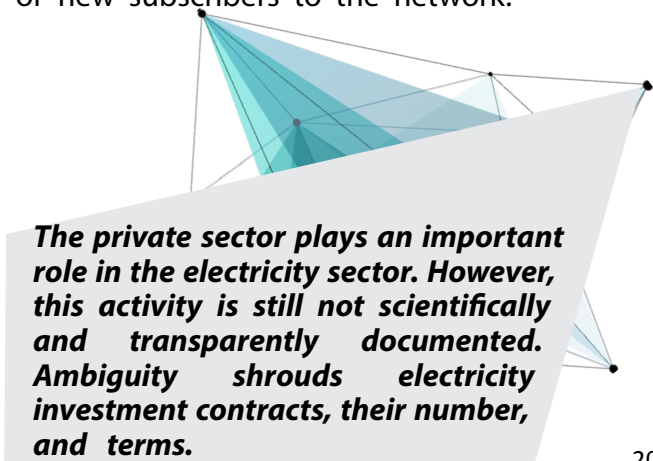
### **Electricity**

The private sector plays an important role in the electricity sector. However, this activity is still not scientifically and transparently documented. Ambiguity shrouds electricity investment contracts, their number, and terms. In 2017, Dr. Haider al-Abadi's government announced its plan to privatize electricity, leading to controversy in most Iraqi governorates. The debate turned into a political issue between the provincial councils and the federal government. Those who rejected the project armed themselves with economic and social arguments and the potential impact on people's conditions, especially the poor and rural populations.<sup>45</sup> The private sector was involved in the following projects, among others:

- **Collection and Service Project:** It is considered by the Ministry of Electricity as a PPP contract and not privatization. According to the ministry's official spokesperson, the contracts were prepared by the legal departments in the Council of Ministers, the Office of Financial Supervision, the National Investment Authority, and the Ministry of Electricity in a manner that guarantees citizens' interests. Private companies were granted a share of 12.9 percent of collections, where 80 percent of that amount goes to maintenance employees at

the Ministry of Electricity within the geographical area of corporate responsibility. The companies are also required to reset and end waste and violations, maintain power distribution networks, collect consumption fees, and install smart metrics for citizens, government departments, shops, and factories.<sup>46</sup> In 2017, the Ministry of Electricity awarded investment contracts to four local private companies, Fadaa Al-Rafidain Company, Ahl Al-Wasal General Contracting Company, Nakheel Middle East Contracting Company, and Al-Nour Al-Thaqib Company. The four contracts covered 129 localities on the Rusafa side of Baghdad. An evaluation of the project by the Federal Office of Financial Supervision found several violations, including those related to the companies:<sup>47</sup>

- Investing companies failed to obtain investment licenses from the National Investment Commission.
- The companies did not commit to reducing electrical loads according to the provisions of the signed contract.
- Areas covered by the contracts did not receive all electrical network items.
- The companies did not adhere to the contracting procedures for health and social security insurance for their workers.
- Company debts are accumulating and the Ministry of Electricity is reluctant to collect.
- The companies failed to comply with the contractual obligation related to collection; they did not achieve a high rate of collection or new subscribers to the network.



**Table 2: Performance Indicators of Companies Investing in the Collection and Service Project (2018)**

Company	Ratio of Energy Consumption to Energy Reading Indicator (%)	Ratio of Total Subscribers to those who Made Payments (%)
Al-Nour al-Thaqib	72	54
Fadaa al-Rafidain	88	5
Ahl al-Wisal	150	0

Source: Calculated by the author, based on Federal Office of Financial Supervision, «Results of Specialized Monitoring and Auditing on Service and Collection contracts for Baghdad/Rusafa Governorate,» pp. 17-18 [in Arabic].

● **Al-Hartha Station Investment:** In 2013, UAE's *Dow Aljomaih* was one of the first investment contracts to buy electric power from the gas generating units in the Al-Hartha investment station, which has a capacity of 100 megawatts. The contract between the Basra Provincial Council and the company was renewed more than once.<sup>48</sup> Much suspicion has been raised between various parties in Basra and Baghdad regarding the contract, whose annual value amounted to 825 billion Iraqi dinars (about 700 million US dollars).<sup>49</sup> However, the company had failed to implement another contract related to «managing, operating, and maintaining the electrical network for the areas of the Basra Electricity Distribution Directorate,» prompting the Ministry of Electricity to terminate the project and hold the company legally responsible.<sup>50</sup>

● **Bismayah Power Plant Investment:** The plant is located south of Baghdad and provides electricity under a contract between the Ministry of Electricity and MAS Holding registered in the British Cayman Islands. The contract included the design, financing, building, examining, operating, and maintenance of a 1500 MegaWatt station. The investment cost of the project amounted to three billion dollars over a period of 17.5 years. Two years were added to allow the establishment of a water delivery system to the station. The company is expected to sell the power generated by the station. However, according to a report by the Federal Financial Supervision Bureau, the contract

was marred by many flaws that led to waiting public funds. Based on a Take or Pay formula, the Ministry paid the company 145,772,806 dollars for electrical energy that was received between June 2017 and March 2019.<sup>51</sup>

Successful partnerships are not merely contingent on legislative and legal frameworks. They require close links with governance, as each side has its multiple administrative, legal, and social interests that converge at common points, based on the principles of transparency, accountability, disclosure, and equal rights for all stakeholders. They thus aim to increase the efficiency of resource use, enhance competitiveness, diversify sources of financing, and expand projects to generate employment and support economic stability. The lack of national governance frameworks in the public and private sectors greatly complicates partnerships between the two and renders them vulnerable to corrupt practices and waste of public money, affecting the quality of public services provided to citizens. Legislative frameworks for the PPP accountability are still incomplete and deficient in terms of oversight over the whole project cycle. They are also lacking in relation to control mechanisms in the Ministry, whose role is limited to procedure rather than monitoring the performance of investments in electricity companies. This is in addition to the blurring of the ministry's strategic prospects with regard to PPPs, investment opportunities, and the transparency of contracts.

# Recommendations

Although the state has a role to play in reconstruction, it should allow room for private sector prosperity. Enhancing the role of the private sector in the economy should be accompanied by an economic shift towards the digital economy, which could contribute to achieving development and providing jobs for thousands of newcomers to the labor market. Iraq's economy needs to strengthen the role of the non-oil private sector, increase efficiency in the exploitation of resources, and strengthen the foundations for sustainable economic growth.

Private sector accountability requires that the government develops its economic strategy within a framework that accommodates the ongoing challenges facing the country, including corruption, rentierism, and the weak protection of workers. NGOs, on the other hand, can enhance this transformation by monitoring and following-up public and private sector activities, ensuring their conformity with the SDGs by highlighting congruences and deviations from these goals. Raising awareness about rights is an important pillar in this process, as workers and service recipients are still completely unaware of their rights and state and private sector obligations towards them. NGOs can actively participate in providing human rights education and raising awareness of best practices in this field.

## ***Involving Stakeholders in Accountability***

- Involve NGOs in monitoring and evaluation mechanisms.
- Establish mechanisms to finance research and development, either on their own or through universities and national research institutions, in the areas of private sector governance and accountability.

- Effectively include private sector institutions in national information and statistics systems, requiring their submission of reports related to monitoring, comprehensive review, quality, and reliability processes.

## ***Accountability Areas and the Role of NGOs***

### **Area 1: Work**

- Labor is the most important area of private sector accountability, in light of low incentives to comply with labor laws and social security requirements for workers. This compliance should be the cornerstone of the accountability process. Therefore, compliance with the labor and social security laws should be the first step towards achieving the accountability process to ensure the achievement of economic and social rights.
- Encourage workers to comply with registration and affiliation with the private sector workers' retirement fund.
- Include contractors of government work in labor inspection visits and ensure that all their employees are registered in the retirement fund, including temporary workers, as a contractual condition.
- Prioritize private enterprise owners who have a government job by including them in the workers' retirement fund in the private sector instead of being included in the national retirement fund.

### **Area 2: Child Labor**

NGOs have a strong role in raising awareness on children's rights violations and pressuring the government to improve conditions for poor families to ensure their children remain in school.



### Area 3: Quality of Services

The increased involvement of the public sector in providing services that were within the semi-exclusive scope of the state, such as education and health, has led to complacency in the issue of the quality of these services and the consequences thereof.

### Area 4: Sustainable Development

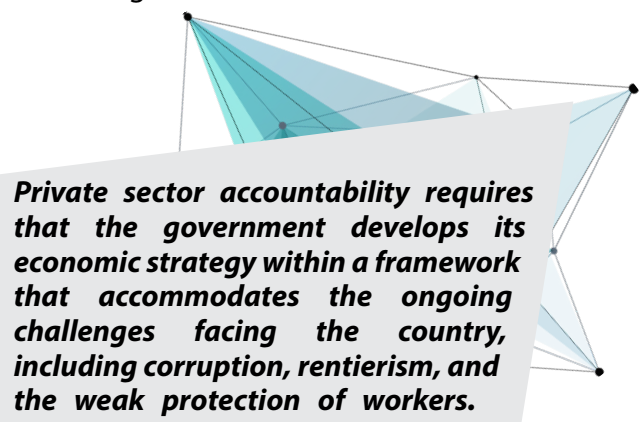
The private sector needs to be monitored to ensure fulfillment of social responsibilities towards local communities and increase its capacity to achieve the SDGs within its economic, social, and environmental activities, especially with regard to electrical energy and cement production projects in which partnerships between the two sectors are active.

### Oversight and Accountability Mechanisms

- More disclosure and transparency by state institutions and the private sector are needed, through developing public information and updating it periodically, which would enhance the oversight role practiced by NGOs.
- Developing the legal framework to enable the private sector to be held accountable for its activities and to secure free competition among its companies.
- Developing a strategy to oversee and hold the vibrant private sector accountable.
- The Ministry of Labor should launch a dialogue between representatives of the private sector and trade and professional unions to develop the desired conditions and mechanisms of accountability and set an agenda for their achievement.
- Enhance access to information about economic projects run by the private sector and encourage private sector companies to update their websites, especially branches of foreign companies active in Iraq, or those that

have entered into partnerships with the public sector.

- Oblige «public» service providers from the private sector to commit to a charter of rights and subject them to transparent and effective complaint and redress mechanisms for potential errors and violations of consumer rights, especially in the fields of education, health, electricity, and communications.
- Review the labor and social security laws to take into account the more practical application of the inclusion of workers. There is nothing wrong with relaxing some conditions at the current stage to ensure that the process of voluntary commitment to social protection is accelerated.
- Require private companies and service providers to submit reports to the sector ministries as the authority concerned with monitoring. For example, companies working in the field of health submit reports to the Ministry of Health; facilitate access of supervisory entities, especially the Federal Board Of Supreme Audit and the Human Rights Commission to ensure compliance with the rights of service users and workers alike.
- Establish codes of workers and service beneficiary rights for all private and for-profit institutions, ensuring an appropriate complaint and redress mechanisms.
- Strengthening the Iraqi judiciary's mandate over human rights issues in relation to the private sector, through devoting a judge to consider issues of private sector accountability, as has been the case for judges devoted to examining labor cases since 2015.



**Private sector accountability requires that the government develops its economic strategy within a framework that accommodates the ongoing challenges facing the country, including corruption, rentierism, and the weak protection of workers.**

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