



## **THE ROLE OF LAWS AND REGULATIONS IN CURBING THE PHENOMENON OF FINANCIAL AND ADMINISTRATIVE CORRUPTION IN IRAQ**

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<b>Article history:</b>	<b>Abstract:</b>
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**Keywords:** Financial corruption, administrative corruption, regulations and laws, bribery, embezzlement

### **INTRODUCTION**

The problem of financial and administrative corruption is one of the phenomena that impedes reform and development in any country where it arises, as it has economic and social repercussions on the country where it is widespread, and numerous studies have shown its great and destructive danger to the development of the economy and its impact on the reform process and political instability.

The phenomenon of administrative corruption represents illegal practices practiced by a certain category of workers in government administrative units. These practices include a departure from the laws, regulations, and instructions that govern the

work of these units, which negatively affect the work hinges because they lead to derailing their path from the goals for which they were found to achieve personal material or moral benefits for the benefit of that group. This encourages other groups to adopt the same deviant approach to achieve their desires, which leads to the spread of corruption in society.

Therefore, with weak procedures, some have resorted to unfundamentalist practices that include violating laws, regulations, instructions and functional controls in order to achieve special benefits and satisfy their illegitimate ambitions, taking advantage of the weakness and inefficiency of some control systems procedures.



The phenomenon of financial administrative corruption is one of the serious phenomena that preoccupied the thinking of government authorities at all levels because of its effect on impeding the work of executive authorities in a way that restricts the achievement of the desired goals of rationalizing available resources in an effective and efficient way to achieve their set goals. Iraq is one of those countries that suffer from the spread of this negative phenomenon in its governmental institutions, especially after the events of 2003, which resulted in wasting public funds, the emergence of favoritism and the fact that the individual's private interest prevails over the general interest of the society.

#### **Importance Research:**

The importance of research is based on the study of the phenomenon of the spread of corruption, both financial and administrative, in state institutions, which has negatively affected the economic, social and political situations.

#### **Problem Research**

Despite the many laws and instructions to fight crime, including financial and administrative corruption in Iraq, it is noticeable that this phenomenon spread after the events of 2003.

#### **Importance Research:**

Study the causes and effects of the spread of financial and administrative corruption in Iraq, indicating the ways of dealing with it by the officials concerned with limiting this phenomenon.

#### **Research Hypothesis**

The research is based on the assumption that the laws issued by the concerned authorities have an effective effect to curb the phenomenon of corruption spread in Iraq.

#### **Temporal And Spatial Boundaries**

**Spatial boundaries:** Iraq is the space for search

**Temporal boundaries:** Duration after 2003

**Research Method:** The research is based on the inductive and deductive method as well as the analytical method of the available data.

### **THE FIRST PART**

#### **CONCEPTUAL FRAMEWORK FOR FINANCIAL AND ADMINISTRATIVE CORRUPTION**

##### **First: Concept:**

The term corruption is a general term, covering all aspects of a career; its practice may be on the legal, financial or administrative side, but the common denominator of the results of such practices is the realization of improper benefits and interests by some employees through the exploitation of their administrative positions.

Different viewpoints differ on the concept of corruption and its limits, and this difference stems from the different parties that suffer from that phenomenon, but all agree that it is contrary to the legitimate and legal teachings.

From the legal point of view, corruption is seen as a deviation from the applicable laws and regulations, whether local or international. ( Al-Jabouri, 2007, 70)

Economists see it as the activity that generates a payoff by tapping a job position. (Bash, 2007:42)

As for administrators, they see it as " a negative phenomenon that is spreading inside administrative bodies and takes many forms, affects the moral system and the values that prevail in society, and is associated with various forms such as bribery and mediation. The relationship of kinship and friendship is created by various causes, whose main objective and ultimate goal is to distort the proper course of the administrative apparatus to achieve illegitimate, individual or collective goals." (Al-Dulaimi, 1999:27)

According to the World Bank, it is the abuse of a person's function for his or her own benefit (World Bank, 1997:102).

In the Encyclopedia of Social Sciences, they define corruption as the use of public influence for private profits or benefits, and this includes all sorts of bribes to local or political officials and excludes them from the private sector (Abdullah, 2006:93).

Others also identified him as being careful to apply labor rules in dealing with all parties with the aim of obtaining personal benefits or benefits for those involved (Begovi,2005:2).

Corruption in its general form is described as the disintegration of a society resulting from the absence of moral values and often occurs after the collapse of political systems and constitutional, legal and administrative gaps that motivate weak souls to exploit their influence and positions to enrich themselves at the expense of public money. ( Mohamed, 2007:1)

We can conclude from the above that corruption is a negative phenomenon that leads to turning the goals that the government bodies seek to achieve, which represent the goals of the public interest, into the objectives of a few benefiting groups through violations of the laws, regulations and instructions that govern the work of these bodies. This calls for attention to analysis of the causes and effects of corruption because of the great waste they cause in the work and capacity of these organs.



## **Second: The Causes And Manifestations Of Administrative And Financial Corruption**

There are several reasons that encourage the spread of corruption, including:

### **1- Administrative And Legal Reasons**

This means administrative, functional or organizational deviations made by a staff member in the course of his or her duties without justification, failure to respect, delay or delay the time of work, which obliges the stakeholder to offer bribes in order to expedite the work, or may be the disclosure of job secrets and departure from collective work. (Skrana, 2011, 24 - 25)

There are several reasons that lead to the aggravation of the phenomenon of administrative corruption, including: (Farhan & others, 2006:6)

- a.** The lack of adequate legislation to prevent corruption or its existence and lack of implementation, as well as the lack of legislative measures to keep up with changes, leading to interpretations and opening the way for misapplication.
- b.** The existence of some loopholes in these laws and regulations, which provides an appropriate climate for administrative and financial corruption.
- c.** The weakness of the internal control bodies, which facilitates the passage of illegal financial and accounting operations.
- d.** Lack of transparency and accountability leads to high levels of corruption.

### **2- Financial Corruption:**

Financial corruption, especially governmental corruption, has become more widespread in many developing countries, including Iraq, as it has become an almost daily phenomenon practiced in most state agencies, as transactions have not been carried out without the employee in charge of a public service receiving benefits, especially some authority holders. The financial aspect is the root cause of corruption, as there is an internal feeling among those in power that those in power own money and those in power have power. (AL-Jufi, 2009 : 58)

In general, this type of corruption covers all financial deviations as a result of their violation of the financial rules and regulations governing the administrative and financial functioning of the State and its institutions, and the manifestations of this type can be seen in bribes, embezzlement, tax evasion and other types. (AL-Tuhami, 2006, 12)

### **3- Economic Reasons:**

They are represented in random economic policies, the misallocation of wealth, resources and incomes, or the heavy burdens on the government administration and the allocation of huge funds to

carry out these tasks without follow-up, supervision and accountability.

Most economic activities are trade deals resulting from brokerage operations in which financial corruption may occupy a large part, as it may be found in an institution or in specific sectors of economic activity rather than other sectors, and corruption may become a phenomenon from which society in all its strata and all its dealings suffer. This is called systematic corruption, and it affects institutions and the behavior of individuals at all levels of the political, economic and social system.

Corruption is considered an economic cost to society, as some negative effects include the high cost of public services as a result of the additional costs resulting from corrupt practices, the high cost of capital formation as a result of commissions that increase the real costs of large projects, and corruption also reduces the quality and efficiency of public utilities and the quality of goods and services provided. Moreover, the labor market is distorted through the government's recruitment and appointment procedures on the basis of favoritism or bribery, which leads to contributing to poverty and inequality in the distribution of income. (Mustafa& Maebad, 2012: 33-36)

### **4- Ethical Reasons:**

These are ethical and behavioral aberrations related to the individual's personal behavior and behavior, such as acts of disservice in the workplace, the use of power for personal gain at the expense of the public interest or the practice of social nepotism without regard to considerations of efficiency and merit.

### **5- Political Reasons:**

It is synonymized with arbitrary power, i.e. the use of arbitrary power in order to achieve a goal different from the purpose on which this power is granted, or in other words, the totality of administrative deviations and the violation of financial rules and regulations that regulate the operation of the political system (the political institutions in the state). This results in serious damage and risks by using power from the government pyramid for personal benefit (Abbas, 2008:9).

### **6- Legal Reasons:**

Most of the world's constitutions have established the rule of law, but in practice the judiciary is not effectively independent of the functioning and functioning of the political system. ( AL-Jufi, 2009, 52)

## **PART TWO**



## **IRAQI LAWS ATTITUDE TOWARD THE CRIMES OF FINANCIAL AND ADMINISTRATIVE CORRUPTION**

The issue of financial and administrative corruption has recently been enjoyed by economists, law and administration, because of its wide spread not only at the internal level but also at the international level, as it was not confined to developing countries, but also extended to all countries, but at different levels, as no society was immune to them. Therefore, the existence of firm laws has an effective role in combating corruption through the relevant bodies, which are the legislative bodies (the Iraqi Parliament) and the judicial and control bodies (the Financial Control Board and the integrity Board).

The phenomenon of corruption manifests itself in a set of behaviors carried out by some persons in public office, and there is sometimes similarity and overlap between them, but it can be identified as follows, of which some laws have been enacted to check them:-

### **1- Job Exploitation (Administrative Corruption)**

Article 316 of the Law (111) of 1969, as amended, provides for a penalty of imprisonment for any employee or public service who takes advantage of his position and unjustly takes over money, property, property or other paper belonging to the State or to an institution whose contribution is made by the State or which facilitates such for others The penalty shall be imprisonment for a term not exceeding ten years if the money, property, paper or other property is owned by anyone other than the one mentioned in the above paragraph.

Article 319 of the same law also stipulates a penalty of imprisonment not exceeding ten years or imprisonment for any employee in charge of a public service who is involved in preparing, transmitting, carrying out or supervising works, and who benefits directly or by means of them, and the same penalty shall be imposed if he obtains A Commission for himself or others on advanced affairs.

### **2- Negligence, Negligence And Financial Violations:**

Article 10 of the Iraqi Financial Control Act No. 6 of 1990, as amended, contains various financial irregularities, including:

- a. Breach of laws, regulations and instructions .
- b. Negligence or default leading to loss of funds or damage to the national economy.
- c. Refraining from responding to Censorship Office's letters, objections and observations, as well as undue delay or delay in responding within the time specified by the Censorship Office.

As for the fight against corruption by the integrity Commission, the Interim Coalition Authority (disbanded) issued order No. 55 of 2004 that the Commission is an independent administrative body with judicial capacity and is responsible for the implementation and implementation of anti-corruption laws and public service standards. (Dissolved Coalition Authority order No. 55 of 2004)

### **3- Bribery:**

In recent legislation, there are two trends in the crime of bribery: First, there is a crime for which the bribed is asked, and another for which the bribed is asked, and the jurisprudence calls the crime of bribing by the term passive bribery, and the crime of bribing by positive bribery. (The Hadith, 1996:67)

Article 307 of the Iraqi Penal Code (Act No. 111 of 1969), as amended, stipulates that bribery is a criminal act (Any employee or person assigned to a public service who requests or accepts for himself or others a gift, benefit, advantage, or promise to do so for the performance of his or her job or for the breach of public service) shall be liable to imprisonment for a term not exceeding ten years, or to imprisonment or a fine together.

### **4- Embezzlement:**

Under the title of embezzlement in Articles 315-321 of the above-mentioned Iraqi Penal Code, the Iraqi legislature dealt with a range of penalties, which collectively represented a violation of job duties, and these crimes are:-

Article 315 of the above-mentioned Iraqi Penal Code stipulates that any official or public service who embezzled or concealed money, possession of a piece of paper or other right in his possession shall be punished by" life imprisonment or temporary imprisonment if the official or the official assigned to a public service is a collection official or delegate Or depositors, bankers or embezzlement of anything that was handed over to him in that capacity.

Article 321 of the Penal Code also contains the above provision, in addition to the penalties set forth in this chapter, for the restitution of the embezzled or seized property or the value of the benefit or profit obtained by the offender.

### **5- Fraud fraud fraud fraud fraud:**

Article 456 of the Penal Code, which is amended above, includes the penalty of imprisonment for fraud, any person who leads to the delivery, transfer or possession of a movable or owned by a third party or for himself or another person.

## **THIRD PART**



## **THE REALITY OF FINANCIAL AND ADMINISTRATIVE CORRUPTION IN IRAQ**

Following the events of 2003, the phenomena of insecurity, the deterioration of political, economic and social situations and the spread of corruption crime spread, as Iraq became a leading position among the most corrupt countries, according to transparency International's reports, as Iraq was classified among the worst corrupt countries. In order to combat this phenomenon, Iraq acceded to the 2004 United Nations Convention against Corruption, which was published in the Iraqi Chronicle in 2008. (Iraqi Facts, issue 4093, 2008)

### **First: Iraq Arab Position According To Transparency International's Corruption Perceptions Index:**

Table (1) the location of Iraq at the Arab level according to the indicators of Corruption for 2015 and 2020

<b>Country</b>	<b>Arab arrangement for 2015</b>	<b>Corruption Index 2015%</b>	<b>Arab ranking for 2020</b>	<b>Corruption Index 2020%</b>
<b>Qatar</b>	1	71	2	63
<b>UAE</b>	2	70	1	71
<b>Jordan</b>	3	53	5	49
<b>Saudi Arabia</b>	4	52	4	53
<b>Bahrain</b>	5	51	7	42
<b>Kuwait</b>	6	49	7	42
<b>Amman</b>	7	45	3	54
<b>Tunisia</b>	8	38	6	44
<b>Algeria</b>	9	36	10	36
<b>Egypt</b>	10	36	11	33
<b>Morocco</b>	11	36	9	40
<b>Djibouti</b>	12	34	13	27
<b>Mauritania</b>	13	31	12	29
<b>Lebanon</b>	14	28	14	25
<b>Comoros</b>	15	26	16	21
<b>Syria</b>	16	18	20	14
<b>Yemen</b>	17	18	19	15
<b>Iraq</b>	18	16	15	21
<b>Libya</b>	19	16	16	17
<b>Sudan</b>	20	12	18	16
<b>Somalia</b>	21	8	21	12

The table prepared by the investigator depending on:

Transparency International Reports, perceptions of Corruption, various pages, for the duration (2015 and 2020) at [www.transparency.org](http://www.transparency.org)

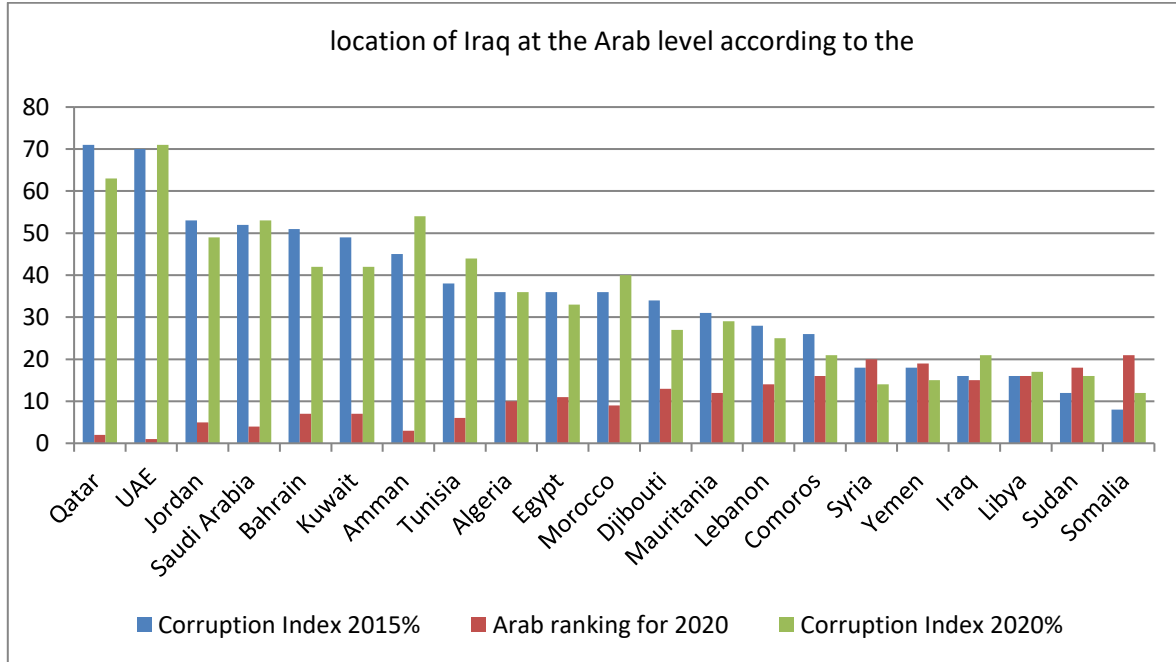
### **Second: The Position Of Iraq In The Arab World According To The Corruption Index Of Transparency International Organization:**

According to transparency International reports, Iraq was ranked 16-19 out of 21 Arab countries for the period 2003-2020. At the global level, it was 113 out of 133 countries and according to transparency International's Corruption Index 2003, its ranking rose in 2005 to 137 out of 159 countries, but it

The Arab countries, Qatar and UAE, are considered the least corrupt at the Arab level according to the corruption perceptions index issued by transparency International reports, as shown in table 1, as they ranked first and second in 2015 and 2020, while Iraq ranked 18 out of 21 countries in 2015, according to the same index. This reflects the large corruption in the public sector, as Iraq is considered one of the worst Arab countries, but Iraq's position improved in 2020 according to the same index as it ranked 15th among the Arab countries. However, it still occupies the late positions in the corruption index, which calls upon the competent authorities to put serious solutions and remedies to fight corruption or eliminate it through activating the control and security bodies related to dealing with corruption.

is remarkable that it occupied a position behind in the corruption perceptions index in the years 2006-2020. The number of countries for the period (2006-2020) is 160-178, which indicates the increase in the volume of corruption annually, and this requires the support of regulatory bodies and an effective role for the judiciary to fight corruption in order to eliminate or at least reduce it in the future.

Figure 1 shows the location of Iraq at the Arab level according to the indicators of Corruption for the years 2015 and 2020.



Source: From the work of the investigator based on a schedule (1)  
 Table (2)

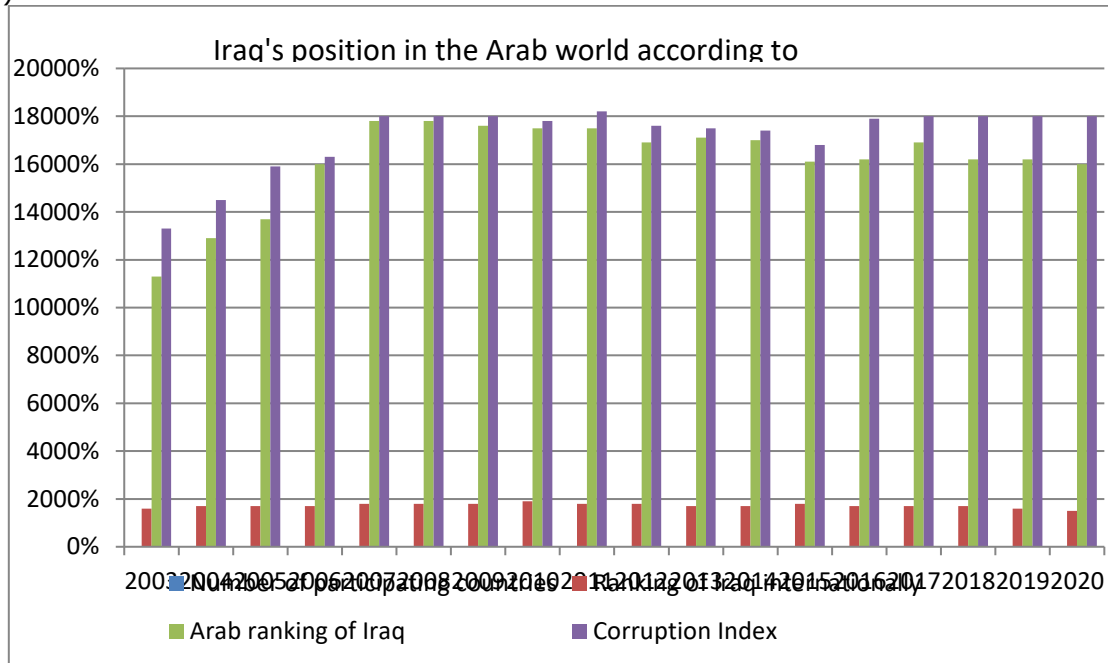
Ranking of Iraq on the Arab and international levels according to the indicators of Corruption for the period (2003-2020)

Years	Corruption Index	Arab ranking of Iraq	Ranking of internationally	Iraq	Number of participating countries
2003	22%	16	113		133
2004	21%	17	129		145
2005	22%	17	137		159
2006	19%	17	160		163
2007	15%	18	178		180
2008	13%	18	178		180
2009	15%	18	176		180
2010	15%	19	175		178
2011	18%	18	175		182
2012	18%	18	169		176
2013	16%	17	171		175
2014	16%	17	170		174
2015	16%	18	161		168
2016	18%	17	162		179
2017	18%	17	169		180
2018	18%	17	162		180
2019	20%	16	162		180
2020	21%	15	160		180

The table prepared by the investigator depending on :  
 Transparency International Reports, perceptions of Corruption, various pages, for the duration (2003-2020) at [www.transparency.org](http://www.transparency.org)



And Figure 2 shows Iraq's Arab and international ranking according to the corruption perceptions index for the period (2003-2020).



Source: From the work of the investigator based on a schedule (1)

**THIRD: WAYS TO FIGHT CORRUPTION IN IRAQ:**

There are many avenues for a long-term strategy to fight administrative and financial corruption.

**1. Judicial Accounting:**

It is essential that anyone holding a public office at all levels be held legally and administratively accountable to the judiciary in the event of an act of interference.

**2. Accountability:**

The people have the right to know information about public departments and functions in order to ensure that their work is in accordance with the principles and values of democracy.

**3. Transparency :**

The relationship between the public sector and its employees is clear, and the procedures, objectives and goals must be open and transparent.

**4. Integrity:**

It builds a system of ethical values associated with honesty, honesty, fidelity, experience and professionalism in the performance of the work.

**CONCLUSIONS AND RECOMMENDATIONS**

The researcher reached a number of conclusions and recommendations, including:

Conclusions: -

1. The phenomenon of administrative and financial corruption poses a serious threat to good governance systems, runs counter to the standards of integrity and transparency, and is an obstacle to economic and

social development plans and is an impediment to the promotion of domestic and foreign investment

2. Corruption is expanding in the countries where their political systems are falling due to weak laws and control bodies for fighting corruption, deteriorating security conditions and other matters that encourage the weak people to steal and embezzlement public money, which is what happened to Iraq after 2003.

3. One of the most important reasons that led to the emergence and growth of financial and administrative corruption is the weakness of the inspection, monitoring and auditing bodies and the monitoring of the activities of the personnel in the state bodies, and the absence of transparency, issue and justice in the distribution of income.

4. Iraq was the last in transparency International's Corruption perceptions Index after 2003 due to poor performance of anti-corruption monitoring agencies and a lack of accountability for the corrupt.

**RECOMMENDATIONS:**

1- Activating the role of the regulatory authorities, especially the observations of the reports of external audit bodies, and the commitment to liquidating them by the relevant bodies.

2- To give the judiciary a bigger role by assuming wide powers to hold those who have failed to account, and to pursue those who commit financial and



administrative corruption through issuing strict laws that prevent the waste of public funds and administrative corruption, and to seriously hold them accountable.

3- Posts should be separated through the allocation of functions to staff members and the allocation of decision-making powers and not confined to one person to reduce opportunities for administrative and financial corruption.

4- Financial and administrative irregularities should be published through the media to combat corruption in all its forms.

5- To promote the culture of integrity, preservation of public money and non-functional exploitation through a long-term strategy for achieving loyalty and belonging between individuals and the State, as law is not the only deterrent to corruption, but there should be a culture of integrity and preservation of public money.

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