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# Debating the Challenges Faced By the Iraqi Sai in Promoting the Integrity of Public Resources Management After 2003

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**Abstract--** The main purpose of the study is to investigate the legal challenges faced by the Iraqi supreme audit institution (SAI) in enhancing proper management and avoid corruption in the Iraqi public resources after 2003. This paper discusses the key legal functions of the Iraqi SAI in auditing and inspections on the government activities in administration the public resources. Based on the analysis the content of legal texts, reviews, interviews, and criticisms, the study confirms that the SAI's ability in imposing the sound management and avoid corruption in public funds is one of the necessary tasks to ensure the implementation of effective control by the SAI. The study revealed that although the Iraqi SAI has the clear mandate to doing these functions, nevertheless, there were many constraints and challenges faced the Iraqi SAI and had a negative impact on its role in achieving its goals in ensuring the proper management of public resources by the government.

**Key words--** *Iraqi SAI, public resources management, transparency, corruption.*

## I. INTRODUCTION

It is widely recognized that the supreme audit institutions (SAIs) are responsible for overseeing and holding governments to account for their use of public resources, together with the Legislature and other oversight bodies. In a democratic system, SAIs usually report to the Legislature and to citizens, and in some cases to the Executive or the head of state. Where there is more than one body fulfilling the public sector external audit role, the SAI is usually distinguished as possessing the strongest constitutional guarantees of independence (Dye & Stapenhurst, 1998) . Per the International Organization of Supreme Audit Institutions (INTOSAI), the mandate of the SAI in many countries, including Iraq, could have a significant effect on the behavior of public sector institutions. Where it has mandate of financial auditing in which the auditor assesses the accuracy and fairness of the financial statements of a government institutions; compliance auditing in which the auditor checks whether both revenue and spending have been authorized as well as spent on approved purposes, and performance or value-for-money auditing in which the auditor checks whether the citizens have received value for their money. Within value- for-money auditing, one can distinguish between evaluations of efficiency and effectiveness (INTOSAI, 2015).

Thus, the main function of the SAIs provide oversight to ensure that government resources are spent appropriately, that policy is implemented as intended and in conformance with laws and regulations, that strategies are met and that the overall performance of the government meets stated policy objectives. SAIs provide insight to assist audited entities and other decision-makers by assessing which programmes and policies are working and which are not, providing feedback to adjust policies and by sharing best practice information. One way in which some SAIs are providing this insight is through

programme evaluations, which are extensions of performance audits that aim to explain successes and failures of policies based on objectives and implementation ( Hegarty & Musonda, 2010).

In the Iraqi context, it can be noted that the SAI is one of the important oversight institutions involved in auditing financial and administrative activities and in detecting cases of corruption and financial irregularities. According to the Iraqi SAI law of 2011, the auditor of SAI has mandate of examining and auditing transactions and actions of the public revenues, expenditures and financial commitments in terms of their planning, collecting, expending, as well as assets of different types to verify how proper they are evaluated and registered in the orderly books and records, and to ensure availability, ownership, efficiency and safety of their usage maintenance and safeguarding; as well as checking and auditing documents, contracts, records, accounting books, budgets, financial statements, and decisions and all other documents and administrative issues related to the auditing duties ( Article 4, Iraq' SAI Act of 2011).

In addition, the Iraqi SAI's objectives under Article (6) are “ (1) To safeguard the public money against waste, squander and misconduct, and to ensure sound use of it; (2) Auditing and control over accounts and activities of the entities under the Board jurisdiction and verifying sound disbursement of public funds and efficient implementation of laws, regulations and provisions, including (a)Examining and auditing the transactions of public spending so as to ensure that they are valid and not exceeding their budgetary appropriations, and using public funds for the purposes intended to without waste, abuse or misconduct, as well as evaluating its returns; (b) Examining and reviewing estimation and realisation transactions pertaining to the collection of public resources to ascertain that the procedures in place are appropriate and are soundly implemented; (c) Expressing the opinion on financial statements and reports related to the results of auditees' actions and financial positions, and verifying whether they are organised according to the legal requirements and the accepted accounting standards and representing the real financial position, result of activity and cash flows; and (3) Control of performance evaluation of entities subject to the SAI's control (Iraq' SAI Act of 2011).

However, a critical appraisal of the Iraqi SAI actions in promoting transparency and avoid the risk of corruption in the management of public resources reveals many obstacles and restrictions that have a negative impact on its role in protection public resources or addressing high levels of corruption and wastage of public funds. For example, to the reports of Transparency International (TI) about financial and administrative corruption, Iraq is still ranked among the most corrupt countries, and there is many forms of wastage and corruption in the Iraqi public resources (TI, 2015) ( Agator, 2013).

To assess and discuss the reasons that affected the performance of the Iraqi SAI in promoting public funds and ensure the protection of public resources for proper management, this study adopted a qualitative method by using a single embedded case study approach which involving multiple methods of data collection including public documents, semi-structured interviews. This methodology is chosen because the issues arising in this research are legally rooted and will be best resolved by reviews, criticisms and theoretical analysis and the application of statutes, practices and the legal principles of the Iraqi SAI's performance in enhancing the sound management of public resources. Thus, it contributes to analyze and discuss the reasons and challenges that have a negative impact on the SAI role to avoid fraud and corruption by imposing the sound management of public funds.

#### ***A. The Iraqi SAI role in strengthening the sound management of public resource***

It is agreed that the executive power in Iraq - as in the rest of the world - are responsible for the responsible management of public resources through a legal document ratified by the parliament, called the general budget. Executive power is exercised task of preparing the general budget annually in accordance with the plans and programs which are expected resource sets collected (for example, taxes, fees, natural resources, oil and gas etc.), as well as expenses that will be dispensed on projects and services to achieve the public interest. To ensure transparency, integrity and the peaceful management of public resources, supreme audit institutions have the authority to audit and inspect and review all government activities to assess whether the management of public resources (expenditure and revenue) have been performed properly in accordance with in accordance with laws and regulations and in accordance with the allocations approved by Parliament in the Act of Public budget (Salman, 2015).

Also, the SAI have, in principle, the right of access to all documents, records and financial statements and internal regulations of the institutions of the public sector to ensure the extent of its legitimacy and efficiency in the management of public funds properly to avoid opportunities for corruption. To gain access to the results of monitoring, the SAI have the right to publish a variety of supervisory reports aimed at strengthening legislative oversight on the work of the government as well as the possibility of creating public awareness through the media and civil society to the extent of the risk of corruption in government activities (Agator , 2013) & (Faraj, 2012).

Accordingly, it can be noted that the Iraqi SAI law of 2011 provide it the clear mandate to a promotion of transparency and integrity in the management of public resources and evaluation of all administrative and financial activities of the government. The scope of these oversight includes a review of government activities from the legal, financial, efficiency, economy and effectiveness of the order to evaluate and improve the government's performance and the prevention of corruption risks. It includes analysis and scrutiny over the executive management of public resources in the annual budget legitimately. Article 13 states that SAI has the right to access all the documents, transactions, orders and decisions related to audit and control, to conduct or supervise an at site stock count, and to obtain, as appropriate, from all the relevant administrative and technical levels all the clarifications, information and answers needed to carry out its mission. As well as it has mandate of auditing the classified programs and

expenditures that are related to the national security, and President of the SAI may deputize whom he chooses to act on his behalf to carry out the relevant auditing and reporting; and conducting inspections on the grants, loans, facilities, preferences and investments and making sure they are dedicated to the purposes of provision (Iraq SAI Act of 2011).

Therefore, ideally, the efforts of Iraqi SAI procedures to support sound management of public resource and protection the public funds are:

(1) Assessing whether adequate institutional procedures and safeguards are in place to ensure reliability and quality of tools that underlie the budget; (2) Assessing whether the processes and procedures in place facilitate an alignment between budgeting and strategic objectives; (3) Assessing whether there is an effective framework in place for guiding the multi-annual process of resource allocation;(4) Assessing the effectiveness of the national framework capital investment projects; Assessing whether there are sufficiently robust procedures and technical capacity in place to evaluate procuring capital investment projects effectively; (5) Comprehensiveness of budgetary information and accounting by assessing whether the existing public accounting framework is fit for informing citizens, Legislature and key stakeholders of the true position of the public finances; (6) Ensuring quality of budgetary implementation and delivery;(7) Assessing the effectiveness of the procedures in place for managing, monitoring and overseeing financial allocations; (8) Promoting integrity and quality in budgetary management and Assessing the soundness and quality of the overall national framework of budgetary governance in promoting optimal resource allocation, implementation, evaluation and review; and finally (9) Auditing the annual public accounts of public bodies and of the government as a whole, as to their accuracy and probity, and as to the effectiveness of the public financial management systems in place (Iraqi SAI site, 2015) &( Salman, 2015)

Thus, the tasks of the SAI are oversight actions of the government in the implementation of the public budget. Through this task, the SAI can contribute to avoid corruption and act as a potent deterrent to waste and abuse of public funds by, for example, helping restrain any tendency to divert public resources for private gain. Audit can help reinforce the legal, financial and institutional framework which, when weak, allows corruption to flourish; it can help establish a predictable framework of government behavior and law conducive to development, it can reduce the arbitrariness in the applications of rules and law and it can help simplify administrative procedures, particularly where they hinder the proper functioning of government agencies. It can also expose non-transparent decision making that is clearly not in the public interest. (Hegarty& Musonda, 2010)

However, the Iraqi SAI ability in promoting the sound administration of public resources and prevent the spread of corruption in the public sector faced a lack of existence of clear legal mechanisms in the planning and implementation of the budget in a transparent manner, and this led to spread corruption widely. Iraq's transition after 2003 has seen a lot of wastage of public funds caused by the US occupation. During the period after 2003, the phenomenon of financial and administrative corruption exacerbated and the rates of wastage of public funds and in all of Iraq's state institutions increased without any exception (Le Billon, 2005) &(Looney,2008). For example, the total amount of money wasted in the government sector reached approximately (6810 billion dollars) only in 2010 (Gunter, 2013). Moreover, per a study based on IMF &

World Bank data conducted by Global Financial Integrity, an estimated US \$ 65 billion in illicit funds left Iraq (about twice its 2005 GDP, or 56% of its 2011 GDP) between 2001 and 2010, suggesting massive fraud, corruption, tax evasion and money laundering and misuse of public resources (Agator, 2013) During the years from 2004 up to 2016 the annual budgets for Iraq not less than \$ 110 billion, as there are billions of dollars earmarked for spending on reconstruction projects and services in Iraq, nevertheless, Iraq is still so far suffered from a lack of services and the failure of projects in all public-sector institutions without exception (Gunter, 2013) and (Faraj, 2012).

### ***B. The constraints to the Iraqi SAI ability in enhancing sound management of Iraqi public resources***

Although the Iraqi SAI has a clear mandate in auditing all activities of government entities in manage the public resource according to the budget enacted by parliament, nevertheless, there were many restrictions had a negative impact on the Iraqi SAI performance in promoting the effective protection of public resources. Lack of transparency and proper planning of the public budget was one of the main problems that have affected negatively on the Iraqi SAI ability in ensuring that the Iraqi public resources and to avoid corruption of sound administration. Since 2003 (the US occupation of Iraq) and up to this writing, the manager of Iraqi public resources was done through an ineffective framework for legal and institutional that may ensure the credibility of the information that should be obtained by the supreme audit institution to ensure public sound resource management environment (Hosseini, 2007). According to a recent report issued by the organization International Budget Partnership (IBP) for examining the extent of transparency of the public budgets in countries, Iraq was among the lowest levels of budget transparency, about 4 out of 99 countries, and by 4% compared with the world countries (IBP, 2015) & (Faraj, 2012).

In fact, the existence of a legal framework that ensures the preparation and implementation the state budget according to the principle of transparency is one of the basic principles in promoting the effectiveness of the SAI to achieve its goals in protecting public resources from waste and corruption. Achieving transparency in the public budget requires, enough information to determine responsibility for failure, incompetence or deceit. SAIs cannot come to a final conclusion if there is a limitation in the scope of an audit due to a restriction on information transparency which related to the real extent of public resources (Salman, 2015).

### ***C. Factors that contributed to the lack of transparency of management the Iraqi public resources and affected the Iraqi SAI performance could be clarified as follows.***

#### ***a. First: The absence of proper planning of public budgets***

One of the key reasons of absence the transparency and mismanagement of public resources, which reflect negatively on the Iraqi SAI ability in the prevention of corruption and promote accountability is that Iraq since 2004 depends on the preparation and planning of budgets on financial management and public debt, No. 95 of 2004 issued by the Coalition Provisional Authority (CPA). Under this law, estimating revenue and expenditure is accounted in a total without details. Therefore, the funding of ministries and government institutions are based on the amount of allocations that estimated by the Cabinet when preparing the draft budget, not on the basis of the amount of the actual achievement of the projects and the provision of services. Thus, the adoption of

such measures impacted negatively on the Supreme Audit Institution in evaluating the performance and effectiveness of government institutions to reduce the risk of corruption in the administration tasks, because it would be difficult to assess the value for money (Al-Jurani, interview, 2015).

Similarly, per the CPA law, the Iraqi government adopted in most of the annual budgets on the division of areas of public spending separately, in contrary to the principle of unity of the budget. Where, Iraqi general budget contains many of semi budgets as sources of finance ministries and government institutions, for example, the budgets: the development of regions, the Supreme Council for reconstruction, recovery of the marshes projects, the US grant funds, donor aid, development and other sources of financing for the fund. This imbalance was accompanied by the absence of the legal mechanisms of government spending from these sources, especially from the DFI as the most important source of funding for the budget from oil production. This was one of the main obstacles faced by Iraqi SAI in control of the mechanisms of public spending. Because it produces the difficulty of controlling motion of cash flow, display of expenditures in government institutions and unify the state final account (Salman, interview, 2015).

Moreover, the weakness and lack of coordination in the planning and implementation of the general budget of the central government through its ministries and governorates of Iraq through the local governments is one of the limitations that also affected the Iraqi SAI work to avoid corruption in the management of public resources and strengthening accountability. Since the central ministries are still dominant in spending on the center and provincial levels, without planning of the issues that should be transferred to local governments as stipulated in Articles 122 and 123 of the Iraqi Constitution of 2005, and texts of the provinces law No 23 of the 2008, in application the principle of administrative decentralization (Mousa, interview, 2016) & (Gunter, 2013).

#### ***b. Second: The oil as the main source for financing the budget with lack of transparency in production***

In Iraq oil accounts for almost 95% of its export revenues and over two-thirds of Iraq's GDP. In fact, Iraq's economy has the highest level of oil-dependence of any OPEC member (including Kuwait, Qatar and the UAE). The massive revenues from oil exports are controlled by the Baghdad ministries (Le Billon, 2005). And since the revenues from oil exports account for over 90% of total government revenues in Iraq, the ministries are not dependent on taxpayer-voters. The government ministries use the oil funds primarily to maintain the salary and benefits of their employees including both those who are directly employed by the Ministries as well as those employed by state owned enterprises (SOE) associated with many of the ministries (Looney, 2008). The perverse but predictable priorities of the ministries were dramatically revealed during the oil export revenue shortfall in the first half of 2006. Maintenance and capital expenditures were slashed while employment increased. The ministries and the associated SOE are, to a great extent, a welfare program providing generous salary and benefits in return for little work (Chalabi, 2007).

In this regard, the problem is not just limited to the adoption of oil as a sole source of financing the budget, but the operations of oil production have witnessed a wide range of corruption due to lack of transparency about the size of the amounts of these resources. Production and export of oil operations take place without the presence of meters on true amounts, this

resulted in a widely theft and looting of the oil wealth and the corruption of the oil contracts which mostly awarded without tenders by CPA and the Iraqi government alike. In addition, the absence of oil and gas law, which was hoped to resolve the problems on the legality of oil contracts and to clarify the mechanisms of administration to the oil resources between the central government and local governments in the provinces in implementation of the Iraqi constitution in 2005(Blanchard, 2008).

Therefore, the lack of accurate information on the actual production of the oil resources was due to the absence of oil and gas law, and reliance on investment grants and contracts to develop oil production to foreign companies (most of which represents US interests) without tenders. This situation has negatively contributed to weakening the role of the Iraqi SAI in control of the most important supplier of private Iraqi state, especially the CPA and then followed by the Iraqi government were deliberately in hiding a lot of records and documents relating to the management of oil resources from auditing and inspections by the Iraqi SAI (Al-Jurani, interview, 2015).

### *c. Third: Failure to apply e-government project*

Despite the Iraqi government Strategy 2005-2007 called for establishing e-government to increase transparency and modernise governmental business processes, however, it so far this project is still disabled due to the absence of a legal framework for this project as well as the wastage the funds that allocated for this project. E-government means that everything that the government does, from the prices and quantities of daily oil exports to a trial testimony, will be accessible online almost immediately. It is hoped that e-government will lead to not only a better-informed the Iraqi SAI and citizenry but also make government officials more careful about what they do or at least what they report (Gunter,2013).

Thus, it believes that the creation and promotion of e-government system, enhances the SAI ability of access to documents and financial data effectively. However, such a procedure has not been implemented due to absence of a regulatory framework despite allocation of funds for the development of this system. Therefore, there is an urgent need for the existence of legal regulation obliging the government to adopt and implement e-government project in the public-sector institutions (Mousa, interview, 2016).

Based on the aforementioned data, it is clear that the lack of transparency and proper planning for the management of Iraqi public resources and the implementation of the budgets were among the reasons that reflected negatively on the SAI's ability in prevention of the risk of corruption and promote accountability. Lack of real data on public resources, spending without a strategy and prior planning, the absence of oil and gas law, the lack of coordination between the central government and local governments, poor access to data and the non-application of e-government, are all factors effect on the SAI's measures to access of assessment the real performance of government institutions to prevent the risk of corruption.

## CONCLUSION

The key functions of the SAIs in most countries, including Iraq, is to promote sound management of public resources to avoid corruption. In Iraq, even though SAI law gives it clear mandates strengthening the accountability of the government on the management of public resources, however, the administration of the Iraqi resources after 2003 witnessed many forms of waste and corruption in a widely. The Iraqi SAI's ability to enhance the effective management of public resources facing many difficulties in doing its task effectively. The

absence of a legal framework that ensures the transparency of the management of public resources and enables the Iraqi SAI to access of real information was the main factors that had a negative impact on its functional role. The reasons that have contributed to this situation is the lack of planning in the Iraqi budget, relying on oil as the sole source of funding in addition to the non-application of e-government. Therefore, the study finding that the need of issue new laws on financial management of public resources and the preparation of the budget in the light of a clear strategy to prevent wastage of public funds and help in the SAI in the diagnosis of weaknesses in public administration effectively. This would strengthen the capacity of the Iraqi SAI in building an effective control mechanism for management of public resources and to overcome the corruption activities.

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