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The Future Of Iraq Project



**Transparency and
Anti-Corruption Measures**

Working Group

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(*) Reflects consensus of the participants in the working group. Other papers reflect the views of their authors.

Description of Anti-Corruption Compliance program

There is a need to refocus the pre-existing Iraqi Anti-Corruption Laws for public officials, employees and representatives through an Anti-Corruption Compliance Program. This is fundamental to reshaping the way that the Iraqi people regard their government. This requires that transparency and integrity be instilled in public officials, employees and representatives. The Working Group on Transparency and Anti-Corruption proposes the following program:

1. Create the standards and anti-corruption procedures for public officials based on the following:
 - a. The Model Code of Conduct (see Attachment A),
 - b. The Code of Conduct for Doing Business with the Iraqi Government Officials, Employees and Representatives (see Attachment B), and
 - c. The existing penal code (see Attachment C);
2. Create an oversight group to be called the Anti-Corruption Task Force to oversee the Anti-Corruption compliance program according to the guidelines for operation of the Task Force (Attachment D). The Task Force shall be authorized by the interim government;
3. Use care in the delegation of authority to members of the Anti-Corruption Task Force choosing members known for integrity and honesty;
4. Create a communications and training program for all public officials, employees and representatives that includes a video, a train the trainer guide and a hotline;
5. Implement procedures for monitoring, auditing and reporting including using auditors as part of the anti-corruption task force; and auditing and monitoring the hotline complaints;
6. Consistently enforcing the recommendations of the Anti-Corruption Task Force through investigations leading to referrals of cases to the investigating judge who can then refer the case to the competent court or close the file; and
7. Continuously improving the compliance program through feedback and monitoring.

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Anti-Corruption Compliance Program Proposal

Purpose: The Transparency and Anti-Corruption Working Group proposes to create an anti-corruption compliance program for the training of all public officials, employees and representatives.

Deliverable:

1. Workplan
2. Spirit of the Code Anti-Corruption Brochure
3. A Model Code of Conduct for public officials, employees and representatives aligned with existing law
4. Training materials
 - a. Video (including a script)
 - b. Overheads
 - c. Hardcopy presentation
5. Train the Trainer Guide
6. Hotline Brochure or Wallet Card
7. Guidelines for the Anti-Corruption Task Force Operation
8. Certification Form for signing by all public officials, employees and representatives
9. A Code of Conduct for those doing business with the Iraqi Government public officials, employees and representatives.

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Budget

12-15 minute video in Arabic (including three vignettes on the use of government property, bribery and confidentiality in government contracting and bidding process)	\$20,000
English and Kurdish subtitles	\$3,000
Cost of the Secretarial Assistance in laying out prototype brochures	\$500
Total Cost	\$23, 500

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Transparency and Anti-Corruption Working Group

Legal & Standard Committee

I have received many reports from members of the Legal and Standards Committee dealing with the proposed code of conduct for Iraqi Public officials. I prefer to give definition of public official and then divide the subject into following categories:-

- 1) **Definition of Public Official**
- 2) **The Crime Committed by Public Officials provided by the Iraqi Penal Code No. 111 of 1969 and its amendments.**
- 3) **Iraqi code of purity of the public Authority No. 106 of 1967 and its amendments.**
- 4) **Model Code of Conduct for Iraqi Public Officials**
- 5) **Task Force and Anti-Corruption Commissions.**

1) **Definition of Public Officials.**

Iraqi penal code defines Public Official in Article (19) para (2) as follows:-

"any official, officer or employee to whom a Public Service is assigned to work with the government and its public and semi public offices and anybody belongs to or works under its supervision including Prime Minister, his deputies, ministers, members of parliament, Administration and Municipality and including also the Arbitrators, experts, creditors' agents, liquidators, receivers, Directors, and managing directors and employees of establishments, companies, societies, and any groups and establishments being the government participates in any share in its capital and in general any paid or unpaid person to whom a public service is assigned to him".

- 2) **The crimes committed by Public Officials provided by Iraqi Penal Code No. 111 of 1969 and its amendments;**

I divided the crimes committed by public officials provided by Iraqi penal code into two categories as follows:-

- a) **The crimes against the National Economy.**

The Iraqi Penal Code deals with the crimes against the National Economy in section five Article 304-306 and considers such crimes committed by Public Officials as an aggravating circumstances and punishes them by imprisonment for not more than seven years pursuant to Article 304 of Iraqi Penal Code.

b) The Crimes against the Public Administration

The Iraqi Penal Code deals with the crimes against the Public Administration in chapter six consists of three sections from Article 307 to 341.

1) Section one deals with the crimes of Bribery from Article 307-314 of Iraqi Penal Code and defines the Bribery in Article 307 as follows:-

" any public official or any person to whom a public service is assigned who solicits or accepts for himself/herself or for another person, a donation, an advantage of any kind or a promise or anything of the like in order to commit or omit an act in violation of the duties of his/her function.....".

2) Section two deals with Embezzlement from Article 315-321 and defines the Embezzlement in Article 315 as follows:-

" any public official or any person to whom a public service is assigned and who embezzles funds or goods and title document or any thing in his/her possession".

3) Section three deals with the Abuse the Public Officials their authorities from Article 322-341 of Iraqi Penal Code in which the said Code defines many cases of abusing of Function and Authority such as:-

1. Arrests any person or imprisons him/her without any authority provided in the law (Article 322).

2. punishes any person or orders to punish such person with severer than the punishment that he was sentenced or a punishment to which he was not sentenced at all with his/her knowledge that such action is against the law (Article 323).

3. imprisons any person without warrant issued by the competent authority or to refrain from executing the order of releasing him or to hold the said person therein after expiry of the sentences' period (Article 324).

4. employs unpaid person in works are not related to public benefit designated by the law, regulation or the necessity of the relevant circumstances (Article 325).

5. enters any person's house or shop without the consent of the concerned person in cases other than those provided for by the law or without complying with the procedures stipulated therein (Article 326).

6. discloses any information acquired by him /her in the course of his/her employment to any person should not pass such information to him and the punishment shall be imprisonment if such information being disclosed by the contractor, employees, agents or its employees who made the contracting with the government (Article 327).

7. opens, destroys or hides a letter or a telegram which was entrusted to the said administrations, or who facilitates that for another person, or who discloses a secret that was included in said letter, telegram or telephone conversation. (Article 328).

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8. stays or impedes the enforcement of the laws, regulations, decrees or orders issued by the Government or the enforcement of any judgement or order pronounced by any court or any competent authority or who delays the collection of any funds or duties provided by the law. (Article 329).
9. refrains without any right from doing his/her duties or violates intentionally his/her duties as a result of recommendation or interfere or for any unlawful reason. (Article 330).
10. commits intentionally or refrains from doing his/her duties in order to damage the interest of another person intentionally on the account of another person or on the account of the state (Article 331).
11. treats any person with cruelty in such a manner as to cause to such person shame and disgrace or bodily injury (Article 332).
12. tortures or order to torture an accused, witness or expert in order to compel him/her to confess a crime, to make a statement or to give information relating thereto, or in order to conceal any matter or to render any opinion in this respect (Article 333).
13. buys a real estate or movable without the consent of the owner or confiscate the said real estate or movables or its benefits or any right of third party without any justification or to force the owner to do so for his own or somebody else benefit or to enable him/her to take the advantage of the same by any way (Article 334).
14. confiscates the funds, goods or title documents or any thing in his/her possession as a result of his/her employment or facilitates that for another person (Article 335).
15. violates confidence or security of auctions or bids relating to government or any establishments, companies being the government participate in any share in its capital or any official or semi-official offices by cheating or any unlawful way (Article 336).
16. works in trading not belong to himself/herself or their relatives, brothers, sisters, wife, husband or those under their guardianship while he/she was prohibited to work in trading (Article 337).
17. abuses the authorities by taking something for himself/herself or some other person without any consideration or by a low price without the consent of such person (Article 338).
18. asks, takes or orders with his/her knowledge to collect undue or exceeding on the due taxes, duties or revenue (Article 339).
19. damages intentionally the funds or the interest of his/her employer or relating to funds entrusted to his/her as a result of such employment (Article 340).

20. causes by his/her gross negligence a severe damage to funds, interests of his/her employer or relating to funds entrusted to his/her or by their gross negligence of performing their duties or abuses his/her authorities or gross violation of their duties (Article 340).

3) Iraqi Code of Purity (Cleaning) of the Public Authority No. 106 of 1976 and its amendments.

The law No. 106 of 1967 and its amendments deals with the conduct of Public Officials and give authority to board of Ministers to dismiss or refer on retirement any Public Official or person to whom a Public Service is assigned for the period not more than five years if it is proved that such public official is not efficient, honest, good behavior or effective or damaging the public interests in case of carrying on his/her services. (Article 1).

This law authorizes each Minister to form a special committee or more in the Ministry presides by a public official of second degree and consists of four public officials of four degrees to investigate into behavior of the public officials and employees by reviewing their personal files and by all means of evidence such as the way of the public official's acting and life-style. (Article 2).

4. Model Code of Conduct for Iraqi Public Officials

Recognizing that public administrations play an essential role in democratic societies and that they must have at their disposal suitable personnel to carry out properly the tasks which are assigned to them;

Considering that public officials are the key element of a public administration, that they have specific duties and obligations, and that they should have the necessary qualifications and an appropriate legal and material environment in order to carry out their tasks effectively;

Convinced that corruption represents a serious threat to the rule of law, democracy, human rights, equity and social justice, that it hinders economic development and endangers the stability of democratic institutions and the moral foundations of society;

Convinced that raising public awareness and promoting ethical values are valuable as means to prevent corruption;

The Iraqi Anticorruption Working Group Recommends the adoption of the Code of Conduct for Public Officials.

Code of Conduct for Public Officials

Interpretation and application

This Code applies to all public officials, including publicly elected representatives, members of the government and holders of judicial office.

For the purpose of this Code "public official" means a person employed by a public authority.

The provisions of this Code may also be applied to persons employed by private organisations performing public services.

On the coming into effect of this Code, the public administration has a duty to inform public officials about its provisions.

This Code shall form part of the provisions governing the employment of public officials from the moment they certify that they have been informed about it. Every public official has the duty to take all necessary action to comply with the provisions of this Code.

— Object of the Code

The purpose of this Code is to specify the standards of integrity and conduct to be observed by public officials, to help them meet those standards and to inform the public of the conduct it is entitled to expect of public officials.

General principles

The public official should carry out his or her duties in accordance with the law, and with those lawful instructions and ethical standards which relate to his or her functions.

The public official should act in a politically neutral manner and should not attempt to frustrate the lawful policies, decisions or actions of the public authorities.

The public official has the duty to serve loyally the lawfully constituted national, local or authority.

The public official is expected to be honest, impartial and efficient and to perform his or her duties to the best of his or her ability with skill, fairness and understanding, having regard only for the public interest and the relevant circumstances of the case. The public official should be courteous both in his or her relations with the citizens he or she serves, as well as in his or her relations with his or her superiors, colleagues and subordinate staff.

In the performance of his or her duties, the public official should not act arbitrarily to the detriment of any person, group or body and should have due regard for the rights, duties and proper interests of all others.

In decision making the public official should act lawfully and exercise his or her discretionary powers impartially, taking into account only relevant matters.

The public official should not allow his or her private interest to conflict with his or her public position. It is his or her responsibility to avoid such conflicts of interest, whether real, potential or apparent.

The public official should never take undue advantage of his or her position for his or her private interest.

The public official has a duty always to conduct himself or herself in a way that the public's confidence and trust in the integrity, impartiality and effectiveness of the public service are preserved and enhanced.

The public official is accountable to his or her immediate hierarchical superior unless otherwise prescribed by law.

Having due regard for the right of access to official information, the public official has a duty to treat appropriately, with all necessary confidentiality, all information and documents acquired by him or her in the course of, or as a result of, his or her employment.

- Reporting

The public official who believes he or she is being required to act in a way which is unlawful, improper or unethical, which involves maladministration, or which is otherwise inconsistent with this Code, should report the matter in accordance with the law.

The public official should, in accordance with the law, report to the competent authorities if he or she becomes aware of breaches of this Code by other public officials.

The public official who has reported any of the above in accordance with the law and believes that the response does not meet his or her concern may report the matter in writing to the relevant head of the public service.

Where a matter cannot be resolved by the procedures and appeals set out in the legislation on the public service on a basis acceptable to the public official concerned, the public official should carry out the lawful instructions he or she has been given.

The public official should report to the competent authorities any evidence, allegation or suspicion of unlawful or criminal activity relating to the public service coming to his or her knowledge in the course of, or arising from, his or her employment. The investigation of the reported facts shall be carried out by the competent authorities.

The public administration should ensure that no prejudice is caused to a public official who reports any of the above on reasonable grounds and in good faith.

- Conflict of interest

Conflict of interest arises from a situation in which the public official has a private interest which is such as to influence, or appear to influence, the impartial and objective performance of his or her official duties.

The public official's private interest includes any advantage to himself or herself, to his or her family, close relatives, friends and persons or organisations with whom he or she has or has had business or political relations. It includes also any liability, whether financial or civil, relating thereto.

Since the public official is usually the only person who knows whether he or she is in that situation, the public official has a personal responsibility to:

- be alert to any actual or potential conflict of interest;
- take steps to avoid such conflict;
- disclose to his or her supervisor any such conflict as soon as he or she becomes aware of it;
- comply with any final decision to withdraw from the situation or to divest himself or herself of the advantage causing the conflict.

Whenever required to do so, the public official should declare whether or not he or she has a conflict of interest.

Any conflict of interest declared by a candidate to the public service or to a new post in the public service should be resolved before appointment.

- Declaration of interests

The public official who occupies a position in which his or her personal or private interests are likely to be affected by his or her official duties should, as lawfully required, declare upon appointment, at regular intervals thereafter and whenever any

changes occur the nature and extent of those interests.

- Incompatible outside interests

The public official should not engage in any activity or transaction or acquire any position or function, whether paid or unpaid, that is incompatible with or detracts from the proper performance of his or her duties as a public official. Where it is not clear whether an activity is compatible, he or she should seek advice from his or her superior.

Subject to the provisions of the law, the public official should be required to notify and seek the approval of his or her public service employer to carry out certain activities, whether paid or unpaid, or to accept certain positions or functions outside his or her public service employment.

The public official should comply with any lawful requirement to declare membership of, or association with, organisations that could detract from his or her position or proper performance of his or her duties as a public official.

- Political or public activity

Subject to respect for fundamental and constitutional rights, the public official should take care that none of his or her political activities or involvement on political or public debates impairs the confidence of the public and his or her employers in his or her ability to perform his or her duties impartially and loyally.

In the exercise of his or her duties, the public official should not allow himself or herself to be used for partisan political purposes.

The public official should comply with any restrictions on political activity lawfully imposed on certain categories of public officials by reason of their position or the nature of their duties.

- Gifts

The public official should not demand or accept gifts, favours, hospitality or any other benefit for himself or his or her family, close relatives and friends, or persons or organisations with whom he or she has or has had business or political relations which may influence or appear to influence the impartiality with which he or she carries out his or her duties or may be or appear to be a reward relating to his or her duties. This does not include conventional hospitality or minor gifts.

Where the public official is in doubt whether he or she can accept a gift or hospitality, he or she should seek the advice of his or her superior.

- Reaction to improper offers

If the public official is offered an undue advantage he or she should take the following steps to protect himself or herself:

- refuse the undue advantage; there is no need to accept it for use as evidence;
- try to identify the person who made the offer;
- avoid lengthy contacts, but knowing the reason for the offer could be useful in evidence;
- if the gift cannot be refused or returned to the sender, it should be preserved, but handled as little as possible;

- obtain witnesses if possible, such as colleagues working nearby;
- prepare as soon as possible a written record of the attempt, preferably in an official notebook;
- report the attempt as soon as possible to his or her supervisor or directly to the appropriate law enforcement authority;
- continue to work normally, particularly on the matter in relation to which the undue advantage was offered.

- Susceptibility to influence by others

The public official should not allow himself or herself to be put, or appear to be put, in a position of obligation to return a favour to any person or body. Nor should his or her conduct in his or her official capacity or in his or her private life make him or her susceptible to the improper influence of others.

- Misuse of official position

The public official should not offer or give any advantage in any way connected with his or her position as a public official, unless lawfully authorised to do so. The public official should not seek to influence for private purposes any person or body, including other public officials, by using his or her official position or by offering them personal advantages.

- Information held by public authorities

Having regard to the framework provided by domestic law for access to information held by public authorities, a public official should only disclose information in accordance with the rules and requirements applying to the authority by which he or she is employed.

The public official should take appropriate steps to protect the security and confidentiality of information for which he or she is responsible or of which he or she becomes aware.

The public official should not seek access to information which it is inappropriate for him or her to have. The public official should not make improper use of information which he or she may acquire in the course of, or arising from, his or her employment. Equally the public official has a duty not to withhold official information that should properly be released and a duty not to provide information which he or she knows or has reasonable ground to believe is false or misleading.

- Public and official resources

In the exercise of his or her discretionary powers, the public official should ensure that on the one hand the staff, and on the other hand the public property, facilities, services and financial resources with which he or she is entrusted are managed and used effectively, efficiently and economically. They should not be used for private purposes.

- Integrity checking

The public official who has responsibilities for recruitment, promotion or posting should ensure that appropriate checks on the integrity of the candidate are carried out as lawfully required.

If the result of any such check makes him or her uncertain as to how to proceed, he or she should seek appropriate advice.

- Supervisory accountability

The public official who supervises or manages other public officials should do so in accordance with the policies and purposes of the public authority for which he or she works. He or she should be answerable for acts or omissions by his or her staff which are not consistent with those policies and purposes if he or she has not taken those reasonable steps required from a person in his or her position to prevent such acts or omissions.

The public official who supervises or manages other public officials should take reasonable steps to prevent corruption by his or her staff in relation to his or her office. These steps may include emphasising and enforcing rules and regulations, providing appropriate education or training, being alert to signs of financial or other difficulties of his or her staff, and providing by his or her personal conduct an example of propriety and integrity.

- Leaving the public service

The public official should not take improper advantage of his or her public office to obtain the opportunity of employment outside the public service.

The public official should not allow the prospect of other employment to create for him or her an actual, potential or apparent conflict of interest. He or she should immediately disclose to his or her supervisor any concrete offer of employment that could create a conflict of interest. He or she should also disclose to his or her superior his or her acceptance of any offer of employment.

In accordance with the law, for an appropriate period of time, the former public official should not act for any person or body in respect of any matter on which he or she acted for, or advised, the public service and which would result in a particular benefit to that person or body.

The former public official should not use or disclose confidential information acquired by him or her as a public official unless lawfully authorised to do so.

The public official should comply with any lawful rules that apply to him or her regarding the acceptance of appointments on leaving the public service.

- Dealing with former public officials

The public official should not give preferential treatment or privileged access to the public service to former public officials.

- Observance of this Code and sanctions

The public official has a duty to conduct himself or herself in accordance with this Code and therefore to keep himself or herself informed of its provisions and any amendments. He or she should seek advice from an appropriate source when he or she is unsure of how to proceed.

This Code forms part of the terms of employment of the public official. Breach of them may result in disciplinary action or termination of employment or other criminal or civil penalties.

The public official who negotiates terms of employment should include in them a provision to the effect that this Code is to be observed and forms part of such terms. The public official who supervises or manages other public officials has the responsibility to see that they observe this Code and to take or propose appropriate disciplinary action for breaches of it.

The public administration will regularly review the provisions of this Code.

5. Task Force and Anti-Corruption Commission

This paper deals with the establishment of the Task force and the Anti Corruption Commission.

The Transitional Period

During the transitional period, Iraq cannot depend on the executive branch of government to implement an anti corruption policy because of the rampant corruption of the whole public sector from top to bottom. Implementation of the total separation of the legal system from the executive branch, upgrading the legal system, training and assigning qualified competent judges, will require considerable time. The working group agreed that actions regarding Anti Corruption must start immediately, it cannot wait until the legal, legislative, and executive systems are reformed.

In order to implement Anti Corruption policy for future Iraq, an independent body with the sole mandate and responsibility to enforce the Anti Corruption policy must be created in the short term. This will be an important measure to gain the people's trust, support, and hope in the future. It will demonstrate the seriousness of the new government to combat corruption and profiteering, and will give a strong message to all who intend to use corrupt practices to benefit from the situation after the removal of the current regime. The working group proposes creating immediately an Anti Corruption Task Force (ACTF), to be followed by creation of a permanent Anti Corruption Commission (ACC) after the end of the transitional period.

The ACTF will be given temporary powers and jurisdictions by the new government and whatever transitional people's representative council exists after the regime change. ACTF will function during a predefined transitional period. The structure, mandate, powers, oversight, relations with the courts and law enforcement agencies will be similar to the ACC, with some modifications to allow ACTF to function immediately after the regime change.

Following is an outline of the Anti Corruption Commission to be created after the transitional period.

Anti Corruption Commission

Creating the ACC: "No One is exempt from the rule of the law"

ACC to be created by law enacted by the legislator (the people's representatives)
The law grants ACC independence: Political, Operational, Financial
The ACC must be staffed with carefully screened, competent people, who must also have excellent reputation for honesty and trustworthiness
The law grants specific Powers to allow the ACC to perform its duties.
ACC must confirm to Human Rights Standards
ACC must operate under the law
ACC is accountable to the courts
ACC report quarterly to Legislator
ACC Budget appropriated by legislator, ACC request annual budgets, to be approved and audited by legislator.
Legislator creates an oversight committee to monitor ACC activities

ACC Structure and Organization

Director Of ACC:

Proposed by higher Judicial Council

Appointed by Legislator

Tenure similar to Superior Court Judges

Protected while in office

Selection Committee must have broad base representation (not only the party in power, all major powers in legislator must be represented)

No role for the Executive branch in selection process

Removal from office on following grounds:

Inability to perform duties because of illness

Misconduct; Removal by the legislator upon recommendation of The Higher Judicial

Commission and approval by the legislative oversight committee

- Incompetence; same as above

ACC Organization

Communication through education and media

Code of ethics and conduct

Educate public sector employees in anti corruption practices

Work with the Education system to introduce Ethics and morality education in schools and universities

Work with the Media to mount an anti corruption campaign

Inform through the media the Iraqi people of their rights and obligations in dealings with the public sector

Monitor Public sector for corrupt practices
Investigate allegation of corruption
Monitor Executive Branch implementation of Anti Corruption laws and regulations
Monitor corruption in public procurement

Recommend to the legislator Anti Corruption legislation and amendments to current laws
Issue regulations for implementing Anti corruption laws
Develop standards and procedures
Report to Legislator ministries and public sector organizations who fail to enforce Anti Corruption measures and regulations

Investigate public assets stolen or embezzled
Coordinate with International law enforcement the recovery of stolen assets
Coordinate with other countries and international organizations efforts to combat money laundering
Cooperate and coordinate with law enforcement agencies

Develop mechanism for feedback from the people and public sector
Ensure ACC compliance with human rights, rights of the accused
Ensure that ACC does not become an instrument for prosecution and discrediting of opponents of ruling and powerful political entities

ACC: Tools and Powers

Acc must be granted the following powers and tools by law:

The power to freeze assets with court approval.

The power to prevent persons from leaving the country with court approval.

The power to protect whistle blowers and informers (legal protection and physical protection)

The authority to grant immunity from prosecution and pay rewards for help in recovering public assets and negotiate discounts for retrieved assets with court approval

The power to subpoena documents and witnesses regardless of rank or position with court approval

The power to force, accountants, auditors to disclose information about their clients affairs with court approval

Effective system for monitoring assets, income, liabilities, life-style of public decision-makers and public service officials who hold positions allowing extraction of bribes HOW

Officials, who cannot provide satisfactory explanation of wealth or life-style, could be prosecuted for illicit enrichment

In order to fight corruption in public procurement, ACC must have the power to demand from all companies tendering for public contracts full disclosure of all commissions and performance bonuses paid in respect to their bid, and provide details of all services provided

ACC must present evidence to the courts about overseas companies who committed corrupt acts. The courts can exclude the firms, directors, all other companies associated with it from undertaking business with the government for a period of time decided by the courts.

Prosecution Power

Alternative 1:

Alternative 2:

Monitoring & Enforcement
Communication
Information

Anti Corruption Commission
(ACC)

Legislator

Oversight Committee

Director

ACC

Prevention

Monitoring
Investigation

Legal

Recovery of public assets

Feedback
Self-Monitoring

Prevention

Monitoring & Investigation

Legal

Recovery of public assets

Feedback & Self-Monitoring

Courts

ACC

Investigate & Collect Evidence

ACC
Prosecute

ACC

Investigate & Collect Evidence

Public Prosecutor

Prosecute

Public Sector
Executive Branch

ACC

ing & Investigation

Legal

Recovery of public assets

Feedback & Self-Monitoring

Courts

ACC

Investigate & Collect Evidence

ACC
Prosecute

ACC
Investigate & Collect Evidence

Public Prosecutor

Prosecute

Public Sector
Executive Branch

ACC

public Grassroots Anti Corruption Campaign

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Media . . Education . . Public Involvement . . improved Economic Standards for
Employees . . Public Morality & Ethics . . Religion.

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اللجنة الخاصة لمكافحة الفساد:

لقد سبق للجنة وإن اجتمعت في واشنطن بتاريخ 14 و15/2/2003 لمناقشة ورقة عمل اللجنة الخاصة بمكافحة الفساد وبعد مناقشات مستفيضة للأسباب التي أدت الى تفشي ظاهرة الفساد الإداري والمالي في العراق فقد اتفق المجتمعون على أن هنالك أسباب اجتماعية واقتصادية وسياسية أدت بتفشي هذه الظاهرة وقد اقترحت عدة حلول لمعالجتها كما اتفقوا على وضع خطة عامة لبحث الموضوع واقتصاره على القطاع العام وذلك ابتداء بتعريف الشخص المكلف بخدمة عامة ومن ثم بيان طبيعة الفساد ونطاقه مع بيان الأسباب الاقتصادية والاجتماعية والسياسية التي أدت الى تفشي هذه الظاهرة وكذلك بيان مواصفات الهيئة التي ستقوم بمكافحة ظاهرة الفساد الإداري والمالي والوسائل التي ستتاح اليها في القضاء على تلك الظاهرة مع أهمية الاعلام في توعية الشعب في حصر هذه الظاهرة والقضاء عليها.

وبناء على ذلك فقد أنبقت لجنتين من الاجتماع المنعقد في واشنطن وهما :-

1- اللجنة للقانونية لتحديد ضوابط ظاهرة الفساد الإداري والمالي واعداد التشريعات واللوائح والأنظمة لمكافحة تلك الظاهرة.

2- اللجنة الإعلامية.

كما تم انتخاب منسق لكل لجنة مع مساعد له في الأعداد لورقة العمل الخاصة بكل لجنة لطرحها في الاجتماع القادم ويقرر تعلق الأمر باللجنة القانونية ووضع الضوابط لظاهرة الفساد ومكافحته فقد تم اعداد أكثر من تقرير بهذا الخصوص كما اقترحت الأستاذة ثانيا حنا الاعتماد على مشروع القانون الأوروبي لمكافحة هذه الظاهرة وقيام كل من أعضاء اللجنة بمراجعتها واعداد تقرير بشأنها وكذلك أرقت نسخة من ملاحظات الأستاذ ليزكان بهذا الخصوص كما اقترحت كارول بصري اعداد تقرير في المبادئ والقيم الأخلاقية للموظف العام أو التعامل مع القطاع الخاص ولبدى الأستاذ رعد المميز اهتمامه بالبحث في مواصفات اللجنة التي سيوكل اليها مهمة مكافحة الفساد كما أعد الأستاذ فاروق جواد رضا ورقة عن عراق الغد وسبل اصلاح المؤسسات وكذلك تقدم الأستاذ بايز طالبان ورقة

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بشأن الفساد الإداري وعلى كل حال فإن الأعمال التي أوكلت الى اللجنة القانونية يمكن تلخيصها بما يلي :-

- اولا : تعريف الفساد الإداري والموظف العام.
- ثانياً : الجرائم المعاقب عليها بموجب قانون العقوبات رقم 111 لسنة 1969 وتعديلاته.
- ثالثاً : قانون تطهير الجهاز الحكومي رقم 106 لسنة 1967 وتعديلاته.
- رابعا : نموذج قانون سلوك الموظفين والمكلفين بخدمة عامة.
- خامسا : لجنة مكافحة الفساد.

اولا.. تعريف الفساد الإداري والمالي:

لقد عرفه البعض بأنه (عدم الحفاظ المقصود على أسس المجتمع المدني وانتهاك حرمة القوانين والأنظمة السائدة بقصد الحصول على منافع شخصية أو منافع للآخرين)

ومهما كانت التعاريف التي وضعت لظاهرة الفساد الإداري والمالي للموظف المكلف بخدمة عامة فإنه يمكن تعريفها بما يلي :-

(كل عمل أو امتناع عن عمل يقوم به المكلف بخدمة عامة أو الإخلال بما توجبه عليه مقتضيات الوظيفة العامة تحقيقاً لمصلحة خاصة له أو لعائلته أو لأقربائه أو الإصغاء المقربين له على حساب المصلحة العامة وسواء أكانت تلك المصلحة مادية أو معنوية أو مباشرة أو غير مباشرة).

كما نود أن نبين لكم بأن قانون العقوبات العراقي قد عرف المكلف بخدمة عامة في المادة (2/19) من قانون العقوبات بنصه على ما يلي :-

((2- المكلف بخدمة عامة : كل موظف أو مستخدم أو عامل نيّطت به مهمة عامة في خدمة الحكومة ودوائرها الرسمية وشبه الرسمية والمصالح التابعة لها أو الموضوعة تحت رقابتها ويشمل ذلك رئيس الوزراء ونوابه والوزراء وأعضاء المجالس النيابية والإدارية والبلدية كما يشمل للمحامين والخبراء وكلاء الدائنين (السندكيين) والمصفين والحراس القضائيين وأعضاء مجالس إدارة ومديري ومستخدمي المؤسسات والشركات والجمعيات والمنظمات

3

والمنشآت التي تساهم الحكومة أو إحدى دوائرها الرسمية أو شبه الرسمية في مالها بنصيب ما بأية صفة كانت وعلى العموم كل من يقوم بخدمة عامة بأجر أو بغير أجر.

ولا يحول دون تطبيق أحكام هذا القانون بحق المكلف بخدمة عامة لنتهاء وظيفته أو خدمته أو عمله متى وقع الفعل للجرمي أثناء توافر صفة من الصفات المبينة في هذه الفقرة فيه)).

والواضح عن نصوص المادة أعلاه بأن المشرع العراقي قد حقق تجانساً بين مواد قانون العقوبات في تحديد المقصود بالمكلف بخدمة عامة فأورد تعريفاً عاماً له ينطبق على كافة الجرائم المنصوص عليها في القانون حين استقر على تعريف معين للمكلف بخدمة عامة في جميع الأحوال وبالتالي فإنه لأجل انطباق هذا النص فإنه يقتضي تحديد صفة الجاني ولابد أن يكون من الموظفين أو المكلفين بخدمة عامة أي أن الجريمة يرتكبها شخص صاحب وظيفة عامة أو من يعتبر كذلك بحكم القانون وإذا لم يكن كذلك فإنه لا مجال لسريان القانون عليه ويمكن أن يكيف الفعل بأنه يدخل بمفهوم جريمة الاحتيال إذ توافرت أركانها أو أية جريمة أخرى يعاقب عليها القانون.

ثانياً.. الجرائم المعاقب عليها بموجب قانون العقوبات رقم 111 لسنة 1969 وتعديلاته.

أن هنالك جرائم كثيرة قد حددها قانون العقوبات يمكن أن تدخل ضمن المفهوم الذي تم تحديده للفساد الإداري والمالي ومن تلك الجرائم هي :-

1- الجرائم الماسة بالاقتصاد الوطني والثقة المالية للدولة المنصوص عليها في المواد من 304 إلى 306 من قانون العقوبات وقد نصت على ما يلي :-

المادة (304) يعاقب بالحبس مدة لا تزيد على سنتين وبغرامة لا تزيد على مائتي دينار أو بإحدى هاتين العقوبتين كل من أذاع بطريقة من طرق العلانية وقائع ملفقة أو مزاعم كاذبة

وهو يعلم بتفويتها أو بكنبها وكان من شأن ذلك أحداث هبوط في أوراق النقد الوطني أو أضعاف الثقة في نقد الدولة أو سندات أو أية سندات أخرى ذات علاقة بالاقتصاد الوطني أو الثقة المالية العامة

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وتكون العقوبة الحبس والغرامة أو إحدى هاتين العقوبتين إذا تحقق شيء من ذلك وإذا ارتكب الجريمة موظف أو مكلف بخدمة عامة له صلة بتداول النقد أو السندات المشار إليها.
فإذا اجتمع هذا الظرفان المشددان تكون عقوبة الموظف أو المكلف بالخدمة العامة السجن مدة لا تزيد على سبع سنوات.

المادة (305) يعاقب بالحبس مدة لا تزيد على سنتين وبغرامة لا تزيد على مائتي دينار أو بإحدى هاتين العقوبتين كل من حرص بإحدى طرق العلانية على سحب الأموال المودعة في المصارف أو الصناديق العامة أو على الإمساك عن شرائها.

وتكون العقوبة الحبس والغرامة أو إحدى هاتين العقوبتين إذا ارتكب الجريمة موظف أو مكلف بخدمة عامة له صلة بتداول النقد أو السندات المشار إليها.

المادة (306) يعاقب بالحبس مدة لا تزيد على سنة أو بغرامة لا تزيد على مائتي دينار كل من لم يقبل أية عملة وطنية صحيحة متداولة قانوناً بقيمتها الاسمية معدنية كانت أو ورقية.
وتكون العقوبة الحبس مدة لا تزيد على سنتين والغرامة التي لا تزيد على مائتي دينار أو إحدى هاتين العقوبتين إذا ارتكب الجريمة موظف أو مكلف بخدمة عام له صلة بتداول العملة المذكورة.

2- الرشوة المنصوص عليها في المواد من 307 إلى 314 من قانون العقوبات وقد نصت على مايلي :-

المادة (307) 1- كل موظف أو مكلف بخدمة عامة طلب أو قبل لنفسه أو لغيره عطية أو منفعة أو ميزة أو وعداً بشئ من ذلك لأداء عمل من أعمال وظيفته أو الامتناع عنه أو الإخلال بواجبات الوظيفة يعاقب بالسجن مدة لا تزيد على عشر سنين أو بالحبس والغرامة على أن لا تقل عما طلب أو أعطى أو وعد به ولا تزيد بأي حال من الأحوال على خمسمائة دينار.

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2- وتكون العقوبة مدة لا تزيد على سبع سنوات أو بالحبس إذا حصل الطلب أو القبول أو الأخذ بعد أداء العمل أو الامتناع عنه أو بعد الإخلال بواجبات الوظيفة بقصد المكافأة على ما وقع من ذلك.

المادة (308) كل موظف أو مكلف بخدمة عامة طلب أو قبل لنفسه أو لغيره عطية أو منفعة أو ميزة أو وعداً بشئ من ذلك لأداء عمل أو الامتناع عن عمل لا يدخل في أعمال وظيفته ولكنه زعم ذلك أو اعتقده خطأ يعاقب بالسجن مدة لا تزيد على سبع سنوات أو بالحبس والغرامة على أن لا تقل عما طلب أو أعطى أو وعد به ولا تزيد بأي حال من الأحوال على خمسمائة دينار.

المادة (309) تسري أحكام المادتين السابقتين ولو كان الموظف أو المكلف بخدمة عامة يقصد عدم التقييم بالعمل أو عدم الامتناع عنه وعدم الإخلال بواجبات وظيفته.

المادة (310) كل من أعطى أو قدم أو عرض أو وعد بأن لموظف أو لمكلف بخدمة عامة شيئا مما نص عليه في الماد (308) عُذ راسيا.

وكل من تدخل بالوساطة لدى الراشي أو المرئشي لعرض رشوة المرئشي لعرض رشوة أو لطلبها أو لقبولها أو لاختها أو الوعد بها عد وسيطا. ويعاقب الراشي والوسيط بالعقوبة المقررة قانونا للمرئشي.

المادة (311) يعفى الراشي أو الوسيط من العقوبة إذا بانر بإبلاغ السلطات القضائية أو الإدارية بالجريمة أو أترف بها قبل اتصال المحكمة بالدعوى. ويعتبر عذرا مخففا إذا وقع الإبلاغ أو الاعتراف ب اتصال المحكمة بالدعوى وقبل انتهاء المحاكمة فيها.

المادة (312) يعاقب بالحبس:

1- كل من طلب أو أخذ عطية أو منفعة أو ميزة بزعم أنها رشوة لموظف أو مكلف بخدمة عامة وهو ينوي الاحتفاظ بها لنفسه.

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2- كل شخص اخذ العطية أو المنفعة أو الميزة أو قبل شيئا من ذلك مع علمه بسببه ولو لم يكن الموظف أو المكلف بالخدمة العامة المقصود بالرشوة قد عينه أو قد علم به ما لم يكن وسيطا في الرشوة.

المادة (313) يعاقب بالحبس أو لغرامة كل من عرض رشوة على موظف أو مكلف بخدمة عامة ولم تقبل منه.

المادة (314) يحكم فضلا عن العقوبات المبينة في مواد هذا الفصل بمصادرة العطية التي قبلها الموظف أو المكلف بخدمة عامة أو التي عرضت عليه.

3- الاختلاس المنصوص عليه في المواد 315 إلى 321 من قانون العقوبات وقد نصت على مايلي :-

المادة (315) يعاقب بالسجن كل موظف أو مكلف بخدمة عامة اختلس أو أخفى مالا أو متاعا أو ورقة مثبته لحق أو غير ذلك مما وجد في حيازته.

وتكون العقوبة السجن المؤبد أو المؤقت إذا كان الموظف أو المكلف بخدمة عامة من مأموري التحصيل أو المندوبين له أو الأمناء على اللودائع أو الصيارفة واختلس شيئا مما سلم له بهذه الصفة.

المادة (316) يعاقب بالسجن كل موظف أو مكلف بخدمة عامة استغل وظيفته فاستولى بغير حق على مال أو متاع أو ورقة مثبته لحق أو غير ذلك مملوك للدولة أو لإحدى المؤسسات أو الهيئات التي تسهم الدولة في مالها بنصيب ما أو سهل ذلك لغيره. وتكون العقوبة السجن مدة لا تزيد على عشر سنين إذا كان المال أو المتاع أو الورقة أو غيره مملوكا لغير من ذكر في الفقرة المتقدمة.

المادة (318) يعاقب بالسجن كل موظف أو مكلف بخدمة عامة عهدت إليه المحافظة على مصلحة الجهة التي يعمل فيها في صفقة أو قضية فأضر بسوء نية أو تسبب بالأضرار لهذه المصلحة ليحصل على منفعة لنفسه أو لغيره.

7

المادة (319) يعاقب بالسجن مدة لا تزيد على عشر سنين أو بالحبس كل موظف أو مكلف بخدمة عامة انتفع مباشرة أو بالواسطة من الأشغال أو المقاولات أو التعهدات التي له شأن في أعدادها أو أحوالها أو تنفيذها أو الإشراف عليها. ويعاقب بالعقوبة ذاتها إذا حصل على عمولة لنفسه أو لغيره بشأن من الشؤون المتقدمة.

المادة (320) يعاقب بالسجن مدة لا تزيد على عشر سنين أو بالحبس كل موظف أو مكلف بخدمة عامة له شأن في استخدام العمال في أشغال تتعلق بوظيفته احتجز لنفسه كل أو بعض ما يستحقه العمال اللذين أستخدمهم من أجور ونحوها أو استخدم عمالا سخرة وأخذ أجورهم لنفسه أو قيد في دفاتر الحكومة أسماء أشخاص وهميين أو حقيقيين لم يقوموا بأي عمل في الأشغال المذكورة واستولى على أجورهم لنفسه أو أعطاهم لهؤلاء الأشخاص مع احتسابها على الحكومة.

المادة (321) يحكم فضلا عن العقوبات المبينة في مواد هذا الفصل برد ما اختلسه الجاني أو استولى عليه من مال أو قيمة ما حصل عليه من منفعة أو ربح.

4- تجاوز الموظفين حدود وظائفهم المنصوص عليه في المواد من 322 إلى 341 من قانون العقوبات وقد نصت على مايلي :-

المادة (322) يعاقب بالسجن مدة لا تزيد على سبع سنوات أو بالحبس كل موظف أو مكلف بخدمة عامة قبض على شخص أو حبسه أو حجزه في غير الأحوال التي ينص عليها القانون. وتكون العقوبة السجن مدة لا تزيد على عشر سنين أو بالحبس إذا وقعت الجريمة من شخص ترأى بدون حق بزي رسمي أو اتصف بصفة كاذبة أو ابرز أمرا مزورا مدعيا صدوره من سلطة تملك حق إصداره.

8

المادة (323) يعاقب بالحبس كل موظف أو مكلف بخدمة عامة عاقب أو أمر بعقاب محكوم عليه بأشد من العقوبة المحكوم بها عليه طبقا للقانون أو بعقوبة لم يحكم بها عليه مع علمه بمخالفة عمله للقانون.

المادة (324) يعاقب بالحبس كل موظف أو مكلف بخدمة عامة عهد إليه إدارة أو حراسة المواقف أو السجون أو غيرها من المنشآت المعدة لتنفيذ العقوبات أو التدابير الاحترازية قبل

شخصاً بغير أمر من سلطة مختصة أو أمتنع عن تنفيذ أمر صادر بإطلاق سراحه أو استيفائه إلى ما بعد الأجل المحدد لتوقيفه أو حجزه أو حبسه.

المادة (325) يعاقب بالحبس كل موظف أو مكلف بخدمة عامة استخدم أشخاصاً سخرة في أعمال غير متعلقة بالمنفعة العامة المقررة قانوناً أو نظاماً أو في غير أعمال المنفعة التي دعت إليها حالة الضرورة أو أوجب على الناس عملاً في غير الأحوال التي يجيز فيها القانون ذلك وذلك فضلاً عن الحكم عليه بدفع الأجور المستحقة لمن استخدمهم بغير حق.

المادة (326) يعاقب بالحبس وبالغرامة أو بإحدى هاتين العقوبتين :-
كل موظف أو مكلف بخدمة عامة دخل اعتماداً على وظيفته منزل أحد الأشخاص أو أحد ملحقاته بغير رضا صاحب الشأن أو حمل غيره على الدخول وذلك في غير الأحوال التي يجيز فيها القانون ذلك أو دون مراعاة الإجراءات المقررة فيه .
ويعاقب بالعقوبة ذاتها كل موظف أو مكلف بخدمة عامة أجرى تفتيش شخص أو منزل أو محل بغير رضا صاحب الشأن أو حمل غيره على التفتيش وذلك في غير الأحوال التي يجيز فيها القانون ذلك أو دون مراعاة الإجراءات المقررة فيه.

المادة (327) يعاقب بالحبس مدة لا تزيد على ثلاث سنوات وبالغرامة التي لا تزيد على ثلاثمائة دينار أو بإحدى هاتين العقوبتين :-

9

كل موظف أو مكلف بخدمة عامة أفشى أمراً وصل إلى علمه بمقتضى وظيفته لشخص يعلم وجوب عدم أخباره به وتكون العقوبة السجن إذا كان من شأن هذا الإفشاء أن يضر بمصلحة الدولة.
ويعاقب بالعقوبة ذاتها كل من ارتبط مع الحكومة بعقد مقولة أو عمل وكذلك وكيله أو أي عامل لديه أفشى أمراً علمه بمقتضى عقد المقولة أو العمل وكان يتحتم عليه كتمانها .

المادة (328) يعاقب بالسجن مدة لا تزيد على سبع سنوات أو بالحبس كل موظف أو مستخدم في دوائر البريد والبرق والتلغراف وكل موظف أو مكلف بخدمة عامة فتح أو ألق أو أخفى رسالة أو برقية أو دعت أو سلمت للدوائر المذكورة أو سهل لغيره ذلك أو أفشى سرا تضمنته الرسالة أو البرقية.
ويعاقب بالعقوبة ذاتها من أفشى ممن ذكر مكالمات تلفونية أو سهل لغيره ذلك.

المادة (329)

- 1- يعاقب بالحبس وبالغرامة أو بإحدى هاتين العقوبتين كل موظف أو مكلف بخدمة عامة استغل سلطة وظيفته في وقف أو تعطيل تنفيذ الأوامر الصادرة من الحكومة أو أحكام القوانين والأنظمة أو أي حكم أو أمر صادر من إحدى المحاكم أو من أية سلطة عامة مختصة أو في تأخير تحصيل الأموال أو الرسوم ونحوها المقررة قانوناً.
- 2- يعاقب بالعقوبة ذاتها كل موظف أو مكلف بخدمة عامة أمتنع عن تنفيذ حكم أو أمر صادر من إحدى المحاكم أو من أية سلطة عامة مختصة بعد مضي ثمانية أيام من إنذاره رسمياً بالتنفيذ متى كان تنفيذ الحكم أو الأمر داخلاً في اختصاصه.

المادة (330) يعاقب بالحبس كل موظف أو مكلف بخدمة عامة أمتنع بغير حق عن أداء عمل من أعمال وظيفته أو أدخل عمدا بواجب من واجباتها نتيجة لرجاء أو توصية أو وساطة أو لأي سبب آخر غير مشروع.

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المادة (331) يعاقب بالحبس وبالغرامة أو بإحدى هاتين العقوبتين :-
كل موظف أو مكلف بخدمة عامة ارتكب عمدا ما يخالف واجبات وظيفته أو أمتنع عن أداء عمل من أعمالها بقصد الإضرار بمصلحة أحد الأفراد أو بقصد منفعة شخص على حساب آخر أو على حساب الدولة.

المادة (332) يعاقب بالحبس مدة لا تزيد على سنة وبغرامة لا تزيد على مائة دينار أو بإحدى هاتين العقوبتين :-
كل موظف أو مكلف بخدمة عامة استعمل القسوة مع أحد من الناس اعتمادا على وظيفته فأخل باعتباره أو شرفه أو أحدث لما يبذره وذلك دون الإخلال بأية عقوبة أشد ينص عليها القانون.

المادة (333) يعاقب بالسجن أو الحبس كل موظف أو مكلف بخدمة عامة عذب أو أمر بتعذيب متهم أو شاهد أو خبير لحمله على الاعتراف بجريمة أو للإدلاء بأقوال أو معلومات بشأنها أو لكتمان أمر من الأمور أو لاعطاء رأي معين بشأنها.
ويكون بحكم التعذيب استعمال القوة أو التهديد.

المادة (334) يعاقب بالحبس وبالغرامة أو بإحدى هاتين العقوبتين :-
كل موظف أو مكلف بخدمة عامة استغل سلطة وظيفته فاشتري عقارا أو منقولا قهرا عن مالكة أو استولى عليه أو على منفعة أو أي حق آخر للغير بغير حق أو لكره مالكة على إجراء أي تصرف مما ذكر لشخص أو لشخص آخر أو على تمكينه من الانتفاع به بأي وجه من الوجوه.
ويحكم برد الشيء المغتصب أو قيمته أن لم يوجد عينا فضلا عن الحكم بالتعريض لمن لحقه ضرر من الجريمة أن كان له داع.

المادة (335) يعاقب بالسجن مدة لا تزيد على عشر سنين أو بالحبس كل موظف أو مكلف بخدمة عامة استغل وظيفته فاستولى بغير حق على مال أو متاع أو ورقة مثبته لحق أو غير ذلك مما وجد بحيازته بسبب وظيفته أو سهل ذلك لغيره ولم يكن ذلك بينة التملك.

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المادة (336)

- 1- يعاقب بالحبس وبالغرامة أو بإحدى هاتين العقوبتين :-
كل موظف أو مكلف بخدمة عامة أخل بطريق الغش أو بآلية وسيلة أخرى غير مشروعة بحرية أو سلامة المزايدات أو المناقصات المتعلقة بالحكومة أو المؤسسات أو الشركات التي تسهم الحكومة بمالها بنصيب أو التي تجريها الدوائر الرسمية أو شبه الرسمية.
- 2- ويعاقب بالعقوبة ذاتها من ارتكب للفعل المنصوص عليه في الفقرة المقدمة من غير الموظفين أو المكلفين بخدمة عامة.
- 3- ويحكم برد بدل الخسارة التي نشأت عن الفعل المنصوص عليه في هذه المادة.

المادة (337) يعاقب بالحبس مدة لا تزيد على سنة واحدة وبغرامة لا تزيد على مائتي دينار أو بإحدى هاتين العقوبتين:-

كل موظف ممنوع بمقتضى وظيفته من الاشتغال بالتجارة أتعز في غير ثمار أو محصول أملاكه الخاصة أو أملاك أصوله وفروعه وأخوانه وأخواته وزوجه ومن كان تحت وصايته أو ولايته.

المادة (338) يعاقب بالحبس مدة لا تزيد على سنة واحدة وبغرامة لا تزيد على مائتي دينار أو بإحدى هاتين العقوبتين:-

كل موظف أو مستخدم في دائرة رسمية أو شبه رسمية استغل سلطة وظيفته فأخذ لنفسه أو لغيره من أحد الناس بغير رضائه شيئا بدون ثمن أو بثمن بخس فضلا عن الحكم عليه برد الأشياء التي أخذها أو دفع ثمنها كاملا أن لم تكن موجودة على حالتها الأصلية.

المادة (339) يعاقب بالسجن مدة لا تزيد على سبع سنوات أو بالحبس كل موظف أو مكلف بخدمة عامة له شأن بتحصيل الضرائب أو الرسوم أو الغرامات أو نحوها ، وكل ملتزم للعوائد أو الأجور أو نحوها طلب أو أخذ أو أمر بتحصيل ما ليس مستحقا أو ما يزيد على المستحق مع علمه بذلك. ويحكم برد المبالغ المتحصلة بدون حق.

المادة (340) يعاقب بالسجن مدة لا تزيد على سبع سنوات أو بالحبس كل موظف أو مكلف بخدمة عامة أحدث عمدا ضررا بأموال أو مصالح الجهة التي يعمل فيها أو يتصل بها بحكم وظيفته أو بأموال الأشخاص المعهود بها إليه.

المادة (341) يعاقب بالحبس مدة لا تزيد على ثلاث سنوات أو بغرامة لا تزيد على ثمانمائة دينار كل موظف أو مكلف بخدمة عامة تسبب بخطئه الجسيم في إلحاق ضرر جسيم بأموال أو مصالح الجهة التي يعمل بها أو يتصل بها بحكم وظيفته أو بأموال أو مصالح الأشخاص المعهود بها إليه أن كان ذلك ناشئا عن أهمل جسيم بأداء وظيفته أو عن أساء استعمال السلطة أو عن أخلاق جسيم بواجبات وظيفته.

ثالثا.. قانون تطهير الجهاز الحكومي رقم (106) لسنة 1967 وتعديلاته :-

عالج قانون تطهير الجهاز الحكومي حالات الفساد الإداري بفصل الموظف أو المكلف بخدمة عامة إذا ثبت عدم كفاءته أو نزاهته أو سوء سلوكه أو أصبح بقاؤه في الخدمة مضرا بالمصلحة العامة وتقتضيل ذلك ما يلي :-

فقد نصت المادة الأولى من قانون تطهير الجهاز الحكومي على أنه :

1- لمجلس الوزراء بناء على اقتراح مسبب من الوزير المختص أن يقرر فصل أي موظف وكل مكلف بخدمة عامة في الدوائر الرسمية وفي المؤسسات العامة والمصارف والمصالح والمنشآت والشركات المؤممة والبلديات بما فيها أمانة العاصمة ومديرية مصلحة أسالة الماء لمقطعة بغداد العامة ولجان أسالة الماء والكهرباء وغيرها من الدوائر شبه الرسمية الأخرى مدة لا تتجاوز

خمس سنوات إذا ثبت لديه عدم كفايته أو نزاهته أو سوء سلوكه أو أصبح يقاؤه في الخدمة مضراً بالمصلحة العامة.

2- لمجلس الوزراء بناء على اقتراح مسبب من الوزير المختص إحالة أي من الأشخاص المشمولين بالفقرة (1) من هذه المادة من موظفي الدرجات الخاصة أو الدرجتين الأولى والثانية وكل مكلف بخدمة عامة من نفس الدرجات والأصناف أو ممن يتقاضون راتباً اسمياً

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قدره مائة دينار فأكثر على التقاعد إذا اكملوا الخمسين من عمرهم أو كانت لهم خدمة تقاعدية لا تقل عن خمس عشرة سنة.

3- للوزير المختص إحالة أي من الأشخاص المشمولين بالفقرة (1) من هذه المادة من الدرجة الثالثة فأقل أو ممن يتقاضون راتباً اسمياً يقل عن مائة دينار أو راتباً مقطوعاً مهما بلغ على التقاعد إذا اكملوا الخمسين من عمرهم أو كانت لهم خدمة تقاعدية لا تقل عن خمس عشرة سنة. والمادة الثانية نصت على أنه:

يشكل كل وزير لجنة خاصة أو أكثر في وزارته برئاسة موظف لا تقل درجته عن الثانية وعضوية أربعة موظفين لا تقل درجاتهم عن الرابعة للتحقيق في سلوك الموظفين والمستخدمين عن طريق دراسة أوضاعهم الشخصية وكذلك بكافة أنواع الأدلة والقرائن بما فيها الشهرة والتواتر ومظاهر الحياة التي يحياها الموظف وتقديم توصياتها إلى الوزير لاتخاذ الإجراءات وفق أحكام هذا القانون (معدلة بالقانون رقم 30 لسنة 1969 المنشور بالوقائع العراقية العدد 1699 في 1969/9/26)

والمادة الثالثة نصت على أنه:

1- للمفصول والمحال على التقاعد بموجب هذا القانون حق الاعتراض على الفصل والإحالة على التقاعد خلال ثلاثين يوماً من تبليغه بالقرار لدى مجلس الوزراء الذي له تأييد للفصل والإحالة على التقاعد أو إلغاؤهما أو تقليص مدة الفصل أو تبديل الفصل بالإحالة على التقاعد على أن لا تحسب المدة التي بقي فيها خارج الخدمة لأغراض قوانين الخدمة والتقاعد.

2- للمفصول أو المحال على التقاعد أو المنهية خدمته بأي شكل كان بموجب أحكام هذا القانون أن يعترض على قرار فصله أو إحالته على التقاعد أو إنهاء خدمته لدى مجلس الوزراء خلال ثلاثين يوماً من تاريخ تنفيذ هذا القانون بصرف النظر عما إذا كان قد اعترض على هذا القرار ورد اعتراضه أو لم يعترض (مضافة بالقانون رقم (97) لسنة 1968 المنشور بالوقائع العراقية العدد 1416 في 1968/8/31).

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3- إذا كان مآل قرار مجلس الوزراء جواز إعادة تعيين المعارض فتكون إعادة تعيينه من صلاحية الوزير المختص إلا إذا أعيد تعيينه بوظيفة تتطلب استصدار قرار من مجلس الوزراء ومرسوم جمهوري أو بدونه فعندئذ تتبع إجراءات التعيين المقررة لتلك الوظيفة (مضافة بالقانون رقم (97) لسنة 1968 المشار إليه أعلاه).

4- لمجلس قيادة الثورة أن يقرر احتساب أية فترة زمنية للموظف أو المستخدم لأغراض العلاوة والترفع والتقاعد إذا لم يسبق احتسابها لأي من الأغراض المذكورة وعندئذ تستوفي من الموظف أو المستخدم الحصة التقاعدية عن المدة المحسوبة تقاعدية حسب راتبه الذي كان يتقاضاه أو يستحقه ووفق القانون الذي كان نافذ للمفعول خلالها وإذا كان منتقياً خلالها إلى دائرة شبه رسمية فلا تدفع تلك الدائرة ضعف الحصة أو مثلاً (مضافة بالقانون رقم (204) لسنة 1968 المنشور بالوقائع العراقية العدد 1677 في 15/1/1969).

والمادة الرابعة قد نصت على أنه:

1- إذا ألغى أمر الفصل وفقاً للمادة الثالثة من هذا القانون تحسب للمفصول المدة السابقة التي قضاه في درجته الأخيرة لغرض العلاوة والترفع فقط.

2- إذا لم يتضمن القرار الصادر بإعادة الموظف المفصول إلغاء أمر الفصل أو تقليص مدته تحسب له المدة السابقة التي أمضاها والترفع إذا ثبت أن فصله لم يكن لأسباب تتصل بخلقه أو نزاهته أو كفاءته.

3- إذا صدر القرار بتقليص مدة الفصل أو أعيد الموظف إلى درجته بعد انقضاء مدة الفصل فلا يجوز احتساب المدة التي قضاه المفصول في الخدمة قبل الفصل لغرض الترفع إذا كان فصله لأسباب تتصل بخلقه أو نزاهته أو كفاءته (عدلت بموجب المادة الأولى من القانون رقم (8) لسنة 1968 المنشور بالوقائع العراقية العدد 1535 في 12/2/1968 وقد نصت هذه المادة على أن تكون أحكامها نافذة اعتباراً من 31/8/1967).

والمادة الخامسة قد نصت على أنه:

يلغى القانون رقم 38 لسنة 1967 ويوقف كل ما يتعارض وأحكام هذا القانون من نصوص القوانين الأخرى بقدر ما له مساس بأحكامه خلال نفاذ هذا القانون.

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والمادة السادسة قد نصت على أنه:

لا تسرى أحكام هذا القانون على الحكام والقضاة وضباط الجيش.

والمادة السابعة قد نصت على أنه:

1- ينفذ هذا القانون من تاريخ نشره في الجريدة الرسمية وتكون مدة نفاذه ستة أشهر وتجدد المدة لغرض الاعتراض بناء على اقتراح رئيس الوزراء وموافقة مجلس الوزراء (عدلت هذه الفقرة بموجب القوانين أرقام 97/8، 30/1968، 1969/1968 وقرارات مجلس قيادة الثورة أرقام 877/395، 832/1969، 1975، 1976/1976 وقد نص هذا الأخير على تمديد العمل بقانون تطهير الجهاز الحكومي رقم (106) لسنة 1967 لمدة سنة واحدة أخرى اعتباراً من 27/8/1976 الوقائع العراقية العدد 2544 في 16/8/1976).

2- يجوز تمديد مدة نفاذ هذا القانون لمدة واحدة بقرار من مجلس الوزراء ومرسوم جمهوري (عدلت هذه المادة بنفس القوانين المشار إليها أعلاه).

والمادة الثامنة قد نصت على أنه:

على الوزراء تنفيذ هذا القانون .
كتب ببغداد في اليوم العشرين من شهر جمادى الأول 1387 المصادف لليوم السادس والعشرين من شهر آب لسنة 1967.

كما صدر القانون رقم (73) لسنة 1969 قانون نيل قانون تطهير الجهاز الحكومي رقم (106) لسنة 1967 المعدل المنشور في الوقائع العراقية العدد 1735 في 1969/5/24) الذي نص على أنه:-

ونصت المادة الأولى منه على أنه:

تعتبر القرارات الصادرة من قبل اللجنة الخاصة بقضايا العمال والمستخدمين الإجراء المفصولين لأسباب سياسية المؤلفة بقرار مجلس الوزراء المتخذ في جلسته المنعقدة بتاريخ 6/9/1963 بإعادة بعض المستخدمين للدائمين المفصولين لأسباب سياسية والخاضعين لأحكام نظام تعيين وترقية المستخدمين رقم 22 لسنة 1958 - المعدل مع اعتبار مدة فصلهم لأغراض الترفيع والعلو والتقاعد صحيحة وموافقة للقانون.

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والمادة الثانية قد نصت على أنه:

ينفذ هذا القانون من تاريخ نشره في الجريدة الرسمية.

والمادة الثالثة قد نصت على أنه:

على الوزراء تنفيذ هذا القانون.

كتب بغداد في اليوم الثلاثين من شهر صفر لسنة 1389 المصادف لليوم السابع عشر من شهر ايار لسنة 1969.

وبعد الاطلاع على نصوص قانون العقوبات وقانون تطهير الجهاز الحكومي وتعديله فإنه يتبين لكم بأن قانون العقوبات قد حدد أركان هذه الجرائم وضوابطها والعقوبة المقررة لها حال أن قانون تطهير الجهاز الحكومي وتعديلاته قد تناول العقوبات التأديبية للموظف أو المكلف بخدمة العامة إذا ثبت عدم كفايته أو نزاهته أو سوء سلوكه أو أصبح بقاؤه في الخدمة مضرًا بالمصلحة العامة لذلك فإنه يمكن الاستفادة من هذه النصوص في وضع الضوابط الأخلاقية والقانونية الواجب بالموظف العمومي الالتزام بها بغية مكافحة ظاهرة الفساد الإداري والمالي وإعادة النظر بالعقوبات المقررة له وفيما إذا كانت مناسبة أو تحتاج إلى تشديد واللجان التي سيوكل اليها القيام بمكافحة تلك الظاهرة مع بيان تلك الضوابط الأخلاقية للموظفين الذين سيقومون بتمثيل العراق في إبرام العقود والصفقات التجارية وضرورة الالتزام بها وإلا سيعرضون أنفسهم للعقوبات التي يقررها القانون.

كما أنه نود أن نبين بأن هذه الظاهرة قد تعالج من حيث مدى الإساءة إلى المال العام والتصرف به لخدمة حزب البعث والسلطات والهيئات المتعلقة به أو الأجهزة الأمنية في الدولة وقد سبق للجنة العدالة الانتقالية وأن ناقشت هذا الموضوع في باب القوانين الانتقالية وقد تم أعداد مشروع لقانون استرداد الأموال العامة والتي تم اعتماده في لجنة العدالة الانتقالية وتعتبر جزءاً أيضاً من أعمال هذه اللجنة ويقتضي اعتماده وفقاً للتسليم بين لجنة العدالة الانتقالية ولجنة مكافحة الفساد.

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لما الجزء الآخر من هذه الظاهرة المتعلقة بالفساد الذي يقوم به المكلف بخدمة عامة وهو القيام بعمل أو الامتناع عن عمل أو الإخلال بواجبات وظيفته لتحقيق منفعه أو مصلحة خاصة له على

حساب المصلحة العامة فإنه سيكون محور عمل وبحث هذه اللجنة ومناقشتها قبل الوصول لاعداد مشروع قانوني لمكافحة هذه الظاهرة الخطيرة والعقوبة المقررة لها واللجنة التي ستشرف عليها والمحكمة المختصة بنظرها.

رابعاً.. نموذج قانون سلوك الموظفين والمكلفين بخدمة عامة

فقد قامت الأستاذة نينا حنا باعداد تقرير عن سلوكية الموظفين العراقيين وهو مقتبساً من النموذج الأوربي لقانون سلوكية الموظفين العموميين وقد قسمت مشروع القانون الى النقاط الرئيسية التالية :-

1) أهداف القانون.

أن هدف القانون هو تحديد معايير النزاهة والسلوك الواجب الاتباع من قبل الموظفين العموميين ومساعدتهم للالتزام بتلك المعايير واطار الكافة بتلك المبادئ التي يتعين تحقيقها في الموظفين العموميين.

ويجب على الموظف العمومي ممارسة واجباته طبقاً للقانون والتعليمات والمعايير الأخلاقية بوظيفته كما يجب أن يعمل الموظف العمومي بسلوك سياسي مستقل ويقتضي عليه الامتناع عن أية محاولة للإخلال بالسياسات القانونية والقرارات والأعمال للسلطات العامة.

وأن واجب الموظف العمومي هو الخدمة بإخلاص للمؤسسات الدستورية الوطنية والسلطات المحلية.

كما يقتضي بالموظف العمومي أن يكون أميناً وحيادياً وكفواً ويقوم بواجباته وفقاً لأفضل إمكانياته مع المعرفة والعدالة والمفهومية أخذاً بالاعتبار المصلحة العامة فقط والظروف الخاصة بالقضية ويجب أن يقوم بأعماله بكياسة وأخلاق سواء بعلاقته بالمواطنين أو برؤسائه وزملائه ومرؤسيه.

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كما أنه وعند أدائه لواجباته يجب ألا يعمل بشكل تعسفي ضد أي شخص أو مجموعة أو جهة وإنما يجب أن يهتم بالحقوق والواجبات وتحقيق المصالح المناسبة للآخرين وأنه عند اتخاذ قراراته فإنه يجب ممارسة سلطته التقديرية بشكل حيادي أخذاً بنظر الاعتبار الظروف المتعلقة بالقضايا فقط.

ويجب على الموظف العمومي عدم السماح لمصالحه الشخصية بالتعارض مع المصلحة العامة وأن من مسؤولياته تجنب مثل هكذا تعارض في المصالح سواء أكان حقيقياً أو محتملاً أو ظاهراً كما يجب بالموظف العمومي عدم استغلاله وتمتعه بأية مزايا من منصبه لمصلحته الخاصة.

وأنه هنالك واجبا دائماً على الموظف العمومي بالتصرف بطريقة تحافظ على الثقة العامة والائتمان والعزة والحياد والكفاءة للخدمات العامة.

وأن الموظف العمومي دائماً مسؤولاً مباشراً لدى رئيسه الأعلى ما لم ينص القانون على خلاف ذلك

وأن الموظف بحصوله على المعلومات الرسمية فإن واجبه التعامل بشكل يتناسب مع السرية والمعلومات والوثائق التي بحيازته بسبب ونتيجة لعمله.

2- التقرير

أن الموظف العمومي الذي يعتقد بأنه قد طلب منه بأن يعمل بشكل غير قانوني وغير ملائم وغير أخلاقي يترتب عليه الإساءة للإدارة بشكل لا يتفق مع هذا القانون فإنه يقتضي عليه تقديم تقرير بالموضوع وفقا للقانون.

يجب على الموظف العمومي أن يتقدم بتقرير للسلطات المختصة إذا علم بأي إخلال بهذا القانون من قبل أي من الموظفين العموميين الآخرين وأن الموظف العمومي الذي تقدم بتقريره طبقا للقانون واعتقاده ولم تتم الاستجابة لتقريره فإنه يقتضي تقديم تقرير كتابي الى الرئيس المختص لتلك الخدمة العامة.

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وإذا لم يتم حل الموضوع وفقا للإجراءات والمراجع الواردة في التشريع الخاص بالخدمة العامة على أساس مقبول للموظف العمومي ذات العلاقة فإن على الموظف العمومي اتباع التعليمات القانونية التي صدرت إليه.

وإن على الموظف العمومي تقديم تقريراً الى السلطات المختصة بشأن أي اثبات أو ادعاء أو اشتباهات عن نشاطات غير قانونية أو إجرامية تتعلق بالخدمة العامة وصلت لعلمه من خلال أو بسبب عمله وأن السلطات المختصة ستقوم بالتحقيق بوقائع التقرير .

أن الإدارة العامة ستضمن عدم التسبب بأي ضرر للموظف العمومي الذي قدم تقريره بشأن الوقائع المذكورة على أساس معقول وبحسن نية.

3- تعارض المصلحة:

أن التعارض في المصلحة ينشأ من الموقف الذي يكون للموظف العمومي مصلحة خاصة التي تؤثر أو يبدو أنها تؤثر على حياده وموضوعيته في اتجاز واجباته الرسمية.

أن المصلحة الخاصة للموظف العمومي تتضمن أية منفعة له أو لعائلته ولأصدقائه المقربين والأصدقاء والأشخاص أو المنظمات التي له علاقات تجارية أو سياسية معها وتتضمن أية مسئولية سواء أكانت مالية أو مدنية متعلقة بها.

ولما كان الموظف العمومي هو الشخص الوحيد الذي يعلم بأنه في ذلك الموقف بشأن تعارض المصلحة فإن عليه مسئولية شخصية للقيام بما يلي :-

- للأخطار عن أي تعارض في المصلحة فعليا أو محتملا.
- اتخاذ الخطوات لتجنب مثل هذا التعارض.
- الإعلان لرئيسه عن مثل هذا التعارض بأقرب وقت من علمه بوجود هذا التعارض.

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- الالتزام مع أي قرار نهائي بالانسحاب من الموقف أو التجنب عن التورط في المنافع التي يجلبها التعارض وأنه عندما يتطلب من الموظف العمومي القيام بذلك فإنه يقتضي به الإعلان فيما إذا كان هنالك أي تعارض في المصالح من عدمه.

4- الإعلان عن المصالح.

يجب على الموظف العمومي الذي يشغل منصبا يترتب عليه للتأثير على مصالحه الشخصية أو الخاصة عند ادائه لواجباته الرسمية فإنه يتطلب منه وفقا للقانون الإعلان قبل التعيين وفي مناسبات منتظمة عن أي تغيير قد يحصل في طبيعة ونطاق تلك المصالح.

3- التضارب في المصالح خارج الخدمة العامة.

يجب على الموظف العمومي عدم التورط بأية نشاطات أو أعمال أو الحصول على أي منصب أو وظيفة ، سواء بأجر أو بغير أجر ، تتضارب مع أو تصرفه عن إنجاز واجباته الرسمية بشكل مناسب وفيما إذا كانت تلك النشاطات أو الأعمال غير واضحة بأنها تتضارب مع الواجبات الرسمية فإن على الموظف العمومي للحصول على التوجيه والنصح من رئيسه وفقا لنصوص القانون كما أنه يقتضي بالموظف العمومي الاخطار والحصول على موافقة رئيس الخدمة العامة للقيام بأنشطة معينة سواء بأجر أو بغير أجر أو لقبول أي مناصب معينة أو وظائف خارج عمل الخدمة العامة.

ولن على الموظف العمومي الالتزام بالمتطلبات القانونية للإعلان عن أية عضوية له في أي جمعية أو منظمات التي ستصرفه عن منصبه أو إنجاز واجباته الوظيفية بشكل مناسب.

4- النشاطات السياسية والعامة.

مع الاحتفاظ بالحقوق الأساسية والدستورية للموظف العمومي ، فإنه يقتضي عليه الاهتمام والعناية بعدم إساءة أي من نشاطاته السياسية أو التزاماته بالمناظرات السياسية أو العامة بالنقطة للكافة ولرؤسائه بقبليته لإنجاز واجباته بشكل حيادي ومتفاني وأنه عند قيام الموظف العمومي بواجباته بعدم السماح لنفسه باستخدامه على أنه موالى لأغراضهم السياسية .

ويجب على الموظف العمومي الالتزام بالقيود التي فرضها القانون بشأن الموظفين العموميين وفقا لمعايير خاصة بسبب مناصبهم أو طبيعة واجباتهم.

5- الهدايا.

يجب على الموظف العمومي عدم طلبه أو قبوله للهدايا أو المنافع أو الضيافة لو أي منفعة أخرى له أو لعائلته أو لأصدقائه المقربين أو لأصدقائه أو الأشخاص أو المنظمات التي له علاقات

تجارية أو سياسية معها قد تؤثر أو يبدو أنها تؤثر على حياده عند قيامه بواجباته أو قد يبدو أنها مكافأة للقيام بواجباته ولا يتضمن هذا للفعل الضيافة المتعارف عليها أو الهدايا البسيطة.

وإذا عرض على الموظف العمومي منفعة غير واجبه فإنه يقتضي عليه اتخاذ الخطوات التالية لحماية نفسه:-

- رفض تلك المنفعة ولا يحتاج لقبولها لاستخدامها للثبات.
- التعرف على الشخص الذي عرضها.
- تجنب العلاقات الطويلة ومعرفة السبب لعرض الهدية لأنها قد تكون مفيدة للثبات.
- وإذا تعذر رفض أو إعادة الهدية إلى مرسلها فإنه يقتضي الاحتفاظ بها لكن يقتضي تسليمها بأقرب وقت ممكن.
- الحصول على شهود إذا أمكن كالأزملاء في العمل القريبين للموظف العمومي.
- أعداد تقرير كتابي عن المحاولة ويفضل أن يكون في السجل للرسمي بأقرب وقت ممكن.

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- تقديم تقرير عن المحاولة بأقرب وقت ممكن لرؤساء الموظف العمومي أو مباشرة إلى السلطات التنفيذية المختصة.
- الاستمرار بالعمل بشكل طبيعي خاصة في المسألة ذات العلاقة بالمنفعة المعروضة.

6- الحساسية أو التأثير بالآخرين.

يجب على الموظف العمومي عدم السماح لنفسه بأن يكون في موقف أو يبدو أنه يضع نفسه في موقف للالتزام بتقديم خدمة لأي شخص أو جهة ولا التصرف بصلاحياته وسلطاته الرسمية أو جعل حياته الخاصة تتأثر بالمشاعر والأحاسيس أو التأثير غير المناسب للآخرين.

7- الاستعمال المبيح للمنصب الرسمي.

يجب على الموظف العمومي عدم عرض أو تقديم أية منفعة بأي طريقة مرتبطة بمنصبه كموظف عمومي ما لم يكون مخولا للقيام بذلك قانونا. ويجب على الموظف العمومي عدم القيام للتأثير على أي شخص أو جهة لأغراضه الخاصة بضمونها للموظفين العموميين الآخرين وذلك باستخدام منصبه الرسمي أو العرض عليهم منافع شخصية.

10 - المعلومات التي بحيازة السلطات العامة.

أخذين بالاعتبار الإطار القانوني الذي ينص عليه القانون المحلي بشأن الحصول على المعلومات التي بحيازة السلطات العامة، فإنه يقتضي بالموظف العمومي عدم إفشاء أية معلومات طبقا للقواعد والمتطلبات المعمول بها من قبل السلطات التي يعمل لديها.

ويجب على الموظف العمومي اتخاذ الخطوات المناسبة لحماية الأمن والسرية للمعلومات التي يعلم الموظف العمومي بأنه مسؤول عنها ويجب على الموظف العمومي عدم البحث عن أية طريقة لتلك المعلومات التي لا يجوز له الحصول عليها ويجب عليه عدم استخدام المعلومات التي حصل عليها بسبب ونتيجة لعمله بشكل غير مناسب.

كما أنه يلتزم وبشكل متساوي بعدم الإمساك بالمعلومات الرسمية التي يلتزم بالإعلان عنها بشكل مناسب وعدم إعطاء المعلومات التي يعتقد وبشكل معقول بأنها كاذبة أو مضللة.

11- الموارد والثروات العامة والرسمية.

يجب على الموظف العمومي عند ممارسة سلطته التقديرية بأنه يضمن الموظفين من جهة والأملاك والتسهيلات والخدمات والموارد المالية التي عهدت إليه بأنه قد تم إدارتها واستخدمها بشكل فعال وكفؤ واقتصادي من جهة أخرى ويجب عدم استخدامها للأغراض الخاصة.

12- تنقيح الأمانة أو الاستقامة.

يجب على الموظف العمومي الذي يقوم بتعيين وترقية المرشحين بأن يضمن قيامه بالتنقيح المناسب لأمانة واستقامة المرشح وفقا للمتطلبات القانونية.

وأنه إذا كانت نتيجة هذا التنقيح عدم تأكده من كفاءة القيام به فإنه يقتضي عليه الاسترشاد أو الأخذ بالنصيحة المناسبة.

13- المسؤولية الرقابية أو الإشرافية.

يجب على الموظف العمومي الذي يقوم بالإشراف أو إدارة الموظفين العموميين الآخرين القيام بعمله طبقا للسياسات والأغراض للسلطات العامة التي يعمل لديها وأنه سيكون المسؤول عن الأعمال أو الامتثالات التي قام بها التابعين له التي لا تتلائم مع تلك السياسات والأغراض إذا لم يتخذ لتلك الخطوات المعقولة التي يتطلب القيام بها الشخص الذي في موقعه لمنع القيام بتلك الأعمال أو الامتثالات.

ويجب على الموظف العمومي الذي يقوم بالإشراف أو إدارة الموظفين العموميين الآخرين اتخاذ الخطوات المعقولة لمنع الفساد الذي يقوم به التابعين فيما يتعلق بعملهم وتهيئة للتعليم قد تتضمن تنفيذ القواعد والتعليمات وتهيئة للتعليم والتدريب المناسب والتنبه عن أية إشارات مالية أو صعوبات أخرى للتابعين وتزويدهم بالسلوكية للشخصية كمثال للأحتشام والأمانة.

14- ترك الخدمة العامة.

يجب على الموظف العمومي عدم استخدام منفعة غير مناسبة من خدمته العامة بحصوله على فرصة العمل خارج الخدمة العامة.

ويجب عدم السماح للموظف العمومي للحصول على فرصة عمل أخرى بواسطة إنشاء تعارض فعلي أو محتمل أو ظاهري في المصلحة وأنه يجب عليه الإعلان لرئيسه عن أي عرض عمل حقيقي قد ينشأ تعارض في المصلحة كما يجب عليه التصريح والإعلان لرئيسه عن موافقته عن أي عرض عمل آخر.

وأنه يجب على الموظف العمومي السابق طبقاً للقانون ولفترة مناسبة عدم العمل لأي شخص أو جهة فيما يتعلق بالمسائل التي عمل أو أعطى برأي فيها للخدمة العامة والتي قد تؤدي إلى منفعة خاصة لذلك للشخص أو الجهة.

ويجب على الموظف العمومي السابق عدم استخدام أو التصريح أو الإعلان عن المعلومات السرية التي كانت بحيازته كموظف عمومي ما لم يكن مخولاً بذلك قانوناً ويجب على الموظف العمومي الالتزام بأي قواعد قانونية تنطبق عليه بخصوص قبوله للتعينات عند تركه للخدمة العامة.

15- التعامل مع الموظفين العموميين السابقين.

يجب بالموظف العمومي عدم إعطاء الموظفين العموميين السابقين أية أفضليات في التعامل أو أية حصانات في الخدمة العامة.

16- الالتزام بالقانون والجزاءات

يلتزم الموظف العمومي عند قيامه بواجباته طبقاً لأحكام هذا القانون ويجب أن يكون على علم بنصوصه وتعديلاته ويجب عليه الاسترشاد من المصادر المناسبة إذا لم يكن متأكداً من كيفية تنفيذه.

وأن هذا القانون سيكون جزءاً من شروط العمل في الخدمة العامة وأن الإخلال بها قد يؤدي إلى إقامة الدعوى الانضباطية أو إنهاء خدمات الموظف العمومي أو تطبيق العقوبات الجزائية والمدنية.

وأن الموظف العمومي الذي يناقش شروط عمله يجب أن تتضمن في تلك الشروط نصوص بشأن الالتزام بنصوص هذا القانون ويعتبر جزءاً من شروط عقد العمل.

وأن على الموظف العمومي الذي يشرف أو يدير الموظفين العموميين الآخرين مسئولية بأنهم قد لاحظوا هذا القانون بإقامة أو الاقتراح بإقامة الدعوى الانضباطية الملائمة للإخلال به.

وعلى الإدارة العامة تنقيح ومراجعة نصوص هذا القانون بشكل منتظم.

خامساً: لجنة مكافحة الفساد:

قام الأستاذ رعد المميز بأعداد تقرير عن اللجنة المكلفة بمكافحة الفساد الإداري والمالي وقام بتقسيمها إلى فترتين الأولى تتعلق بالفترة الانتقالية ويقتضي اختيار لجنة نزيهة ومحايدة ومستقلة لها نظامها الخاص ومسئوليتها لتطبيق سياسة مكافحة الفساد شريطة عدم اختيارها من الأجهزة الحكومية الحالية للدولة على أن يتبعها فيما بعد انبثاق لجنة دائمية لمكافحة الفساد في نهاية الفترة الانتقالية بموجب قانون خاص يتم تشريعه وتتمتع اللجنة باستقلاليتها سياسياً ومالياً وإدارياً على أن يتم اختيار أعضائها من الأشخاص الكفويين اللذين يتمتعون بالأمانة والشرف والسمعة الجيدة.

يتم منح سلطات اللجنة المؤقتة ويحدد اختصاصاتها بواسطة الحكومة الانتقالية وتتمتع بنفس الصلاحيات والمزايا التي تتمتع بها اللجنة الدائمة.

وبعد ذلك يتم إنشاء اللجنة الدائمة لمكافحة الفساد وتتمتع بصلاحيات وسلطات واسعة لمكافحة الفساد بحيث لا يكون أي شخص مستثنى من حكم القانون على أن يتم أنشائها بموجب قانون يصدر من السلطة التشريعية ويتم منح اللجنة استقلال سياسي ومالي وإداري مع اختيار موظفين بعناية فائقة يتمتعون بالكفاءة والمساهمة الفعالة في المجتمع والشرف والأمانة على أن تلتزم هذه اللجنة بتواعد حقوق الإنسان والالتزام بأحكام القانون وتكون مسؤولة عن أعمالها وللمحاكم ولاية عليها ويقتضي بها تقديم تقرير ربع سنوي إلى السلطة التشريعية مع تمتعها بميزة ائمة سنوية يحددها المشرع على أن تكون هنالك سلطة رقابة على أعمال اللجنة يحددها المشرع.

تشكيل لجنة مكافحة الفساد وطريقة عملها:1- تشكيل لجنة مكافحة الفساد:

يرأس لجنة مكافحة الفساد مديراً يتم اختياره بواسطة مجلس القضاء على أن يتم تعيينه بواسطة البرلمان أو الهيئة التي تقوم مقامه ويتمتع بذات الصلاحيات والسلطات التي يتمتع بها قاضي محكمة التمييز مع تمتعه بالحصانة خلال فترة توليه إدارة أعمال اللجنة ويتم اختيار اللجنة مع جميع أطراف المجتمع ولا يقتصر تمثيلها على الحزب الذي يتول السلطة فقط ولا تتدخل السلطة التنفيذية في إجراءات تعيين أعضاء اللجنة.

وإن تغيير أعضاء اللجنة يكون وفقاً للطرق التالية :-

- I) عدم القدرة على أداء الواجبات الملقاة على عاتقه بسبب المرض.
- II) سوء السلوك.
- ج) تغييره بواسطة السلطة التشريعية بتوصية من المجلس القضاء الأعلى.
- د) عدم الكفاءة.

2- أسلوب وطريقة عملها:

تقوم لجنة مكافحة الفساد بإعمالها من خلال المواصلات مع المواطنين بواسطة التعليم والأعلام وإعداد مجموعة من المبادئ الأخلاقية والسلوكية للموظفين والمكلفين بالخدمة العامة مع تثقيف القطاع العام والعاملين فيه بالتطبيقات والمبادئ التي تكافح الفساد والعمل مع النظام التعليمي لإعداد مجموعة من الممثل والقيم الأخلاقية في المدارس والجامعات وكذلك العمل مع الأعلام للقيام بحملة لتثقيف الشعب العراقي بحقوقهم وواجباتهم في التعامل مع القطاع العام وكذلك مراقبة القطاع العام للوقاية من حالات الفساد وأجراء التحقيقات مع أية ادعاءات بالفساد ومراقبة السلطة التنفيذية التي تقوم بتطبيق قانون مكافحة الفساد والتعليمات المتعلقة به.

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وكذلك القيام بالتوصيات للسلطة التشريعية بشأن قانون مكافحة الفساد وفيما إذا كان يحتاج إلى أية تعديلات وإصدار التعليمات لتطبيق قانون مكافحة الفساد وتطوير القواعد والإجراءات الخاصة بهذا القانون وتقديم التقارير إلى السلطة التشريعية بشأن الوزارات والتعليمات الخاصة بمكافحة الفساد.

أجراء التحقيق بشأن سرقة أو اختلاس الأموال العامة والتنسيق مع قواعد القانون الدولي بشأن استرداد الأموال المسروقة وكذلك التعاون مع الدول والهيئات الدولية بشأن غسيل الأموال المسروقة.

وتطوير آلية مراقبة من الشعب والقطاع العام بشأن ضمان التزام اللجنة بقواعد حقوق الإنسان المقررة للمتهمين وعدم تورطها في مقاضاة والحط من الخصوم السياسيين للأحزاب الحاكمة.

سلطات ووسائل لجنة مكافحة الفساد.

يقتضي منح لجنة مكافحة الفساد السلطات والوسائل التالية وفقاً لأحكام القانون :-

- 1- سلطة تجميد الأموال بموجب أمر قضائي صادر من محكمة مختصة.
- 2- سلطة منع المتهم من السفر بموجب أمر قضائي صادر من محكمة مختصة.
- 3- سلطة حماية المخبرين قانونياً وأمنياً.
- 4- سلطة العفو من المقاضاة مع إعطاء مكافئة لأجل استرداد الأموال العامة مع للتفاوض على التسوية الودية بموافقة المحكمة المختصة.
- 5- سلطة استدعاء الشهود بصرف النظر عن مراكزهم وبموافقة المحكمة المختصة.
- 6- سلطة إلزام المحاسبين والمدققين بالإدلاء بمعلوماتهم بشأن أعمال زبائنهم بموجب موافقة المحكمة.

7- أعداد نظام فعال لمراقبة الأموال والدخول والإيرادات وطبيعة حياة أعضاء السلطات التشريعية والتنفيذية والموظفين العموميين أصحاب المناصب التي تمكنهم من الارتشاء ويكون ذلك في حالة عدم إمكانية الموظفين من إعطاء توضيح مقنع عن الثراء ونمط الحياة الذي يعيشون فيه فإنه يمكن مقاضاتهم بسبب الإثراء غير المشروع.

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8- تتمتع اللجنة بسلطة مطالبة الشركات بالإقضاء عن العمولات والمبالغ التي تقوم بمنحها بشأن العروض التي تتقدم بها لإرساء العقود العامة عليها.

على أن تتقدم بالإثبات للمحكمة المختصة بشأن الشركات التي أرتكبت أعمال الفساد وأن المحكمة تتمتع بالصلاحيات بمنع الشركات والمدراء والهيئات المرتبطة بها من القيام بأي أعمال حكومية لفترة زمنية تحددها المحكمة المختصة.

Transparency and Anti-Corruption Working Group

1. Definition of corruption – giving something of value to government official to gain benefit

- A. Public sector**
 - 1. Bribes – cash, in-kind**
 - 2. Nepotism**
- B. Misuse of public funds or property**
 - 1. Embezzlement**

2. The scope of corruption covers the public sector

3. Root causes of corruption

- A. Social**
 - 1. Humiliating the Iraqi individual; Destruction of the Iraq individual's integrity and pride**
 - 2. Culture of corruption**
 - 3. Absence of morality**
 - 4. Absence of the role of family**
 - 5. The dependency of the people on the bureaucracy for all aspects of life**
- B. Economic and Political**
 - 1. The political climate**
 - 2. Wars and sanctions**
 - 3. Currency devaluation**
 - 4. Inflation**
 - 5. Unemployment**
 - 6. Decimation of the middle class**
 - 7. Lowering standard of living below the poverty level**
 - 8. Destruction of infrastructure**
 - 9. Destruction of agrarian economy**
 - 10. Destruction of industry**
 - 11. Destruction of oil industry**
 - 12. Failure to develop telecommunication**
 - 13. Failure to develop banking sector**

4. Consequences of corruption

- Destruction of individual
- Destruction of economy
- Destruction of values and ethics
- Waste of resources and mortgaging the future of country
- Marginalization of the institution of law and judicial system

5. The Solution: Top Down, Bottom Up Change the regime

A. Code of ethics and conduct

1. Laws and policies
2. Rule of Law

B. TASK FORCE

1. Compliance apparatus
2. Prerequisite: integrity and people's trust

C. Communication through education and media

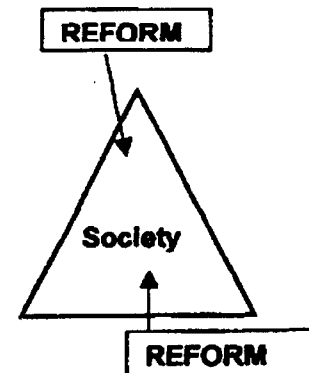
D. Auditing and monitoring

- Whistle blowing
- Free press

E. Effective judiciary

F. Effective law enforcement

G. Feedback and Improvement—including using the legislature



6. The Process

1. Best practice and gaps assessment
 - Inventory law
 - Inventory of human resources
2. National information campaign
 - Utilize religion
 - Utilize education (schools, universities, public forums, train the trainer)
 - Utilize media (print, radio, television, video, movies)
 - Building family values
3. Auditing and monitoring
4. Educate new generation in ethics and public service and responsibility
5. Continuous institutional reforms

Transparency and Anti Corruption Working Group

This paper deals with the establishment of the Task force and the Anti Corruption Commission.

The Transitional Period

During the transitional period, Iraq cannot depend on the executive branch of government to implement an anti corruption policy because of the rampant corruption of the whole public sector from top to bottom. Implementation of the total separation of the legal system from the executive branch, upgrading the legal system, training and assigning qualified competent judges, will require considerable time. The working group agreed that actions regarding Anti Corruption must start immediately, it cannot wait until the legal, legislative, and executive systems are reformed.

In order to implement Anti Corruption policy for future Iraq, an independent body with the sole mandate and responsibility to enforce the Anti Corruption policy must be created in the short term. This will be an important measure to gain the people's trust, support, and hope in the future. It will demonstrate the seriousness of the new government to combat corruption and profiteering, and will give a strong message to all who intend to use corrupt practices to benefit from the situation after the removal of the current regime. The working group proposes creating immediately an Anti Corruption Task Force (ACTF), to be followed by creation of a permanent Anti Corruption Commission (ACC) after the end of the transitional period.

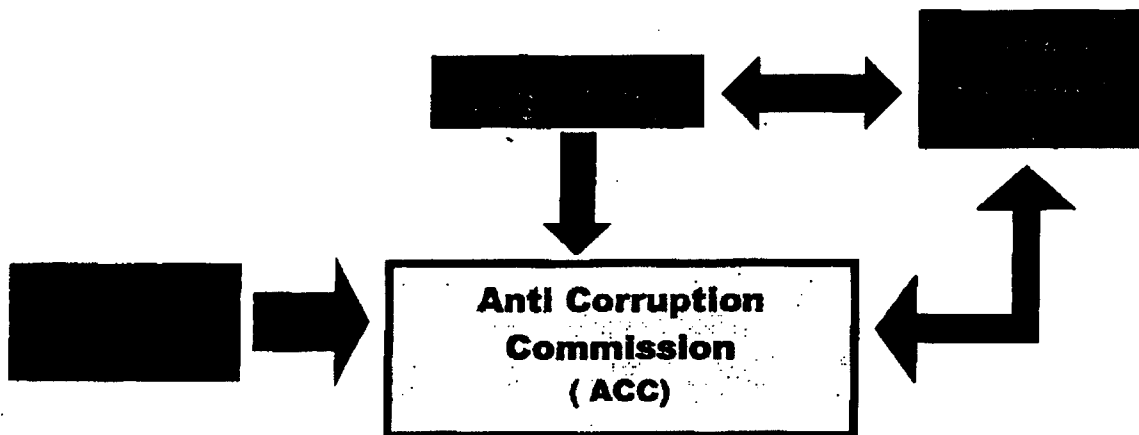
The ACTF will be given temporary powers and jurisdictions by the new government and whatever transitional people's representative council exists after the regime change. ACTF will function during a predefined transitional period. The structure, mandate, powers, oversight, relations with the courts and law enforcement agencies will be similar to the ACC, with some modifications to allow ACTF to function immediately after the regime change.

Following is an outline of the Anti Corruption Commission to be created after the transitional period.

Anti Corruption Commission

Creating the ACC: "No One is exempt from the rule of the law"

- ACC to be created by law enacted by the legislator (the people's representatives)
- The law grants ACC independence: Political, Operational, Financial
- The ACC must be staffed with carefully screened, competent people, who must also have excellent reputation for honesty and trustworthiness
- The law grants specific Powers to allow the ACC to perform its duties.
- ACC must confirm to Human Rights Standards
- ACC must operate under the law
- ACC is accountable to the courts
- ACC report quarterly to Legislator
- ACC Budget appropriated by legislator, ACC request annual budgets, to be approved and audited by legislator.
- Legislator creates an oversight committee to monitor ACC activities
- Persons accused and convicted as result of ACC investigations will have full rights of appeal through the courts' system

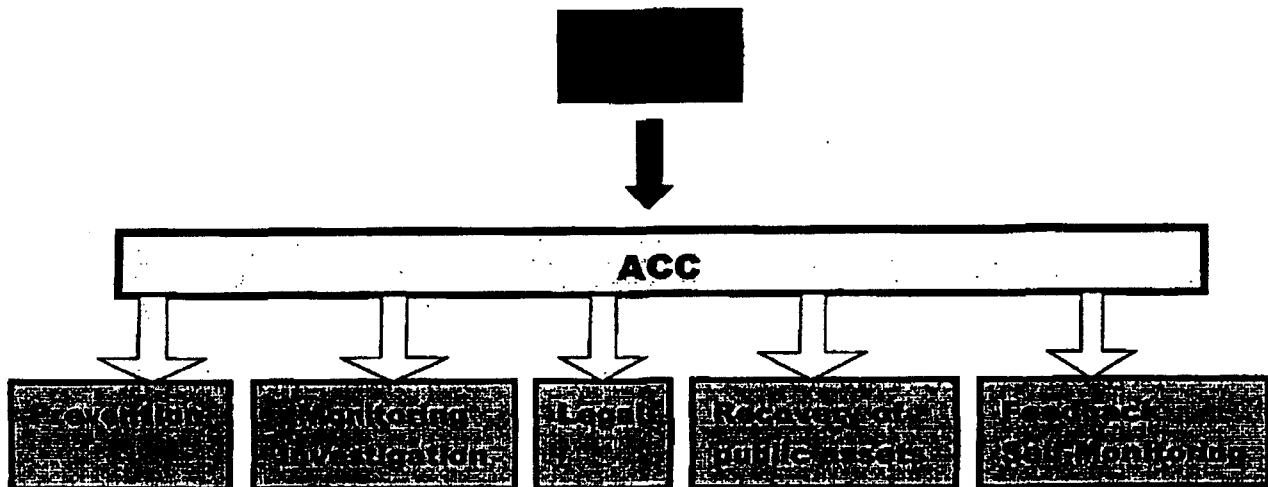


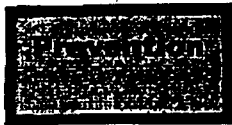
ACC Structure and Organization

Director of ACC:

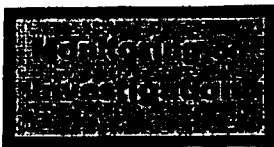
- Proposed by higher Judicial Council
- Appointed by Legislator
- Tenure similar to Superior Court Judges
- Protected while in office
- Selection Committee must have broad base representation (not only the party in power, all major powers in legislator must be represented)
- No role for the Executive branch in selection process
- Removal from office on following grounds:
 - Inability to perform duties because of illness
 - Misconduct; Removal by the legislator upon recommendation of The Higher Judicial Commission and approval by the legislative oversight committee
 - Incompetence; same as above

ACC Organization





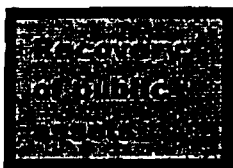
- Communication through education and media
- Code of ethics and conduct
- Educate public sector employees in anti corruption practices
- Work with the Education system to introduce Ethics and morality education in schools and universities
- Work with the Media to mount an anti corruption campaign
- Inform through the media the Iraqi people of their rights and obligations in dealings with the public sector



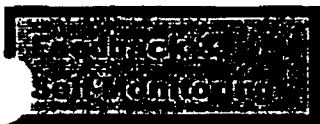
- Monitor Public sector for corrupt practices
- Investigate allegation of corruption
- Monitor Executive Branch implementation of Anti Corruption laws and regulations
- Monitor corruption in public procurement



- Recommend to the legislator Anti Corruption legislation and amendments to current laws
- Issue regulations for implementing Anti corruption laws
- Develop standards and procedures
- Report to Legislator ministries and public sector organizations who fail to enforce Anti Corruption measures and regulations



- Investigate public assets stolen or embezzled
- Coordinate with International law enforcement the recovery of stolen assets
- Coordinate with other countries and international organizations efforts to combat money laundering
- Cooperate and coordinate with law enforcement agencies



- Develop mechanism for feedback from the people and public sector

- Ensure ACC compliance with human rights, rights of the accused
- Ensure that ACC does not become an instrument for prosecution and discrediting of opponents of ruling and powerful political entities

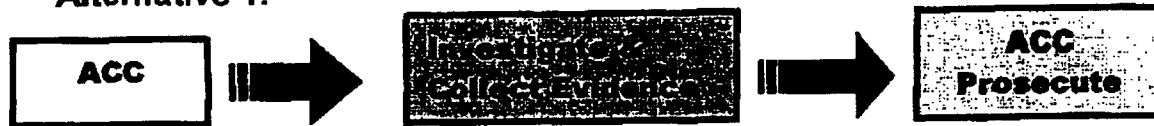
ACC: Tools and Powers

Acc must be granted the following powers and tools by law:

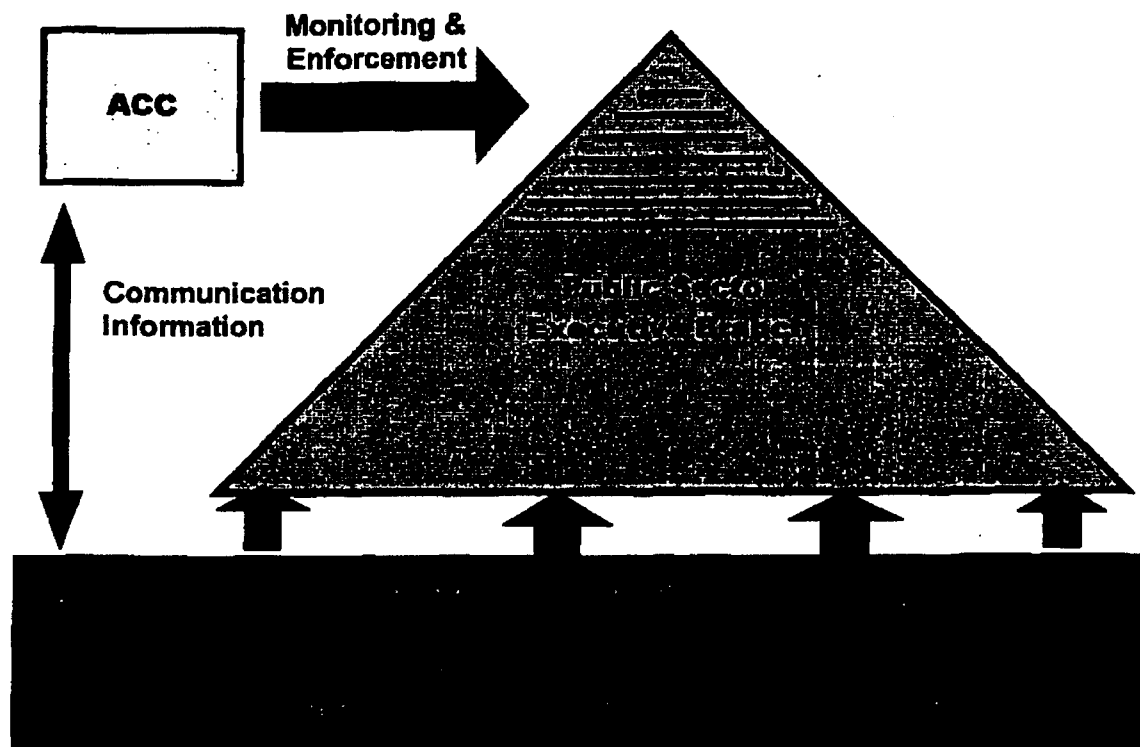
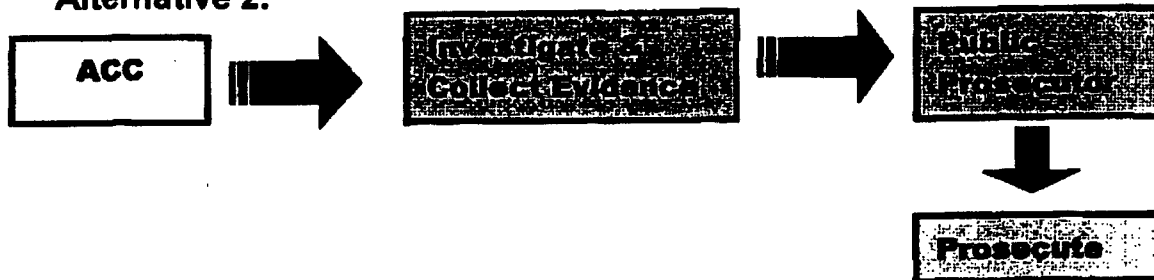
- The power to freeze assets (without court order for speed, to be confirmed by court order within specific time period)
- The power to prevent persons from leaving the country (without court order for speed, to be confirmed by court order within specific time period)
- The power to protect whistle blowers and informers (legal protection and physical protection)
- The authority to grant immunity from prosecution and pay rewards for help in recovering public assets and negotiate discounts for retrieved assets with court approval
- The power to subpoena documents and witnesses regardless of rank or position with court approval
- The power to force legal practitioners, accountants, auditors to disclose information about their clients affairs with court approval
- Effective system for monitoring assets, income, liabilities, life-style of public decision-makers and public service officials who hold positions allowing extraction of bribes
- Officials, who cannot provide satisfactory explanation of wealth or life-style, could be prosecuted for illicit enrichment
- In order to fight corruption in public procurement, ACC must have the power to demand from all companies tendering for public contracts full disclosure of all commissions and performance bonuses paid in respect to their bid, and provide details of all services provided
- ACC must present evidence to the courts about overseas companies who committed corrupt acts. The courts can exclude the firms, directors, all other companies associated with it from undertaking business with the government for a period of time decided by the courts.

Prosecution Power

Alternative 1:



Alternative 2:



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**THE IRAQI GOVERNMENT
CODE OF ETHICS**

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CODE OF ETHICS

CONTENTS

A message from the Spokesperson
Using the Government Anti-Corruption and Ethics Program

- I. **WORKPLACE**
 - a. Equal Opportunity
 - b. Harassment Free Workplace
 - c. Substance Abuse
 - d. Workplace Violence
 - e. Favoritism

- II. **ENVIRONMENT, HEALTH AND SAFETY**
 - a. Environment
 - b. Health and Safety

- III. **THIRD PARTY RELATIONSHIPS**
 - a. Conflict of Interest
 - b. Gifts and Entertainment
 - c. Supplier, Vendor and Contractor Relationships
 - d. Misuse of Official Position
 - e. Engaging in Political or Public Activity
 - f. Leaving Public Office

- IV. **INFORMATION AND RECORDS**
 - a. Confidential Information
 - b. Financial Reporting and Records

- V. **GOVERNMENTS ASSETS**
 - a. Use of Government Property

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CODE OF ETHICS

A message from the Spokesperson

Honesty, integrity and fairness are the fundamental values for the people of Iraq. As an indivisible sovereign entity, Iraq is made up of a diverse population who has held these values even prior to its establishment in 1932. In fact, these values of honesty, integrity and fairness date back to ancient Mesopotamia and the Code of Hammurabi. We gave these values to the world now we must reclaim them as our birth right.

The people of Iraq and our public officials strive to live in an ethical environment. "Public officials" include any official, officer, employee and, in general, any person paid or unpaid to whom a public service is assigned. The people of Iraq and their public officials are guided by the following principles:

- 1) Treat all people equally regardless of sex, age, race, language, social origin or religion with honesty, integrity and fairness;
- 2) Conduct all government affairs with honesty and trust;
- 3) Respect each person's legitimate and inalienable human rights;
- 4) Abide by all applicable laws, rules and regulations;
- 5) Ensure a safe and healthy living and working environment; and
- 6) Provide an effective and honest judicial system.

While our country has undergone tremendous and difficult changes over the last 35 years, most recently a regime change, this is a time to refresh and refocus our commitment to the highest ethical standards. Living up to this commitment requires more than promises from senior public officials. Each one of us bears a responsibility to instill integrity in our position as public officials. We must deal truthfully and fairly with each other and the public and adhere to a strong code of ethics in all our dealings. When we observe behavior in the workplace that is contrary to this commitment, we must take appropriate action. The future of Iraq depends on it.

This is an exciting time to be part of the government of Iraq and this is a time when Iraq needs people to stand up for ethics and integrity. Each one of us can serve that purpose. That is why we have developed the Government Anti-Corruption and Ethics Program. It will enable each public official, employee and representative to understand how a commitment to ethics depends on each individual's behavior.

What is "ethics"?

Simply, "ethics" means doing the "right thing." It is based on the values of honesty, integrity and fairness as well as upholding all applicable laws, rules and regulations.

Why do we need a government ethics program?

Good government and democracy depends on an ethics program so that all public officials employees and representatives are on notice of what is expected of them. As a diverse society, we may hold different values of what is ethical and legal conduct for public officials. This Government Anti-Corruption and Ethics Program is a way for all of us to harmonize our views. Working together we can fight corruption, intolerance and unfair behavior.

What will our Government Anti-Corruption and Ethics Program be comprised of?

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- A Code of Ethics which you have received;
- A confidential Integrity Hotline which is explained in the brochure you have received; and
- Training Programs.

The Anti-Corruption and Ethics Task Force will oversee the Government Anti-Corruption and Ethics Program.

So, what will be expected of us?

To do the "Right Thing" and to conduct the Iraqi government legally and ethically.

I appreciate your dedication and commitment to the highest ethical values as public servants of Iraq. I know we can build a better future for our country that we can nobly restore the ancient glory of the land of Two Rivers, Mesopotamia. The legacy of Hammurabi's Code can again live through our devoted efforts to foster integrity and honesty in all our dealings as public officials.

With respect and appreciation:

(Signed by Spokesperson)

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INTRODUCTION

THE CODE OF ETHICS (THE "CODE") IS THE FOUNDATION OF THE GOVERNMENT ANTI-CORRUPTION AND ETHICS PROGRAM ("THE PROGRAM") THAT WILL ASSIST PUBLIC OFFICIALS IN CONDUCTING THEIR ACTIVITIES WITHIN APPROPRIATE ETHICAL AND LEGAL STANDARDS. "PUBLIC OFFICIALS" INCLUDE ANY OFFICIAL, OFFICER, EMPLOYEE AND IN GENERAL, ANY PERSON PAID OR UNPAID TO WHOM A PUBLIC SERVICE IS ASSIGNED. THE CODE, TOGETHER WITH THE GOVERNMENT'S POLICIES AND PROCEDURES, OUTLINES THE BEHAVIOR EXPECTED OF ALL PUBLIC OFFICIALS AS DESCRIBED ABOVE. IT SUPERSEDES ANY AND ALL PREVIOUS POLICIES AND MANUALS ON THE SUBJECT MATTER HEREIN. WHILE CERTAIN GOVERNMENT MINISTRIES MAY USE ADDITIONAL EXPLANATORY INFORMATION OR GUIDANCE ABOUT POLICIES, THE CODE SHALL GOVERN. THE CODE IS NOT INTENDED TO COVER EVERY SITUATION, BUT IS INTENDED TO HELP PUBLIC OFFICIALS MAKE THE RIGHT DECISION OR ASK THE RIGHT QUESTIONS.

Using the Program

It is the responsibility of all public officials to know, understand, and comply with the Code. Failure to comply with the Code may subject public officials to disciplinary action including, but not limited to, retraining, reprimand, suspension, and termination and in certain instances, criminal prosecution.

If you observe or become aware of actual or potential violation of any law, regulation of the Code committed by public officials, it is your responsibility to report the circumstances and to cooperate with any investigation by the Anti-Corruption and Ethics Task Force ("Task Force"). The Program is designed to ensure that public officials acting in good faith have the means to report actual or potential violations and foster a work environment that enables the communication of ethics issues.

For assistance with anti-corruption and ethics matters and to report actual or potential violations of the Code, you should contact your supervisor. If a supervisor is unable to resolve the issue or if you are uncomfortable discussing the issue with a supervisor, you should seek assistance from your department head or the personnel office or the Integrity Hotline.

The Integrity Hotline does not replace the existing reporting channels. The Integrity Hotline should be used to report matters you believe are not resolved through existing channels as outlined above.

The Integrity Hotline number is:

1-800-

Available 24 hours a day, Seven Days a Week.

Calls may be placed to report actual or potential violations, to ask questions, or to obtain advice to clarify anti-corruption and ethics related issues. Every effort will be made to keep the identity of anyone reporting an actual or potential violation confidential to the extent permitted by law, unless doing so prevents the Task Force from fully and effectively investigating the suspected

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violation. In order to assist the investigation of any report made. The Task Force encourages those reporting to identify themselves; however, they will also accept and investigate anonymous reports.

I. WORKPLACE

a. Equal Opportunity

The Government strives to foster a work environment in which all individuals are treated with respect and dignity. We believe in equal opportunity for all public officials regardless of sex, age, race, language, social origin or religion. The Government is committed to actions and policies to assure fair treatment of all public officials, including equal treatment in hiring, promotion, training, compensation, termination, and disciplinary action and will not tolerate discrimination by any public official.

b. Harassment Free Work Place

The Government will not tolerate harassment of any public official. Unlawful harassment includes, but is not limited to, unwelcome jokes, comments, remarks, pictures, or e-mails, based upon, or because of, a person's sex, age, race, language, social origin or religion.

c. Substance Abuse

The Government is committed to maintaining a safe and healthy work environment free of substance abuse. Public officials are expected to perform their responsibilities in a professional manner and to be free from the effects of drugs, alcohol, or other substances that may hinder job performance or judgment. Public officials are prohibited from the illegal use, sale, dispensing, distribution, possession or manufacture of illegal drugs or other controlled substances while on government property. Consistent with applicable law, the Government may require a public official suspected of unlawful drug use or under the influence of alcohol, to submit to a screening test or otherwise undergo rehabilitation or termination where applicable.

d. Workplace Violence

The workplace should be free violent and abusive behavior. Threatening, aggressive or abusive behavior toward fellow colleagues or others in the workplace will not be tolerated. Public officials may not carry weapons or explosives on to Government property.

e. Favoritism

The Government is committed to fostering a professional work environment in which public officials treat others in a fair and impartial manner. The Government also wishes to avoid perceptions of favoritism, claims of lack of objectivity toward subordinate job performance and complaints of harassment, or even the appearance of impropriety. Accordingly, supervisors (i.e., all public officials who directly or indirectly supervise or direct another person on a full or part-time basis) may not favor any one on the basis of the existence of any personal friendship or other relationship. One example of a relationship that may lead to favoritism or a perception of favoritism is relatives who work as superiors or subordinates to one another, either directly or

indirectly, or work in the same department or function.

II. ENVIRONMENT, HEALTH, AND SAFETY

a. Environment

The Government is committed to sound environmental management. It is the intent of the Government to conduct itself in partnership with the environment and community at large in a responsible and caring manner. The Government strives to comply with all applicable environment laws and regulations. The Government is committed to preventing or mitigating adverse environmental impact from all its activities.

b. Health and Safety

The Government is committed to providing public officials a healthy and safe work place. Public officials must be aware of the safety issues and policies that affect their positions. Public officials must immediately advise their supervisors of any workplace injury or any circumstance presenting a dangerous situation so that a timely investigation may be conducted and corrective action can be taken to resolve the issue. Supervisors, upon learning of any circumstance that might affect the health and safety of other public officials in the workplace, must act immediately to address the situation.

III. THIRD PARTY RELATIONSHIPS

a. Conflicts of Interest

All public officials occupy a position of trust with the Government and, as a result, have a duty of loyalty to the Government both during and after the assignment or employment relationship. Public officials are required to avoid any relationship or activity that might create or give the appearance of a conflict between their personal interests and the interests of the Government.

Public officials and employees must disclose any relationship that appears to create a conflict of interest to their supervisors or department head. In addition, a public official or employee must seek prior approval from his or her supervisor or department head before accepting an invitation to serve as a director or trustee of any other business or non-profit organization. If such services existed at the time of hire, the public official or employee must promptly disclose the existence of such service and seek approval to continue providing such service before doing so.

Here are examples of potential conflicts of interest that may require disclosure:

- Taking bribes and gifts (a violation of Penal Code Sec. 307)
- Holding a second job that interferes with Government employment.
- Ownership by public officials or members of their family of a material financial interest, known to the public official, in a firm which is a vendor to the Government.

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- Using confidential information in any manner that violates the Government's confidentiality policy.

b. Gifts and Entertainment

Public officials or their families shall not use their position with the Government to solicit any cash, gifts or free services from any Government vendor or contractor for personal benefit. Gifts or entertainment from others should not be accepted since they could improperly influence the Government's business relationship with or create an obligation to a vendor or contractor. The following are guidelines regarding gifts and entertainment:

- Never take bribes or gifts (under Section 307 of the Penal Code)
- Reasonable invitations to Government related meetings, conventions, conferences or product training seminars may be accepted.
- Invitations to social, cultural or sporting events may only be accepted if job related.

c. Supplier, Vendor and Contractor Relationships

The Government selects its suppliers, vendors and contractors in a non-discriminatory manner and based on the quality, price, service, delivery and supply of goods and services. A decision to hire a supplier, vendor or contractor must never be based on personal interests or interests of family members or friends but must be in the best interests of the Government.

d. Misuse of Official Position

Public officials should not offer or give any advantage in anyway connected with his or her position as a public official unless lawfully authorized to do so. Public officials should not seek to influence, for private purposes, any person or body, including other public officials, by using his or her official position or by offering them personal advantages.

e. Engaging in Political or Public Activity

Subject to respect for fundamental and constitutional rights, public officials should be careful that none of their political activities or involvement on political or public debates impairs the confidence of the public and their colleagues in their ability to perform their duties impartially and loyally. In their exercise of their duties, the public officials should not allow themselves to be used for partisan political purposes. Public officials should comply with any restrictions on political activity lawfully imposed on certain categories of public officials by reason of their position or the nature of their duties.

f. Leaving Public Office

Public officials should not take improper advantage of their public office to obtain the opportunity of employment outside the public service. Public officials should not allow the prospect of their employment to create an actual, potential or apparent conflict of interest. Public officials should immediately disclose to their supervisor any concrete offer of employment that could create a conflict of interest. They should also disclose to their supervisor acceptance of any offer of employment.

In accordance with the law, for an appropriate period of time, former public officials should not act

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for any person or body in respect of any matter on which they acted for, or advised, during their public service and which would result in a particular benefit to that person or body. The Public officials also should not give preferential treatment or privileged access to the public service to former public officials.

IV. INFORMATION AND RECORDS

a. Confidential Information

Public officials may be exposed to certain information that is considered confidential by the Government, such as personal data and contractor bidding and awarding information. Public officials and employees shall not disclose confidential information to persons outside the Government, including family members, and should share it only with other public officials who have a "need to know."

Confidential information includes, but is not limited to

- Proposed or advanced strategic development;
- Projected revenues, proposed expenditures, important management or organizational changes, or information about government contracting and any other information related to the foregoing;
- Computer software and systems developed by, for or unique to the Government; and
- Personal or financial information pertaining to any public officials of the Government.

Public officials are responsible and accountable for safeguarding Government documents and information to which they have direct or indirect access as a result of their employment with the Government, and should not leave confidential or proprietary documents or other such material in the office or elsewhere in a manner so as to invite unwanted disclosure.

b. Financial Reporting and Records

Each supervisor and department head is responsible and accountable for maintaining an adequate system of internal controls over all areas of his or her responsibility. These controls should provide reasonable assurance that (1) (A) all transactions have been properly recorded, (B) each such transaction has been made in accordance with management authorization and applicable laws and regulations, and (C) Government assets are adequately safeguarded; and (2), as a consequence, the financial records and other reports are accurately and fairly stated. Each public official within his or her area of responsibility is expected to adhere to these established controls and the following prohibitions:

- No public official may intentionally make false or misleading entries in the Government's books and records for any reason. Any violation is grounds for immediate termination where applicable, as well as civil and criminal liability.
- No public official may intentionally conceal Government information from authorized Government or independent auditors. Public officials are required to disclose, on a timely basis, information required to evaluate the fairness of the Government's financial presentation, the soundness of its financial condition and the propriety of its operation.

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- No public official may make a payment or transfer Government funds or assets that is not authorized, properly recorded and clearly accounted for on the Government's books. No public official may make or approve a payment or transfer Government funds or assets with the intention or understanding that any part of such payment or transfer is to be used except as specified in the supporting transactional documents.
- No public official shall deliberately attempt to circumvent any Government processes or controls.

V. GOVERNMENT ASSETS

a. Use of Government Property

The use of Government property for individual profit or any unlawful, unauthorized personal or unethical purpose is prohibited by law. Government information, technology, intellectual property, buildings, land, equipment, machines, software and cash must be used for business purposes only. Further, travel and entertainment expenses must be reasonable and substantiated by receipts.

b. Destruction of Property and Theft

Public officials shall not intentionally damage or destroy the property of the Government or the property of others or engage in theft.

Conclusion:

More specific information and guidance can be obtained from various sources including handbooks and policies and procedures provided by your supervisor or department head, the Integrity Hotline and the Task Force.

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ANTI CORRUPTION WORKING GROUP

FEB. 14-15, 2003-02-14

WASHINGTON D.C.

SUGGESTION:

IN ORDER TO AVOID CORRUPTION IN GOVERNMENTAL TENDERS AND COMMERCIAL PROJECTS, A HIGHER ADMINISTRATIVE BODY HAS TO BE ESTABLISHED, WHOSE AUTHORITY WOULD BE ABOVE THE MINISTRY OF PLANNING AS WELL AS OTHER MINISTRIES.

**THIS ADMINISTRATIVE BODY COULD BE NAMED AS:
AUDITING AND FOLLOW UP HIGHER COMMITTEE.**

STRUCTURE:

THIS COMMITTEE SHOULD INCLUDE A STAFF OF SPECIALIZED INSPECTORS AND AUDITORS FROM PRIVATE AND PUBLIC SECTOR BACKGROUND, WHO ARE WELL EXPERIENCED IN GOVERNMENTAL AFFAIRS AND TENDERS, ALSO REPRESENTING THE ETHNIC DISTRIBUTION OF IRAQ.

RESPONSIBILITIES AND AUTHORITIES OF THIS COMMITTEE:

- 1- AUDIT ALL DEVELOPMENT, PLANNING AND RECONSTRUCTION PROJECTS FOR ALL IRAQ.**
- 2- ENSURE THAT DEVELOPMENT PROJECTS ARE DISTRIBUTED FAIRLY TO ALL OF IRAQ'S REGION REGARDLESS OF POLITICAL PROFITEERING OR ELECTION GAINS. TAKING INTO CONSIDERATION THE NEEDS OF ALL ETHNIC AREAS OF IRAQ.**
- 3- THE ABOVE MENTIONED STAFF HAVE THE AUTHORITY OF INSPECTING ANYTIME AND ANYWHERE IN ALL GOVERNMENTAL AND PRIVATE TENDERS AND PROJECTS.**
- 4- FIELD OF ACTIVITY COVERS CIVIL (FINANCE, BANKING, COMMERCE, INDUSTRY...ETC.) AND DEFENCE SECTORS.**
- 5- THIS COMMITTEE WILL HAVE THE AUTHORITY TO ENFORCE THE LAWS ACCORDINGLY WHERE IT IS FIT.**

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Anti-Corruption Working Group

Monitoring
& Investigation

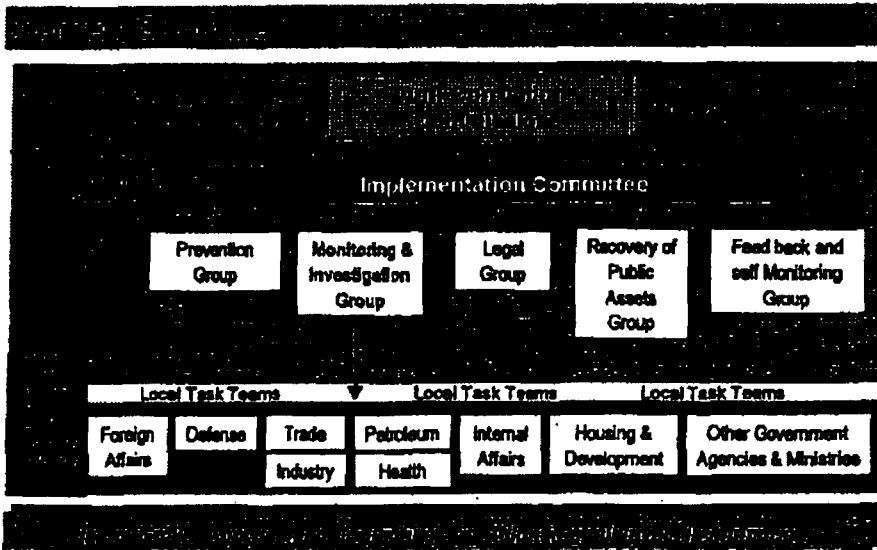
Implementation Guide Lines

Making it Happen Monitoring & Investigation

Implementation Guide Lines

Anti-Corruption Working Group

Monitoring
& Investigation



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Anti-Corruption Working Group

Monitoring
& Investigation

- ✓ The M&I implementation group will consist of reputable members with in depth subject matter knowledge. They will;
- ✓ Translate the strategy, approach & goals of the Anti-Corruption Commission into achievable objectives for implementation.
- ✓ Search, select and train members for local task teams
- ✓ Establish local task teams in each Government ministry, agencies and organizations.
- ✓ Create charters and deliverables for each local task teams.
- ✓ Monitor, guide, support and co-ordinate each task team.
- ✓ Communicate success and build momentum to accelerate the change.
- ✓ Ensure ownership & continuation.

THE ROLE OF MEDIA ON ANTI- CORRUPTION

Introduction

Media has the ability to transfer thoughts to reality, with the aid of the three media methods (visual, written and audible).

Corruption in Iraq has become very widespread in all the systems of the country , from the ministries to the public and also the institutions and the private sector, including sports, social clubs and their teams.

All of this has affected the country negatively to the general situation of the country, whether it was the Iraqi society, the nation or the environment of Iraq.

As countries with the correct, active media are able to stop the danger of corruption and create a stability in all its institutions, whether they were private or public.

Media plays a major role in assisting a civilized society with freedom and democracy of thought. Therefore, it was of great importance that all the countries of the world, are concerned primarily at this part, of 'building' a modern society. Hence, I believe that media has three stages, first acts as an indication to corruption, and warning, secondly the treatment and finely the transparency to treatment.

However, before falling into these stages, we have to take into consideration some of the private sectors of the Iraqi nation, and most importantly must be considered are the following:

1. 40 years ago media was based on slavery to one person (dictatorial), being affected by the communist's media, hence, being ruled successively by rotating dictators, which have progressively affected the lives of the people.
2. The tribal, religious and racial classes, have had an important role in specifying the path of the Iraqi's. Were you would find the arabs, the Kurds, Shia and Sunni, the Christmas, and other minorities ... which have ethnic and religious obligations in defining and restricting their behavior.
3. There is a great remoteness in the intellectual, educational and science inside Iraq and outside it. Resulting in different priorities and unrealistic understandings.

From the above points and understanding, we are able to make clear the three stages.

The first stage

We have to but in consideration in this stage short ,speedy massage by the three media methods.

It is important to emphasize on the serious danger that the previous regime and the one before it have left, in creating reversed concepts, and reversed actions. Were those with capabilities were thrown into prisons or in disgraceful jobs, whereas the incapable take an important role, and with the regime having a leading role in the society and country. This has subsequently lead in building a corrupted (mentally and physically), society and environment. Hence affecting the economy, politics and knowledge of the country. There fore, pointing out and illustrating this corruption, is of priority, and takes place as follows:

1. Fail the regimes pride, Saddam Hussain, through (the three media methods).
E.g. showing caricatures, in papers, tv; and also imitating his voice, acts and other.

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2. Present the destruction that has occurred during the period ruled by the regime, whether it was on the people, the economy, education, and even the environment.

E.g. filming, the prisons, reductions in the levels of the rivers Tigris and Euphrates, destruction of the food web, destruction of the marsh arab South Iraq, and also destruction of the trees and forests in North Iraq.

3. Release the freedom for media immediately, in a way that Iraqi would find out what they previously did not know. Making arrangements with newspaper, magazine, private and educational film distribution companies, so that reality reaches fast to the Iraqi people.
E.g. books for Iraqi (and other) intellectuals, not present in Iraq and newspapers such as 'El-Sharq El-Awsad' (the middle east), and other newspapers.
Also by receiving satellite channels and the internet, and educational releases and magazines.
4. Release the freedom of Iraqi thought in order for them to express their opinions in Iraqi and international media. Allowing them will change public opinion to a new direction, as every Iraqi has a story, or a tragedy, or suffering in Iraq. E.g. broadcasting stations presenting people's voices. Also, by producing voice and picture messages presented from Iraqi figures against the regime to inside or outside Iraq.
5. Television plays a vital role, therefore it is of great importance for us to show high concern in producing private films, clips or documentaries. E.g. introductions and clips, on youths living and dying in prison, due to the crisis of this regime.
6. Since Saddam has come into power, all the institutions have been serving the regime. Therefore, refreshment is needed in changing this methodology.
7. Iraqi poets and artists will also play an important role in this stage, especially that Iraqis admire expressing themselves through theaters and poetry. E.g. showing some plays and films with aims in discussing the dictatorship in specific and corruption in general, like Iraqi poets from places of exile, and also artists.

I believe that the first stage is one of the most important, which will build a strong base for a new incorrupt Iraq.

The second stage

This stage plays a role in building a new step in the anti-corrupted regime, where the following would be shown:

1. It is very important to improve the strengthens of Law by having (three methods of madia) specified in discussing the subject and clarifying it and manifesting the strength of the law and its rewards and punishments. Also, showing violators works in public.

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E.g. Law newspapers, detecting fraud and corrupted people.

2. Supporting private media companies and developing their three media presentations, and improving the new media , also with the help of foreign professionals.
E.g. bringing development into TV, radio, and increasing the number of programmes for adults and children.
3. Presenting human values, such as trust against bribery and truth against falsehood and the rewards they'd gain. E.g. presenting figures in media with important roles in the civil society, e.g. having a weekly program called 'The Distinct' or 'From my Country'.....
4. Preparing for private programmes and reports on Iraqi scientists and ingenious specifically, and non-Iraqis in general, that have had an important role. E.g. programmes such as (FOCUS), which would concentrate on Iraqi ingenious. General programmes such as the one on El-jazeera tv, 'Ingenious'.
5. Working on informing people on the great developments that have taken place in similar countries to Iraq through the three forms of media, or through private visits and calls. Reflecting the ideas and experiences in these countries to the 'new' Iraq.
E.g. exchange of thoughts, conferences, sport festivals and making the use from them..
E.g. films and reports on the gulf countries, Turkey, Jordan and Iran. Inviting international sport teams to play in Iraq especially that Iraq .
6. Presenting Iraqis wealth and its value, and how it as been destroyed by Saddam's regime.
E.g. films on agriculture and animals, nature and more, also through the three forms of media.

Number (IV,V,VI) try to improve and create new opportunities and project to push the public to work in order to prevent them from the bribe and all the carrion.

7. Presenting successful experiences in countries that were able to build themselves from nought, and attack corruption in the regime, and use primary resources to become leading country. E.g. how desert countries were able to produce fertile land and drinking water from the sea, in contrary to the present regime, were fertile, wealthy land was transferred to a deserted place, with undrinkable water, although Iraq has the two great rivers Tigris and Euphrates.
8. Working on removing the corrupted education system present in this regime, in schools, colleges and universities, especially the primary schools. Also, aiding in the building of private schools and universities. E.g. private educational programmes, articles and magazines, for adults and children.
9. Presenting serious medians (from the 3 media regions), which have had a bright role in Iraq, and no communications with the previous regime.

The third stage

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This will follow the finishing of the second stage, and perfecting the new civil democratic regime, which will practice the transparency of the new regime, to treat the corruption, which would be purifying the previous stages.

Media has a role to :

- ◆ allow the three forms of media to flow with the law and aid new programmes to fight corruption which might occur.
- ◆ to carry on with assisting the private media and educational companies
- ◆ creating institutions that will aid in transmitting the information and punishing those wrong, resulting in transparency in the anti-corruption

Finally, the following would be some of the sources for the practicing and directing media.

1. The sources that are present in the Iraq, should be presented for the three forms of media.
2. Getting material from public and private companies to achieve our goals.
E.g BBC, CNN, Sky, MBC, etc...
3. Produce new material form now for the (three methods of media) for some subject which going to be suggest.
4. Producing private films on the topics, that have not yet been forwarded:
 1. Muniment films
 2. Poetry films
 3. Sport
 4. Scientific

I believe that there are many examples and important topics that I would consider to be important, and see that adding more views is beneficial. This topic holds many views and is open to negotiated and clarified.

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ANTI-CORRUPTION WORKING GROUP MEDIA AND INFORMATION PAPER

لمجموعة الشفافية ومكافحة الفساد

مقدمة، الخارطة الاعلامية في العراق اليوم:

١. تملك الدولة كافة وسائل الاعلام وتسيطر عليها بصورة كاملة في العراق اليوم. ولا يوجد اعلام خارج نطاق الدولة. وهذا الاعلام يشكل جزء اساسيا من بنية النظام العراقي، ولذلك فان اي تغيير للنظام لا بد ان يتضمن ايضا تغييرا للاعلام الموجود حاليا، والذي يتألف من الاذاعة والتلفزيون ووكالة الانباء العراقية، وعدد كبير من الصحف والمجلات التي يملكها النظام بصورة مباشرة وغير مباشرة. ولكن عملية تغيير الاعلام الرسمي لا تعني القيام بعملية تطهير وظيفية واسعة تؤدي الى القاء عدد كبير من الاعلاميين العراقيين في الشارع وتحويلهم الى جيش من العاطلين. انما يجب التعامل مع هذه المسألة بحكمة، بما في ذلك الاستفادة من الكوادر والطاقات الاعلامية غير المتورطة في جرائم النظام. الا انه من المؤكد ان عددا من الصحف الحالية سوف تتوقف عن الصدور.

٢. هناك اعلام حر ومتطور ومتنوع في كردستان المحررة. ومن الضروري الاستفادة من هذه التجربة الاعلامية وامكانياتها المتوفرة في عملية التوعية.

٣. يوجد عدد كبير من الاعلاميين العراقيين في بلدان المهجر، يعملون اما في مؤسسات اعلامية مختلفة، وهؤلاء يشكلون ثروة اعلامية كبيرة يجب التفكير بطريقة الاستفادة منها، خاصة فيما يتعلق بمسألة عودتهم الى العراق وانخراطهم في الجهد الاعلامي فيه.

٤. تشكل دور العبادة في العراق، وخاصة المساجد والحسينيات والكنائس وغيرها، اداة اعلامية جيدة بسبب التواجد الجماهيري الكثيف فيها، لما يمكن من اصال الرسالة الاعلامية بصورة مباشرة الى قطاعات واسعة من المواطنين العراقيين.

٥. ان اي نشاط اعلامي تقوم به مجموعة مكافحة الفساد، او اي مجموعة اخرى، لا يمكن ان يفصل عن الجسم الاعلامي بكامله، وبالتالي فان التفكير بخطط او مشاريع اعلامية في مجال محدد يجب ان يتم في اطار التفكير الاشمل بوضع الجسم الاعلامي بكامله، الامر الذي يتطلب التفكير باستراتيجية اعلامية شاملة للفترة الانتقالية التي سوف تلي الاطاحة بالنظام الحالي.

سيكون للاعلام دور مهم جدا في عملية اعادة البناء والاعمار التي ستطلق في العراق بعد الاطاحة بالنظام الحالي.

ومن اجل تمكين الاعلام من القيام بدوره المنشود يمكن الشروع بما يلي فور الاطاحة بالنظام الحاكم في بغداد:

اولا، اعادة تنظيم الجسم الاعلامي

١. الغاء وزارة الاعلام وتحرير الاعلام من سلطة الدولة، واعتبار ذلك شرطا من شروط اقامة الديمقراطية الحقة في البلاد. ان الاعلام هو السلطة الرابعة في البلاد، ومن اجل ان تكون هذه السلطة فاعلة وقوية ومؤثرة، يجب ان تنفصل عن الدولة، كما هو الحال فيما يتعلق بفصل القضاء عن الحكومة. ان اقامة اقتصاد حر لا يمكن ان تتم مع وجود التدخل الشامل للدولة في الاقتصاد، وكذلك ان اقامة اعلام حر لا يمكن ان يتم بتدخل الدولة السافر بشؤون الاعلام. لا يحتاج المواطن في النظام العراقي الى رخصة من الدولة لاصدار جريدة او لطبع كتاب.

٢. من الضروري الابقاء على الاذاعة والتلفزيون ووكالة الانباء العراقية بوصفها مؤسسات تابعة للدولة، على ان يتم وضع نظام اداري لها لربطها بالسلطة المؤقتة، في المرحلة الانتقالية، ثم بالبرلمان لاحقا. هذا لا يعني منع الناس من اقامة محطات تلفزيونية واذاعية او تأسيس وكالات انباء خاصة في المستقبل.

٣. من الممكن تشكيل مؤسسة باسم المجلس الوطني للثقافة، تلحق بها المؤسسات الحالية الاخرى المرتبطة بوزارة الاعلام، مثل دور النشر والمطابع وغيرها، على ان تربط بالسلطة المؤقتة في المرحلة الانتقالية، ثم بالبرلمان لاحقا.
 ٤. يجب اطلاق حرية الصحافة الحزبية والخاصة.
 ٥. اقامة صندوق لتقديم الدعم المالي للصحافة الحزبية والخاصة يرتبط بالسلطة المؤقتة في المرحلة الانتقالية، على ان يرتبط بالبرلمان لاحقا.
 ٦. تشجيع الاهالي على اصدار صحف محلية local newspapers في المحافظات، اضافة الى الصحف القومية national papers التي سوف تصدر في بغداد.
 ٧. تشجيع اقامة نقابات او روابط اعلامية مهنية، حرة، غير مرتبطة بالدولة، لما سيكون لها من دور ايجابي في تطوير العمل الاعلامي.
- ثانيا، الرسالة الاعلامية في المرحلة الانتقالية:

١. اشاعة مفاهيم الديمقراطية وحقوق الانسان والحوار الحضاري.
٢. التركيز على مفهوم سيادة القانون ودولة القانون.
٣. اشاعة مفهوم التسامح والتعايش مع الآخرين.
٤. اشاعة مفهوم العدالة الانتقالية.
٥. اشاعة مفهوم الاخلاص في العمل الوظيفي سواء المرتبط بالدولة او العمل الخاص.
٦. الدعوة الى استئناف الحياة المدنية والعودة الى المدارس والوظائف ومؤسسات العمل الاخرى الحكومية والخاصة.
٧. التركيز على ضرورة الحفاظ على المال العام، وعدم اساءة استغلاله، او اختلاسه.
٨. التركيز على اهمية الزمن في العمل، والتحذير من هدره بوصفه من الثروات الوطنية التي يجب الحفاظ عليها واستثمارها في عملية اعادة البناء والاعمار.
٩. محاربة الرشوة والوساطات في العمل العام.

١٠. الاستفادة من القيم الدينية والاخلاقية وتنشيطها في مقاومة الفساد.

ثالثاً، وسائل إيصال الرسالة الاعلامية

١. الاذاعة والتلفزيون والصحف الوطنية والمحلية.
٢. المدارس والمنتديات العامة والمساجد وبيوت العبادة الاخرى.
٣. اللقاءات الجماهيرية المفتوحة.
٤. الكراسيات leaflets
٥. الدورات التدريبية والنقاشية.

رابعاً، التحقق من وصول الرسالة الاعلامية

يتبغي اللجوء الى الوسائل العلمية المعروفة للتحقق من ان الرسالة الاعلامية تصل بصورة جيدة الى المواطنين.

تمت الورقة

ملاحظة: لقد بعثت برسائل اليكترونية الى جميع اعضاء لجنة الاعلام المحترمين طالباً منهم موافاتي بملاحظاتكم واقتراحاتكم بشأن عمل اللجنة. ولكن يبدو ان رسائلي لم تصل الى اي منهم، فلم اتمكن من اية ملاحظة للاسف. ولذا اضطررت الى كتابة هذه الورقة التي لا تعبر حالياً سوى عن رأيي فقط.

Building a New Iraq:

Towards a civil society – Corruption and Transparency in a new Iraq

Summary

1) The psychology of corruption, so integral to the preservation of a totalitarian regime, and so typical of Iraq's governments both under Saddam and as far back as the Ottoman rule, can be eradicated in a new, transparent, federal and democratic government. Corruption has fueled the continuation of regional, ethnic and religious groupings as a means to extract the power, position and wealth controlled by Baghdad and its rulers. A new constitution protecting individual rights supported by a new participatory democracy, together with high levels of local decision-making and autonomy, and with quasi-independent government entities controlling key, corruption free elements of economic life and allocating the oil resources for the benefit of all Iraqis; will all serve to eradicate corruption. Iraq's development, as new democratic nation state, will occur if careful planning, government reform and actions eliminate the corruption of wealth, power and politics which have been traditional foundations of tyranny and totalitarian government.

Background

2) Post Saddam, Iraq will experience an enormous power vacuum with the disconcerting erosion of Baghdad's power and the totalitarian apparatus that has dominated Iraqi political, economic and social life for the past thirty years. The international sanctions of the last decade have had the effect of expanding endemic corruption and black market activities into every sector of the economic life. Saddam's coterie in Baghdad have used the sanctions to control lucrative concessions and accumulate significant personal wealth. The populace at large has resorted to black market activities as normal coping skills to deal with shortages and the necessities of life. Crippling inflation, corruption and cash/barter transactions are the norm throughout Iraq. The average Iraqi has no confidence in the economic machinery of the government, from banks to tax collectors. New and elaborate personal residences for the "connected" elite have become the symbols of success. This illegal accumulation of wealth and power has gained respect and envy. Prosecutions for graft and corruption are seen as arbitrary exercises in settling scores among the elite or as practical methods to remove individuals for the personal advantage of the prosecutors. The rule of law is but the manifestation of the rule of the rich and powerful. These conditions, like the psychology of terror and tyranny, will not be easily displaced by maxims about transparency and anti-corruption rhetoric. Survival has been the only engine of the Iraqi economy beyond direct government expenditures for the past decade. The rules of expediency that dominate and characterize economic life and the methodology of corruption are difficult to remove and replace.

Immediate Conditions and Actions

3) The manner and circumstances of regime change, the removal of Saddam and his ruling elite, will determine the scope and character of measures to provide economic stability, relief of critical shortages and provision of related humanitarian assistance. An important element to provide confidence in the interim government and its fairness/transparency of operations will be to provide a trustworthy "Iraqi" face to the operation and delivery of government services and humanitarian assistance. Restoring the faith of the populace in government institutions, be they national or provincial administrators, will be an important part of changing a climate of fear, corruption, and avarice. Iraqi's must be seen to be in charge, at all levels, but especially at the point of delivery of goods and services and a sense of "ownership" of the process and the direction of such governmental programs as evident to the populace. This "Iraqi" identity, consisting of honest and reliable administrators, can be a dramatic example of the character and integrity of the new government. A large, visible international agency or significant foreign NGO's involvement will diminish efforts to build an Iraqi identity for such activities. Eliminating corrupt officials from any part in the process, at all levels, will provide a significant public example of acceptable behavior and an early rationale for removing undesirable administrative personnel. Locally elected committees could be formed to approve the choice of administrative personnel and the most appropriate manner to deliver these much-needed services. Care should be taken to avoid empowering religious or ethnically based groups, per se, so as not to provide a new and unwelcome set of power brokers. An initiation to grass roots democracy through coordinating aid delivery, and the selection of Iraqi administrators to be the conduit, could be a very dramatic step in providing the populace with a sense of ownership and the nature of government structures that will be formed. Hoarding, corruption and other objectionable, albeit natural, selfish actions can also be reviewed and dealt with by these ad hoc, popularly supported or elected committees at a highly visible, local level. Special attention should be given to the Kurdish experience in the Northern No Fly Zone and the practical measures that evolved to deal with refugee problems and later with self-government as well as the entities developed for self-determination. Building confidence, at the local level, with the capabilities of the populace to deal with, and take charge of, elemental aspects of government, delivery of food, water, medicines and the like, following the traumatic removal of ruthless government entities, will advance the capacity of the people to deal with corruption and encourage new standards of honesty, transparency, and fairness in the conduct of their economic and social interactions.

Old and New Institutions

4) The removal of Saddam's regime will provide a power vacuum and create popular anxieties about the viability of all Iraqi institutions. The traumatic and disconcerting events attendant to the regime change will affect all Iraqi's, both Saddam's conspirators and the general populace. The extent of the Iraqi totalitarian state, its absolute power and control, exercised from Baghdad, not to mention the terror used to enforce compliance, cannot be overestimated in their impact on the Iraqi psyche and the attendant feeling of

fear, weakness and shame. These conditions and circumstances do not provide a strong foundation on which to build new institutions and a modern nation state. Conditions of mutual distrust and personal safety, which led to the survival mindset which underlies much of the corruption and graft, make the existing institutions and status quo an effective power base for a privileged, limited few who encouraged its maintenance. The youthfulness of the population and the long reign of Saddam, as well as antecedent governments, provide no collective or personal memory of any alternative life or successful democratic government and institutions in Iraq. Only the Kurdish experiments in the North, and their success, which are widely appreciated and envied in the rest of Iraq, provide anecdotal and positive models of successful democracy and liberated lifestyles. Saddam's state has successfully brainwashed the populace about the evils of democracy and demonized its leading successful exemplar, the United States. The institutional reforms to create a federal, democratic Iraq must be self generated and must have a broadly based Iraqi leadership, uncontaminated by ethnic, religious, geographic or cultural bias.

Popular Debates

5) The interim government arrangements must immediately include some advisory elements, popularly representative of all Iraqi's, who can begin the process of reform and engage all Iraqis, at the most distant and local level, in the discussions about the institutions for a new Iraq. The provincial geographic units could be the basis for this ad hoc advisory body, perhaps in combination with municipal districts, or with such elements as may be developed to assist with the distribution of critical aid and relief supplies as mentioned above. The agenda for this reform assembly should be a new constitution to detail both the civil and economic rights of Iraqi's and the institutions that will ensure their protection and enjoyment. This national exercise should be well organized, very public in its conduct and responsive to public opinion and debate. By focusing on the rights of individuals, not ethnic, religious, or geographic elements, the debate should engender a new sense of what it means to be an Iraqi in a world without Saddam. The national identity has in large measure consisted of shared deprivations, including the enormous loss of young lives, in disastrous wars. The national resources, the oil revenues and potentially, tourism, should be used to focus public opinion on the opportunities available to a peaceful, democratic Iraq. Individual Iraqis need to be convinced, anew, that their future lives will have greater purpose, as part of the new vision for Iraq, than some more narrowly defined identity as a Shia, Sunni, Kurd, Assyrian, Marsh Arab, or as member of some regional tribe or clan. By focusing popular debate on the need to insure personal rights and liberties, as well as methods for making them integral to the development of a constitution and government for a new Iraq; the dangerous, but natural inclinations to seek similar protections as part of a regional or identity group, can be prevented and redirected.

Debating Democracy

6) It is impossible to prejudge the outcome of the debate about individual liberties and the government of a new Iraq, but several successful models of democratic governance will be available to delegates. These options must be widely publicized to the general populace and local debates encouraged in tandem with the work of the delegates. The model for Iraq, from Mesopotamia to Saddam, has always been "winner take all", with absolute power to be wielded from Baghdad. This pattern of control by a strong, powerful leader, whether benevolent or malevolent, must be finally broken by Saddam's departure. As happened in the Soviet Union, after Stalin (much used as model by Saddam), the process of change will be brutal, painful and slow, unless all concerned agree immediately on an irrevocable pact to prevent a new dictatorship. The commitment to change should be declared at the outset of the debate, and the sweeping consequences, for commensurate changes in all of Iraq's government institutions, communicated to the Iraqi people. The acceptance of this fundamental change, by all Iraqi's, and their concern with new individual liberties and opportunities, will preclude the corruption and venality attendant to power sharing and advancement under the ancient regime.

Reforming Economic Life

7) Among the institutions to be created, and existing institutions that must be reformed, are those controlling economic life. The government entities that control the economy must be structured to allow the growth of the private sector and enable individual economic initiatives and activities. Currently government economic controls, policies and expenditures give rise to the most pervasive sources of corruption and wealth in Iraq. Reforms must prevent a repetition of the consolidation of power around oil revenues and the control of imports and economic life. Corrective measures to recover misappropriated government funds or those derived from the coercive, abusive exercise of power and influence must be undertaken and widely publicized. The pervasive memory of a corrupt government and individuals can be eradicated by the recovery of the assets taken together with such criminal prosecutions as may be warranted. The new government institutions and their administrators must be organized to enshrine accountability, building on a successful history of accountability for past transgressions. The justice system created by the reformers should make these issues of accountability paramount in its early activities and continue to stress public ethics and accountability in prosecuting new cases. Amnesty for past economic crimes and malfeasance in office should be avoided, although restitution in lieu of criminal sanctions should be considered.

Banking Reforms

8) The new constitution and government should include a strong central bank entity that will be able to conduct business independently from the political apparatus. The banks and financial institutions, regulated by the central bank, should also be free from political or parochial influences. Major reforms may be required, including creation of a new

currency under central bank control. The inflation of the Dinar, and its identification with Saddam's regime, would seem to favor a new currency, with a new name, to indicate the widespread reforms and the changing economic conditions of a new Iraq. This dramatic change can also signal an end to the corruption associated with the world of the Iraqi Dinar. A new, quasi private, development bank, the Iraqi Bank for Reconstruction and Development (IRBRD) should be created to operate independently to coordinate funding for important national development projects together with international lenders. The IRBRD should provide a corruption free environment for the contracting and procurement matters that were the source of much corruption under the Saddam regime. The charter should be broadly drawn to permit operations in all government economic initiatives that require protection from corrupting influences. Transparency and conformity with international norms and regulations should become both IRBRD practice and the model for the conduct of business in other new entities that may be created. The IRBRD may perform a role in developing legislation for Iraqi commercial transactions in conformity with international codes. The IRBRD could also become the entity charged with the settlement of Iraq's external debt and the venue for the resolution of international commercial disputes arising from the Saddam regime.

Oil Resources

9) The oil industry should also be reformed and its important revenues removed from politics and related opportunities for corruption. The reconstruction of Iraq's oil industry and its modernization should be an Iraqi led effort involving the international petroleum concerns and organizations. Government expenditures are closely tied to the availability of these revenues, and the interim government, should immediately assume responsibility for these matters and develop a new ad hoc entity to deal transparently with these concerns. Ownership of the oil, and the use of the wealth derived, is a paramount concern of all Iraqis. This great national resource is an important, unifying element that can promote cooperation in the development of the new constitution and its components. Removing the control and allocation issues from the political debate will remove a source of corruption and deal brokering which may disadvantage one group or another and lead to disputes about geography and administrative structures. An independent agency, under the protection of the interim government, should make all oil related decisions, publicize their determinations, and remove the oil issue from public debate about the new Iraq and its constitution.

Black Markets

10) The black market activities that have emerged to solve so many of the problems of daily survival, have also created a culture of graft and corruption. These highly entrepreneurial activities should be provided an economic environment where they may become legal entities operating in a lawful, regulated manner. Plans for the new Iraqi tax regime should give special attention to the sophisticated and practical tax avoidance of the Saddam years. A unified flat tax, with a modest rate, simple collection structures,

should be instituted. Affordable rates and automatic, comprehensive collection systems have been effectively used in Russia to eliminate avoidance and government graft as well as in developed economic environments such as Hong Kong. Removing tax avoidance through an affordable tax system will contribute greatly to a stable, transparent, government and business environment.

Exiles

11) Iraqi exiles should be encouraged to return along with capital that fled during the Saddam years. These individuals, many with significant professional and business success outside Iraq during their exile, can provide a much need level of experience to the economy of Iraq—including their awareness of the importance of transparency and the rule of law. Iraq can benefit greatly from these men and women whose experience can compensate for so much that was lost during Saddam's regime. Issues of property expropriation, asset seizure and other impediments should be resolved under some special judicial modalities to expedite their return to Iraq's economic life and vitality. Where necessary special grants or other incentives should be devised to encourage the return of exiled Iraq's and facilitate their active involvement in the development of a new Iraq.

Military Industrial Concerns

12) The Military Industrial Complex, a significant part of Iraq's GDP, as well as a source of corruption and non-productive energies should be dismantled carefully. A special purpose entity, with broad powers, should be created by the interim government to oversee the transformation of this complex enterprise, which provides extensive employment. Privatization as well as restructuring in concert with the IRBRD activities, and military demobilization, should be undertaken on a deliberate schedule so as to prevent adverse economic consequences. The future of many of the current activities and their employees should be determined at an early stage and widely publicized. Special assistance should be provided for dislocated individuals and government led programs created to reallocate resources and manpower to more desirable, sustainable economic ventures on an accelerated schedule. Many of those individuals involved in the MIC programs and in the military are some of Iraq's best-trained and capable individuals. Efforts should be made to put this talent to work immediately on development projects or civil improvements that can benefit from their professional training and administrative skills. Those involved in this work, and not those involved in Saddam's more brutal, repressive activities, should be rehabilitated so as to preclude their becoming a new source of disaffected leaders capable of engineering a return to the totalitarian state under which they prospered.

Future of Iraq Project

Anti Corruption Working Group

Iraq lived with corruption for the past 40 years, it got worse progressively due to wars, mismanagement, and sanctions.

The Current Situation

The Public Sector

- The public sector dominates most aspect of life for the Iraqi people; it is the largest employer, provides education, health care, imports and distributes food and rations, etc.
- We have a situation now where government employees' need to supplement their very low salaries by using their positions to generate more income; this has created a culture of corruption and the moral justification for it.
- Favoritisms for clan, tribe, friends, and relatives are rampant and though old have gotten much worst.
- Political affiliation and opportunism opens doors and are the means for furthering careers and becoming wealthy.

The private Sector

- Though the majority of Iraqis live in poverty (the middle class is decimated due to the wars and the sanctions) there is a small wealthy class who benefited from these conditions. Wealth was accumulated either by association with the regime or through using the conditions created by the wars and the embargo to get rich. For this "business class" the normal way of doing business is through corruption, this is a culture now and dealing with it will be very difficult.

What should be done about Corruption???

After the regime change in Iraq, the incoming government will inherit a totally corrupt system in both the public and private sectors. The people of Iraq are being promised a new future and they will expect immediate results. The credibility of the new regime and the United States will depend on how quickly these promises are translated to reality.

The Short Term

Priorities:

First, concentrate on cleaning, streamlining the areas that touches the daily survival needs of the people, eliminating corruption in these delivery systems; by positioning competent government officials with proven record in public service, professionalism and a reputation for being clean and non corrupt (regardless of the background and political affiliation of these officials). The delivery systems must treat all Iraqis equally regardless of political, ethnic, religious, rural, urban etc... background. The Iraqis will see the difference if the above is implemented quickly resulting in building confidence in the new regime and avoiding the perception that it is business as usual, just changing the players.

Second, eliminate the need for public sector employees to be corrupt in order to survive.

Third, Iraq will embark on major rebuilding effort whether to repair war damage or decades of deterioration in the infrastructure of the country. Controlling corruption in these public contracts is a major task ahead. This again is a major testing issue for the new regime, if Iraq is going to have a free press under a new democratic regime, then corruption stories will be major headlines, Iraqis love rumors, too many stories will adversely reflect on the regime.

- How to deal with the "Carpet Baggers"? Iraqis inside the country view Expatriates with great suspicion, they think that the expats had it easy living abroad while they endured the hardships and deprivation caused by the current regime, the wars, and the sanctions. Now the expats have positioned themselves and acquired the needed agencies, franchises, and business connections and are coming to take over the economy and get rich. Iraqis inside classify these expats into three categories.
- The rich, who mostly made their money in Iraq and left the country to live the good life in other countries. They made their money from commissions and other corrupt methods, from fronting and providing services and money laundering for the current regime, or exporting/importing and benefiting from the shortages and the conditions created by the sanctions. This group will return to Iraq with their capital and knowledge of the country to get richer, we cannot expect them to be moral or ethical in conducting business given the manner they acquired their wealth in the first place.
- The professionals, these are the expats who were able to survive in other countries because of their qualifications. This group might be the most hopeful and least corrupted.
- The rest of the expats, the poor who left to survive the poverty or to escape the repression.

Fourth, mount a well organized and thought out campaign of education for the public sector and in the media for the private sector, concentrate on ethics, morality and public responsibility, also that the government will prosecute corrupt officials and business.

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Fifth, Immediate visible reforms in the law enforcement and judicial systems to find and prosecute corrupt officials and businesses.

The Long Term

Democracy, transparency, and the rule of law are the means by which the Iraqi public and private sectors could be freed of corruption.

- The education system must teach children ethics, morality and public service in order to prepare a new generation free of the mentality of corruption.
- Modern laws must be enacted to deal with corruption and white collar crime
- Law enforcement must be trained and upgraded to be able discover and prosecute corruption
- Free press encouraged to expose corruption, corrupt officials and business practices

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Washington D.C.

March 18/19, 2003

How to Stop Corruption

Corruption, A Definition

Corruption is an act of awarding or rewarding an individual, a group of individuals, an institution, or any political, social, or ethnic groups an undeserved advantage, to gain financial, economic, social and political support. Such benefits or rewards are being awarded on the basis of personal or group favoritism without due process of law or paying attention to any set of required technical standards. As competition is eliminated, the choice of alternative proposal for selecting the appropriate solution will also be irrelevant.

Faces of Corruption

Corruption can be detected in many forms. It may actually start in the childhood years at home when parents bribe their kids to make them behave in one way or another. Schools deepen this line of corruption when they award grades based on family ties, social status, or political considerations. Therefore the road to corruption starts early in life that requires early recognition and behavioral treatment.

In their older age, the same people would offer bribes to get advantage over a competing person, company, for whatever action they wish to gain control of. They become insensitive and have no shame to engage in embezzling funds that do not belong to them. Often they will be sharing such funds with their superiors, thus insuring that no check or balance are put on their behavior.

Another form of corruption is through carrying out policy changes, be that in support to local entrepreneurs, or prohibiting imports to support certain lines of merchandise in favoritism to a particular organization, or country. In certain cases new regulations are enacted to fit specific situations to benefit specific individuals, organizations or ethnic groups.

Corruption in Iraq

Since the Baath Party has monopolized all the economic activities in Iraq, including small industrial projects, imports and exports, transport facilities, and the oil industry, the culture of corruption in Iraq has been well entrenched. Thus, the Baathist Party had the control of every aspect of the Iraqi life. Government jobs would be

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given to loyal party members, not on the basis of ability, but rather on the basis of party allegiance and family ties. Similarly, contracts, consultancies, and economical, social, or financial rewards, were awarded on the same principle of party allegiance, friendship or family or social ties. Even university students were given undeserved diplomas, were rushed through the university and given certificates qualifying them for this or that position. As this culture deepened, there was little justice in the procurement practices and many qualified people lost their jobs or were given unrewarding tasks, not in line with their training and know how.

Economic Policy to support Corruption

The Iraqi government also opted to enact policies to support corruption. An example lies in the support of items that could be locally supplied. The Government, in order to secure special commissions for the government staff, opted to import meat and poultry in million of dollars where the company put certain percentages of the agreed on commission in Swiss banks for the benefit of Baath Party members. Many other corruption practices have been ongoing in every aspect of social, economic and political life in Iraq.

How to stop Corruption

The first step to stop corruption is to start with identifying staff who would be appointed based on their **ability to perform**, knowledgeable in their profession, capable having required know-how, and fairness in dealing with the public. Above all, **transparency** of action would be the number one criteria to provide for a fair selection of such staff that would be based on a fair competition and analysis of various aspects of abilities and objective evaluations that would be defensible if challenged. Selection should be based on qualification rather than ethnicity, party hierarchy, family or tribal ties.

Similarly, in the awarding of contracts, the transparency factor should be most demanding. Contracts to be distributed to specific contractors should be prequalified and identified prior to contract distribution. Contract awards should be carried out in an open session, with the participation of all those who have submitted contract estimates for a certain project. Selection, when not based on the lowest conformed contract, to be fully justified, allowing no interpretation or favoritism.

Insuring Staff Financial Honesty

While appealing to the higher instinct of man in the integrity, morale, and human dignity, it is important also to put in place required regular supervisory mechanisms to insure compliance with the rules and regulations that should be followed for effecting disbursements.

An important factor would also be in the improvement of the financial status of the public service staff to detract them from feeling that they are entitled a share of the money assigned to a project because they are low paid. It would be very difficult for a staff member with a large family who has been assigned an important task of disbursing large sums of money to remain honest, while his salary scale is insufficient to shelter, feed, and clothe his own family.

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Regulatory Measures to Stop Corruption

One of the important means of checking corruption is putting in place adequate rules and regulations that lay down detailed procedures for procurement practices and setting punishment criteria when such rules and regulations are broken. To deter public servants from corruption, regular supervision must be performed and accounts regularly audited through outside auditors to insure compliance with the set rules. This requires that effective honest supervisors should be selected to all the public offices. In this process a training program should be initiated to make the supervision efforts effective and reliable.

It would take time to completely stamp out corruption, but we can minimize it to the lowest scale possible. As it is said, the fish goes bad from the head down, so let us hope that Iraq will select honest, uncorrupt leaders who will set an example of honesty in running government affairs, that is selecting people whom the lower staff will respect and look up to.

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إعادة بشأن الالتزام ببرامج مكافحة الفساد الإداري (١)

هناك ضرورة للتركيز على تحديد القوانين العراقية المسارية المتعلقة بمكافحة الفساد الإداري للموظفين العموميين والعاملين والممثلين للحكومة من خلال الالتزام ببرامج مكافحة الفساد الإداري.

كما أنه من المبادئ الأساسية لإعادة النظر في النظام الإداري للحكومة وأنه يجب أن تكون مبادئ الشفافية والبراغماتية هي المبادئ التي يجب أن يتبعها العاملون والممثلون للحكومة.

وتتبع اللجنة الخاصة بمكافحة الفساد الإداري وتحقيق الشفافية الإدارية البرنامج التالي:

١- إصدار لوائح وإجراءات الإدارة لمكافحة الفساد الإداري للموظفين العموميين مبنية على الأجرس التالية:

٢- نظام ملكية الموظفين (مادة رقم ٢)

المعاملات والتعامل مع الموظفين والعاملين

٣- تحديد الحكومة العراقية (مادة رقم ٣)

٤- إنشاء ~~لجنة~~ ^{مجلس} رقابية تسمى جهاز مكافحة الفساد الإداري

لتنفيذ برامج الالتزام بمكافحة الفساد الإداري طبقاً

للتعليمات الخاصة بأعمال لجنة مكافحة الفساد الإداري

(المادة رقم ٤) على أن يتم إعداد جهاز مكافحة الفساد

الإداري بالمصالحات العامة والسلطات التي تصدر بموجب

قانون العهد رقم الحكومة المرفقة (٢)

- ٣ - اتخاذ العناية اللازمة باختيار الأفراد لجهاز مكافحة الفساد الإداري على ما يكونوا من المدينين بتقوية المراقبة والإدارة.
- ٤ - إنشاء نظام للمحاذرة العامة ولتدريب الجمع الوظيفي للموظفين للحكومة وتعيين أعداد تدريبات لواجبة لأجهزة المراقبة والإعداد لدراسة تدريبية للمدربين وإيجاد برنامج لارتقاء العاملين المباشر.

٥ - إعداد إجراءات مستقلة للمراقبة والمراجعة المالية والمحاسبية والتقارير المتعلقة بها من ضمنها استخدام مدقق الحسابات كجزء من جهاز مكافحة الفساد الإداري وكذلك المراجعة والتدقيق والتفتيش بالكمبيوتر الخاصة.

٦ - تنفيذ توصيات جهاز مكافحة الفساد الإداري بشكل دائم من خلال التحقيقات التي تؤدي إلى حالة لدعوى إلحاقاً من التحقيق الذي تتمتع بالصلاحيات - إسقاط أو اتخاذ القرار بإحالة سجالة لدعوى إلى المحكمة المختصة لعدم وجود إحصاء للإقامة الدائمة.

٧ - تحسين نظام الالتزام بشكل دائم من خلال المراجعة العامة والمراقبة.

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CORRUPTION AS A CANCER OF THE SOCIETY

Vienna-Austria

Introduction:

The term corruption used in this paper deals only with those forms of corruption, where state organs are involved, like the corruption in the administration for example, which is wide spread in Kurdistan Region.

Corruption occurs in various different forms and by different means, that is why it is difficult to deliver a uniform definition for the crime of corruption. The American Senator Church called corruption correctly as the cancer of the society. It is also like a cancer, which grows in the body of the state itself, weakens and destroys its body, renders the state inefficient, and finally if not successfully cured, leads to the death of the body. The most dangerous forms of cancer are those which grow in the head of the body. So if in a society the head is corrupt, the end of this society will come very soon. It is sad to say that the cancer of the Kurdish society is of this kind. The head of the Kurdish society has corruption-cancer.

Definition of corruption: Corruption can be generally defined as misuse of public power for personal gain. It is a behaviour which deviates from the normal behaviour of fulfilling public duties for reasons of private interest. It is the betrayal of the duty. It is a betrayal of the state and of the whole society, which is expecting fairness and justice from the state. It is betrayal of the trust put in these officials. The reasons could be material or immaterial. Immaterial reasons are for example, when an official seeks to win more personal status and supporters by advantaging some persons on the expense of the society.

A corrupt official regards his public office as a business, the income of which he will seek to maximize. His office then becomes a maximizing unit according to the laws of the market. The size of his income depends on the market conditions and the services he offers and also his talents to find means to maximize his income illegally. Corruption does not mean necessarily breaking the law. In societies, where there are no laws in force against corruption, the law also not be broken. In these cases corruption is to be condemned as an unjust and immoral act. This is the case now for example in Kurdistan. There are no laws in force against the official corruption. The Iraqi laws which are partially in force in Kurdistan are hardly not to be seen as laws, because they lack the legitimization by the people. The Iraqi legislative bodies have not been empowered by the people, i.e. in free and democratic

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elections. Even if such laws existed, they are not being applied against the corrupt official in the Kurdish administration because these officials are beyond the law. So the widespread corruption in Kurdistan could be then defined as acts of betrayal of the society and of the will of the people. They are unjust acts and beyond any laws of morality.

Corruption further is a trans-national crime governed by international law, because it includes transfer of money raised by corruption and laundering of corruption money. There are estimates that up to 500 billion dollars of black money are being laundered every year world wide.

The most common practice of corruption is paying bribes to officials. Bribes are normally money or something of the like (lubricant) of the official to encourage him to commit or to prevent an act. But not all corrupt official take bribes. An official for example who illegally helps his loved ones (Children and etc.) to get posts or profitable businesses is not taking bribes for this, but he is to be considered a corrupt official. However a distinction must be made between gifts and bribes. Bribes are mostly paid in a specific case, for example to win a tender, but gifts are made generally to win the favour of an official as precautionary measure for the case his assistance may be needed in the future. It is an investment in the future.

Corruption in the History:

Corruption as a general phenomenon is possibly as old as the human race itself. Corruption, like the prostitution was and is one phenomena of the daily life of all societies during the history and the present.

In Mesopotamia (now Iraq) laws were issued to fight corruption. One of the laws of Hammurabi (1792-1750 B.C) known as Hammurabi code says: A man who tries to bribe a witness or a judge is to be severely punished. Bribes in the history were apparently not only in the form of money. Cicero, a lawyer in the Roman Empire wrote 2000 years ago that women were used to bribe the judges of the Roman Empire.

Bribes were also widely used to buy foreign military commanders to encourage them to surrender their territories to the enemy. Alexander of Macedonia said once: "I could conquer any city I could get a gold-laden donkey into". Corruption in the history has cost also the life of the one of three world prophets. Jesus, the Prophet of Christians was betrayed by one of his followers to his enemies for only thirty silver coins. Also the French Revolution and many of its leaders became the victims of corruption. Voltaire, one of the fathers of the French Revolution, became very corrupt and turned himself into a business man. He owned for example a factory to produce lady socks. As Robespierre tried to end the corruption, he

became himself the victim of intrigues hatched by his corrupt comrades and was eliminated by them. The French revolution has finally collapsed as a whole under the heavy burden of corruption. Also the Kurds have many Votaries, who have also a weakness for socket-and shoe fasteners.

Also democracies have their own problems with corruption. The most common practice in the history of corruption in democracies was to buy votes of electors or to buy a seat in the parliament. There were laws in the Roman Empire, two thousand years ago punishing buying the votes. It was very common to give voters money or presents by rich candidates in return for voting for them.

Also the English Parliament the mother of all modern parliaments was not free from corrupt practice. So a seat in the English parliament cost in the 16th century 5,000 Pounds.

Other clever politicians in the history used bribes in the interests of their nations. So for example bribes played a big role in the unification of Germany in 1871. Bismarck who unified Germany, established a special fund to bribe the opponents of the unification of Germany. Ludwig the II, the then King of Bavaria received a large sum of money in return for his abdication in favour of King Wilhelm the 1st, who became the King of all Germany. Bismarck bribed systematically every one, who opposed the unification of Germany.

Although using bribes for political purposes is not always very successful, especially when the bribed person is more clever than the briber. This was the case with Lenin. During the First World War Germany tried to destabilize Czarist Russia by financing Lenin. Lenin accepted German money for tactical reasons, since he needed the money to finance his revolution. More than 20 million German Mark were paid to Lenin before and after the Revolution. As soon as Lenin strengthened his position in the new Soviet Union, he began to finance the German communists against the German State and to build a strong Soviet army. The same Soviet army which was partially financed by the Germans occupied Berlin in 1945. Also now in our days corruption is a daily phenomena in almost all societies. In some societies it is very limited while in others wide spread. Also some very known democratic countries are known for their endemic corruption. Japan and Italy are only two examples. A study on corruption in Japan shows that nine out of fifteen prime ministers, who ruled the country between 1955-1993 were involved in corruption.

Corruption has also no ideology. Politicians of various colours cooperate in the domain of corruption. In one case politicians of the Socialist Party, the Communist Party and of the Chinese-Democratic Party were involved together in a corruption scandal in the Italian province of Savona.

It must be also mentioned that in some democratic countries corruption is officially allowed to bribe foreign politicians in order to boost the export business. Companies of many European countries may deduct the bribes they paid to foreign officials from the taxes they pay to the state. This practice is now being prohibited by law in some countries but still widely practised. States do not directly bribe foreign officials, but let their secret services to do the dirty job for them. They study the psychology of every foreign official they deal with in order to find out his weaknesses. Money and sex are the most common means to bribe foreign officials. Corruption is especially widespread in some International Organizations, where many foreign diplomats work. Because the most states are in a secret war of information against each other and the diplomats are the best source of information on their countries. Also here women are widely used to bribe foreign diplomats and politicians. Women seem any how to be a very efficient means to bribe high ranking foreign politicians. Bokassa, the former dictator of Central Africa, who was overthrown in 1979 confessed that he had used one of his beautiful wives to bribe the then French president Giscard d'Estaing, when ever he visited Central Africa. It could therefore be said that the corruption will never end in the world but it can only be reduced to a minimum possible.

Backgrounds of Corruption

Corrupt behaviour has a wide range of reasons. The reasons could be political, psychological, social, economical and etc. They differ from society to society, but there are some backgrounds which are common to most societies:

1. Social and psychological reasons: Egoism is one of the weaknesses of the most human beings. They see their interests above the interests of the society as whole. They become slaves of their own nature and they find very difficult to resist the temptations offered to them, especially to resist the magic force of money. While some other human beings try to be distinct from every body by deviant behaviour and since corruption is not a normal behaviour so they become corrupt to distinguish themselves from others. Such people do not rest even in their graves, as we see how some graves are decorated to distinguish them from the others in the graveyard. Others become corrupt out of their arrogance to show that they are powerful and can break the law unchallenged in order to appear much more powerful by the people. We in Kurdistan have many of these ridiculous figures.
2. Economic reasons: Most cases of corruption are being committed for personal material gain. For them the office is an easy mean to become rich instead of

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working hard for long years and carry the risk of failing in the business. As mentioned above his office becomes his private business. This is especially the case in societies where the administrative officials are underpaid. These officials are almost forced to accept bribes in order to secure their own survival. The reason for corruption by some low ranking officials in Kurdistan is mostly going back to this reason. Most officials are so underpaid that they can not survive for one week with this money. The Philosopher Schopenhauer says it is very difficult to be poor and honest. Corruption serves also as an insurance for the future, when the official becomes old or ill and the state is not able to grant him an appropriate income. Corruption for him is an investment in the future. Wealth and money are also a status symbol in all societies but in some societies the dignity of human beings is measured in money where poor people and their lives account nothing. So every body tries to get rich by all means in order to be accepted in the society, including corruption.

3. Political reasons: Political reasons mean to commit the crime of corruption for political gains and not for purely material gains. This is the case for example, when this crime is committed to gain political power, to remain in power and to increase the existing power. This kind of corruption is mostly committed by political parties or politicians. Political parties need big amounts of money to finance their activities, like party propaganda, the meeting party premises, paying party officials and employees, and some time to bribe supporters directly through money or other wise.

Political corruption in Kurdistan, committed mainly by the two political parties in power is also going back to these reasons. The two party controlled administrations must use part of the regional income to finance the above mentioned activities of their parties. They have also to make financial precautions so for the future if they wanted to continue in power. They are preparing now for the period of democratization, where they possibly can not any more use the income of the region for their private and political purposes. They have to save some white money for dark days.

There is also a connection between colonialism past and corruption. Regions, which were once under the foreign domination, the corruption there is mainly a direct impact of the colonial policy. Foreign occupation try always to destroy the dignity and the moral of the people they dominate, in order to break their resistance. Corruption is a decline of morality because it constitutes a kind of theft crime. That is why the occupation tries to spread the seeds of corruption wherever it is possible. Local officials and foreign agents who cooperate with the occupation are given an opportunity, in return for their treason to

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enrich themselves through corruption. This was for example the case under the occupation of the Baath regime, where Kurdish masters of broken personality where practicing and spreading corruption in the Kurdish society. Many of these corrupt officials where later incorporated in both Kurdish administrations because of their criminal knowledge and broken personality and to continue their old criminal practice this time in the interest of the two political parties.

All dictatorships are also corrupt regimes. In these regimes state officials are allowed to practice corruption in order to secure their loyalty to the regime and making them subject to blackmail at the same time if their loyalty weakens. The overboard official can be punished at any time by the dictator for alleged corruption.

Power leads always to corruption if not controlled, and in societies with no opposition or with a weak opposition the corruption can only flourish. In Kurdistan we have many political parties, but they do not play the role of an effective opposition. Partly because most of them are being paid directly by one of the two main parties or they are simply fearing repression, which cost lives of many who wanted to play the role of the opposition.

Corruption is also a chronic disease of regimes in Third World Countries. These regimes use bureaucracy as a mean to divert the attention of the people from the politics by making their lives as difficult as possible. But this bureaucracy means also waste of time and energy and since time is money people try to save time and money by paying bribes to bureaucrats, to avoid a bigger loss of money which could be caused by a delay.

Also without bureaucracy the political repression would lead to corruption, because the people are forced to buy their safety by paying bribes to corrupt security service members. The security services of repressive regimes have normally wide discretionary powers and act more or less arbitrarily beyond any law, if such laws even exist at all. The members of security services therefore try to make a business out of their powers by acquiring and creating any body whom they think they could blackmail and extract money from. This dirty method was widely used during the rule of the Baath regime in Kurdistan and was also practiced during the Brother war between the Kurdish factions. One of the reasons of the Brother war is going back to business- and profit making by some Kurdish war lords on both sides. Some of them grew to millionaires by confiscating and stealing the property of his fellow Kurdish brothers. These money properties are also one of the reasons why a final peace between the two factions can not be reached so easily. Imagine how much

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stolen and confiscated property has to be returned back to their rightful owners if the final peace was concluded.

The Main Characteristics of Corrupt Societies:

Corrupt societies have some distinct characteristics and they are easy to recognize on the basis of some general features common to these societies:

1. All tribal societies are corrupt: Tribalism firstly means that the power in the tribe is hereditary, i.e. the power of the tribal chief continues normally until his death so he is succeeded commonly by son or brother. And secondly, the tribal leader considers all properties of his tribal members and those under his influence as his own. More than that he also considers his followers as things, living things, which he owns or in best cases he sees them as his servants. In these cases the confiscation of property and misuse of power is not being considered by the tribal leader as corruption since he thinks to be the rightful owner. There are also under his servants those who are privileged and others underprivileged. Privileged servants are being given posts in the tribal administration where they can enrich themselves by practising corruption. Tribalism includes also tribally organized political parties, where the leader of the party remains as chief of the party until his death also so he is succeeded by the son or brother or another family member. The biggest problem of these tribally organized societies is that not only the ruler takes the right for himself to rule but also his close relatives who are some times very numerous. They produce nothing and take the society huge amounts of money and try to enrich themselves by reserving the right to do all profitable businesses for themselves. They dominate all sectors of the economy and use the means of blackmail and intimidation against common business people, so they act as worms in the body of the society.
2. Corrupt societies have backward economies: Backwardness does not mean necessarily here that the members of these societies are poor, but it rather means that the economy is rather ineffective and unproductive depending mainly on imports. Some backward tribally organized societies are also very rich. This is the case for example in some Oil-producing corrupt countries, which are almost entirely depending on imports of goods of daily life. If their Oil-exports stop for a longer period they may even face starvation, because they are producing almost nothing. Corruption also disables the economy, because investors lack of trust in the economy because of corruption and the

status of bourgeoisie. They invest their money rather in unproductive projects like houses for example.

3. Corrupt societies are politically unstable and dependent from outside powers. The reasons for political instability are mostly injustice and inequality caused by corruption and other political reasons. Injustice is caused by the inequality in the distribution of the wealth in the society and that some corrupt officials enrich themselves on the cost of the society, while others have to work very hard to make the ends meet. Inequality is caused by privileging some members of the society on the basis of their origin or affiliation with the ruling elite. These reasons all combined cause a division in the society and leads to the separation between the state and the people. The divided groups become rivals and this opens the door for foreign powers to intervene into the internal affairs of this society through one group or another, mostly by financing and supporting the leaders of groups. Most internal brother wars lead to foreign intervention, which are in reality proxy wars fought for the sake of other powers. This situation creates a class of corrupt politicians who then cooperate with any power which is pays them the required price. There is no visible border between corruption as a betrayal of duties and the betrayal of the nation. An official who betrays his office will also be ready to betray his nation. It depends only on the price.
4. Corruption is a form of neo-Colonialism in the Third World Countries: It is no secret that a hidden war is going on between rich and powerful nations on one side and the poor and weak nations on the other side. The rich and powerful nations are fighting for more power and wealth and poor and weak nations are trying to escape from the chains of poverty and foreign domination. The problem is here that the powerful nations do not intervene directly to exploit the weak nations and impose their will on them, but they use the corrupt local leaders to do the job for them. The real world of politics functions like any market. It is a permanent buying and selling. There are permanent buyers and permanent sellers. Permanent buyers are the rich and powerful nations. They pay some leaders of the poor and weak nations and get what they wanted from them. And some leaders of weak and poor nations are the permanent sellers, they get the required price and give what is required from them. They permanently sell the interests of their peoples to every body on the political market. It depends only on the price.

The prize is mostly not paid directly to these leaders of the Third World but indirectly. They are allowed to enrich themselves on the costs of their people by means of corruption and may transfer this money to foreign accounts with the help of some foreign agencies. These corrupt leaders act mostly very tragically when they are not any more needed by their nations. Mobutu of former Zaire who has embezzled billions of dollars of his people, died after his ouster in Morocco and his family had no money to bury him so the Moroccan government covered the costs for his burial. Mohammed Siad Barre, the former dictator of Somalia has fled to Nigeria after he was ousted and died there after he was severely beaten by some criminals who entered his home to rob him but found nothing. His grave is today not known, because he was buried in a graveyard for poor people. And Noriega the former dictator of Panama who worked for the CIA and sold drugs was arrested and put in a dark US-prison.

The fate of all those who betray their people will not be better than these dictators and they will never be sure where they are going to be buried after their death.

How to Fight Corruption

Corruption was defined above in this paper as the cancer of the society. But cancer could be also treated successfully, for example by removing the infected parts from the body, that means by removing corrupt elements from the administration for example and punishing them to warn the others.

The best ways and methods to fight corruption are those which have proved to be effective in other countries, which include the following:

1. **The rule of law:** Rule of law means mainly that every act of the government must have a legal basis and that there must be legal means to prevent and punish the infringements of law. As mentioned above uncontrolled power leads always to corruption. The best way to control the power is to distribute the power and build an effective system of checks and balances between the different branches of power. Separation of power in the executive, legislative and judiciary powers, where each one acts independently from other ones and at the same time control each other, is the absolute necessary basis to prevent the misuse of power. In Kurdistan we are still far away from the rule of law since we are forced to live under the rule of some few persons.
2. **Independent control of state finances:** All civilized societies have an independent body to control the finances of the state. This body could be directly elected by the people or set up by the democratically elected parliament. A control body created by the

governmental itself or by a ruling party can not be considered independent and therefore unreliable since nobody may become the judge of himself. The two finance controlling bodies existing now in Kurdistan are organs of the two ruling political parties and not to be taken so seriously and they are more or less a facade behind which the corruption of high ranking officials may go on.

3. Openness and accountability. All information concerning the state revenues and spending, income of politicians and their financial situation must be open to every body in the state. Concerning military spending in areas of defence or security a parliamentary commission may exercise the control. All sources of revenues of the state and how they are being spent and who has spent them must also be made public. Some financial matters are being normally regulated in a yearly budget which is issued in the form of a law by the parliament. In Kurdistan the financial issues of the both administrations are so far only kept secrets of them, where nobody has an idea which revenues do both administrations have and how they are being spent. No body has also an idea about the income of the high ranking politicians and how much do they and their relatives cost the society. Some of them have no income but they consider the whole revenues of the region as their own income, from which they donate a part to the people. The financial issues in both Kurdish administrations are more or less strictly private family issues.
4. Aggressive journalism and free press. There are other very effective means to control the state finances and fight corruption. The press has the duty to inform the people about every thing of public interest. Corruption and misuse of state finances are of public interest because they harm the society as a whole. As far as Kurdistan is concerned free press is still in the cradle and under heavy pressure, since it is facing the so called laws issued by Bush regime to curb off fundamental freedoms in Iraq and especially in Kurdistan. There are also laws against corruption issued by Bush regime but the both administrations do not apply these laws against corrupt officials.
5. Improving the awareness for justice by the people. As much as the people become conscious about their rights and how injustice harms the dignity of human beings they will never rest till they get all their rights. It is only a matter of time, when the people will back their natural and legitimate rights.

Finally I may appeal on fellow Kurds and say that all those who wanted to live in peace with their peoples must deeply respect the rights of others before it is becoming to late.

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Our former neighbour the Shah of Iran was not very clever I hope others are clever than him.

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Comments on Anti-Corruption Strategies

Most of the information that I've reviewed so far breaks down anti-corruption strategies into three major categories: prevention; enforcement; and, institution building. I've attached some information to this email that I hope you find helpful for discussions on Friday.

In terms of implementing the anti-corruption strategies, the World Bank information that I have reviewed notes that the institutional design of the state is critical to checking corruption. Of particular importance is the effective development of institutional restraints within the state (separation of powers and redundant oversight responsibilities). Effective constraints by state institutions on each other can diminish opportunities for the abuse of power and penalize abuses if they occur.

Do we envision creating a new Iraqi bureaucracy or working with the vestiges of the current Iraqi bureaucracy? I think that the answer to this question is important in determining how best to proceed.

My initial research shows that strategies to fight corruption should include the following (taken from the nobribes.org web site):

- mechanisms supporting accountability and transparency in the democratic process, such as the parliamentary and election processes;
- building a creative partnership between government and civil society organizations;
- administrative reform and countering conflict of interest in the public service;
- administrative law, as a common element in any system of probity, and the accountability of decision-makers;
- appropriate mechanisms which provide public officials with channels for reporting acts of alleged corruption and also ensure independent monitoring of procedures and systems;
- independence of the judiciary and ensuring that legal procedures and remedies provide an effective deterrence to corruption;
- an open, genuinely competitive and transparent system of public procurement;
- private sector self-regulation and the role of legal deterrence against corrupt practice;
- an alert press, free to discharge its role as public watchdog and increase public awareness of rights and responsibilities; and,
- independent anti-corruption agencies and cooperation with other countries to assist in combating international corruption.

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Prevention Strategies

STRATEGY	HOW TO DO IT
Simplify government programs and procedures	Eliminate bureaucratic gatekeepers, reduce the number of approvals required, minimize bureaucratic discretion, deregulate, establish simple rules, publicize rules
Improve departmental efficiency	Regularly review departmental procedures, investigate complaints
Demystify government	Publicize citizen rights, publish procedures.
Depersonalize government	Reduce face-to-face contact between citizens and officials
Increase accountability	Develop supervisory checks on staff, initiate unscheduled performance evaluations
Disclose finances and gifts	Monitor the assets and incomes of officials, require the disclosure of all gifts and donations
Speed the privatization process	Remove government from business activities
Improve ethical standards	Develop a code of ethics for government officials
Change incentives	Pay a livable wage, reward good behavior

Adapted from the "USAID Handbook for Fighting Corruption" (October 1998)

Enforcement Strategies

STRATEGY	HOW TO DO IT
Depoliticize law enforcement	Establish independent mechanisms that perform professionally in a transparent fashion and enforce the rule of law
Provide adequate powers of investigation and prosecution	Provide access to all government documents, require financial disclosure for public officials
Protect "whistle blowers"	Establish procedures to protect those who register complaints against the government, establish witness protection programmes, establish telephone hot lines
Punish guilty officials who have fled	Consider civil penalties and blacklisting
Make senior officials more accessible to prosecution	Make the invoking of immunity more public

Adapted from the "USAID Handbook for Fighting Corruption" (October 1998).

Institutional Building Strategies

STRATEGY	HOW TO DO IT
Institute the role of Auditor-General	Ensure professional and independent oversight of government operations by developing new positions
Institute an Ombudsman office to serve as an independent agent to investigate complaints	Use the existing Law on Authorized Representatives for Human Rights to establish a local Ombudsman office
Institute specialized Anti-Corruption Agency	Establish specialized Anti-Corruption Agency which would be engaged in developing and promoting Anti-Corruption Strategies and Action Plans
Institute public-private partnerships against corruption	Establish sustainable cooperation and coordination among major stakeholder groups (government, private sector, and civil society) to jointly address corruption issues
Institute modern financial management systems	Use financial management software, train personnel in accounting procedures
Institute competitive procurements	Develop procedures for competitive bidding
Open the budgetary process	Hold open forums, encourage citizen participation to develop local budgets
Promote judicial reform	Make the judiciary independent of the executive branch; develop effective procedures to discipline corrupt judges; revise procedures to appoint, assign and remove judges; establish codes of conduct

﴿ الفساد الإداري ﴾

عند الكتابة عن الفساد الإداري لا بد من تعريفه الذي اتفق عليه الباحثون والذي ينص على أنه عبارة عن عدم الحفاظ المقصود على أسس المجتمع المدني وانتهاك حرمة القوانين والأنظمة السائدة بقصد الحصول على منافع شخصية أو منافع الآخرين، من هذا التعريف يتبين لنا أن الإدارة في أي مكان من العالم قد يصيبها هذا الداء وليس محصوراً على بلد دون آخر، إلا أن درجة تقدم الإجراءات والانتهاكات تختلف من مكان لآخر حسب تقدم الحضارة والإدارة وتأخرها. ونحن للبحث عن الفساد الإداري في العراق لابد من التطرق إلى الظروف التي عاشتها و يعيشها المجتمع بكافة فئاته في ظل الحكم الديكتاتوري المسلط على رعايه.

وفي رأينا يعود استشراف ظاهرة الفساد الإداري في العراق إلى العوامل التالية:

١- احتكار السلطة من قبل طائفة معينة داخل العراق تسيطر على جميع المرافق العامة في الدولة بجميع مجالاته التجارية والصناعية والزراعية وشيوع المحسوبية والمنسوبية في اشغال الوظائف الحساسة التي تتولى السيطرة على المفاصل الرئيسية لغرض جمع الفوائد بصورة علنية لحسابهم وجعل الناس الآخرين متفرجين على الصلوات المختلفة بصورة جعل من الإدارة العامة أداة لخدمة هؤلاء المتطفلين. هذه الحالة مستشرية بين المستويات الإدارية العليا.

٢- هناك حالة أخرى وهي الظروف الاقتصادية الصعبة التي يعيشها الموظفون في المستويات الدنيا نتيجة ما كت فيه للوضع في العراق و آثار التضخم النقدي و هبوط قيمة الدينار العراقي و عدم كفاية ما يستلمه الموظف الحكومي شهرياً لشراء حاجة واحدة من الحاجات اليومية المتعددة لحياة أسرته مما يضطره إلى انتهاك القوانين والأنظمة والتعدي على المال العام أو طلب الرشوة من المراجعين وهذه أيضاً ظاهرة مستشرية مع الأسف في العراق حالياً.

٣- كثرة القوانين والقرارات الصادرة من مجلس ما يسمى بقيادة الثورة لريث التصرفات الإدارية و المالية للأجهزة الإدارية حيث أنها مليئة بالثغرات التي ينفذ منها ضعاف النفوس لتجاوز انتهاك قنسية الوظيفة العامة ومع هذا فإن التعقيد

والإفراط في فرض الأنظمة وعدم إمكانية التكهن بتأثيرات الأنظمة القانونية في كثير من البلدان النامية والتي تمر في مرحلة انتقالية حيث تفتقر الحكومات الى المحاسبة والشفافية لمور تشكل فرصاً لاستسراء الفساد.

٤- انتشار ظاهرة التهرب الضريبي بشكل يقلل من إيرادات الدولة مقابل مبالغ من الرشوة تدفع للموظفين.

وهناك برأينا بعض النشاطات الرئيسية التي يجب أن تمارسها الإدارة المستقبلية للعراق وتمثل في:

١- إصلاح السياسة الاقتصادية واعتماد أسلوب الاقتصاد الحر في إدارة البلاد يساهم في أحداث للتنمية الاقتصادية .

٢- محاولة إصلاح الوضع الاقتصادي للموظفين الحكوميين بما يضمن توفير الحد الأدنى من الحياة لحرية الكريمة لهم.

٣- إصلاحات تتعلق بالشفافية بما فيها خطوات لجعل العمليات الإدارية التي تؤثر على التجارة والاستثمار يسيروا ويمكن التكهن بها.

٤- إصلاحات في القطاع العام/الخدمة المدنية لتقليص حجم البيروقراطيات في اقتصاديات كانت فيما مضى تحت سيطرة الدولة والحد من تأثيرها في الأسواق . و هذا يتضمن قيام جهاز خدمة مدنية متمرس ونظام يركز على المؤملات.

٥- إصلاح القطاع المالي الرسمي بتفعيل ديوان الرقابة المالية وتسليمها بمهارات التدقيق والمحاسبة.

٦- إصلاح قضائي لانتشار أنظمة محاكم مستقلة لديها سلطة لتقليد أحكامها وهذا يشمل تطوير هيئات قضائية مستقلة تعمل بمقتضى مبادئ أخلاقية وقواعد سلوكية و تشكيل هيئات قضائية كرادع ضد المتجاوزين.

٧- تفعيل دور رقابة الأعلام والرقابة الشعبية وانتخاب مجالس مدنية كمرحلة أولى وجعلها رقيباً على السلطة التنفيذية لحين إجراء انتخابات حرة ديموقراطية للمجلس الوطني.

٨- تقوية المجتمع المدني عن طريق التعليم العام وبرامج للتوعية المدنية لتحسين مراقبة الجمهور ومشاركته في الحكومة.

٩- إصلاح أجهزة الضابطة العدلية لاستئصال الفساد الداخلي وزيادة احترام كرامة الإنسان.

١٠- الإصلاح الأخلاقي بوضع قواعد مسلكية لمسؤولي الحكومة وقواعد التصريح عن الوضع المالي قبل تسلم هؤلاء مهام مناصبهم واختيار الشخص المناسب للمكان المناسب في اختيار الوظائف العامة والمستويات الإدارية العليا والابتعاد عن المحسوبية والمنسوبية.

١١- زيادة الوعي بتكاليف الفساد وعن طريق إجراء دراسات تتناول ما يعتبره الناس فساداً و رعاية ورش عمل عن النزاهة وتدعيم المنظمات غير الحكومية التي تعمل لمعارضة الفساد و تشجيع جهود القطاع الخاص لمنع الفساد.

١٢- تشجيع الحكم الصالح لتحسين الشفافية والاشراف لدى الحكومات من خلال نشاطات معينة مثل نظم الإدارة المالية المتكامل ، والتدريب و توفير التقنية لمؤسسات المحاسبة، ووكالات مكافحة الفساد.

١٣- تخفيف سيطرة الحكومة على الاقتصاد حيث تمارس الحكومة سيطرة لها شأنها على الاقتصاد ومن خلال المشاريع التي تملكها الدولة ، والتراخيص و التصاريحات التي تفرضها و دعم بعض السلع ، والقيود المفروضة على أسعار العملات والمشتريات العامة وتوفير الخدمات الحكومية . حيث تؤدي مثل تلك السيطرة إلى توفير الفرص لإساءة استخدام وتعطيل النمو الاقتصادي.

وأخيراً فالفساد مشكلة عالمية و جميع الدول ليست محصنة من ممارسات الفساد، وتقع عليها كلها مسؤولية أن تكون جزءاً من الحل . ولكن يبدو أن الفساد يتسبب بأضرار أكبر للدول النامية والاقتصاديات الانتقالية لأنها لا تستطيع أن تعمل العواقب . كما يمنع الفساد و كثيراً من الدول من التحدي لتحديات التنمية الأكثر خطورة ، ولا يشجع الاستثمار الأجنبي والمحلي ، ويضعف الثقة في المؤسسات العامة، ويزيد من تفاقم مشاكل الميزانية بجرمان الحكومات من تحصيل و جباية إيرادات لها شأنها وفي الوقت ذاته يسبب في زيادة المصاريف غير المستهدفة.

ويتخذ الفساد وما يتصل به من أفكار ال الشفافية شكلاً عديدة من الفساد الكبير (الطلبات المباشرة) للحصول على دفعات مالية كبيرة كشرط للحصول على صفقة

تجارية الى الفساد الصغير على شكل دفعات مالية صغيرة يطلبها عادة مسئولون صغيرون في الكمارك. كذلك يشمل اعمال احتيال و تزوير في المشتريات الحكومية و غسل الاموال.

ومن الواضح ان الفساد يلحق ضرراً بالتنمية الاقتصادية والإصلاح ويعيق نمو المؤسسات الديمقراطية والفساد يعيق قدرة البلدان النامية على اجتذاب استثمارات اجنبية ذاترة و يبطل وجهة استثمار الرساميل.

ومن في العراق على ابواب التغيير لابد لنا من العمل على الأخذ بنظر الاعتبار تجارب الشعوب والدول في مجال مكافحة الفساد بكافة اشكاله لا سيما في عراق مهشم الاقتصاد مهدم البنى التحتية يعاني شعبه من الفقر وحالة الاجتماعية والاقتصادية مزرية و بحاجة الى تضافر كل الجهود الضخمة لاصلاح ما دمره الطغاة،والعمل على ازدهار العراق من جديد ليحتل مكانته الحقيقية في المنطقة و يصبح عراقاً نموذجياً ديمقراطياً تعددياً فدرالياً كما ينشده شعبه.

مقتضيات خاروقاً جوداً

أو اعادة النظر بالروايت وقوانينه لخدمته والتقاءه لخدمته والصلوة
 وديم سياسة نقدية تنافسية وانضام لبلد وحصل الروايت
 تنافسية والمتنوع لجميع السكان وتشجيع كونه لبلد
 على انشاء مؤسسات وجميعها ايمانها خاصة بهم
 لحياتهم المتكيفة والتعاونية والادارات لخدمته بحره.

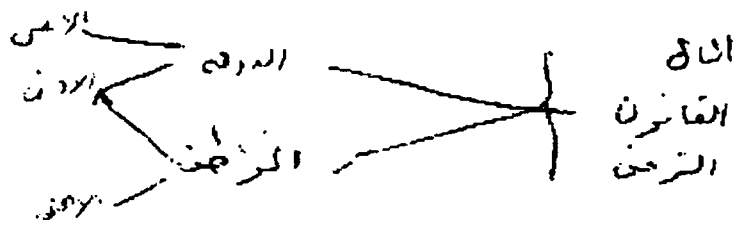
ع العاد البديهي في كل صورها والحاجز لبلد لوجوده بين
 المواضع والوقت مع توفيقه أن راجع لبلد لبلد
 الوقت هو خدمته المواضع مع تشكيل لبلد لبلد
 في كل راحة لبلد لبلد المواضع مع توفيقه
 مع القيام بخدمته توفيقه وتشجيعه لبلد لبلد
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شعبه اولی



اولاً: تحديد مصادر القانون

ثانياً: اسباب لغو القانون

١. مصادر الحكم (منه حق الزيادة والزيادة)
٢. التكرار
٣. تدني المستوى المعاشي
٤. تدني مستوى الوعي القانوني
٥. تدني مستوى الشعور بالمسؤولية
٦. العلاقات العائليه والاجتماعية التي تسبب الفوضى والفساد

التي هي من
العمل الحرة

ثالثاً: من مصادير القانون

١. الدستور
٢. المراسيم
٣. القوانين
٤. اللوائح (التي هي من القانون)
٥. السوابق القضائية
٦. العرف
٧. مذهب الفقهاء

رابعاً: كيف يتغير القانون

١. التغيير التشريعي
٢. المراسيم
٣. القوانين
٤. اللوائح
٥. السوابق القضائية
٦. العرف
٧. مذهب الفقهاء

١٠. مبادئ العمل المعاصرة
١١. الديمقراطية والشفافية

مبادئ العمل المعاصرة

الرسالة	- المبادئ
	- المبادئ
	- مبادئ تنظيمية
	- المبادئ والقيم ودوريات العمل
	- مبادئ العمل المعاصرة

1. Standards and procedures values.
2. high level leadership
3. Effective ways to communicate and convey the values
4. Monitoring of values.

لستناداً إلى أحكام الفقرة () من المادة () من الدستور المؤقت قرر المجلس
الرئاسي بجلسته المنعقدة بتاريخ / / ٢٠٠٢ إصدار القانون الآتي :-

رقم () لسنة

قانون إسترداد الأموال العامة

المادة الأولى : يلتزم كل شخص أو شركة أو مؤسسة عهدت اليهم ، الأصول المتمثلة
بالأموال العائدة للدولة أو حزب البعث العربي الاشتراكي أو أي جهة
من جهات الأمن العام أو الخاص أو للمخابرات العرفية أو أي جهة لها
ارتباط بالدولة أو رئاسة الجمهورية أو حزب البعث العربي الاشتراكي ،
أو أي جهة أمنية وسواء أكانت تلك الأموال مادية أو معنوية ، منقولة أو
ثابتة ، والمستندات أو الصكوك التي تثبت نملك تلك الأصول أو أي حق
متعلق بها بالإضافة للحسابات المصرفية والمبالغ والأموال المودعة فيها
سواء أكان دخل الدولة أو خارجها ، بإعادتها إلى الدولة خلال ثلاثة أشهر
من تاريخ صدور هذا القانون .

المادة الثانية: يعاقب بالسجن لمدة لا تزيد على خمسة عشرة سنة كل شخص أسنولى أو
أخفى مالا أو متاعا أو ورقة مثبتة لحق للأموال الموصوفة بالمادة (١)
أعلاه أو غير ذلك مما وجد بحيازته أو بحيازة الشركة أو المؤسسة التي له
حصة أو نمية في رأسمالها أو بحيازة للشركات أو المؤسسات التي
أستخدمها النظام السابق لهذا الغرض وأمتنعوا عن إعادتها إلى الدولة
خلال المدة المحددة قانوناً .

وتكون العقوبة بالسجن المؤبد إذا كان الشخص الذي أسنولى على تلك
الأموال موظفاً أو مكلفاً بخدمة عامة.

المادة الثالثة: يحكم على الجاني ، بالإضافة للعقوبات المقررة للجرائم الواردة بهذا
القانون ، برد الأموال التي أسنولى عليها وبغرامة مساوية لقيمة الأموال
موضوع الجريمة أو المتحصل منها.

المادة الرابعة: يعفى من العقوبات الواردة بهذا القانون أو أي قانون عقابي آخر وتمنح له نسبة ١٠% من الأموال كل شخص قام بإعادة تلك الأموال إلى الدولة خلال المدة المقررة قانوناً في المادة الأولى من هذا القانون.

المادة الخامسة: تمنح نسبة ١٠% من الأموال موضوع الجريمة إلى كل شخص قام بالاختبار أو إرشاد السلطات العامة إلى الشخص أو الشركة أو المؤسسة التي استولت أو أخفت مالا أو متاعاً أو ورقة مثبته لحق للأموال الموصوفة بالمادة (١) أعلاه أو غير ذلك مما وجد بجناية ذلك الشخص أو الشركة أو المؤسسة التي أمتعت عن إعادتها إلى الدولة خلال المدة المحددة قانوناً.

المادة السادسة : ١- يشكل وزير المالية لجنة برئاسة محافظ البنك المركزي تسمى ((اللجنة الوطنية لاسترداد الأموال العامة)) تتكون من ممثل أو أكثر من وزارات التالية :-

- وزارة المالية
- وزارة الداخلية
- وزارة العدل
- وزارة الصناعة
- وزارة النفط
- وزارة الاقتصاد
- وزارة التجارة

٢- ويجوز للجنة الوطنية لاسترداد الأموال العامة أن تقوم بتشكيل لجان فرعية في الوزارات أو المؤسسات أو الدوائر الخاصة غير المرتبطة بأية وزارة للقيام بحصر الأموال والحقوق العامة المشار إليها في المادة (١) من هذا القانون .

المادة السابعة : تختص اللجنة الوطنية لاسترداد الأموال العامة بما يأتي :-

(١) اقتراح الأنظمة واللوائح والإجراءات الخاصة باسترداد الأموال العامة.

(٢) تسهيل تبادل المعلومات والتنسيق بين الجهات الممثلة فيها وبماقي الوزارات والمؤسسات والدوائر في الدولة.

(٣) تمثيل الدولة في المحافل الدولية وكافة الدول التي تحوز على الأموال والحسابات المصرفية لتلك الأموال واتخاذ الإجراءات اللازمة بإعادتها الى الدولة مع تفويضها بإقامة الدعاوى والخصومة في المنازعات القضائية وكذلك تفويضها بتعيين المحامين أو المحكمين والاعتراض على تعيينهم وطلب عزلهم وتحديد أجورهم والمصالحة وإجراء المقاصة والمخالفات وشطب الدعوى وإسقاطها ومتابعة الدعوى الى آخر مراحلها أمام جميع المحاكم على اختلاف درجاتها ومباشرة كافة طرف الطعن أو الاعتراض أو التظلم في الأحكام والقرارات والأوامر وأستلام قبض وصرف الشيكات وإيداعها في البنك المركزي العراقي وحسب التعليمات التي يصدرها وزير المالية بهذا الخصوص.

المادة الثامنة: تودع الأموال التي يتم استردادها بخزينة الدولة ويصدر وزير المالية لللائحة التنفيذية لأسلوب وطريقة إيداع تلك الأموال بالخزينة العامة للدولة.

للمادة التاسعة: لا تسري مدد التقادم المنصوص عليها في القانون المدني أو قانون العقوبات أو أي من القوانين الأخرى على الجرائم والأموال والحقوق المتعلقة بها الواردة في هذا القانون.

الأسباب الموجبة

لقد دأب النظام السابق على تبديد الأموال العامة وإيداعها بحسابات أفراد وشركات خاصة بغية تسيير الأعمال غير الشرعية التي يسعى إلى تحقيقها تلبية لرغبات أركان نظامه غير مبالي بمصير تلك الأموال طالما أن الأشخاص المودعة لديهم الأموال ينفذون الأوامر والتعليمات الصادرة إليهم من النظام.

ولما كانت تلك الأموال العامة جزء لا يتجزأ من ثروة البلاد ويتعين اتخاذ كافة الوسائل والاتصالات الدولية اللازمة والضرورية لاستردادها ، لذلك فقد شرع هذا القانون لتجريم الأفعال والتصرفات للأشخاص الحائزين لأموال الدولة والممتنعين عن إعادتها خلال المدة المقررة قانوناً مع منحهم العفو والمكافأة الواردة في القانون عند التزامهم بإعادة تلك الأموال خلال المدة المقررة قانوناً وعدم سريان مدد التقادم المنصوص عليها في القانون المدني أو قانون العقوبات أو أي من القوانين الأخرى على الجرائم والأموال والحقوق المتعلقة بها المنصوص عليها في هذا القانون.

إعلان بشأن الالتزام ببرامج مكافحة الفساد الإداري (١)

هناك ضرورة للتركيز على تحديد القوانين العراقية السارية المتعلقة بمكافحة الفساد الإداري للموظفين العموميين والعاملين والمثليين للحكومة من خلال الالتزام ببرامج مكافحة إفساد إداري.

كما أنه من المبادئ الأساسية لإعادة النظر في أهداف العراق للحكومة ما أنه يتطلب تعزيز مبادئ الشفافية والمشاركة في الموظفين العموميين والعاملين والمثليين للحكومة.

وتتبع اللجنة الخاصة بمكافحة إفساد إداري وتحقيق شفافية إدارية البرنامج التالي:

١- إهدار الجهد واتخاذ الإجراءات لمكافحة إفساد إداري للموظفين العموميين مبنياً على الأوصاف التالية:

٢- نظام ملكية الموظفين (محقق رقم ٢)

التعاقد والتعامل مع الموظفين والعاملين

٣- المثليين للحكومة العراقية (محقق رقم ٣)

٤- إنشاء ~~مجلس~~ ^{لجنة} رقابية تسمى جهاز مكافحة إفساد إداري لتنفيذ برامج الالتزام بمكافحة إفساد إداري طبقاً

للتعليمات الخاصة بأعمال لجنة مكافحة إفساد إداري

(المحقق المعلق رقم ٤) على أن يتبع جهاز مكافحة إفساد

الإداري بالاصلاحات الإدارية والسلطات التي تصدر بموجب

قانون مصدر الحكومة المرفقة (٢)

- ٣- اتخاذ العناية اللازمة باتخاذ الإجراءات لمحاربة الفساد الإداري على ما يكونوا من المدينين بتفحص بالإنزاحة والإمانة.
- ٤- إنشاء نظام للعلاقات العامة ولتدريب جميع الموظفين العموميين للحكومة وتبني هذا العدد تدريبات اوجافة لأحرم المرفقة.
- وإعداد دورات تدريبية للمدربين وإيجاد برنامج لاتصال المباشر.

٥- إعداد إجراءات مستقلة للمراقبة والمراجعة المالية والمحاسبية والتقارير المتعلقة بها من ضمنها استخدام مدقق حسابات كجزء من جهاز مكافحة الفساد الإداري وكذلك المراجعة والمتابعة لنظر بالكماليات الخاصة.

٦- تنفيذ توصيات جهاز مكافحة الفساد الإداري بشكل دائم من خلال التحقيق التي تؤدي إلى حالة الدعوة للقاضي التحقيق الذي يتمتع بالصلاحيات - إسلطان الاتحاد القرار بأمانة سجلات الدعوة إلى المحكمة المختصة لعدم وجود إحاطة للإقامة الدعوة.

٧- تحسين نظام الالتزام بشكل دائم من خلال المراجعة العامة والمراقبة.

CORRUPTION IN
IRAQ
SICKNESSES & TREATMENT

Part 1

SICKNESS:

As known very well, since 30 years Iraq invaded by a group under the presidency of Saddam Hussein surrounded with the family gangs.

The absorbers of Iraq consists generally from the below shown beneficiary and fear circles :

The center or nucleus of circle can be shown as Saddam himself, the first circle is his sons Oday and Kosay (they are his guards at the same time),

The second circle is Saddams direct friends and old militants (Taha Yaseen Ramadhan , Izzet Al Doury , Tarik Aziz ...etc),

The third circle is Saddams direct relatives and their families,

The fourth circle is the high officers and ministers .

The fifth circle can be considered as the Baas Party participants and the relatives and neighbors of the circles shown above .

The sixth and last circle is the other Iraqi's in general .

All these circles bonded to the center by a tie of fear and benefit , but we can say the factor of fear is more than any other bond is valid (according to the mass executions which takes place from time to time in the country) .

All the circles above are feeling themselves not guaranteed and that they do not have a long time to move quietly, this is why all are playing very fast and openly to gain and earn as much as they can within a very short time and then to escape out of the country , the reasons of the fear is the following:

- 1- The factor of Saddam Hussein him self who can change his opinion about the person any time which means falling out of favor or death.
- 2- The possibility of rebellion of people any time (specially last days) which means the falling down of all circles with Saddam himself.

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This is why all kinds of corruption are going on in Iraq very fast and naked and supported with many laws and enforced clearly.

Of course the corruption here is not only in money wise we can say that the injustice of developing cities is a kind of corruption (as example the city of Talaafar which have a population of more than 500.000 ,undeveloped since 1920 (approximately), because it's a Turkmen city near Mosul)

Also the unnecessary civil and military purchases are considered as a real corruption (ex. Iraq had paid 470 million \$ the last 2 years to purchase construction steel from an Egyptian company known by us).

From the above mentioned it can be said the sickness is as following:

- 1- Saddam and his group's confiscation on the sources of Iraq.
- 2- The 2 wars within 20 years.
- 3- The terror climate all time in Iraq.
- 4- The inflation and devaluation which happened because of the wrong policy of Saddam and the sanctions.
- 5- The migration of more than 4 million person (the elite and experienced and skilled) out of the country .
- 6- The movement (by,force) of tripe's and families from their lands (the movement of Arabs from south to the Turkmen and Kurd lands and cities.
- 7- The mass shortage of young generation because of wars (more than 1.250.000 death in wars within 20 years)
- 8- The lack of confidence of people toward the government.
- 9- The poverty of the people.

Part 2

TREATMENT:

- 1- Definition of corruption : (*will be written later*)
- 2- Treatment :

According to the definition above we find that corruption is not only the money wise in a narrow part of life, but it starts from the family and extends to whole life activities, this is why the start of treatment should be from ethics in the family and the spirit of Iraqi person in general. The media in general then laws will play a big role of healing here . Media can be divided to many branches, (*will be written later*)

Laws:

we believe that there are a lot of laws and rules in Iraq many are very dissuasive and tough and many new rules enforced specially at Saddam's period to serve him and his people. Instead of looking for new laws and rules its better to revise the existing ones and modify according to the new shiny period of Iraq and Iraqi people , and according to need , new articles can be added to or remove from the existing one .

Auditing Authorities:

Also I advice you to see our paper submitted to the committee (15th.Feb.2003) regarding the forming a new Auditing and follow up administration which has to be higher the ministries and forced with clean inspectors .

An other administration should be formed for all kinds of governmental purchases and tenders of all ministries and administrations, which has to be under the auditing of the above said higher committee.

All the said committees and administration should work openly, clear and with a full transparency, acknowledging people with periodic reports.

عراق الغد وسبل اصلاح المؤسسات

لاشك ان النكبة التي اصابته الشعب العراقي منذ استيلاء نظام البعث على السلطة في العراق ونجاحه في تدمير وتشويه كل المؤسسات والمرافق الحكومية وغير الحكومية وتفشي الفساد والرشوة وتشويهه للشخصية العراقية سيجعل العراق يعاني منه لفترات طويلة ما لم يتدارك الموضوع بايجاد عناصر الحكم الجيد ليأخذ على عاتقه اصلاح ما أفسده النظام. ففي ظل القهر والعبودية ونظام صدام حسين اتعلمت القيم وضاعت مقاييس الشرف واستفحل الفساد وتم تدمير واعمار ثرواته الهائلة وتدمير اقتصاده ومؤسساته مما آل بالبلاد والشعب العراقي الى حالة كارثية من التقهقر لايمكن أن يقوم به الا نظام مشبع بروح الحق والاحرام فبات المواطن العراقي الرازح تحت نير النظام يعيش ذليلاً ومحرماً من ابسط مقومات الحياة، يعيش على اقل من دولار واحد باليوم وهو مستوى للمعيشة بلغته اوروبا الغربية والولايات المتحدة قبل 200 سنة هذا وأن النظام الحالي لم يكتف بالفساد وتشويه كل ما يمت للعراق بصلة بل تجاوزها لافساد وشراء ذمم وضمائر الكثير من المنظمات والهيئات والدوائر والشخصيات السياسية الاجنبية في العالم وكل ذلك على حساب دعاء ودموع وبؤس العراقيين.. لكل هذا نرى أن معالجة مسألة الفساد الذي شمل كل المؤسسات الحيوية من قضائية وتعليمية وتنفيذية بالغة الاهمية تستوجب دراسة علمية مستفيضة يستفاد فيها من ذوي الخبرة والاختصاص وهذا مالا ندعيه وما نفترضه هو (تحصيل حاصل) كما يقال ونرى أن هنالك مسائل آنية ومستعجلة سابقة لزوال النظام كما ان هناك مسائل اخرى تستوجب الاهتمام الجاد بعد

سقوط النظام وعلى سبيل المثال لا الحصر ولغرض المحافظة على ثروات البلد
 ٢- الخارص حزب ليعتد بوضع اليد على مستطقات ودرجودات ذامر
 نقترح: الملاحظ اننا لم نحاسب جميع ممتلكات الدولة على حساب الشعب المصري
 ب- التحقيق والاستفسار عن مصير الاموال والمبالغ الموجودة والمحوزة في
 البنوك الاجنبية تحت مسميات وشركات وهمية وتحت اسماء عائلة النظام
 والمقرين منهم والتي تقدر بمليارات الدولارات والتي كانت تستقطع
 كمحولات ونسب معينة من العقود النفطية والنسب كانت تتراوح بين 2
 -10% إن الضرورة تقتضي رصد هذه المبالغ ومن ثم اعادتها الى خزينة
 الدولة مع الفوائد.

ج- ضرورة البحث والتعقيب ورصد الثروات والاموال التي هربت أو حولت
 سابقاً ولا زالت قرب حالياً وتحول مصرفياً احياناً وتقدر اقيامها بعشرات
 الملايين من الدولارات والتي تتم عن طريق القطاع المصرفي الحكومي
 والخاص على السواء وعن طريق شركات وهمية معظمهم من المتنفذين في
 الدولة والحزب الحاكم والعمل على رصد مثل هذه المبالغ واستردادها
 بعدئذ.

د- العمل على رصد تهريب الآثار والتحف النادرة والتي لا تقدر بثمن ومعرفة
 اماكن تواجدها والمتورطين بها لغرض اجراء مايلزم مستقبلاً.

هـ- العمل الجاد والحيلولة دون تهريب النفط سيما عن طريق المناطق الحدودية
 الخارجة عن سيطرة النظام ووضع مراقبين نزيهين من موظفي الامم المتحدة
 وبالتسيق مع الادارة الكردية مع الاحتفاظ بالمبالغ وقيام النفط المحتجز
 ووضعه في حساب خاص امانة لتسلم بعدئذ الى خزينة الدولة.

و- الاعلان عن تقديم هبات مالية ومكافآت مجزية لمن يدلي بمعلومات دالة
 على مثل هذه الاختراقات مع بيان أن ما يقومون به واجب اخلاقي ووطني
 يعود على شعبهم بالنفع العام.

اما المرحلة التي تلي زوال وسقوط النظام ولغرض العمل الخبيث لاصلاح
للمؤسسات والحد من ظاهرة تفشي الرشوة والفساد نقترح على سبيل المثال ما
يلي:

- 1- اعادة النظر بالرواتب وقوانين الخدمة والتقاعد المدنية والعسكرية
ورسم سياسة نقدية تناسب واقتصاد البلد وجعل الرواتب تناسب
والمستوى المعيشي للسكان وتشجيع هذا القطاع على انشاء مؤسسات
وجمعيات ايجابية خاصة بهم كالجمعيات التعاونية ومراكز التسليف
والاتحادات المهنية الحرة. *واختصاصهم بمجنيان بمخضرة لخدمة بهر*
- 2- تشديد العقوبة فيما يخص الفساد الاداري والرشوة ومحاسبة الراشي
والمرتشي والوسيط ومحاسبة الموظفين اللذين استغلوا وظائفهم وبنوا
ثرواتهم بشكل غير مشروع.
- 3- تطهير الاجهزة من العناصر السيئة والمرتشية واحالة للترشيين
والمفسدين منهم على التقاعد. *مع احتجاز الرشوة وسداد ربحها للمزور والمفسد*
- 4- القيام بمحملات توعية وتسخير وسائل الاعلام وبيان مدى خطورة
ومضار مساوئ الرشوة. *مع احتجاز عناصر كثيرة ونزله من اسبحة محكم والمثل*
- 5- إلغاء البيروقراطية بكل صورها والحاجز النفسي للوجود بين المواطنين
والموظفين مع بيان أن واجب الموظف هو تقديم خدمات جيدة
للمواطنين مع تشكيل لجان تزيهة ومختصة في كل دائرة لسماع
شكاوى المواطنين ومحاسبة الموظف المتقاعس.
- 6- فتح دورات جديدة لتطعيم القطاع الوظيفي بعناصر كفوة وجيدة
تنفهم وتؤمن بمبادئ عراق ما بعد صدام.

وإذا أريد لعملية التغيير أو التطور أن تتم وتستمر وحب أن لا يغيب عن بالنا مسألتين مهمتين أولهما مبدأ الفصل بين السلطات الثلاث إذ أن العراق بحاجة الى سلطة قضائية مستقلة استقلالاً تاماً عن السلطات الأخرى وأن تمتاز هذه السلطة بالنزاهة والكفاءة. والمسألة الثانية هي الفدرالية وهي نقل جزء من سلطات الحكومة المركزية السياسية والاقتصادية الى الحكومات والمجتمعات المحلية حتى تقوم هذه المجتمعات بإدارة الشؤون التي تخصها مباشرة إذ أن الموظفين المحليين يمكن أن يكونوا عرضة للمراقبة والحساب والنقد من قبل المجتمعات التي هي في خدمتها أكثر من الحكومة المركزية...

إن كل ذلك لن يتم إلا بوجود عناصر الحكم الجيد إذا أريد للعراق الجديد أن يأخذ دوره اللائق بين الشعوب والأمم للتحضرة بعد أن عانى مآعانه لأكثر من ثلاثة عقود على يد نظام ظلامي متعسف وأن تشكل مؤقتاً حكومة تكنوقراط من العناصر التي يشهد لها بالخبرة الجيدة والاستقامة والنزاهة بنقض النظر عن الدين أو القومية أو الجنس أو الطائفة والاستفادة كذلك من الخبرات الأجنبية ول يعمل الجميع بكل تضحية ونكران الذات من أجل عراق أفضل يكون الشعب العراقي فيه قطب الرحى وليساهم بعلها إبناء العراق مع الآخرين في بناء عالم حضاري لكل بني البشر.

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**IRAQI
GOVERNMENT ANTI-CORRUPTION AND ETHICS PROGRAM
VIDEO SCRIPT**

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IRAQI

GOVERNMENT ANTI-CORRUPTION AND ETHICS PROGRAM

VIDEO SCRIPT

SPEAKER

CONTENT

Spokesperson:

Introduction to the Government Anti-Corruption and Ethics Program

Abu Abdullah/ Abu Salim

Scenario 1
Use of Iraqi Government Property, Destruction of Property and Theft

Farah/Mouna

Scenario 2
Conflict of interest, Gifts and Entertainment, and Supplier, Vendor and Contractor Relationships

Najeeb/Jamil

Scenario 3
Confidential Information, Conflict of Interest, Gifts and Entertainment, and Supplier, Vendor and Contractor Relationships and Misuse of Officials Position

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Spokesperson- INTRODUCTION TO GOVERNMENT ANTI-CORRUPTION AND ETHICS PROGRAM

Honesty, integrity and fairness are the fundamental values for the people of Iraq. As an indivisible sovereign entity, Iraq is made up of a diverse population who has held these values even prior to its establishment in 1932. In fact, these values of honesty, integrity and fairness date back to ancient Mesopotamia and the Code of Hammurabi. We gave these values to the world now we must reclaim them as our birth right.

The people of Iraq and our public officials strive to live in an ethical environment. "Public officials" include any official, officer, employee and, in general, any person paid or unpaid to whom a public service is assigned. The people of Iraq and their public officials are guided by the following principles:

- 1) Treat all people equally regardless of sex, age, race, language, social origin or religion with honesty, integrity and fairness;
- 2) Conduct all government affairs with honesty and trust;
- 3) Respect each person's legitimate and inalienable human rights;
- 4) Abide by all applicable laws, rules and regulations;
- 5) Ensure a safe and healthy living and working environment; and
- 6) Provide an effective and honest judicial system.

While our country has undergone tremendous and difficult changes over the last 35 years, most recently a regime change, this is a time to refresh and refocus our commitment to the highest ethical standards. Living up to this commitment requires more than promises from senior public officials. Each one of us bears a responsibility to instill integrity in our position as public officials. We must deal truthfully and fairly with each other and the public and adhere to a strong code of ethics in all our dealings. When we observe behavior in the workplace that is contrary to this commitment, we must take appropriate action. The future of Iraq depends on it.

This is an exciting time to be part of the government of Iraq and this is a time when Iraq needs people to stand up for ethics and integrity. Each one of us can serve that purpose. That is why we have developed the Government Anti-Corruption and Ethics Program. It will enable each public official, employee and representative to understand how a commitment to ethics depends on each individual's behavior.

What is "ethics"?

Simply, "ethics" means doing the "right thing." It is based on the values of honesty, integrity and fairness as well as upholding all applicable laws, rules and regulations.

Why do we need a government ethics program?

Good government and democracy depends on an ethics program so that all public officials and representatives are on notice of what is expected of them. As a diverse society, we may hold

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different values of what is ethical and legal conduct for public officials. This Government Anti-Corruption and Ethics Program is a way for all of us to harmonize our views. Working together we can fight corruption, intolerance and unfair behavior.

What will our Government Anti-Corruption and Ethics Program be comprised of?

- A Code of Ethics which you have received;
- A confidential Integrity Hotline which is explained in the brochure you have received; and
- Training Programs.

The Anti-Corruption and Ethics Task Force will oversee the Government Anti-Corruption and Ethics Program.

So, what will be expected of us?

To do the "Right Thing" and to conduct the Iraqi government legally and ethically.

To help illustrate the kinds of conduct we're talking about, we're going to show you three scenarios. After each scenario, I will point out the issues of concern.

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SCENARIO 1

Abu Abdullah: Abu Salim, look at all the old audio tapes for recorders. They're probably not going to use them anymore since we use CDs now.

Abu Salim: Yeah, you're right, Abu Abdullah. We'll have to give them away or throw them out.

Abu Abdullah: Do you think anyone will miss a few tapes? Our Government office is just going to send them to the garbage disposal area.

Abu Salim: I suppose.

Abu Abdullah: I think I'll take a few home and donate it to the elementary school so they can keep a recording of the children's plays. They always need tapes.

Abu Salim: What?

Abu Abdullah: Yes, they're always trying to record the children for parents who are working or for the younger children to hear. I would like to do my civic duty!

Abu Salim: Wait a second! Maybe I can take a few for my son. He likes to record music.

Spokesperson: This scenario relates to the Use of Government Property and Destruction of Property and Theft Sections of the Code of Ethics. Abu Abdullah's intent wasn't unethical, but he certainly wasn't authorized to take the tapes even though he planned to donate it, he still used it for his personal use. This results in the misuse and theft of the Government property. Abu Salim also joined in and rationalized stealing the tapes.

SCENARIO 2

Farah: You know Mouna, I sure could use a vacation.

Mouna: Yeah, I know what you mean, Farah. My boss doesn't lose an opportunity. Usually, he has me book his trips with Iraqi Travel Hosts instead of the government travel agency.

Farah: So how does he get more vacations?

Mouna: Farah, it's really simple you see. The trips booked with Iraqi Travel Hosts are all much more expensive by a few hundred thousand dinars, but every couple of months my boss gets a free trip to Basra or Mosul. Not bad, huh!

Farah: That does not seem fair! I think I'll change to Iraqi Travel Hosts.

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Spokesperson:

This scenario relates to Conflicts of Interest, Gifts and Entertainment and Supplier, Vendor and Contractor Relationships Sections of the Code of Ethic. In addition to violating the Government's Travel Policy, Mouna's boss has a personal interest in using Iraqi Travel Hosts rather than the Government's agency. This is a conflict of interest. He's getting free trips, thus taking improper gifts. He's also using his vendor relationship in a discriminatory way for his personal benefit and to the detriment of the Government. Farah has also rationalized in this activity: "If Mouna's boss can do it, so can I." Both Farah and Mouna would have an obligation under the Code of Ethics to report this financially related activity. Because it is an awkward situation, they may wish to call the Integrity Hotline.

SCENARIO 3

Najeeb: Everything is so top secret at work, Jamil, I just can't take it. Our own department is in the dark.

Jamil: About what Najeeb?

Najeeb: Maybe I shouldn't tell you. You don't really need to know to do your job.

Jamil: Know what?

Najeeb: Well, you know how Baghdad International Airport needs to be rebuilt!

Jamil: Yea-so!

Najeeb: There's going to be an open bidding process in two months and I just found out that it will specify the need for special night lighting. Maybe we can find local contactors who can fill the order if they work together. This would stimulate local business. I help determine the winning bid.

Jamil: Yes. In fact, my cousin is a lighting contractor and he's excellent. He could organize a few local friends in the business to help him put together a local consortium with a good bid.

Najeeb: Good thing I told you. It will take time to organize the local contractors in this city and I need a good bid to approve as soon as possible.

Jamil: I am sure my cousin will be very grateful and offer us a generous gift for your help on winning the bid.

Najeeb: I never thought of that! I could never take a gift, let alone a generous gift.

Jamil: But you must! My cousin would be offended! This is such wonderful information and we can help so many local lighting contractors.

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Najeeb: Well, if he really insists on a gift, I would not offend him. You know I can't keep a secret and it's a good thing. Everyone will benefit. Maybe even you and me

Spokesperson: This scenario relates to Confidential Information, Conflicts of Interest, Gifts and Entertainment, and Supplier, Vendor and Contractor Relationships Sections of the Code of Ethics. Najeeb has improperly shared confidential information with Jamil who does not have a "need to know" to do his job. Jamil has decided to improperly disclose this confidential information to his cousin, and to get the government to use his cousin as a lighting supplier in violation of the Conflicts of Interest and Supplier Sections of the Code of Ethics. Jamil has also violated the Gifts and Entertainment Section using his influence to derive a gift from a supplier by sharing the profits from awarding the lighting contract. Further, Jamil has also violated the Gifts and Entertainment Section if he solicits or removes a gift from his cousin.

As you can see, there's a lot to be familiar within the Code of Ethics.

Please carefully read the Code of Ethics and sign or e-mail the certification attached.

In order to assure continued compliance each year, we must certify that we have complied with the Code.

We are all fortunate to be part of the government, which now strives for values of honesty, integrity and fairness.

We all have the responsibility to perpetuate these values and this program will provide us with the tools to do so.

If you have any questions in the future, please contact your supervisor or department head in the first instance. If this is not possible, contact the Anti-Corruption and Ethics Taskforce. If you wish to anonymously report or cannot determine who to contact, please call or write to the Integrity Hotline at _____. (Show Integrity Hotline number and address on the billboard)

This hotline should be used if all other avenues of inquiry have been unable to accommodate your needs.

Thank you for your help in furthering this important initiative. Ethics and values should be important to all of us as public officials. So please read and think about the Code of Ethics. Make it part of your fundamental values. The best way to improve and strengthen the future of Iraq is through your good example as a public servant who demonstrates honesty, integrity and fairness

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THIRD PARTY RELATIONSHIPS

a. Conflicts of Interest

All public officials occupy a position of trust with the Government and, as a result, have a duty of loyalty to the Government both during and after the assignment or employment relationship. Public officials are required to avoid any relationship or activity that might create or give the appearance of a conflict between their personal interests and the interests of the Government.

Public officials must disclose any relationship that appears to create a conflict of interest to their supervisors or department head. In addition, a public official or employee must seek prior approval from his or her supervisor or department head before accepting an invitation to serve as a director or trustee of any other business or non-profit organization. If such services existed at the time of hire, the public official or employee must promptly disclose the existence of such service and seek approval to continue providing such service before doing so.

Here are examples of potential conflicts of interest that may require disclosure:

- Taking bribes and gifts (a violation of Penal Code Sec. 307)
- Holding a second job that interferes with Government employment.
- Ownership by public officials or members of their family of a material financial interest, known to the public official, in a firm which is a vendor to the Government.
- Using confidential information in any manner that violates the Government's confidentiality policy.

b. Gifts and Entertainment

Public officials or their families shall not use their position with the Government to solicit any cash, gifts or free services from any Government vendor or contractor for personal benefit. Gifts or entertainment from others should not be accepted since they could improperly influence the Government's business relationship with or create an obligation to a vendor or contractor. The following are guidelines regarding gifts and entertainment:

- Never take bribes or gifts (under Section 307 of the Penal Code).
- Reasonable invitations to Government related meetings, conventions, conferences or product training seminars may be accepted.
- Invitations to social, cultural or sporting events may only be accepted if job related.

c. Supplier, Vendor and Contractor Relationship

The Government selects its suppliers, vendors and contractors in a non-discriminatory manner and based on the quality, price, service, delivery and supply of goods and services. A decision to hire a supplier, vendor or contractor must never be based on personal interests or interests of family members or friends but must be in the best interests of the Government.

d. Misuse of Official Position

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Public officials should not offer or give any advantage in anyway connected with his or her position as a public official unless lawfully authorized to do so. Public officials should not seek to influence, for private purposes, any person or body, including other public officials, by using his or her official position or by offering them personal advantages.

INFORMATION AND RECORDS

a. Confidential Information

Public officials may be exposed to certain information that is considered confidential by the Government, such as personal data and contractor bidding and awarding information. Public officials and employees shall not disclose confidential information to persons outside the Government, including family members, and should share it only with other public officials who have a "need to know."

Confidential information includes, but is not limited to

- Proposed or advanced strategic development;
- Projected revenues, proposed expenditures, important management or organizational changes, or information about government contracting and any other information related to the foregoing;
- Computer software and systems developed by, for or unique to the Government; and
- Personal or financial information pertaining to any public officials of the Government.

Public officials are responsible and accountable for safeguarding Government documents and information to which they have direct or indirect access as a result of their employment with the Government, and should not leave confidential or proprietary documents or other such material in the office or elsewhere in a manner so as to invite unwanted disclosure.

b. Financial Reporting and Records

Each supervisor and department head is responsible and accountable for maintaining an adequate system of internal controls over all areas of his or her responsibility. These controls should provide reasonable assurance that (1) (A) all transactions have been properly recorded, (B) each such transaction has been made in accordance with management authorization and applicable laws and regulations, and (C) Government assets are adequately safeguarded; and (2), as a consequence, the financial records and other reports are accurately and fairly stated. Each public official within his or her area of responsibility is expected to adhere to these established controls and the following prohibitions:

- No public official may intentionally make false or misleading entries in the Government's books and records for any reason. Any violation is grounds for immediate termination where applicable, as well as civil and criminal liability.

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- No public official may intentionally conceal Government information from authorized Government or independent auditors. Public officials are required to disclose, on a timely basis, information required to evaluate the fairness of the Government's financial presentation, the soundness of its financial condition and the propriety of its operation.
- No public official may make a payment or transfer Government funds or assets that is not authorized, properly recorded and clearly accounted for on the Government's books. No public official may make or approve a payment or transfer Government funds or assets with the intention or understanding that any part of such payment or transfer is to be used except as specified in the supporting transactional documents.
- No public official shall deliberately attempt to circumvent any Government processes or controls.

GOVERNMENT ASSETS

a. Use of Property

The use of Government property for individual profit or any unlawful, unauthorized personal or unethical purpose is prohibited by law. Government information, technology, intellectual property, buildings, land, equipment, machines, software and cash must be used for business purposes only. Further, travel and entertainment expenses must be reasonable and substantiated by receipts.

b. Destruction of Property and Theft

Public officials shall not intentionally damage or destroy the property of the Government or the property of others or engage in theft.

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**The Iraqi Government
Anti-Corruption and Ethics
Program Guidelines**

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I. Objectives of the Government Anti-Corruption and Ethics Program

The objectives of the Government Anti-Corruption and Ethics Program (the "Program") are to ensure that the Government implements and maintains compliance policies and procedures to ensure that all public officials conducting activity on behalf of the Government comply with all applicable laws and regulations and with the Code of Ethics (the "Code"). "Public officials" include any official, officer, employee, and in general, any person paid or unpaid to whom a public service is assigned.

The Anti-Corruption and Ethics Program Guidelines ("Guidelines") set forth the structure, roles and responsibilities and are intended to ensure that effective compliance systems are in place and functioning. For example, today the Government may have compliance training and performs compliance audits in many functional areas. These and other similar processes are not expected to change in connection with implementing the Program. The Government's existing compliance procedures and managerial structure should be considered the frontline defense in preventing, detecting and correcting anti-corruption and ethics issues. The Anti-Corruption and Ethics Task Force ("Task Force") and the Integrity Hotline should be used only if issues are not being resolved through normal channels

II. Government Anti-Corruption and Ethics Program Guidelines

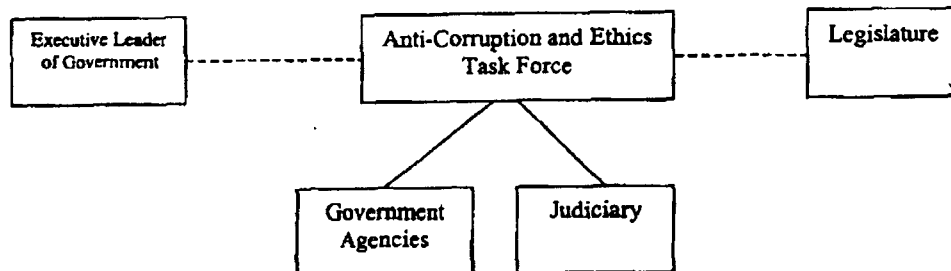
To achieve the objectives of the Program, these Guidelines have been developed to define the structure and process for implementing and administering the Program. These Guidelines are intended to provide continued guidance to public officials.

The Task Force will administer the Program.

These Guidelines are being distributed to all supervisors and department heads who will assist the Task Force in implementing and administering the Program.

If you have questions regarding these Guidelines or the Program, contact the Task Force.

III. Anti-Corruption and Ethics Organization Structure



IV. Program Administration

Purpose

This section of the Guidelines defines the compliance responsibilities for the Program's administration among various groups and individuals within the Government.

Executive Leader of the Government

The Executive Leader of the Government has the following anti-corruption and ethics responsibilities:

- Abide by the Code
- Demonstrate a strong commitment to the Program;
- Program oversight regarding the overall Program effectiveness;
- Review of status of the Program, corrective actions and improvement plans with the Director of the Anti-Corruption Task Force; and
- Report to the Iraqi people as appropriate.

Director of the Task Force

The Director of the Task Force has the following compliance related responsibilities:

Oversight

- Abide by the Code
- Administrate and manage the Program;
- Ensure that appropriate action is taken as provided by the Task Force;
- Keep the Executive Leader of Government informed about the Program;
- Keep the Legislature informed about the Program;
- Work with the Task Force and Government agencies to ensure appropriate training programs are being implemented;
- Oversee the implementation of the ethics training programs;
- Identify current and ongoing potential anti-corruption and ethics issues;

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- Ensure the Task Force is appropriately aware of anti-corruption and ethics issues, initiatives and corrective actions, so that they may appropriately fulfill their compliance responsibilities;
- Monitor Government statutory and regulatory developments and updates for anti-corruption and ethics related issues; and
- Ensure appropriate deployment of the Task Force to support the Program.

Program Improvements

- Oversee continual improvement of the Program through functional feedback, best practice reviews and training; and
- Coordinate revisions to the Program.

Operations

- Communicate compliance messages (through such media as presentation, videotapes, person-to-person meetings, written materials);
- Oversee compliance monitoring efforts;
- Consult with department heads on disciplinary actions related to anti-corruption and ethics issues;
- Implement mechanisms to facilitate compliance reporting by public officials through the Integrity Hotline;
- Follow up on identified anti-corruption and ethics issues; and
- Document identification of anti-corruption and ethics issues and any immediate or long-term action to address those issues.

The Anti-Corruption and Ethics Task Force ("Task Force")

The roll of the Task Force is to support the Director of the Task Force in the performance of his or her compliance responsibilities. The Task Force will be staffed as necessary and appropriate.

Supervisors and Department Heads

Supervisors and Department Heads have the following anti-corruption and ethics related responsibilities:

- Abide by the Code.
- Support compliance initiatives by the Director of the Task Force and the Task Force;
- Work with the Director of the Task Force, the Task Force, Supervisors and Department Heads to provide guidance to public officials on anti-corruption and ethics related matters to ensure that all public officials fulfill their responsibilities;
- Coordinate with Task Force and Personnel Department to identify appropriate disciplinary/corrective actions; and
- Support the Program by complying with appropriate laws and regulations affecting their responsibilities; ask questions and seek the help of others, if uncertain; report potential instances of non-compliance with the Code through established mechanisms and attend Code of Ethics training sessions.

V. Principles of the Code and Program and Standard Operating Procedures

Principle

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The Code and Program have been established to ensure and promote an ethical environment for the Government and its public officials. This section provides references to standards and procedures that assist public officials in making the right decisions.

Standard Operating Procedures

The values and compliance standards of the Government are embodied in the Code. The Code is the cornerstone of the Program, and sets forth standards of conduct to which public officials will be held.

The Code will be updated periodically to ensure continued compliance with applicable requirements and standards, and the Director of the Task Force will be responsible for ensuring that this is accomplished.

More specific information and guidance can be found in the various sources of policies and procedures that are retained by the Supervisors and Department Heads.

VI. Communication and Training

Principle

The Code and the Program will be communicated to all public officials. Effective communication and training facilitates public officials' understanding of their anti-corruption and ethics responsibilities and the importance of complying with laws, regulations and the Code.

The goal of the communication and training process is to provide a continuing communication channel for anti-corruption and ethics matters; to deliver anti-corruption and ethics messages to public officials; to train and educate public officials of their anti-corruption and ethics responsibilities and to support the Code and the Program.

Communications and training to introduce public officials to the Program will include presentations, videotapes, person to person meetings and written materials.

Standard Operating Procedures

Public officials will receive communications on developments affecting the Code and the Program from the Task Force. The Department Heads will provide guidance to the functional supervisors who will in turn provide guidance to the public officials.

The Task Force, if possible, will coordinate, in a working group, with the Personnel Department, if available at various agencies to develop a comprehensive training and communication plan regarding the Code and the Program. Personnel Department, if available at various agencies will keep the Director of the Task Force informed as to the anti-corruption and ethics training and communications efforts for coordination and efficiency purposes.

All existing and new public officials will receive the Code and training on the Program. The Personnel Department, if available at various agencies will keep attendance logs to document training. The Personnel Department, if available at various agencies will also ensure that all public officials sign annual certifications that they have complied with the Code and provide the original certification to the Task Force to retain.

Meetings

Meetings are an effective forum for training and conveying information and are useful for reinforcing compliance messages. Supervisors and Department Heads are encouraged to add anti-corruption and ethics topics to appropriate meeting agendas. The Task Force and the Personnel Departments will be available to conduct presentations and training for various meetings.

VII. Employment Practices

Principle

The Government is committed to electing, appointing, assigning and hiring public officials consistent with the elements of an effective anti-corruption and ethics program. Appropriate levels of background checks are performed for all new public officials based on the position.

Standard Operating Procedures

Background Checks

Background checks will be performed for new public officials with substantial discretionary authority to make decisions. Appropriate due diligence may be performed as a prerequisite for promotion of existing public officials to positions with substantial discretionary authority, which may include background checks. The Government performs background checks in accordance with applicable law.

Background checks may include 1) employment verification; 2) education verification; and 3) reference checks.

VIII. Monitoring and Auditing

Principle

The purpose of monitoring is to ensure detection and deterrence of misconduct and promote corrective actions to foster continual improvement of the Program.

Standard Operating Procedures

The Task Force is an independent function established by the Government to plan and execute a broad and comprehensive program of audits. The Task Force will perform appropriate audits as required to review government practices for compliance with policies and procedures. The Director of the Task Force will provide input to the Task Force on compliance areas that need to be audited, and will coordinate the use of external resources as necessary.

The Director of the Task Force will ensure the appropriate monitoring processes are in place.

IX. Obligation to Report

Principle

The Government public officials acting in good faith are required to report actual or potential violations of law and regulations of the Code.

There shall be no reprisals for any good faith report. The Government promotes open communication to resolve public officials concerns about anti-corruption and ethics issues and provides several reporting channels to Supervisors and Department Heads.

Standard Operating Procedures

Means of Communication

Public officials should communicate anti-corruption and ethics questions or concerns to their Supervisors or Department Heads.

Each of the aforementioned parties has a responsibility to communicate with the Director of the Task Force as necessary.

Integrity Hotline

The Government has also established the Integrity Hotline for use by all public officials 24 hours a day. The Integrity Hotline does not replace existing means of communication mechanisms (e.g. reporting to Supervisors or Department heads). The Integrity Hotline should be used if a public official believes that anti-corruption and ethics issues are not being solved through existing channels.

Trained communication specialists answer calls to the Integrity Hotline. After reviewing the information given by the caller, the specialist may assign a control number to use as identification during follow-up. A written report will be forwarded to the Director of the Task Force. The Director of the Task Force will be responsible for referring the matter to the appropriate function for investigation. Confidentiality will only be preserved where it will not interfere with the best interests of the Government. All reports of actual or potential non-compliance with the Code received will be documented. The Integrity Hotline may also be contacted by mail.

Analysis of Reports

The Task Force assesses Program effectiveness by monitoring the nature of reports received through various reporting channels for anti-corruption and ethics matters. The Director of the Task Force will monitor the frequency and nature of inquiries and respond appropriately through revised anti-corruption and ethics policies, increased training or increased anti-corruption and ethics auditing activity.

What to Report

Actual or potential violations of the law, regulations of the Code that public officials believe are not being handled properly should be reported immediately, including but not limited to:

- Discrimination
- Harassment
- Workplace violence
- Substance abuse
- Favoritism
- Destruction of property and theft
- Conflicts of Interest
- Gifts and entertainment
- Environmental
- Confidentiality
- Personal use of Government Property
- Bribes and kickbacks

X. Investigations**Principle**

The Government is committed to responding appropriately to anti-corruption and ethics issues that may constitute violations of law, regulations of the Code. To determine if a violation has occurred requires a process, which involves significant judgment and should be based on the facts and circumstances.

Standard Operating Procedures

Actual or potential violations of law, regulations or the Code reported to Supervisors or Department Heads in the ordinary course of business will be investigated through established procedures under the direction of the appropriate function.

The Director of the Task Force will investigate or cause to be investigated by the appropriate function reports of actual or potential violations received by the Task Force regarding public officials, upon request.

The Director of the Task Force who will be a judge invested with the legal right to open an investigation or his or her designee will coordinate and supervise the investigation. The Director of the Task Force will maintain a record with all supporting documentation. The record will be maintained in a secured file with limited access and a record of all files removed will also be maintained.

The Director of the Task Force will determine how the investigation should be conducted and whether the completed investigation should be referred for prosecution to the judiciary.

XI. Corrective Actions and Responses to Violations

Principle

The Program is designed to ensure that appropriate corrective action including referrals for prosecution to the judiciary, is taken whenever an investigation results in a determination that a violation has occurred.

Standard Operating Procedures

Corrective action resulting from investigations will be implemented under the direction of the appropriate government function including the judiciary if referred.

When an investigation is conducted or caused to be conducted by the Director of the Task Force in consultation with other functions as appropriate corrective action should be taken to ensure that the violation or problem does not reoccur (or at a minimum reduce the likelihood that it will reoccur) and be based on an analysis of the root cause of the problem. In addition, the corrective action will include, whenever possible, a review of the effectiveness of the corrective action following its implementation. If such a review established that a corrective action plan has not been effective, then additional or new corrective actions will be designed and implemented.

Corrective actions may include, but are not limited to, the following; (1) informing and discussing with the offending public official, both the violation and how it should be avoided in the future; (2) providing remedial training (formal or informal) to ensure that the appropriate public official understand the applicable rules and regulations; (3) conducting a follow up review to ensure that the problem is not recurring; (4) conducting repeated cycles of remedial education and focused audits; and/or (5) disciplining the offending public official, if necessary and as appropriate, including the referral of the investigation to the Judiciary.

In addition, if it appears that a larger, systematic problem may exist, then possible modification or improvement of the Government's anti-corruption and ethics practices will be considered. Such action might include, for instance, creating new procedures, or modifying existing procedures, so as to ensure that similar errors will not reoccur in the future. Possible changes or additions to procedures may be reviewed with the Executive Leader of the Government, the Director of the Task Force, Supervisors and Department Heads and if appropriate and functioning, legislative and judicial bodies. Other corrective actions might also include working with a specific function to formulate new or revised anti-corruption and ethics policies or procedures for an area or department, and conducting formal or informal training on specific issues.

XII. Anti-Corruption and Ethics Reports

Principle

The purpose is to establish adequate information and reporting system that are reasonably designed to provide the Director of the Task Force with timely and accurate information regarding actual or potential violations of laws, regulations or the Code.

Standard Operating Procedures

The Supervisors will be responsible for preparing Anti-Corruption and Ethics Reports substantially in the form attached as Appendix A and submitting them to the Task Force as soon as appropriate or sooner where serious threat to persons or property is presented.

The Task Force may change the frequency of reporting depending on the number of issues surfaced, the severity of issues reported, and other appropriate considerations.

XIII. Reports to the Executive Leader of Government and the Legislative Body When Functioning

Principle

Some violations may require reporting to the Executive Leader of the Government and the Legislative body when functioning.

Standard Operating Procedures

In determining whether matters should be communicated to the Executive Leader of the Government or the Legislative body when functioning, consideration should be given to:

- Results of preliminary investigation;
- Pervasiveness of the issue;
- Severity of the issue;
- Criminal intent; and/or
- Impact on the Government's reputation or well-being.

XIV. Forwarding Violations to the Judiciary for Prosecution and Public Disclosure

Principle

The Director of the Task Force will report violations to the Judiciary only when completed investigation shows that prosecution is necessary.

Standard Operating Procedures

Reports to the Judiciary resulting from investigation in ordinary course should be handled through established procedures under the direction of the appropriate function.

When an investigation is conducted by the Task Force, Director of the Task Force or his or her designee in consultation with other government functions as appropriate will determine whether it is appropriate to report a matter to the Judiciary for prosecution. In certain situations, the Director of the Task Force has the right to publicly disclose the anti-corruption or ethics violation to the public through a press release.

XI. Disciplinary Action

Principle

Disciplinary action may be taken against public officials who violate the law, regulations or the Code. The credibility of the Program rests on fair and impartial discipline for all public officials.

Standard Operating Procedures

The Task Force will oversee all disciplinary action arising from the investigative process.

Examples of actions that may be taken for violations of laws, regulations or the Code are:

- Retraining;
- Verbal reprimand;
- Written reprimand;
- Suspension from work with or without pay; and
- Termination (if unelected); and
- Prosecution by Judiciary for criminal liability.

Disciplinary action must be consistently applied.

XVI. Program Review and Modification

Principle

Action regarding the Program must be conducted to ensure it is effective on a long-term basis in deterring, detecting and dealing with non-compliance of laws, regulations and the Code. The Task Force will proactively evaluate the effectiveness of the Program and implement changes that are required to maintain its effectiveness. This includes reviewing changing laws, regulations and sections of the Code as required in a changing social environment.

Standard Operating Procedures

The Director of Task Force is responsible for ensuring that the Program responds to changes in Government laws, regulations, practices and procedures. The Task Force will evaluate the results of the Program by monitoring and auditing activities, by reviewing trends in Integrity Hotline reports, as well as reported issues, to determine a need for developing or modifying the Code, these Guidelines or the Program. The Director of the Task Force will oversee any modifications to these Guidelines and the Program.

XVII. Code of Ethics Training and Disclosure

Principle

Existing and new public officials should participate in training sessions to enhance compliance with the Code.

Standard Operating Procedures

Public Officials should participate in the Code training programs. Public officials will be asked to disclose any circumstances that may result in non-compliance with the Code promptly whenever the circumstance occurs, in the form attached as Appendix B.

Public officials are responsible for completing Appendix B and submitting it to the Task Force.

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APPENDIX A

PRIVATE & CONFIDENTIAL

Anti-Corruption and Ethics Report

Description of Anti-Corruption and Ethics Issue: ¹	
Date Anti-Corruption and Ethics Issue Reported:	
Anti-Corruption and Ethics Issue Initially Reported to: ²	
Priority: ³	
Person Handling Issue:	
Corrective Action Taken: ⁴	
Status of Issue:	

¹ For Example: Equal opportunity, harassment, workplace violence, substance abuse, favoritism, conflicts of interest, gifts and entertainment, misuse of official position, engaging inappropriate political activity, misuse of government property, confidentiality, theft, bribes and kickbacks.

² S= Supervisor; D=Department Head; TF = Anti-Corruption and Ethics Task Force; IH= Integrity Hotline

³ A=Actual or potential violation of law or Code requiring immediate action; presents and immediate threat to a person or property; could result in significant risk: B= Actual or potential violation of law or Code not requiring immediate action; not an immediate threat to person or property but could result in significant risk: AE=Anti-Corruption or ethics questions not requiring immediate response; response many require research.

⁴ For example: verbal warning, written warning, suspension with or without pay, rewrite policies and procedures, clarify Code of Ethics, public official retained, public official terminated, or investigation commenced.

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APPENDIX B

**CODE OF ETHICS
DISCLOSURE STATEMENT**

In accordance with my obligations under the Code of Ethics, I disclose (*check all that apply*):

☐ To the best of my knowledge and belief, a possible violation of the Code of Ethics has occurred which was not previously disclosed.

☐ To the best of my knowledge and belief, a conflict of interest as described in the Code of Ethics exists which I have not previously disclosed.

Describe in full all facts related to the above disclosure:
(*attach a separate sheet if more space is required*)

Signature: _____ Date: _____

Print Name: _____

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TRAINER'S GUIDE
FOR THE
INTRODUCTION
OF THE
IRAQI
GOVERNMENT ANTI-CORRUPTION AND
ETHICS PROGRAM

Page 1

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TRAINER'S GUIDE

This Trainer's Guide is a step-by-step guide to introduce the Iraqi Government Anti-Corruption and Ethics Program to all public officials. "Public officials" include any official, officer, employee and, in general, any person paid or unpaid to whom a public service is assigned. It is accompanied by the following Training Kit Materials:

1. A video
2. A Code of Ethics, along with the Certification Form
3. A Brochure for the Integrity Hotline
4. The Anti-Corruption and Ethics Task Force Guidelines

You will be requested to:

1. Have attendees sign an attendance sheet, which includes the date of the meeting and who conducted the meeting.
2. Introduce yourself and the training video. The video includes an introduction message followed by three scenarios on various government ethics situations.
3. Respond to questions (See frequently asked questions on pages ____.) If you are unclear on how to respond, just refer the question to the Anti-Corruption and Ethics Task Force.
4. Remind all public officials that they need to complete the Certification Form and return it to the Anti-Corruption and Ethics Task Force.
5. Send to Anti-Corruption and Ethics Task Force the original attendance sheet.

Scenario 1**USE OF GOVERNMENT PROPERTY AND DESTRUCTION OF PROPERTY AND THEFT****a. Use of Government Property**

The use of Government property for individual profit or any unlawful, unauthorized personal or unethical purpose is prohibited by law. Government information, technology, intellectual property, buildings, land, equipment, machines, software and cash must be used for Government purposes only. Further, travel and entertainment expenses must be reasonable and substantiated by receipts.

b. Destruction of Property and Theft

Public officials shall not intentionally damage or destroy the property of the Government or the property of others or engage in theft.

Questions to ask:

- Are you doing the right thing or are you stealing? There are shades of gray as we saw in the above scenario.
- What kinds of things are Government properties?
- Can you use Government property, such as paperclips, pens, telephones, e-mails, for personal use?
- When is personal use of Government property appropriate?
- When is personal use of Government property "stealing"?
- What should you do if you are not sure if you can make personal use of Government property?
- Who is a public official?
- Does this Code of Ethics apply to me?

Message:

- Always get authorization for use of Government property if in doubt;
- Never justify stealing based on the actions of others.
- A public official includes any official, officer, employee and in general, any person paid or unpaid to whom a public service is assigned.

Scenario 2**CONFLICTS OF INTEREST AND GIFTS AND ENTERTAINMENT****a. Conflicts of Interest**

All public officials occupy a position of trust with in Government and, as a result, have a duty of loyalty to the Government both during and after the employment relationship. Public officials are required to avoid any relationship or activity that might create or give the appearance of a conflict between their personal interests and the interests of the Government.

Public officials must disclose any relationship that appears to create a conflict of interest to their supervisors or department head. In addition, a public official must seek prior approval from his or her supervisor or department head before accepting an invitation to serve as a director or trustee of any other business or non-profit organization. If such services existed at the time of hire or upon acquisition of a new company, the public official or employee must promptly disclose the existence of such service and seek approval to continue providing such service before doing so.

Here are examples of potential conflicts of interest that may require disclosure:

- Taking bribes and gifts (a violation of Penal Code Sec. 307)
- Holding a second job that interferes with Government employment.
- Ownership by public officials or members of their family of a material financial interest, known to the public official, in a firm which is a vendor to the Government.
- Using confidential information in any manner that violates the Government's confidentiality policy.

b. Gifts and Entertainment

Public officials or their families shall not use their position with the Government to solicit any cash, gifts or free services from any Government vendor or contractor for personal benefit. Gifts or entertainment from others should not be accepted since they could improperly influence the Government's business relationship with or create an obligation to a vendor or contractor. The following are guidelines regarding gifts and entertainment:

- Never take bribes or gifts (under Section 307 of the Penal Code)
- Reasonable invitations to Government related meetings, conventions, conferences or product training seminars may be accepted.
- Invitations to social, cultural or sporting events may only be accepted if job related.

c. Supplier, Vendor and Contractor Relationships

The Government selects its suppliers, vendors and contractors in a non-discriminatory manner and based on the quality, price, service, delivery and supply of goods and services. A decision to hire a supplier, vendor or contractor must never be based on personal interests or interests of family members or friends but must be in the best interests of the Government.

d. Misuse of Official Position

Public officials should not offer or give any advantage in anyway connected with his or her position as a public official unless lawfully authorized to do so. Public officials should not seek to influence, for private purposes, any person or body, including other public officials, by using his or her official position or by offering them personal advantages.

Questions to Ask:

- What kinds of conflicts of interest do you encounter?
- Are there any conflicts of interest you have found in the workplace?
- How do you handle conflicts of interest?

Message:

- Contractors and suppliers must be chosen solely on the basis of what's in the best interest of the Government.
- Public officials must not give or receive gifts or favors in their Government dealings beyond those consistent with local custom and common courtesy.
- Public officials shouldn't use Government purchasing opportunities for their own personal interests.

Scenario 3**CONFIDENTIAL INFORMATION, CONFLICTS OF INTEREST, FINANCIAL REPORTING AND RECORDS, GIFTS AND ENTERTAINMENT, AND CONTRACTOR RELATIONSHIPS****INFORMATION AND RECORDS****a. Confidential Information**

Public officials may be exposed to certain information that is considered confidential by the Government, such as personal data and contractor bidding and awarding information. Public officials shall not disclose confidential information to persons outside the Government, including family members, and should share it only with other public officials who have a "need to know."

Confidential information includes, but is not limited to

- Proposed or advanced strategic development;
- Projected revenues, proposed expenditures, important management or organizational changes, or information about government contracting and any other information related to the foregoing;
- Computer software and systems developed by, for or unique to the Government;
- Personal or financial information pertaining to any public official of the Government.

Public officials are responsible and accountable for safeguarding Government documents and information to which they have direct or indirect access as a result of their employment with the Government, and should not leave confidential or proprietary documents or other such material in the office or elsewhere in a manner so as to invite unwanted disclosure.

b. Financial Reporting and Records

Each supervisor and department head is responsible and accountable for maintaining an adequate system of internal controls over all areas of his or her responsibility. These controls should provide reasonable assurance that (1) (A) all transactions have been properly recorded, (B) each such transaction has been made in accordance with management authorization and applicable laws and regulations, and (C) Government assets are adequately safeguarded; and (2), as a consequence, the financial records and other reports are accurately and fairly stated. Each public official within his or her area of responsibility is expected to adhere to these established controls and the following prohibitions:

- No public official may intentionally make false or misleading entries in the Government's books and records for any reason. Any violation is grounds for immediate termination where applicable, as well as civil and criminal liability.
- No public official may intentionally conceal Government information from authorized Government or independent auditors. Public officials are required to

disclose, on a timely basis, information required to evaluate the fairness of the Government's financial presentation, the soundness of its financial condition and the propriety of its operation.

- No public official may make a payment or transfer Government funds or assets that is not authorized, properly recorded and clearly accounted for on the Government's books. No public official may make or approve a payment or transfer Government funds or assets with the intention or understanding that any part of such payment or transfer is to be used except as specified in the supporting transactional documents.
- No public official shall deliberately attempt to circumvent any Government processes or controls.

THIRD PARTY RELATIONSHIPS

a. Conflicts of Interest

All public officials occupy a position of trust with the Government and, as a result, have a duty of loyalty to the Government both during and after the assignment or employment relationship. Public officials are required to avoid any relationship or activity that might create or give the appearance of a conflict between their personal interests and the interests of the Government.

Public officials and employees must disclose any relationship that appears to create a conflict of interest to their supervisors or department head. In addition, a public official must seek prior approval from his or her supervisor or department head before accepting an invitation to serve as a director or trustee of any other business or non-profit organization. If such services existed at the time of hire, the public official or employee must promptly disclose the existence of such service and seek approval to continue providing such service before doing so.

Here are examples of potential conflicts of interest that may require disclosure:

- Taking bribes and gifts (a violation of Penal Code Sec. 307)
- Holding a second job that interferes with Government employment.
- Ownership by public officials or members of their family of a material financial interest, known to the public official, in a firm which is a vendor to the Government.
- Using confidential information in any manner that violates the Government's confidentiality policy.

b. Gifts and Entertainment

Public officials or their families shall not use their position with the Government to solicit any cash, gifts or free services from any Government vendor or contractor for personal benefit. Gifts or entertainment from others should not be accepted since they could improperly influence the

Government's business relationship with or create an obligation to a vendor or contractor. The following are guidelines regarding gifts and entertainment:

- Never take bribes or gifts (under Section 307 of the Penal Code).
- Reasonable invitations to Government related meetings, conventions, conferences or product training seminars may be accepted.
- Invitations to social, cultural or sporting events may only be accepted if job related.

c. Supplier, Vendor and Contractor Relationship

The Government selects its suppliers, vendors and contractors in a non-discriminatory manner and based on the quality, price, service, delivery and supply of goods and services. A decision to hire a supplier, vendor or contractor must never be based on personal interests or interests of family members or friends but must be in the best interests of the Government.

d. Misuse of Official Position

Public officials should not offer or give any advantage in anyway connected with his or her position as a public official unless lawfully authorized to do so. Public officials should not seek to influence, for private purposes, any person or body, including other public officials, by using his or her official position or by offering them personal advantages.

Questions to Ask:

- What is a bribe?
- Is a gift acceptable?
- What should be kept confidential?
- What is public information and how should it be accessed to the public?
- How do you keep things physically confidential?
- Do you leave important papers lying around?
- What constitutes a misuse of public office by a public official?

Messages:

- Do not take bribes or gifts.
- Do not improperly share confidential information
- Do not benefit from the improper disclosure of confidential information
- Do not misuse your public office. You are a servant of the Iraqi people.

FREQUENTLY ASKED QUESTIONS and ANSWERS

1. ***Who is covered by the Iraqi Government Code of Ethics ("Code")? I am a part-time employee. Am I covered by the Code? What about temporary employees? What if I perform an unpaid public service?***

All public officials, officers and employees are required to abide by the Code, whether full-time, part-time or temporary. In fact, any person, whether paid or unpaid, to whom a public service is assigned is covered by the Code as a "public official".

2. ***Why do I need this training session? Can I just read the Code?***

All public officials are encouraged to attend this training session. Public officials learn a lot more by attending this training session than when they read the Code on their own. Public officials will also have the opportunity to ask questions and obtain explanations and clarifications.

3. ***Is there any consequence if I do not attend training?***

Public officials who do not attend the training pose the risk of misunderstanding the Code and potentially violating it, which may result in disciplinary action or even criminal liability.

4. ***I read the Code of Ethics after the training and I have more questions I would like to ask. Who should I direct my questions to?***

The first person to approach is your supervisor or department head. If you need additional assistance, you may contact the Anti-Corruption and Ethics Task Force. If you still need additional assistance, call the Integrity Hotline.

5. ***I'm not sure if a violation has occurred. How can I be certain before I report it?***

It is often hard to tell whether a violation has occurred. You should seek assistance immediately if you believe in good faith that a violation may have occurred.

6. ***I know about some potential violations going on in my area, but decided it was not my business to report the matter. Is there any consequence for this?***

Unreported potential violations may cause serious damage to the Government. That is why we impose a duty on public officials to report in good faith actual or potential violations that they are aware of. Failure to report a violation of the Government policy, depending on the circumstances, may result in disciplinary action.

7. ***What should I do if my supervisor or department head asks me to do something that I think is a potential violation of the Code?***

You should first speak with your supervisor or department head and discuss your view that the requested action could be a potential violation of the Code. If your conversation does not resolve the issue, you should discuss the situation with a higher level supervisor. If they are unable to resolve the issue or you are uncomfortable discussing the issue with them, you may report it to the Anti-Corruption and Ethics Task Force. If you feel that you cannot use any of the above mentioned channels or feel you need to report the matter anonymously, you may call the Integrity Hotline.

8. *What type of training will I be required to attend?*

The additional training sessions are those you already attend as part of your job. As a result of this program, we will now have a better ability to track all different training programs that already exist throughout the Government.

Integrity Hotline

(This is an additional explanation of what is already in the brochure)

9. *What happens when I call the Integrity Hotline?*

You will be connected to a trained communications specialist who will take detailed information from you and assign a control number to use as identification during follow-up. A written report will be forwarded to the Anti Corruption and Ethics Task Force. The Anti- Corruption and Ethics Task Force will review the report and refer the matter to the appropriate department for investigation.

10. *If I report a violation to the Integrity Hotline, will my call be recorded or traced? Do I need to identify myself?*

Calls will not be traced or recorded. All calls are confidential. While we encourage you to identify yourself, you do not have to.

11. *Will I be informed of the outcome of my call?*

When you make a call to the Integrity Hotline, you will be given a tracking number that will allow you to call in for an update on your report.

12. *What types of issues could be channeled through the Integrity Hotline?*

While any issue can be channeled through the Integrity Hotline, you should use it when the following issues which involve violation of the Code: gifts and favors; confidentiality; personal use of Government's resources; theft; and bribery; and complaints regarding accounting, financial reporting and financial auditing. However, The Government encourages you to first use your immediate supervisor or department

head for any reportable issues. If they cannot resolve the issue or you are uncomfortable using them, you may report to the Anti Corruption and Ethics Task Force.

13. *I placed a call to the Integrity Hotline regarding how our copying machine is always out of order. Why didn't anyone come to fix it?*

The Integrity Hotline is not the channel for addressing administrative issues. Administrative matters like equipment requiring maintenance or repair, and supplies needing replenishment are best communicated to your supervisor, department head, or other appropriate departments (e.g., building services).

14. *Should I call the Integrity Hotline for questions on benefit plans and personal matters?*

No. All questions on benefit plans and personnel matters should continue to be directed to the Personnel Department.

15. *What happens if I report in good faith an apparent violation, but it turns out that I was incorrect?*

There will be no reprisal for good faith reporting.

16. *I was out on leave when all the ethics training and distribution of ethics materials were done so I am not aware of the Government Anti-Corruption and Ethics Program. What should I do?*

The Iraqi Government Anti-Corruption and Ethics Program aims to accommodate everyone in conducting training and education. Contact your supervisor, department head, Personnel Department or Anti-Corruption and Ethics Task Force to reschedule training.

03/14/03

Building a New Iraq – Winning the Peace:**Towards a civil society****Educating the populace about pragmatic, US democracy**

- 1) Many non-Americans, after an exposure to popular American films, media commentary and ubiquitous television programming, consisting of reruns from "Bay Watch" to "Leave it to Beaver," assume they possess a thorough understanding of American culture and daily life in democratic, free society. Worse, many Americans at home and abroad, make the same assumptions about international understanding and appreciation of US society. Both constituencies are constantly surprised by the opposition, misunderstandings, mistrust and confusions about US foreign policy motives and objectives –given their "common" understanding of US culture. Obviously the assumptions about the commonality of knowledge are false. Iraq's liberation, reconstruction and revitalization, provides policy makers with an educational challenge about democratic values, individual liberties, as well as the operation of grass roots democratic activities for self-determination. These valuable gifts, intended as the legacy of liberation, require a still non existent level of understanding, by all elements of the Iraqi populace, if they are to be used and appreciated in the creation of a new, federal, Iraqi state accommodating its diverse ethnic and religious elements. The problem is compounded by the need to transform a totalitarian state, whose youthful population is ignorant about life in a free, civil society and where daily economic life is characterized by black market transactions, along with essential, pervasive graft and corruption. "Bay Watch" provides few clues for the average Iraqi about the benefits of democracy, the values of US society as models for a free Iraqi society, or the effective operations of the "invisible hand" of democratic processes that underlie the success of the US as a nation.
- 2) Texts books and academic training cannot provide the immediate educational tools required to inculcate the Iraqi populace with a practical working knowledge of the machinery of democracy that can be applied to reorganizing their lives. Video instruction will be able to reach the population and provide a primer on these subjects that will help them in dismantling the culture of a totalitarian state and determine their new political institutions; power sharing, local decision-making and the other key elements of a new constitution. A video based education campaign should be designed to deal with all elements of the cultural transformation made possible by liberation.
- 3) One such production could educate Iraqi's about the American experience, draw upon the parallels to Iraq's troubled road to nationhood, and use the spontaneous, indigenous and empirical Kurdish experience in the Northern No Fly Zone; as an example of successful, desirable transformation to a free society in charge of its own development.

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- 4) An outline of the elements to be covered in such an educational film might consist of an annotated history of the America's development beginning with life in colonial times:

Colonial America: Life in a theocracy –The puritan experiments provide amazing parallels with current Moslem fundamentalism. The ultimate failures of these US experiments can also be vividly illustrated; witch trials, intolerance, etc.,

Life as a colony, revolting from the British Rule –The American revolution is too little explained or understood by Arab constituencies, but the parallels to Ottoman rule, and subsequently the British control under mandates, will resonate with both the old and young.

The Confederation of Colonies –The debates about the articles of confederation, political and economic dependence, and state's rights are all directly relevant to the Iraqi experience, historically and to the conditions they now face.

The Constitutional Debate –The drama of the Enlightenment's legacy about human rights and self-determination are as relevant and vivid for the average Iraqi's as they were for those who met in Philadelphia to deal with these issues. The application of the American Revolutionary experience to the development of the Bill of Rights is important to Iraqis.

DeToquevilles America –The observations about the functioning of local democratic institutions, voluntarism, religious tolerance (and intolerance), the role of faith in the developing American society and culture also provides valuable points for instructing Iraqis who will encounter these same issues in a new Iraq.

The Civil War – Explaining the origins of the frictions underlying this struggle, will also find parallels as strong cultural and religious identities, families and clans; strive to build the bonds of a shared, civil society in a new Iraq.

Twentieth Century America's involvement in the World –Tensions and historical debates about the role that America has come to play, from advocates of manifest destiny, empire, isolationism and involvement will be valuable to Iraqi's whose recent history has also brought them into wars and their deadly consequences. The WWI and WWII experiences, seen from the perspective of the citizen soldier, should be very instructive and useful to Iraqi's trying to understand America's foreign policy motives

How America really works and lives –The real culture, from worship, family life, mortgages and credit, work ethic, leisure activities, are really unknown to most Iraqi's. The immigrant "surprise" about the real America is always astonishing, and first generation Iraqi-Americans might usefully explain daily life, in all its complexity and contradictions, as well as the democracy at work, from voluntary participations on school boards, juries and charities.

Media Subcommittee's Presentation

Your children are not your children.

They are the sons and daughters of Life's longing for itself

--Khalil Gibran

Vision Statement

- To create a network for teens in Iraq to inform and educate on issues relating to anticorruption and incorporate the ideas of the younger generation in a post-Saddam Hussein Iraq.

Goal and Objective

- Create a TV Network geared toward providing a platform for teenagers in Iraq
- The Network would provide forum to address social (e.g. various ethnic groups), religious (e.g. Islamic Ideals) and political issues (e.g. U.S. sponsored war in Iraq)
- The Network would sponsor forums, discussion groups, educational seminars

Today's Situation

- 22,946,000 people in Iraq.
- 11,104,000 of those people are under the age of 18
- This means that approximately half of the population have no concept of any other way of life
- 51% of male and 32% of females teenagers are enrolled in secondary schools
(source UNICEF)

Available Options

- Must develop an approach for communicating with this segment of the population
- TV Network is most compelling to under-18 age group
- Initiate network with originally produced shows: religious/social discussion group; TV game show (e.g., Jeopardy of Iraq—create teams with diverse ethnicities); showcase music of various regions; animation series (satire Hussein).

Recommendation

- Identify strategic partners (UNICEF?)
- Seek funding
- Outline production strategy
- Identify action items

What have been done till now:

- Video Taping for Muslim Scholar (Shaikh) treats the Corruption (adult level)
- Religious documents treat corruption based on the Jewish, Christianity, & Yazidi point of view (adult level)
- Contact more than an Artist Specialist in Cartoon & prepare the subject of the project of Saddam Cartoon (teenage level)

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"YAZIDIS: WHO WE ARE AND WHAT WE STAND FOR,"

We, followers of the Yazidi creed in Iraq, mostly residents of the Sinjar County, believe in the Unity of God in the heavens and would like to establish brotherhood with followers of all other creeds, and may peace be on earth.

It is prohibited, in our beliefs, for one to hate, envy, be greedy, steal or slaughter people. We despise any cunning hypocrite who seeks to do mischief. We hold in contempt any killer, adulterer or ingrate as well as anyone who is extravagant or hypocritical. Adulterers shall not enter Paradise; going to extremes in anything is unlawful.

We, Yazidis, believe in the sunrise and in the sunset, in the heavens and in the earth, in the water and in the air, because these are the basic components of the world and the substance of the humans. We say that we all are children of Adam and Eve; therefore, we do not distinguish among the "races" based on the colors of their complexion, birthplace or language. The basis of everything is to treat everyone well, to have high moral standards and values. We believe in one who is truthful and who treads the path of righteousness, of goodness for all people. We have this saying: "If your neighbor is enjoying a bliss, you are enjoying a thousand." This good will extends to the neighbor who lives on the seventh block as well. Another says: "Do your good deed and forget about it," hopefully God will notice it because He knows what the hearts hide. We believe in true visions, in treating the neighbor very well, in coexisting with all others. There is no room in our beliefs for trickery or deception; we are not advocates of such vices.

Such is the norm of the general life of the Yazidis, but alas! What a life to lead under the regime of a contemptible oppressor, a deceptive enemy of God and of mankind, namely Saddam, who altered the sacred books and their philosophies, inserted praise of his own self in sermons, changing thus the characteristics of mosques throughout Iraq. We, Yazidis, have suffered the same, for he altered many aspects of our creed. He planted division among sects: This is a Sunni Muslim and that is a Shi'ite Muslim, here is a Christian and that is a Yazidi, etc., thus planting the seeds of evil, division and hatred. He changed our religious rites and the way we worship and even the condition of our villages. We have our own particular religious occasions during the days of the Spring and the Summer, but he planted with them the dates of his own birth, or the dates of the "Mother of all Battles," the so-called "Qadisiyya," the "Days of Jerusalem," etc.

We are people whose hearts are as shiny as our outfits: brightly white in color, but Saddam favored some and hated others. Because our people are poor and weak, and due to our area being geographically important, Saddam neglected us and did not provide us with any public services like those enjoyed by others. For example, we have the Sharafud-Deen Mausoleum, which is located on the foot of Mount Sinjar. This is our sacred shrine, a cemetery for our martyrs and other dead. The Saddami regime did not even pave the road leading to it which is no longer than 3 kilo meters from the main highway. This shrine enjoys a great deal of significance in the way we worship, and it has its own weighty and special importance in our hearts. Hence, we plead to God Almighty, to all His true servants, to all the righteous people, to lead your steps and guide you to the best path, to enable you to serve mankind, and to keep you away from any evil or anything wrong. Amen.

Shaikh Saeed Jawzal Hussein al-Adani
Spiritual Mentor of the Bayt Khalid Tribes
March 11, 2003

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CHRISTIAN RELIGIOUS PRINCIPLES

We must all work together to rebuild a strong and democratic Iraq so that all Iraqis may live a happy and prosperous life. Rebuilding Iraq will be like building a house. As all Iraqis focus on working together to build the house, we realize that the things that make us the same become more important than the things that keep us apart.

We find the same message in another passage from the New Testament of the Bible. James 2:14-26 *mandates that we live out our faith. Our works are our response to God's love for us. This call to action—to care for each person created in the image of God—cannot be ignored. We are to become partners with one another, treating each other with dignity and empowering one another.*

To serve others is to worship God; to share a glass of cold water with a thirsty person is as much a sacrament as to share the eucharistic cup of wine.

1. God blesses what we offer and turns it into the miraculous

Just as Jesus fed thousands with the loaves and fish packed for a little boy's meal (John 6:1-14), God provides for our needs when we step out in faith. Skepticism and the human desire to be in control often stand in the way of our expecting a miracle, however. One of the evil one's most clever and successful tricks is to convince us that a problem is too big—that it would be folly to tackle such a major need with such meager resources.

2. God expects us to share our resources

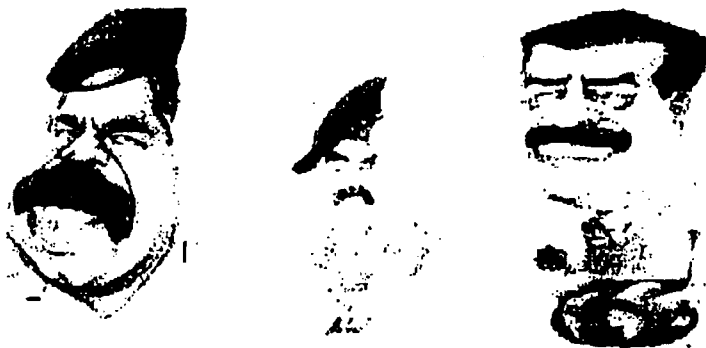
Acts 20:35 reminds us of Jesus' words that it is more blessed to give than to receive. The early Christian community modeled this lifestyle when members sold their possessions and used the proceeds to care for one another. Many of us have difficulty thinking about giving up our possessions. He suggests that the biblical messenger John the Baptist clearly explained how we bridge the gap between poverty and affluence: "Whoever has two coats must share with anyone who has none; and whoever has food must do likewise" (Luke 3:11).

3. Grace and love abound for all, equally

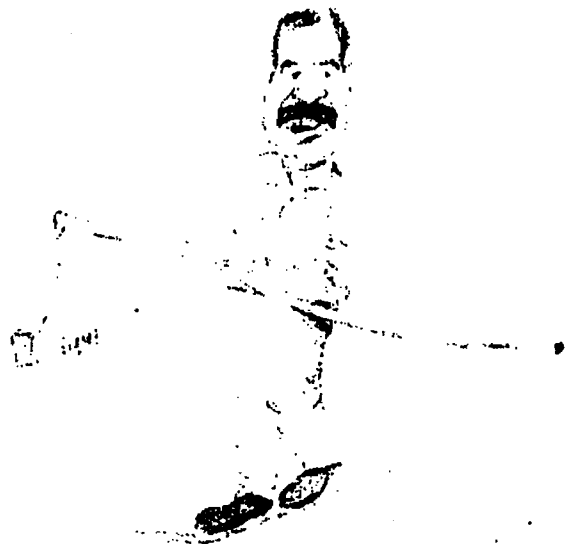
In Matthew 20:1-16, Jesus tells the parable of the landowner who paid laborers in his field the same wage no matter how many hours they worked during the day. Each of us is called to serve at different times. The Old Testament prophet Isaiah describes this spirit of cooperation as well: "The wolf shall live with the lamb, the leopard shall lie down with the kid, the calf and the lion and the fatling together, and a little child shall lead them." (Isaiah 11:6)

When we respond to God's call to help our neighbors, it is amazing how easily we forget our differences.

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عليه نشبع شوف منك..... قبل ما تشد الرحال



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3/14/03

Building a New Iraq:**Towards a civil society****Preventing Organized Crime Development in a new Iraq
Organizing a new Iraqi led Police Force****Background**

1) Post Saddam, Iraq will experience an enormous power vacuum with the disconcerting erosion of Baghdad's power and the totalitarian apparatus that has dominated Iraqi political, economic and social life for the past thirty years. The international sanctions of the last decade have had the effect of expanding endemic corruption and black market activities into every sector of the economic life. Survival has been the only engine of the Iraqi economy beyond direct government expenditures for the past decade. The rules of expediency that dominate and characterize economic life and the methodology of corruption are difficult to remove and replace. These conditions, as shown in the collapse of the Soviet Bloc states, are very fertile ground for the development of organized crime syndicates. Similarly the removal of Saddam, will give rise to widespread, mindless acts of vengeance and retribution as victims settle old scores.

Immediate Conditions and Actions

2) The manner and circumstances of regime change, the removal of Saddam and his ruling elite, will determine the scope and character of measures to combat crime, violent acts of retribution. The conditions will require rapid reform and training of a new police force to deal with both the normal routine preservation of law and order and to deal with the exceptional circumstances of popular acts of vengeance as well as to combat the further development of criminal syndicates. The Russian experience, a strong black market organization, displaced military personnel, and corrupt officials, saw the aggressive development of a very deadly mafia once the totalitarian shackles of the police state were removed. Restoring the faith of the Iraqi populace in all government institutions, and particularly the police, will be an important part of changing a climate of fear, corruption, and avarice. The Russian mafias drew on these inbred anxieties to supplant the state's coercive ways with their own. Iraqi local government and police functions, preventing and prosecuting criminal activities, must be seen to be actively maintained and strengthened. Police services must be visibly supported with new equipment, new methods providing civil rights, techniques imported to improve productivity, and in general, focus on putting a new, friendly face on the police interactions with society. Torture and capricious prosecutions and persecutions, and their practitioners must be repudiated and prosecuted. Facilities associated with the conduct of brutal oppression must be abandoned or destroyed. Police and military personnel associated with such victimization must be removed. Enforcement of laws, even for minor infractions, must continue to be vigorous to counter the impression that Saddam's departure will allow a laissez faire approach to policing. Iraqi's must be seen to be in charge, at all levels, but especially at the point of delivery of police services.

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3) The popular appraisal of Iraqi police reform and capabilities must be profound and widespread. Ex military personnel, not associated with torture and corruption in police activities may be a source of new recruits for training as exemplars of the "new" police establishment. Training and new equipment should be provided on an accelerated schedule, with the assistance of international agencies and the US. Court reform for preservation of law and order at the street level should be given priority and the impartiality in enforcement and judicial actions should be widely publicized. Locally elected police review and supervisory committees could be formed to approve the choice of administrative personnel and prioritize deliver these vital community services. The many tensions among various population groups and individuals, who have been victimized by Saddam's regime's deliberate ethnic cleansing, appropriation of property and similar acts which give rise to the need to settle old scores; will be a critical problem for police attention in the immediate aftermath of regime change. The police should be strengthened, trained, and equipped to deal with these reprisals. Those who feel the need to act violently in retribution may turn to clans or to criminal elements to help them recover property or obtain vengeance. These victims must be directed to the use of the reformed police and the courts as their source for justice.

Community Policing

4) Police activities also provide an opportunity to involve citizens in an initiation to grass roots democracy through coordinating community policing, and the selection of Iraqi administrators. Providing the populace with a sense of ownership in their police and the supporting government structures will diminish development of criminal organizations. Special attention should be given to the Kurdish experience in the Northern No Fly Zone and the practical measures that evolved to deal with similar problems and later with self-government as well as the entities developed through self-determination. Building confidence, at the local level, with the capabilities of the police to deal with, and take charge these elemental aspects of a civil society, following the removal of ruthless police personnel, who were the face of the Saddam regime and its enforcers, will advance the capacity of the people to deal with corruption and encourage new standards of honesty, transparency, and fairness in the conduct of their economic and social interactions. Those well served by the police, feeling positive about their fairness and conduct, will have no need for the criminal organizations that flourish in the absence of these critical government capabilities.

Old and New Institutions

4) The removal of Saddam's regime will provide a power vacuum and create popular anxieties about the viability of all Iraqi institutions. The revitalization and reform of police structures and personnel must be an immediate priority for civil administrators. The traumatic and disconcerting events attendant to the regime change will affect all Iraqis, both Saddam's conspirators and the general populace. The extent of the Iraqi totalitarian state, its absolute power and control, exercised from Baghdad, not to mention the terror used to enforce compliance, cannot be overestimated in their impact on the Iraqi psyche and the attendant feeling of fear, weakness and shame. These conditions

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and circumstances do not provide a strong foundation on which to build new institutions and a modern nation state. Conditions of mutual distrust and personal safety, which led to the survival mindset which underlies much of the corruption and graft, make the existing institutions and status quo an effective power base for a privileged, limited few who encouraged its maintenance. A new, highly visible police force, exemplifying the best conduct of these functions in a model civil society can become the face of the government's protection of individual safety and rights under law. A reformed police force can become an early example of Iraqi accomplishments and a source of pride for the population. The youthfulness of the population and the long reign of Saddam, as well as antecedent governments, provide no collective or personal memory of any alternative life or successful democratic government and institutions in Iraq. The police force under Saddam exemplified the oppressive power of the state. Only the Kurdish experiments in the North, and their success, which are widely appreciated and envied in the rest of Iraq, provide anecdotal and positive models of successful democracy and liberated lifestyles. Saddam's state has successfully brainwashed the populace about the evils of democracy and demonized its leading successful exemplar, the United States. The institutional reforms to create a federal, democratic Iraq must be self generated and must have a broadly based Iraqi leadership, uncontaminated by ethnic, religious, geographic or cultural bias. A new police force can be a prominent model for these new Iraqi institutions.

من معارضة النظام الى بناء الدولة

الانتقال من المعارضة الى الدولة

بناء الدولة على اسس سليمة

الشعب يتحمل مسؤولية البناء بلا وصاية

الحكومة الانتقالية تمهد للحياة الدستورية

لندن - كانون الاول 2002

بسم الله الرحمن الرحيم

مقدمة

الانتقال من المعارضة الى الدولة

مضى على بعضنا اكثر من ثلاثة عقود في صفوف المعارضة. وقد كانت الحركة الاسلامية اول تيار سياسي فكري في العراق اتخذ مواقف المعارضة للنظام البعثي الذي تولى السلطة في العراق في انقلاب اسود حمل كل الدمار والكوارث والتهار لنم نبلنا الحبيب.

ومع مرور الزمن الخطر معظم ان لم نقل كل التيارات الفكرية والسياسية والقومية والمذهبية في تيار المعارضة، حتى أصبح للشعب كله في صف المعارضة، ولم يبق في صف الحكم سوى صدام وبطالته والمرتزقة.

واليوم، ومع تزايد امكانيات واحتمالات حصول التغيير السياسي وسقوط النظام الدكتاتوري في العراق، تتأكد الحاجة الى انتقال القوى السياسية العراقية من حالة لمعارضة الى حالة الدولة والسلطة والحكم.

ولا يتجسد هذا الانتقال في تبدل الحالة النفسية والشعورية لدى المعارضين، وإنما في توجههم نحو وضع خطط بناء الدولة ورسم السياسات وتشكيل الاجهزة.

وتتقدم حركة الكوادر الاسلامية هذه الاوراق التي تحتوي افكارا وتصورات للمنظمة وتبذل الرأي في هذا المجال.

أولاً:

بناء الدولة على أسس سليمة

تمثل الدولة العراقية الاطار السياسي والدستوري الذي يضم العراقيين جميعاً، من جميع الفئات والقوميات والمذاهب. وهذه الدولة ليست ملكاً لأحد بل هي ملك العراقيين جميعاً، وتقع عليهم جميعاً مسؤولية المحافظة عليها وتطويرها لكي تكون الاطار الامثل للحياة الحرة للكرامة لجميع المواطنين العراقيين بلا تمييز او تفضيل.

ولكن الحكومات المتعاقبة على سدة الحكم في الدولة اقيمت سياسات مضرة تمثلت بالاتي:

أولاً، سياسة التمييز الطائفي بالنسبة للاغلبية العربية الشيعية.

ثانياً، سياسة الاضطهاد القومي بالنسبة للقوميات الاخرى مثل الاكراد والتركمان.

ثالثاً، سياسة انتهاك حقوق الانسان والظلم الذي هم جميع العراقيين بلا تمييز.

اننا نسعى الى "اعادة بناء الدولة العراقية على اسس سليمة تضمن حقوق الجميع". وهذا الشعار هو الاطار العام الذي نتحقق في داخله مصالح كافة المكونات الاجتماعية العراقية

وإعطائها حقوقها السياسية والثقافية، أولاً، وترسخ في إطاره الوحدة الوطنية العراقية الشاملة، ثانياً.

ويتم هذا عبر بناء الدولة على أسس وطنية ديمقراطية قسائية تحترم الهوية الإسلامية للمجتمع العراقي؛ وليس عبر الحل السياسي الطائفي الذي يعني تقاسم مراكز الدولة القبلية (رئاسة الجمهورية ورئاسة الوزراء ورئاسة البرلمان وقبيلة الجيش وغيرها) بين المكونات الدينية أو المذهبية أو القومية للمجتمع.

إن الدولة العراقية الجديدة المحظية لمصالح واهتمام العراقيين يجب أن تتصف بالصفات التالية:

أولاً: الأليات الديمقراطية، بمعنى إسناد تولي المناصب العليا في الدولة إلى الإرادة الشعبية لشخصة لها بالاستفتاء العام المباشر، أو عبر المجالس التمثيلية، أو كلاهما. وهذا يتطلب توفير الأسس الدستورية والقانونية لضمان الحريات السياسية والمدنية والتعددية الحزبية وقيلام المؤسسات التمثيلية، وهي أمور جوهرية لضمان التعبير الحر عن الرأي الشعبي، كما يتطلب إقرار مبدأ التداول السلمي للسلطة.

إن ديمقراطية الدولة لا تعني:

أ. دكتاتورية الأغلبية واحتكارها للسلطة، أو انقواء الوصول إليها.

ب. أو اضطهاد الأقلية، ومصادرة حقها في المشاركة.

ت. أو انفراد الأقلية بالسلطة والسيطرة كما هو حاصل هو الآن.

ثانياً: الوطنية، بمعنى أن الدولة تعتبر أن الكفامة الشخصية والمواطنة الصالحة أساس في تولي المناصب والمسؤوليات في الدولة والمجتمع. أن الامتيازات الطائفية مثلها مثل الاضطهاد الطائفي ظواهر متناقضة مع الطبيعة الوطنية للدولة. أن المشاركة الاجتماعية العامة في المناصب العامة، بمعنى مساهمة مختلف التكوينات الاجتماعية في تولي المناصب دليل على ديمقراطية الدولة ووطنيتها، كما أن انحصار تولي المناصب العليا بقبيلة طائفة كانت لم حزباً لم غير ذلك، بالشكل الذي تقوم عليه الدولة العراقية الحالية، امر يتناقض مع الوطنية والديمقراطية.

ثالثاً: اللامركزية، أو الفيدرالية، يجب أن تكون الدولة العراقية دولة لا مركزية، بمعنى التوسع في توزيع السلطات بين المركز وبين الأقاليم أو الولايات أو المحافظات بالشكل الذي يحول دون تركيز السلطة في يد الحكومة المركزية وهذا يتطلب إعطاء المحافظات والمسؤولين المحليين صلاحيات واسعة في الأمور التي تخص محافظاتهم ومناطقهم ومسؤولياتهم. ويتبقى قضايا الدفاع والسياسة الخارجية والتخطيط الاقتصادي ضمن صلاحيات السلطة المركزية. أما مسائل التعليم والمناهج الدراسية والأعلام والتنمية الاجتماعية والاقتصادية والزراعية والصناعية فسوف تحتل مساحة كبيرة في صلاحيات الإدارات المحلية، لأن هذه الأمور يجب أن تتم بالتناسب مع المتطلبات المحلية للمحافظات سواء من الناحية الطبيعية أو الاجتماعية والثقافية.

ويتعين إعادة النظر بالتقسيم الإداري (المحافظات) للعراق لأبعاد وحدت لغوية متجانسة يمكن من خلالها تطبيق اللامركزية بصورة سليمة.

وسوف تحتل المنطقة الكردية (كردستان) موقعاً خالصاً في إعادة قنظر هذه بعد الأقرار بحق تقرير المصير بالنسبة لأكراد العراق الذين اختاروا الفيدرالية كصيغة لتقرير المصير. إن الدولة العراقية الجديدة يجب أن تحترم هذه الإرادة.

رابعاً: الإنسانية، بمعنى أن الدولة العراقية يجب أن تتر مبادئ حقوق الإنسان السياسية والمدنية والاجتماعية والاقتصادية، المحلنة في الوثائق العالمية، ويجب أن تشمل هذه الحقوق في صلب تشريعات الدولة بما في ذلك الدستور الدائم. إن الدولة العراقية الجديدة يجب أن تتقيد بهذه

لحقوق في تشريعها وممارستها وعلاقتها مع مواطنيها. ان انتهاكات حقوق الانسان بما في ذلك اشكال التمييز الطائفي او القومي يجب ان تعتبر من الجرائم التي يعاقب عليها القانون.

خامساً: للقانونية والدستورية، بمعنى ان الدولة العراقية يجب ان تكون "دولة القانون" التي تطلو سلطة القانون فيها على سلطة الحاكم، وتكون ممارساتها وممارسات مواطنيها والعلاقات بينهم قائمة على اساس القانون.

سادساً: احترام الهوية الاسلامية للمجتمع العراقي، مع حفظ الدين من تدخل الدولة في شؤونه الخاصة، وذلك بتحقيق عبر مايلي:

1. عدم النص على فصل الدين عن الدولة في لية وثيقة من وثائق الدولة القائمة.
2. النص على ان الشريعة الاسلامية هي احد مصادر التشريع الاساسية بالنسبة للدولة.
3. النص على عدم جواز اصدار اي تشريع مخالف للشريعة الاسلامية.
4. احترام استقلالية الحوزة العلمية.
5. التقيد باحكام الشريعة الاسلامية في الاحوال الشخصية.
6. احترام الشعائر الدينية الاسلامية، بما في ذلك المقابر.
7. استقلالية الاوقاف للشرعية والمراد للمقصة عن الدولة.

وينبغي العمل على اتخاذ الخطوات التالية في الدولة الجديدة:

أولاً: تشكيل مجلس للنظر في حالات التمييز الطائفي او القومي التي قد تمارسها السلطات المركزية او المحلية. وينظم القانون او الدستور طريقة تشكيل هذا المجلس، اما بالانتخاب او من خلال مجلسي النواب والولايات.

ثانياً: اعادة النظر بمناهج التعليم، على اساس وجود مستويين لهذه المناهج احدهما المستوى المركزي الذي يعمم على كل مدارس البلاد والمستوى الثاني الخاص بالمحافظات او المناطق وفقاً للطبيعة القومية والمذهبية لها.

ثالثاً: وضع خطط للتنمية الاقتصادية تتناسب مع طبيعة المناطق المحلية. وتعطى اهمية خاصة لاعادة اعمار المناطق الشيعية في الجنوب التي عانت لسنوات طويلة من الاهمال المتعمد. ولما كانت هذه المنطقة تمتلك بكونها منطقة زراعية فوجب ان تولى مسألة للتنمية الزراعية اهمية خاصة فيها.

رابعاً: بحصل الاعلام عن الدولة والغاء وزارة الاعلام. تحتفظ الدولة بمحطة لاذعة وتلفزيون وجريدة واحدة فقط تعبر جميعها عن حقيقة التعددية في المجتمع العراقي. والسماح للتطاع الخاص بامداد الصحف الاهلية.

خامساً: الغاء وزارة الاوقاف وقائمة ادارات ذاتية العتبات المقدسة والاوقاف الاسلامية وفصلها عن الدولة.

سادساً: احترام استقلالية الحوزة العلمية في التجف الاشرف والجامعات الدينية ومنع الدولة من التدخل في شؤونها الداخلية، وتوفير مستلزمات قيامها بمهمتها على احسن وجه.

سابعاً: لغاء قانون الجنسية الحالي وتشريع قانون جديد. يجب التخلي عن مفهوم التبعية في قانون الجنسية. لقرار مبدأ منح الجنسية العراقية لمن قام في العراق لفترة معينة من الزمن بحددها القانون، وقرار مبدأ الجنسية المزدوجة.

ثامناً: لطلاق الحريات السياسية والحريات الفكرية وتحريرها من القيود والشروط التي وضعها النظام الدكتاتوري.

تاسعاً: لغاء كل القوانين والتشريعات التي صدرت منذ قيام الدولة العراقية والتي استهدفت تقييد التمييز الطائفي بصورة مباشرة او غير مباشرة.

عشر: تعتبر المناصب القيادية في الدولة وهي تحديدًا: رئاسة الجمهورية، ورئاسة المجلس ورئاسة الوزراء وقبلة الجيش ومحافظية البنك المركزي ووزارات السيادة أي الدفاع والدخالية والخارجية والمالية مفتوحة لجميع المواطنين.

حادي عشر: إعادة تشكيل القوات المسلحة لبناء جيش محترف يتناسب حجمه من حيث العدد والعدد مع مهمة الدفاع عن الوطن المحصورة بعيدا عن التدخل في الشؤون السياسية.

ثانياً:

الشعب يتحمل مسؤولية البناء بلا وصاية

لعل أكبر مهمة تواجه المعارضة العراقية بعد طاحنة نظام صدام هي بناء الدولة العراقية من جديد.

إن صدام أنهى وجود الدولة الحقيقي، وحولها إلى حالة شخصية، أي شخصنة الدولة، الأمر الذي يوجب اخراج الدولة المنهارة من حالة الشخصنة إلى حالة الدولة المؤسساتية والديمقراطية، وهذا هو المعنى الجوهرى لعبارة إعادة بناء الدولة العراقية.

وثمة مقاربتان لمباشرة عملية البناء، هما:

أولاً، المقاربة الفوقية: التي تتصور أن بالإمكان إعادة البناء من فوق، أي بتولي نخبة سياسية معينة ذاتياً، وغير منتخبة ديمقراطياً، بقيادة العلية، عبر تشكيل مجالس فوقية معينة، مثل مجلس سيادة، ومجلس اعوان، ومجلسه ذلك، وتوكل إلى هذه المجالس سلطة قيادة العراق، في فترة انتقالية قد تطول أو تقصر، والسمي إلى إعادة اصداره وينالته.

ومهما قيل عن حسنات و"مميزات" هذه المقاربة، إلا أن نقطة الضعف الأساسية فيها هي: إبعاد الجماهير الشعبية عالياً عن عملية إعادة البناء، وخاصة في جانبها السياسي. وهذه نقطة خطيرة، لأننا نطمح عبر عقود كثيرة، أن نحم العراق الشعب في عملية البناء يؤدي إلى حروف الشعب عن الدولة، وعن خطط للتنمية والبناء، ومن ثم فشل هذه الخطط وشلل العملية.

ثانياً، المقاربة التحتية، التي تشترط في عملية البناء أن تنطلق من القاعدة الشعبية للتحية العريضة للدولة، أي الجماهير الشعبية بلومع معنى لها. وهذا ما ندعو إليه، للأسباب حقة سياسية وعملية، نوجزها كما يلي:

السبب العقائدي، وخلاصته الإيمان بأن الجماعة البشرية هي خليفة الله في الأرض، وبالتالي فإن لها السيادة على نفسها وعلى الأرض وعلى الكون. وهذا ما ينص عليه القرآن الكريم حين يقول: "وإذا قال ربك للملائكة إني جاعل في الأرض خليفة".

وتبين هذه الآية أن الخلافة الربانية هي أساس الحكم في الأرض، وأن الحكم بين الناس مندرج في الحقيقة على جعل هذه الخلافة. والجماعة البشرية هي المكلفة برعاية الكون وتسيير الأمر والتسيير بنفسها في الطريق المرسوم للخلافة الربانية وهذا يحل مفهوم الإسلام الأساسي عن الخلافة، والذي يتلخص في أن الله سبحانه وتعالى قداب الجماعة البشرية في الحكم والقيادة وتسيير الكون وأصاره اجتماعياً وطبيعياً، وعلى هذا الأساس تقوم نظرية حكم الناس لأنفسهم بأنفسهم وشرعية ممارسة الجماعة البشرية حكم نفسها بوصفها خليفة عن الله، وأن الجماعة البشرية تمارس هذا الحق في الخلافة والحكم عن طريق الشورى، ويرأي الاكثوية عند الاختلاف.

وخلاصة السبب السياسي، هو أن الديمقراطية التي جعلناها إحدى أسس بناء الدولة العراقية الجديدة، تفرض الرجوع إلى الناس في مزاولة الحكم والسلطة، ولا تجيز لفرض من فوق، بل تقتض أن الحكم ينبع من تحت، وفي هذا تلتقي الآليات الديمقراطية بجمهور نظرتنا

العقائدية الإسلامية إلى المسألة السياسية ومسألة الحكم، تلك المسألة المشتقة من مفهوم الخلافة الربانية.

لما السبب العملي فيمن على أن شرط نجاح أي عملية إعادة بناء وتنمية يتمثل في انخراط الجماهير في هذه العملية وعدم عزوفها عنها لأي سبب من الأسباب. لقد كتب الإمام الصدر يقول محققاً: "إن أي نظام اجتماعي لا يملأ من دوره في فراغ وإنما يتجسد في كائنات بشرية وعلاقات قائمة بينهم وهو من هذه الناحية تتحدد درجة نجاحه ومقدرته على تعهده امكانات المجتمع وتفجير الطاقات السالفة في أفرادهِ". ولا يمكن لعملية البناء أن تحقق هدفها في تطوير الأمة واستغلال كل قواها ضد التخلف إلا إذا اكتسبت إطاراً يستطيع أن يدمج الأمة ضمنه حقاً وقلبت على أسس يتفاعل معها، فحركة الأمة كلها شرط أساسي لأنجاح أية عملية بناء حضاري جديد وأي معركة شاملة ضد التخلف "كما قل".

ولأن المطلوب هو اندماج الأمة (الجماهير، الشعب) وشرائها في عملية البناء الجديد في العراق، ويتصورنا فإن عملية الدمج يمكن أن تتم سياسياً عبر الخطوات التالية، التي يتعين الشروع بها بعد وقت وجيز من طلائع النظام الصدامي:

الخطوة الأولى: إجراء انتخابات بلدية في العراق، لتكون المجالس البلدية، وهي أصغر وحدات الدولة، مجالس منتخبة بإرادة الشعب ومعبرة عن مشاعره وقواه الفاعلة. ويمكن أن تتم هذه العملية بعد ستة أشهر من سقوط نظام الطاغية.

الخطوة الثانية: إجراء انتخابات لمجالس المحافظات، لتحقيق نفس الغرض لكن على مستوى المحافظات. وبالتالي ستكون لدينا مجالس محافظات تعبر عن تطلعات مواطني المحافظة بصورة ديمقراطية حرة. ويمكن أن تتم هذه العملية بعد ستة أشهر أخرى.

الخطوة الثالثة: إجراء انتخابات للجمعية التأسيسية العراقية، التي ستتكون أصلياً وضع مسودة الدستور الدائم للعراق، وطبيعي أن وضع الدستور يجب أن يتم من قبل ممثلي الشعب الحقيقيين، والمنتخبين، وليس من قبل مجالس معينة ذاتها، أو عبر تصويت ومساومات سياسية لا يعرف أحد إلى أي مدى تعبر عن إرادة الشعب وتطلعاته. ويمكن أن تجرى هذه العملية بعد ستة أشهر أخرى.

وهذا يعني أننا خلال سنة ونصف نكون قد تمكنا من إجراء ثلاثة انتخابات شاركت فيها جماهير الشعب بصورة ديمقراطية.

الخطوة الرابعة: الاستفتاء على الدستور الدائم. يمكن أن تستغرق عملية وضع مسودة الدستور الدائم 3-4 أشهر. وبعد شهر من الانتهاء من المسودة، يجري عرضها على الشعب عبر استفتاء عام. فإذا حصلت المسودة على موافقة الاغلبية، أصبحت شرعية ومقرة، وإن لم تحصل، يتعين العودة إلى الجمعية التأسيسية مرة أخرى لأجراء التعديلات اللازمة عليها.

الخطوة الخامسة: بعد ذلك بفترة زمنية مقبولة (2-3 أشهر) يمكن الدعوة إلى إجراء الانتخابات البرلمانية، على أسس الدستور الدائم. وبالقائمة البرلمانية المنتخب، يبدأ العراق عهداً جديداً بقائمة حكومة منتخبة ديمقراطية، تحكم على أسس دستور دائم، لا بد أنه سوف يحرص على إقامة الحياة السياسية على أسس الآليات الديمقراطية.

ثالثاً: الحكومة الانتقالية تمهد للحياة الدستورية

1- تشكيل الحكومة الانتقالية

وينبغي أن يلاحظ في ذلك ما يلي:

- أ- تشكل الحكومة الانتقالية بصورة قتالية من القوى والشخصيات العراقية المعارضة في الخارج والداخل، بطريقة التوافق والاتفاق.
- ب- ويجب أن تكون الحكومة الانتقالية تحديداً بطريقة تخلق الشعور بالحل والاطمئنان لدى المكونات القومية والمذهبية والسياسية للمجتمع العراقي.
- ت- يمكن أن تكون لجنة المتابعة التي سوف يشكلها المؤتمر نواة لهذه الحكومة الانتقالية على أن يجري استكمالها بعد التحرير بإضافة أعضاء من الداخل.
- ث- يجب أن تكون الحكومة الانتقالية حكومة مدنية برئاسة مدني، وتضم أعضاء متخصصين (تكنوقراط) إضافة إلى الأعضاء السياسيين.
- ج- تتراوح الفترة الانتقالية من السنة إلى السنتين على أن لا يجوز تجاوز سقف السنتين بحال من الأحوال.
- ح- يتم تحويل مؤتمر المعارضة العراقية إلى مجلس وطني مؤقت بعد إضافة أعضاء من الداخل بقرار عدة العلي أو وفق ما يتم الاتفاق عليه.

2- مهمات الحكومة الانتقالية

تتلخص مهمات الحكومة الانتقالية التي سوف تتولى السلطة بصورة مؤقتة بثلاثة أمور أساسية هي:

أ- القيام بمخالفات النظام السابق

1. حل كافة الأجهزة الأمنية والقضائية.
2. حل التشكيلات العسكرية غير النظامية، مثل جيش القدس وفدائيو صدام.
3. حل مجلس قيادة الثورة والقيادة القطرية والقومية للحزب الحاكم والمجلس الوطني.
4. إطلاق سراح السجناء السياسيين والموقوفين والمحتجزين.
5. السماح لعودة المهجرين واللاجئين والمهجرين وقهاريين.
6. إلغاء كل القيود المفروضة على الإعلام والصحافة والعمل الحزبي والنفابي.
7. إيقاف العمل بالقوانين الجزائية والعقوبات والقرارات والإجراءات التي شرعها النظام لحمايته من أبناء الشعب العراقي.
8. تقديم رموز النظام المتهمين بارتكاب جرائم ضد الإنسانية أو جرائم الحرب إلى محاكمات لصلوية.

9. اعلان العفو العام، واجراء مصالحات وتسويات، ضمن مفهوم العدالة الانتقالية.

ب- تأمين الاستقرار والامن في البلاد عبر آلية يتفق عليها تتألف من رجال الدين ورجال العشائر والتنظيمات والوطنيين من رجال القوات المسلحة.

ت- الانتقال نحو الحياة الدستورية والديمقراطية. ويتم ذلك بالعمل على إنجاز الخطوات الاساسية المؤدية الى الانتقال الى الحياة السياسية السليمة والقائمة بالحكم الدستوري المستقر وتتمثل في ما يلي:

1. اطلاق الحريات السياسية والاعلامية والحزبية والقيادية.
2. اجراء احصاء عام في البلاد لأغراض تسهيل العمليات الانتخابية للقائمة.
3. وضع نظام انتخابي مؤقت يصادق عليه المجلس الوطني المؤقت.
4. المباشرة بلجراء الانتخابات وفق ما ذكر في فترة "الشعب يتولى بناء الدولة بلا وصاية" وهذه الانتخابات هي:
 - الانتخابات البلدية
 - انتخابات مجالس المحافظات والمحافظين
 - انتخاب الجمعية التشريعية لوضع مسودة الدستور الدائم
 - الاستفتاء العام على الدستور الدائم
 - الانتخابات البرلمانية والرئاسية وفق بنود الدستور الدائم
5. قائمة مشاريع اقتصادية وزراعية لاستيعاب المسرحين من القوات المسلحة وغيرها من الأجهزة التي سوف تحل أو تحل بعد التغيير.
6. تعيين قادة للجيش والشرطة تابعين للسلطة المدنية.
7. تعلن الحكومة الانتقالية التزامها الكامل بالاعلان العالمي لحقوق الانسان.
8. تعمل الحكومة المؤقتة على مطالبة المجتمع الدولي وبخاصة الولايات المتحدة الاميركية بما يلي:
 - أ. الالتزام بالقائمة الديمقراطية في العراق
 - ب. رفع العقوبات الاقتصادية
 - ت. حل مشكلة التعويضات والديون الخارجية
 - ث. وضع مشروع عالمي لإعادة إعمار العراق
 - ج. التمييز بين الاسلاميين العراقيين و غيرهم من المتطرفين الذين اتهموا بالقيام بعمليات ارهابية.