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Tackling Iraq's unaccountable state

A networked approach
to mobilizing reformers

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Summary

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- The US-led invasion and occupation in 2003 brought Iraq some of the trappings of a liberal democracy, such as competitive multi-party elections and citizen freedoms, but it did not ensure political accountability. Instead, the country's post-2003 ethno-sectarian power-sharing system facilitated state capture and corruption on a wide scale. This paper traces the political dimensions of state capture in Iraq, and explains how vested interests have weaponized the mechanisms of a nominally representative system to maintain elite impunity, stifle reform in all sectors and repress political opponents across society, with consequences for the country's future stability.
 - The paper proposes a **'networked' approach** to empowering reformers, in response to the limitations of traditional capacity-building to deliver genuine and sustainable improvement in varying sectors. Twenty years since regime change, the Iraqi state's inability to boost and diversify economic opportunity, ensure a coherent chain of command in the security sector or address acute climate risks reveals a fundamental flaw in reform programming. Iraqi reformers and their international partners have devoted substantial attention and funding to many projects in these areas, but a lack of political will has consistently impeded their work. Despite rhetorical commitments to democracy, Iraq's political system is resistant to meaningful reform because change ultimately threatens the elite's power and impunity.
 - Given that an increase in political will around reform seems unlikely in the foreseeable future, ensuring **systemic accountability** is the key to overcoming this barrier. A more effective approach could be to leverage the implicit social contract between the elite and Iraq's citizens. The idea would be that, beyond seeking only to reform the technical capacities of state institutions themselves – which in many cases already have accountability mechanisms but simply fail to apply them – public opinion could be mobilized to encourage more accountable behaviour on the part of members of the elite themselves. Critically, an approach of this nature would have a better chance of gaining traction if supported by more effective linkages to (and between) those reform-minded individuals who are still to be found in the government bureaucracy, the judiciary, the legislature and elsewhere in society. Because such individuals are dispersed, isolated and at risk, stronger connections need to be established between them. In other words, capacity-building in the conventional sense needs to be complemented with what could be termed 'connectivity-building' as the organizing principle for public sector reform in Iraq.

- More specifically, the paper proposes the establishment of a pilot project for an **'accountability working group'**, formed from three cohorts: reform-minded officials in the government bureaucracy who have the know-how to manoeuvre within the political system; legal professionals with the understanding to navigate the law and the country's politicized courts; and influential leaders from civil society with the power to recruit public opinion. Such a working group could run parallel to, and support, more technically focused programming – which remains essential – across critical sectors of the state. A practical risk mitigation plan would need to be developed to provide physical and legal security for reformers who challenge state capture.
- Far from being wishful thinking, such an approach is potentially more feasible and realistic than reform efforts to date. The reality is that members of Iraq's elite – regardless of their commitment or otherwise to reform – still need to engage with the state's formal accountability mechanisms because the public expects them to. A Chatham House survey across Iraq in December 2021 found that respondents hold low levels of trust in government and societal accountability mechanisms, but still believe that these same mechanisms should be used to uphold the rule of law. Public pressure for accountability still matters to the ruling elite, and small-scale networked approaches have checked elite behaviour in isolated instances in the past. But such tactics need to be developed, formalized and expanded. If successful, this could help to reverse popular fatigue with – and scepticism over the effectiveness of – public protests, civil society and activism, and elections.

01

Introduction

This paper proposes an alternative approach to mobilizing support for institutional reform in Iraq – one that frames political ‘accountability’ in terms of leveraging the implicit social contract between the ruling elite and ordinary citizens.

On the evening of 27 November 2022, recently appointed Iraqi prime minister Mohammad Shia al-Sudani stood at a podium in a room at the prime minister’s palace. He was surrounded by piles of cash, stacked taller than him. As he looked at the camera, he proudly reported that his government had recovered some \$130 million (183 billion Iraqi dinars) that had been stolen in what Iraqis have called ‘the heist of the century’. Al-Sudani reassured watchers that this was just the start. He promised to recover the full \$2.5 billion that had gone missing from the government’s tax authority during his predecessor’s administration. This message, al-Sudani hoped, relayed his government’s seriousness in pursuing reform in Iraq, a country ranked as one of the most corrupt in the world.¹

In the early days of the investigation, the authorities had appeared to make good progress. Numerous people were arrested, including a businessman, Nour Zuhair Jassim, who was alleged to own companies that had received some of the stolen money.² Al-Sudani stated: ‘The investigative committees reached the conclusion

¹ Iraq ranks in the bottom 10 per cent of countries for ‘control of corruption’, according to the World Bank. See Kaufmann, D. and Kraay, A. (2023), ‘Worldwide Governance Indicators’, World Bank Group, <https://info.worldbank.org/governance/wgi/Home/Reports>; Iraq is ranked 157th out of 180 countries in the Corruption Perceptions Index. See Transparency International (2022), ‘Corruption Perceptions Index’, <https://www.transparency.org/en/cpi/2022/index/irq>.

² For a review of the arrest warrant and travel ban issued by Iraqi authorities on Nour Zuhair Jassim, see Amwaj Media (2022), ‘Drama at Baghdad airport as Iraq is rocked by 2.5B USD corruption case’, 26 October 2022, <https://amwaj.media/media-monitor/drama-at-baghdad-airport-as-iraq-is-rocked-by-2-5b-usd-corruption-case>. For a statement on the arrest warrant, see Iraqi Ministry of Interior (2023) via Facebook, 24 October 2023, <https://www.facebook.com/profile/100066980048506/search/?q=نور%20زهير%20جاسم>. See also Al-Masalah (2022), ‘نور زهير في دولة القانون: المتهم نور زهير كان موظفا بمكتب هشام الجبوري’, <https://almasalah.com/archives/30208>. [Senior official at State of Law: Nour Zuhair was employed by Haitham Al-Juboori], 26 November 2022, <https://almasalah.com/archives/30208>.

that 114 cheques were issued to the accused Nour Zuhair (Abu Fatima) for a total amount of more than one trillion dinars, with 37 cheques for a total amount of 624 billion dinars being disbursed to Badia Al Masar Company.³

But within weeks of the investigation's launch, some individuals were out of jail and back to conducting business across the country.⁴ When announcing the recovery of some of the cash, al-Sudani told the public that his government had made a deal with Jassim, who was released on bail in exchange for help finding and returning the stolen funds.⁵ Months later, documents from the Ministry of Justice (MoJ) showed that the ministry had also ordered the lifting of the asset freeze on over 40 properties belonging to Jassim and members of his family.⁶

While many Iraqis were surprised to discover that some of their tax money had been recovered, they were less surprised at the swift release of prominent figures alleged to have been implicated in the scandal.⁷ For many citizens, these events confirmed an impression that Iraq's political system ensured impunity for the well-connected, and that for two decades since the fall of Saddam Hussein's regime, Iraq's elite had continued to operate without significant accountability.

The US-led invasion and occupation in 2003 brought to Iraq some of the trappings of a liberal democracy, but it did not ensure the rule of law.

The US-led invasion and occupation in 2003 brought to Iraq some of the trappings of a liberal democracy – such as local and national multi-party elections and individual freedoms enshrined in a constitution – but it did not ensure the rule of law. Instead, a new ethno-sectarian power-sharing system provided opportunities for members of the country's elite to capture the state and plunder its wealth, in many cases with impunity.⁸ Their ability to do this was aided by substantial control

³ A recording of the press conference can be found here: Al-Iraqiya via Youtube (2022), 'رئيس الوزراء محمد شياع السوداني يعلن', [Prime Minister Muhammad Shiaa al-Sudani announces the recovery of part of the money from the theft of the century], video, 27 November 2022, https://www.youtube.com/watch?v=7222SKbxK_U. See also Iraqi News Agency (2020), 'السوداني يعلن استرداد جزء من الأموال المسروقة من الأمانات الضريبية', [al-Sudani announces the recovery of part of the money stolen from tax deposits], 27 November 2022, <https://www.ina.iq/171587--.html>; and al-Sumaria (2022), 'السوداني يعلن تفاصيل استرداد جزء من أموال "سرقة القرن"', [Sudani announces details of recovering part of the money from "theft of the century"], 27 November 2022, <https://www.alsumaria.tv/news/-/السوداني-يعلن-439361/ياسة>.
⁴ 'وزير الداخلية يعلن اعتقال "نور جاسم" في مطار بغداد', Ultra Iraq (2022), 'تفاصيل استرداد جزء من أموال سرقة القرن-الق وزير الداخلية-يعلن-اعتقال-نور-جاسم-في-مطار-بغداد', 24 October 2022, <https://ultrairaq.ultrasawt.com/-/وزير-الداخلية-يعلن-اعتقال-نور-جاسم-في-مطار-بغداد-الترا-عراق/أخبار>.

⁴ Nina News (2022), 'Nour Zuhair Al-Moussawi released on bail', 28 November 2022, <https://www.ninanews.com/Website/News/Details?key=1016925>.

⁵ A recording of the press conference can be found here: Al-Iraqiya via Youtube (2022), 'رئيس الوزراء محمد شياع السوداني يعلن', [Prime Minister Muhammad Shiaa al-Sudani announces the recovery of part of the money from the theft of the century], video, 27 November 2022, https://www.youtube.com/watch?v=7222SKbxK_U. See also Iraqi News Agency (2022), 'السوداني يعلن استرداد جزء من الأموال المسروقة من الأمانات الضريبية', [Sudani announces the recovery of part of the money stolen from tax deposits], 27 November 2022, <https://www.ina.iq/171587--.html>.

⁶ Shafaq (2023), 'القضاء العراقي يرفع إشارة العجز عن 43 عقاراً للمتهم الأول بسرقة القرن', [The Iraqi judiciary lifts the seizure signal for 43 properties of the first accused of theft of the century], 30 April 2023, <https://shafaq.com/ar/-/سياسة-القضا-العراقي-ترند-العراق:-نور-زهير-يتمتع-بعقارائه-المنتشرة-في-بغداد-والبصرة-وربما-هرب>, Ultra Iraq (2023), 'ترند العراق: "نور زهير" يتمتع بعقارائه المنتشرة في بغداد والبصرة وربما هرب', [Iraq Trend: Nour Zuhair enjoys his scattered properties in Baghdad and Basra while he may have already fled], 30 April 2023, <https://ultrairaq.ultrasawt.com/-/ترند-العراق-نور-زهير-يتمتع-بعقارائه-المنتشرة-في-بغداد-والبصرة-وربما-هرب-الترا-عراق/ارصد>.

⁷ Author's focus group discussion in Baghdad, March 2023.

⁸ Dodge, T. and Mansour, R. (2021), *Politically sanctioned corruption and barriers to reform in Iraq*, Research Paper, London: Royal Institute of International Affairs, <https://www.chathamhouse.org/2021/06/politically-sanctioned-corruption-and-barriers-reform-iraq>.

of the legal system, which was not only rendered less able to fulfil its role of ensuring accountability but also provided a means for some leaders to acquire greater power and repress political opponents.

The irony of the situation was that, on paper at least, Iraq had a system of governance designed to deliver accountability. That system still exists today, but it is not effective. 'Accountability' is defined in this paper as a process in which different groups in a multi-layered state⁹ – consisting of the elite,¹⁰ the government bureaucracy¹¹ and the public – hold specific powers to regulate each other, limit the impunity of privileged interests, and uphold the rule of law. But this paper argues that contemporary accountability mechanisms in the Iraqi bureaucracy (i.e., the judiciary, the executive and government agencies, the legislature and the police) are unable to check members of Iraq's post-2003 elite, many of whom have instead captured these mechanisms, which they then use to dominate the government and resist genuine reform. A similar dynamic hampers public accountability mechanisms (i.e., voting, media, civil society and protests), which instead are all too often taken over by members of the elite to dominate society and set the terms of the public discourse.

As a result, hundreds of organizers of reform programmes, across varying sectors, implemented by Iraqis (often with international partners) have concluded that a lack of political will is the ultimate barrier to their work.¹² Despite rhetorical commitments to democracy, Iraq's elite is resistant to meaningful economic, governance and security reform because change ultimately threatens its power and impunity. Given that an increase in political will around reform seems unlikely in the foreseeable future, this paper proposes an **alternative approach to mobilizing support for reform**, one that frames accountability in terms of leveraging the implicit social contract between the elite and ordinary citizens.

The idea is that, rather than seeking primarily to reform the *technical* capacities of state institutions themselves – which, as mentioned, in many cases already have accountability mechanisms but simply fail to apply them – a more effective approach could involve mobilizing public pressure. Critically, it would also involve connecting such pressure with the efforts of the isolated reformists who remain in the government and bureaucracy. This could help to amplify calls for more accountable behaviour on the part of members of the elite themselves.

⁹ This paper argues that in an accountable multi-layered state, three key groups with accountability mechanisms exist: the ruling elite, the government bureaucracy and the public. This framework is adapted from previous Chatham House work on the state in Iraq and Yemen. Whereas the previous work focused on the differentiation between *de jure* and *de facto* authorities in Iraq and Yemen, this paper argues that both *de jure* and *de facto* authorities exist in each section of the multi-layered state's accountability mechanisms. See Mansour, R. and Salisbury, P. (2019), *Between Order and Chaos: A New Approach to Stalled State Transformations in Iraq and Yemen*, Research Paper, London: Royal Institute of International Affairs, <https://www.chathamhouse.org/2019/09/between-order-and-chaos>.

¹⁰ The UK government defines the elite as 'those that hold a disproportionate amount of political power, who are able to influence decisions, mobilise popular support and implement policies at national, sub-national and transnational levels'. Stabilisation Unit (2019), *The UK Government's Approach to Stabilisation: A guide for policy makers and practitioners*, London: Stabilisation Unit, p. 89, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/784001/The_UK_Government_s_Approach_to_Stabilisation_A_guide_for_policy_makers_and_practitioners.pdf.

¹¹ All government institutions, including the executive, legislative and judicial branches.

¹² See, for example, USAID Office of Inspector General (2012), *Audit of USAID/Iraq's Legislative Strengthening Program*, Washington, DC: U.S. Agency for International Development, <https://oig.usaid.gov/sites/default/files/2019-09/6-267-13-001-P.pdf>.

To this end, this paper proposes the development of an ‘**accountability working group**’ to build connectivity between three key cohorts: reformists in government positions who have the technical know-how to manoeuvre within the bureaucracy; legal professionals with the ability to navigate the law and the courts; and influential leaders from civil society with the power to mobilize public opinion. The ultimate goal of such a working group would be to put greater pressure on Iraq’s elite to accept reforms in varying fields. The new accountability working group could run parallel to, and help drive, more technically focused reform efforts, which remain essential across critical sectors of the state.

The reality is that members of the Iraqi elite – regardless of their real commitment to reform – still need to engage with accountability mechanisms.

Such an approach, far from being wishful thinking, is arguably more feasible than well-intentioned technical approaches that have failed to address the political constraints arising from elite capture of the state. The reality is that members of the Iraqi elite – regardless of their real commitment to reform – still need to engage with accountability mechanisms. Most members of the elite publicly promote the idea of a liberal democracy and claim to be against corruption.¹³ As such, they give ideological power to principles that, in theory, could be used against themselves to demand more accountable rule. A Chatham House survey conducted across Iraq found that respondents hold low levels of trust in the government’s accountability mechanisms but still believe these same mechanisms should be used to uphold the rule of law (see Chapter 3, Figures 3–5).¹⁴

In short, public pressure still matters to the ruling elite. Public outrage and a networked approach to reform have checked elite behaviour in isolated instances in the past. For example, in 2022 an Iraqi teenager, Haider al-Zaidi, was arrested and sentenced

¹³ In an interview with the author, Prime Minister al-Sudani states: ‘We are against corruption. But there is corruption everywhere.’ Author’s interview, February 2023. In a video, Mohammad al-Halbousi states that he is against corruption: al-Halbousi, M. via Youtube (2019), ‘The Role of Iraq’s Parliament’, 8 February 2019, video, https://www.youtube.com/watch?v=pBvgWa7NFgs&t=1s&ab_channel=ChathamHouse; al-Sadr claims he is against corruption: BBC News (2022), ‘Moqtada al-Sadr: The influential Shia cleric behind Iraq protests’, 30 August 2022, <https://www.bbc.co.uk/news/world-middle-east-12135160>; Qais al-Khazali says he is against corruption here: Iraq News Agency (2022), ‘الشيخ قيس الخزعلي: نؤكد دعمنا لجهود الحكومة والمؤسسة القضائية للتصدي لآفة الفساد’, [Sheikh Qais al-Khazali: We affirm our support for the efforts of the government and the judicial institution to confront the scourge of corruption], 9 December 2022, <https://www.ina.iq/172693--.html>; Nouri al-Maliki says he is against corruption here: Shafaq (2022), ‘المالكي: واجبنا محاربة الفساد ودعم مؤسسات الدولة وتقديم المشورة للحكومة العراقية’, [al-Maliki: Our duty is to fight corruption, support state institutions, and provide advice to the Iraqi government], 11 February 2022, <https://shafaq.com/amp/ar/سياسة/المالكي-واجبنا-محاربة-الفساد-ودعم-مؤسسات-الدولة-وتقديم-المشورة-للحكومة-العراقية>.

¹⁴ For this nationally representative survey, 1,600 interviews were conducted by the Independent Institute of Administration and Civil Society Studies (IIACSS), which is the only representative body of Gallup in Iraq. Iraq is sub-divided into 18 *muhfada* or governorates which are further broken down into districts or *qada*. These are broken down into *nahia* or sub-districts and rural villages. Interviews were proportionately distributed to all 18 *muhfada*. Different approaches were used for selecting urban and rural locations, according to the desired province. To determine the households to survey, the starting point was identified using a random number table. The supervisor of each survey divided the number of houses on the street by the number of interviews plus two potential substitutions (that is, $5 + 2 = 7$) to calculate the skip pattern. Using this sampling interval, the interviewer randomly selected additional houses on that street to interview. If there were multiple households within the selected dwelling, the interviewer used a household selection grid (a table of random numbers) to determine the specific household for interview. The next birthday method was used, in which the adult above 18 with the closest approaching birthday was asked to select the respondent within a household. Once the respondent was selected, the interview was conducted with the respondent in-home. There was no gender quota, but a gender balance was generally achieved within the margin of error. The survey was conducted in December 2021.

to three years in prison for a tweet calling Abu Mehdi al-Muhandis, the late head of the Popular Mobilization Forces (PMF), a 'spy' instead of a martyr. In response, a public pressure campaign from civil society – including journalists writing articles and social media influencers using the hashtag '#Haider_al-Zaidi' (حيدر الزيدي) – accompanied the efforts of reform-minded individuals in the government to have the sentence overturned. Officials lobbied inside their institutions and with lawyers and members of parliament (MPs), who pursued legal actions. Ultimately, this application of what might be termed 'networked' pressure led to the withdrawal of the sentence against al-Zaidi on 19 December 2022.¹⁵ The case suggests that building connectivity between civil society, lawyers, and reformists in government can help to push back against repression, offering a potential channel for the 'elite accountability' approach to reform articulated in this paper. While al-Zaidi's case is an outlier, it offers a small glimpse into the networking potential of reform – if pursued under a concerted and coherent strategy.

About this paper

The rest of this paper explores the mechanisms of elite capture of the state in Iraq in more detail, and outlines ideas for addressing the governance challenges this creates. Chapter 2 defines the essential characteristics of – and differences between – the accountable state nominally enshrined in Iraq's constitution and the reality of the '**unaccountable state**' observed on the ground in Iraq today. Chapter 3 looks at accountability mechanisms in specific institutional sectors in turn: the judiciary, the executive and government ministries, the legislature, and the bureaucracy's security structures. It outlines how institutions have become vulnerable to capture by elite interests, and how this has eroded trust in the state. Chapter 4 considers how civil society channels for promoting accountability, including the media, have often been used against the public rather than in its service and have thus constrained, rather than empowered, reform. Chapter 5 concludes by considering the limitations of previous capacity-building programmes, and by making the case for the above-mentioned **reframing of accountability**. In particular, the chapter proposes the creation of a project for **an accountability-focused network or working group**, drawing predominantly on domestic Iraqi stakeholders.

¹⁵ The arrest warrant can be found here: Ultra Iraq (2022), 'الحشد يستعين بمادة "صدامية" ضد شاب يافع. ويربح القضية بسجنه 3 سنوات' [The PMF uses "confrontational" material against a young man ... and wins the case, imprisoning him for three years], 5 December 2022, <https://ultrairaq.ultrasawt.com/-3-الحشد-يستعين-بمادة-صدامية-ضد-شاب-يافع-ويربح-القضية-بسجنه-3-التر-عراق/راصد/C2%A0%سنوات>.

02

The theory and reality of accountability in post-2003 Iraq

Accountability mechanisms of different types can be found across Iraq's multi-layered state. These mechanisms are intended to balance the power of the ruling elite, the bureaucracy and the public, so that each group regulates the other two. In practice, the system is ineffective.

The accountable state: the elite, the government bureaucracy and the public

At its core, 'accountability' can be seen as a system to limit or regulate power (and the impunity of those who wield it).¹⁶ The question then is to define who is accountable to whom, in what areas, and how genuine accountability can be achieved in practice. In the context of this paper, the 'accountable to whom' part can be considered to consist of 'vertical' relationships (i.e., between the

¹⁶ Lindberg argues that 'accountability belongs to a class of concepts under the more general category of 'methods of limiting power'. Lindberg, S. I. (2013), 'Mapping accountability: core concept and subtypes', *International Review of Administrative Sciences*, 79(2), pp. 202–26, <https://doi.org/10.1177/0020852313477761>. Similarly, Lührmann et al. view accountability as the 'de facto constraints on the government's use of political power'. Lührmann, A., Marquardt, K. and Mechkova, V. (2020), 'Constraining Governments: New Indices of Vertical, Horizontal, and Diagonal Accountability', *American Political Science Review*, 114(3), p. 811, doi:10.1017/S0003055420000222. See also Sartori, G. (1987), *The Theory of Democracy Revisited*, Washington, DC: CQ Press, p. 253.

elite and the public) as well as 'horizontal' ones (between and within the elite and the government). The 'what' and 'how' refer to accountability *mechanisms*, which in turn cover two functions: answerability (the obligation of members of the elite to explain behaviour in specific areas, for example financial conduct or observance of human rights – i.e., the 'what'); and enforcement (the right of society, for instance via legal mechanisms, to punish misconduct – the 'how').

Accountability mechanisms of different types can be found, at least on paper, across Iraq's multi-layered state. Social power is spread across three groupings: the **ruling elite**, the **government bureaucracy** and the **public**. This means that each of these groupings also nominally has mechanisms at its disposal to limit or regulate the power of the other two, or to hold them to account. The problem, in the case of Iraq, is that many of these mechanisms are ineffective in practice.

The **ruling elite** includes the most powerful actors in this state structure. A policy definition of an elite is 'those that hold a disproportionate amount of political power, who are able to influence decisions, mobilise popular support and implement policies at national, sub-national and transnational levels'.¹⁷ In Iraq, the elite consists of different groups of well-connected individuals who are members of political parties, or who are part of the security and economic networks connected to those parties. These individuals exert authority over the government and population. The social power of Iraq's elite is ideological, economic and coercive.¹⁸

The **government bureaucracy** is made up of civil servants, although they are not a single cohesive group. Some have the skills and know-how to implement policy independently. Others are political appointees whose agendas and influence undermine the coherence and power of their institutions, whether in the executive, legislative or judicial branches. In terms of the bureaucracy's 'horizontal' relationships and obligations, its function is to maintain checks and balances within and between public institutions to prevent abuses of power. This function, at least on paper, is underpinned by civil service regulations and the rule of law. The Iraqi state's institutional accountability mechanisms include the judiciary, the executive, independent commissions, the legislature (including parliamentary committees) and the security sector.¹⁹ These mechanisms also apply to the 'vertical' dimension of accountability between the state and the public. However, in both cases the effectiveness of this system is determined both by the independence (or *de facto* lack thereof) of the bodies tasked with enforcement, and by the ability (or inability) of accountability mechanisms to uphold the rule of law free from political, economic or coercive pressure.

¹⁷ Stabilisation Unit (2019), *The UK Government's Approach to Stabilisation*, p. 89.

¹⁸ Mann, M. (1986), *The Sources of Social Power: A History of Power from the Beginning to AD 1760*, Cambridge: Cambridge University Press. See also Khatib, L. and Mansour, R. (2021), *Where is the 'state' in Iraq and Lebanon?*, Research Paper, London: Royal Institute of International Affairs, <https://www.chathamhouse.org/2021/04/where-state-iraq-and-lebanon>.

¹⁹ According to a World Bank report: 'Judicial oversight captures whether the government respects the legitimate authority of the judiciary, which is measured according to whether the executive power complies with the courts' decisions and how independent the courts are. Legislative oversight captures the legislative constraints on the executive, reflected by how often the legislative power questions the government and how likely it is for it to sanction the government's illegal actions. Oversight by other public agencies measures how other public agencies such as the comptroller general, general prosecutor, or ombudsman investigate the executive branch.' Belhaj, F. et al. (2022), *A New State of Mind: Greater Transparency and Accountability in the Middle East and North Africa*, World Bank Group, MENA Economic Update, <https://doi.org/10.1596/978-1-4648-1925-4>.

For the purposes of this paper, the **public**, or society, can be defined as the population outside the elite and government bureaucracy. It includes civil society, labour unions, protest movements, academia, the media, religious institutions and tribal leaders. The public's power comes in part from its numbers, reflecting the potential for mass mobilization and public opinion to hold the elite or the bureaucracy to account. Specific accountability mechanisms serving the public include those that provide what can be termed 'representation accountability' and those that provide 'societal accountability'. The former exists when citizens can directly and indirectly elect elements of the elite and government bureaucracy; the latter involves the media and civil society exerting pressure on the elite through the dissemination of information that could generate protest or resistance.

In a multi-layered accountable state, as Figure 1 depicts, the government bureaucracy and society can act independently to limit or regulate the power of the elite. In states with higher levels of vertical and horizontal accountability, the public has greater trust in these accountability mechanisms.²⁰

Figure 1. The accountable multi-layered state



Source: Chatham House illustration.

The unaccountable state: impunity, state capture and competitive authoritarianism

However, in an unaccountable multi-layered state, the elite captures the accountability mechanisms of the bureaucracy and society, resulting in a power imbalance.²¹ State capture undermines the efficiency of the government bureaucracy, as members of the elite develop their own patronage networks. The elite appoints loyal people into senior positions, making the government bureaucracy less able to perform its accountability functions.²² The elite can then use these captured mechanisms to target civil society and other societal accountability mechanisms, as well as representation accountability mechanisms such as those needed to hold free and fair elections.

²⁰ Ibid.

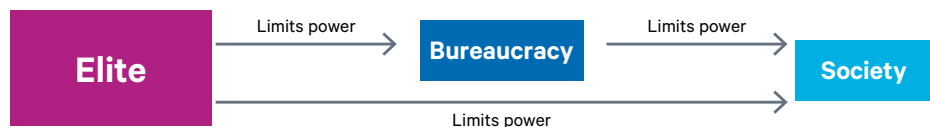
²¹ State capture is defined as 'the actions of individuals or groups both in the public and private sectors, influencing the formation of laws, regulations, decrees and government policies to their own personal advantage'. Madonsela, S. (2019), 'Critical Reflections on State Capture in South Africa', *Insight on Africa*, 11(1), pp. 113–30. <https://doi.org/10.1177/0975087818805888>.

²² Martins, M. E. and Solomon, H. (2016), 'Understanding the phenomenon of 'State capture' in South Africa', *Southern African Peace and Security Studies*, 5(1), p. 21. See also Levitsky, S. and Way, L. (2020), 'The New Competitive Authoritarianism', *Journal of Democracy*, 31(1), pp. 51–65, doi:10.1353/jod.2020.0004.

Despite state capture, some authoritarian systems still seek to project an aura of accountability to convince the public that they are democratic. ‘Competitive authoritarian’,²³ ‘electoral authoritarian’²⁴ or ‘hybrid’²⁵ states all feature multi-party elections.²⁶ However, as Croissant and Hellmann argue: ‘[T]he difference between multiparty elections in authoritarian regimes compared to those in democracies is that in electoral autocracies the “playing field” is not level [...] elections are not meant to bring forth a new political majority, but rather confirm the status quo.’²⁷ This creates ‘selective accountability’ in which captured institutions both protect members of the elite and give them the authority to target rivals in society.²⁸ As such, authoritarian regimes continue to use competitive elections and accountability mechanisms to ensure the resilience of their rule.

Figure 2 depicts an unaccountable state in which the elite captures the state’s accountability mechanisms. These mechanisms are then used to weaken the independence and capacity of the government bureaucracy and society.

Figure 2. The unaccountable multi-layered state



Source: Chatham House illustration.

²³ Levitsky and Way (2020), ‘The New Competitive Authoritarianism’.

²⁴ Schedler, A. (2006), *Electoral Authoritarianism: The Dynamics of Unfree Competition*. Boulder, US: Lynne Rienner Publishers.

²⁵ Diamond, L. (2002), ‘Elections Without Democracy: Thinking About Hybrid Regimes’, *Journal of Democracy*, 13(2), pp. 21–35, doi:10.1353/jod.2002.0025.

²⁶ Steven Levitsky and Lucan Way have argued that ‘multiparty elections continue to be widely viewed as the most legitimate means of ascending to power’. Levitsky and Way (2020), ‘The New Competitive Authoritarianism’.

²⁷ Croissant, A. and Hellmann, O. (2018), ‘Introduction: State capacity and elections in the study of authoritarian regimes’, *International Political Science Review*, 39(1), p. 6, <https://doi.org/10.1177/0192512117700066>.

²⁸ United States Institute of Peace (2023), *Elite Capture and Corruption of Security Sectors*, Washington, DC: United States Institute of Peace, p. 22, <https://www.usip.org/sites/default/files/2023-02/20230217-elite-capture-corruption-security-sectors.pdf>.

03

Exploring Iraq's key accountability mechanisms

The judiciary, executive and legislative branches, along with Iraq's security institutions, remain susceptible to elite capture. The result is that a nominally accountable system frequently fails to function as intended.

Enshrining accountability on paper

On paper, Iraq's government bureaucracy has institutional mechanisms at its disposal to provide accountability and uphold the rule of law. These mechanisms – legal, financial and coercive – are meant to ensure 'answerability' and 'enforcement' (see Chapter 2). They include the judiciary, the legislature, the executive and security actors.

Legal accountability mechanisms are enshrined in the 2005 constitution and subsequent laws, such as the Federal Supreme Court Law,²⁹ the Council of Representatives Law,³⁰ the Political Parties' Law,³¹ the Federal Board of Supreme Audit Law,³² the Commission of Integrity Law³³ and the General Prosecution Law.³⁴ Financial accountability mechanisms meant to regulate elite behaviour include

²⁹ Iraqi Legislation Database (undated), 'Federal Supreme Court law number 30 of the year 2005', <https://iraql.d.hjc.iq/LoadLawBook.aspx?SC=280220068162081>.

³⁰ Republic of Iraq (2018), *Iraqi Legislation*, Issue 4499, 16 July 2018, <https://moj.gov.iq/upload/pdf/4499.pdf>.

³¹ Iraqi Legislation Database (undated), 'Law number 36 of the year 2015 political parties law', <https://iraql.d.hjc.iq/LoadLawBook.aspx?page=1&SC=301220157147752>.

³² Federal Board of Supreme Audit (undated), 'Board of Supreme Audit law number 31 of the year 2011', https://www.fbsa.gov.iq/ar/page/low_of_fbsa.

³³ Republic of Iraq (2019), *Iraqi Legislation*, Issue 4568, 23 December 2019, <https://moj.gov.iq/upload/pdf/4568.pdf>.

³⁴ Republic of Iraq Supreme Judicial Council (2018), 'Public prosecution law number 49 of the year 2017', 6 November 2018, <https://www.hjc.iq/view.4700>.

the Council of Representatives Committees Law,³⁵ the Ministry of Finance Law,³⁶ the Federal Budget Law³⁷ and the Central Bank of Iraq Law.³⁸

The bureaucracy also has access to state-sanctioned instruments of coercion, such as the security services, to fulfil the enforcement side of accountability. Theoretically, enforcement is achieved through the Ministry of Interior (MoI) in most civilian cases, the Ministry of Defence (MoD) and the National Security Council (NSC). These institutions include forces tasked with discovering, deterring, rehabilitating or punishing members of the elite and ordinary citizens who break laws.

A 2021 Chatham House survey indicated that the Iraqi public views accountability mechanisms as falling short of expectations. The reason for this failure is the development of networks of patronage at senior levels spanning key accountability mechanisms.

However, despite the wide range of legal, financial and coercive tools at the formal disposal of the bureaucracy, this has not translated into genuine accountability. For example, Iraq consistently scores in the lowest percentiles for 'voice and accountability' in the World Bank's Worldwide Governance Indicators, particularly in categories such as 'rule of law' or 'control of corruption'.³⁹ And a 2022 Arab Barometer survey found that 93 per cent of Iraqis believe that corruption is extensive across the state, with only 32 per cent believing that the government is cracking down on corruption.⁴⁰ Such problems have damaged public perceptions of the effectiveness of accountability mechanisms in Iraq. In a focus group of civil society leaders conducted by Chatham House in 2023, the al-Sudani administration's punitive measures against certain members of the elite were considered insufficient: most participants in the focus group demanded structural reform addressing the root causes of corruption. A 2021 Chatham House survey also indicated that the Iraqi public views accountability mechanisms as falling short of expectations.⁴¹

The reason for this failure to meet popular expectations is the development of networks of patronage at senior levels spanning key accountability mechanisms. State capture has impeded the coherence and capacity of formal systems of governance. It has resulted in some civil servants, lawyers, judges and security

³⁵ Iraqi Parliament (undated), Finance Committee page, <https://archive4.parliament.iq/ar/اللجان/اللجنة-المالي>.

³⁶ Iraqi Electronic Legislation Base (undated), 'Ministry of Finance Law No. (92) of 1981', <https://iraql.d.e-sjc-services.iq/LoadLawBook.aspx?page=1&SC=&BookID=8204>.

³⁷ Republic of Iraq Ministry of Finance (undated), 'Federal Budget Law page', <http://www.mof.gov.iq/pages/ar/FederalBudgetLaw.aspx>.

³⁸ Central Bank of Iraq (2004), 'Amended law number 56 of the year 2004', <https://cbi.iq/static/uploads/up/file-158270647972226.pdf>.

³⁹ Kaufmann and Kraay (2023), 'Worldwide Governance Indicators', 2023 Update, www.govindicators.org.

⁴⁰ Arab Barometer (2022), *Arab Barometer VII: Iraq Report*, https://www.arabbarometer.org/wp-content/uploads/ABVII_Iraq_Country_Report-ENG.pdf.

⁴¹ Based on a survey of 1,600 Iraqis across all governorates, December 2021.

officials doing the bidding of their patrons, both in ensuring elite impunity and repressing society. In other words, institutional capture by the elite ensures that neither the government bureaucracy nor the public can exercise accountability effectively, despite the formal mechanisms in place to provide just such a function.

The following sections focus on the main accountability mechanisms in Iraq. They outline what each mechanism is designed to do, the ways in which each mechanism or government body is susceptible to elite capture, and the consequences this has for Iraq's governance.

The judiciary

The judiciary includes institutions such as the Supreme Judicial Council, the Federal Supreme Court, the Federal Court of Cassation, the Public Prosecution Service and the Judicial Supervision Authority. According to the 2005 constitution, the judiciary has the authority to interpret the constitution and – critically – to detain or investigate all Iraqis.⁴² The Supreme Judicial Council is responsible for managing the entire ordinary judiciary, including senior judges (but excluding the Federal Supreme Court, which is independent). A crucial moment for the judiciary came in 2017 with the passing of Law No. 45, which recognized the Supreme Judicial Council as an independent entity and gave it powers previously held by the Ministry of Justice (MoJ) prior to 2003.⁴³

Key to the judiciary's ability to provide accountability is its independence. Article 19 of the constitution states: 'The judiciary is independent and no power is above the judiciary except the law.' Article 88 reaffirms this: 'Judges are independent, and there is no authority over them except that of the law. No power shall have the right to interfere in the judiciary and the affairs of justice.'⁴⁴

In part, this independence relies on the existence of high-level institutions that can check power internally. This system of checks includes the Federal Supreme Court, which is legally independent from the Supreme Judicial Council. Its mandate includes considering the constitutionality of the decisions of all courts with regard to questions on federalism. Additionally, the Judicial Supervision Authority monitors the behaviour of judges and court employees and is the body responsible for handling corruption cases involving judges.

⁴² Al-Ali, Z. (2014), *The Struggle for Iraq's Future: How Corruption, Incompetence and Sectarianism Have Undermined Democracy*, New Haven and London: Yale University Press.

⁴³ Supreme Judicial Council of Iraq (2018), 'Supreme Judicial Council Law No. 45 of 2017', <https://www.sjc.iq/view.4701>.

⁴⁴ Republic of Iraq (2005), *Constitution of the Republic of Iraq*, <https://www.refworld.org/docid/454f50804.html>.

Table 1. Iraq's main judicial bodies

	Institution	Head	Position	Appointment method	Date incumbent appointed	Role and tasks
1	Supreme Judicial Council	Faiq Zaidan	President	The head of the Federal Court of Cassation is automatically the president of the Supreme Judicial Council.	2017	Responsible for overseeing the functioning of the judicial system. Its main functions include: judicial administration; appointments and promotions; disciplinary actions; budget oversight; drafting and implementation of policies; and protecting the independence of the judiciary.
<p>Notes: The Supreme Judicial Council is responsible for managing the affairs of the federal judiciary. The Iraqi constitution stipulates that the council's membership should comprise the following persons: the president of the Supreme Judicial Council, the deputy president of the Supreme Judicial Council, the head of the Public Prosecution Service, the head of the Judicial Supervision Authority, and the 16 heads of the Courts of Appeal. In practice, the head of the Supreme Judicial Council generally controls decision-making. It should be noted that the judicial system in the Kurdistan region is independent of the judicial system in Iraq.</p>						
2	Federal Supreme Court	Jasim Mohammad Aboud	Head	The Federal Supreme Court's head and all other justices are selected by a combination of the Supreme Judicial Council, the Public Prosecution Service and the Judicial Supervision Authority. The president of the Republic of Iraq issues a presidential decree within 15 days of the selection.	2021	The court's mandate includes: interpreting the constitution; settling disputes between federal entities; reviewing legislation; ensuring compliance with international treaties; issuing advisory opinions; ruling on election disputes; overseeing the integrity of the electoral process; and reviewing legislation and procedures related to political parties.
3	Federal Court of Cassation	Faiq Zaidan	Head	Nominated by the Supreme Judicial Council and voted in by parliament. (Nominations are frequently based on political agreements.)	2017	The highest criminal court. It has the power to overturn or reduce sentences handed down by the criminal courts. Its decisions are final and cannot be appealed.
<p>Notes: Its head is also the president of the Supreme Judicial Council. The deputy head of the court is also the deputy president of the Supreme Judicial Council.</p>						
4	Central Criminal Court	Khalid Saddam Mohsin	Head of the Central Criminal Court	Nominated by the Supreme Judicial Council and voted in by parliament. (Nominations are frequently based on political agreements.)	2021	This court specializes in cases of terrorism, organized crime, government corruption, crimes of destabilizing institutions or the democratic process, etc.
<p>Notes: The Central Criminal Court was formed through Coalition Authority Order No. 13 on 22 April 2004.</p>						

Tackling Iraq's unaccountable state
A networked approach to mobilizing reformers

	Institution	Head	Position	Appointment method	Date incumbent appointed	Role and tasks
5	Courts of Appeal (16 courts)	Head in every province except the Kurdistan region	Head of the Court of Appeal (one in each governorate, except Baghdad's two courts)	Appointed by the Supreme Judicial Council based on career progression and job service.	–	The highest judicial and administrative body. Specializes in criminal appeals in every Iraqi province.
Notes: The head of the Court of Appeal in each province is considered the head of the judicial authority in that province and manages all of that authority's affairs.						
6	Criminal Courts (16 Courts)	Head in every province except the Kurdistan region	Head of the Criminal Court (one in each governorate except Baghdad)	Appointed by the Supreme Judicial Council based on career progression and job service.	–	These courts investigate crimes carrying penalties of more than five years' imprisonment. The courts' decisions are audited by the Federal Court of Cassation.
Notes: In every governorate (except the Kurdistan region and Baghdad) there is one criminal court. Baghdad has two criminal courts: the Rusafa court and the Karkh court.						
7	Misdemeanour Courts (several courts in each governorate)	Head in every province except the Kurdistan region	Head of the Court (multiple in each province)	Appointed by the Supreme Judicial Council based on career progression and job service.	–	These courts investigate crimes carrying penalties of three months' to five years' imprisonment. Each court's decisions are audited by the Court of Appeal in the relevant province.
8	Courts of Inquiry, also known as Investigating Courts (there are several such courts in each province)	Multiple per governorate, by subject	Investigating judge (multiple in each governorate)	Appointed by the Supreme Judicial Council based on career progression and job service.	–	Judicial investigation of all crimes.
Notes: These courts consist of one judge with a member of the Public Prosecution Service. Within its jurisdiction, each court investigates all crimes (felonies carrying a penalty of over five years' imprisonment, misdemeanours carrying a maximum penalty of five years' imprisonment, and less serious offences carrying a penalty of 24 hours' to three months' incarceration). These courts generally work on cases submitted by police stations affiliated with the Ministry of Interior.						
9	Central Anti-Corruption Criminal Court	Khalid Saddam Mohsin	Head of the Court	Selected by the president of the Supreme Judicial Council.	2021	Investigation of major corruption cases.
Notes: The Central Anti-Corruption Criminal Court was formed after demonstrations in Baghdad and other provinces in 2003. Its role is to hear major corruption cases, including those involving defendants who hold senior positions in state institutions. After the change of government in 2022, this court became less active as the committee to which it belonged was abolished.						
10	Judicial Supervision Authority	Laith Jaber Hamzeh	Head of the Authority	Appointed by the Supreme Judicial Council based on career progression and job service.	2022	The Judicial Supervision Authority monitors the conduct of judges and employees in all courts of Iraq, and is responsible for handling corruption cases related to judges.

	Institution	Head	Position	Appointment method	Date incumbent appointed	Role and tasks
11	Public Prosecution Service	Najm Abdullah Ahmed	Chief Prosecutor	Appointed by the Supreme Judicial Council based on career progression and job service.	2021	Oversight of judicial decisions. The Public Prosecution Service monitors decisions issued by judges and defends the public.
12	Judicial Institute	Faten Mohsen Hadi	Judicial Institute Council (headed by the president of the Supreme Judicial Council)	Appointed by the Supreme Judicial Council based on career progression and job service.	2020	Training academy which grants a higher diploma in judicial sciences. Currently, the institute is the only body that awards this diploma.
Notes: The institute was under the Ministry of Justice until 2017, when Law No. 70 was issued. Under the new law, the Judicial Institute became part of the Supreme Judicial Council.						
13	State Council	Karim Khamis Khasabak	Head of the State Council	Professional progression	2022	Advisory and administrative role. The council provides legal advice on the drafting of legislation, and submits recommendations to the Council of Representatives and the executive. In addition, the council operates three courts: the Administrative Court, the Employees Court and the Supreme Administrative Court.
Notes: The State Council was under the Ministry of Justice until 2017, when Law No. 71 reclassified it as a financially and administratively independent body. The State Council is independent of the Supreme Judicial Council.						
14	Judicial Development Institute	Hassan Ali Abdalhadi	Director of the Institute	Appointed by the head of the Supreme Judicial Council.	2021	Training and advisory body. The institute trains judicial officials and holds workshops and discussion sessions.
Notes: The institute's role is technical, and it is at the level of a department within the judiciary.						

A key challenge to the judiciary's independence is a centralization trend that dates back to the early days after the US-led invasion. In 2003, the Coalition Provisional Authority (CPA) issued CPA Order No. 35, creating a Council of Judges that designated the council's head as the country's chief justice.⁴⁵ However, the problem was that Iraq had never previously had a supreme court, meaning that this was the first time that a single judge had *carte blanche* to select his team.⁴⁶ In today's Iraq, the term 'chief justice' can cause some confusion, and its definition is blurred. In the English language, foreign diplomats and organizations officially refer to the president of the Supreme Judicial Council, currently Faiq Zaidan,

⁴⁵ Coalition Provisional Authority (2003), 'Coalition Provisional Authority Order Number 35 Re-Establishment of the Council of Judges', https://govinfo.library.unt.edu/cpa-iraq/regulations/20030921_CPAORD35.pdf. Note that this council was eventually disbanded in 2017. See Official Gazette of Iraq (2017), 'قانون مجلس القضاء الأعلى', [Supreme Judicial Council Law], 22 January 2017, <https://www.moj.gov.iq/upload/pdf/4432.pdf>.

⁴⁶ Mekkiya. F. (2023), 'Iraq's Judiciary: Problems of Unrestricted Independence', *Hikama*, May 2023 issue, Arab Center for Research and Policy Studies and the Doha Institute for Graduate Studies, <https://hikama.dohainstitute.org/en/issue06/Pages/art04.aspx>.

as the chief justice.⁴⁷ However, on official Iraqi documents, Zaidan is referred to as the president or head of the Supreme Judicial Council.⁴⁸ Nonetheless, Zaidan's position on the council, along with his position as head of the Federal Court of Cassation (the country's top criminal court), means that he has become the ultimate decision-maker on the appointment of judges in several of the top courts, as Table 1 indicates. Zaidan has acknowledged the benefits of a centralized judiciary, stating in an interview: 'I believe in a centralized system in general, even in the political system ... likewise in the judiciary, now if you hear the experts praise it is because we have centralization, I do not want to say that our situation is excellent, but I say that it is good.'⁴⁹ Zaidan is also directly responsible for appointing the heads of internal accountability mechanisms designed to oversee judges.

The power of appointment has given the president of the Supreme Judicial Council considerable influence over the judiciary and its accountability mechanisms, leading to perceptions that the judiciary has become less independent and, as such, less effective.⁵⁰ One legal expert told the author that the centralization of decision-making had become part of a 'judicial oligarchy' (in Arabic, *Awligarshiat al-Qadha*).⁵¹ For example, the Public Prosecution Service has faced challenges exerting its authority and has experienced a decline in power across the country. Currently, the service remains under the authority of the Supreme Judicial Council and appears to lack autonomy.⁵² Similarly, some perceive the Federal Supreme Court, whose judges are selected by the Supreme Judicial Council, as struggling to maintain its independence.⁵³ These factors can be seen as having collectively weakened the judiciary's effectiveness and independence.⁵⁴

In interviews with the author, Zaidan has remained adamant that his role is as a judge and not as a political figure. However, he has been involved in key political discussions, for instance having an increasing presence at meetings of the so-called 'three presidencies' previously reserved for Iraq's president, prime minister and speaker of parliament. These meetings have now come to be known as meetings

⁴⁷ The UN refers to the SJC's president, Faiq Zaidan, as 'chief justice'. See United Nations Iraq (2022), 'Chief Justice Zidan and Special Adviser Ritscher commend the work of Iraqi Judges to hold ISIL members accountable for international crimes', press release, 6 February 2022, <https://iraq.un.org/en/171084-chief-justice-zidan-and-special-adviser-ritscher-commend-work-iraqi-judges-hold-isil-members>. The United States Institute of Peace (USIP) also used the term 'chief justice' in referring to Medhat al-Mahmood, a former president of the SJC. See Gienger, V. (2014), 'Iraq Chief Justice Cites Judicial Progress and Needs Amid Tensions', USIP, 28 March 2014, <https://www.usip.org/blog/2014/03/iraq-chief-justice-cites-judicial-progress-and-needs-amid-tensions>.

⁴⁸ The SJC refers to Zaidan as 'president' – see Republic of Iraq Supreme Judicial Council (undated), مجلس القضاء الأعلى [Supreme Judicial Council], <https://www.sjc.iq/index-ar.php>. The Ministry of Foreign Affairs refers to Zaidan as 'head' of the SJC – see Atheerabood (2019), 'The Head of the Iraqi Supreme Judicial Council signs a Memorandum of Understanding on Judicial Cooperation', Ministry of Foreign Affairs, 7 October 2019, <https://mofa.gov.iq/london/en/2019/10/07/the-head-of-the-iraqi-supreme-judicial-council-signs-a-memorandum-of-understanding-on-judicial-cooperation>.

⁴⁹ Al-Baidar Center for Studies and Planning (2022), 'حوار خاص مع السيد فائق زيدان رئيس مجلس القضاء الأعلى', [An exclusive interview with Mr Faiq Zaidan, President of the Supreme Judicial Council of Iraq], November 2022, <https://www.baidarcenter.org/wp-content/uploads/2022/11/876t5t2.pdf>.

⁵⁰ Mekkiya (2023), 'Iraq's Judiciary: Problems of Unrestricted Independence'.

⁵¹ Author's interview with legal expert, Baghdad, April 2023.

⁵² Author's interviews with several members of parliament and lawyers, Baghdad, November 2022–March 2023. See also Al Aalem (2023), 'سؤال: متى يتحرك الادعاء العام العراقي؟' [Question: When will the Iraqi Public Prosecution take action], 31 August 2023, <https://alaaalem.com/تساؤلات-متى-يتحرك-الادعاء-العام-العراقي/>.

⁵³ Firas Mekkiya quoted in Ultra Sawt (2023), 'دورية "حكمة" في عددها السادس. استقلال القضاء والدور الاجتماعي للأزهر', [“Hikma” periodical in its sixth issue... the independence of the judiciary and the social role of Al-Azhar], 6 July 2023, <https://www.ultrasawt.com/دورية-حكمة-في-عددها-السادس-استقلال-القضاء-والدور-الاجتماعي-للأزهر-نشرة-ثقافية/ثقافة>.

⁵⁴ Kirkuki, K. (2023), 'المحكمة الاتحادية. شرعيتها، تناقضات قراراتها، تسييس أحكامها، وتجاوز صلاحياتها', K24, 31 January 2023, <https://www.kurdistan24.net/ar/opinion/35000-المحكمة-الاتحادية-شرعيتها-تناقضات-قراراتها-تسييس-أحكامها-وتجاوز-صلاحياتها>.

of the 'four presidencies'.⁵⁵ Zaidan is also active in mediating political disputes, such as when he brought together Prime Minister al-Sudani and Mohammed al-Halbousi, at the time the parliamentary speaker, to resolve their rupture in April 2023.⁵⁶ During several government formation periods, Zaidan's name has even been floated as a prime ministerial candidate.⁵⁷

Perceptions that the judiciary has become more entangled in politics extend beyond questions around the position of any single individual. In an interview with the Iraqi Media Network (IMN), Hadi al-Ameri, the leader of the Badr Organization – a part of the Popular Mobilization Forces (PMF) – openly stated: 'We as the political blocs threatened the judiciary in order to protect our corrupt politicians.'⁵⁸ Across the spectrum, Iraq's ruling elite has recognized the potential power of the judiciary and has sought to limit this power. A senior political leader told Chatham House that the 'judiciary is being politicized and is controlled by certain individuals [...] the control over the judiciary prevents them from doing their work'.⁵⁹ At times, members of the elite have used violence to try to influence judges.⁶⁰

Across the spectrum, Iraq's ruling elite has recognized the potential power of the judiciary and has sought to limit this power.

Many observers have looked at the rise of Nouri al-Maliki, who was prime minister from 2006 to 2014, and have sought to connect this to his apparent influence over the judiciary. In his bid for power, according to constitutional lawyer Zaid al-Ali, al-Maliki 'set his sights on the key institutions, starting with the parliament, the armed forces and the courts'.⁶¹ Following the 2010 national elections, the then president of the Supreme Judicial Council, Medhat al-Mahmood, issued a controversial ruling viewed by many as favouring the incumbent prime minister's State of Law Coalition, which had won 89 seats, against Ayad Allawi's al-Iraqiya Coalition, which had won 91 seats.⁶² The ruling, which allowed the losing State of Law Coalition to form a government, prompted an outcry among many Iraqis, including Grand Ayatollah Ali al-Sistani, whose office expressed concern about politicization of the judiciary and called for systemic reform.⁶³

⁵⁵ Iraqi News Agency (2022), 'الرئاسات الأربع تعقد اجتماعاً حول التطورات الأخيرة في البلد', [The four presidencies hold a meeting on the latest developments in the country], 24 August 2022, <https://www.ina.iq/163927--.html>.

⁵⁶ Amwaj Media (2023), 'الخبر من الداخل: خلاف في الكواليس يهدد الائتلاف الحاكم في العراق', [News from inside: A dispute behind the scenes threatens the ruling coalition in Iraq], 21 April 2023, <https://amwaj.media/ar/article/inside-story-hidden-rupture-puts-iraq-s-ruling-coalition-in-danger>.

⁵⁷ Rudaw (2021), 'Faiq Zaidan ... the name of the latest candidate to head the next Iraqi government', 21 October 2021, <https://www.rudawarabia.net/arabic/middleeast/iraq/211020213>.

⁵⁸ Iraqi Media Network, via YouTube (2015), 'هادي العامري: القضاء ليس مسؤولاً عن الفساد فحين كتمل سياسية كنا "نهدد" القضاء لحماية الفاسدين', [Hadi al-Ameri: The judiciary is not responsible for corruption, we as political blocs would 'threaten' the judiciary for the corrupt's protection], video, 10 October 2015, https://www.youtube.com/watch?v=yYP7_YztkKs.

⁵⁹ Research interview with senior government official, Baghdad, January 2022.

⁶⁰ In an indication of the fears members of the judiciary have sometimes had over their safety, the Supreme Judicial Council even had a list on its website of judges who had been assassinated. The website was previously at www.iraqja.iq but is now defunct. See al-Ali (2014), *The Struggle for Iraq's Future*.

⁶¹ Ibid.

⁶² The ruling can be found here: The Federal Supreme Court of Iraq (2010), https://www.iraqfsc.iq/krarid/25_fed_2010.pdf.

⁶³ Al Shareefi, F. and Mustafa, H. (2015), 'السستاني يحتمل القضاء مسؤولية انتشار الفساد في العراق', [Sistani holds the judiciary responsible for the spread of corruption in Iraq], *Asharq Al-Awsat*, 21 August 2015, <https://aawsat.com/home/article/%20العراق-في-الفساد-مسؤولية-انتشار-الفساد-في-العراق>; Dodge, T. (2013), 'State and society in Iraq ten years after regime change: the rise of a new authoritarianism', *International Affairs (Royal Institute of International Affairs 1944-)*, 89(2), pp. 241–57, <http://www.jstor.org/stable/23473535>.

More recently, following the October 2021 elections, several members of the political elite argued that the Federal Supreme Court seemed to have taken a political stance against them. During the government formation process that followed the national vote, the prime minister of the Kurdistan Regional Government (KRG), Masrour Barzani, and his Kurdistan Democratic Party (KDP) sided with Shia cleric Muqtada al-Sadr's majoritarian government in calling for the replacement of the consensus-based political system. The national parliamentary speaker, al-Halbousi, also sided with this group. More specifically, the group called for the exclusion from the new government of specific members of the Shia Coordination Framework, including Nouri al-Maliki and PMF leader Qais al-Khazali.

During this time, the Federal Supreme Court began issuing rulings that limited the KRG's oil and gas exports, and declared the KRG's oil and gas law unconstitutional.⁶⁴ In response, Barzani called the court unconstitutional after these rulings.⁶⁵ He told US White House Coordinator for the Middle East and North Africa, Brett McGurk, that the rulings were 'politically motivated'.⁶⁶ Months later, when the same court ruled against the transfer of the Iraqi Joint Operations Command Center to the KDP, Barzani tweeted: "Today's "federal court" decision is a farce -mb."⁶⁷ Similarly, the Federal Supreme Court expelled al-Sadr's other ally in this episode, al-Halbousi, from his role as speaker of parliament.⁶⁸ Al-Halbousi's political party issued a statement claiming that the ruling was 'a blatant violation of the constitution and was motivated by political targeting'.⁶⁹ Both these senior members of the political elite – Barzani and al-Halbousi – believed politicization of the Federal Supreme Court was behind their punishments.

The executive and government ministries

Iraq's executive and government ministries have also had problems with accountability mechanisms. One example can be seen in the now-defunct Inspector General Offices (IGOs), created by CPA Order No. 57 in 2004. These independent bodies were mandated to investigate misconduct in the bureaucracy and uphold proper governance. They were supported by the Commission of Integrity (CoI) and the Federal Board of Supreme Audit (FBSA), which carried out specific audits and investigations. However, according to Zaid al-Ali, the IGOs suffered from several flaws: "The inspectors lack any standard operating procedures, so that individual auditors and investigators have no instructions about how specific tasks

⁶⁴ For the initial FSC ruling, see FSC (2022), 'Federal Supreme Court judges that the Kurdistan Regional Government's oil and gas law is unconstitutional and annulled', 16 February 2022, <https://www.iraqfsc.iq/news.4807>.

⁶⁵ Shakir, L. (2022), 'PM Barzani deems Iraqi court, decision 'unconstitutional'', Rudaw, 3 March 2022, <https://rudaw.net/english/kurdistan/030320221>.

⁶⁶ KRG (2023), 'Readout of Prime Minister Masrour Barzani's call with White House Coordinator for MENA', 26 January 2023, <https://gov.krd/english/government/the-prime-minister/activities/posts/2023/january/readout-of-prime-minister-masrour-barzani-s-call-with-white-house-coordinator-for-mena>.

⁶⁷ Barzani, M. (2023) via X, 'Today's 'federal court' decision is a farce -mb', 3 September 2023, <https://twitter.com/masroubarzani/status/1698409086507995330>.

⁶⁸ FSC (2023), 'The Federal Supreme Court terminates the membership of the Speaker of the Council of Representatives and the Representative Laith Al-Dulaimi', 15 November 2023, <https://iraqfsc.iq/ennews.5068>.

⁶⁹ Progress Party in Iraq via X (2023), 'قارعة الایف مدقت بزح نايب...' [Statement of the Progress Party in Iraq], 14 November 2023, <https://twitter.com/TakadumParty1/status/1724491561726091368/photo/1>.

should be carried out and what each task's objective should be. Lacking capacity, inspectors general remain largely passive, acting only on specific allegations, despite their presence in each ministry.⁷⁰

In addition, over the years members of Iraq's elite captured and gained influence over the IGOs, undermining their independence and rendering their work ineffective. For instance, the Inspector General in the Ministry of Health was Ahmad al-Saadi, a member of the Sadrist movement. Many saw his role as competing with that of the health minister, Adila Hammoud, who had links to a rival political bloc, the State of Law Coalition.⁷¹ Hampered by a lack of adequate independence, the IGOs were widely perceived as politicized.

The IGOs were eventually abolished in 2019, during the October 2019 'Tishreen' anti-government protests that erupted in Baghdad and southern Iraq. Public pressure and a loss of relative influence led the Sadrists and their 'Sairoon' coalition to push for the IGOs' closure.⁷² Nonetheless, the IGOs represent an important case study into how mechanisms designed to promote accountability were widely seen as having been captured by members of the elite in their efforts to compete for political power.

Another key government accountability mechanism is the Commission of Integrity (CoI), set up in 2004 through CPA Order No. 55 as an independent commission tasked with implementing basic integrity measures across the government bureaucracy, including investigating corruption and enforcing public service standards.⁷³ The CoI today is governed by Law No. 30, enacted in 2011 and later amended in 2019 to grant it more authority over the bureaucracy, particularly concerning declarations of wealth by senior civil servants.⁷⁴

The CoI's primary responsibility is to conduct criminal investigations, which are supervised by a judge appointed by the Supreme Judicial Council. However, administrative investigations now take place within the legal directorates of the ministries or commissions themselves. Financial investigations are typically referred to the FBSA. Once a criminal investigation is concluded, the case is referred to the judiciary to proceed with legal action.

The director of the CoI holds significant authority. Its director has the power to authorize full inquiries, approve requests for criminal investigations to be forwarded to the judiciary, and control the scope of investigations. The director also possesses the authority to expand or restrict the powers of subordinates, as well as to order the cessation of inquiries or investigations.

⁷⁰ Al-Ali (2014), *The Struggle for Iraq's Future*.

⁷¹ Almada Paper (2018), 'وزيرة الصحة والمفتش العام لوزارتها يتبادلان تهمة الفساد علناً' [The Minister of Health and the general inspector of the ministry publicly exchange accusations of corruption], 14 April 2019, <https://almadapaper.net/view.php?cat=209811>.

⁷² Almada Paper (2019), 'مؤكح والوتيف عفر دعب نيي مومع لال نيشتفم لال بتاكم ءاغ لال ءنخاس ءسلج' [A heated discussion to cancel the offices of the inspectors general after lifting the government veto], 25 September 2019, <https://almadapaper.net/view.php?cat=221639>.

⁷³ Republic of Iraq Federal Commission of Integrity (2009), 'About COI', 16 September 2009, https://nazaha.iq/en_news2.asp?page_namper=e2.

⁷⁴ Presidency of the Republic of Iraq (2019), '30' (نسنة) 2011 المعدل قانون هيئة النزاهة الاتحادية والكسب غير المشروع (رقم)', [Law No. 30 for the year 2011 (amended): Federal Integrity Commission and Illicit Gain Law], https://nazaha.iq/pdf_up/6533/nazaha_rev1.pdf.

The process for appointing the head of the CoI involves a nomination by the Council of Ministers and subsequent approval by parliament. This potentially creates a risk of political interference. In 2022, the new al-Sudani government chose a former judge, Haider Hanoon, to become head of the CoI, even though Hanoon's links with the Fateh Alliance were considered by some to raise concerns about political independence.⁷⁵ One of Hanoon's first cases was the investigation of the 'heist of the century', where the government was perceived by some to have been uneven in its investigation of different individuals and political factions.⁷⁶

On average, only about 25 per cent of investigated cases make it to the courts and even fewer cases ultimately reach a final verdict.

Concerns about the politicization of investigations have been noted more broadly. A former MP told the author: 'During my time as an MP, I submitted hundreds of cases to the CoI, but just a few were pursued to completion. Senior politicians used to meddle in the work of CoI through their personnel, and some even sought to sway me by sending their representatives.'⁷⁷ On average, only about 25 per cent of investigated cases make it to the courts and even fewer cases ultimately reach a final verdict. An official inside the commission claimed to the author that political interference had been a primary inhibitor of its work.⁷⁸

The resignation in 2011 of the CoI's former head, judge Rahim al-Ugaili, showcased concerns about institutional capture. In his resignation letter, al-Ugaili claimed he had been asked by various members of the political elite to use the CoI's anti-corruption mechanisms against political opponents.⁷⁹ However, when al-Ugaili refused to do so, he said he had felt he had no option but to leave his position.⁸⁰ In 2013, an arrest warrant was issued against him, and he was charged with corruption and terrorism-related offences.⁸¹ Subsequently, in 2015, al-Ugaili was sentenced to seven years in prison on corruption charges.⁸² Another case was raised

⁷⁵ Hanoon appeared on a campaign banner when he ran as part of the Fateh Alliance. Ultra Iraq (2021), 'متهم بالفساد -مرشح الفصائل المسلحة يتولى منصباً قضائياً رفيعاً' [Accused of corruption ... the armed faction's candidate holds a high judicial position], 4 July 2021, <https://ultrairaq.ultrasawt.com/سياسة/عراق/التزام-رفيعاً/الزوا-عراق/سياسة/>

⁷⁶ Foltyn, S. (2022), 'Heist of the century': how \$2.5bn was plundered from Iraqi state funds', *Guardian*, 20 November 2022, <https://theguardian.com/world/2022/nov/20/heist-century-iraq-state-funds-tax-embezzlement>.

⁷⁷ Research interview with former MP, Baghdad, January 2022.

⁷⁸ Research interview with senior official at the CoI, June 2022.

⁷⁹ Almada Paper (2011), 'الملفات الملققة أجبرت العكيلي على الاستقالة' [The falsified files force al-Ugaili to resign], 10 September 2011, <https://almadapaper.net/view.php?cat=52744>.

⁸⁰ Almada Paper (2011), 'رئيس النزاهة: ضغوط سياسية دفعتني إلى الاستقالة' [Head of Integrity: Political pressure pushed me to resign], 12 September 2011, <https://almadapaper.net/view.php?cat=52933>.

⁸¹ Alsumaria (2013), 'اعتقال رئيس هيئة النزاهة السابق رحيم العكيلي في بغداد' [Arrest of former head of Integrity Commission Rahim al-Ugaili in Baghdad], 31 December 2013, <https://www.alsumaria.tv/news/security/89484/> - هيئة النزاهة - اعتقال رئيس هيئة النزاهة - السابق رحيم العكيلي في بغداد.

⁸² Alsumaria (2015), 'صدر حكم بالسجن سبع سنوات بحق رئيس هيئة النزاهة الأسبق رحيم العكيلي' [A seven-year prison sentence is issued for former head of the integrity commission Raheem al-Ugaili], 7 September 2015, <https://www.alsumaria.tv/news/politics/145602/%20صدر-حكم-السجن-سبع-سنوات-بحق-رئيس-هيئة-النزاهة-ال->

against him in 2021 by Nouri al-Maliki, who was no longer prime minister at that time but has retained significant political power in Iraq.⁸³ These events highlight the complexities that can arise for judges in the CoI pursuing anti-corruption cases.

Another key accountability mechanism is the Federal Board of Supreme Audit (FBSA), the sole body authorized to audit the financial accounts of government entities. Established in 1927 and retained in the post-2003 state, the FBSA is designed to function as an independent body directly connected to the Council of Representatives, Iraq's legislature. The FBSA's independence is enshrined in Iraq's 2005 constitution, specifically in Article 103,⁸⁴ and further reinforced by Law No. 31 of 2011.⁸⁵ Its core mandate is to guarantee the efficient, effective and lawful use of public funds. To fulfil this mandate, the FBSA conducts comprehensive financial and performance audits, scrutinizes cases involving financial irregularities and corruption, and offers recommendations aimed at enhancing financial management and fostering accountability.

However, the FBSA is also potentially susceptible to elite influence. A senior official within the Prime Minister's Office told the author: 'The FBSA's job is critical, but political involvement has caused it to be regarded as a non-important stakeholder.'⁸⁶ A former MP also told the author: 'The FBSA is an old and prestigious institution, but we all know that we should not count on it because it has been weakened intentionally by members of the political elite.'⁸⁷ The potential for concerns in this area became clearer in 2011 when the Federal Supreme Court issued a ruling that linked the FBSA and other commissions – though constitutionally mandated as independent – to the Council of Ministers.⁸⁸ While this ruling was later deemed unlawful and overturned, in reality the ruling elite is widely perceived as having continued to interfere in the FBSA's work.

There remain concerns about the FBSA's effectiveness. For instance, a *Guardian* investigation suggested that during the 'heist of the century' the FBSA had been unable to inspect the tax commission's accounts adequately.⁸⁹ A researcher in the CoI claimed that the FBSA had been unable to audit the \$2.5 billion taken from the bank accounts in question, partly as a result of the political obstacles it had encountered.⁹⁰ Irregularities in the process were also highlighted in a statement by the FBSA explaining its failure to prevent the theft.⁹¹

⁸³ Haja, R. (2021), 'بعد الحكم بسجنه. عراقيون يتضامنون مع القاضي رحيم العكيلي', [After his prison sentence ... Iraqis show solidarity with judge Rahim al-Ugaili], *Irfaa Sawtak*, 19 June 2021, <https://www.irfaasawtak.com/iraq/2021/06/18/الحكم-الحكم-العكيلي>.

⁸⁴ Republic of Iraq (2005), *Constitution of the Republic of Iraq*, <https://www.refworld.org/docid/454f50804.html>.

⁸⁵ Presidency of the Republic of Iraq (2013), 2011 (نسخة) 31 [Law No. 31 for the year 2011 on the Board of Audits (with amendments)], <https://alp.unescwa.org/plans/1476>.

⁸⁶ Chatham House interview with senior government official, Baghdad, January 2022.

⁸⁷ Chatham House interview with former MP, Baghdad, January 2022.

⁸⁸ The ruling can be found here: https://www.iraqfsc.iq/krarid/88_fed_2010.pdf. See also Al-Sumeria News (2011), 'قرار المحكمة الاتحادية بربط الهيئات المستقلة برئاسة الوزراء يثير الجدل', [The Federal Court's decision to link independent bodies to the Prime Minister raises controversy], 9 March 2011, <https://www.alsumeria.tv/news/39023/قرار-المحكمة-الاتحادية-بربط-الهيئات-المستقلة-برئاسة-الوزراء>.

⁸⁹ Foltyn (2022), 'Heist of the century'.

⁹⁰ Research interview with official from the CoI, Baghdad, June 2023.

⁹¹ For a copy of the statement, see Almada Paper (2022), 'ديوان الرقابة المالية يصدر بياناً بشأن سحب مبالغ الامانات الضريبية', [The Federal Board of Supreme Audit issues a statement regarding the withdrawal of tax deposit amounts], 22 October 2022, <https://almadapaper.net/print.php?cat=276204>.

The legislature's accountability mechanisms

The Council of Representatives (CoR) is Iraq's parliament, and the primary legislative body in the country's democratic system. Its key role is to enact laws, oversee the executive branch and advocate for the interests of the Iraqi people. The CoR plays a vital part in ensuring government accountability through legislative scrutiny. Its mandate includes 'monitoring the executive authority to ensure compliance with the laws and achieve the country's highest interests'.⁹² Any MP, with the agreement of 25 MPs, may ask a question to the prime minister or a minister.⁹³

However, as a senior economic adviser at the Prime Minister's Office told the author: 'Parliament is responsible for both overseeing financial institutions and enacting legislation that enforces accountability in Iraq. MPs, however, do not execute this function and are just interested in serving their political interests'.⁹⁴

The work of MPs is organized through various committees. One of the most significant is the **Finance Committee**. This committee carries out critical tasks, including reviewing and amending the government's annual budget before presentation to a parliamentary vote.⁹⁵ The Finance Committee is also responsible for monitoring the budget and ensuring proper government spending. Among the 25 permanent parliamentary committees, the Finance Committee holds particular importance and its membership is often subject to contestation among different political powers. Members of the elite may seek to influence this committee in various ways, for example by ensuring that certain MPs are (or are not) on it.⁹⁶ In 2023, MP Sajad Salim, who held a position on the committee and was known for his outspoken stance against elite financial corruption, publicly disclosed information through the media regarding government financial allocations to the PMF armed groups. In response, Salim claimed on television, members of the political elite were mobilizing to remove him from the committee.⁹⁷ This action effectively restricted his future access to similar information.

The Finance Committee is also responsible for monitoring the work of financial institutions,⁹⁸ making it a potential target for elite capture.⁹⁹ A former MP from the committee told the author that 'being part of the committee grants you access to many governmental institutions; we have to use that to serve the people but unfortunately many members use that privilege for the benefit of their political parties'.¹⁰⁰ Another member of the committee told the author that although the committee's mandate is to scrutinize government spending, 'we never have real access to [information on] government expenditure in the ministries'.

⁹² Iraqi Council of Representatives (no date), 'About', <https://iq.parliament.iq/en/about>.

⁹³ Republic of Iraq (2005), *Constitution of the Republic of Iraq*, <https://www.refworld.org/docid/454f50804.html>.

⁹⁴ Research interview with senior economic adviser to the prime minister, Baghdad, January 2022. For an example of MPs targeting political opponents in parliament, see Mansour, R. (2016), 'Game of Thrones in Baghdad', Malcolm H. Kerr Carnegie Middle East Center, 30 September 2016, <https://carnegie-mec.org/diwan/64716>.

⁹⁵ Iraqi Council of Representatives (no date), 'اللجنة المالية' [Finance Committee], <https://iq.parliament.iq/اللجنة-المالية>.

⁹⁶ Zaidan, J. (2023), 'إصلاح أم ابتزاز؟... الاستجوابات البرلمانية في العراق', *The Independent Arabia*, 5 May 2023, <https://www.independentarabia.com/node/447991/>.
الأخبار/العالم-العربي/الاستجوابات-البرلمانية-في-العراق-إصلاح-أم-ابتزاز؟

⁹⁷ Salim, S. (2023) 'توضيح أسباب اقصائنا من اللجنة المالية النيابة خلال لقائنا مع الإعلامي أحمد البشير #', [Clarification of the reasons for our exclusion from the Parliamentary Finance Committee during our meeting with the journalist #Ahmed_Al-bashir], 21 January 2023, <https://www.facebook.com/watch/?v=978852143087750>.

⁹⁸ Iraqi Parliament (undated), 'اللجنة المالية' [Finance Committee], <https://iq.parliament.iq/اللجنة-المالية>.

⁹⁹ The committee is made up of MPs from the ruling political parties. The website listing MPs can be found here: <https://iq.parliament.iq/الواب>.

¹⁰⁰ Research interview with former MP, Baghdad, January 2022.

Without the data on spending, the committee is less able to pursue its function as a financial overseer.

The CoR also has an **Integrity Committee**, consisting of approximately 25 MPs. Its primary responsibility is to set laws governing anti-corruption institutions and accountability mechanisms, and to investigate financial and administrative corruption within the bureaucracy. The committee is also mandated to monitor the work of other independent accountability institutions such as the CoI and FBSA. However, some members of the Integrity Committee have complained that, instead of ensuring accountability, this mechanism has been abused. They claim that corruption files and cases have been used to attack or even blackmail political opponents.¹⁰¹ In September 2019, MP Ali al-Sajri resigned from his position as the committee's head. In his resignation letter, he stated: 'I decided to relinquish the position of Chairman of the Integrity Committee due to political pressures and the participation of most [political] blocs in the spread of financial and administrative corruption.'¹⁰² Al-Sajri described the committee as 'clinically dead'.¹⁰³

Adding to the perceptions of politicization, at times parliament has reversed laws that provided for the imposition of harsh penalties on public officials convicted of corruption. For instance, in 2007 the CoR passed Law 45 repealing Revolutionary Command Council Order 38 (1993), a measure that had mandated the immediate detention of any public official accused of corruption.¹⁰⁴ In repealing such laws, critics argue, the parliament effectively removes punitive mechanisms designed to combat corruption.

The government bureaucracy's security mechanisms

In the formal bureaucracy, Iraq's security institutions include the Ministry of Interior (MoI), National Security Council (NSC) and Ministry of Defence (MoD). In addition to their principal security responsibilities, these institutions serve an enforcement function for the country's accountability mechanisms. The most influential in this respect is the MoI, which is effectively mandated with policing society. After 2003, the US-led CPA controlled the army and civil defence corps, while the US Central Intelligence Agency (CIA) founded the Iraqi National Intelligence Service (INIS). However, the MoI became a key asset which Iraqi politicians and armed groups sought to access (and influence), both because it was not as dominated by the occupying Americans and because its premises were outside the heavily fortified Green Zone, making it easier to reach. Andrew Rathmell, a UK security consultant who was based inside the ministry, writes that the American decision for control

¹⁰¹ Zaidan, J. (2023), 'إصلاح أم ابتزاز؟' [Parliamentary interrogations in Iraq ... reform or blackmail?], *The Independent Arabia*, 5 May 2023, <https://www.independentarabia.com/node/447991/>
الأخبار/العالم العربي/الاستجوابات البرلمانية في العراق - إصلاح أم ابتزاز؟

¹⁰² The MP's statement was published here: Ultra Iraq (2019), 'رئيس لجنة النزاهة يتخلى عن رئاستها. البرلمان "ميت سريريًا"', [The head of the Integrity Committee relinquishes his presidency ... "Parliament is clinically dead!"], 22 September 2022, <https://ultrairaq.ultrasawt.com/رئيس-لجنة-النزاهة-يتخلى-عن-رئاستها-البرلمان-ميت-سريريًا/الترا-عراق/أخبار>.

¹⁰³ Ibid.

¹⁰⁴ Law 45 (2007), which repealed the previous law, can be found here: <http://site.eastlaws.com/GeneralSearch/Home/articlesT/24222>. Order 38 can be found here: <https://wiki.dorar-aliraq.net/iraqilaws/law/14410.html>.

of the MoI in effect to be parcelled out between different elite factions 'left the MOI and its subordinate entities as the only central security apparatus over which Iraqi politicians could exercise influence and through which they could deploy state-sanctioned coercion'.¹⁰⁵ Rathmell adds: 'This meant that each could use their parts of the ministry to build up patronage networks and paramilitary and intelligence capabilities through official channels.'¹⁰⁶ One senior security official told the author: 'In those years, the ministry was divided by floors. Each one for one of the parties. And they fought to control their patronage.'¹⁰⁷

Over the years, the elite has effectively controlled much of the security arena. For instance, Nouri al-Maliki's drive to centralize power was widely viewed as having resulted in the removal of some senior officers from the MoD, MoI and INIS.¹⁰⁸ At the time, an INIS spokesman 'accused Maliki of firing 190 employees for political reasons'.¹⁰⁹ There were also claims that al-Maliki had replaced many of the people in these positions with his own loyalists.¹¹⁰

In short, state capture has led to a security sector that is politicized, incoherent and fundamentally unable to enforce accountability. By politicizing much of the security sector's senior management, breaking its chain of command and fragmenting its esprit de corps, the elite continues to undermine the coherence of each service – and the ability of the sector as a whole to hold the elite to account. Instead, many police and security officials serve elite interests. A senior official from the NSC told the author: 'There are only a few of us who are trying to uphold the rule of law. The others are appointed by the parties and only serve their interests. This makes our job in the security sector very difficult.'¹¹¹

The ideological power of accountability mechanisms

The failure of accountability mechanisms is reflected in a lack of public trust towards them. In 2022, Iraq ranked 157th globally in Transparency International's Corruption Perceptions Index (CPI).¹¹² In a 2022 Arab Barometer survey, only 19 per cent of Iraqi respondents said they trusted the parliament, and only 40 per cent said they trusted

¹⁰⁵ Rathmell, A. (2007), *Fixing Iraq's Internal Security Forces: Why Is Reform of the Ministry of Interior so Hard?*, Washington, DC: Center for Strategic Studies, https://csis-website-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/media/csis/pubs/071113_fixingiraq.pdf.

¹⁰⁶ Ibid.

¹⁰⁷ Research interview with security official in Baghdad, September 2022. This is also reported in Parker, N. (2007), 'Interior Ministry mirrors chaos of a fractured Iraq', *Los Angeles Times*, 30 July 2007, <https://www.latimes.com/archives/la-xpm-2007-jul-30-fg-interior30-story.html>.

¹⁰⁸ For background on state capture under al-Maliki at the time, see Dodge, T. (2012), *Iraq: from war to a new authoritarianism*, Abingdon: Routledge; see also Jabar, F., Mansour, R. and Khaddaj, A. (2012), *Maliki and the Rest: A Crisis within a Crisis*, Beirut: Iraq Institute for Strategic Studies, <http://iraqstudies.com/books/featured3.pdf>; Al-Qarawee, H. (2014), *Iraq's sectarian crisis: A legacy of exclusion*, Beirut: Carnegie Middle-East Center.

¹⁰⁹ Sullivan, M. (2013), *Maliki's Authoritarian Regime*, Middle East Security Report 10, Washington, DC: Institute for the Study of War, <https://www.understandingwar.org/sites/default/files/Maliki-Authoritarian-Regime-Web.pdf>.

¹¹⁰ For examples of these replacements, see Dodge, T. (2012), *Iraq: from war to a new authoritarianism*, Abingdon: Routledge; see also Jabar, F., Mansour, R. and Khaddaj, A. (2012), *Maliki and the Rest: A Crisis within a Crisis*, Beirut: Iraq Institute for Strategic Studies, <http://iraqstudies.com/books/featured3.pdf>.

¹¹¹ Chatham House interview with senior intelligence officer within National Security Council, Baghdad, January 2022.

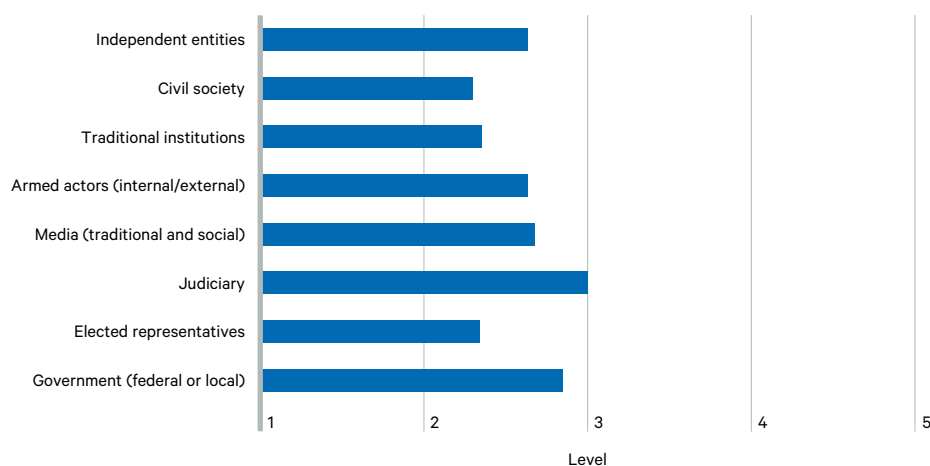
¹¹² Transparency International (2022), 'Iraq', <https://www.transparency.org/en/countries/iraq>.

the judiciary.¹¹³ These two vital institutions are on the front line of accountability and anti-corruption efforts, but they have lost the public trust.

Iraq's elite may have shown little interest in upholding a genuine system of accountability, but it is still sensitive to popular views on accountability. Most members of the elite claim to be crusaders against corruption, and express recognition of the value of accountability mechanisms. Moreover, 20 years since the fall of the Saddam Hussein regime, the ruling elite is now less able to influence the public through other ideological narratives such as ethnic nationalism or sectarianism. As such, most leaders claim to support the idea of liberal democracy, and the accountability associated with it, as a means of winning over the public or maintaining ideological authority. This in turn encourages members of the elite to paint their opponents as corrupt.

To examine views on political accountability, notably on the responsiveness and effectiveness of Iraq's bureaucracy, Chatham House conducted a survey of 1,600 Iraqis across all 18 governorates in late 2021. The survey covered subjects that included the perceived success of various actors at holding the elite accountable, and which bodies or actors the public believe *should* be holding the elite accountable.

Figure 3. Average level of effectiveness in holding government to account

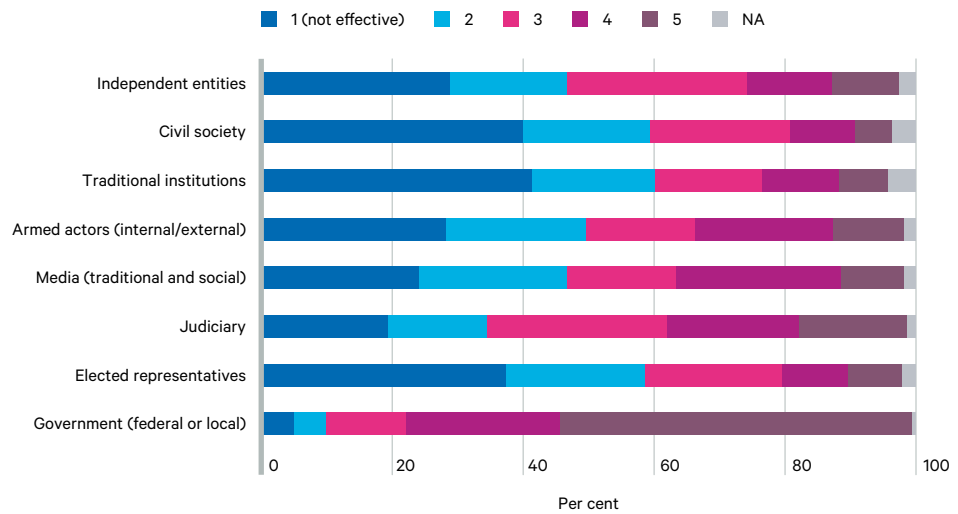


Source: Chatham House survey of 1,600 Iraqis across all governorates, 2021.

The survey indicates a loss of popular trust in the bodies responsible for ensuring the rule of law. When asked to rate the effectiveness of such institutions, respondents considered them to be only moderately successful in holding the elite accountable (see Figure 3). The judiciary ranked highest, scoring just above 3 (out of 5) on average. The government and the media ranked second and third respectively, while 'independent entities' ranked fourth with a similar score. 'Traditional institutions' (encompassing tribal leaders, religious groups and family), civil society and elected representatives were seen as the least effective. This is arguably indicative of widespread perceptions that such actors have failed to prevent the efforts of the political elite to repress civil society and popular protests.

¹¹³ Arab Barometer (2022), *Arab Barometer VII: Iraq Report*.

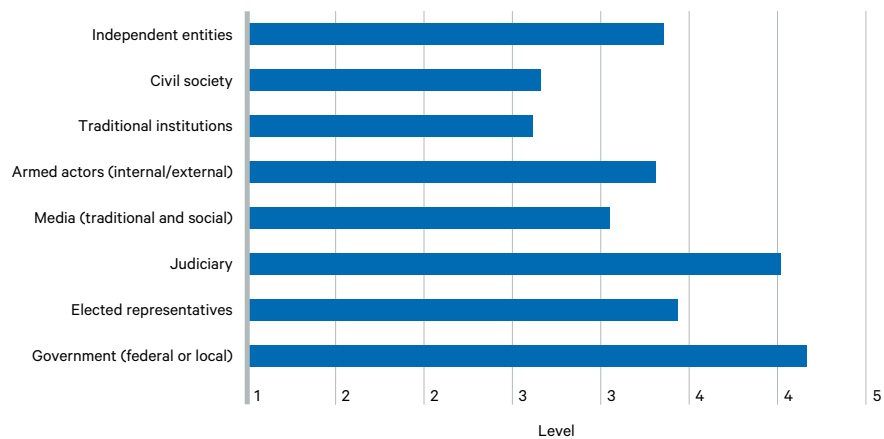
Figure 4. Perceived level of effectiveness for each actor



Source: Chatham House survey of 1,600 Iraqis across all governorates, 2021.

However, when respondents were asked who *should* be responsible for holding the government to account, most still looked to the bureaucracy's own accountability mechanisms. The largest proportion of respondents felt that accountability should mainly be the responsibility of the federal or local authorities, followed by the judiciary, elected representatives, and independent entities such as the CoI and FBSA (see Figure 5).

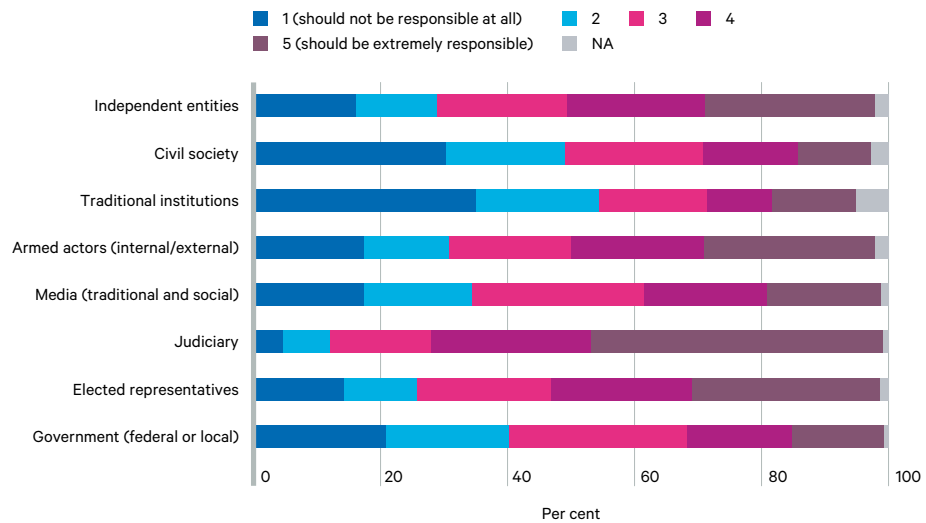
Figure 5. Who should be responsible for holding decision-makers accountable?



Source: Chatham House survey of 1,600 Iraqis across all governorates, 2021.

The survey reveals that people both expect the judiciary to take a leading role in ensuring accountability and still believe that it is the most effective actor for doing so. Despite concerns about its politicization, people believe that the institution still functions to some extent in enforcing Iraq's laws. They believe the judiciary both exhibits legal power and still offers potential in some areas to ensure accountability.

Figure 6. Percentage distribution of responsibility for holding government to account



Source: Chatham House survey of 1,600 Iraqis across all governorates, 2021.

In contrast, the CoR and independent institutions such as the CoI are not meeting public expectations. These entities are regarded as having succumbed more than the judiciary to elite capture, and as lacking the power, independence and effectiveness to pursue their mandates.

The survey also reveals that elite repression of society's tools for accountability has left most respondents feeling that public pressure, civil society activism and protests will not bring about change. This response is to some extent based on the perceived failures of the October 2019 Tishreen protests, which called for fundamental reform of the political system but were violently repressed. Today, protests are fractured, and more susceptible to both manipulation and repression by members of the elite.

The Iraqi public recognizes that the accountability performance of independent entities and elected representatives is falling short of expectations. However, the data also suggest continued popular recognition of the role played by government and the judiciary, despite the erosion of their independence in recent years. The critical fact is that respondents believe more should be done to hold the ruling elite to account. Implicit in this is continued public faith in key institutions – Iraqis have not yet given up on the bureaucracy, despite continued pressure from above. The proposal suggested in this paper seeks to strengthen the connective channels between reformists in these institutions, as well as between leaders in civil society, to restore the public's faith in the varying accountability mechanisms.

04 Elite repression of societal accountability

To maintain impunity from societal accountability mechanisms – such as protests, the media or elections – members of Iraq’s elite use their capture of the bureaucracy to target potential public mobilizers. This includes shutting down media channels, jailing protest-minded candidates for political office, and policing activism.

As with state institutions, Iraqi civil society in theory has the tools available to limit and regulate the power of the bureaucracy and elite. These powers are enshrined in the constitution and practised by citizens through voting in national and local elections, or through supporting civil society organizations, an independent media, campaigning and the right to protest. Ideally, these powers should contribute to accountability by enabling the disclosure of information about the government’s performance or about official wrongdoing, and by amplifying the dissemination of that information.¹¹⁴ Social mobilization campaigns can also – at least in theory and if connected to a concerted reform strategy – pressure the elite to act on a given issue.

In reality, however, capture of much of the bureaucracy has given the elite greater power to coerce and control the public. Mechanisms designed to keep the state accountable have instead been directed to ensuring elite impunity and undermining societal channels of protest. Arrest warrants have been issued against individuals who pose threats to elite power. The elite has also relied on control of the security

¹¹⁴ Lührmann, A., Marquardt, K. and Mechkova, V. (2020), ‘Constraining Governments: New Indices of Vertical, Horizontal, and Diagonal Accountability’, *American Political Science Review*, 114(3), p. 811, doi:10.1017/S0003055420000222.

sector to silence dissenting voices and prevent meaningful scrutiny. This chapter explores how Iraq's post-2003 elite redirected the government's own accountability mechanisms against the public.

The use of legal mechanisms against the public

The elite has used its influence over the judicial authorities to restrict free expression and protest. These attempts to silence criticism are grounded in laws dating back to the Saddam Hussein regime. The penal code has played a key role. For example, Article 226 states: 'Any person who publicly insults the National Assembly or the government or the courts or the armed forces or any other constitutional body or the public authorities or official or 1 [sic] semiofficial agencies or departments is punishable by a term of imprisonment not exceeding 7 years or detention or a fine.'¹¹⁵ Critically, according to civil society leaders, the problem with Article 226 is that it does not clearly define the term 'insult'.¹¹⁶ Also in the penal code, Article 403 stipulates the following: 'Any person who produces, imports, publishes, possesses, obtains or translates a book, printed or other written material, drawing, picture, film, symbol or other thing that violates the public integrity or decency with intent to exploit or distribute such material is punishable by a period of detention not exceeding 2 years plus a fine not exceeding 200 dinars or by one of those penalties. The same penalty applies to any person who advertises such material or displays it in public or sells, hires or offers it for sale or hire even though it is not in public or to any person who distributes or submits it for distribution by any means. If the offence is committed with intent to deprave, it is considered to be an aggravating circumstance.'¹¹⁷ The judiciary has defined violation of 'decency' as a criminal offence.¹¹⁸ In early 2023 the president of the Supreme Judicial Council, Faiq Zaidan, reiterated this position in a letter sent to all courts and departments of the judiciary.¹¹⁹ However, civil society leaders argue that the lack of a clear definition of indecent content in Article 403 makes citizens vulnerable to arbitrary arrest, allowing authorities to target civil society and activists who post online.¹²⁰

Numerous arrests have been made on the basis of these two articles, resulting in sentences ranging from three months to two years in prison. For instance, in February 2023, several courts, including the Karkh court and the Maysan court, issued arrest warrants against individuals for online criticism of the elite.¹²¹ The third investigative court in Karkh has added a focus on media and publishing matters, and as such has become a key mechanism for issuing arrest warrants

¹¹⁵ Republic of Iraq (1969), *Iraq Penal Code*, refworld.org/docid/452524304.html.

¹¹⁶ Research interview with civil society members, Baghdad, June 2023.

¹¹⁷ Republic of Iraq (1969), *Iraq Penal Code*, refworld.org/docid/452524304.html.

¹¹⁸ Hussein, W. (2023), 'جريمة المحتوى الهابط' [Low content crime], Republic of Iraq Supreme Judicial Council, 27 February 2023, https://www.sjc.iq/view.70719/?__cf_chl_tk=TtZnZefqfvJH8TFXmZ.WcN2bHudyDOKvYGSHdgvBuS4-1694958959-0-gaNycGzNDDs.

¹¹⁹ Shafaq News (2023), 'القضاء العراقي يوجه باتخاذ إجراءات مشددة بحق أصحاب المحتوى السيء وثيقة' [The Iraqi judiciary directs to take strict measures against those with bad content], 8 February 2023, <https://shafaq.com/ar/امن-القضاء-العراقي-يوجه-باتخاذ-اجراءات-مشددة-بحق-صحاب-المحتوى-السيء-وثيقة>.

¹²⁰ Al-Saa News (2023), 'خشية من تكميم الأفواه. هل حملة "المحتوى الهابط" قانونية حقاً؟' [For fear of gagging mouths ... Is the "low content" campaign legal?], 20 September 2023, <https://alssaa.com/post/show/15814>.

¹²¹ An article on the role of courts can be found at Anbaa News (2023), 'القضاء يصادق على أقوال "عمود سيكبا" و "مديحة" و "عظيمة" و "البشوش" بتهم خدش الحيا' [The judiciary approves the statements of "Aboud Sikaba," "Madiha," "Attiya," and "Al-Bashoush" on charges of indecent assault], 9 February 2023, <https://anbaanews.net/-القضاء-يصادق-على-أقوال-عمود-سيكبا-و-مديحة>.

against civil society.¹²² Ahmed Mulla Talal, a well-known television personality, ran a 10-minute satirical interview with the actor Iyad al-Tae, who was dressed as an Iraqi general, on the misappropriation of funds and the sale of senior positions in the military. Following this episode, both Talal and Tae were arrested. The government's Communication and Media Commission (CMC) suspended Talal's programme due to 'a clear insult to the Iraqi army and all its members'.¹²³ Similarly, arrest warrants were issued to journalist Suadad al-Salihi for her role in criticizing the Iraqi army's independence;¹²⁴ to journalist Muntadhar Nasser¹²⁵ for his criticism of the elite; and to Mohammed Na'na¹²⁶ and Laith Shubbar¹²⁷ for criticizing Prime Minister al-Sudani. In June 2022, an arrest warrant was issued against Sarmad al-Taie for openly criticizing Faiq Zaidan and Qasim Sulaimani, the former head of Iran's Revolutionary Guards Corps (IRGC) Quds Force, on a live television broadcast.¹²⁸ In response, Zaidan sent a note to the head of the Iraqi Media Network (IMN), the channel on which the show was aired, expressing his displeasure.¹²⁹ Zaidan contended that criticism of the judiciary could erode people's trust in state institutions and that, as a result, it should not be permitted on state television.¹³⁰ In another example, in October 2022 Ismail al-Waeli, who had criticized Zaidan and accused him of collaborating with the IRGC, was sentenced to prison.¹³¹ Protest-minded MPs are also subject to similar penalties. For instance, in December 2022 the Rusafa court summoned MP Sajad Salim, who had been vocal in his criticism of PMF chairman Falih al-Fayadh and PMF chief of staff Abu Fadak.¹³²

¹²² Al-Etejah (2023), 'محكمة تحقيق الكرخ تبين عمل مكافحة المحتوى السيء وتكشف عن مصير المخالفين', [Al-Karkh Investigation Court demonstrates the work of combating bad content and reveals the fate of violators], <https://www.altejahtv.iq/news/politics/850917/>; 'محكمة تحقيق الكرخ تبين عمل مكافحة المحتوى السيء وتكشف عن مصي', the court's website and documents can be found at <https://www.iraqfsc.iq/news.4915>.

¹²³ The CMC has also stopped the 'Al-Basheer' political satire show from broadcasting on Iraqi televisions. Al-Sumaria News (2016), 'هيئة الاعلام والاتصالات تقرر إيقاف برنامج "البشير شو"', [Communication and Media Commission decides to stop the Al-Basheer show], 24 April 2016, <https://www.alsumaria.tv/news/166632/>; 'هيئة الاعلام والاتصالات تقرر إيقاف برنامج "البشير شو"', Iraqi Observatory for Human Rights (2021), *The Iraqi Media in the 2021 Elections: Coverage under a Microscope*, Research Paper, Jordan: Friedrich Ebert Stiftung, <http://library.fes.de/pdf-files/bueros/amman/18614.pdf>; Shafaq News (2022), 'صدر أمر قبض بحق الإعلامي أحمد ملا طلال والفنان إياد الطائي', [Arrest warrant issued for journalist Ahmad Mulla Talal and Imad Al-Tae], 7 April 2022, <https://shafaq.com/ar/>; 'أمن/صدر أمر قبض بحق الإعلامي أحمد ملا طلال والفنان إياد الطائي

¹²⁴ MENA Rights (2020), 'Iraqi journalist Suadad al-Salihi threatened with arrest because of critical reports', 19 November 2020, <https://menarights.org/ar/caseprofile/thdyd-alshfyt-alraqyt-swdd-alsalhy-balatqal-bsbb-tqaryr-antqadyt>.

¹²⁵ Al-Hurra (2016), 'بانتظار محاكمته، ناشطون يدعون لإطلاق سراح الصحافي منتظر ناصر', [Awaiting his trial ... activists call for the release of the journalist Muntadhar Nasser], 18 August 2016, <https://www.alhurra.com/iraq/2016/08/18/>; بانتظار محاكمته، ناشطون يدعون لإطلاق سراح الصحافي منتظر ناصر.

¹²⁶ Skyline International (2023), 'Iraq: Arrest of political writer shows authorities are using law to crack down on dissenters', 27 March 2023, <https://skylineforhuman.org/en/news/details/646/iraq-arrest-of-political-writer-shows-authorities-are-using-law-to-crack-down-on-dissenters>.

¹²⁷ Shafaq News (2023), 'Laith Shubbar responds to al-Sudani's lawsuit against him: Political targeting and the power is beginning to become 'repressive'', 1 April 2023, <https://shafaq.com/ar/>; 'لايث شبر يرد على دعوى السوداني القضائية ضده: استهداف سياسي والسلطة بدأت تتحول قمعية'

¹²⁸ Ultra Iraq (2022), 'مذكرة قبض بحق سمرد الطائي وفق مادة موروثية من نظام صدام حسين', [An arrest warrant against Sarmad Al-Taie according to an article inherited from Saddam Hussein's regime], 2 June 2022, <https://ultrairaq.ultrasawt.com/>; مذكرة قبض بحق سمرد الطائي وفق مادة موروثية من نظام صدام حسين/الترا-عراق/راصد

¹²⁹ Ultra Iraq (2022), 'فائق زيدان يهاجم مقدم برنامج "المحايد"', [Faiq Zidan attacks the presenter of the "Neutral" programme], 2 June 2022, <https://ultrairaq.ultrasawt.com/>; فائق زيدان يهاجم مقدم برنامج المحايد/الترا-عراق/راصد

¹³⁰ Ibid.

¹³¹ Shafaq (2022), 'حكم قضائي غيابي بالسجن سبع سنوات بحق مقرب من المرجع الصدر', [A judicial ruling in absentia to seven years in prison against a close relative of the authority al-Sadr], 23 October 2023, <https://shafaq.com/ar/>; مجتمع القضاء العراقي يصدر حكماً/غيابياً بالسجن سبع سنوات بحق اسماعيل الوائلي

¹³² Ultra Iraq, (2022), 'محكمة تليغ النائب سجاد سالم بالحضور بدعوى "الإساءة للقياس وأبو فدك"', [A court informs MP Sajjad Salem to appear on the grounds of "insulting Al-Fayyad and Abu Fadak"], 19 December 2022, <https://ultrairaq.ultrasawt.com/>; محكمة تليغ النائب سجاد سالم بالحضور بدعوى الإساءة للقياس وأبو فدك/الترا-عراق/أخبار

The elite has also relied on judicial and regulatory mechanisms to close media channels that have covered protests and civil society.¹³³ In 2019, the government issued 19 orders to shut down local, regional and international media outlets, most of them covering the Tishreen protests.¹³⁴ Accusations of violations such as 'not abiding by the journalistic code of conduct' or 'offending national and religious symbols' are often used against media channels that oppose the ruling elite.¹³⁵ The process of shutting down media channels and intimidating journalists became easier for their opponents after the judiciary closed several 'specialized' courts, including the specialized court for media, in 2017.¹³⁶

The elite has also relied on judicial and regulatory mechanisms to close media channels that have covered protests and civil society.

Members of the elite also rely on directly coercive mechanisms such as the Iraqi National Intelligence Service (INIS), which in 2022 arrested Ali al-Dhabhawi, a journalist with Al-Baghdadia TV. He was interrogated for four hours without any formal reason and was told simply that he needed to be less critical of Iraqi politicians.¹³⁷ Political intervention was also seen as having been responsible for the use of anti-riot police to target protesters in October 2019, resulting in at least 500 deaths and thousands of injuries in the first few weeks of the protests.¹³⁸ It is estimated that 89 journalists have been killed by armed groups with members linked to the elite since the October 2019 protests.¹³⁹ In 2021, young Iraqis demonstrated against poor living conditions. They blamed the Sadrist movement, which they argued was in control of the government, and demanded accountability. Instead, the Sadrists are believed to have used their networks in the MoI to have some of the activists arrested.¹⁴⁰ Such cases have become common not just in Baghdad but across Iraq, where citizens are increasingly afraid of speaking out.¹⁴¹

¹³³ Al-Hurra (2020), 'دفعت ثمن دعمها للاحتجاجات'. قوة أمنية تدهم مقر قناة "دجلة" في بغداد', [It paid the price of supporting the protests'... Security force raids Dajla headquarters in Baghdad], 28 January 2020, <https://www.alhurra.com/iraq/2020/01/28/دفعت-ثمن-دعمها-للاحتجاجات-قوة-أمنية-تدهم-مقر-قناة-دجلة-في-بغداد>.

¹³⁴ Press Freedom Advocacy Association in Iraq (2020), 'A decade of the Communication and Media Commission violating the constitution', 28 July 2020, <https://pfaa-iq.com/?p=4318>.

¹³⁵ Kitabat (2017), 'A year after it was closed, Al-Baghdadiya TV reveals legal documents to restore it?', 31 May 2017, <https://kitabab.com/news/بعد-عام-على-إغلاقها-قناة-البيغدادية-تكش>.

¹³⁶ Press Freedom Advocacy Association in Iraq (undated), 'حملة لإيقاف سجن وتوقيف الصحفيين وأصحاب الرأي والتككيل', [عيدول محكمة النشر . حملة لإيقاف سجن وتوقيف الصحفيين وأصحاب الرأي والتككيل], [The return of the publications court... a campaign to stop imprisoning and arresting journalists and opinion shapers and abusing them], <https://pfaa-iq.com/?p=5924>.

¹³⁷ Press Freedom Advocacy Association in Iraq (2022), 'احتجاز مقدم البرامج في "البيغدادية" أربع ساعات داخل مقر المخابرات', [The detention of Al-Baghdadia TV programme's host for four hours in Intelligence headquarters], 24 May 2022, <https://pfaa-iq.com/?p=6038>.

¹³⁸ Human Rights Watch (2022), 'Iraq: No Justice for Protester Deaths', 29 November 2022, <https://www.hrw.org/news/2022/11/29/iraq-no-justice-protester-deaths>.

¹³⁹ Hashim, M. (2021), 'أصبح من زمن داعش'. صحفيون عراقيون يعبرون عما آلت إليه مهنتهم', [More difficult than under Daesh.' Iraqi journalists express what their profession has come to], *Al-Hurra*, 16 June 2021, <https://www.alhurra.com/iraq/2021/06/16/أصبح-زمن-داعش-صحفيون-عراقيون-يعبرون-عما-آلت-إليه-مهنتهم>.

¹⁴⁰ An-Nahar Al-Araby (2021), 'العراق: اعتقال 5 شبان انتقدوا مقتدى الصدر وسرايا السلام', [Iraq: Arrest of five youths who criticized Muqtada al-Sadr and Saraya al-Salam], 17 April 2021, <https://www.annahar.com/arabic/news/arab-world/%D8%B9%D8%B1%D8%A8/17042021125539361>.

¹⁴¹ Mansour, R. (2019), 'Iraq's New Republic of Fear: How Youthful Protests Provoked an Authoritarian Turn', *Foreign Affairs*, 20 November 2019, <https://www.foreignaffairs.com/articles/iraq/2019-11-20/iraqs-new-republic-fear>.

Many journalists fear covering stories that criticize armed groups. One journalist told the author that, because he is critical of some armed groups in his writings, he has been advised by human rights defenders to 'spend most of his time in the Kurdistan Region of Iraq and, when in Baghdad, to stay under cover and not disclose his location'.¹⁴²

However, some space remains for activists to influence public opinion and engage in legal advocacy to push back against elite mechanisms of repression. The eventual release of youth activist Haider al-Zaidi (see Chapter 1) indicates that building connectivity between civil society, lawyers and reformists in government can have some success in resisting political repression, and that such methods present a potential channel for reform efforts (see Chapter 5).

The use of ideological mechanisms against the public

Iraq's elite also uses the power of the media to have a coercive effect on society, building and disseminating narratives that undermine opposition or dissent. To pursue this battle of narratives, members of the elite rely on their control over much of the media, think-tanks, research centres and civil society organizations.¹⁴³ Aida Kaisy, a media consultant and researcher, writes: 'Media are strongly affiliated to their funders and political parties, who are seen as highly corrupt and unethical. As such, media content and narratives are viewed as unrepresentative of the needs of the people. Media stakeholders felt constrained and restricted within this environment.'¹⁴⁴

A senior official in the state-funded independent Iraqi Media Network (IMN) told the author: 'There is political meddling within the work of the media in Iraq, and both the IMN and CMC suffer from that. The absence of proper media laws set the ground for CMC to take advantage of this.'¹⁴⁵ Following the October 2019 uprising, for example, members of the elite sought to portray the protesters as spoilers (*mukharabeen*) who were part of a 'third party' or foreign conspiracy. For instance, the Al-Hadaf Centre for Studies, which is linked to Kataib Hezbollah, a PMF-affiliated paramilitary organization, worked to portray civil society and protesters as part of an American plot against Iraq.¹⁴⁶ Similarly, the Badr Organization used its networks of contacts in the Badr Centre for Strategic Studies and Al-Ghadeer TV to spread anti-protest narratives.¹⁴⁷

¹⁴² Research interview with Iraqi journalist, Erbil, January 2022.

¹⁴³ Al-Shamri, A. (2019), 'العراق: من جبهات القتال إلى المجتمع المدني والمؤسسات ... فصائل "الحشد" توسع وجودها', [Iraq: From battle fronts to civil society and institutions... PMF factions expand their presence], *Al-Araby Al-Jadeed*, 11 July 2019, <https://www.alaraby.co.uk/من-القتال-إلى-المجتمع-المدني-الحشد-الشعبي-توسع-وجودها>.

¹⁴⁴ Al-Kaisy, A. (2021) 'A Gender Analysis of The Media Landscape In Iraq', *Internews*, https://internews.org/wp-content/uploads/2021/02/Internews_gender-analysis_media_landscape_iraq_2020-04.pdf.

¹⁴⁵ Chatham House interview with senior official at IMN, Baghdad, January 2022.

¹⁴⁶ Military Media Samarra (undated), 'قائد الفرقة الأولى لسرايا السلام يعقد اجتماعاً مع مرشحي الكتلة الصدرية في الدوائر الانتخابية لشمال الرصافة', [Leader of the First Battalion of Saraya al-Salam holds a meeting with Sadrist Movement candidates for the electoral districts of north Rusafa], <https://saraya-alsalam.com/archives/110035>.

¹⁴⁷ Al-Ghadeer TV (2023), 'The Badr Center for Strategic Studies conducts an analytical reading of the necessity of Iraq joining the Shanghai Organization', 24 May 2023, <https://alghadeertv.iq/archives/203051>.

Each elite faction owns or operates media assets such as radio stations, websites and social media platforms, which are used to promote particular narratives in the competition for ideological power. The ideas propagated through such assets often serve as justifications for intimidating and attacking civil society in Iraq.¹⁴⁸ For instance, armed groups used the false portrayal of a Basra activist, Reham Yacoub, as a member of a pro-US lobby to justify her assassination in 2020.¹⁴⁹ They justified their claims by pointing to Yacoub's previous membership of the Iraqi Young Leaders Exchange Program, which helps Iraqi high school and undergraduate students develop leadership skills.¹⁵⁰ Beyond creating a hostile environment for civil society, members of the elite use the media to maintain their own social bases.

The ideological power which the elite exploits in these ways not only weakens the accountability mechanisms of society, but also hampers reform efforts within the bureaucracy, notably in building a public constituency in support of change. According to an Iraqi senior official: 'Because the media and public pressure instruments are politicized, there are no effective means to notify the public of our work.'¹⁵¹

¹⁴⁸ NAS News (2020), 'كاظم الصيادي يهاجم الناشطة رهام رغم اغتيالها: 'عملية للسفارة' [Kadhim al-Sayyadi attacks the activist Reham despite her assassination], 21 August 2020, <https://www.nasnews.com/view.php?cat=38393>. See also Tahrir Square via YouTube (2018), 'وجيه عباس يحرض الحشد على قمع التظاهرات' [Wajih Abbas provokes the PMF for suppressing the protests], 19 July 2018, <https://www.youtube.com/watch?v=qC01sfS.JiWA>.

¹⁴⁹ NAS News (2020), 'من التحريض الإيراني العلني' إلى الرصاصات الثلاث. قصة رهام يعقوب' [From the 'public' incitement of Iran to three bullets... the story of Reham Yaacoub], 19 August 2020, <https://www.nasnews.com/view.php?cat=38260>.

¹⁵⁰ Robin D'Cruz, B. (2020), 'Why Did They Kill Riham Yacoub? The Murder of a Civil Society Activist in Basra', <https://blogs.lse.ac.uk/mec/2020/08/24/why-did-they-kill-riham-yacoub-the-murder-of-a-civil-society-activist-in-basra>.

¹⁵¹ Author's interview with senior official in Iraqi government, Baghdad, Iraq, December 2022.

05 Policy conclusions: strengthening accountability in Iraq

Technical approaches to fixing Iraq's accountability gap have essentially ignored the political realities of state capture. A more effective approach could involve 'connectivity-building' among reformists in the bureaucracy, legal professionals and members of civil society.

The long history of supporting government bureaucracy and societal accountability mechanisms in Iraq

Acknowledging that tackling corruption is central to building a coherent and stable post-war state, Iraqi reformers and their international partners have devoted substantial attention to improving Iraq's accountability mechanisms. They have spent considerable amounts of money on such efforts. Programmes have included: (1) building the capacity of civil servants, parliamentarians, lawyers, judges and civil society members who (at least on paper) hold accountability mandates; (2) raising awareness of accountability (for example, teaching legal principles around topics such as anti-corruption measures to members of the bureaucracy and the public); and (3) funding or otherwise encouraging media and civil society watchdog groups.

Looking at empowering the bureaucracy to promote accountability and the rule of law, international programming has targeted several institutions. Iraq's parliament, the CoR, has been a key focus for international capacity-builders, who have spent hundreds of millions of dollars over the years to bolster the institution's autonomy. For instance, between 2008 and 2011, USAID spent US\$42 million on strengthening the institutional power of parliament and developing the capacities of MPs and their staff. However, the programme's final audit found that ultimately Iraqi parliamentary leaders – driven by the interests of the ruling elite – had evicted the capacity-builders from their offices and reneged on promises made to pursue accountability.¹⁵² Several other initiatives have similarly sought, with minimal success, to build the capacity of parliamentarians over the years.¹⁵³

Another key target of technical capacity-building has been the Iraqi judiciary. International state-builders in Iraq have trained judges and lawyers. In a five-year project entitled the 'Iraq Access to Justice Program', USAID spent over \$66 million to 'increase the competence and availability of legal professionals and civil society partners to assist vulnerable and disadvantaged Iraqis'.¹⁵⁴ Between 2008 and 2010, the EU provided funding of \$18.3 million to the United Nations Development Programme (UNDP) and the United Nations Office for Project Services (UNOPS) to implement the 'Support to the Rule of Law and Justice Project'. This project focused on training, research, public awareness, legal assistance and material inputs to two model courts: one with Iraq's Supreme Judicial Council, and another with the MoJ. However, critical aspects of the project were delayed or cancelled due to the security situation, ineffective management, a lack of coordination between UN agencies, and a lack of genuine buy-in from the Iraqi government and the political elite.¹⁵⁵ More recently, UNDP has partnered with the EU to launch a code of conduct for judges and prosecutors across Iraq.¹⁵⁶ In early 2023, Germany and UNDP signed a donor agreement to provide over €825,000 for a project aimed at strengthening Iraq's criminal justice services and enhancing their ability to conduct effective interviews with suspects in accordance with international human rights commitments.¹⁵⁷

International attention has also focused on specific tools of accountability which could bring together a host of government institutions. For instance, between 2018 and 2021, the EU spent €15.6 million on a project called 'Strengthening Public Finance Management Oversight and Accountability Institutions in Iraq'. The goal

¹⁵² USAID Office of Inspector General (2012), *Audit of USAID/Iraq's Legislative Strengthening Program*, Washington, DC: US Agency for International Development, <https://oig.usaid.gov/sites/default/files/2019-09/6-267-13-001-P.pdf>.

¹⁵³ See, for example, Openaid (2023), 'IF; Iraqi Council of Representatives and civil society', <https://openaid.se/en/activities/SE-0-SE-6-12530A0101-IRQ-15152>.

¹⁵⁴ United States Agency for International Development Iraq (2015), *Iraq Access to Justice Program Final Report October 1, 2010 – September 30, 2015*, Washington, DC: US Agency for International Development, p. 1, https://pdf.usaid.gov/pdf_docs/PA00KTXJ.pdf.

¹⁵⁵ Balasem, A. and Freedman, J. (2012), *Iraq – Support to the Rule of Law and Justice Project Final Project Evaluation*, New York: United Nations Development Programme, <https://erc.undp.org/evaluation/documents/download/6048>.

¹⁵⁶ United Nations Iraq (2022), 'Strengthening judicial integrity in Iraq: New Judicial Code of Conduct launched today', press release, 21 November 2022, <https://iraq.un.org/en/208214-strengthening-judicial-integrity-iraq-new-judicial-code-conduct-launched-today>.

¹⁵⁷ United Nations Development Programme (2023), 'Germany supports UNDP in strengthening criminal justice services in Iraq', press release, 16 January 2023, <https://reliefweb.int/report/iraq/germany-supports-undp-strengthening-criminal-justice-services-iraq-enar>.

of the project, which was implemented by the World Bank, was to build the technical capacity of Iraqi civil servants tasked with public finance management across the bureaucracy.¹⁵⁸

Similarly, foreign support for accountability has promoted or sought to empower a variety of societal mechanisms, such as civil society. UNDP has implemented several projects aimed at strengthening civil society in Iraq. Donors also frequently support a wide range of economic empowerment and educational initiatives, with a view not only to enhancing economic opportunities but to counterbalancing the economic drivers of conflict or elite capture. Among such efforts is a range of private sector and business support currently funded by USAID in Iraq.¹⁵⁹ These initiatives include supporting community-based organizations, promoting civic engagement, and providing capacity-building and technical assistance to local civil society organizations. USAID's Iraq Community Action Program offers grants and technical assistance to local organizations working on issues such as human rights, governance, advocacy and community development.¹⁶⁰ USAID has also run the Iraq Civil Society Support Program, a \$40 million initiative to promote an informed and sustainable civil society.¹⁶¹

While some capacity-building programmes may have helped to empower isolated reformist elements or individuals, whether in the government bureaucracy or in society more widely, such investments have not led to a more accountable or coherent Iraqi state overall.

The media has also received international support, for example through efforts to facilitate the reporting and documenting of abuses or corruption and their publicization in the media. For 12 years, BBC Media Action worked with radio stations such as Radio Al Mirbad in Basra and Radio Nawa in Sulaimania on campaigns on these issues.¹⁶²

While some of these capacity-building programmes may have helped to empower isolated reformist elements or individuals, whether in the government bureaucracy or in society more widely, such investments have not led to a more accountable or coherent Iraqi state overall. The failures of international programming

¹⁵⁸ Delegation of the European Union to Iraq (2019), 'Strengthening Public Finance Management Oversight and Accountability Institutions in Iraq', 4 December 2019, https://www.eeas.europa.eu/delegations/iraq/strengthening-public-finance-management-oversight-and-accountability-institutions_en?s=199.

¹⁵⁹ United States Agency for International Development (2020), 'Middle East North Africa Investment Initiative (MENA II) – Iraq', <https://www.usaid.gov/iraq/fact-sheets/middle-east-north-africa-investment-initiative-iraq>.

¹⁶⁰ United States Agency for International Development Iraq (2012), *USAID/Iraq Community Action Program III ACDI/VOCA Final Report*, Washington, DC: US Agency for International Development, https://pdf.usaid.gov/pdf_docs/pdacu839.pdf.

¹⁶¹ America's Development Foundation (2007), *USAID Iraq Civil Society and Independent Media Program*, Virginia: America's Development Foundation, https://pdf.usaid.gov/pdf_docs/Pdaci917.pdf.

¹⁶² Delegation of the European Union to Iraq (2019), 'Community Cohesion through Community Media', 4 December 2019, https://www.eeas.europa.eu/delegations/iraq/community-cohesion-through-community-media_en.

have been attributed in part to short project timescales,¹⁶³ a lack of awareness of local dynamics¹⁶⁴ and poor donor co-ordination.¹⁶⁵ Crucially, however, these programmes have been ineffective in tackling the issue of elite capture or corruption when seeking to build accountability mechanisms. They have struggled to overcome the lack of political will for genuine reform. As a result, according to Transparency International, for instance, the three institutions where bribery features the highest are the police, the customs authorities and the judiciary – despite repeated efforts to train staff and build these institutions.¹⁶⁶

The problem of a technical focus to capacity-building

The disconnect between the high level of international attention to capacity-building and investment and Iraq's poor standing on all accountability and corruption metrics reveals a fundamental problem in donor programming. The most significant challenge to pursuing accountability is the often short-term nature and technical focus of programming, which then becomes vulnerable to elite manipulation.¹⁶⁷ As this paper has argued, elite capture of much of Iraq's accountability mechanisms has impeded their independence and, as such, their capacity to perform their function of providing checks on elite power. In a political landscape in which members of the elite control key nodes within the bureaucracy and are effectively able to silence civil society dissent through the unregulated use of coercive force

¹⁶³ See Day, A. and Caus, J. (2022), *Rule of Law and Sustaining Peace: Towards More Impactful, Effective Conflict Prevention*, New York: United Nations University, http://collections.unu.edu/eserv/UNU:8342/RuleOfLaw_FullVolume.pdf; Kleinfeld, R. (2015), 'In Development Work, Plan for Sailboats, Not Trains', *Stanford Social Innovation Review*, <https://doi.org/10.48558/E015-8N50>; Gaston, E. and Jensen, E. (2016), 'Rule of Law and Statebuilding in Afghanistan: Testing Theory with Practice', in Smith, S. and Cookman, C. (eds) (2016), *State Strengthening in Afghanistan: Lessons Learned 2001-14*, Washington, DC: United States Institute of Peace, pp. 69–80; Brown, F. Z. (2012), *The U.S. Surge and Afghan Local Governance: Lessons for Transition*, Special Report, Washington, DC: United States Institute of Peace, <https://www.usip.org/publications/2012/09/us-surge-and-afghan-local-governance>; Brown, F. Z. (2021), 'Aiding Afghan Local Governance: What Went Wrong?', Carnegie Endowment for International Peace article, 8 November 2021, <https://carnegieendowment.org/2021/11/08/aiding-afghan-local-governance-what-went-wrong-pub-85719>.

¹⁶⁴ Donor programming can follow standard prescriptions and fail to take into account local context, even when people on the ground warn that the approach will be ineffective. See, for example, Campbell, S. P. (2018), *Global Governance and Local Peace: Accountability and Performance in International Peacebuilding*, Cambridge: Cambridge University Press.

¹⁶⁵ The SIGAR report on Afghanistan found that 'in complex and unpredictable environments like Afghanistan, where staff turnover is rapid, multiple agencies must coordinate programs simultaneously, security and access restrictions make it hard to understand a program's challenges and impact, and a myriad of variables compete to influence outcomes'. See also US Agency for International Development (2020), *Rule of Law Practitioner's Guide*, Washington, DC: US Agency for International Development, p. 7, <https://2017-2020.usaid.gov/sites/default/files/documents/USAID-Rule-of-Law-Practitioners-Guide-July-2020.pdf>: 'Focusing on a particular institution instead of taking a systems approach has proven ineffective, as no institution operates in isolation. A system must be able to accommodate an institution's new policies and procedures; without systemic changes to support those by an institution, those changes will create havoc within the system.'

¹⁶⁶ Agator, M. (2013), 'Iraq: overview of corruption and anti-corruption', *UA Expert Answer*, 374, Transparency International, https://www.transparency.org/files/content/corruptionqas/374_Iraq_overview_of_corruption_and_anticorruption.pdf.

¹⁶⁷ On the tendency to pursue technical measures and/or the failure to make necessary political choices for security sector reform to succeed, see Eckard, S. (2016), *The Challenges and Lessons Learned in Supporting Security Sector Reform*, Berlin: Friedrich Ebert Stiftung, https://www.gppi.net/media/Eckhard_2016_Challenges_and_Lessons_of_SSR.pdf; Boucher, A. and England, M. (2009), *Security Sector Reform: Thematic Literature Review on Best Practices and Lessons Learned*, Washington, DC: The Henry L. Stimson Center, https://www.stimson.org/wp-content/files/file-attachments/Stimson_SSR_practicenotes_complete_set_dec09_1_1.pdf. See also Shepherd, T. (2017), 'Strategic ends, not tactical means: Better ways to build partner capacity', *War Room*, 25 July 2017, <https://warroom.armywarcollege.edu/articles/strategic-ends-not-tactical-means-better-ways-build-partner-capacity>; Carothers, T. and de Gramont, D. (2013), *Development Aid Confronts Politics: The Almost Revolution*, Washington, DC: Carnegie Endowment for International Peace, pp. 26–29.

(for example, via connections to paramilitary groups or government security forces), it is easy for the elite who should, in theory, be policed by such laws or mechanisms to limit any reform programming.

No technical reform effort, regardless of how generously funded, well-designed or long-term in approach, can withstand the resistance of an empowered elite. Even the direct positioning of donor-appointed external advisers within key institutions to monitor and resist elite interference does not always work, leaving state structures as 'empty shells' that serve the elite but undermine the legitimacy of institutions with local populations.¹⁶⁸ And, as the multi-level accountability structure laid out in the next section makes clear, reform in these areas is necessarily political and Iraq-specific. Donors may see technical capacity-building for the bureaucracy as a neutral, apolitical exercise, but the Iraqi elite can see this as a direct threat to its power and freedom of action.¹⁶⁹

No technical reform effort, regardless of how generously funded, well-designed or long-term in approach, can withstand the resistance of an empowered elite.

The same issue comes out in anti-corruption and accountability programming, which has often taken a deliberately apolitical approach and as such – paradoxically – often ignores corruption. In other words, the goals of such initiatives are often to tick technical boxes without upsetting political sensitivities. A USAID review of its anti-corruption programming in Iraq from 2007 to 2013 found that 'the majority of calls did not discuss corruption at all or limited their requirements to a brief discussion of corruption as it may affect the project's activities'.¹⁷⁰ Even though the key goal of USAID's programming in this case was to reduce corruption, its specific anti-corruption elements were sidelined.

In another example, USAID administered the National Capacity Development Project (Tatweer) between 2006 and 2011. The objective of this project was 'to assist the government to strengthen the management capability of executive branch institutions, increase transparency, improve communication and decrease corruption in the public sector'. The budget for this was US\$339.5 million. However, by the project's end, the Iraqi bureaucracy remained weak and was still perceived by many analysts and institutions such as Transparency International as being susceptible to elite capture.¹⁷¹ An internal memo concluded: 'While Tatweer measured its

¹⁶⁸ Jackson, P. (2011), 'Security Sector Reform and State Building', *Third World Quarterly*, 32(10), pp. 1803–22, <https://www.jstor.org/stable/41341200>.

¹⁶⁹ Research interview with foreign donor, Baghdad, November 2021.

¹⁷⁰ United States Agency for International Development (2014), *Analysis of USAID Anticorruption Programming Worldwide (2007-2013)*, Washington, DC: US Agency for International Development, <https://www.usaid.gov/sites/default/files/documents/1866/AnalysisUSAIDAnticorruptionProgrammingWorldwideFinalReport2007-2013.pdf>.

¹⁷¹ In the 2011 Corruption Perceptions Index, Transparency International ranked Iraq as the worst country in the Middle East. Transparency International (2011), 'Transparency International Corruption Perceptions Index 2011, Press Release Annex', https://www.transparency.org/files/content/pressrelease/20111201_TI-S_CPI2011_Table_EN.pdf.

anticorruption activities outcomes through the number of trained personnel and number of administrative systems or procedures implemented, it did not measure the impact of these outputs on corruption.¹⁷²

This paradox, the existence of anti-corruption programming that avoids actually addressing corruption, stems from the need for donors to prove success and their theory of change, but in a short timeline and with minimal risk. As such, success in a technical process is far easier to achieve and report back to a home government than genuine progress in reducing corruption, which will undoubtedly take much longer to achieve and which will follow a more precarious path.

A networked approach: why connectivity is as important as capacity-building for accountability mechanisms

This paper has described the imbalance in state–society relations in Iraq, which results in a bureaucracy that does not function as an independent institutional check on the elite, and in a public that is unable to constrain members of the elite or compel the bureaucracy to fulfil its role. The ruling elite has largely been able to bypass formal checks and balances, and to capture the coercive functions of the bureaucracy. In this context, reform efforts that seek to build the capacity of the bureaucracy without first removing the distortions introduced by elite capture risk failure at best. At worst, they risk strengthening the very abusive forces they are intended to constrain.

It is important to be clear about the critique being made. It is not that institutional oversight measures – such as the Inspector General Offices, financial accountability laws, or capacity-building advisers within government institutions – are bad investments *per se*. Undoubtedly such mechanisms are an important part of building functioning, accountable and responsive institutions. If these mechanisms were deployed in the context of a healthy power balance between state and society, they might well enhance accountability and keep powerful actors in check. In the current environment in Iraq, however, they will simply be short-circuited or undercut.

In policy terms, the response therefore cannot be to continue with futile institutional strengthening and the false neutrality of capacity-building. Instead, policy must first be framed around disentangling the elite from bureaucratic functions and restraining its influence. Any strategy must be predicated on helping civil society, along with those relatively neutral and functioning parts of the bureaucracy that remain, to protect, strengthen and use the powers that they have.

¹⁷² United States Agency for International Development (2011), *Tatweer National Capacity Development Program Final Evaluation*, Washington, DC: US Agency for International Development, https://pdf.usaid.gov/pdf_docs/PDAGR430.pdf.

Networks of reformists

This study has documented the ways in which elite groups have undermined power balances and subverted Iraqi institutions through a networked strategy of influence and coercion. The response should be to try to identify and strengthen networks of reformists in turn. Research has revealed that there remain individuals in Iraq who are still able to influence the behaviour of members of the elite – and that these individuals are often able to intercede to protect fellow reformers or important civil society interests, or to limit damage. However, most such individuals are isolated, dispersed and at risk, and their impact is therefore limited overall.

The elite's focus on managing and shaping public opinion, documented above, through control of much of the media, think-tanks, opinion leaders and public discourse, is also a tacit admission of its own vulnerability to public opinion. This suggests that networks of reformists could still gain traction by engaging with influential figures in the media and civil society to communicate and amplify reform messaging. This could help to reinforce the internal efforts of reform-minded officials acting within the bureaucracy. Moreover, while the survey conducted as part of the research for this paper indicated little public confidence in the ability of civil society to combat corruption, to a degree this merely indicates the challenges which reformists currently face; a networked approach to mobilizing reform efforts, where successful, could start to counter these perceptions.

The example of Haider al-Zaidi's release after being convicted for tweeting against the late PMF leader Abu Mehdi al-Muhandis offers a glimmer of evidence of the potential power of such a networked approach. The PMF's chairman, Falih al-Fayadh, withdrew the case because of the mobilization efforts of MPs, journalists, civil society, lawyers, legal professionals and senior civil servants, all of whom worked together on a coherent strategy that demanded al-Zaidi's release in a case which they believed was unjust.¹⁷³ Public pressure still mattered and was successfully mobilized. Connecting reformists across the public, bureaucracy and – eventually, perhaps – among some members of the elite in a more concerted and strategic way has the potential to enable the scaling up of the networks that mobilized to free al-Zaidi.

Building reformist networks

Reframing efforts to buttress accountability in Iraq by complementing technical capacity-building with a network approach rooted in enabling active reformists from the bureaucracy and society would need to be carefully tested. An initial pilot phase could be designed to develop the idea of building an accountability-focused network. This approach would draw on lessons from previous Chatham House research by building connections between isolated reformists across the civil service, the judiciary, the media and civil society, acknowledging the factors and risks highlighted below:

¹⁷³ Al-Sumaria (2022), 'هيئة الحشد الشعبي تنازل عن الدعوى المقامة ضد "حيدر الزيدي"', [The Popular Mobilization Forces authority waives the lawsuit against Haider al-Zaidi], 19 December 2019, <https://www.alsumaria.tv/news/D8%A3%D9%85%D9%86/441714/%D9%87%D9%8A%D8%A6%D8%A9-%D8%A7%D9%84%D8%AD%D8%B4%D8%AF-%D8%A7%D9%84%D8%B4%D8%B9%D8%A8%D9%8A-%D8%AA%D8%AA%D9%86%D8%A7%D8%B2%D9%84-%D8%B9%D9%86-%D8%A7%D9%84%D8%AF%D8%B9%D9%88%D9%89-%D8%A7%D9%84%D9%85%D9%82%D8%A7%D9%85%D8%A9-%D8%B6%D8%AF-%D8%AD%D9%8A%D8%AF%D8%B1>.

- First, a specific sector or topic would need to be selected for the pilot phase. This could be a sector in which corruption is causing everyday harms for Iraqis, such as healthcare, electricity or water. If a topic is selected, it should be one on which Iraqis across the country are calling for improved governance, such as the need for an access-to-information law or a budget monitor.
- Researchers could identify key players in the sector or for the topic chosen. Such key players could include: relevant officials; senior reformist members of Iraq's judiciary, civil service and security structures; and influential figures in the media and civil society.
- A local Iraqi organization could facilitate and link these individuals into the working group and support the development of a specific strategy for reform that each could pursue with the relevant stakeholders. This organization could either be formed from scratch or could be an existing local organization, potentially one that currently operates under the radar and convenes informally.
- The reform strategy should identify and elaborate how the different members of the working group could act on a specific chosen topic in mutually reinforcing ways, to facilitate progress and ensure political protection for those involved (in addition to physical safety – see below). This could involve, for example, providing high-level legal or political 'cover' for reform, or leveraging media coverage or public opinion to draw attention to resistance or spoiling tactics by members of the elite.
- The nature of engagement would likely depend on working group members' positions in the bureaucracy or society: members drawn from civil society could use the media and mobilize the public; civil servants could work inside their respective ministries and government to pursue reform; judicial representatives could educate other members of the working group on the relevant aspects of law associated with combating corruption and improving accountability.
- If these efforts are successful, and result in enhanced public service provision or more effective anti-corruption measures, the pilot project could then form the core of further outreach, public diplomacy and network-building to extend the scope and appeal of reform.
- The key to such an initiative is safety – both in a physical sense and in terms of legal and political support. When the results start to threaten elite interests, what will protect members of this network or guarantee the sustainability of their work? A plan to mitigate the risks associated with exposing corruption will need to be part of the initiative's design, both in the pilot phase and if rolled out more widely.

In essence, the idea of the above strategy would be to identify, link and leverage complementarity between the currently dispersed nodes of civil society and institutional resilience that exist in Iraq, to oppose elite pushback and reset Iraq's accountability structures.

The role of external actors

The role of external actors in this process would need to be carefully considered. It would be important to allow the proposed reform network to grow organically and domestically, with participants identifying their own needs and defining their own strategies for strengthening accountability. It would be up to these Iraqi reformers to determine how outside donors might best support them. Ill-considered, overt or controlling interventions by external actors could lead to reformers being mischaracterized by opponents as proxies for external powers, which could undermine public acceptance and support for the new network.

In a focus group conducted in 2023 by Chatham House in Iraq, participants debated the merits of international support for such a network, reflecting on the experiences of 20 years of international development programming.¹⁷⁴ While views from across the spectrum – both pro- and anti-international support – were expressed, the group ultimately agreed that the current strategies were not working. Instead, participants concluded that only certain targeted external support strategies can enhance the development and activities of such a network over time. This could include an external actor offering financial support discreetly to an Iraqi organization that could then facilitate networking and strategic follow-up. Or it could include helping find international expertise or success stories on selected reform areas from other contexts globally.

¹⁷⁴ Focus group in Baghdad, March 2023.

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Iraq Initiative at Chatham House

This project tackles the root causes of state fragmentation in Iraq, and challenges assumptions in Western capitals about stabilization and peacebuilding. The aim is to reach a more nuanced approach to navigating Iraq's complex and interlinked political, security and economic environments.

The initiative is based on original analysis and close engagement with a network of researchers and institutions inside Iraq. At the local level, it maps key political, business, military and societal figures across Iraq. At the national level, it explores the struggle over the state.

The project uses these field-based insights to inform international policy towards Iraq. Chatham House convenes Iraq Initiative activities in various cities in the Middle East, the UK, the US and Europe.

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Cover image: University and high-school students walk towards Tahrir Square to support anti-government protesters in Baghdad on 16 February 2020.

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