



# Legislations and Regulations in Iraq

## Reality and Challenges

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- 1- Pre 2003 political and economic system and its impact on legislations and regulations.
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# Pre 2003

We can not conceive reform and regularity evolution in a political and economical system based on extreme centralization, and who did not have the will to apply the principles of: competition, transparency, accountability, simplification and economy stimulation, liberalization and open markets, strengthen and build modern institutional systems and achieve a balance between central and local authorities to strengthen the relationship between citizens and institutions of the civil service and consumer protection and take into account the interests of equity and human rights

# **1- Pre-2003 political and economic system and its impact on legislations and regulations**

## **1.1 Former regime context**

- 1.1.1 Strong centralization: the government interferes in every aspect (absolute and centralized regime)
- 1.1.2 Militarization and politicization of economy and society for the benefit of the regime.
- 1.1.3 Suppression of democracy and its institutions, and violation of rights and liberties
- 1.1.4 Lack of separation of authorities bodies to create body chain. Legislation is vested to the ruling body (Revolutionary Command Council).

## **1.2 The impact on the economic and social aspects:**

**1.2.1** Domination of the public/governmental sector over other sectors

**1.2.2** Limited and weak private sector.

**1.2.3** Absence of competition.

**1.2.4** Lack of local investment and absence of foreign investment.

**1.2.5** Absence of transparency and accountability.

**1.2.6** Lack of media and the civil society organizations.

1.2.7 Institutional collapse and outdated procedures.

1.2.8 State-dependant economy.

1.2.9 Outdated civil services.

1.2.10 Lack of e-communication required to increase efficiency and reducing the risk of corruption.

1.2.11 Weak financial management system.

1.2.12 Outdated infrastructure and services.

## **1.3 Legal and regulatory impacts**

**1.3.1** Centralization of legislation and regulation (Revolutionary Command Council).

**1.3.2** Lack of cooperation and coordination in legal and regulatory making.

**1.3.3** Inefficient laws and regulations due to centralization.

**1.3.4** Tendency towards serving the regime only instead of the public.

**1.3.5** Lack of economic, social, and administrative regulations revision



- 1.3.6 Laws and regulations did not keep abreast of international laws and regulations in terms of economic systems (outdated and Inefficient).
- 1.3.7 Absence of Regulatory Impact Analysis (cost vis-à-vis social impact ).
- 1.3.8 Passing laws and regulations centered on penal code in contradiction to all norms and laws.
- 1.3.9 Prevalence of laws and regulations that constrain ownership – nationalization laws and decisions-.



## Post 2003

The transformation from a centralized state-run economy to an initiative and renewable economy that keeps abreast of market and civil society is a huge process and very complicated. Inherited administration is very centralized whether at the state level or at the level of political minds. Most of the public sector officials didn't realize yet the benefits and merits of market mechanisms and of respecting liberties and rights

## **2- Pre-2003 economic and political system and its impact on legislations and regulations**

### **2.1.1 The new regime.**

Republic of Iraq according to the new Iraqi constitution is an independent federal state of full sovereignty. Regime is a democratic representative republican consists of the following:-

- . Legislative Body: Council of Representative and its committees.
- . Executive Body: Presidency, Council of Ministers, Prime Minister, Council of Ministers Committees.
- . Judiciary Body: Higher Judicial Council, Supreme Federal Court, Federal Appeal Court, General Attorney, Judiciary Oversight Board.

2.1.2 Key changes in the economic-political system in accordance with the new constitution:-

2.1.2.1 Separation of authoritative bodies.

2.1.2.2 Freedom of labor, goods and capitals move (Article 24)

2.1.2.3 Reform of Iraqi economy according to modern economic basis and private sector revitalization. (Article 25)

2.12.4 Foreign investment promotion by the government in different sectors. (Article 26)

2.1.2.5 Individual property is protected and owner has the right to harness and benefit from it in accordance with existing law (Article 23).

2.1.2.6 Social and health insurance is guaranteed by the government. (Article 30)

2.1.2.7 Freedom of journalism, printing, media, publication and advisement. (Article 38).

2.1.2.8 Promote and develop civil society organizations' role and independency. (Article 45)

2.1.2.9 Legislative, executive and judicial authorities are empowered to regions while financial and administrative authorities to governorates not included in a region.

## 2.2 Post-2003 regulatory reform trends

2.2.1 Organize legislative period on the basis of new constitution and philosophy of the government.

2.2.2 Regulations abolishment and amendment.

2.2.3 Cut state influence with an end to free economy and redefine the relationship between the state and economy and market.

2.2.4 Support poor and damaged people.

2.2.5 Instill democracy and its mechanism, rule of law, and transfer of power.

2.2.6 Enhance monitoring body and law enforcement systems.

2.2.7 Achieve balance between central government and provinces and regions.

2.2.8 Support and expand role of civil society organizations.

2.2.9 Economy openness and develop economic relations with different states.

2.2.10 Facilitate national and foreign investment.

2.2.11 Create competition and anti-monopoly.

2.2.12 Civil service reform.

2.2.13 Simplify administrative procedures.

2.2.14 Promote principles of transparency and accountability.

2.2.15 Support privatization procedures.

2.2.16 Enhance judiciary role and independency.



## 2.3 Legislative and regulatory procedures within the framework of regulatory reform:

### 2.3.1 Ratification and implementation of new regulatory laws:

**Investment law No. 13 of 2006.**

**Consumer protection law No. 1 of 2010.**

**Competition and Monopoly prevention law No. 14 of 2010.**

**Insurance law.**

**General inspectors' law No. 57 of 2004.**

**Integrity commission law No. 77 of 2004.**

**NGOs law No. 12 of 2010.**

**Custom's fees law.**

**Federal public service council law No. 4 of 2009.**

**The law on Iraq's accession to UN anti- corruption convention No. 35 of 2007.**

**Local product protection law No. 11 of 2010.**

**Law on establishing money laundering office in central bank.**

**Private investment law on crude oil refinery No. 64 of 2007.**

**Law on anti- smuggling of oil and its derivatives No. 41 of 2008.**

**Import and sale of oil products law No. 9 of 2006.**

**Ministry of labor and Social Affairs law No. 8 of 2008.**

**Public service salary law No. 22 of 2008.**

**Taxation instructions for contracts signed between Iraqi and foreign parties No. 2 of 2008.**

**Registry and classification instructions of contractors No. 3 of 2009.**

**Provinces not included in a region law No. 21 of 2008.**

**Unified pension law No. 27 of 2006.**

**Environment protection and improvement law No. 27 of 2009.**

**Farmers' Agricultural loan fund law No. 28 of 2009.**

**Law on Iraq's accession to Singapore Treaty for Trademarks No. 9 of 2009.**

**Contract implementation instructions No. 1 of 2008.**

## 2.3.2 Draft laws under legislation (approved by Council of Ministers):

**Draft law on social protection net.**

**Draft law on agricultural lands ' lease.**

**Draft agreement to regulate provisions on electronic signatures used in E-applications in Arabic countries.**

**Draft law on Iraq's accession to the agreement concluded to establish (International Trade Finance Corporation.)**

**Draft law on national committee of information technology.**

**Draft law on Iraq's accession to the International Academy of anti-corruption.**

**Draft law on Iraq's accession to transparency initiative in extractive industries.**

**Draft law on Iraq's accession to (STAR) initiative.**

**Draft law on civil service.**

2.3.3 Amending or abolishing old laws.

2.3.4 Laws on compensating those affected by the former regime including politically-dismissed or prisoned individuals and martyrs whose properties were confiscated.

2.3.5 Draft laws under legislation accounting for 112 including:-

- **Anti-corruption law.**
- **The right to information access law.**
- **State council law.**



**2.3.6** Completion of Iraqi legislation database (supported by international organization)

**2.3.7** Wide joined programs between the Iraqi government and international organizations including:-

- **Financial administration reform and general budget system program.**
- **Banking system reform program.**
- **Public service reform program.**
- **Private sector reform program.**
- **PDS reform program.**
- **Human resources reform program.**
- **Human development program.**

### **3. Challenges facing regulatory reform:**

- 3.1 Legacy of the huge and diverse legislative system which was based on the philosophy and nature of the previous regime.
- 3.2 Delay in legislation and weakness in regulations and main reliance upon laws.
- 3.3 Legacy of centralization in all sectors of government.
- 3.4 Poor participation of NGOs and unions.

- 3.5 The political environment created by fierce competition pursuing posts in the transition stage of government.
- 3.6 Weak electoral system and lack of a regulatory law that organize actions and funding of political parties.
- 3.7 Poor administrative, legal and financial capacities.
- 3.8 Poor private sector capacities.
- 3.9 Weak system of public policy development.

- 3.10 Excessive staffing and intercrossing in public enterprises duties leading to low productivity of labor force.
- 3.11 Unstable security and political situation that affected deeply the social and economic stability.
- 3.12 Weak Labor market institutions.
- 3.13 Considering the oil sector as the only source of revenue for Iraqi government and deterioration of other activities that provide job opportunities.

## 4. Recent and required procedures in regulatory reform framework:

- 4.1 Establishing a central unit to coordinate public policy and regulations (in process)
- 4.2 Reviewing policies and regulations to reconsider their amendment to ensure their compatibility with social and economic changes.
- 4.3 Completion of E –Government (in process).
- 4.4 Adopting quality standards in the process of developing or reviewing regulatory texts by:

**Drafting Law on Council of State. (in progress) Expanding the role of civil and professional participation in synthesizing texts.**

- 4.5 Promoting administration reform procedures and re-organizing the administrative structure.
- 4.6 Promoting a decentralized system and expanding provincial authorities.
- 4.7 Reforming a number of ministries' laws in accordance with the post-war state philosophy.
- 4.8 Ensuring conducive circumstances for companies and reviewing the regulations for creating a suitable environment to establish new institutions and register the ones of decentralized function.

## 5 - Legislative system map.

