

# ANTI-CORRUPTION MECHANISMS: A STUDY IN THE LIGHT OF INTERNATIONAL LAW AND NATIONAL REGULATION

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## Abstract

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Corruption is a constant dilemma that challenges societies and manifests itself differently in every state and civilization. This phenomenon has disastrous consequences on the economy and society. After clarifying the different approaches to corruption, this paper sheds light on the types of corruption and its causes. Sources of corruption can lie in the weakness of the rule of law, judiciary, internal control system, and low wages (Sumpf, Araji, & Crompton, 2016). This paper also examines important anti-corruption instruments such as international and regional organizations, and governmental and non-governmental bodies. It intends to review the state of corruption at the national level and how Jordan and Iraq tackled corruption by analyzing the data of the reports published by the transparency organization and the local authorities: the Jordanian Integrity and Anti-Corruption Commission and the Iraqi Federal Commission of Integrity. The aim is to show what these nations have done on a domestic level to fulfill the international requirement to reduce corruption. This study found that most anti-corruption laws are laws to establish relevant bodies and departments, but they are not special laws to combat corruption crimes. Moreover, although Iraq and Jordan joined international and regional conventions to combat corruption, they have not been fully successful in curbing it. The main recommendations based on these findings are to increase the role of international and local monitoring agencies, enforce written laws, and enhance cooperation between agencies. Arab countries must establish clear public policies and strategies for combating corruption.

**Keywords:** Criminal Law, Corruption, International Transparency, United Nations Convention Against Corruption, Corruption Perceptions Index, Arab Anti-Corruption Convention

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## 1. INTRODUCTION

Corruption is a constant dilemma that challenges societies and manifests itself differently in each state and civilization and its consequences are disastrous to the economy and society (Hajim, 2018). The background of this phenomenon is not related to a precise historical period or a specific nation or country and frequently involves multiple actors and initiators. Despite numerous attempts to reach a globally accepted definition for corruption, there is no one meaning. This has led to several international tools that, rather than define corruption, prefer to concentrate on defining certain forms of it. This phenomenon has various causes including weakness of the rule of law, judiciary, internal control systems, and low wages for civil servants and politicians. It also has many types, like bribery, embezzlement, and influence peddling, and could be on a petty or grand level.

Many countries implement measures and strategies to reduce corruption, however, combatting corruption on a local level was not helpful. Corruption is a global challenge, requiring the cooperation of nations and international and regional agreements (Topchii, Zadereiko, Didkivska, Bodunova, & Shevchenko, 2021). The United Nations Convention against Corruption (UNCAC) (Hechler, 2010) and the Arab Anti-Corruption Convention (League of Arab States, General Secretariat, 2010) are international institutions created to fight corruption. Countries such as Jordan and Iraq tried to fulfill their commitments toward the aforementioned agreements by establishing institutions dedicated to fighting corruption. In addition to those agreements, governmental and non-governmental international bodies, such as the International Bank for Reconstruction and Development (IBRD) and the International Monetary Fund (IMF), set several conditions related to limiting corruption to grant loans and aid. Moreover, Transparency International plays an important role in combating corruption and limiting its effects through clarifying procedures and revealing the deficiencies of anti-corruption measures on the national and international scale (Transparency International, 2020). This paper addresses the corruption phenomena, starting by clarifying its concept, discussing causes, and the most prevalent types of corruption. Then it discusses the main international instruments and bodies tackling corruption. It also analyzes the measures placed by Jordan and Iraq to tackle corruption (Ibn Tarif, 2011). These countries have been carefully selected as successful examples in the Arab region to reduce the spread of the phenomenon of corruption through the procedures taken and the institutions established in it. This study could be considered a keystone that paves the way for subsequent studies on the issue of corruption in the Gulf and Middle Eastern countries.

This paper shows also how the mentioned countries respond to international conventions by analysing official reports published by the transparency organization, local reports, and judicial applications as described in the methodology section.

Many literature gaps were noticed by the authors, the most important of which are

the absence of recent studies specializing in corruption in the Arab countries, the lack of sufficiently detailed data in the corruption reports issued in Jordan, and the lack of jurisprudential studies that show the extent to which Arab countries are committed to international anti-corruption agreements. The study mainly aims to clarify the concept of corruption, its forms, and international and national mechanisms to combat it, and to show the extent to which countries are committed to these mechanisms.

The paper is supposed to answer certain research questions:

*RQ1: Is the multiplicity of anti-corruption bodies and legislation sufficient to eliminate corruption once and for all?*

*RQ2: How successfully have these understudy countries achieved the expected targets to minimize the corruption phenomena?*

*RQ3: How efficient are their mechanisms and executive authorities?*

Such answers can be found in the annual records of the international organizations besides the interactive ones inside each country which is reflected in the number of cases and court rulings.

The significance of this research manifested in studying anti-corruption procedures in Iraq and Jordan and their evolution and conformity with international standards and also showing the effects of these procedures implementations in fighting the corruption dilemma by evaluating the outcomes of the local annual reports beside the selected court cases and comparing the overall results with the international ones, mainly the transparency organization.

The study concludes that the various anti-corruption legislation and institutions have succeeded in mitigating its severity, but they have not completely eliminated it and that effective cooperation is needed within the aforementioned countries so that faltering nations benefit from successful experiments in combating corruption.

The structure of this paper is as follows. Section 1 is the background information and introduction. Section 2 discusses the previous literature. Section 3 includes a detailed research methodology applied in this article. Section 4 shows the results of corruption categories and the Corruption Perceptions Index (CPI) and the comparison between Iraq and Jordan in the latest years. Section 5 presents and analyzes the Iraqi and Jordanian anti-corruption procedures in addition to international laws combatting corruption. Section 6 highlights the conclusion and recommendations to achieve the successful curbing of corruption.

## 2. LITERATURE REVIEW

Several recent studies have proposed to address the corruption dilemma in Arab countries. The importance of the issue of corruption stems from its wide spread at all levels and the absence of a unified solution or model that can be applied in all countries and eras.

Hajim (2018) carried out a critical analytical examination of the corruption impact on human rights protected by International Law and United

Nations instruments. The author applied an inductive study of Iraq's response to corruption rampant in the country and the extent of the seriousness of the procedures and their compatibility with international obligations.

One of the most important findings that the author reached is that the Iraqi legislator must enact new, more balanced legal rules to tackle the problem of corruption and uproot it from its roots, and the money obtained from corruption operations must also be recovered and invested in projects of public interest.

Alshawabkeh (2018) focused on explaining the role of fighting administrative corruption in achieving comprehensive development, taking into consideration the Jordanian experience, as a model. The study examined the legal basis for establishing the Integrity and Anti-Corruption Commission and the role of the Audit Bureau in combating corruption. The study showed that administrative corruption led to the spread of severe centralization, weak professional guidance, duplication of values, and conflict between the values of tradition and the values of law.

The research concluded that activating the Law of the Integrity and Anti-Corruption Commission and the Audit Bureau, as a pioneering Jordanian experience, constitutes a fair legal approach to achieving justice and equality among members of society.

Another important study was provided by Abdel-Kareem (2012) where the author discussed the enforcement of the UNCAC, how it is ratified, the competent authority for ratification, and the necessary stages of ratification. The study also dealt with possible legal solutions in the event of a conflict between the UNCAC with the law and the national constitution. The study also took into consideration the CPI issued by Transparency International and Freedom House's index of countries that succeeded in facing the problem of corruption. The study also indicated that Egypt has the right to use the agreement to request the extradition of criminals involved in the crimes stipulated in the agreement (Abdel-Kareem, 2012).

### **3. RESEARCH METHODOLOGY**

The authors summarized the definition of corruption and its types besides the major causes by emphasizing the issues in two selected countries: Jordan and Iraq because they are combatting corruption and showing serious progress in this field even though corruption reached worrying levels. In both countries, there is a specialized

authority that proceeds different steps with high standards of international legislation and regulations against corruption. The paper also highlighted the particular institutions in Jordan and Iraq employed to face corruption and its effects inside each country. Therefore, the majority of the presented data here is collected from the official records and publications issued by the Jordanian Integrity and Anti-Corruption Commission and the Iraqi Federal Commission of Integrity. In addition, major corruption-related court cases were outlined and discussed. General comparisons among these legislation, regulations, and verdicts were also conducted by analytical and comparative approaches obtained from primary or secondary sources.

The authors recall the particular measures of anti-corruption and regulations issued by the major responsible bodies. They compare these measures with those issued by international institutions to find out their compatibility. The authors also addressed the different approaches to corruption, corruption types, and its causes. And it examined the governmental and non-governmental anti-corruption instruments and legislation at the international and regional levels.

The authors also relied on the official reports and records issued by a transparency organization, Transparency International<sup>1</sup>, and the major local official inspection authority of Jordan, the Integrity and Anti-Corruption Commission<sup>2</sup>, and Iraq, the Federal Commission of Integrity<sup>3</sup> to establish the summarized results into tables and graphs.

### **4. RESULTS**

Based on reports issued annually by the Federal Commission of Integrity in Iraq, Figures 1 and 2 show the total convicted in corruption cases within 2018 and 2021, respectively (Transparency International, 2021).

Four categories of corruption were compared (embezzlement, bribery, influence peddling, and other types). Embezzlement verdicts reduced from 242 in 2018 to 187 in 2021, while bribery verdicts were the lowest percentage as they decreased from 32 verdicts in 2018 to 29 in 2021. Regarding influence peddling verdicts, they were 133 verdicts in 2018 and became 74 verdicts in 2021. Even though, verdicts in the other corruption types were reduced from 811 in 2018 to 564 in 2021. Such observation can reflect the effectiveness of the performance of the Federal Commission of Integrity in Iraq where the CPI rank jumped 11 positions from 168 to 157 and also the score-recorded jumped from 18 in 2018 to 23 in 2021 (Federal Commission of Integrity, 2022).

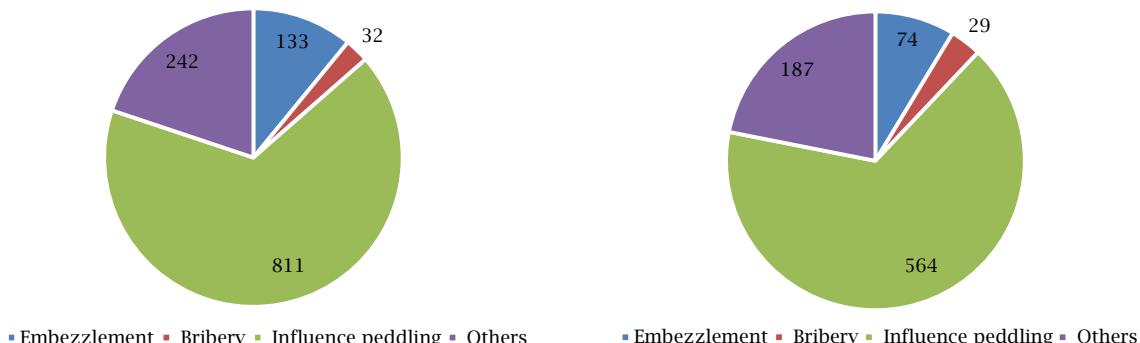
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<sup>1</sup> <https://www.transparency.org/>

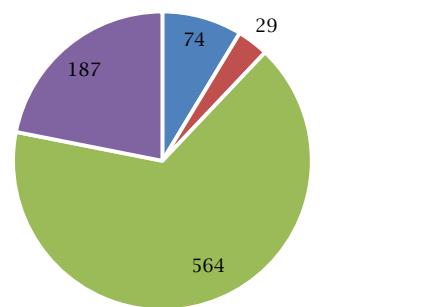
<sup>2</sup> <http://jacc.gov.jo/Default/En>

<sup>3</sup> [https://nazaha.iq/en\\_default.asp](https://nazaha.iq/en_default.asp)

**Figure 1.** The total convicted in corruption cases (2018)



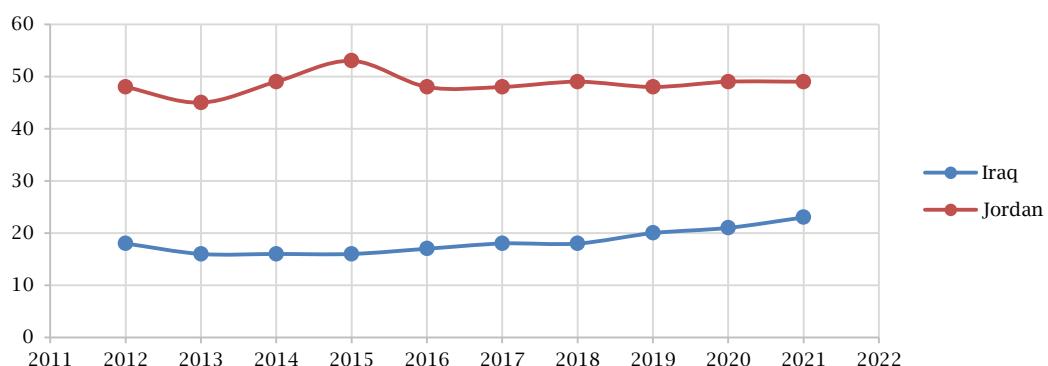
**Figure 2.** The total convicted in corruption cases (2021)



**Table 1.** Comparison of the rank and the score of CPI in Iraq and Jordan (2018–2021)

Country	2021		2020		2019		2018	
	Score	Rank	Score	Rank	Score	Rank	Score	Rank
Jordan	49	58	49	60	48	60	49	58
Iraq	23	157	21	160	20	162	18	168

**Figure 3.** The extended trend of CPI score for Jordan and Iraq



**Figure 4.** The extended trend of CPI rank for Jordan and Iraq

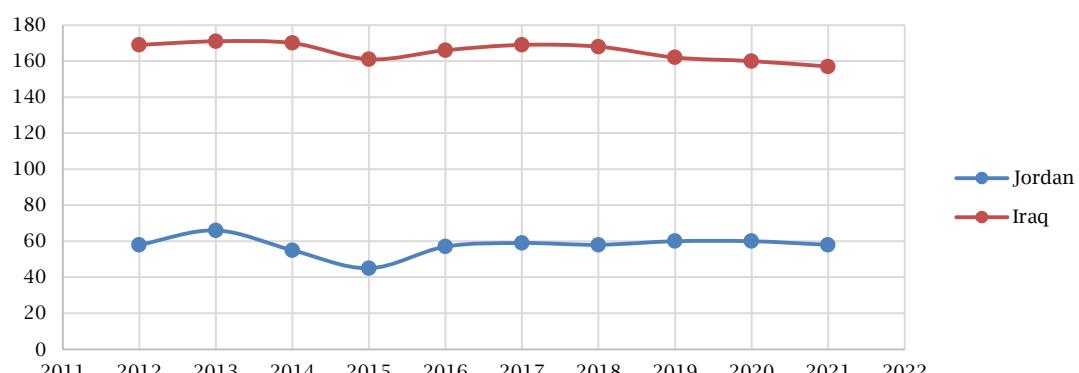


Table 1 compared the rank and the score of CPI in Iraq and Jordan from 2018 to 2021, and showed that Jordan has a much better level than Iraq and has an almost stable rank (58–60) and score (48–49) during the above period.

Figures 3 and 4 showed the extended trend of CPI rank and score for Jordan and Iraq, respectively within the period from 2012–2021. The best level Jordan could reach was in 2015 with a rank of 45 and a score of 53. While for Iraq, the best level reached was in 2021 as mentioned above (Transparency International, 2021).

## 5. DISCUSSION

### 5.1. Corruption definition

J. J. Senturian was one of the first scholars to define corruption, in 1931, "Corruption is the misuse of public power for private profit" (Babu, 2006, p. 5). The World Bank adopted a very similar definition, "abuse of public office for private gain" (The World Bank, 1997, p. 8). The International Monetary Fund (IMF), in line with other international organizations, defines public corruption as the "abuse of public office for private gain". Although the definitions differ in terms they mean the same thing, and focus mainly on public corruption while ignoring corruption in the private sector and civil society organizations (The World Bank, 1997). Transparency International uses this definition as "the abuse of entrusted power for private gain"<sup>4</sup>. This definition is more comprehensive and encompasses three elements of corruption: public and private sectors, abuse of power, and benefits for two sides. The Organization for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Anti-Bribery Convention) criminalizes bribery of foreign public officials in international business transactions. It targets only one form of corruption: bribery.

Remarkably, UNCAC does not define corruption (Hechler, 2010). It rather defines specific acts that are considered corruption in Articles 15-21 of Chapter III. These include bribery and embezzlement, money laundering, concealment, and obstruction of justice (Hechler, 2010). This approach gives member states greater flexibility in criminalizing acts of corruption. The Arab Anti-Corruption Convention does not define corruption but Article 4 enumerates acts considered corruption crimes (League of Arab States, General Secretariat, 2010, p. 3).

Based on the above, corruption can be defined as an act undertaken by a person or organization, private or public, entrusted with a position of authority, to acquire illicit benefit either for themselves or for another person, contrary to the rights of others (Sudibyo & Jianfu, 2015).

### 5.2. Causes of corruption

There are many reasons behind the emergence and spread of corruption in countries and societies, and its nature differs from one culture to another. The main cause of corruption in one country may not be a decisive factor in another. The main reasons (Topchii et al., 2021) can be summarized as follows.

#### 5.2.1. Weakness of the rule of law

Poorly written legal texts, their ambiguity, the incompatibility of their provisions, and a large number of legal exceptions contained therein provide the means to disrespect the rule of law, evade the implementation of its provisions, or interpret laws in a way that promotes self-interest (Hajim, 2018). Additionally, the insufficiency of legislation related to promoting integrity and combat corruption, failure to guarantee freedom of

expression in the constitution and other legislation, failure to encourage the establishment of civil society associations, marginalization of the role of civil servants, and the failure to cooperate with them in obtaining information, are causes of corruption.

#### 5.2.2. Weakness of the judiciary

The exposure of the judiciary to interference and outside pressure hinders the work of judges in achieving justice and implementing legal rulings. This interference, even if it does not prevent judicial rulings against criminals, may lead to laxity and obstruct the implementation of rulings issued in accordance with legislation. The interference of money and personal connections in the appointment of judges based on their partisan, religious, or clan affiliations, and not based on competence and experience, inevitably affects their decisions (Hajim, 2018). These factors encourage wealthy and powerful criminals to violate the law by guaranteeing the evasion of justice.

#### 5.2.3. Weak internal control system

The absence of non-partisan financial and administrative oversight bodies and the failure to empower them encourages the spread of corruption. Likewise, Parliament's failure to monitor and hold the executive authority accountable, especially in countries that do not adhere to the separation of powers, leads to a lack of transparency and tyranny of the executive authority over other branches of government. It also infringes the principle of mutual control.

Oversight bodies must be developed and supported, and their terms of reference must be defined precisely to avoid overlapping jurisdictions. They must be empowered to impose penalties to deter corruption and mismanagement (Abd & Nuaman, 2011). Monitoring the government and all agencies and departments, establishing effective mechanisms to monitor employees' adherence to codes of conduct and ethics, and not overlooking violations, greatly limits exploitations of power and concealment of corruption (Hajim, 2018).

#### 5.2.4. Lower wages and a higher standard of living

Because of inflation and high prices, the wages of millions of public sector employees do not allow for a decent standard of living. This challenge affects not only poor third-world countries but also countries characterized by poor organization of resources and widespread corruption. This reality forces citizens to work multiple shifts and second jobs, and use vacation as overtime. This leads to fatigue, poor production, concentration, and unused vacation time, which is part of an employee's overall compensation. This affects the future of a country's professional and national civil service.

The difficulties many people face in securing daily basic needs push them to seek alternative means of financial support, such as bribery or peddling of influence. Such practices may spread until they become business as usual. It is worth noting that some people continue to work in corruption despite their high wages due to their corrupted nature, weak morals, and lack of fear of punishment (Abd & Nuaman, 2011).

<sup>4</sup> <https://www.transparency.org/en/what-is-corruption>

### 5.3. Types of corruption

There are multiple types of corruption at different levels, the most important of which are (Fazzini & Dal Maso, 2015) as follows.

#### 5.3.1. Bribery

A bribe is a monetary or another sort of advantage as gifts, discounts, etc. The motive of bribery varies, it could be given to speed up certain processes, to receive information, or to illegally obtain a service. Bribery may be a prelude to other types of corruption and may make officials more susceptible to blackmail or extortion. Two kinds of bribery are criminalized in the UNCAC: active bribery of national, international, or foreign public officials, (Article 15) and passive bribery of a national or foreign public official, or an official of a public international organization (Article 16) (United Nations Office of Drugs and Crimes [UNODC], 2004, p. 17).

#### 5.3.2. Embezzlement

Embezzlement involves the breach of a position of trust. It occurs when an individual entrusted to manage or monitor property or assets belonging to an institution, intentionally uses it for their personal gain. The key point is that an embezzler can legally access another's assets or property but does not legally own it. Although embezzlement is a widespread form of corruption, it is hard to estimate the extent of it in the public sector (Vargas-Hernández, 2009). The UNCAC gives a wide definition of this crime and criminalizes the "embezzlement, misappropriation or other diversion" by a public official, of any property, public or private funds, or securities (Babu, 2006, p. 11).

#### 5.3.3. Influence peddling

A form of bribery where the beneficiary is not necessarily an official, but may be in an important social or professional position. Although the beneficiary does not commit the crime they use their influence, connections, and power to receive preferential treatment.

#### 5.3.4. Petty and grand corruption

Petty corruption, known also as bureaucratic corruption or "low level" corruption, is the everyday corruption that occurs on a smaller scale and takes place when an official meets the public. People experience petty corruption when dealing with public administration and services, such as registration offices, police stations, state licensing boards, hospitals, etc. This type of corruption is caused by low wages, weak monitoring and follow-up systems, lack of legal guidelines, and personal relationships.

Grand corruption occurs at the highest levels of government and includes administrators and politicians that make rules, policies, and executive decisions (Transparency International, 2020). It does not refer to the sum of money involved so much as to the level at which the corruption occurs. Grand corruption (political corruption) usually takes place in nations with dictatorial governments or in nations that do not have adequate policing of corruption.

### 5.4. Jordanian and Iraqi experiences in fighting corruption

Arabic countries vary in their responses to corruption and in the effectiveness of their legislative and material tools created to minimize its effects. Several reports published by Transparency International reveal that those countries are lagging in the fight against corruption. This is even though some of them, such as Jordan and Iraq, are committed to Arabic and international anti-corruption strategies. This section focuses on the strategies of Jordan and Iraq in confronting corruption and limiting its effects.

#### 5.4.1. Jordan

Jordan has been ranked 58 globally on the 2021 Global Corruption Index, out of 180 countries. It played a key role in drafting the Arab Anti-Corruption Convention, which was signed on October 31, 2003, and ratified under the Ratification Act No. 28 of 2004. The ratification instrument was deposited with the United Nations Secretary-General on February 24, 2005.

When reviewing the legal situation in Jordan, the researchers found that there are several bodies, directly or indirectly, responsible for curtailing corruption. Some of these agencies are governmental, and some are quasi-governmental. The most important of which are the judicial system including the public prosecution, Parliament, the Court of Auditors, the Independent Election Commission, the Central Bank, the Anti-Corruption Commission, and the National Center for Human Rights (Schoeberlein, 2019).

According to Article 6 of the UNCAC, the Jordanian Anti-Corruption Commission was established as an independent body, following the issuance of the Anti-Corruption Authority Act No. 62 of 2006 (The Royal Hashemite Court, 2005). The Anti-Corruption Authority is considered an investigative body and its officers are considered judicial police. The Authority's prosecutors are responsible for preliminary investigations, and it performs some supervisory tasks through its follow-up department (Ibn Tarif, 2011).

The law specified the objectives and functions of the Authority and defined acts that are considered corruption, such as graft, and the failure to declare or disclose investments, property, or benefits if laws and regulations impose that action, and in case the non-disclosure may lead to direct or indirect personal benefit for the person concerned.

The Integrity and Anti-Corruption Commission was mandated by the Integrity and Anti-Corruption Law No. 13 of 2016 to succeed both the Ombudsman's Office and the Anti-Corruption Commission. This law was amended in 2019, and one of the most prominent amendments gave the Integrity and Anti-Corruption Commission the authority to directly monitor the abnormal wealth growth of officials covered by the Graft Act to strengthen the independence of this commission, fortify its members, enable it to prevent attacks on public funds, and recover looted assets.

The last amendment to the Integrity and Anti-Corruption Law was issued in 2021. The most important amendments are granting the Integrity

and Anti-Corruption Commission the right to investigate cases of corruption and to reconcile with perpetrators if they return illegally obtained funds. It also granted the right to retain a person suspected of corruption for a period not exceeding forty-eight hours in the event of fear of losing or damaging evidence. It also granted the right to issue a decision to seize movable property and ban travel while submitting evidence to the public prosecutor. It was also stipulated that the penalties of imprisonment and a fine shall be combined for those who commit acts of corruption with a minimum term of imprisonment of four months.

The amended Act also included non-Jordanian public servants and employees of international public institutions and provided the public right suit and corruption penalties should not be subjected to statutes of limitations (Nasraween, 2012).

Article 16 of the Integrity and Anti-Corruption Law defines corruption as "For the purposes of this law, the following shall be considered corruption:

1. Crimes contrary to public office duties and crimes contrary to the public trust as stipulated in the Penal Code No. 16 of 1960 and its amendments. Referring to the Penal Code, researchers found that the legislator identified the crimes that violate the duties of the job: bribery, embezzlement, the investment of a job, infringement of freedom, abuse of power, and violation of the duties of the job (Penal Code, Articles 177-187). The Penal Code also defines crimes against public trust in Part V. The first chapter includes counterfeiting the state seal, official marks, banknotes and stamps, and crimes related to coins and forgery of stamps (Articles 136-159). The second chapter includes criminal forgery crimes (Articles 260-272).

It should be noted that the crimes mentioned in the general texts contained in the Penal Code do not include all forms of corruption. For example, bribery in the private sector is not mentioned although it is a criminal offense according to Article 21 of the UNCAC (UNODC, 2004, p. 19).

2. Economic crimes as specified under the Economic Crimes Law. By referring to the Economic Crimes Law No. 11 of 1993 and its amendments, researchers found that Article 3 of it stipulates, "Economic crime includes any crime that is applied under the provisions of this law or a crime that has a special law that is considered an economic crime or any crime that affects the economic position of the Kingdom or the public's confidence in the national economy or the national currency or shares. And bonds and securities traded or if they are related to public money...".

It should be noted that the aforementioned Economic Crimes Law did not define economic crime, but rather followed the referral system, used by the Integrity and Anti-Corruption Law, for the definition of economic crime.

3. Illicit Enrichment. Cases of illicit enrichment were identified in Article 4 of the Illicit Gain Law No. 21 of 2014. For example, a public employee's exploitation of their job to obtain money by illegal means.

4. Not declaring or disclosing investments, properties, or benefits that may lead to a conflict of interest if laws and regulations require that, of which personal benefits can be directly or indirectly gained for him who refrained from declaring.

It should be noted that this paragraph is general and not specific. The phrase "...investments, properties, or benefits that may lead to conflict of interest..." (Integrity and Anti-Corruption Law No. 13 of 2016, Article 16/4) did not specify the criterion adopted for determining what is considered a conflict of interest, and what is not.

The researchers believe this paragraph should be amended so that it was not focused on declaring or disclosing investments, but rather on the issue of conflicts of interests due to those investments. In fact, declaring and disclosure are regulated by the Financial Disclosure Law No. 54 of 2006, and this law includes a specific criterion for the concept of conflict of interest.

5. Any act or refrainment which might result in wasting public funds or Public shareholding companies' funds or non-profit companies or societies.

This paragraph is general and unnecessary due to the existence of penal texts regulating damage to public funds in the Penal Code.

6. The abuse of authority contrary to the provisions of the law. The provisions on abuse of authority fall within the scope of the provisions of paragraph (1) of the same article. Accordingly, the reference was made to the Penal Code with regard to the abuse of power according to Articles 182, 183, and 184. Therefore, this paragraph is unnecessary and can be combined with the first paragraph.

7. The acceptance of nepotism and favoritism by public administration employees, which revokes a right or validates what is void. The Jordanian legislator's position in considering favoritism and nepotism as forms of corruption is commendable. However, the crimes were not specified or defined. It is important to criminalize favoritism and nepotism in the public sector; no penalty can be imposed unless it is prescribed by law. Hence, researchers call on the legislator to define what is meant by nepotism and favoritism.

8. Using the information available due "*ex officio*" in order to secure personal gains. The legislator sought to exploit the employee's information obtained by virtue of their position, and this was criminalized in the Penal Code as the disclosure of secret information.

9. Corruption crimes stipulated in the international agreements, ratified by the Kingdom. Through this paragraph, the Jordanian legislator sought to harmonize the Kingdom's internal legislation with its international obligations under the conventions it has joined. It is notable that enacting special texts for each of the acts mentioned in international agreements, but not regulated by national legislation, is a must. That would be done by defining their elements and prescribing a suitable penalty".

Article 23 of the same law stipulates that "a penalty of imprisonment for a period of no less than four months and a fine of no less than five hundred dinars and not more than five thousand dinars, or both penalties, shall be imposed on anyone who commits any of the acts stipulated in Article 16 of this law and in the event of repetition, half of the penalty shall be added".

Reviewing the text of Article 16 of the Integrity and Anti-Corruption Law revealed that the Jordanian legislator followed the referral method to other laws

when defining corruption crimes, and was satisfied with the general provisions contained in those laws to criminalize corruption.

For example, it is considered among the corruption crimes, bribery, embezzlement, and other crimes mentioned in the Penal Code. This is not sufficient to combat corruption, given the multiplicity of laws mentioned.

Accordingly, it is recommended that the Jordanian legislator amend the Integrity and Anti-Corruption Law so that all corruption crimes are codified, and their pillars and penalties determined in one law. There is a need to increase criminal penalties in various corruption cases to achieve public deterrence. This is not limited to deprivation of freedom only, but also financial penalties, and moral fines for defaming in newspapers and various media.

Among the applications in this regard, on July 2, 2020, the Integrity and Anti-Corruption Prosecutor detained eleven people on remand in the centers of reform and rehabilitation of Juweida and Balqa, some for a week, others for more than two. Some were arrested on charges of bribery and forgery in connection with the illegal importation of a shipment of garlic and oranges. Others were arrested and held for fifteen days in Balqa on charges of investing the job in participation with the owner of a gas station. Between 2015 and 2017, they filled diesel tanks in a government hospital, obtaining the equivalent of 600,000 Jordanian dinars (11 arrested in Juwayda and Al-Balqa in new corruption cases, 2020a).

Also on July 13, 2020, a contractor was detained on remand for fifteen days for irregularities in the bid of Phase 2 of the 2013 Al-Salt Ring Road Project No. 47. The Commission found, after the formation of a technical committee to study complaints and irregularities, that the designs of the project took several years, but the contractor changed them immediately after the start of work on the project. Additionally, there was material damage as a result of poor project implementation. There was a delay in the project's start date, amounting to 1340 actual working days. Finally, the contractor submitted a proposal for technical adjustments to the project on the grounds that it reduced the cost for the treasury. The adjustments led to an increase in costs. All these factors caused serious financial damage to the state treasury (Anti-corruption explains about the arrest of a contractor in connection with the circular power tender, 2020b).

The Jordanian government has a real will to fight corruption, develop and strengthen the tools for prosecuting corruption crimes, preserve public money, eliminate corruption in all its forms, and improve the country's reputation and classification regionally and internationally. The Integrity and Anti-Corruption Commission is pursuing corruption cases and receiving complaints, but the definitive solution is reflected in the judicial rulings against criminals and the arrests and prosecutions issued by the Commission. However, these measures will remain limited if they are not complemented by effective judicial actions.

Regarding the penal procedures established for corruption, the judiciary has an important role in combating corruption, as it is the authority that investigates all cases referred by the Anti-Corruption Commission. Hence, after the Commission

completes its investigations the case files are presented to the Commission's board, which decides either to keep them because there are no suspicions of corruption or to transfer them to the public prosecutors assigned to the Commission. A specialized prosecution in corruption cases has been established (Article 17 of the Law) to investigate and decide to prevent trials or indictments against those accused of corruption, who are then transferred to the competent courts. Hence, we call on the Jordanian legislature to establish a court that specializes in corruption cases.

#### *5.4.2. Iraq*

Although Iraq joined the UNCAC and the Arab Anti-Corruption Convention and ratified it on February 18, 2013, it ranked 157 globally on the 2021 Global Corruption Index, out of 180 countries. Before 2003 Iraq had a totalitarian and centralized administrative system, which issued strict legislation and took punitive measures against employees involved in administrative and financial corruption cases. After the 2003 invasion of Iraq, the administrative system changed completely. The Integrity Commission and Offices of Public Inspectors were formed and disbanded, as was the Office of Financial Supervision. Despite attempts by successive governments to reduce and combat corruption, it continues to spread throughout state institutions (Niehaus, 2018).

The Integrity Commission was created in line with Article 6 of the UNCAC and the Offices of Public Inspectors were created under the orders of the Coalition Provisional Authority — dissolved later. The Integrity Commission Act No. 30 of 2011 and the Financial Supervisory Bureau Act No. 31 of 2011 were also issued. The Integrity Commission is considered a financially and administratively non-partisan body and is controlled by the Iraqi Parliament. The Commission works to prevent and combat corruption, promote transparency, and investigate cases of administrative and financial corruption.

The Commission works under the supervision of a judge who specializes in corruption cases that do not fall under the jurisdiction of the commission investigators, and who cooperates with the Financial Supervisory Bureau and the Offices of Inspectors General. The Bureau works in financial auditing and accounting and the detection of fraud, extravagance, and misconduct. The Integrity Commission issues regulations published in the Official Gazette to regulate the disclosure of senior officials' financial assets and monitors increases in their funds and the wealth of their family members (Nasser, 2006).

The Iraqi judiciary launched a wide-ranging campaign against senior officials suspected of mismanagement and corruption. A large number of cases were investigated by the Integrity Commission and several judicial rulings were passed against offenders.

One important case of corruption in Iraq is the Mohammed Raja Shalah case. Shalah was the director-general of the Cultural Relations Department in the Ministry of Education. He left office in 2003 and did not return a Nissan Patrol 17. The court considered the available evidence, the investigative commission's recommendations,

and the evasion of the defendant from justice, to be sufficient evidence of his guilt and sentenced him to fifteen years imprisonment based on Article 315 of the Penal Code.

In a similar case, the Criminal Court for Integrity Cases in Baghdad considered evidence in a report provided by the Integrity Authority Audit Section, the administrative investigation report, deposition by witnesses, as well as the defendant's escape from justice, before sentencing the convicted person to fifteen years in prison following the provisions of Article 316 of the Penal Code. An arrest warrant was issued, and the defendant's funds were seized (Federal Commission of Integrity, 2020).

A recent case demonstrates the level of cooperation between the Integrity Commission and the Iraqi judiciary. The Central Anti-Corruption Criminal Court Incriminated Parliament member Mahmoud Abdul Reda Talal. The ruling of The Central Anti-Corruption Criminal Court on December 17, 2019, was ratified, and he was sentenced to six years in prison, and fined 10 million Iraqi dinars for bribery and poor job performance.

The Criminal Court found sufficient evidence to convict the accused of receiving 150,000 dollars in bribes from the complainant Bahaa Alaa Abdul Razzaq on November 24, 2019. Razzaq was arrested in Baghdad by the Public Integrity Commission. The 150,000 dollars was the first payment of a 250,000 dollars bribe to exclude the contracts of the complainant and his brother's company from interrogations conducted by the House of Representatives.

Despite the measures taken against corruption, criminal investigations do not lead to the conviction without conclusive evidence. The Federal Court of Cassation overturned the sentence of the Karkh Criminal Court of seven years imprisonment for the leader of the Islamic Dawa Party, Najeha Abdul Amir al-Shammari, for receiving 10,000 dollars to invest with the Al-Nour Al-Thaqeb company. The Court of Cassation ruled that "the receipt of the amount on which the case was based was under the Martyrs' Foundation Act, which authorizes the receipt of donations" ("Because She is from the Dawa Party", 2019).

In addition, a new Public Prosecution Law No. 49 of 2017, was issued, according to which a new department was created, called the Administrative and Financial Prosecutor's Department and Public Fund Issues, and it became the responsibility of the Public Prosecution to file and investigate crimes of financial and administrative corruption. In support of this, the Federal Supreme Court ruled that these provisions are provisions that support and enhance the role of the Integrity Commission in fighting corruption (Federal Supreme Court Judgment No. 59/2018).

It is noteworthy that corruption in Iraq reached the legislative authority when it set provisions in Parliament Law No. 13 of 2018 related to the retirement of the president, two vice presidents, and members of the Council. The Federal Supreme Court described these provisions as placing unjustified financial burdens on the state treasury, and it ruled that these provisions were unconstitutional (Federal Court Judgment No. 140 and 141/2018).

Iraq's attempts to combat corruption are not comprehensive, but limited and narrow. The Iraqi authorities' supposed commitment to the provisions of the Arab Anti-Corruption Convention is not matched by legislation and executive procedures. That the nation's leaders consider reducing corruption to be a low-priority objective is obvious.

It is worth noting that the sectarian division of power based on quotas in Iraq has created a system that prevents taking action against the perpetrators of corruption. That protection against corruption is not a deliberate policy, official program, or ideology of the groups in power; rather, it is the result of the quota system in Iraqi politics. It is the result of the actions of a whole group of competing political actors. Ironically, they cooperate when it comes to opportunities to commit corruption.

Iraq is trying to eradicate corruption by exaggerating the establishment of new anti-corruption bodies and their effectiveness. It can be argued that protection against corruption secures a measure of political reconciliation between groups in Iraq and avoids bloodshed, and thus maintains stability in a deeply divided society. This may be a short-term gain that still needs other procedures to achieve long-term benefits (Niehaus, 2018).

The Iraqi legislator followed the approach of the Jordanian legislator by referring to other laws when defining corruption and was satisfied with the general texts contained in those laws to criminalize corruption. For example, it is considered among the crimes of corruption, bribery, embezzlement, and others mentioned in the Penal Code.

This is not sufficient to combat corruption, given the numerous laws contained in the Penal Code. The Iraqi legislator would be wise to pass an Integrity and Anti-Corruption Law that deals with all corruption crimes by defining them and their penalties in one law. It is necessary to impose strict criminal penalties in various corruption cases to achieve public deterrence. This is not limited to penalties for the deprivation of liberty only, but also includes financial penalties and moral fines for defaming innocent people accused of corruption in newspapers and various media.

## **5.5. International instruments combating corruption**

Financial relations do not occur only within a country's borders but transcend its boundaries. Nations realize that confronting the corruption that accompanies these relations is difficult to do separately. This has led to regional agreements and international tools to oppose international cooperation and establish an international legal framework that criminalizes corruption (Dei, Skliar, Shevchenko, Cherneha, & Tavolzhanskyi, 2021).

This section discusses the international instruments for combating corruption, such as international agreements initiated by the United Nations, regional organizations, and international institutions that specialize in combating corruption. There are many international instruments that deal with administrative and financial corruption. These agreements include the means to reduce or eliminate this phenomenon, the most important of these are addressed as follows.

### *5.5.1. The United Nations Convention against Corruption (UNCAC)*

UNCAC was created in 2003 and entered into force of action on December 14, 2005. Countries sought to make this Convention the main source of anti-corruption rules at the international level. The Convention is supported by clearly implemented systems created by the members' conference, which is considered an integrated body and has specialized offices, binding laws, and regulations (Ibrahim, 2010). It obligates signatory states to adopt the necessary legislative and executive measures to implement the Convention and take preventive measures to curb corruption and require the public and private sectors to participate (UNODC, 2004). Additionally, signatory states are obligated to criminalize certain acts of corruption. The Convention stipulates the existence of criminal intent constitutes corruption and removes crimes of negligence and error from its scope. It criminalizes the partners and contributors to corruption in addition to the main perpetrators (Doghmush, 2018).

Convention provisions include mandates for signatory states, which are intended as compulsory provisions for implementation. However, it was flexible when it defined the minimum procedures to be followed to combat corruption and allowed participating nations to take complementary measures through national legislation or international agreements (Doghmush, 2018). Article 6 of the Convention requires signatories to establish regulatory bodies designed to implement anti-corruption policies and measures, bodies that will draft said policies and supervise their implementation (Al-Jawhari, 2018; Shali, 2012). The agreement required member states to establish a central authority tasked with finding requests for mutual assistance and referring them to the relevant authorities through diplomatic channels and international police (Al-Jawhari, 2018). The establishment of a national agency to collect and analyze information and data on corruption is a non-mandatory measure. Often these agencies are established within central banks or specialized national security bureaus (Shali, 2012).

Chapter 4 of the Convention mentions international cooperation as a necessary part of combating corruption. Prevention, investigations, prosecution of perpetrators and the confiscation and return of illegal proceeds all require international cooperation. It is a necessity in evidence gathering, extradition, tracing the financial proceeds of corruption, and freezing and confiscating said proceeds.

The UNCAC neglected to reference corruption and money laundering using the Internet and information technology is a growing global concern. This agreement is international in nature and governed by the principle of non-interference in the internal affairs of signatory states. This may limit its effectiveness at the implementation stage (Saeed, 2019).

### *5.5.2. The Arab Anti-Corruption Convention*

The League of Arab States created this regional agreement in 2010, and it entered into law in 2013. The Arab Anti-Corruption Convention is similar to the UNCAC, as neither created a specific definition

of corruption and its types (Pasculli & Ryder, 2020). This Arab Anti-Corruption Convention aims to reinforce measures that prevent corruption, combating it in all its forms, prosecuting its perpetrators, and strengthening Arab cooperation in this field. This agreement aims to enhance integrity, transparency, accountability, and the rule of law, as mentioned in Article 2 of the Arab Anti-Corruption Convention (League of Arab States, General Secretariat, 2010). It urges individuals and civil organizations to combat corruption by encouraging the principles of integrity and good governance, publishing and documenting international reports of indicators and perceptions of corruption, and emphasizing the role of the media in disseminating information on corruption and the corrupt.

Article 10 of the Arab Anti-Corruption Convention includes important measures to oppose corruption, such as drafting and implementing effective policies, periodically evaluating legislation, and measuring its effectiveness in preventing corruption. Article 10 also commits nations to implement measures to prevent corruption in the private sector, and establish specialized integrity and anti-corruption agencies with the necessary independence to effectively carry out their work.

This Convention neglects to mention measures to combat money laundering and failed to devise a comprehensive strategy to eliminate corruption specific to Arab societies. Moreover, it emphasizes the need to preserve the sovereignty of Arab countries and reflects the focus on the sovereignty of states and non-interference in their internal affairs more than focusing on fighting corruption, which is widespread in the Arab world (Saeed, 2019).

## **5.6. International bodies active in fighting corruption**

Specialized and non-specialized international organizations, both governmental and non-governmental, have important roles in the process of combating corruption, and in developing strategies, plans, and mechanisms to assist countries to reduce corruption (Hawamdeh, 2018). This paper will address the most important of these bodies.

### *5.6.1. The International Bank for Reconstruction and Development (IBRD)*

The International Bank for Reconstruction and Development (IBRD) was established during the Bretton Woods Conference of 1944 in the United States of America. It became a specialized agency of the United Nations in 1947 with its headquarters in Washington. The bank is the largest source of financing in the world, providing financial and technical assistance to developing countries.

The World Bank defines administrative corruption as "the abuse of public office for private gain" (Anticorruption fact sheet, 2020). The bank's strategy is based on four goals: 1) provide aid to developing countries to combat corruption, 2) review corruption cases in projects financed by the bank, 3) offer various models for combating administrative corruption according to countries' circumstances, and 4) support justice reform, the rule of law, lending and analytical and advisory work (Hussein, 2014).

In 2001 a new department was established. The Institutional Integrity Department investigates corruption and fraud cases in projects financed by the bank. According to the bank's policy, companies reluctant to adhere to its anti-corruption model, would not receive financing.

#### 5.6.2. The International Monetary Fund (IMF)

The International Monetary Fund (IMF) is an international institution representing governments, that since 1945 has promoted international cooperation in combating corruption. It has launched initiatives endorsing transparency and accountability. The IMF was created to supervise the international monetary system, control the exchange rates of member states, and establish a single payment system.

Member states pledge to help the IMF achieve stability by creating rules, regulations, and instructions. Member states provide the correct and necessary information to enable the IMF to exercise its supervisory role and prohibit manipulating exchange rates for competitive advantage. Loans are granted according to conditions and policies that countries legislate to solve problems related to the balance of payments (Nafaa, 2006).

In its anti-corruption policy, the IMF moves in two ways. First, it distributes information about corruption to member states, so that the information is available at the national, regional, and international levels. Second, it strengthens its accountability rules *vis-à-vis* governments and the public by resorting to the external independent evaluation of policies and activities over the year.

The IMF relies on a set of conditions to control loans: officials must not get involved in customs fraud, and there must not be an abuse of authority against agencies responsible for reporting to the bank. The IMF suspends financial aid to non-compliant nations (Saeed, 2019).

#### 5.6.3. Transparency International

Transparency International is a non-governmental organization founded in 1993 according to German law. Many international personalities contributed to its establishment. It aims to combat corruption and limit its effects through clarity and simplification of procedures, and their flexibility and compatibility with economic, social, and administrative changes (Saeed, 2019).

Transparency International seeks to understand the reality of corruption and to disclose the deficiencies of anti-corruptions measures at national and international levels. It seeks to form anti-corruption agencies, coordinate efforts between disparate parties, and penetrate circles surrounding corruption. To a large extent, the organization has succeeded in achieving its goals, predominately because of its clear policies and planning.

The CPI was adopted by Transparency International and is considered one of the most important measurement tools of corruption. It focuses on corruption in the public sector.

The CPI ranges from 0 to 100, with zero reflecting the highest level of perceived corruption in a country's public sector, while a score of 100 is the lowest level of perceived corruption (Calderón & Álvarez-Arce, 2006; Rasheedtijo, 2020).

## 6. CONCLUSION

Most of the Jordanian and Iraqi anti-corruption legislation has confused the law establishing an anti-corruption body, administration, or committee, with anti-corruption crimes laws. In other words, most anti-corruption laws are laws to establish relevant bodies and departments, but they are not special laws to combat corruption crimes, under which various kinds of corruption are defined in terms of elements and penalties.

Arabic countries have joined international and regional conventions to combat corruption and limit its negative effects. Anti-corruption bodies and agencies were established, multiple laws were enacted and amended, and strategies were developed at the national levels in response to the requirements of international instruments (Topchii et al., 2021). Despite these measures, they have not been fully successful in curbing corruption.

Notably, proving a state's responsibility for abstaining from specific measures to combat corruption is a theory that is difficult to implement without the presence of international monitoring agencies (Niehaus, 2018). A country's commitment to its sovereignty and the expansion of its regional power may weaken the effectiveness of international conventions on corruption and crime prevention. Displays of power may take the form of non-cooperation or prevent other countries from obtaining data and information regarding the state's regulatory and penal actions.

Internal authorities of a country where corruption originates are responsible for assessing a crime according to that country's laws. This allows a state to evaluate the penalty without subjecting the case to international standards that guarantee the crime is not committed again. The state from which crime originated becomes like a criminal presiding like a judge over their own court case.

As a result of this research and analysis, and the results achieved by the studied countries, this research concludes that establishing agencies and institutions, implementing multiple laws, and joining international conventions aimed to curb corruption are not sufficient to reduce and eliminate corruption. It is necessary to increase the role of international and local monitoring agencies and to effectively enforce written laws. Effective cooperation between agencies is essential.

The current study provides important data and analyses that benefit lawmakers and future researchers in this field, as it is one of the first studies that explained the procedures of combating corruption in Iraq and Jordan and its evolution at the institutional and legislative levels, which led to a decrease in corruption cases in the two countries under study, this was evident in the tables and figures that were included in the research. Some cases and rulings in corruption cases in Jordan and Iraq were also studied for the first time.

While working on this paper, the authors have faced some limitations represented by the insufficiency of recent references and regarding the corruption in the countries under study. Besides, the reports of the Iraqi Integrity Commission were very detailed, unlike the case of Jordan.

The following recommendations may be taken into account in future policies. Issuance of

an Integrity and Anti-Corruption Law that deals with all corruption crimes in terms of defining them, and the penalties prescribed for them, in one law, tightening criminal penalties in various corruption cases to achieve general deterrence, not limited to penalties regarding the deprivation of liberty only, but financial penalties, and moral fines for defaming innocent people accused of corruption in newspapers and various media. It is also essential to enact legislation obligating every government employee to submit a financial disclosure statement periodically, for a single person, or for their family, to prevent corruption or the illegal transfer of funds to family members. Besides, the state institutions and their management should adopt the principle of transparency, i.e., providing sufficient information to study and understand its financial management.

The information should be accurate, clear, correct, and comprehensive, and no sector of the state should be excluded from this requirement. Moreover, each signatory state of the Arab Anti-Corruption Convention must establish clear public policies and strategies for combating corruption, and for the ethical management of public property (Sumpf et al., 2016). It is also essential to amend and develop national anti-corruption oversight agencies and promote cooperation with international institutions to ensure the proper implementation of national and international policies and procedures. Lastly, empowering international governmental and non-governmental organizations to continuously monitor and investigate corruption in Iraq and Jordan is needed.

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