

**THE
IRAQ
BRIEFING
BOOK**

2010



The Iraq Partners Forum Presents to
The Government of Iraq

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December 2010



The Iraq Briefing Book Introduction

This Briefing Book has been produced by international partners in Iraq on the occasion of the formation of a new government, and it is intended to inform forthcoming discussions between Iraqi authorities and international partners on key areas of mutual interest. The brief is comprised of two parts.

- Part I addresses key policy issues, including: macroeconomic challenges; development planning and prioritization; governance and public sector reform; anti-corruption; private sector development; social protection; and the challenges of regional cooperation and internal disputed territories.
- Part II focuses on sectoral and cross-cutting issues, including: human rights protection, civil society and the media; gender mainstreaming; basic social services; water resources management; agriculture; environment; energy; transport and telecommunications; and cultural heritage.

There are a total of 16 chapters, each representing a key policy issue, and each one beginning with an overview of the sector, followed by an outline of the main issues facing the sector based on a thorough analysis of Iraq's context and experience. A discussion of recent and ongoing policy actions is then presented, as well as recommendations for further initiatives. Attention has been paid to the need for practical, implementable guidance to address critical constraints that impinge on Iraq's socioeconomic recovery and on the lives of the Iraqi people.

A common briefing book was prepared for the government's convenience rather than separate briefs from the various partners. For each sector covered, content and contributions were gathered from partners active in the sector. That said, it is important to note that not all partners are active in each area, while certain sectors fall outside of the mandate of some partners. As such, partners cannot take responsibility for the content beyond their respective mandates or scope of activities and the proposed report does not necessarily reflect each partner's view. The report aims to inform government priorities while serving as a platform to discuss ways in which international partners might support efforts towards reconstruction and development in Iraq.

The briefing book was prepared by members of the Iraq Partners Forum. It benefited from inputs and contributions from officials from Canada, Denmark, the European Union, Japan, Italy, Poland, the United Kingdom, the United States, the World Bank, FAO¹, ILO, IOM, OHCHR, UNAMI, UNDP, UNESCO, UNFPA, UN-HABITAT, UNHCR, UNICEF, UNIDO, UNIFEM, UNOPS, WFP, WHO and the OECD.

International partners stand ready to engage on the topics contained in the briefing book and will answer any query in this regard. Questions should be addressed to Mr. Yahia Khairi Said, World Bank Resident Representative and Acting Country Manager, and Mrs. Christine McNab, Deputy Special Representative of the Secretary-General, Resident/Humanitarian Coordinator for Iraq and Resident Representative UNDP Iraq.

¹ See glossary on page 5 for explanations of abbreviations and acronyms.

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List of Acronyms

BSA	Board of Supreme Audit
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CHF	Cooperative Housing Foundation
CMC	Communication and Media Commission
COI	Commission of Integrity
CoM	Council of Ministers
CoR	Council of Representatives
CPA	Coalition Provisional Authority
CRC	Convention on the Rights of the Child
CSO(s)	Civil society organization(s)
DAD	Donors Assistance Database
DMA	Directorate of Mine Action
ERW	Explosive remnants of war
FAO	Food and Agriculture Organization (UN)
FATF	Financial Action Task Force
GDP	Gross domestic product
HJC	Higher Judicial Council
ICI	International Compact Iraq
IDMS	Iraq Development Management System
IDP(s)	Internally displaced person(s)
IFMIS	Integrated Financial Information Management System
IG	Inspector General
IHF	Iraq Housing Fund
ILO	International Labour Organization (UN)
IMF	International Monetary Fund
IMN	Iraqi Media Network
IOM	International Organization for Migration
IPP	Independent power producer
ITPC	Iraq Telecommunications and Post Company
JDI	Judicial Development Institute
KRG	Kurdistan Regional Government
MDGs	Millennium Development Goals
MENA-FATF	Middle East and North Africa - Financial Action Task Force
MFI(s)	Microfinance institution(s)
MICS	Multiple Indicator Cluster Survey
MLRO	Money Laundering Reporting Office
MoA	Ministry of Agriculture
MoC	Ministry of Communications
MoD	Ministry of Defence
MoDM	Ministry of Displacement and Migration
MoE	Ministry of Education
MoEl	Ministry of Electricity
MoEn	Ministry of Environment
MoF	Ministry of Finance
MoFA	Ministry of Foreign Affairs
MoH	Ministry of Health
MoHR	Ministry of Human Rights

MoI	Ministry of Interior
MoIM	Ministry of Industry and Minerals
MoJ	Ministry of Justice
MoLSA	Ministry of Labour and Social Affairs
MoO	Ministry of Oil
MoP	Ministry of Planning
MoT	Ministry of Trade
MSE(s)	Micro and small enterprise(s)
MSME(s)	Micro, small and medium-sized enterprise(s)
MTFF	Medium-Term Fiscal Framework
NBP	National Board of Pensions
NDP	National Development Plan
NGO(s)	Non-governmental organization(s)
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the High Commissioner for Human Rights (UN)
PDS	Public Distribution System
PFM	Public financial management
PMO	Prime Minister's Office
PPL	Public Procurement Law
PPP(s)	Public-private partnership(s)
PRS	Poverty Reduction Strategy
PSD(s)	Personal Security Detail(s)
RMAC	Regional Mine Action Centre
SBA	Stand-By Arrangement
SC	Security Council
SCIS	State Committee for Internet Services
SME(s)	Small and medium enterprise(s)
SMWA	State Ministry of Women's Affairs
SOE(s)	State-owned enterprise(s)
SPF	State Pension Fund
SPN	Social protection net
SPS	State Pension System
SSN	Social safety net
SSS	Social Security System
VAW	Violence against women
UNAMI	United Nations Assistance Mission for Iraq
UNCAC	UN Convention Against Corruption
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UN-HABITAT	United Nations Human Settlements Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIDO	United Nations Industrial Development Organization
UNIFEM	United Nations Development Fund for Women
UNOPS	United Nations Office for Project Services
UPL	Unified Pension Law
WFP	World Food Programme (UN)
WHO	World Health Organization
WTO	World Trade Organization

IRAQ'S MAIN ECONOMIC DEVELOPMENT CHALLENGES

OVERVIEW

Despite being a middle-income country, Iraq faces challenges commonly found in countries at lower income levels. These include: (i) excessive dependence on one primary commodity, namely, crude oil; (ii) significant infrastructure reconstruction and rehabilitation needs; and (iii) declining absolute standards of living. That said, Iraq's success in stabilizing the macro economy has been an important step towards reversing this situation. Yet much more progress is needed to diversify the economy and generate sustainable livelihoods for the majority of the population.

KEY ISSUES

Oil dependence and revenue volatility:

Revenues from oil account for about two thirds of Iraq's gross domestic product (GDP) and for almost all export and fiscal revenues: Iraq's oil export revenues are highly volatile as a consequence of notoriously volatile international prices.

After peaking at \$147 a barrel in early 2008, oil prices plunged by \$115 a barrel between July and December 2008, before starting a gradual recovery over the course of 2009: The impact on Iraq's total revenues – and thus on its overall fiscal balance – was devastating.

Iraq moved from a comfortable fiscal surplus position to a large fiscal deficit in the space of a few months: After holding fiscal surpluses in the order of \$5.5 billion and \$1.5 billion in 2007 and 2008 respectively, Iraq was projected to have an overall fiscal deficit of \$15.3 billion in 2009, tapering off to \$5.3 billion in 2010 as oil revenues start to recover. Preliminary IMF estimates indicate a financing gap in the order of \$4.9 billion over the period 2010-2011.

A sharp fiscal adjustment took place in 2009 with a reduction in total spending from \$71.4 billion in 2008 to about \$65 billion, mostly due to reduced capital spending: Current expenditures are estimated to have increased by 4 per cent between 2008 and 2009, mostly driven by additional spending on security. However, total expenditures over 2010-2012 are projected to stabilize at around \$75 billion.

Oil dependence also partly explains the "boom-bust" pattern observed in the historical evolution of Iraq's real per capita GDP, with a pattern of growth accelerations observed followed by growth collapses. Such collapses have been caused either by falling oil prices or periods of (international or domestic) conflict, or both. Sustained income growth for the poor can only occur when sharp "boom-bust" processes are eliminated or at least smoothed.

Post-conflict reconstruction and rehabilitation needs:

Given its status as an oil-rich middle-income country, Iraq will be expected to finance reconstruction and rehabilitation costs with national resources: To some extent, this has been achieved. Yet Iraq faces two complex obstacles: limited capacity to fully execute the capital budget during boom periods; and the vulnerability of its budget to sudden and abrupt fluctuations in oil prices.

Deteriorating living standards:

Wars and sanctions have contributed to a marked deterioration in Iraqis' standard of living in recent years: In the past, Iraq was regarded as one of the most developed countries in the Middle East,

Iraq's poverty headcount index is relatively high at 22.9 per cent:² However, with a poverty gap of 4.5 per cent, Iraq's poverty is shallow. This means that a relatively small amount of resources (through income growth or transfer mechanisms) could lift most of the poor above the poverty line.

Iraq's poverty levels vary considerably by governorate, with the highest poverty headcount index observed in rural Al-Muthanna at 74.7 per cent.

From macroeconomic stabilization to economic diversification:

Iraq has succeeded in stabilizing its overall price level while also maintaining good macroeconomic performance: After spiking to 65 per cent in 2006, inflation has been kept at a moderate level since 2007. Despite sharp food price increases in the first half of 2008, inflation averaged 1.2 per cent during 2008-9. This was achieved through a combination of tight monetary policy aimed at stabilizing the Iraqi dinar and a favourable fiscal situation brought about by high oil prices up to mid-2008.

The successful conclusion of a Stand-By Arrangement (SBA) with the International Monetary Fund (IMF) triggered the release of the final tranche of debt relief agreed with the Paris Club: A subsequent SBA approved in February 2010 helped Iraq cope with the impact of the global economic downturn on the country's fiscal sustainability.

However, a stable macro economy is not sufficient to ensure continued prosperity for Iraq: In fact, an oil-based economy is not labour-intensive and as such cannot be relied on to generate incomes for the poor. The oil sector dominates GDP generation, but makes very little contribution to employment, most of which is in the public sector and agriculture.

Ultimately, sustained prosperity and poverty reduction in Iraq can only be achieved through medium-to-long-term economic diversification: Given the abundance of land, non-oil natural resources and labour, economic diversification is a realistic goal for Iraq. International experience shows a number of alternative mechanisms available to manage oil wealth from a longer-term perspective, some of which could be adapted to Iraq.

Security, political, and institutional challenges:

Despite sporadic bombings and attacks on civilians and military personnel, the overall level of violence in Iraq remains at its lowest since 2004: Violence remains more prevalent in specific areas of the country, such as in the governorates of Diyala, Ninawa and Kirkuk.

Years of conflict and sanctions have had a profound impact on Iraq's institutional capacity: The effects range from the physical destruction of buildings to a massive exodus of human capital, particularly after 2003. Therefore, all reform efforts need to take into account Iraq's limited institutional capacity.

More recently, the machinery of government (particularly at the middle levels of the bureaucracy) is showing signs of recovery: The government is gradually addressing some of the protracted service delivery and general performance issues of the past six years. Execution of the investment budget is improving and this is slowly being reflected in better services.

² The poverty headcount index is the proportion of the population with a standard of living below the poverty line.

RECOMMENDATIONS

Continue to adhere to a sound monetary and exchange-rate policy framework. To preserve hard-won gains in disinflation and de-dollarization, an appropriate monetary and exchange-rate policy framework needs to be set in place. In that regard, maintaining a healthy level of international reserves is crucial in preserving the stability of the Iraqi dinar, and in avoiding the resurgence of currency substitution and inflation with accompanying socioeconomic effects, particularly on the poor. To address this, monetary authorities should continue to carefully monitor the emergence of possible inflationary pressures in the economy.

Contain current fiscal expenditures while protecting priority spending categories, in light of the country's reconstruction needs. A sharp fiscal adjustment took place in 2009, when total spending dropped to approximately \$65 billion, from \$71.4 billion in 2008, as a consequence of a reduction in capital spending. In contrast to this, current expenditures were estimated to have increased by 4 per cent during 2008-2009, through additional expenditure on security as well as increases in public sector salaries. It is important to protect capital spending as well as to contain current spending through a number of different initiatives, such as refraining from public sector wage increases, limiting hiring practices in the public sector, improved targeting of the Public Distribution System (PDS), reducing transfers to state-owned enterprises (SOEs), and preventing a resurgence of direct fuel price subsidies.

Adopt an integrated approach to fiscal policy to mitigate the adverse impact of oil wealth on the rest of the economy and to foster economic diversification. A range of short-term and longer-term fiscal policy tools can be combined to manage volatility, uncertainty, and exhaustibility of oil revenue, including origination from abroad (through exports). This could also include:

- Delinking government expenditures from short-term oil revenues.
- Safeguarding expenditure quality through stronger public financial management (PFM) mechanisms.
- Applying long-term fiscal sustainability benchmarks.
- Implementing the Medium-Term Fiscal Framework (MTFF).

Foster private sector-led growth by improving security and implementing the structural reform agenda. An improved security situation could potentially contribute to broad-based economic growth in Iraq, as security concerns act as a constraint to private investment, particularly in the non-oil economy. It should be noted, however, that improved security will not be enough to guarantee sustained non-oil growth; policy and institutional reforms are essential ingredients as well.

The Iraq Briefing Book

Part I: Key Policy Issues

CHAPTER 1

IMPLEMENTING IRAQ'S LONG-TERM DEVELOPMENT AGENDA

OVERVIEW

Iraq faces tremendous socio-economic challenges atypical of its per capita income level. The quality and delivery of essential services have deteriorated significantly since 1990. About 23 per cent of the Iraqi population is poor; there is widespread malnutrition among children (20 per cent of children under 5 are stunted) and growing gender inequality (especially since 2003). Iraq's current progress towards the Millennium Development Goals (MDGs) presents a mixed picture at best. Iraq remains a complex and fragile transition environment where political factors still determine how the development agenda can be implemented successfully and equitably.

To address these challenges, the development agenda has aimed to promote economic diversification while reducing oil dependence through fostering private sector-led growth, rebuilding infrastructure, and developing human capital. This approach is outlined in the National Development Plan (NDP) and the Poverty Reduction Strategy (PRS), and was laid out in the International Compact with Iraq (ICI)³.

Recent experience has demonstrated inherent weaknesses in the strategic planning processes which hampered implementation of the development agenda in Iraq. These weaknesses related to: (i) government-wide priority setting and sector-specific planning; and (ii) linking policies and budgeting.

KEY ISSUES

Government-wide priority setting and sector-specific planning:

While Iraq has made considerable efforts towards producing comprehensive development programmes, national planning has not been systematically linked to political decision making: Government priorities and development strategies proposed in past years were developed with ultimately insufficient involvement of, or linkage to, political decision making. Without such political engagement, such national plans run the risk of becoming theoretical statements rather than driving programmes.

Insufficiently explicit government priorities undermine overall strategic direction in government activities: Best practice indicates the necessity of explicitly stated government priorities to guide the activities of ministries and public agencies, and to direct the allocation of the federal budget. Without the direction of explicit national priorities, the government's activities are not necessarily geared towards agreed longer-term development goals.

Fragmentation of the strategic planning chain hinders implementation: Iraq does not have a single clear process for strategic planning. Multiple ministries and bodies engage in strategic planning efforts without association to one other or to other key processes, such as the budgetary

³ The ICI, announced in July 2006, was an initiative by Iraq for a new partnership with the international community, and promoted the vision that "five years from now, Iraq shall be a united, federal and democratic country, at peace with its neighbours and itself, well on its way to sustainable economic self-sufficiency and prosperity and well integrated in its region and the world."

process. Without clear roles and responsibilities, a timeline, and an associated process path, the chain of strategic planning is broken.

Unclear processes lead to decisions “drifting” upwards: In the absence of an agreed process for prioritization or the resolution of policy differences, differences of view are either resolved through informal channels or taken to the Council of Ministers (CoM) itself. *Ad hoc* CoM committees and the Advisory Board to the Prime minister have proliferated, with limited gains made towards the efficiency of decision making. Global best practice calls for sectoral priorities to be determined at the appropriate operational level and for decisions to be taken accordingly (“subsidiarity”). In Iraq this would mean an individual ministry where possible, a CoM committee to resolve cross-ministry concerns, and the full CoM for strategic or acutely political debates.

Unclear practices of accountability and follow-up have hindered the government’s oversight function: International experience has shown that political oversight and accountability are critical to policy implementation. Without clear accountability from ministries for their performance, successful implementation of government priorities cannot be guaranteed. A weakness in the ability of ministries and governorates to monitor and report on progress made towards implementation has contributed to the lack of oversight.

Policy analysis capacity in line ministries remains limited: Strategies and priorities should be explicitly linked to policy analysis and informed by sector strategies in order to ensure that policies are relevant, realistic and implementable. In addition, line ministries need to cost policies appropriately, while also preparing budgets to support their implementation. Only a few ministries currently demonstrate the capacity to produce such strategies.

The linkage between national and governorate-level strategies is not sufficiently clear: Governorate development strategies should follow national policy priorities set by the government. In addition to this, national development planning ought explicitly to address and link with provincial development plans. In the past years, national planning tools have not been explicitly linked to provincial development plans, even though evidence shows that this greatly improves the chances of successful implementation.

*Linking policies and budgeting:*⁴

Budget management in Iraq still faces key impediments at the institutional level: This includes poor budget preparation, inadequate alignment with government priorities, weak project design and selection, inconsistent and cumbersome procurement procedures, ineffective mechanisms for cash management and insufficient monitoring and control mechanisms for project implementation. PFM reforms can contribute towards safeguarding fiscal sustainability through strengthened expenditure controls and improved aggregate fiscal discipline.

Weaknesses in medium-term fiscal planning have led to ad hoc budgeting and pro-cyclical government spending which contributes to fiscal sustainability problems: The *ad hoc* nature of budgeting is manifested among other things in the practice of supplementary budgeting which has been used in the last few years. This practice undermines the credibility of Iraq’s budget formulation process as the original budget is not adhered to and a supplementary budget is customarily introduced.

⁴ This is further discussed in sub-section 2.3, Public Financial Management.

Budget preparation is also hampered by a weak connection it can have with government priority setting: Government priorities and development strategies proposed in the past years have been developed in isolation from budgetary processes, which has resulted in an absence of budget allocation to these priorities and plans, thus hampering the implementation of the development agenda in Iraq.

Insufficient attention has been paid to designing a sound public investment programme which adversely affects investment budgeting: A poor quality investment budget, including poor project design, further reduces the credibility of the budget process which contributes towards the under execution of investment programmes and repair/maintenance activities.

The government has identified challenges with the PFM system from budget design and preparation to execution and reporting: It has also devised a time-bound action plan (the PFM action plan) to address such issues. The adoption of the NDP and PRS can be expected to help address the link between budgeting and policy design.⁵ Ongoing efforts in this area aim to introduce a credible medium-term fiscal framework based on sound economic and fiscal forecasts and top-down budgeting to bolster fiscal discipline. The PFM action plan suggests improvement on the process and content of the budget call circular, and the introduction of a credible fiscal envelope and ceilings.

RECOMMENDATIONS

Strengthen the links between the various elements of the strategic planning chain. This would help to ensure the successful implementation of government priorities by means of fiscally sustainable public policies. In particular, it is critical to achieve closer integration between government-wide priority setting, sector specific planning, and the budget process, in tandem with overall quality improvement.

Priority and short-term issues (next 6 to 12 months):

Clearly define the role of the different government agencies in the priority setting and planning processes. The mandates of the various government agencies in charge of different aspects of the priority setting and planning process, both at the central and governorate levels, need to be clearly defined and well understood by all parties involved. In addition, it is suggested that a centrally located and fully accountable institutional focal point overseeing this process should be identified. Such a role would focus on managing the priority setting and planning process while ensuring well-defined links to the budget processes. The determination of content would remain the responsibility of organizations with the relevant mandates and expertise (e.g. sector ministries).

Strengthen government-wide priority formulation and endorsement. Medium-term strategic government priorities indicate what the government (embodied in the CoM) considers to be the most politically pertinent issues to address during its term in office. Government priorities guide the activities of ministries and public agencies, and inform the budget formulation process. Key elements in priority setting include timing, organizational arrangements, and mechanisms for implementation.

⁵ Spending composition is expected to change in favour of the social sectors in the medium term. For example, health and education were allocated around 16 per cent of total spending in 2009, compared to about 11 per cent in 2008. Pro-poor spending may also be enhanced as a result of the PRS.

Address medium-term policy and expenditure issues. It is suggested that fiscally sustainable policies should fit within realistic multi-year macroeconomic and fiscal projections. This would allow capital projects (the investment budget) to relate to associated operating costs (the recurrent budget). A systematic mechanism could be set in place to relate annual and medium-term policy with fiscal decision making.

Mitigate the impact of revenue volatility on expenditure planning. Volatile revenue flows complicate expenditure planning and thus the implementation of government policies and programmes. To help reduce the costs of volatility, it is critical to delink government expenditures from short-term oil revenue fluctuations.

Operationalize medium-term priorities. A realistic, implementable government programme with clearly articulated priorities can be operationalized through implementation of budgeted policies. Existing investment frameworks such as the NDP, ministry and governorate development strategies, and other long-term indicative strategies such as the PRS could provide a basis for prioritization and sequencing of government programmes.

Align sector strategies with national priorities. Through aligning ministry sector strategies with clearly articulated national priorities, the government's programme can be operationalized with concrete actions at the sector level, while also forming the basis for annual budget submissions. Key institutional decisions to be made in this regard include: (i) whether sector strategies are required for all ministries, and (ii) what type of information sector strategies should contain.

Strengthen mechanisms for accountability and oversight. Good practice indicates that monitoring, evaluation and reporting systems should be established at the various levels of government to ensure that the oversight function can be properly exercised with the involvement of stakeholders. These systems require reliable data that is timely, credible and suitably disaggregated. Strong monitoring systems can provide enhanced accountability and transparency, leading to improved performance and results.

Improve efforts to achieve MDGs. Iraq's development agenda should provide a vehicle for the achievement of these goals through existing frameworks such as the NDP and the PRS which seek to articulate a national vision for Iraq. Best practice includes linking the MDGs through these frameworks with the MTFF and the budget, and ensuring coherence with the regular planning processes of implementing ministries.

Medium- to long-term issues (one to three years):

Strengthen policy formulation capacity in line ministries. Further improvement within line ministries is required to develop policy through capacity building in evidence-based policy development and analysis.

Develop planning capacity in governorates. In view of the constitutional concurrent authority of the governorates in development planning within their respective territories, governorates need to respond to national priorities with governorate-level development priorities and corresponding plans.

CHAPTER 2

GOVERNANCE AND PUBLIC SECTOR REFORM

- The state-building agenda is structured around participatory governance, the primacy of rule of law, a strong legal framework for human rights protection, and state delivery of services and regulatory functions for the people of Iraq. A fundamental component of state building is the strengthening of relations between government and society, which requires strong, credible government (at both central and local levels) and an enabling environment for civil society and independent institutions to develop – all underpinned by a system of “checks and balances” to ensure stability, freedom and resilience.

-----2.1 PUBLIC ADMINISTRATION REFORM AND MODERNIZATION

OVERVIEW

Prior to the 1991 war, Iraq was highly regarded within the Middle East for its superior public sector management capability, which included a highly competent and well-trained cadre of civil service, and a strong economic policy and social welfare programme. While substantial institutional capacity still exists in many areas, the impact of years of war and international isolation has led to: (i) underinvestment in core areas of public service management; (ii) reduced civil service management capacity; (iii) a doubling of public sector staffing due to insufficient alternative employment opportunities (making the Iraqi government one of the largest in the world as a proportion of the population); (iv) constraints in the delivery of essential services; (v) overlapping, and in some cases obsolete functions; (vi) extremely low levels of “e-governance” and automation; (vii) low fiduciary standards and high levels of corruption; and (viii) weak public sector and economic governance in general. All of these factors combine to reduce the effectiveness and efficiency of the government, and specifically on its ability to fulfil core service delivery and regulatory responsibilities.

KEY ISSUES

Since 2003, various efforts have been initiated towards civil service and public administration reform: The government has made progress in implementing the reform and modernization agenda – as a component of peace consolidation, and to ensure that accountable governance systems are in place (as the country continues to improve revenue generation from a fuller exploitation of resource potential from oil and gas) and that the process of decentralization continues. However, the challenge of the security environment, coupled with a complicated political transition, has prevented necessary structural changes being made to the “architecture” and “machinery” of government.

Public sector modernization aims to help improve service delivery, enhance fiscal sustainability, and achieve a broad-based, private sector-led economic growth: Given the scale of such a challenge, and keeping in mind that government structures cannot be modernized overnight, it is important that the government outlines an approach that aims to increase the functionality of service delivery in key state functions, with sound sequencing and prioritization of reforms. Ongoing shifts in the balance of power from the central government to governorates could be undertaken according to well-defined processes that do not undermine stability or political cohesion, but strengthen the relationships of the regions and governorates to the centre. A reduction in public-sector employment can be undertaken with minimal social cost while

promoting opportunities for young people and women, adequate pension disbursements and options that stimulate the economy.

A civil service survey is currently ongoing: Based on available information, staffing of the public sector is estimated at approximately 2.8 million, with just over 2 million employed as civilians (including some 623,000 teachers), approximately 263,000 in the armed forces⁶ (which do not come under normal civil service rules), and at least 500,000 working in SOEs. The exact number of public sector employees needs to be further detailed according to establishment, pay and grading, age structure and geographical location at the central, regional, governorate and district levels, and including the SOE level, in order for the government to plan towards functional restructuring.

RECOMMENDATIONS

Launch a comprehensive, national, regional and local modernization programme. This would link civil service strengthening, administrative and sectoral reform, improved public financial management, and capacity development within the governorates for decentralized service delivery, and is suggested as fundamental to the reform agenda.

Reform the civil service. Once adopted, the new Civil Service Law should seek to: (i) define the underlying values of a modern civil service, including the principle of merit-based recruitment, performance evaluation, and succession planning; (ii) define the role, responsibility and relationship between civil servants, ministers and other elected officials; and (iii) codify ethical standards and principles of service to society. Secondary legislation is needed to strengthen the civil service compliance framework, and to enhance merit-based recruitment, performance evaluation, terms of service and the link between civil service and administrative reforms.

Develop public administration systems. It is recommended to strengthen the public administration system through: (i) design of standard systems for general management functions; (ii) capacity development initiatives and training packages around core functions; (iii) data and information systems to support evidence-based planning, budgeting, policy making and programme management; (iv) a national e-governance strategy; and (v) sectoral reform opportunities and expenditure management plans.

Prioritize reform by sector. It is recommended that sectoral reform be undertaken in a sequenced manner, with priority sectors selected by government according to their greatest impact on the welfare of society. It is advisable that sectoral reform is accompanied by policies that articulate objectives with coherent regulations and authority for policy implementation. Basic reforms common to all sectors are likely to include: (i) the simplification and consolidation of ministry structure and departments; (ii) institutional and functional streamlining through development of ministerial business plans; (iii) review of ministerial, departmental and sub-national functions; and (iv) benchmarks and cost estimates for service delivery models.

Address civil service management capacity gaps. It is recommended to address civil service management gaps through: (i) properly equipping and staffing the Federal Public Service Council at central and sub-national levels; (ii) strengthening the administrative reform secretariat (iii) conducting pay and grading reviews and assessing entitlements packages; (iv) establishing long-term staffing entitlements including closed/open system options; (v) outlining the terms and requirements of a senior executive service within the civil service; (vi) creating a legally defined

⁶ This figure does not include the Federal Police, local police forces, border guards, and other security services.

civil service cadre with common terms and conditions; (vii) enhancing merit-based recruitment; (viii) improving human capacities to develop automation and e-governance; (ix) outlining civil service training programmes and developing training capacities; and (x) conducting a full assessment of government buildings and infrastructure needs to accommodate a “right-sized” public administration and civil service.

Develop staffing plans. Once the architectural structure of the ministry or budget entity is determined, including the grouping of common functions, staffing needs for the new structure and staff development plans can be developed. Sector-based analytical work will lead to reform and restructuring of “road maps” and should be developed by government alongside a strategy for implementation over the short, medium and long term.

----- 2.2 DECENTRALIZATION AND LOCAL GOVERNANCE

OVERVIEW

The Constitution lays the foundation for decentralized governance. Even though the decentralization of political authority to governorates is already under way, current administrative structures reflect a strong centralist approach to governance, where administrative decentralization has not been meaningfully delivered in modern terms, while sub-national ministry structures continue as out-posted departments of various central ministries.

The difference between *de jure* and *de facto* realities should be addressed in the design of a public sector restructuring programme. Commitment to successful power-sharing necessitates the design and implementation of transparency and accountability structures that ensure that decentralization results in the better use of resources for society, as opposed to an increasingly costly state bureaucracy with opportunities for corruption. Central government can play an important role in policy formation, quality control, monitoring and evaluation, and oversight in the decentralization of functions and services.

KEY ISSUES

The 2008 “Law of Governorates not Incorporated into a Region”⁷ provides an initial platform for the empowerment of local governance institutions: However it does not provide comprehensive guidance towards the establishment of an effective and efficient decentralized system. Despite a consecrated devolution of power through the Constitution and the Provincial Powers Act, local councils continue to have very limited power. In particular, the law presents the following shortcomings:

- It devolves responsibility for the strategic direction and associated planning instruments to governorate councils, and it stipulates that budget allocations from the central government will support strategic plans. But it does not give governorate councils any leverage to influence the planning and resource allocation of line ministries through which the vast majority of services are provided. Technical departments that provide basic services such as water, electricity, health, sanitation and the like continue to receive their directives and budgets allocations from their respective ministries in Baghdad.

⁷ Law No. 21, Provincial Powers Act, 19 March 2008. Annotated English text available at <http://www.lgp-iraq.org/publications/index.cfm?CatId=73&domainStartNode=73&showStartNode=1>.

- The law stipulates that local councils at all levels have a responsibility for monitoring and oversight of line ministry services. However, no enforcement mechanisms are defined. Local councils have no managerial controls over service provision. They can identify problems, but are unable to take action to address identified issues; rather, they must rely upon a third party to initiate a response.
- There is no provision for systematic planning or resource allocation below the governorate level.
- No criteria have been defined to ensure equitable distribution of services and resources.

Development issues affecting successful decentralization and local governance processes include:

- Continued centralization of fiscal/budgetary allotments and allocations despite enabling legislation. Procedures are bureaucratic and lengthy.
- The absence of local government systems and processes that enable local revenue collection, budgeting and planning as a means to ensure equity and the fair distribution of resources, and greater financial autonomy for local governments.
- That interference from political, religious and tribal powers in priority setting for local authorities will remain a challenge to establishing a transparent and efficient decentralized system of government.
- Poor connection between the monitoring of service delivery and government capacity to deliver according to the needs and priorities of local communities. Information sharing and openness in decision making, including advocacy, will enable a better understanding of what decentralization entails. Involvement of civil society institutions such as the media and “think tanks” can help facilitate this process.
- Performance of staff and their associated skills base remains a challenge to any developmental initiative. Skills upgrading and institutional capacity building anchor the success of any development initiative.
- Systematic and institutionalized local participatory planning processes would ensure that: (i) local priorities are identified through gender-sensitive, inclusive and multi-sectoral processes, which provide an opportunity for all, including the most vulnerable, to voice their views and priorities; (ii) district and sub-district priorities are acknowledged in the development objectives of the province; (iii) provincial development planning is synchronized with the national planning calendar and that the process incorporates district plans while consulting with line ministries, civil society and the private sector.

RECOMMENDATIONS

Prepare a “decentralization policy paper”. This may address, *inter alia*: administrative organization and structure at the central, regional, provincial, and local levels; roles and responsibility of each level; resource allocations and mobilization; and related institutional development and capacity building. This policy paper would be informed by a comprehensive stocktaking of existing laws, regulations, and practices, and would be produced through a consultative process with stakeholders.

Formalize new modalities for policy making in sectors and pilot decentralized service delivery in target sectors. Reforms that strengthen the link between policy making, planning, budgeting

and execution are a priority activity in key sectors. Initiatives could include costed service delivery models, and benchmarks to support functional reform and the roll-out of the modernization process. Capacity development at the governorate level will enable emerging political and administrative structures to responsibly manage decentralized service delivery with adequate mechanisms for accountability and participation, and inclusion of all groups in society, including women and persons with disabilities.

Begin local planning and area-based development. Decentralized service delivery that coordinates with new initiatives for area-based and community-driven development can be particularly effective in empowering local communities, where needs are prioritized through broad-based and participatory consultation, and beneficiaries are involved in programme execution, oversight, and accountability.

Strengthen leadership and management structures necessary to the reform and modernization process. Consider establishing and/or strengthening the following institutions: (i) the Federal Public Service Council, including the management boards that cover civil service and public administration reform at national and sub-national levels; (ii) a Public Sector Modernization Task Force and Ministerial Advisory Committees at the sector level; (iii) a Parliamentary Committee on public sector modernization; (iv) Public Sector Modernization Task Forces in the Governorate Councils; while (v) strengthening participatory processes with civil society and sub-national governance structures.

Produce a detailed national public sector modernization strategy. Such a strategy will clearly articulate the government’s vision while containing detailed plans for sequenced implementation across sectors and geographic areas. The strategy can encompass specific sectoral “road maps” to guide the implementation of the strategy (and including the tracking of progress), while also establishing accountability systems to support implementation.

-----2.3 PUBLIC FINANCIAL MANAGEMENT

OVERVIEW

The challenge facing local authorities on Public Financial Management in regions and governorates where most poor Iraqis live needs to be stressed. In the context of Iraq’s fiscal decentralization, budget execution is one of the most effective instruments to lift people out of poverty. The government continues to make significant progress in reform of multiple aspects of its PFM framework. PFM reforms are laid out in the PFM action plan which was adopted by the Ministry of Finance (MoF) in 2008. The plan forms the blueprint for the coordination of international development cooperation in this area. A Regional PFM Action Plan was further adopted by the KRG authorities to deepen and extend at the regional level the reforms carried out by the central government. Since the adoption of the PFM action plan in 2009, the government has made notable progress in almost all areas despite a very difficult year which included a late budget and devastating terrorist attacks on the MoF.

KEY ISSUES

The government continues to make significant progress in reform of multiple aspects of its PFM framework: Key achievements and pending issues include, *inter alia*:

- Since 2007 a basic Medium-Term Fiscal Framework (MTFF) is in place. A multi-year budget strategy was introduced for the first time for 2010-2012. The 2010 budget was the first to include an economic essay. In its report to Parliament, the Finance Committee praised the budget document for its quality and consistency with government priorities. Following the adoption of the PRS and NDP in 2010, their linkage with the MTFF remains to be achieved.
- The Budget Strategy Committee for 2011-2013 is already in place. It aims to refine and improve the quality of the MTFF, the budget strategy and the budget call circular, which for the first time will include hard fiscal ceilings.
- Investment budget execution is steadily improving, from 25-30 per cent in 2006-2007 to 50 per cent in 2008, and over 80 per cent in 2009. However, the quality of project preparation and execution needs further improvement.
- Financial reports and audits are prepared earlier and are more accurate. In the past it was not uncommon for closing accounts to be delayed by several months. At present, the maximum delay is 60 days.
- Iraq has adopted the GFS compliant Chart of Accounts (COA) in 2006. Work is under way to roll out the COA, including the development of a detailed implementation manual.
- The Development Fund for Iraq (DFI), the Central Bank of Iraq (CBI) and state-owned banks are audited by international audit firms and the Board of Supreme Audit reports are gradually returning to normal schedule after multi-year delays in the past.

RECOMMENDATIONS

Restore core functions and ensure business continuity. The MoF is working to restore operations following a series of devastating terrorist attacks that left key functions severely understaffed (in addition to natural attrition). Following the attacks, staff were relocated across a range of different buildings as a means to enhance security. As a result, departments that typically work closely together, including accounting and budget, were separated. This further complicates both everyday work and the reform programme. It is important that a secure location is identified in the near future to house all directorates together.

Remove obstacles to implementing the COA and the Integrated Financial Management Information System (IFMIS), and finalize and adopt the new accounting manual. The “Government Financial Statistics”-based COA adopted in 2006 should be left unchanged. A new accounting manual has been developed, and this includes detailed information on the COA, codes and accounting policies and procedures – this should be rolled out across the whole of government to ensure the consistent coding of transactions and financial reporting. In addition, Board of Supreme Audit (BSA) auditors need to be trained to use the COA. The MoF might consider engaging a contractor to complete work on the “General Ledger” module of IFMIS to expedite the production and quality of financial statements. *In the medium term*, it is necessary to roll out IFMIS for procurement and cash release in parallel with the development of new cash release, commitment control and procurement systems.

Maintain momentum on budget strategy and preparation. The 2011-2013 Budget Strategy Committee has successfully built on progress achieved during the preparation of the 2010 budget. The committee has completed the draft budget strategy and this includes a medium-term fiscal outlook and economic essay. The strategy is based on government priorities adopted in May

2009. The new Budget Call Circular will include hard budget ceilings for ministries. Focus will remain on furthering improvement towards alignment with government priorities – and including the PRS, and further refinement to the medium term fiscal forecast, with clear and binding ceilings.

Continue with public procurement system reform. The new draft Public Procurement Law (PPL) has reviewed by the Shura Council and is now submitted to the CoM for approval. Key next steps include: (i) the enactment of the PPL after approval by the Council of Representatives (CoR); (ii) an issuance by the CoM on implementing regulations from the PPL; (iii) establishment of a Public Procurement Regulatory Authority by a Decree of the CoM; and (iv) issuance of revised standard bidding documents based on the new PPL.

Develop transition policy for intergovernmental fiscal relations. A key principle is to ensure a harmonized transition of fiscal resources, mandates and capacity. The 2005 Constitution and the 2008 “Law of Governorates not Incorporated into a Region” provides a greater degree of autonomy to sub-national units. The 2009 and 2010 budgets included provisions for a greater degree of fiscal decentralization. The 2010 budget significantly increased fiscal transfers to the governorates. Effective transition will require an inclusive, informed and sustained dialogue among the various stakeholders at the centre and regions. *In the medium to long term*, fiscal decentralization can diversify revenue sources at central and sub-national units.

Strengthen capacity in results-based budget planning execution and monitoring in the short run, and further build sustainable institution for budget execution and control in the medium term, working at both central and local government levels, in the light of Iraq’s fiscal decentralization.

Develop a successor mechanism to the Development Fund for Iraq (DFI) – i.e., revenue management.⁸ Such a mechanism will maintain Iraqi sovereignty over a single oil revenue account as a means to capture all oil related revenues, and under the management of the MoF. Like the DFI, the new mechanism will include oversight by the Council of Financial Experts and will be subject to external independent audits. *In the medium to long-term*, such an account may evolve to carry out savings and stabilization functions.

----- **2.4 AID MANAGEMENT**

OVERVIEW

Effective management and coordination of foreign assistance is crucial for successful development and responsible use of public resources. Planning, monitoring, coordination, tracking and reporting on international aid flows are all key components of an aid management system that is at the very heart of sustainable reconstruction and development

The government has improved its capacity to manage development cooperation over the last few years in line with the signing of the Paris Declaration on Aid Effectiveness in May 2008. The Ministry of Planning (MoP) in Baghdad and the Kurdistan Regional Government (KRG) have developed institutionally. This includes the restructuring of relevant units; training on project screening and appraisal, management, monitoring and evaluation; and the modernization of information technology. This has gone hand in hand with the establishment and gradual

⁸ Created under United Nations Security Council resolution 1483, dated 21 May 2003, and continued under UNSCR 1468, the DFI account is held by the Central Bank of Iraq at the Federal Reserve Bank of New York.

improvement of a Donors Assistance Database (DAD). The DAD is currently being integrated into a fully fledged Iraq Development Management System (IDMS) which will capture the planning, implementation, monitoring and evaluation of Iraq's entire capital budget (domestic and external resources).

KEY ISSUES

A well functioning aid management system is particularly crucial for the Iraq government: The state possesses significant domestic revenues coupled with vast contributions from the international donor community, yet at the same time it confronts an exceptionally challenging development environment. The Paris Declaration, with its focus on enhancing aid effectiveness, is particularly relevant to the Iraq context. Significant efficiency gains could be made from strengthened Iraqi development ownership, improved alignment of donor support to the national development agenda, and increased harmonization of donor assistance.

Improving the efficiency, effectiveness, and delivery of development cooperation remains a challenge: Ongoing security issues in the country, coupled with the government's institutional capacity to lead on external aid, have impacted on the achievement of reconstruction and development efforts (since 2003). This was further exacerbated by some donor assistance programmes that were not well coordinated among international agencies and local communities. These developments have made it particularly important to develop strong and well functioning institutions that can plan, allocate and oversee development resources in an effective, accountable and transparent manner.

RECOMMENDATIONS

Ensure completeness of the Donors Assistance Database. Follow up with all donors to obtain information on current activities and those projected for the future (up to five years). The government should identify all national capital investment activities and future priorities, which should then be fed into the newly established IDMS, a tool to support planning all available resources in a relevant and effective manner.

Organize a high-level conference on implementing the Paris Declaration. This would be a means to raise awareness and understanding of the Paris Declaration, and to obtain national and international consensus on how to implement the agreement through a national action plan on aid management. Such a plan would include realistic targets for implementation.

Review existing donor coordination mechanisms and establish a "New Partnership for Development" framework between Iraq and the international community. This mechanism would build upon the success of the ICI in accelerating the consolidation of peace and security, in promoting regional and international cooperation, and in securing prosperity for society. The new partnership would be geared toward the consolidation of the development process, would aim at normalizing Iraq's international status, and would be based on full Iraqi ownership, a sustainable and more consolidated national strategic planning process led by the government, and more efficient international support in direct response to the government's priorities.

Become involved and connected with fellow practitioners and experts from the Arab region. Promote South/South knowledge sharing, learning and advocacy on the implementation and monitoring of the Paris Declaration. This would include participation in the International Aid Transparency Initiative, participation in preparatory activities for the Fourth High Level Forum

(HLF-4) on Aid Effectiveness (scheduled for 2011)⁹, as well as other regional and global initiatives.

-----2.5 ENHANCED JUDICIARY CAPACITY

OVERVIEW

A strong and impartial judiciary is critical to the stability of the Iraqi legal system, just as a safe and secure judiciary is of paramount importance for rule of law. The judiciary in Iraq has established itself as an institution of integrity, with Iraqi judges conducting their work courageously despite significant threats to their personal safety. While Iraq has a significant number of lawyers and a well-established legal education and training system, improvements in training are needed to enhance the professionalism of legal actors.

KEY ISSUES

General institutional capacity: Government institutions responsible for justice have urgent unmet needs in terms of resources, training, and facilities. Lack of equipment and training for judges and court personnel remains a particular obstacle. Greater coordination and cooperation among key institutions will contribute towards improved functioning of the justice system. Public confidence in the police system is low and levels of trust in the justice system have been severely affected which only serves to undermine the effectiveness of these institutions. Women and young people in particular face obstacles in access to justice. Outdated legislation and delays in the implementation of legal reforms undermine the fairness of the justice system and Iraq's compliance with its obligations under international law.

Judicial independence: The Iraqi judiciary continues to exhibit genuine independence and care in handling its cases. Totalling about 1,280, the number of judges in Iraq today has failed to keep pace with the large-scale expansion of the police force, which has resulted in a judiciary greatly burdened by an increasing volume of criminal justice cases.

Professionalism of legal actors: Iraq's law schools are well established but require modernization of curricula, resources and technology. Given the number of key constitutional and legislative changes in Iraq since 2003, there is an important need for continued legal education. The Higher Judicial Council (HJC) has instituted a Judicial Development Institute (JDI) to provide continuous legal and judicial training for judges, prosecutors, and court staff. However, this institution needs immediate assistance to build staff capacity and to draft its curriculum and implement advanced teaching methods. Training for law enforcement officials and judges on the use and application of forensic science is considered a necessity.

Judicial security: Most judges lack personal security details (PSDs) or sufficiently trained PSDs, access to secure judicial housing, a secure workplace, and authorization to carry firearms. A full team of security personnel dedicated to judicial protection would be needed, as well as adequate protection equipment and training for such personnel. In addition, security upgrades to judicial

⁹ The first three HLFs, the Paris Declaration on Aid Effectiveness, and the Accra Agenda for Action (AAA), have gained substantial public and political traction as ways to achieve better development results. HLF-4, which will take place in 2011 in Busan, Republic of Korea, will be a major milestone in this multiyear process of continuous improvement. It will also be a turning point. Participants at HLF-4 will chart future directions for this campaign, beyond the Paris Declaration and Millennium Development Goals, and engage on the most important development issues facing the world in the next decade. (Source: Asian Development Bank, <http://www.adb.org/Aid-Effectiveness/high-level-forums.asp>.)

housing and courthouse security is essential. The Ministry of Interior (MoI) and HJC have made important progress in addressing security concerns in these areas, but additional work is required. In the absence of robust judicial security, and throughout the entire investigation and trial process, judges are often subject to intimidation and violence which may influence their ability to handle cases in a fair and impartial manner, and in delays in judicial decision making.

Court staffing: A post-2003 internal review process removed many judges with questionable integrity or of senior Ba'ath Party rank. This process left about 750 judges to serve the needs of the entire country. While the recruitment of judges and court staff is a priority for the HJC, the process has moved slowly. In particular, there is a need for more investigative judges, juvenile judges, and judicial investigative and support staff. The Iraqi criminal justice system is structured around investigative judges who investigate cases and develop the record before a trial panel is convened. Judicial investigators are legally authorized to complement the role of the Iraqi police and primarily assist investigative judges in preparing cases. There are too few investigative judges and competent investigators to process cases in a timely manner.

Court administration: There is an urgent need to provide support and resources to further improve court administration. Administrative techniques vary dramatically and all are rudimentary. The HJC has commenced with new processes to maintain case records (*see below*). However, the integration and information sharing within the HJC remains particularly challenging, which is worrisome as the quantity and sensitivity of cases have increased in recent years. Since 2003, the HJC formulated an itemized case-tracking system which it is now implementing in some courts.

Large pre-trial detention population: For a number of reasons, judicial oversight over detentions has been lacking for the last several years. The most prevalent is due to the backlog of cases (*see below*) which has increased as the population of pre-trial detainees has grown. The docket of court hearings for serious insurgent criminal cases is overwhelmed, particularly in Baghdad. The growing pre-trial detainee population is stressing the capacity and capability of both MoI and Ministry of Justice (MoJ) detention facilities. Reducing the backlog of cases will decrease the financial burden on the corrections system, improve the public's trust in the government, and help ensure compliance with international human rights standards for those awaiting trial.

Case processing challenges: Several challenges within the Iraqi criminal justice system currently contribute towards the delay in processing criminal cases. After the arrest of an individual, the arresting agency, either the Ministry of Defence (MoD) or the MoI, often fails to arrange an initial detention hearing with an investigative judge. Cases are often heard on a single charge even though the accused may be facing multiple charges. In some cases, even if a trial panel orders the release of an accused on one charge, the MoJ might send the accused back to the MoI (the arresting agency) to determine if additional charges will be made prior to release. The detainee may end up back in the criminal justice system on a new set of charges, and thus remain in the detention system. Attorneys' attendance with or representation of the detainees are frequently a formality, and they have restricted access to case files before court sessions. Furthermore, the Iraqi legal system relies overwhelmingly on non-automated case tracking systems, which further contributes towards delays in case processing. This results in significant backlogs in criminal cases which, in turn, results in the overcrowding of detention facilities. Automated case processing and improved cooperation between investigators within the MoI and HJC will contribute towards more efficient and timely processing of cases.

Court infrastructure and equipment: The condition of court infrastructure varies enormously – from modern facilities to buildings in complete disrepair. Generally speaking, courthouses are

inadequately funded, and most of them lack sufficient operating and maintenance funds, which often results in a lack of adequate electricity, water, and sewage systems. Public access to courts is often limited in terms of safe waiting areas, and essentials such as chairs and public latrines are often missing – particularly outside of urban areas. As the HJC controls its budget centrally, local courts do not have functional avenues to seek supplemental funding.

RECOMMENDATIONS

Strengthen judicial independence. To bolster judicial independence, an adequate number of judges, judicial courthouses and residences are required to support the processing of a large number of criminal and civil cases. Through judicial education and capacity development, the HJC can maintain high professional standards for incoming judges. By passing constitutionally mandated HJC and Federal Supreme Court laws, the government could formalize the judiciary's role. In addition, it has been suggested that case information and statistics should be made more readily available to the public.

Improve judicial capacity. The Judiciary should build the capacity of new entrants to judicial service while also continuing the education of serving judiciary through systematic training, continued education and curriculum development. The JDI is an important element in this effort, to provide continuing education. Long-term efficiencies can be promoted through modern case processing procedures and technologies; advanced training of judiciary on civil, criminal, and commercial law; and effective use of criminal evidence in case development and adjudication. The government might consider endorsing appropriate revisions of Criminal Procedure and Penal Codes to promote the acceptance of scientific and technical evidence in the courtroom. The systematic review and continued improvement of the enforcement of judgments and judicial orders will greatly contribute towards improving judicial capacity.

Enhance judicial security. In the short term, the government might consider how the responsibility of judicial security should be shared between the HJC and the MoI. This goal would be advanced through the development of a judicial security plan which should clarify MoI or HJC responsibility in terms of judicial security. Such a plan would address the provision of adequate PSDs, courthouse security, and safe residences for the judiciary. Additionally, better cooperation between the MoI and HJC on the authorization for HJC personnel and judges to carry adequate equipment for protection (including the issuance of weapons permits) would also enhance judicial security.

----- **2.6 ACCESS TO JUSTICE**

OVERVIEW

Iraq's Constitution guarantees the right to counsel in all stages of a criminal investigation and trial. That said, reforms are required to fully realize this commitment. Some courthouses have a lawyer's room where attorneys available to represent people may congregate, but the quality of the services provided by attorneys varies greatly. Lawyers are appointed, typically from the lawyer's room, to represent criminal defendants at public expense, but counsel is usually appointed well after the time of arrest, which leaves defendants without representation at the crucial investigative phase, and in any event, police often restrict access to pre-trial detainees, case documents, and files. The quality of representation can be low as a consequence of a compensation system that offers little incentive to provide a zealous defence. In civil litigation,

Iraqi law does not provide for free legal representation, while access to justice is limited for the poor.

Legal awareness within civil society is another important gap, as most Iraqis have little understanding of their rights or how the legal system functions. There need to be more government-sponsored mechanisms to inform the public about their rights, on how the justice system functions, and on how to access legal assistance would greatly raise awareness within civil society on access to justice. Young people face particular obstacles in obtaining access to justice, as do those living in rural and peri-urban communities, who often rely on traditional justice mechanisms. Access to justice for women remains a serious challenge, especially with regard to impunity for perpetrators of violence against women.

KEY ISSUES

Iraqis lack robust legal representation: The Iraqi public – especially vulnerable and marginalized groups – often lack the means to access the legal system to protect their rights. Barriers include a systemic lack of access to information about the legal system, as well as economic barriers limiting the ability of some groups to access their legal rights. These barriers undermine the public’s trust in government, while eroding the employment of democratic rights.

Legal assistance programmes: Legal assistance programmes can improve the public’s access to justice, while also contributing towards the vindication of citizen rights in both criminal and civil legal arenas, and in rule of law. Legal defence centres and legal assistance programmes in several Iraqi cities and governorates provide free or subsidized legal services, which serves to enable citizens to participate meaningfully in the legal system.

Professionalization of the Iraqi legal community: Through cooperative engagement with international bar associations, Iraqi lawyers and law students can potentially enhance training and development opportunities.

RECOMMENDATIONS

Formalize official responsibility for access to justice. Through empowering one or more governmental entities, civil society can be supported to participate meaningfully in the legal system. Such efforts could include advocacy to expand public awareness of legal rights; targeted public service announcements; and improved access to government information at the local level. The government can engage in outreach and planning in the transition of successful legal assistance programmes and/or clinics through updating statutory and budgetary frameworks for legal assistance programmes.

Improve compensation for court-appointed lawyers. Court-appointed defence attorneys should be given compensation commensurate with the type and complexity of their cases. The government should enhance the system of court-appointed legal counsel to improve the quality and extent of defence counsel participation in the Iraqi justice system. Criminal defence attorneys also need support from bar associations to build capacity for the defence bar.

Enforce civil judgments. An effort to improve the enforcement of civil judgments is important, as is greater coordination between the judiciary, the judgment execution office at MoJ and the MoI. Responsible government officials should comply with final judgments through improved administrative and criminal mechanisms.

OVERVIEW

The Iraqi juvenile justice system faces challenges and needs reform. The UN Convention on the Rights of the Child (CRC) and other human rights instruments emphasize that children in conflict with the law are entitled to treatment that takes into account the child's age, the desirability of the child's reintegration, and the child's ability to assume a constructive role in society.

KEY ISSUES

The Iraqi criminal justice system still places an overwhelming burden on punitive approaches: Children in contact with the law have to endure a long pre-trial detention period that can range from six months to three years. The Ministry of Labour and Social Affairs (MoLSA) provides children in detention with access to their legal representatives on a weekly basis, and it has assisted courts with implementation of the Amnesty Law (2008) which has resulted in some children being released from custody. MoLSA has also strengthened the capacity of staff working in detention and corrections facilities.

Despite this, the juvenile justice system needs support for capacity building at all levels of government: This includes juvenile police under the MoI, juvenile judges under the HJC, and educational and vocational training for juveniles under the Ministry of Education (MoE). Most importantly, MoLSA is supportive of community-based initiatives to prevent boys and girls at risk from coming into contact with the law.

RECOMMENDATIONS

Despite the recent progress being made by MoLSA on the protection of children in contact with the law and those at risk, there is still much that remains to be done. The government needs to strengthen the juvenile justice system while also increasing children and young people's access to justice and protection through the following:

- ***Review the Juvenile Care Law*** of 1983 in line with international juvenile justice standards and the CRC.
- ***Appoint MoLSA or another ministry as the executive agent*** responsible for ensuring juvenile corrections are properly resourced and administered.
- ***Introduce restorative justice***, including diversion programmes and alternative measures which will help to reduce the number of children and young people in pre-trial detention.
- ***Design and implement a capacity strengthening programme*** for key duty bearers (juvenile judges, legal prosecutors, instructors, staff of pre-trial detention and reformatory centres, social workers, and other care providers) on international standards of juvenile justice, children's rights and child protection.
- ***Improve direct care services for children in conflict with the law***, especially girls, within pre-trial and post-trial facilities, focusing primarily on rehabilitation and reintegration initiatives.
- ***Develop a comprehensive and holistic reintegration mechanism*** and longer-term support services for juveniles, especially girls who are subject to extreme stigma and potential violence after release.

- ***Support the improvement of juvenile detention and corrections facilities*** by ensuring that their resources and conditions meet humane standards, including social, educational/vocational programmes, health, and other life support.
- ***Set policies in place to guarantee treatment for juvenile inmates*** in accordance with international standards (now that responsibility for juvenile detentions has been devolved by MoLSA to governorate councils), especially for those in governorates lacking juvenile detention facilities.

-----2.8 LAW ENFORCEMENT AND THE CIVILIAN SECURITY SECTOR

OVERVIEW

Many improvements in law enforcement and the civilian security sector (police and corrections) have taken place over the past few years. The MoI has increased the number of police from 60,000 to 560,000¹⁰ while construction programmes at several prisons have somewhat eased prison overcrowding.

KEY ISSUES

The progress achieved in strengthening security in Iraq over the last two years has led to greater stability at the community level: It has also encouraged the normalization of living and working conditions. Consequently the government has moved to prioritize development needs and structural socio-economic reforms that have been hindered in the past.

There is, however, still a level of scepticism and mistrust towards the police in terms of law enforcement and human security: Disputes thus are often dealt with by communities themselves without police involvement.

The ability of police currently to address domestic violence and in broader terms gender-based violence is severely limited: Professionalization of the army and police forces, as well as “right sizing” and vetting the armed forces, are key elements in enhancing the capacity of the country to counteract threats and minimize risks. Public trust in the state’s capacity to secure the country and to stabilize communities is a prerequisite for solid democracy and national reconciliation.

RECOMMENDATIONS

Legal, institutional, and regulatory reforms are necessary to strengthen law enforcement and the civilian security sector. These reforms include the following:

Professionalize the Iraqi civilian security sector: Ensuring the integrity and competence of both line officers and administrative units, while simultaneously developing mid-level leaders, is critical to the professionalism and competency of Iraq’s security forces and will serve as a means to gain public confidence. In addition to professional training, both MoI and MoJ should strengthen internal affairs capabilities and ensure clear roles and responsibilities.

Develop the capacity of police and corrections officials, and prosecute police and corrections service officials for corruption and misconduct: The MoI and MoJ should further invest in

¹⁰ This figure does not include KRG’s Ministry of Interior forces.

professional development, especially in advanced training, mid-level leadership, and institutional capacity building. While training will increase the professional standards of the Iraqi police and corrections service, those found breaking the law must be prosecuted for long-term change to occur. Public trust in the security sector is essential for the rule of law.

Enhance capacity to counter terror financing: The government should consider adopting modern asset forfeiture, money laundering, and counter-terrorist financing legislation to provide law enforcement a better opportunity to disrupt financing for terrorism and organized crime.

Combat terrorism in accordance with rule of law: Iraq's efforts to combat terrorism should continue to focus on rule of law through the prosecution of captured terrorists in accordance with Iraqi law. The government should ensure inter-agency accountability towards the enforcement of existing laws, while also developing the capacity of key organizations and leaders within the government to combat terrorism and international organized crime using existing laws. In addition, the government might consider working with the international community to modernize laws and tools in the face of increasingly sophisticated criminal and terrorist networks.

Cooperate broadly in efforts against terrorism: The government should expand its efforts to cooperate throughout its national federal system, and transnationally, in order to address the threat of terrorism, whether it originates from inside or outside its borders. Prudent information sharing between different government entities may be vital to ensure that the organization best suited to thwart terrorist or organized criminal activity has the knowledge to do so, or joint action may prove the best way to counteract significant threats.

Reform police to serve communities: The MoI is looking to expand community policing practices with Family Protection Units currently being set up around the country. The authorities may consider training police in human rights and community policing, and assisting the Iraqi police force to change its image in the community, so that it can assume the role of service provider as well as law enforcer. The MoI's establishment of an Ethics and Human Rights Centre at its senior-level police training facility at the Baghdad Police College is an important step.

-----2.9 PRISON, DETENTION AND CORRECTIONS FACILITIES

OVERVIEW

Iraq has a patchwork of entities for detaining those accused and convicted of crimes. For example, the MoI is responsible for managing some detention facilities for pre-trial detainees, the MoJ manages pre and post-trial facilities, and the MoD maintains some small detention facilities that house suspects before they are transferred to MoI detention centres. In the Kurdistan region, KRG MoLSA and the MoI operate pre- and post-trial facilities. Several prisons in the KRG operate well and meet international standards. Furthermore, MoJ correction services meet international standards for the treatment of prisoners, yet improvements in the physical structure and maintenance of detention and prison facilities is required. While female prisoners in MoJ facilities are allowed to have their children (4 years and under) with them, the condition of women's facilities meets only minimal standards and there is room for improvement.

KEY ISSUES

Iraq's prisons and detention facilities: Operated by the MoJ and MoI, prisons and detention facilities fall short of international standards. This shortfall stems from a lack of capacity and

resources within police services. This problem is compounded by the rapid growth in the prison population, and a lack of standardization in prison procedures and training to ensure the humane treatment of detainees. Inadequate hygiene conditions, substandard food and water, severe overcrowding, poor medical care (contributing towards the spread of disease) and understaffing are common deficiencies. The professional training of officers and staff was nonexistent under the previous regime and corruption was endemic, resulting in the victimization of prisoners, their families, and lower-level prison staff.

Professional training of prison and corrections staff: Prison staff of the MoI do not have leadership at the directorate level, standardized operating procedures, or training on prison operations. Corrections officers from the MoJ have received professional pre-service training as well as recurring human rights training. All prison and detention officers require ongoing professional training. Additional recruitment of female employees is needed for women's prisons and for police stations. There is an urgent need to address conditions of confinement comprehensively through adequately resourcing prisons, detention facilities, and prisons.

Juvenile correctional facilities: The five correctional facilities for juveniles from 9-18 years of age were originally run by the MoLSA, and recently transferred to governorate councils. Four of the facilities are in Baghdad and the fifth is in Mosul. Juveniles have access to social, educational, and health care in detention and correctional facilities. The condition of juvenile facilities needs to be improved and renovations are in order to support the expansion of educational services, sports and leisure activities. Because there are a limited number of facilities, some juveniles are held temporarily outside of Baghdad under the custody of the MoJ and MoI.

The authority and applicability of Coalition Provisional Authority (CPA) Order 10: CPA 10, effective 5 June 2003, states that "full authority and control over all detention and prison facilities, currently exercised by the MoLSA and the MoI, is vested in the MoJ". All detention facilities and employees should be transferred to the MoJ as part of this directive.

Centralized corrections authority for detentions at the MoI: Although the MoI holds an estimated one half of the pre-trial detention centre population, there is no designated authority within the MoI responsible to manage and operate MoI detention facilities. Many detention centres are operated at the governorate level, and as such, there are no universally applied corrections standards in MoI facilities.

RECOMMENDATIONS

- ***Implement and enforce the Prime Minister's Order No. 207*** governing corrections standards throughout Iraq, as full compliance will help ensure that Iraq meets international corrections standards.
- ***Ensure that all MoI detention centres' officers are trained in prison operations and human rights standards***, with ongoing focus on ensuring detainee rights under the constitution (Article 19) and Prime Minister's Order No. 207.
- ***Establish a Director General for detentions operations*** within the MoI, responsible for oversight of all detentions operations within MoI facilities from the time of an individual's initial capture to his or her eventual transfer to a MoJ facility.
- ***Establish a central monitoring body within the MoI*** to work closely with the MoJ to ensure the proper tracking of detainees and implementation of international human rights standards.

- *Upgrade prison and detention facilities (including those for children)* to ensure that conditions are improved in line with international standards.

-----2.10 COMMERCIAL AND PROPERTY LAW REFORM

OVERVIEW

With improvements in the security situation, the number of businesses and the pace of investment are likely to increase to support Iraq's reconstruction and development programmes. The implementation of laws to govern these enterprises and their labour practices will be important for the country's development and prosperity, and for the promotion of equitable employment practices. Laws in all areas of the economy, from commercial law, to tax law, to laws governing foreign investment, are in need of review and revision to bring them up to date with the country's needs and international standards.

KEY ISSUES

Underdeveloped commercial law impedes economic development: Modernization of the commercial law would improve the business climate, which in turn would promote trade and investment, both domestic and foreign. Inconsistent enforcement of border and customs legislation and unresolved civil legal issues hinder Iraq's economic progress. Large-scale investment would accompany oil-field development, but the government must be prepared to handle an influx of issues such as international arbitration, intellectual property, fair competition and consumer protection.

Property law problems: In addition to commercial interests, tens of thousands of squatters illegally occupy government and private property, and millions of Iraqis remain displaced internally or exist as refugees outside Iraq's borders. Lack of capacity in the land-title registry system invites corruption and stymies efforts to return Iraqi citizens to their homes. Moreover, transitional mechanisms in place to deal with the resolution of real property disputes are ill equipped and inadequate to handle continuing needs.

RECOMMENDATIONS

Coordinate customs and border enforcement. The development and promotion of harmonized and simplified customs procedures will facilitate trade, as per the World Customs Organization and the World Trade Organization (WTO). Integration of the government's Border Enforcement and Port of Entry Directorates, together with consolidation of authorities to a single ministry, will dramatically assist uniformity of policy and application of relevant laws at ports of entry to ensure Iraq's border enforcement and economic growth.

Ensure resolution of commercial disputes: Improved capacity within the judiciary will enable the efficient litigation of civil and commercial law cases. The government should prepare and train the judiciary and other key actors to efficiently manage commercial dispute resolution in order to enforce commercial law principles.

Advance property registry and dispute resolution: Improved operability of the Real Estate Registry offices, and steps to increase the number of property claims addressed, will advance property registry and dispute resolution.

Modernize Iraqi commercial law: Consider adopting the “New York Convention” on international arbitration¹¹ (i.e., adopting its draft intellectual property law and prioritizing completing fair competition and consumer protection laws), which would bolster Iraq's efforts to accede to the WTO.

¹¹ The Convention on the Recognition and Enforcement of Foreign Arbitral Awards, adopted in New York on 10 June 1958 (see <http://newyorkconvention.org/>).

CHAPTER 3 ANTI-CORRUPTION

OVERVIEW

Iraq has an unprecedented opportunity to turn the tide on corruption by reinvigorating national trust and the social compact with citizens, and by addressing a complex set of issues that would include strengthening government institutions, erecting visible barriers to nepotism, exposing corrupt acts, adopting freedom of information, tightening procurement laws, and enforcing conflict of interest rules. Iraq's leaders have acknowledged the causes, impact and action needed to fight corruption, and there is now a momentum for such change.

Progress has been made on developing the institutional framework for the anti-corruption agenda. The government ratified the UN Convention against Corruption (UNCAC) in 2008, and Iraq is a member of Middle East and North Africa Financial Action Task Force (MENA-FATF). To develop UNCAC mandates further, the CoM approved a five year (2010-2014) multi-faceted anti-corruption strategy in January 2010. In addition, the KRG began implementing a long-term anti-corruption strategy in July 2009.

Since 2003, the government has supported the capacity development of the lead enforcement agency on corruption, namely, the Commission of Integrity (COI), and it has also established a coordinating body within the Joint Anti-Corruption Council and has become a candidate member of the Extractive Industries Transparency Initiative (EITI). In this context, the government has expanded public disclosure of oil production and revenues. Legislative oversight has advanced, and the Council of Representatives and governorate integrity committees are holding public reviews of executive authority in respective capitals. An integrity committee has been established in the Kurdistan Regional Parliament.

KEY ISSUES

Since 2007, significant gains in security have been made: The dismissal of up to 63,000 corrupt police, the appointment of a new Commissioner of Integrity, progress on political reconciliation, anti-bribery and anti-forgery campaigns, and improvements in budget management and transparency have all further strengthened Iraq's anti-corruption capability. Still, corruption remains a major drain on investment, growth, and job creation, which build long-term stability.

As the front-line authorities perform relatively new anti-corruption functions, the COI, Inspectors General and BSA, the MoI, the Central Criminal Court, the CoR and governorate councils will need sustained and broad support from the government to expand skills and protect their authority.

The recently developed National Anti-Corruption Strategy produced by Iraqi authorities and civil society is an excellent framework for action: While it contains over 200 action items, it does not yet specify priority actions and is not fully owned across ministries, regions and governorates. Those deficits run the risk of diluting its impact while thwarting uniform and speedy enforcement. Early attention is needed in areas of prevention, accountability and enforcement. Gaining buy-in and ownership by political parties, religious and traditional leaders, members of parliament, decision makers in the private and public sectors is equally needed.

Access to information on government activities needs to be expanded and guaranteed: Government procurement is a major area of risk for corruption and mismanagement, and especially with expected large capital investments in oil and other infrastructure. While the government has made progress in tackling low-level corruption, enforcement of grand corruption is lagging which has begun to erode faith in governance.

RECOMMENDATIONS

Short-term actions:

Strengthen anti-corruption agencies. Real leadership ability for any agency comes from staffing authority and budgets, and to this end, integrity agencies in Iraq are still facing deficits. In late 2009, personnel deficits at the MOI had been addressed in all but the Inspector's office, which was 63 per cent staffed. Similar problems exist at other Inspector General (IG) offices. In addition, the following actions need attention:

- Confirm the COI Commissioner and IGs through the CoR, as stipulated by law.
- Pass legislation to comply with Article 52 of UNCAC, which requires identification of beneficial owners in order to prevent and detect transfers of the proceeds of crime.
- Activate and improve the capacity of the Money Laundering Reporting Office (MLRO) in the Central Bank of Iraq (CBI).
- Expedite gazetting of the repeal of Article 136b of the criminal procedure code (MOJ).
- Revoke the regulations (2007) that prevent the COI from initiating cases, in addition to requirements for ministerial approval for administrative sanctions for corrupt acts that do not rise to the level of crimes.
- Develop new conflict-of-interest rules for integrity officials, with resignations mandated for any who run for office.
- Consider filling future vacancies among IG ranks by lottery from oversight institutions (for example, the best BSA staff) to ensure appointments are not politicized. Apply the same rules for the CBI and the MLRO.
- Pass bills for the BSA, IGs, COI and anti-corruption laws which have been pending since 2008.
- Engage a political and society-wide dialogue platform on transparency, accountability and integrity with a focus on oil revenue management, public wealth appropriation and public services delivery.

Improve accountability. Actions for consideration include:

- Annual and timely submission of fiscal accounts to the BSA and the CoR.
- Public debate, amendment, and passage of the COI's Freedom of Information Act; and passage of the journalist protection law.

- Regulate disclosure of income and ensure submission to COI, including capacity building on use of these disclosures.
- Establish a website to publish all laws in Arabic and Kurdish. Draft laws and regulations should be subject to public review for a defined period prior to being published.
- Develop capacity of newly elected members of Parliament and provincial councils on integrity, accountability and oversight, especially in key sectors such as oil and gas, public finance, public expenditure controls, corruption, and law enforcement.

Develop effective deterrents to high-level corruption. This includes prison sentences that befit the scope of the crime and denial of the proceeds of crime to corrupt actors:

- Iraq needs sustained assistance to develop an anti-money laundering regime, to identify, trace, freeze, forfeit and return lost assets, and to promote legal cooperation with neighbouring countries initially, as an immediate step, and beyond. Steps to combat money laundering would include the passage of a appropriate anti-money laundering legislation, strong capacity building support to the MLRO, establishment of a Financial Intelligence Unit in the CBI with strong leadership and independence. In line with Article 52 of UNCAC, determine a list of public officials to be monitored (i.e., conflict of interests), create banking regulatory and supervision frameworks and related full-fledged enforcement capacity.
- The government may request that MENA-FATF conduct an initial technical and financial assessment as soon as 2011 (to include the KRG). Improved coordination with legal and law enforcement officials in countries that have received stolen assets or Iraqi fugitives is also suggested.

Ensure that privatization and decentralization promote anti-corruption agendas. The CoM has not yet issued implementing regulations for laws passed in 2010 to devolve power and transfer revenue to the governorates. In consultation with the CoR, these regulations should be drafted to include anti-corruption safeguards. Leaders should consider integrity challenges if the transfers precede the establishment of personnel systems to ensure merit performance in managing greater provincial powers. In addition, personnel systems should be standardized between Baghdad and Erbil to allow continuity and transfers of personnel benefits between national, regional, and provincial governments. Audits of the previous privatization process should be instituted and corrective steps undertaken to safeguard against corrupt practices.

Implement international obligations. The government might prioritize actions required by UNCAC, and look for complementarity with other international commitments/organizations as well as national anti-corruption laws with extraterritorial dimension, such as the U.S. Foreign Corrupt Practices Act or the UK Bribery Act (2010). In addition, the government could maintain the momentum on public financial management (PFM) reform (discussed in Chapter 2, Section 2.3), and improve oil sector accounting, expenditure, technical and policy auditing as well as oil fiscal revenue in governorates.

Contain political influence. To weaken quasi-monopoly control by parties of government personnel systems, the government might enforce personnel system rules, and a new civil service law, with capacity development for human resources and enforcement personnel. Financing of political parties should be regulated and declared. Government officials should consider, in addition to financial disclosures, declaration of interests from officials which can be an important component of a framework for tackling conflicts of interest. In addition, promoting an

independent civil society will contribute towards an increase in the balance of power of political elites.

Medium- to long-term issues:

Improve accountability. The MoJ should publish all legal decisions upon their issuance, while also developing federal sentencing guidelines using uniformity to moderate the apparent discretion that shapes corruption sentences. It is suggested that the government publish criminal and civil court verdicts in a timely fashion. The CoR needs substantial assistance to improve control and oversight roles; this could include better coordination with BSA and other oversight and integrity entities.

Tackle ‘grand corruption’. The government needs a long-term approach to combat money laundering. This approach should include the MoI, CBI, COI, stock exchange, CoRs, financial institutions, and civil society. It is suggested that countries be identified for priority attention as a means to conclude the Mutual Legal Assistance Treaty to facilitate extradition and repatriation of assets. The government might want to implement the “40+9” recommendations of the FATF¹², including the establishment of an independent body for supervision, investigation, and enforcement of financial and non-financial agents. Iraq should also implement IFF (illegal funds flows) controls (requiring reporting of suspicious transactions and declarations of financial instruments by money bureaux, travellers, and certain categories of professions in Iraq). The CBI might establish and disseminate a list of politically exposed persons to deter offshore banking of corrupt proceeds.

Provide incentives and political dialogue between holders of economic power and political power. The government needs to address both formally and informally, the need for increased transparency, enforcement, security of fiduciary or property rights and communication that builds on common interests and precludes an “investment boost” in the short to medium term. This should address the need to create a strong business culture and private sector-led growth based on integrity and accountability, in a post-centrally planned economy.

Establish and implement long-term capacity development programmes. Anti-corruption training and awareness programmes for government employees across all levels of the civil service are highly recommended. Through promotion of a professional civil service with transparent human resource management policies, including merit-based systems and a clear code of conduct, the government’s capacity to resist corruption and nepotism will be enhanced.

Provide a framework and country-owned monitoring and evaluation tools regarding transparency, accountability and integrity. Concerted efforts and planning activities could lead to further enhancing the ownership of monitoring and evaluation efforts which are to date not country-owned or not even fully agreed upon. Mutual initiatives and dialogue with transparency and integrity advocacy groups would be a step in the right direction. Development of a strong ownership for both the public sector and civil society will assist in building strong *de facto* integrity indicators that will assist informing the National Development Strategy and all strategic plans.

¹² In response to mounting concern over money laundering and in recognition of the threat posed to the financial system and to financial institutions, the FATF earlier developed international standards (FATF 40 Recommendations) for countries to adopt to effectively combat money laundering. After the events of September 11, 2001, FATF adopted 9 Special Recommendations on Terrorist Financing. (Source: U.S. Treasury Department website: <http://www.treas.gov/offices/international-affairs/standards/code09.shtml>.)

Build new societal pacts. In order to have strong societal pacts rebuilt, a dialogue (ideally at local and centralized levels that might lead to a National Conference or/and a Truth and Reconciliation Commission) needs to be enabled, ideally to develop new frameworks for inclusion and representation. These systems can be developed around the main axis of public social service delivery (education, health, water and sanitation, security and justice), on which there is already a large consensus among both users and providers.

CHAPTER 4

PRIVATE SECTOR-LED ECONOMIC GROWTH

- Specific to private sector-led job creation and poverty reduction are improvements to the investment climate, improved competitiveness and productivity (notably for small and medium-sized firms), and better access to finance. Since 2005, private sector investment in Iraq has averaged between 3 per cent and 4 per cent of GDP per year, which was too low to generate a significant increase in economic activity and employment. Iraq attracts only 1.2 per cent of all investment in the region and most of this is through real estate.
- The oil sector accounts for around 65 per cent of GDP yet employs just 1 per cent of the workforce. The majority of jobs are in the public sector which faces significant excess employment challenges – new jobs will need to be created by the private sector to reduce unemployment significantly. The development of micro, small and medium-sized enterprises can play an important role in increasing economic activity, employment, and resilience of the economy. There is a clear need to reduce informality and address a range of employment and workforce development issues.
- Enhancing private sector development requires movement towards a rules-based system of government, strengthened legal and court systems, rules-based regulatory and governance institutions, reform of state-owned enterprises, better access to finance and skills, and a range of reforms in specific sectors such as agriculture, water resource management, energy, telecommunications and transport.

----- 4.1 INVESTMENT CLIMATE REFORM

OVERVIEW

There is clear scope to improve Iraq’s investment climate, as measured by the “Ease of Doing Business in Iraq” survey. The survey provides a rank against the time and cost it takes to perform core business activities such as starting a business, hiring workers and paying taxes. Iraq ranks 153rd out of 183 countries (2010). In some areas Iraq performs relatively well, such as registering property where Iraq is 53rd out of 183. In other areas, Iraq underperforms, such as starting a business (175th), protecting investors (119th), trading across borders (180th) and enforcing contracts (139th).

Successful investment climate reform will result in a diverse, resilient and growing private sector able to generate growth in employment, rising productivity and additional tax revenues, while freeing up budget funds to invest further in human and physical capital. A relatively stable macroeconomic environment has already allowed greater focus on strengthening private sector development.

KEY ISSUES

There are numerous barriers to increasing investment in Iraq’s private sector: Broad obstacles to success include ongoing political and security challenges, and institutional and regulatory

governance, both at national and sub-national levels. Specific barriers to investment include: (i) unclear requirements for registering and closing businesses; (ii) difficulty in acquiring office, land and sites; (iii) investment licence requirements which automatically nationalize the project and associated assets at the expiry of the investment licence; (iv) insufficient electric power supply; (v) limited communications infrastructure; (vi) lack of systems for resolution of commercial disputes; and (vii) limited access to finance. Additional issues hindering the overall investment climate include a non-competitive business environment that lacks transparent and clear legal frameworks for rules-based market competition.

The current regulatory system is too weak to curb the development and operation of public and private sector monopolies: Nor can existing regulations effectively regulate the misuse of market power and abuse of consumers by natural monopolies. There is also limited access to finance to underpin business development and growth, the continued presence of the state in the economy and lack of capacity and support for small and medium enterprise (SME) development.

RECOMMENDATIONS

A wide range of legal, institutional and regulatory reforms are suggested as a means to transform Iraq into a modern and resilient market-based economy, including:

Formulate and adopt policies and legislation that promotes rules-based market competition. Enhance business confidence as a means to attract greater foreign and domestic investment to help rebuild the economy and society – this would include encouragement of expatriates to return with their skills and capital. This can be achieved through the promotion of rules-based market competition and through the curbing of public or private sector monopolies (and effective regulation of natural monopolies), so that no businesses are able to exercise market power to the detriment of other sectors of the economy and consumers. Healthy competition provides the most effective incentive for business to be productive, innovative, customer-oriented and internationally competitive.

Improve access to finance. Lack of access to finance for private sector development and infrastructure is in part caused by Iraq's insecurity, weakness in coherent policy adoption and comprehensive infrastructure planning, weak financial sector intermediation capacities, and poor regulatory system. However, there is considerable scope to move on a broad front to strengthen Iraq's attractiveness as an investment destination, while at the same time introducing targeted measures to increase investment in selected areas and key infrastructure. Specific recommendations include:

- Establishing a micro and SME finance apex facility.
- Accelerating implementation of the ongoing banking sector restructuring action plan.
- Strengthening banking supervision and the regulatory capacity of the CBI.
- Establishing an appropriate policy and regulatory framework to promote SME and microfinance institutions.
- Promoting effective non-banking financial institutions and markets (including leasing stock exchange, insurance etc).

Reorient the role of the state in the economy. The role that the state plays in the economy should be reoriented and developed towards a modern, diverse, resilient and productive market-based

economy. In addition, the state should continue to provide essential economic and social services in collaboration and partnership with the private sector. Specific recommendations include:

- Accelerating reform of SOEs.
- Strengthening the legal and policy framework for public-private partnerships (PPPs).
- Strengthening pro-competitive regulations and regulatory institutions to provide minimum effective and transparent regulation.

Build capacity for SME development. The competitiveness of Iraqi SMEs can be strengthened through grant matching schemes for improving productivity, import substitution, export promotion, improving access to finance, and addressing regulatory and institutional constraints.

Improve private sector development institutional arrangements: It is recommended to formally employ an independent economic advisor to the Government based on similar models used in other countries in transition, so that the formulation of policies for private sector development is based on economic forecasts and decision agendas address economic reform needs in an evidence-based manner. It is further recommended to establish a unit at a central agency or ministerial level to coordinate policy development and support implementation of PPPs.

----- 4.2 STATE-OWNED ENTERPRISE REFORM

OVERVIEW

The Iraqi SOE sector is a major impediment to economic growth and improved productivity. Comprising around 180 entities, the SOE sector is a legacy of centrally planned policies and is a significant drain on the budget – in amounts exceeding 3 trillion Iraqi dinars (equal to 3 per cent to 5 per cent of the total budget). SOEs generate costs that are met from the national budget through salary payments for excess workers, all of which are classified as public employees. In addition, subsidies for SOEs that are not commercially viable or have been permanently damaged by conflict and mismanagement, and which cannot operate effectively, generate a further drain on the budget.

KEY ISSUES

- Lack of a national economic policy that promotes healthy competition, corporate competitiveness and growth.
- Limited participation by the private sector to the country's economic output.
- General inefficiency and lack of competitiveness of the economy.
- Lack of an enabling climate for new and existing private businesses (SMEs, joint ventures, public-private partnerships, etc.).
- Inefficient allocation of physical and human resources and sub-optimal use of assets.

RECOMMENDATIONS

The SOE Working Group under the Task Force for Economic Reform has prepared a road map and action plan to reform high priority SOEs. Key reform areas include commercialization,

structural reform and corporatization, public-private partnerships and sector-specific reforms. Implementation of the aforementioned will require approval by the CoM.

In the short term, reforming SOEs could involve corporatization through the following steps:

- Convert state companies into corporations with share capital held by the government as specified in commercial law.
- Establish a commercial board of directors in SOEs, as well as related institutional governance and reporting reforms, to manage enterprises.
- Reform laws that consider SOEs governmental, rather than corporate, entities. This requires compliance with governmental procurement practices, relationships with suppliers, and budgeting.

The medium-term framework for SOE reform is structured around the following priorities:

- Develop an SOE policy, setting out strategic directions and priorities.
- Continue efforts to convert SOEs into joint-stock corporate entities. This includes establishment of independent governing boards and financial accounts for SOEs, implementation of OECD best practices for the governance of SOEs, and clarification of the legal status of SOEs as corporate entities.
- Make preparatory moves towards establishing a state-assets holding company. This will require high-level political commitment. In addition, draft laws/statutes as applicable to governance, reporting, company structure, transfer of line ministry-held assets, recruitment and capacity building.
- Develop a regulatory and legal framework for all businesses, including SOEs, which includes business regulations, investment, PPPs and competition policy.
- Select management staff on the basis of experience and record of success in managing commercial businesses.
- Expand social mitigation/protection/insurance programmes, implement training and support programmes for the unemployed, and restructure or liquidate identified firms.
- Raise public awareness and provide information about the rationale and benefits of SOE reform.

----- 4.3 PUBLIC PRIVATE PARTNERSHIPS

OVERVIEW

Given the current level of demand for investment in infrastructure against a backdrop of low levels of capital accumulated prior to 2003 and damages endured during the sanctions, war, and post-conflict period, there is much potential in Iraq for public-private partnerships (PPPs). Pressure to demonstrate progress in the provision of services, infrastructure and in job creation has steadily increased as Iraq's security environment has improved since mid 2008. Well-structured PPPs offer the potential to inject a large amount of private capital and expertise to expand and/or improve services to the public at a time when the government is facing tight fiscal and other capacity constraints. PPPs can also introduce new skills and know-how to help reform inefficient state provision of goods and services. The government recently decided to devolve

responsibility for PPPs to each ministry, and many PPPs are currently under active consideration. Some support is being provided by the National Investment Commission.

KEY ISSUES

In spite of their great potential, PPP operations face significant challenges and risks.

Very limited government experience of PPPs: These are complex transactions, and the government will have to develop its capacity to design, package, manage and monitor deals. Commercial bank lending is heavily skewed towards government securities and very few banks offer loans with more than one-year maturity. Work is needed to develop a project pipeline, and to create a better framework for PPPs, including legislation and regulations, principles, processes and model documents for designing, contracting and managing PPPs.

Need to manage public and stakeholder expectations: This is important before, during and after implementation of a PPP. The timescale involved in packaging a deal can be up to 18-24 months and the costs of preparing a PPP projects (hiring of technical, legal and financial advisors) may easily exceed \$2-4 million. In the absence of strong support towards PPPs, there are a range of significant risks, including failure, which will deter other investors. Budget risks are potentially important if PPPs generate significant (and possibly unforeseen) fiscal costs in the medium and long run. There is also a risk associated with the selection of partners if they are unable to deliver. Finally, it is important to ensure that the right form and type of PPP is used.

Need for a phased, pragmatic approach: The government may consider implementing a few simple pilot transactions to successfully demonstrate a PPP approach in Iraq. One or two simple transactions in a sector attractive to investors might enable the process to develop quickly, and thus lead to more complex transactions. The lessons from these PPPs should be documented and circulated to all GoI ministries. By contrast, starting with a large number of complex and unattractive transactions can slow and even derail the PPP processes, leading to lengthy delays in the achievement of PPP objectives. By adopting international and regional good practices, the government will send a signal to the market that PPPs in Iraq can be a success.

RECOMMENDATIONS

The capacity of relevant authorities in Iraq should be strengthened to manage PPP transactions. This could include clarifying the role of the National Investment Commission or a central part of government to provide oversight and support for PPPs across government, while also strengthening the ability of line ministries in all aspects of managing PPP transactions. Based on the experiences of other comparable countries priority actions could include:

- Develop a broad policy framework for PPPs.
- Establish legislation to provide a strong legal basis and certainty including additional sector-specific legislation where required.
- Strengthen functions, independence and credibility of the legal system, including dispute resolution and contract enforcement.
- Strengthen public-private dialogue to improve transparency and provide institutions and forums for the exchange of views and information between the government and the private sector.

- Improve coordination within the government and nominate a body such as the MoF or PMAB with a clear mandate and oversight to guide the use of PPPs across government, including support to ministries implementing PPPs.
- Provide clear guidelines regarding the use of PPPs, including the role of each part of the government, guidance manuals and reference materials, sector-specific guidance and investment plans where required.
- Prepare a comprehensive investment plan for each sector that takes complementarities between private and government investment into consideration.

----- 4.4 MICRO, SMALL AND MEDIUM-SIZED ENTERPRISE DEVELOPMENT

OVERVIEW

Developing micro, small and medium-sized enterprises (MSMEs) will be particularly crucial in Iraq, given that the main industrial activity is likely to gravitate around petro and petro-chemical industries which do not generate much employment. Given that large numbers of young people are entering into the labour force and that Iraq is unlikely to be competitive in many other non-oil production processes, it is vital that the MSME sector be developed to produce non-tradable goods and services in support of the economy.

The total number of MSMEs in Iraq is unknown, in part because almost all of them operate in the informal economy (and most are not registered as businesses). Some estimates suggest that there are around 1 million informal businesses in Iraq, most of which employ only a handful of people. It is also estimated that MSMEs operating in Iraq contribute almost two thirds of private sector employment.

In spite of the turmoil that conflict and economic dislocation have brought, the MSME sector has demonstrated an ability to thrive, perhaps helping to revive what was once seen as the flagship national economy in the region. These enterprises provide a strong basis for the expansion and diversification of the Iraqi economy.

KEY ISSUES

There are still a great number of impediments to the creation of a robust, healthy and growing MSME sector: The most critical among them are:

- Policy, legal, and administrative environments at both national and sub-national levels that restrict the establishment and growth of MSMEs.
- Limited access to financial services, including credit, insurance, leasing, trade finance and payment services.
- Lack of suitable and affordable business premises for technology-focused and investment-led enterprise activities.
- Limited access to business know-how and market information, and underdeveloped non-financial business support services, with an almost exclusive dependency on family and social connections for solutions to business development challenges.
- Ongoing market distortions through non-transparent state involvement in managing enterprises and a still uncertain (although improving) investment climate.

- Shortages of skilled labour.

Other obstacles for the development of MSMEs include: weaknesses within governance structures, a lack of awareness of the role played by MSMEs in economic development, and poor coordination of governmental efforts to promote enterprise development. Government support to MSMEs is not very inclusive and non-governmental (private and civic) providers of financial and non-financial services are rarely considered as partners or consulted. In addition, informality is a dominant feature of the MSME sector in Iraq, with severe implications for both public finance and efforts at coordinating and promoting the private sector's contribution to the regeneration of the national economy.

RECOMMENDATIONS

Design and implement a broad and well-coordinated MSME strategy. This would include the active involvement of the public, private and civic sectors that: (i) acknowledges the importance of the MSME sector in promoting socioeconomic development in Iraq and the added value of adopting international and regional best practices; and (ii) targets the formalization or regulation of the MSME sector in Iraq, revitalizes and diversifies the Iraqi economy, strengthens the competitiveness of Iraqi enterprises, and promotes inclusive growth, employment creation and poverty alleviation. It is important that a ministry, such as the Ministry of Industry and Minerals (MoIM), Ministry of Planning (MoP) or other central area of the government be given a clear role and responsibility for leading and coordinating such reforms.

Revise legal, policy and institutional frameworks. According to international and regional experience, the most productive public policy approach to fostering the creation and rapid growth of innovative MSMEs should include:

- Policies and an institutional framework that contribute towards a business environment that is conducive to entrepreneurship, while also facilitating entry, growth, transfer of ownership and smooth closure of enterprise.
- SME assistance and development programmes which are clear in terms of their rationale, objectives and beneficiaries, and are designed to provide support to MSMEs without unduly distorting market structures or creating barriers to competition. These programmes should help improve business skills and access to timely advice and information, while also facilitating links to other MSMEs and large firms to encourage the emergence and development of innovative clusters and supply chains.
- Programmes that increase MSME capacities through access to non-financial support services (including business incubation and workspace facilities), and open up access to public procurement, while also facilitating PPPs within the MSME sector. Special attention should be paid to easing access to banking and non-banking financial services. It is important that financial sector regulations (banking, insurance, leasing) recognize MSME constraints and that appropriate legal and regulatory instruments are introduced.
- Policies and an institutional framework that provide MSMEs with: (i) favourable conditions to establish and join membership organizations; (ii) political and social dialogue between the public and private sectors; (iii) the involvement of employers' organizations to promote information exchange; (iv) utilization of best practice and modern technology; and (v) sustainable socioeconomic development policies.
- Policies that contribute to the mobilization of human resources that promote entrepreneurship among the wider population, including vulnerable groups.

-----4.5 EMPLOYMENT AND LABOUR POLICIES

OVERVIEW

With its very high rates of unemployment and high levels of under-employment, the development of a flexible and better regulated labour market is of vital importance to Iraq. A range of policies can underpin the development of labour markets that provide rapid growth in employment, real wages and the skills needed for businesses to grow and become more productive.

KEY ISSUES

Labour policies should provide a basis for a competitive, transparent and growing labour market that provides opportunities for employment and skills development: This includes providing appropriate and fair protection for workers, and flexibility for employers to hire and fire employees. It also includes the provision of labour market training programmes both in the workplace and in educational institutions to provide a pipeline of skilled and trained workers able to undertake complex and higher value activities required as a platform to develop a modern, flexible and diverse economy.

Experience in many developing countries, including in the region, suggests that in a post-conflict environment, local labour (and materials) can be used to help build the required infrastructure: Employment-intensive and labour-based technologies can represent a useful development strategy in a post-crisis environment, compared to reliance on expensive equipment and foreign labour. This labour-intensive approach also results in greater local employment through the building and then maintenance of infrastructure, and includes skills development.

Employment-intensive investment can start a process of self-sustaining development, distribution and reinvestment of wealth in its broadest sense: Labour-based, value-added programmes can generate additional business start-ups, technical innovation, labour rights and standards, loan repayments, higher school attendance, and increased tax receipts.

RECOMMENDATIONS

The basic principles of policy implementation stress an enabling and regulatory role for government at the national, regional and local levels, along with private initiative and implementation. The following activities are recommended for priority action:

- *Help develop better managerial skills* by encouraging managers to improve their professional skills and establish minimum eligibility skills for promotion. Encourage businesses to provide training opportunities for managers (and other employees).
- *Ensure that labour-based programmes (where possible) incorporate training programmes* for small and medium contractors in managing labour-based businesses so that they can tender for newly available markets and execute the works profitably, satisfactorily and within the law.
- *Encourage programme managers to assist communities, rural and urban, to organize* and participate in “community contracts” with a range of development partners as a means to initiate, seek funding for, plan, build and maintain much-needed infrastructure while providing goods and/or services.

- *Acknowledge that, in the context of privately executed labour-based programmes, the guarantee of decent working conditions on labour-based sites is an important condition of employment.*
- *Support small contractors' tendering for public contracts* through simplifying contractual procedures (and tender documents).
- *Apply employment and labour policies broadly*, assist in the reform and restructuring of SOEs, and promote reforms that support MSMEs.

----- 4.6 FINANCIAL AND BANKING SECTOR RESTRUCTURING

OVERVIEW

The Iraqi financial sector is dominated by a banking system which accounts for more than 90 per cent of financial assets. As of June 2008, the banking system comprised 29 banks, two of which were state-owned commercial banks, 23 were private banks, and four were small state-owned specialized banks. Non-bank financial markets are underdeveloped. Besides government debt instruments, capital markets are practically nonexistent. Iraq had a nascent stock exchange that recently resumed operations, but trading remains thin. State-owned insurance companies, largely inactive during the previous regime, are small compared to the size of the economy.

State-owned banks dominate the banking system with around 90 per cent of the banking system's total assets amounting to about \$26 billion. The banking system has a network of 550 branches of which 450 are state-owned banks. The Rafidain and Rasheed banks are the largest state-owned banks in Iraq (accounting for 70 per cent of the system's assets), and they have a national network of branches (147 and 142 branches respectively). That said, these banks also hold significant debt, much of which was acquired before 2003. The four small state-owned specialized banks – namely Agriculture Co-operative Bank, Industrial Bank of Iraq, Real Estate Bank of Iraq, and the Ishtiraki Bank (recently renamed Iraq Bank and which will soon be folded into Rafidain Bank) – have 69 branches in total, and employ approximately 2,000 employees.

KEY ISSUES

Financial intermediation is weak in Iraq and access to finance is limited: Although the banking sector is the main component of the financial system, it offers few credit services while the deposit base and loan portfolio is small relative to GDP. The credit culture is poor, with little extension of credit to the private sector. Total bank lending to the private sector was equivalent to 3.6 per cent of GDP in 2008. Few banks offer loans with more than one year of maturity, and many lack the expertise to offer appropriate credit facilities or assess risks. As a consequence, the asset base of state-owned commercial banks is heavily skewed toward government securities and involves little credit to the corporate sector, be it public or private.

Despite years of conflict, state-owned commercial banks continue to be trusted by the public as evidenced by the increase in deposits in terms of volume and the number of depositors: The backbone of the payments system is depositors, with deposits being one of the instruments the government uses to make social security and other nationwide payments. While state-owned banks have wide name recognition and command a reasonable level of public trust (and they are fairly liquid) a clear reform strategy would make a significant contribution towards their development. Prior to reforms, the financial sector in Iraq faced various challenges due to the low

levels of competition, relatively high intermediation costs, limited innovation, and dominance of state ownership. The banking system was burdened by high levels of non-performing loans while the non-bank segment – such as leasing, stock markets and insurance – remains characterized by underdeveloped markets, thin trading in equities, poor corporate governance, and weak infrastructure for effective payment systems.

The financial system in Iraq is characterized by a weak supervisory and regulatory framework, as well as poor institutional infrastructure: The structure and efficiency of any financial system is greatly shaped by the nature of its institutional infrastructure which includes information exchange, the payments system, financial reporting and accounting standards. In Iraq however, the institutional infrastructure (and associated characteristics listed above) is inadequate. Although the authorities are making efforts to improve the institutional framework, there still remain large gaps. To address these, a comprehensive reform strategy is required for the banking sector.

A number of financial sector weaknesses are being addressed as part of the Banking Sector Reform Programme (2008-2012): This reform programme was endorsed by the government in February 2009 with the overarching objective to strengthen the performance of the banking system. A key tenet of the agenda is to improve capacity in the provision of quality financial services. This programme has the potential to make a critical contribution to Iraq's economic growth, prosperity, and macroeconomic stability. Successful implementation of the reform programme will ensure that the overall financial system (and the banking system in particular) will better contribute towards economic development and growth.

In terms of institutional and operational restructuring of state-owned commercial banks, the reform programme seeks to develop an overall organizational structure: This will include business units and improved human resources processes such as a personnel strategy, clear rules and regulations for employees, skills assessments, job descriptions, career paths, rewards management and performance evaluation. Institutional restructuring also involves developing the infrastructure for information technology, including a platform to cover all operational aspects such as marketing and sales tools, credit tools, risk-management tools, information technology related consumer products, the connectivity of branches and supervision authority, the flow of information and an information security system.

On financial restructuring of state-owned commercial banks, the government is committed to reforming a large portion of existing non-performing loans: Settlements should also be reached on bad debts and towards the selling of assets. An in-depth programme of improvement in information technology, procedures, risk management, governance, and staff capacity would facilitate viable commercial operations in an increasingly open and competitive market without running the risk of incurring new non-performing loans. This would entail: (i) restructuring of the balance sheets (including inherited debts and losses); (ii) capital adequacy (classification of assets and provision policy, capital base); (iii) budgeting, planning and performance management; (iv) an accounting system that complies with national standards and international good practice; (v) comprehensive reporting of financial results; and (vi) cost recovery and repricing of financial products. Positive results have been achieved with regard to raising minimum capital requirements. The settlement process for outstanding private claims as per liquidation of the Rafidain Bank's London branch is well under way, and the process of liquidating fixed assets has begun.

Underpinning the whole programme is a major effort aimed at strengthening regulatory and supervisory authorities: The CBI embarked on a comprehensive programme of capacity building covering extended areas of regulatory and supervisory functions, where the objective was to

move from compliance to risk-based supervision. A thorough review of banking supervision processes was undertaken, while regulations were updated and enforced in line with international standards. New staffs were also recruited and training courses developed accordingly.

Strengthening of the financial sector's institutional infrastructure: This includes making improvements to internal auditing and compliance systems within the banking system through further development of the internal audit process (including the audit framework and methodology), compliance with laws, regulations and instructions. Another key element is the development of an effective and accessible payments, clearance and settlement system through installation of the Real Time Gross Settlement System and related reforms such as a credit bureau. This will reduce the total processing time of cheques and transactions. Other efforts include improvement and strengthening of the information infrastructure, as well as the credit registration system.

RECOMMENDATIONS

Proceed with the timely implementation of the Banking Sector Reform Programme (2008-2012). This should be done with a specific focus on: (i) financial, institutional and operational restructuring of the Rasheed and Rafidain banks; (ii) strengthening of the supervisory and regulatory authority of the CBI to ensure full adherence to the Basel Core Principles, while MENA-FATF (OECD) standards should be applied and addressed in a systematic fashion.; and (iii) operationalization of the Real Time Gross Settlement System (payments system) in compliance with international standards.

Encourage banks to organize and reconcile asset and liability accounts. This should be achieved before any new capital is received. The government is well aware of the need to balance compliance objectives with regulations and the inherent risk associated with the recapitalization of banks where operational and risk management processes are still under improvement.

Continue capacity building. This applies specifically to the capacity of branch staff, to ensure that staff are able to manage basic deposit-taking transactions using computers. In addition, loan officers must develop the capacity to assess credit risks. The institutional infrastructure of the financial sector can be strengthened through further development of the internal audit unit (processes, framework and methodology), while guidance regarding compliance with laws, regulations and instructions also requires further improvement.

-- 4.7 MICROFINANCE AND FINANCE FOR SMALL AND MEDIUM-SIZED ENTERPRISE

OVERVIEW

Microfinance and SME finance can contribute to the government's objective to promote non-oil private sector growth and employment while simultaneously improving access to services. Access to finance can enable: (i) low-income households to access education and health services, manage risk, and generate income; and (ii) micro and small-sized enterprises to manage risk, take on new workers, introduce better technologies, and become more competitive. The economy is not yet able to provide enough work for 28 per cent of the labour force, while only 17 per cent of Iraqi women participate in the labour force. Without diversified private sector-led development, Iraq will continue to struggle to create jobs. Lack of formal job opportunities, unmet financial service needs, limited banking services, and an entrepreneurial culture creates an intense demand for

microfinance services. Women represent only a small proportion of microfinance clients in Iraq – currently 16 per cent. Given the high number of widows who are heads of households, microenterprises can be an important means of earn a living.

Microfinance has grown nationally but still only reaches a small proportion of “unbanked” people. There are a number of emerging approaches to microfinance in Iraq, ranging from direct subsidized lending by government ministries to more sustainable lending by specialized microfinance providers. Thirteen microcredit non-governmental organizations have a combined outstanding loan portfolio of almost \$80 million, with over 51,000 outstanding loans in 31 branches (in 18 provinces). Microfinance has achieved more rapid growth in outreach than has the banking sector, despite the security challenges, but it still only reaches a fraction of potential demand with nearly 7 million people living below the poverty line (\$2.20 per person per day).

SME financing is expanding, with six Iraqi banks initiating SME lending programmes, but is still very limited in scale. State banks have low capacity overall and are focused on savings and payment services, barely lending to the local private sector. Private banks have had very low levels of lending, with total bank lending to the private sector equivalent to only 3.6 per cent of GDP in 2008.

KEY ISSUES

Institutional microfinance capacity is weak: The microfinance sector is heavily reliant on only two or three providers. The Cooperative Housing Foundation (CHF), the largest international microcredit NGO, accounts for about half of the market. Iraqi microcredit NGOs (10 in number) account for 10 per cent of the total amount of loan funds disbursed to date, and 17 per cent of the total number of loans.

The banking sector is not yet active in MSE finance: The banking sector does not yet provide an alternative source of small and micro-scale finance in Iraq. The only alternative to formal sources of microfinance in Iraq are credit-only programmes run by NGOs or line ministries.

Microfinance institutions face legal and capacity constraints, related to their NGO form: This restricts them from offering financial services other than enterprise and consumption credit, for example housing loans, savings, or transfers. Four laws govern the legal and regulatory framework for microfinance in Iraq, namely: (i) the CBI Law of 2004, (ii) the Banking Law of 2004; (iii) CPA Order No. 45 on NGOs (the NGO Law); and (iv) Company Law No. 21 of 1997, as amended by CPA Order No. 64. New regulations were prepared in 2010 to underpin the operation of microfinance institutions (MFIs) but these have not yet been implemented. Challenges reported by MFIs include difficulties in registering with the NGO Assistance Office, difficulties in registering a for-profit MFI with the Ministry of Trade (MoT), reportedly cumbersome registration requirements under both the NGO and Company Laws and an unclear mandate in the CBI concerning MFI licensing or supervision.

Risk of directed or subsidised lending: Given the level of interest in microfinance as a public policy tool, some loans have been provided unsustainably, leading to a culture of non-repayment. This undermines development of the financial sector, which in turn is critical for economic recovery.

Deficient financial infrastructure constrains the growth of sustainable microfinance: The same holds true for poorly functioning credit bureaux. Poor financial infrastructure and a lack of information on potential borrowers serve to raise the cost and risk of providing loans.

RECOMMENDATIONS

Establish a micro and SME finance support facility. Autonomous wholesale-level mechanisms to provide loan funds and capacity-building support to new and existing microfinance institutions can be highly effective. A facility could strengthen microfinance providers and bank capacity (and systems) while increasing scale, and through introduction of transparent reporting and performance standards. Government lending programmes could be transferred to this apex and managed more sustainably for higher impact.

A micro and SME finance support facility could:

- Reinforce good practice standards for the sector, raise performance and ensure reporting on a more uniform basis.
- Support the development of new delivery mechanisms including branchless banking (mobile phone banking, ATMs, points of sale) and linkages between bank and financial institution (for example with Rafidain or Rasheed banks).
- Promote the introduction of new products that meet a wider range of needs including structured finance (for example factoring, supplier credit, warehouse receipts) and Islamic finance (to provide access for those that currently self-excluded for religious reasons).
- Strengthen the governance, institutional capacity and systems of MFIs.
- Enable the Iraqi microfinance sector to benefit from and adapt international microfinance models that provide microfinance on a large scale and at a low cost.
- Catalyze improvements in data availability (for example on the market, the financial needs of clients, and on impact) and monitor progress.

Build capacity. Regulators, officials and microfinance providers should manage risk, raise standards for performance and transparency, develop strong institutional capacity, and introduce financial products (for example insurance, agricultural finance, remittances, and savings) that meet the financial needs of low-income households and MSMEs in Iraq. Training and technical assistance could be provided at a number of levels, namely: (i) government officials in support of microfinance; (ii) the central bank in providing a prudent and enabling legal environment; and (iii) banks and microfinance institutions for managing risk, developing products, developing staff and strengthening systems capacity.

Provide an enabling legal framework and financial infrastructure. A more appropriate legal framework is needed for microfinance, with specialised regulatory and supervisory capacity to ensure that risks are well managed and that the microfinance sector develops sustainably and safely. A credit bureau that includes MSE borrowers would lower the costs and risk of client selection, and enable banks, MFIs and other lenders to significantly expand their outreach. Unified collateral registries and accessible court systems would provide a basis for more significant expansion of MSE finance in Iraq. SME corporate registration systems needs to be enhanced and made available to the banking sector and the law-enforcement sector alike.

Enable the growth of branchless banking. Branchless banking offers lower-cost provision of financial services, through ATMs, points of sale, and mobile phones. Branchless banking can enable access to be provided in areas with poorer security or lower population density. Given that the bank branch infrastructure is largely deficient, there is significant potential for mobile phone

banking as a means to provide low cost access. Innovation grants, or outreach-based performance subsidies, could also be provided to extend branchless banking mechanisms. Improvements in the legal framework for electronic transactions may be needed to provide a legal basis for branchless banking, alongside improvements to the payments infrastructure supported by private sector development and banking sector reform programmes.

Devise a financial inclusion strategy. The Ministry of Finance and Central Bank of Iraq can work with the financial sector to lead the above reform agenda and provide strategic direction in order to significantly improve access to finance.

CHAPTER 5

SOCIAL PROTECTION

- The GoI has been moving forward with a number of changes to the main social protection instruments. Rationalization of subsidies and a transition to a targeted cash-based social assistance system continues, but the programme is still based on categorical targeting. Subsidies for commodities have been reduced, particularly for petroleum products following the initial efforts begun in mid-2005. Eligibility for the PDS has been terminated for some of the wealthier individuals, and further rationalization is expected. The public pension system is undergoing reform and rationalization, but significant challenges remain in implementation of new laws. Regarding refugees and internally displaced persons (IDPs), while the government has taken important steps to improve conditions for returnees, this remains a significant challenge. The cash-based Social Safety Net (SSN) programme administered by the MoLSA is expanding to reach nearly one million families (based on categorical targeting). In addition to cash benefits, the SSN programme is responsible for providing other social benefits such as vocational training, career counselling, and support for income-generation projects.

-----5.1 PUBLIC DISTRIBUTION SYSTEM

OVERVIEW

The Public Distribution System (PDS) is by far the largest safety net in Iraq today and has a major poverty reduction impact. The PDS reaches the vast majority of poor Iraqis with a large transfer, providing over half the dietary energy consumed by Iraqi households. This ratio increases up to two thirds among poor households. At the national level, the market value of the PDS food items consumed constitutes 15 per cent of the value of household expenditures and only 2 per cent at actual paid prices.

PDS reform has enormous potential to contribute to reducing poverty in Iraq through two channels. First, PDS reform can allow the reallocation of budget resources toward other programmes that can have a larger poverty reduction impact through increasing the capacity of the poor to earn income through work. Secondly, by improving efficiency in management and targeting, PDS reform can be a more effective safety net.

KEY ISSUES

The success of the PDS comes at an extremely high price: The PDS is allocated 7 per cent of the national budget; this is more than health and nearly as much as education expenditures. The system is highly inefficient in several ways. First, the PDS is inefficient due to inadequate procurement, financial management and logistics procedures, which not only result in enormous waste but make the system vulnerable to theft and corruption. Secondly, as a safety net, the PDS is inefficient as it is provided to the entire population, whether people need it or not. Moreover, while safety nets are important poverty reduction programmes, a large proportion of PDS resources would likely have a greater poverty reduction impact if spent on increasing the capacity of the population to earn income through work.

The government has taken important steps toward reform of the PDS: In 2009 the CoM endorsed a five-year plan to reform the PDS, based largely upon the recommendations of the High-Level Committee for PDS Reform. The plan envisages the gradual reduction in the number of recipients of the PDS ration, the revision of the food basket provided to the recipients, as well as decentralization of the management of the PDS to the KRG and governorates that possess the necessary capacity. Efficiency improvements are important not only during the remaining years of the PDS, but in the longer term, given that a large part of the food supply chain will be transferred to the private sector, with the government maintaining its role in strategic grain reserves.

RECOMMENDATIONS

As a result of much hard work, the government now has in place a plan for reform of the PDS. In particular, it is suggested that the following five tasks are prioritized for action.

Gradually target the PDS. Begin by eliminating the eligibility of Directors General and those with special ranks and above. Parallel to the targeting effort, launch a broad public information campaign to gain popular support for the reform programme. This will also provide an opportunity to demonstrate to the public that government officials are willing to be the first in line to be eliminated from eligibility.

Improve the efficiency of the PDS. Pay special attention to procurement, financial management and logistics. Areas of focus may include supply chain management, value added procurement, shipping, logistics, pipeline management, and strategic grain reserves.

Increase capacity of the private sector to provide food to the population. The PDS has dominated the food supply chain for many years, and as such, retail prices have been suppressed, as has private-sector investment in domestic food production, and including the import, processing, storage and distribution capacity of the private sector. The short-term impact of PDS reform will be to strengthen the capacity of the private sector to enter into the supply chain. However, if private sector supply response is inadequate, shortages of food and inflation could result.

Increase capacity of the MoLSA to target and manage the Social Protection Net (SPN). As a precursor to the planned merger of the PDS and the SPN in 2015, the MoLSA must have in place an efficient mechanism for targeting, based on the poverty line, that reaches the poor in all parts of the country. An essential part of the transition will be institutional coordination between the Ministry of Trade and MoLSA. Institutional arrangements will also be required to ensure that the PDS ration card is no longer used as a national identity card.

Monitor the reform effort and its impact. While the benefits are enormous, reform must be conducted carefully. The short-term impact of PDS reform will be highly sensitive to the timing and sequencing of the reform process, as well as simultaneous efforts to strengthen capacity throughout the food supply chain. In particular, the poverty reduction benefits of PDS reform requires inflation to be kept to a minimum. Monitoring all aspects of the reform, including food prices, is essential to ensure that benefits are achieved.

-----5.2 PUBLIC PENSION SYSTEM

OVERVIEW

Pension payments account for the largest share of social protection spending other than the PDS. The public pension system is composed of two distinct schemes which together cover around 25 per cent of the labour force, and mostly public sector workers. The main scheme, called the State Pension System (SPS) until the enactment of the Unified Pension Law (UPL) in December 2007, covers civil servants and employees in SOEs. Military and security forces are covered by Pension Law No. 3 (2010). The much smaller Social Security System (SSS) covers workers in the private sector. In 2005, pension payments amounted to 5.6 per cent of GDP. Expenditure increased significantly in 2006 with pension payments made to approximately 350,000 demobilized military personnel.

KEY ISSUES

The recent pension reform legislation requires the merger of the public and private sector pension schemes by 2010: This will be a difficult task to accomplish in such a short time span given that the intent of legislation is to alleviate existing labour market segmentation. The amendment to Law 27/2006 included a provision on the merger of the public and private sector pension schemes by January 1, 2010. In particular, the National Board of Pensions (NBP) has been established as the unifying body of the mandatory pension schemes. The NBP absorbs the Pension Directorate of the MoF, which was previously administered by the SPS. Those who retired prior to January 17, 2006 will see little effect due to the reform. However, a new State Pension Fund (SPF) has been established to provide pension benefits to public sector workers retiring on or after January 17, 2006. The SPF is an administrative unit within the unifying umbrella of the NBP. Furthermore, the existing SSS, the private sector pension scheme, has now been transferred to the authority of the NBP. The envisioned merger is desirable inasmuch as it alleviates the segmentation of the labour market along the public/private divide.

The legislative intent behind the UPL was to establish a financially sustainable pension scheme: However, it remains to be seen whether the legislated mandate and associated contribution rates are truly consistent with long-term financial sustainability. Currently, data on the contributors and beneficiaries of the pension system is insufficient, and as such, a robust actuarial assessment cannot be carried out at present. Data will become available partly through the public employee census, but mainly through contributor and beneficiary surveys that are currently under way, and these are expected to create the foundation for rigorous actuarial analysis. The outcome of an actuarial assessment of long-term financial sustainability may require realignment in contribution and accrual rates, and of life expectancy and/or other parameters.

Despite implementation of the new Pension Law, the mandatory pension system in Iraq will cover only roughly one fourth of the labour force: From a social protection point of view, this represents a low proportion of the population and is 10 per cent below the already low average coverage rate in the MENA region. The coverage rate reflects upon the capability of the pension system to prevent old-age poverty. A low coverage rate not only reflects limited overall access to the pension system, but it also signals that already advantaged social groups have access to this social protection instrument. The primary beneficiary group of the pension system are public sector employees who already possess a solid and secure source of income compared to those from the informal sector who are not covered. The twin goal of poverty alleviation and

acceleration of private sector-led economic growth requires an extension of social insurance coverage in the medium to long term. Addressing implementation challenges of the new Pension Law is an intermediate step in the longer-term context.

RECOMMENDATIONS

Implement the UPL and activities that serve the requirements of the NBP and the SPF. These activities are supported through the project known as “Pension Reform Implementation Support Technical Assistance: Improving Old-Age Income Protection in Iraq” (PRISTA). The objectives of PRISTA are to support the government in the following: (i) to implement the provisions of the UPL; (ii) to unify the public and private pension schemes; and (iii) to develop a long-term old-age income protection strategy for Iraq. Key outcomes of this programme include: (i) capacity strengthening of the NBP to implement the Unified Pension Law; (ii) actuarial and pension policy analysis for the SPF; (iii) improved physical infrastructure of NBP facilities; (iv) unification of mandatory pension provisions in Iraq; and (v) development of a long-term national old-age income protection strategy for Iraq. Launched in February 2010, the next steps arising from implementation of reforms supported by PRISTA are as follows: (i) the NBP will form the technical task teams and working groups for each component, as specified in the operational plan, and on implementation; (ii) the Pension Reform Management Office will collect and/or update all relevant data, legislation, regulations driving the reform; and (iii) develop all terms of reference for the first year activities and start implementation of activities.

In the medium-term, focus on unifying the rules of the private and public sector pension schemes. It is suggested that an administrative merger take place. The UPL requires that the assets, liabilities and administrative resources of the SSS are transferred to the NBP by 2010. The government will need to develop a policy framework that unifies public and private sector social insurance packages. In addition to this, the associated legislative process needs to be completed, as does the administrative merger of implementation capacities. In the long run, reforms would focus on developing a long-term old-age income security strategy for Iraq with a focus on the expansion of social insurance coverage.

----- **5.3 SOCIAL SAFETY NETS**

OVERVIEW

For families without adequate support, including the blind and disabled, as well as single-parent families and the elderly, the MoLSA provides a monthly cash transfer. This flat benefit is modest (less than 10 per cent of the median income of the lowest quintile) and reaches only about 112,000 families, whereas conservative estimates have put the number of needy families at more than 850,000. Small cash transfers are also provided to demobilized military personnel covered under the government demobilization and reintegration programme. The 2005 budget allocates 375 million Iraqi dinars for more than 300,000 demobilized personnel, implying an average benefit of about 10 per cent of the median income of the lowest income quintile, similar to the family allowance.

Neither of these transfers is based on a consistent definition of need, nor do they take adequate account of family size in determining benefits. It is likely that some benefits are spilling over to those who are less needy, and that better targeting methods, such as individual or proxy means testing, would improve the equity and efficiency of payments. MoLSA also provides limited

institutional care for the blind and disabled. It maintains approximately 130 facilities, including kindergartens, orphanages, institutes for the disabled, elderly homes, and cooperative society workshops. Many of these have been severely damaged and have inadequate supplies. The number of beneficiaries is quite small, numbering only about 6,300 in 2004. The facilities and in-kind services offered are not designed to promote independent living or integration into society.

KEY ISSUES

Private and informal safety nets: The extent of non-governmental mechanisms for social protection is unknown. It is likely that family and personal networks account for the majority of social protection and that charity and faith-based institutions provide significant assistance to the most vulnerable. Recent surveys suggest that more than 90 per cent of households had more than one source of income in 2003, with nearly a quarter reporting three or more sources. Households are relying on multiple jobs and job holders within the family and possibly in some cases contributions from outside the family to survive.

NGOs could potentially play a significant role in the provision of social safety nets: Currently, there is not enough information to determine the level of assistance actually provided by NGOs. Official estimates put the number of registered NGOs at more than 2,500 at end 2004, following the adoption of statutes designed to encourage the formation of NGOs and community groups.

As in many majority Muslim countries, zakat and waqf are common forms of assistance: This assistance comes from individuals, typically given to community charitable organizations or to mosques which then direct the use of funds. The government, through official *awqaf* “divans”, helps to coordinate the distribution of some of these resources.

The government has been introducing structural economic changes and reforms: The government has attempted to rationalize subsidies and transition to a better targeted cash transfer programme. Subsidies for commodities have been reduced, particularly for petroleum products following the initial efforts begun in mid-2005. The cash-based Social Safety Net programme administered by the MoLSA has expanded to reach nearly 1 million families, with an expected budget of about \$800 million. In addition to the cash benefits, the SSN programme is responsible for providing other social benefits such as vocational training, career counselling and placement, and support for income-generating projects.

The CoM has endorsed a policy to reform SSNs through improved targeting methods: The objective of this policy is to enhance the SSN programme through better targeting of poor and vulnerable households. As the envisaged rationalization of the PDS moves forward, the SSN programme will need to be more effective and efficient in targeting poor and vulnerable households. This will mean shifting gradually from the categorical targeting of certain groups to a more robust method that minimizes leakage and exclusion of the poor from the programme.

Methods of targeting that are based on proxy-means testing are being explored: Objective tools such as proxy means tests employ observable household indicators (such as household assets and socioeconomic and housing characteristics) to predict income levels; these indicators can also be combined with geographic targeting (this method bases targeting on the location of the household). The current categorical targeting used by the SSN programme reaches less than 10 per cent of the poor. Furthermore, there are poor governorates like Muthanna with nearly 50 per cent of its population below the poverty line but where only 3 per cent of the households receive the cash transfer. There are enormous benefits to improving the targeting of the programme and this prior action is the first important step towards making the SSN more effective.

New law for the disengagement of the Social Affairs Directorates from MoLSA: Law No. 18 was approved by the CoR on January 25, 2010, and endorsed by the Presidency Council on February 16, 2010; however, a later decision put implementation of the law on hold indefinitely. If implemented, the law would have a significant impact on social assistance policies in Iraq, with MoLSA converting to the Ministry of Labour, with social assistance responsibilities becoming the mandate of the governorates. While in principle there is strong merit in identifying the poor at locality level, the law creates a number of challenges: First, the law is silent on the role of the federal government in setting national policies and standards for social assistance in Iraq; this is an important point that needs to be further assessed and clarified, particularly since resourcing is done at the federal level. Second, overall capacity at the local level is weak, and significant capacity will be required to allow localities to play an effective role in setting local regulations, identifying beneficiaries, assessing needs, and managing the benefit distribution process.

RECOMMENDATIONS

Improve efficiency of the existing cash transfer programme through improved targeting. The development of an objective and much improved targeting tool is an essential first step to improve the effectiveness of SSN. In addition, institutional capacity needs to be developed to implement improved targeting tools and administer the programme. Once the SSN programme is better targeted, it can form the basis for streamlining across the various safety net programmes noted above, and especially to credibly assist a transition from the universal PDS to a targeted programme.

MoLSA to develop new targeting tools using data from the household survey. With the policy decision made to enhance SSN through improved targeting methods, the next steps for MoLSA will be to continue with capacity building and systemic improvements, and to develop new targeting tools (which may include a combination of proxy-means testing and geographical targeting tools, as indicated above). The process is expected to proceed in two stages. Stage 1 will design the targeting tools and prepare for the pilot, and stage 2 will pilot and calibrate the new mechanism, field test the application and benefits distribution, and evaluate the poverty impact of the new targeting tools.

Undertake an assessment of the impact of Law No. 18. As noted above, if Law No. 18 becomes effective it will significantly change how social assistance is provided in Iraq. As such, an assessment of its impact would need to be undertaken, including the impact on national policies and standards for social assistance, capacity building requirements, resource distribution mechanisms, and other related issues.

Develop a comprehensive social protection and labour strategy in the long term. The strategy would identify the roles and responsibilities of different government institutions, charities and civil society organizations and identify spending and programme priorities to complement the NDP and the PRS.

----- 5.4 INTERNALLY DISPLACED PERSONS

OVERVIEW

Over the past decades, the Iraqi people have suffered several waves of displacement. At present approximately 1.75 million Iraqis are estimated to be either internally displaced¹³ or refugees¹⁴ in neighbouring countries, constituting one of the largest displaced populations in the world. Many of those displaced within Iraq, known as IDPs (internally displaced persons) live in squalid settlements, with limited access to basic services and extreme vulnerability. Those displaced outside Iraq (refugees) include many highly educated and qualified professionals with skills sorely lacking inside Iraq. More and more IDPs and refugees are returning to their areas of origin in Iraq, although large-scale returns have not taken place. Some 420,000 IDPs and nearly 80,000 refugees returned spontaneously between 2008 and 2010. At the same time, the majority of some 1.5 million IDPs have not found solutions to their plight. There is very limited new displacement which is mainly linked to drought-affected persons and medical cases leaving to neighbouring countries. Within Iraq there are some 40,000 refugees, including some 16,000 of Turkish origin. Most of the more than 10,000 Palestinians in Iraq are found in Baghdad, while around 1,400 live in the Al Waleed camp close to the border with the Syrian Arab Republic.

KEY ISSUES

The magnitude and nature of Iraq's displacement has created humanitarian, national reconciliation, and development challenges: Successfully surmounting these challenges will enhance the peace consolidation process. In deciding whether and when to return, IDPs and refugees consider security, ability to recover their property and secure other rights, access to employment, housing and basic services and the incentives offered by government. Returnees in Iraq encounter, among other things, lack of housing, a dearth of livelihood opportunities, difficulties in availing themselves of social services and in some parts security problems. If returnees are not helped to re-establish themselves in their places of origin, return will not be sustainable and renewed displacement may occur. For their part, many IDPs live in dire conditions and do not have access to assistance. As their displacement proceeds, their need for humanitarian assistance increases. Since 2003, many refugees (e.g., Palestinians and Iranian Kurds) have been targeted in violent attacks. Although the direct threat has subsided, they remain vulnerable and require protection and basic assistance for their survival.

RECOMMENDATIONS

The following goals and accompanying actions are recommended for the coming years:

Strengthen the government's ability to efficiently manage displacement issues.

- Reaffirm the National Policy on Displacement adopted in July 2008.
- Reaffirm orders 101, 54, and 262 and establish a High Committee on Displacement.
- Increase involvement of the CoR Committee on Relocated, Displaced and Migrants in policy formation and resource allocation decisions.
- Strengthen cooperation to manage the database on displacement in Iraq.

¹³1,552,003 persons – source: Ministry of Displacement and Migration, July 2009, and KRG authorities, April 2009.

¹⁴ 207,000 persons (active refugees) registered with UNHCR in neighbouring countries.

- Support and coordinate with the governorates on IDP and returnee issues.

Establish and strengthen mechanisms to protect IDPs and develop durable solutions.

- Provide options for return, local integration and resettlement.
- Strengthen the Ministry of Displacement and Migration (MoDM), including the IDP database and MoDM presence at border crossings and in areas of return, local integration and resettlement.
- Increase the budget of the MoDM to permit an expansion of grants and services to locally integrated or resettled IDPs.
- Expand MoDM's Return Assistance Centres programmes or establish a similar mechanism to ensure protection of returnee rights, including full access to government services.
- Allocate land or land grants to destitute and landless IDPs.

Continue building the conditions which encourage voluntary return and reintegration.

- Design multi-sectoral approaches that address security, shelter, food, livelihoods, water and sanitation needs.
- Support the government's leadership role in coordinating and engaging international organizations and donors.
- Expand the "Diyala Initiative"¹⁵ to apply in all governorates of return, particularly in rural neighbourhoods of Baghdad.
- Establish a new mechanism with adequate financing for governorates to compensate returnees whose property has been damaged.
- Engage development actors in reintegration activities and integrate plans for the reintegration of IDPs and refugees into government development planning and programming.

Prepare the repatriation of Iraqi refugees from neighbouring countries.

- Enhance reconciliation mechanisms to assure returnees do not face discrimination.
- Establish means of outreach to refugee populations, provide indigent displaced Iraqis abroad with support through a government outreach programme, and increase the grant for returning refugees to 5 million Iraqi dinars.
- Establish mechanisms to facilitate the return of Iraqi refugees.
- Establish a new director general position in the MoDM to coordinate government outreach efforts to highly qualified Iraqis displaced outside of Iraq, and propose policies and resources to help support their return and integration into Iraq's economy, including with employment opportunities.

Establish a legal and institutional framework for refugees and persons who are either stateless or at risk of statelessness by the follow actions:

¹⁵ Conceived by the GoI in Order No. 54 of 2008, the Initiative, overseen by a Higher Committee established for the purpose, encourages returns by creating the conditions for reintegration, focusing on water, electricity, agriculture, shelter, infrastructure and short-term employment. (Source – UNHCR: <http://www.unhcr.org/iq/02%20Return/diyala.html>.)

- Ratify the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.
- Ratify the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.
- Adopt the draft Refugee Law, presently under consultation in the Shura Council.

CHAPTER 6

REGIONAL COOPERATION AND INTERNAL DISPUTED TERRITORIES

- Iraq has consolidated its sovereignty with the transfer of authority from the Multi-National Force – Iraq, the signing of a Security Agreement with the United States which includes timelines for the disengagement of U.S. forces, and the review process by the UN of Security Council resolutions under Chapter Seven (SC resolution 1859 of 2008). State institutions have been consolidated through the adoption of a Constitution and two successful provincial and national elections and by the development of Iraq's security forces and defence capacities. This chapter focuses on issues which have the potential to play a key role in stabilizing and strengthening peace within Iraq and with its neighbours.

----- 6.1 REGIONAL COOPERATION

OVERVIEW

Substantial progress has been made since 2005 towards the restoration of Iraqi cooperation within the region. The diplomatic apparatus has been reinforced with the consolidation of the Ministry of Foreign Affairs (MoFA) and the restoration of its diplomatic network. Relations with Iraq's neighbours and regional organizations (for example, the League of Arab States, the Gulf Cooperation Council, the Organization of the Islamic Conference and the Organization of the Petroleum Exporting Countries) have picked up politically with the opening or reopening of embassies, appointment of ambassadors, and development of bilateral ties. Bilateral trade, financial relations and investment have been expanding quickly.

KEY ISSUES

The following key policy issues remain to be addressed:

Consolidating Iraq's institutional capacities in the field of diplomacy and regional policy: The respective responsibilities of the different state authorities in the field of diplomacy (president and prime minister, government and CoR, federal government and KRG) and Iraq's borders and external security still need to be clarified and rationalized, and the capacity of the MoFA consolidated. Efforts made towards diversifying Iraq's economy, including development of the private sector and the opening of borders to trade and investment, should be backed by an improvement in economic governance, fiscal reform and regional economic cooperation.

Addressing two major regional issues in an integrated and coordinated manner: Namely: (i) trans-boundary water issues; and (ii) border security and management. A comprehensive approach towards water is required to address both the internal and external aspects of the issue based on a strong and sustainable regional dialogue and cooperation, and the improvement of water management. To consolidate borders, bilateral solutions are required, as well as better coordination in all border issues with Iraq's neighbours.

Further strengthening of peaceful relations with the neighbouring countries: Ongoing efforts to strengthen bilateral relations with Iraq's neighbours, including Iran and Kuwait, need to be

pursued in the direction of long-lasting, transparent and balanced relationships, based on respect for sovereignty, integrity, mutual interest and non-interference.

RECOMMENDATIONS

The following initiatives are suggested as a means to inject new impetus to regional cooperation as a crucial element in Iraq's political stability, strategic security, and economic development:

In the short term:

Develop a policy for regional cooperation. This requires political consensus on the basic principles and orientations of Iraq's relations with its neighbours. In parallel, the government might consider a regional economic integration strategy; for example, in the areas of water resources, energy and infrastructure development.

Address relations with the State of Kuwait. Comprehensive negotiations may encompass all aspects of bilateral relations aimed at definitively turning the page of the 1990 war and establishing broad lines of cooperation, including the facilitation of trade and navigation in Khor Abdalla, and a joint or coordinated ports development projects. The existing High-Level Strategic Cooperation Councils in the region may be seen as an example of bilateral economic cooperation.

In the medium term:

Consider a comprehensive programme for the consolidation of borders in relation to security, border delimitation and demarcation and comprehensive resource management with the overarching aim of resolving regional water issues with Turkey, Syria and Iran. This could manifest itself through a framework of global negotiation of long-term and possibly multilateral agreements or implementation of international conventions and rules as well as the full normalization of Iraq's relations with Kuwait, Syria and Saudi Arabia. Existing channels of dialogue on water issues, such as the Iraq-Syria-Turkey trilateral ministerial meeting mechanism, should also be supported.

Consider further regional programmes, such as regional trade finance and facilitation, water resources and environmental management, and cross-border infrastructure, which could also pave the way for further integration and connectivity of the Iraqi economy with those of its neighbours.

----- **6.2 INTERNAL DISPUTED TERRITORIES**

OVERVIEW

The debate over the administrative status of Kirkuk and a number of other disputed territories in Iraq has been a recurrent feature of the state's modern history since its inception in 1921. Addressing some of the outstanding issues related to the status of Kirkuk and other internal disputed territories could be an important mechanism for improving the political climate, enhancing the development of these areas, and increasing the stability of Iraq.

Specific mechanisms to address the internal boundaries dimension were codified in the 2004 Transitional Administrative Law (Article 58), and were further described in the 2005 Constitution (Article 140), but remain without resolution. While Article 140 spells out concrete administrative

steps, including normalization, a census and a referendum, to resolve the status of these areas, their incomplete implementation by the constitutional deadline of December 2007 illustrated the deep sensitivities that lie behind them.

KEY ISSUES

Iraq's constitution does not define the state's internal boundaries: The only reference to the jurisdiction of an administrative entity is made in Transitional Administrative Law, Article 53(a) which refers to the Kurdistan Regional Government as the entity which administered territories “in the governorates of Dahuk, Erbil, Sulaimaniya, Kirkuk, Diyala and Ninawa” on 19 March 2003. This article is not precise as to which territories it refers to in these governorates. Similarly, Article 140 of the Constitution refers only to Kirkuk “and other disputed territories”. Not addressing the status of these areas has been one factor in sometimes difficult relations between the central government and the Kurdistan region which, to date, has arguably held up legislation in Baghdad viewed as central to the process of national reconciliation in Iraq. This has included the hydrocarbon package of laws, efforts to promote a constitutional review, and the process of approving provincial and national election laws, among others. Efforts to address these and other central issues would benefit from improved relations and a concerted effort at dialogue aimed achieving a consolidated view on the design of the new Iraq.

At the governorate level, uncertain status and sometimes competing administrations have resulted in inefficient administration across all sectors: This applies to essential services, socioeconomic development, security and balanced representation. Indeed, the administrative imperative alone supports the need for clarity to be achieved as soon as possible so that the areas in question can move forward and their populations can be allowed to enjoy the possibility of a normal life. Moreover, delays in determining the status of disputed areas has contributed to tensions in Ninawa between the Arab nationalist “Hadba list” and the Kurdish “Ninawa Brotherhood list” that have resulted in a boycott of the Provincial Council and numerous municipalities cutting ties with the Mosul administration. An early conclusion of ongoing dialogue between the two sides would pave an important way forward for resolution of outstanding issues on disputed territories.

Uncertain administrative arrangements between the government and the Kurdistan region could also be a potential contributor to instability in Iraq: In particular, uncertain security responsibilities between the Iraq Army and Peshmerga forces in the north have resulted in a corridor of movement for violent actors from Ninawa to Baghdad and Baquba, with significant security implications for the rest of the country. Examples of the lack of clarity and the potential for violent flare-ups that can result include the stand-offs between the Iraqi army and Peshmerga forces in Khanaqin (August 2008), in Kirkuk (March 2009), and in parts of Ninawa (May 2009, February 2010). The potential for such flashpoint to set off a wider armed conflict remains significant.

RECOMMENDATIONS

Develop an inclusive process of dialogue. Aimed at addressing many of the outstanding issues related to the status of disputed territories, this would bring considerable value to the process of national reconciliation. As a result, further efforts and dialogue could be beneficial in the following broad areas:

Deploy the High Level Task Force and continue confidence-building measures. The High Level Task Force established after the June 2009 release of UNAMI reports on “disputed internal

boundaries” continues to address a series of issues related to the concerns of residents from the areas under consideration. Progress has been made on a specific set of “confidence building measures” centred on pre- and post-2003 property claims and restitution, language education rights, and detainees. The task force aims to present the government with an action plan that will outline specific steps by relevant ministries that could enhance efforts at building confidence. This forum for dialogue, comprising senior representatives of the prime minister and the KRG, could continue alongside any additional mechanism for wider political dialogue on the matter.

Engage in political dialogue. By their nature, the discussions on uncertain administrative arrangements in these territories go to the heart of fundamental questions raised regarding regional and central government competencies, Kurdish autonomy and security, and guarantees for the territorial integrity and economic viability of the state. As a result, further dialogue between the major political blocs may be required in the broad areas of constitutional power-sharing discussed above (including possibly revenue sharing and the hydrocarbon package of laws), the status of Kirkuk and other territories, security arrangements and social economic considerations.

Clarify security arrangements. Clarifying areas of responsibility between the Iraqi army, Iraqi police, Peshmerga forces, and the Kurdish security force Asayesh, as well as the respective roles and responsibilities of each, will remain an important aspect of establishing stability in the areas being considered. Further clarification of the recently agreed Combined Security Agreement between the government, KRG and U.S. Forces - Iraq could be necessary, as well as continued discussions related to the integration of the Peshmerga into Iraqi army structures.

Develop the disputed territories. Because of their contested administrative status, disputed territories typically receive fewer government services from Baghdad and Erbil. Available socioeconomic data reveal a consistent pattern of underdevelopment. In some sectors, notably security and education, the KRG and the government appear to be working in an overlapping fashion, further complicating service delivery. An injection of development assistance in the disputed areas is therefore an imperative based on the relative deprivation experienced in these areas, but could also demonstrate to local residents that their basic needs will be met regardless of the governorate responsible for the administration of their district. There are numerous mechanisms to be considered, including Article 112 of the Constitution, which contains provisions for the distribution of revenues to “the damaged regions which were unjustly deprived of them by the former regime, and the regions that were damaged afterwards”.

The Iraq Briefing Book

Part II: Sectoral and Cross-Cutting Issues

CHAPTER 7

HUMAN RIGHTS PROTECTION, CIVIL SOCIETY, AND INDEPENDENT MEDIA

- The government has started to implement changes aimed at creating a state in which human rights are better protected and more robustly applied through law and by democratic institutions. With greater levels of visibility of human rights violations, there is a need to hold those implicated in human rights abuses accountable for their actions within the framework of existing mechanisms, while consideration of the development of additional measures is also required. In addition to the above, civil society organizations are playing an increasing role in advocacy, and the media are striving to promote independence and professionalism.

----- 7.1 HUMAN RIGHTS PROTECTION

OVERVIEW

The strategic vision of the government in providing human rights assistance is two-fold, namely: (i) Iraq's legal, democratic, governmental and non-governmental institutions should support and protect human rights to foster national reconciliation and unity and enhance accountability for abuses; and (ii) a robust civil society and independent media should operate without fear of reprisal, while reinforcing institutional and legal mechanisms that afford human rights protection.

KEY ISSUES

Despite government efforts to take measures for effective promotion and protection of human rights, it remains a priority to consolidate actions that foster national reconciliation and unity, as well as to ensure accountability for abuses. The government has made progress towards empowerment of internal affairs, human rights and inspector general units, and in implementing institutional codes consistent with universal human rights practices and principles. That said, implementation of these standards remains to be effectively enforced.

RECOMMENDATIONS

Steps that could be taken to address to promote and protect human rights include the following:

Establish an Independent High Commission for Human Rights in accordance with Law No. 53 (2008) and in conformity with the Paris Principles on the establishment of national human rights institutions to ensure the protection and promotion of respect for Human Rights in Iraq. This would help to protect the rights and freedoms stipulated in the Constitution and in international laws, treaties and conventions ratified by Iraq, and to promote and develop human rights principles and culture. This would be achieved through functions such as: (i) protecting human rights set out in the Iraqi Constitution and international law, including through the investigation of complaints; (ii) providing advice, studies and research to relevant authorities and bodies on matters pertaining to human rights; (iii) evaluating the national implementation of international human rights instruments; (iv) cooperating with national and international stakeholders in the field of human rights; (v) monitoring the national human rights situation and submitting an annual

report to the CoR; and (vi) visiting and reporting on detention facilities and other places where persons are deprived of their liberty.

Harmonize domestic legislation with international human rights law, accede and ratify international human rights conventions and treaties, cooperate with established UN protection mechanisms and comply with periodic reporting obligations under ratified human rights conventions.

Develop and implement national legislation that strengthens basic constitutional protection mechanisms and hold government entities accountable for human rights violations.

Develop and implement a National Human Rights Strategy.

Instil and enforce human rights standards across all levels of government through institutional and legal reform, and develop the capacity of government officials in human rights, including those in the justice sector, police and security forces.

Reform the rule of law and justice sector, particularly an independent administration of justice and law enforcement with a view to strengthening human rights protection and accountability systems (penal and prison reform, due process of law). (See Chapter 2, sub-section 2.9, *Prison, Detention and Correction Facilities*.)

Promote women's empowerment, focusing on policies and legislation to address discrimination, trafficking of human beings, domestic violence and “honour crimes” through legislation that enhances the constitutional protection of women. (See Chapter 8, *Gender*.)

Protect minorities and other vulnerable groups such as persons with disabilities through the enactment of protection laws and promotion of measures to ensure the effective enjoyment of their fundamental human rights, in particular, access to justice and non-discrimination protection.

Protection of children from violence, exploitation and abuse through measures aimed at mitigating the impact of the conflict on children. (See Chapter 2, sub-section 2.7, *Justice for Children*.)

Support the development of a legal framework that guarantees basic freedom of expression for media. (See Chapter 7, sub-section 7.3, *Independent Media and Freedom of Information*.)

Ensure the implementation of the National Plan on Displacement to assure that all internally displaced Iraqis and returning Iraqi refugees are able to enjoy their rights and achieve full and sustainable reintegration in Iraq. (See Chapter 5, sub-section 5.4, *Internally Displaced Persons*.)

Promote legislative steps to strengthen basic human rights. This could include:

- Legislation in the areas of criminal law and criminal procedure law – with a specific emphasis on child protection and with a view to harmonizing the domestic legal framework with international human rights conventions and standards in compliance with Iraq’s general obligation to fulfil the provisions of human rights conventions it has ratified.
- Legislation supporting institutional governmental mechanisms to prevent discrimination related to access to basic education, health care, justice and employment, and taking into account particularly the situation of women, children, the disabled and minority groups.
- Using the successful drafting and passage of the recent NGO law to develop and adopt a legal and regulatory framework for protecting freedoms of religion, movement and expression, and public access to information.

----- 7.2 CIVIL SOCIETY

OVERVIEW

Since 2003, insecurity and conflict has impacted on the cohesiveness of communities which, together with the weak capacity of civil society organizations (CSOs), trade unions, and employers' organizations, helps to explain the limited involvement and participation of Iraqi citizens in political and other spheres of public life. In addition, the media are not considered completely independent from partisan interference, and Iraqi "think tanks" are not fully developed as sources of independent and competent political and policy views. Socioeconomic and cultural barriers, including literacy and educational status, also act to preclude citizens from active participation. This is particularly the case for women, and to a lesser extent, for the less well-educated and the young.

Effective civil society participation towards peace building, reconstruction, reconciliation and development is essential to the success of Iraq's longer-term development. As a matter of priority, civil society involvement should be promoted within the aforementioned activities, and should also include participation in human rights and protection activities, humanitarian assistance, elections (including observation support and public awareness-raising), and advocacy.

KEY ISSUES

CSOs in Iraq will achieve their full potential to serve both society and the government through the achievement of three conditions:

- All stakeholders, including government, parliament, CSOs and Iraqi citizens should understand the role of an independent, ethics-based and accountable civil society in a democratic state.
- An enabling legal and institutional framework should be set in place to protect the independence of CSOs and to provide both the state and CSOs with tools for effective cooperation.
- CSOs require capacity development and "neutral" funding to pursue activities.

RECOMMENDATIONS

The Constitution calls for the creation of an enabling legal and political environment that facilitates civil society participation in political and social reconciliation processes, and through strengthened democratic governance in Iraq. To achieve this aim, it is suggested that the government consider the following areas for action:

Develop an enabling legal and institutional framework to ensure the independence of civil society. Historically, there has been no effective framework to protect the independence of civil society in Iraq. The new NGO law is a positive step forward, yet it will require support in implementation and monitoring to ensure its effectiveness as a tool enabling accountability of CSOs to their constituencies. Further improvement of the NGO registration process is required under the new legislation to prevent arbitrary decisions on registration. Governmental structures charged with responsibility over civil society matters will require further capacity building and training to ensure that activities are effective, coordinated, and politically neutral.

Promote civil society participation in the development of governmental policies. Civil society has a limited capacity to engage effectively in advocacy or “networking” to influence government policy, and consequently has played a limited role in contributing to the policy-making process.

Support the development of CSOs and a robust civil society. CSOs in Iraq are constrained in engaging effectively as a consequence of constraints in both implementation capacity and funding. The government could encourage a closer relationship between international and Iraqi human rights NGOs, while also supporting appropriate links to Iraqi government ministries such as the MoJ and the Ministry of Human Rights (MoHR) at all levels.

----- 7.3 INDEPENDENT MEDIA & FREEDOM OF INFORMATION

OVERVIEW

The Iraqi media sector is dynamic, complex and volatile, and available data show that Iraqis are sophisticated users of media and believe that the media has an important role to play in promoting national identity and supporting electoral processes.

Since 2003, the Iraqi media sector has expanded dramatically in all areas of news and information delivery, from traditional outlets such as print, radio and television (terrestrial and satellite) to emerging technologies such as the Internet and mobile phones. The national media sector is dominated by the Iraqi Media Network (IMN), which was established by the Coalition Provisional Authority under CPA Order 66 as the national public service broadcaster consisting of radio, terrestrial and satellite TV, and a newspaper. Al Iraqiya TV (satellite and terrestrial) is popular but its remit as a public service broadcaster of impartiality and equitable access has been questioned.

The legal and regulatory framework for Iraqi media and telecommunications is complicated, reflecting the innovation of a convergent technology and media regulator, the Communications and Media Commission (CMC), which was assigned some of the regulatory functions of the former Ministry of Information. The CMC was established by the CPA in 2004 with little or no consultation with Iraqi stakeholders. Although the convergent model is prevalent in the contemporary media environment, the processes of institutional capacity building and development to take account of it were not included in the business case, and the CMC is currently seen as weak and ineffective as a result.

The need to balance security concerns with democratic freedoms is the subject of vibrant debate in Iraq and abroad, focused on the need to opt for more control over cyberspace and traditional media, a trend that has implications for media development in a country where civil society is still vulnerable and media entities are divided along sectarian, ethnic and tribal lines and can be used as tools for partisan interests.

KEY ISSUES

Lack of a law protecting the right to access information: The fundamental human rights to freedom of expression and to access to information are enshrined in Article 19 of the Universal Declaration of Human Rights, to which Iraq is a signatory. The right to freedom of expression is also enshrined in Article 38 of Iraq’s Constitution and there is a growing movement, led by Iraqi

media professionals and anti-corruption activists and supported by the international community, to establish the legal basis for the exercise of the right to access information.

Lack of understanding among law and policy makers about the implications of convergent media on social and economic development: When lawmakers do not understand the converged relationship among “traditional” and “social” media, and the multiplicity of platforms that are being developed that enable Article 19 freedoms to be enjoyed, they are prone to consider them as structurally, and therefore legally, separate. Such a perspective, when translated into law, has profound consequences for both governance and economic development.

Weak central institutions: The CMC and the IMN were established with little or no consultation with Iraqi stakeholders, and while they are constitutionally under parliamentary oversight, they operate in practice as government entities. The paradigm of independent, parliamentary oversight has not been internalized by lawmakers and the processes of change management require intensive mentoring that is difficult to undertake in the current environment.

Weak professional associations or understanding of self-regulatory mechanisms or practices: The main unions, the Iraqi Journalists’ Syndicate and the Kurdistan Journalists’ Syndicate, operate according to anachronistic, statist paradigms and with limited transparency or accountability to their constituents. This is evidenced by the support given to the draft Journalist Protection Law, a retrogressive act that could potentially undermine the professionalism and independence of the media sector, and whose introduction by the Iraqi Journalists’ Syndicate in 2009 led to widespread mobilization among media professionals for a fuller debate on their sector.

Lack of relevant or up-to-date curricula in media faculties: Media studies, journalism and mass communications are predominantly Anglophone social sciences and curricula have often been virtually copied from a variety of sources in an *ad hoc* and amateur way. In addition to this, curricula are often theory-intensive because of a lack of funding for modern information technology. The degree course itself has been devalued – it is considered the option for those who have failed to get into other disciplines. Vocational and technical training is similarly inconsistent and often irrelevant, while being provided at random by a variety of NGOs and often using international trainers whose knowledge of the Arabic-speaking, let alone Iraqi, media environment is limited.

Lack of creative entrepreneurship in the media sector: Despite the opportunities arising from the departure of international media bureaus, Iraqi media professionals still operate within statist paradigms of pensions, benefits and quasi-civil servant status rather than showing a willingness to enter the high-risk business of freelance journalism. The desire for job security and institutional protection also reflects the fact that Iraq remains one of the most dangerous countries in the world for media professionals.

RECOMMENDATIONS

Support processes among all stakeholders to facilitate a dialogue on the right to access information. This should include encouraging the enactment of a Freedom of Information law, providing legal guarantees for the right to information, protection of “whistleblowers”, and independent appeals mechanisms and strong proactive disclosure rules.

Hold targeted training for law and policy makers, regulatory agencies and media professionals. This could cover the implications of media convergence for Article 19 freedoms, and economic

expansion of the media sector, especially in the field of content development.

Target support for strengthening the CMC and IMN. This should especially cover change management, licensing, regulation and diversification of revenue generation for the two institutions and facilitation of a dialogue between them and other independent regulatory agencies or specialized institutions such as the election commission, the integrity commission, and the human rights commission.

Upgrade media training facilities. This would include support to academic and vocational training faculties to develop relevant and technologically appropriate curricula and to network effectively with Arabic-speaking media development institutions and professionals.

Build media capacity. This would aim at developing the editorial, professional and associational skills to allow for a plurality and diversity of voices.

CHAPTER 8

GENDER

OVERVIEW

Before the 1980s, women in Iraq enjoyed more basic rights than other women in the region, many of whom suffered from different types of repression, discrimination and social injustice. Iraqi women were encouraged to attend school, they could own property and they were able to divorce their husbands. In urban areas, women held professional positions in government, medicine, law and the arts. Today Iraqi women are struggling to regain their former status and rights, while on a daily basis facing challenges in accessing basic services, and some have to manage heavy economic burdens due to the death of a parent, husband or a brother, making them the heads of households. Such burdens have been particularly severe among Iraqi women who are less educated and live in rural areas.

Following the 2003 invasion, women's rights and gender equality became symbolic issues for Iraq's new national agenda. However, as the overall situation in Iraq began to deteriorate after the invasion, the focus on women was lost amidst the violence and overall challenges faced by the country. Even as violence against women increased, Iraqi women persisted in striving to participate in and influence the political process. Wars and violence have all but destroyed opportunities for a safe, stimulating and positive social life for women in Iraq, and this includes female children and youth. The problem is particularly acute for female IDPs, among whom one in ten families is headed by a woman.¹⁶ Women from minority groups are particularly vulnerable.

Iraq has ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC – which covers the girl child and adolescent women up to age 18) and other international human rights treaties, and is committed to the MDGs, including Goal 3 on gender equality. The State Ministry of Women's Affairs (SMWA), despite its limited human and financial capacities, has played a key role in promoting gender equality. In the KRG the ministry of women's affairs has made place for a high committee for women under the chairmanship of the prime minister. In civil society, many NGOs are led by women.

Recognition of the disproportional impact of conflict on women has been recognized by the government of Iraq, which has made a clear commitment to address issues of gender equality in a comprehensive manner through its NDP.

KEY ISSUES

Institutional issues (SMWA): The current political environment has offered an opportunity to enhance women's rights at governing levels with the dedication of 25 per cent of seats in the CoR to women, and through establishment of the SMWA. Despite this, the SMWA needs to be further strengthened to safeguard women's rights, to advocate for gender equality and to mainstream gender strategies in line with the Constitution, the government's priorities, and Iraq's international obligations under CEDAW and the CRC. Additionally, the SMWA should engage in national planning processes and budgeting procedures, while actively monitoring the

¹⁶ International Office for Migration data, 2009.

implementation of activities that promote accountability mechanisms for gender equality. Action is needed to strengthen institutional capacities in gender-responsive programming, gender-sensitive budgeting, and in monitoring mechanisms.

Legislation: Gender mainstreaming in all policy areas is relatively new and underdeveloped. While Iraq's strong cultural traditions place a high value on community and the family, this has led in some instances to undesirable practices, such as early marriage for girls. In view of the large number widows in Iraq, the rights of widows could be promoted through strengthened social welfare systems and enabling legislation. A law has been drafted to upgrade the status of the SMWA to a full-fledged ministry or commission. CSOs are increasing pressure to withdraw Article 41 of the Constitution¹⁷, and the KRG has successfully amended relevant laws resulting in a significant increase in prison sentences for those committing so-called "honour killings", which were previously given minimum sentences, and the introduction of strict limits on the practice of polygamy.¹⁸

Availability of data: There is a huge shortage of demographic data in Iraq which makes an assessment of the situation for women very challenging. There is a particular lack of data on gender disparity, inequality in access to basic services, and other relevant indicators on women. Lack of awareness about women's rights and of official reporting mechanisms, combined with limited outreach of law enforcement and the perceived shame associated with sexual and gender-based abuse, also hampers women's ability and willingness to redress human rights violations against them.

Violence against women (VAW): Over 80 per cent of women in Iraq have experienced at least one form of gender-based violence, and a very worrisome pattern of VAW appears to be emerging.¹⁹ At present, there are significant limitations on legal protection from domestic violence, including services and facilities to protect survivors (or to support redress). A greater exposure to forced marriages, domestic abuse of young girls, female genital mutilation/cutting (FGM/C), "honour killings", self-immolation and sexual exploitation has also arisen.²⁰ Such practices seriously obstruct the rights of women to education, health services (including reproductive health) and employment, which has a decidedly negative impact on young women. The government and the KRG are working in a holistic way to address these issues with the development of Family Support Units, policy design for shelters, and the enhancement of their capacity with the support of other ministries and CSOs.

Disparities in primary and secondary education: Disparities can be noted between the net enrolment ratios of boys and girls in the primary and secondary schools. For the period 2003-2008, net enrolment ratios for boys and girls respectively were, 87 and 82 at primary level, and 45 and 32 at secondary level.²¹

Participation in economic development and the labour market: Women's labour market participation is low (17 per cent) with the majority (52 per cent) employed by the public sector

¹⁷ "Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices, and this shall be regulated by law." Source: UNAMI website - http://www.uniraq.org/documents/iraqi_constitution.pdf.

¹⁸ <http://www.krg.org/articles/detail.asp?mr=160&lngnr=12&smap=04070000&anr=15057>.

¹⁹ Data on violence against women is weak, and crimes are likely under-reported because of fear of retaliation, and cultural/religious taboos.

²⁰ <http://www.madre.org/index/press-room-4/news/owfi-releases-study-on-prostitution-and-trafficking-of-women-and-girls-324.html> and <http://www.hrw.org/en/news/2010/06/16/iraqi-kurdistan-girls-and-women-suffer-consequences-female-genital-mutilation>.

²¹ UNICEF, *The State of the World's Children: Special Edition*, UNICEF, New York, December 2009, Statistical Tables (figures expressed as a proportion of total children of official primary and secondary school age, respectively, who were enrolled in school).

mainly in the education and health sector. While there is little evidence to quantify reasons for women's low economic participation, weak labour laws and the lack of an equal opportunity employment law has contributed towards arbitrary dismissals, while the security situation has disproportionately affected women's ability to work outside the home. In addition, lower secondary completion rates are likely to be a factor, as is control by the father/husband, fear of social disapproval, or religious scruples. Women's average wages are about two-thirds of the male average.

Health: While health care is formally available to all without discrimination, women find it difficult to receive specialized care. Many women who give birth in public or private health institutions receive inadequate medical care due to a lack of essential drugs or transport to referral institutions. In addition, medical personnel lack training in emergency obstetric care. Women are increasingly exposed to risks associated with a poor birthing outcome due to high rates of anaemia, short birth intervals, early marriage, and early pregnancy.

Limitations on travel: The passport office at the MoI maintains a policy where approval is required from a woman's father or husband prior to issuance of a passport, which constrains a woman's ability to travel. Two years ago, the fear of violence kept many women confined to their homes, and still today, women in rural areas are unable to travel without a male family member accompanying them. These limitations impinge on economic and social progress not just for Iraqi women but for Iraq as a whole.

Forced migration: Iraqi families, have had to leave their homes and move to other areas or even other countries, resulting in the loss of social relations, property, and family stability.

RECOMMENDATIONS

Short-term actions:

Make gender equality a central goal of the national development agenda. To accelerate progress towards meeting the objectives of the Millennium Declaration, as well as Iraq's obligations under various UN conventions (as noted above), the government should place gender equality and women's empowerment goals at the heart of the national development agenda, as a means to enhance the achievement of development objectives. The benefits of women-centred approaches to gender mainstreaming in planning, budgeting and programming, and gender equality extends beyond women to families, communities and nations. Promotion of efforts in KRG to advance the position of women (for example, banning polygamy or drafting of a domestic violence bill) should be supported and lessons shared with other regions of Iraq. Support towards the development of a national strategy and plan of action for women in Iraq and a realistic budget to support its implementation are also suggested.

Adopt the education and safe-motherhood strategy within the framework of the NDP.

Improve the quality and availability of gender-related data, in order to improve opportunities for mainstreaming gender considerations into planning and programming.

Design gender mainstreaming policies, strategies and programming, within national institutions, to empower women to participate in all branches of national life, including the private sector and civil society.

Empower civil society as the lead actor for behavioural changes informing gender equality.

Medium- and long-term actions:

Ensure equal rights and access to economic resources through the revision of appropriate laws and administrative practices. Iraq has embarked on a serious process of economic reforms and the enhancement of the private sector. The government needs to ensure that women are not marginalized in this process but rather benefit equally. Specific attention should be paid to the inclusion of women in reforms relating to the business environment, access to finance, and capacity of SMEs. To provide support for the most vulnerable women (widows and women heads of households) the government will need to place particular emphasis on improving the targeting of the social safety nets programme to ensure that cash transfers reach this group.

Promote women in positions of leadership. This is also an important way to enhance the equality of women. Addressing this involves not only providing leadership training programmes, but institutional mechanisms and capacity to address the inclusion of women at all levels of decision making in political, economic and social arenas in the public and private sectors.

Develop a multi-sector strategic approach to contribute towards the elimination of VAW, including legislation, policies, procedures, and protocols to govern the intervention and prosecution of assault cases.

CHAPTER 9

ESSENTIAL SOCIAL SERVICES

- The government's ability to effectively deliver essential social services – particularly education, health care, decent housing, safe and clean water, and sanitation and other municipal services – will be crucial in establishing legitimacy in the eyes of the people. Expectations are very high, and while progress has been made in a number of areas, significant additional effort is needed, in both physical asset investment and human resources development, in all of these sectors.

9.1 EDUCATION

OVERVIEW

Over the last two decades, the Iraqi education sector has suffered from underfunding, degradation of infrastructure and depreciation of human resources. During the period 1993-2002, the average annual expenditure per student was as low as \$47, down sharply from about \$620 in the late 1980s. According to a survey in 2003²², approximately 80 per cent of school buildings were in need of rehabilitation or major repair, and 12 universities were seriously damaged. The massive backlog in capital development and maintenance and in policy, systems and human resource development that has accumulated over the previous decade continues to present a major challenge to the reconstruction of the education system. Despite deterioration in education facilities as a result of war and sanctions, the education system has continued to operate regularly since 2003. The principal challenge remains to modernize the system. Key reforms include curriculum development and teacher training (includes teaching methods), and the capacity development of line ministries. Access remains constrained by the security conditions in some areas.

Education indicators: Enrolment rates have decreased at both primary and secondary levels and there are substantial regional and gender disparities. Net enrolment rates at the primary level declined from 94 per cent in 1999, to 83 per cent in 2001²³, while at the secondary level, they were particularly low with a marked gender gap²⁴. Survey findings²⁵ also reveal that more than one third of dropouts have occurred due to a “lack of concern for education” either from the household or individual.²⁶ Illiteracy rates among the poor reached 29 per cent for those aged 10 and above (24 per cent in urban areas and 33 per cent in rural areas).²⁷ Teaching and learning conditions deteriorated with fewer textbooks and learning materials available; less teacher training and curriculum development taking place; and a reduced amount of learning hours for a significant number of students due to multiple shifting in schools.

²² Iraq United Nations/World Bank Joint Needs Assessment – Education Sector, October 2003.

²³ World Bank, 2009: EdStats.

²⁴ NER in secondary education was 38 per cent for males and 24 per cent for females in 2000 (WB, 2009: EdStats)

²⁵ The Iraq Household Socioeconomic Survey (IHSES) 2007.

²⁶ Poverty Reduction Strategy, 2009.

²⁷ Ibid.

KEY ISSUES

There is a crucial need for a comprehensive assessment of the education sector and development of a coherent education strategy: While various plans, vision statements, and sub-sector strategy documents have been formulated, the range of priorities and broad objectives expressed by line ministries lack: (i) a comprehensive assessment of sector indicators and performance; (ii) a holistic vision of the sector at the national level with regional and sub-sector articulations; and (iii) strategies at the sub-sector level with clear objectives, action plans and financing schemes.

Limited capacity in education ministries is a major obstacle in meeting the reconstruction needs of the sector: Capacity constraints not only apply to the execution of budgets, but also in planning, monitoring, management and organization. Insufficient expertise in planning at the central and governorate levels has produced a single-year perspective in planning and budgeting, as opposed to a multi-year viewpoint. In addition, deficiencies have been noted in the recruitment and retention of staff. A multi-level organizational structure (system, ministry, directorates, teachers and staff) is also missing due to decades of isolation.

The provision of quality health education in a safe and healthy school environment: The poor health status of children can interfere with the ability of students to attend school, stay in school, and to make the most of their learning experience. The health status of school children is deteriorating due to a lack of proper and periodic health care, clean water and sanitation facilities, and a lack of awareness on major health problems (including preventive measures). Overcrowding in classrooms increases the risk of contagion and prevalence of diseases.

RECOMMENDATIONS

A shift in focus is required. Evidence of limited capacity to execute the MoE investment budget combined with continuing inefficiencies in recurrent expenditure suggests that a functional review of the education sector should be conducted and a national education strategy developed within the next 6-12 months that integrates sector needs and provides a clear and realistic approach for the reconstruction of the sector. Such a strategy should include the following actions:

- ***Strengthen the MoE and Ministry of Higher Education and Scientific Research*** institutionally, especially in strategic planning and prioritization and capacity building for budget execution and management.
- ***Devise a comprehensive multi-year investment plan*** with provision for school construction (and maintenance) including teaching training facilities, libraries, laboratories, sports and arts facilities.
- ***Review governance in the education sector*** with a view to improving the performance of line ministries to ensure a balanced and effective sharing of responsibilities between central, regional and local levels, and better coordination with key stakeholders.
- ***Assess sectoral needs in order to deliver quality education services*** necessary for the reconstruction and development of the country.
- ***Develop an adequate local-level operation and maintenance needs-gathering system*** to support preparation of the annual budget and an adequate allocation system.

- **Undertake a comprehensive teacher training programme** (including in-service) and utilization strategy to build the capacity of teachers and provide more cost-effective use of human resources.
- **Conduct comprehensive curriculum reform** that includes textbooks, classroom activities, supplementary teaching tools, etc.

----- 9.2 HEALTH AND NUTRITION

OVERVIEW

The healthcare system in Iraq has been based on a centralized, hospital-oriented and capital-intensive model which, with limited efficiency and capacity could not ensure equitable and appropriate access to health care and other health related services. The Ministry of Health (MoH) is the main provider of health care – both curative and preventive. During the past 5-6 years, an attempt has been made to move to a decentralized model based on a primary healthcare approach, with policy decisions taken from the perspective that primary health care is a cornerstone of the Iraqi health system. The emerging private sector provides curative services to a limited portion of the population on a fee-for-service basis. Naturally enough, access to care has been affected by emergencies as a consequence of military operations in recent years, as well as the level of ongoing violence. The resulting drop in GDP and consequent public expenditure on health has led to deterioration in the quality of services and a corresponding shortage of essential supplies.

Damages sustained by the health infrastructure had enormous impacts on the provision of health services, as did the decreasing number of health professionals. Furthermore, the provision of safe water, sewage disposal and electricity remains inadequate, which directly affects the health status of all segments of the population.

Despite these constraints, steady progress has been made in key components of the health system in Iraq during the past few years, as indicated by the third Multiple Indicator Cluster Survey (MICS 3 – 2006/7), which showed that infant mortality decreased from 108 per 1,000 live births in 2002 to 35 per 1,000 live births, and under-five mortality from 125.9 per 1,000 live births to 41 per 1,000. In addition, the maternal mortality ratio had declined from 291 maternal deaths per 100,000 live births²⁸ in 1999 to 84 per 100,000 live births²⁹ in 2006/7. This indicates a significant reduction in maternal mortality rates over this period which could be attributed to achievements in the field of obstetric care, communicable diseases and outbreak control, and the continued expansion of the Integrated Management of Childhood Illness approach at primary healthcare level.

Routine immunization services initially deteriorated but revived in 2008-2009 due to a relative improvement in the security situation. The national average indicator for global acute malnutrition is 4.7 per cent among under-five children; however, 38 out of 114 districts are recorded as having global acute malnutrition over 5 per cent. Severe acute malnutrition in these districts ranges between 1 per cent and 13.5 per cent. Furthermore, an estimated 14 per cent of infants have low birth weights, and there is evidence of micronutrient deficiencies: this includes iodine deficiency (only 28 per cent of households use adequately iodized salt) and anaemia (including 38

²⁸ Iraq Child and Maternal Mortality Survey (ICMMS) 1999.

²⁹ Iraq Family Health Survey (IFHS) 2006/7.

per cent of pregnant women). In 2008, in 45 out of 114 districts measles coverage dropped to less than 80 per cent³⁰ which resulted in over 38,000 cases and nearly 200 deaths.

KEY ISSUES

Priority areas: During the 2009 national roundtable on health, the MoH identified six priority areas for health sector reform: (i) meeting the urgent needs of the population and improving basic health services; (ii) strengthening management of the health system; (iii) developing and implementing a master plan for reconstruction of the health care delivery system; (iv) training and capacity building in public health programmes and in the management of health services; (v) reforming the pharmaceutical sector; and (vi) developing public-private partnerships in the provision of health services.

National strategy: In this connection, the government plans to accelerate the rehabilitation and modernization of the health sector. This will require a National Health Strategy that establishes priorities and a vision for the sector, including short- and medium-term investment programmes and a reform agenda. The initiation of the national dialogue in 2009 is good evidence that the MoH currently has the potential to steer and develop a more effective and responsive health system.

Decentralization: Although the healthcare system is comparatively advanced with respect to the delegation of authority to the governorates, there is still excessive centralization and time consuming administrative procedures that result in a lack of ownership at the peripheral level and in the transmission of incomplete information to the central level, often with delays. Lack of accountability of central-level managers, combined with corruption, lack of transparency, complex bureaucratic procedures and ineffective committees, hamper decision-making processes within the sector, deeply affect the morale of staff, and hinder the effectiveness of service delivery. As one example, there is no functioning central Health Management Information System within the MoH to control, track and monitor various areas, including patient records, procurement, maintenance, logistics, staffing, decision making, data collection and analysis.

Loss of qualified staff: Another concern in this sector is the massive attrition of professional staff during the last few years, which has severely limited the ability of both government and non-governmental sectors to lead and manage urgently required health services and to develop and implement a programme of health reforms.

RECOMMENDATIONS

Substantial technical assistance and capacity building will enable the following priorities to be translated into actionable programmes and measurable results in the short and medium term:

Short-term actions:

Promote national dialogue and consensus on the vision for Iraq's health system as a platform to prepare for the development of a National Health Strategy with a clearly articulated vision and sector priorities such as the implementation of a basic health service package, public sector modernization, and short- and medium-term investment programmes (covering both physical and human resources).

³⁰ WHO/UNICEF (Joint Reporting), 2006.

Prepare a medium-term national health plan and implementation strategy, and include monitoring and evaluation systems that promote transparency and accountability.

Shift the focus of investment towards restructuring the health system to support the delivery of modern and high-quality healthcare services, with a greater emphasis on primary health care, preventive public health programmes, and improved access to basic health services for the poor. This should include essential public health functions such as disease surveillance and reporting to ensure public safety and protection; accreditation programmes and continuing medical education to upgrade quality and improve efficiency in both public and private health sectors.

Design programmes that allow greater engagement of local-level stakeholders, including local authorities and civil society, with simple but measurable outcomes that are likely to have an immediate impact on people's lives. This could include, among other initiatives, expansion of community-based initiatives and/or local area development programmes, school health programmes, vaccination programmes with new and improved vaccines, and investment in nursing services.

Medium-term actions:

Review existing health laws and regulations and propose new structures and roles for the MoH and regional health authorities, and establish appropriate organizational structures to facilitate monitoring and evaluation of the health system at national and regional levels.

Build MoH capacity to develop policies and undertake policy analysis. Evaluate implementation of the national health strategy, the master health plan and reform programme for financing the health sector (including introduction of a Medicare system). In addition, strengthen information sharing between research bodies and health service facilities, and place more emphasis on the private sector in providing health services.

Modernize administration and management structures and develop an efficient and sustainable electronically-based information management system that builds on and further strengthens the Health Information System.

Update the national medicine policy based on the concept of essential medicines and increase ongoing efforts aimed at reorganizing the pharmaceutical sector to improve the medical supply management system, and ensure that the quality assurance system is able to guarantee that pharmaceutical products meet the required quality and safety norms and standards.

Strengthen primary healthcare services with appropriate referral systems, and prioritize basic maternal and child health services, emergency obstetric care, school health and health education programmes.

Fulfil Iraq's legally binding obligations under International Health Regulations (2005)³¹ which provide a framework to coordinate and manage events that may constitute a public health threat of international concern.

³¹ The International Health Regulations (IHR) are an international legal instrument that is binding on 194 countries across the globe, including all the Member States of WHO. Their aim is to help the international community prevent and respond to acute public health risks that have the potential to cross borders and threaten people worldwide. (Source: WHO website, <http://www.who.int/features/qa/39/en/index.html>.)

----- 9.3 HOUSING AND CONSTRUCTION

OVERVIEW

Population growth, overcrowding, high unemployment and low household incomes, slum housing and the ongoing issue of returnees and IDPs have all contributed to poor housing conditions and a growing demand for housing in Iraq. More than 70 per cent of Iraqis live in urban areas³²; 13 per cent of houses in these areas have more than ten occupants and 37 per cent accommodate three or more people per room. Some 57 per cent of the urban population currently lives in slum-like conditions.³³ Overcrowding will only increase as the population continues to expand due to high fertility rates and a growing youth population. This will inevitably place a high demand on serviced land and local economic development, and in response, a range of housing solutions will need to be provided at different price levels.

Existing systems of urban planning and management are unable to cope with the challenges that confront urban areas. The physical master plans of cities, while being updated, do not yet provide an effective framework for rehabilitation priorities, infrastructure investment or future development. In addition, most of the municipal staff involved in planning and development control are engineers with little or no background in issues related to city planning. The division of responsibilities between ministries, municipalities and governorates is unclear, particularly in the context of ambiguities around the implementation of the Law of Governorates not Incorporated into a Region No. 21 (2008). Finally, while local governments have received funds under the Regional Development Fund, their ability to programme and deliver projects to meet local demand is constrained. As a result the demand for local services are not been met, existing infrastructure is not being rehabilitated and urban living conditions are steadily worsening.

KEY ISSUES

Labour supply: Construction accounts for about 10 per cent of total employment in Iraq. A recent construction sector survey suggests that most construction firms have fewer than 20 full-time and 50 temporary employees. The number of employees per firm is increasing over time, especially in robust construction markets such as Erbil. Neither cost nor availability of non-skilled and semi-skilled labour is considered as an obstacle for most firms; however, the availability of skilled labour is a constraint on the operations of most contractors surveyed.

Land supply: A number of problems related to land ownership and occupation have intensified since the start of the war. These include: forgery of title deeds, squatting in public buildings, encroachment on public land, and land/property ownership disputes. The Property Claim Commission is attempting to settle valid claims through transfer of ownership or financial compensation. In addition, urban land markets have stagnated as a result of state control over land. The Ministry of Municipalities and Public Works has frozen land allocations until a new urban development plan for cities in Iraq is completed. As a result, little “new” urban land is entering the market. This severely limits housing development opportunities and has caused prices to rise sharply in markets. Housing development in urban Iraq is significantly constrained as a consequence of the lack of land suitable for development.

³² State of Iraq Cities report 2007, MMPW/UN-HABITAT; Iraq Household Socioeconomic Survey (2007), World Bank, Central Organization for Statistics and Information Technology (COSIT).

³³ National Development Plan (2010-2014); Sectoral Strategies for Housing, Water, Sanitation and other Municipal Services (2009).

Building materials: Iraq has the capacity to produce domestically all basic building materials – including cement, bricks, glass, tile, polyvinyl chloride pipe, gypsum and concrete blocks – for residential construction through public companies and private firms. Currently, cement manufacturers are government owned while brick producers are almost all privately owned. Other materials are produced by both private companies and parastatals. However, the industry is not meeting its full capacity for production and growth. Public and private sector manufacturers suffer from aging infrastructure, lack of spare parts, inadequate supply of electricity, looting, and general neglect during the years under sanctions and war. These factors constrain greater efficiency of operations and production outputs. As a result, construction materials still need to be imported into Iraq, which increases retail prices and limits the construction of affordable housing. Many contractors and developers report that the availability of materials is a persistent problem.

Finance: Lack of access to finance is a major constraint on development of the housing sector in urban Iraq. Developers participating in the recent Housing Construction Sector Survey³⁴ in Mosul and Erbil reported that savings represented their only source of finance for development projects in 2005. Despite this, many Iraqi builders and developers seem to be able to muster enough financing to undertake projects without bank loans. On the other hand, household access to finance for housing is severely constrained. A 2004 Quality of Life Survey³⁵ found that only 2.8 per cent of home owners had a mortgage on their house at the time of the survey.

Construction industry: Formal state-owned and private contractors perform most housing construction in Iraq. Since 1982, it is estimated that the formal sector has produced 80-90 per cent of all new housing. The remainder is provided by unregistered informal sector builders. Even with the larger production capacity of the few state-owned contractors, the industry is not currently able to meet the large housing deficit in Iraq. The informal construction industry is characterized by small-scale enterprises made up of single or small groups of artisans that provide the necessary construction skills. In addition, there are only a few Iraqi developers who develop real estate on a speculative basis. Some Iraqi contractors are now partnering with international developers on residential projects in Erbil, and in doing so, are acquiring real estate development skills.

Material costs: Construction materials and equipment accounted for 50-70 per cent of firm-level expenditures in the fiscal year 2005. At the project level, materials and equipment accounted for 36 per cent of total housing development cost, compared to 28 per cent in India and 30 per cent in the United States. This high level reflects the high price of materials stemming from production shortfalls and import difficulties. Land costs are also fairly high as a percentage of the total (35 per cent) which results partly from supply bottlenecks caused by the public sector freeze on land allocation mentioned above, while labour costs are fairly low at 12 per cent of total development costs.

The Iraq Housing Fund (IHF): Established by the government with an initial \$200 million funding window, the IHF acts as a staff loan programme for civil servants. It does not utilize private sector funding, but leverages large amounts of private funding as it keeps loans small enough such that borrowers must match loans with personal funds. While this type of facility might increase construction, it does not directly address the plight of the poorest segments of society. The National Housing Policy recommends that the role of the IHF and the Real Estate Bank should shift from that of a primary lender to a restricted market, to backstopping commercial housing finance. The government is considering allowing the IHF to work through

³⁴ World Bank/IFC financed.

³⁵ Conducted by the United States Agency for International Development (USAID).

private (and not state) banks, as public banks have yet to develop the skills and attitudes required for proper risk assessment and management of housing finance.

RECOMMENDATIONS

Focus the government's role on policy reform as a means to create an environment conducive to private sector growth while ensuring that investors and developers have an effective role in the reconstruction of infrastructure. Necessary laws, regulations and monitoring mechanisms for the construction market will need to be adopted.

Support urbanization policy with spatial development policies (as an important component of a national plan) for balanced and sustainable development across the country, and as a means to promote economic and social cohesion, and the conservation and management of natural resources and cultural heritage.

Consider housing strategies that reflect the needs of the urban poor. Given that some 32 per cent of the population in urban centres live near the poverty line.³⁶

Other suggested actions include:

Short-term actions:

- ***Adopt the new Iraqi National Housing Policy*** and supporting its implementation plan.
- ***Provide equitable access to housing*** by promoting an enabling environment to support the provision of affordable housing by the private sector while redirecting public sector intervention to overall policy coordination and addressing the housing needs of the vulnerable groups.
- ***Review institutional roles and capacities*** as well as the regulatory framework to support the development of an enabling environment for improved housing delivery.
- ***Devote considerable attention to land delivery***, property restitution, finance, building materials and construction technology, building codes and standards.
- ***Leverage private investments*** by facilitating access to land, finance, and infrastructure services.
- ***Lay the groundwork for a responsive supply side*** that can support a potentially vibrant urban housing market.
- ***Improve the business environment for housing development and investment.***

Medium-term actions:

- ***Support the development of an urban observatory*** that will monitor urban indicators in order to assist the formation of well directed strategies.
- ***Enhance the role and capacity of the National Human Settlements Committee*** to develop and promote strategies, reforms and new legislation to support the development of an effective housing market.

³⁶ UN Country Team, Iraq Common Country Assessment 2009.

- *Improve considerably the performance of the housing and construction markets.*
- *Develop an urbanization policy based on a more detailed understanding* of the dynamics of urban growth and recognition that well-managed cities, for example, encourage compact higher density development, can address some of the challenges faced by Iraq, including urban sprawl, desertification, loss of agricultural land and poor access to services.
- Adopt policies to “embrace and manage” the growth of cities and towns as the preferred way by which to counter the effects of urbanization, as opposed to activities that channel investment towards attracting people back to small towns and rural areas.

----- 9.4 WATER, SANITATION AND MUNICIPAL SERVICES

OVERVIEW

Years of conflict, misdirected resources and the effects of centralized command have stifled Iraq’s economic growth and development and curtailed investment in new infrastructure and maintenance of existing civic infrastructure. This problem has been particularly acute in the water supply, sanitation and irrigation services sub-sectors due to a lack of preventive maintenance (since the 1980s) and heavy dependence on public budgetary support.

The effectiveness of service organizations to meet daily requirements for water (for drinking and for irrigation) has greatly diminished. As a result, most Iraqis now have limited access to a clean water supply, or to sanitation and refuse collection. Serious environmental and health risks associated with contaminated water supplies and inappropriate handling of solid waste and sewage disposal threaten to add to the burden of the already overstretched health system. Furthermore, the concentration of economic and social activities in the main urban centres of Iraq has also led to a proliferation of under-serviced neighbourhoods in major Iraqi cities.

KEY ISSUES

While oil-generated resources may be the key to Iraq's future, clean water is a far more pressing concern: An immediate intervention to provide safe drinking water, adequate sewage collection and treatment services is critical to safeguard public health, raise living standards and protect the environment. Shortages of water supply and sanitation services are acutely felt in urban centers where the majority of Iraqis now live. Outside of Baghdad, potable water service coverage averages below 70 per cent and as low as 48 per cent in rural areas. In Baghdad, as many as 25 per cent of residents remain disconnected from the water supply network and rely on expensive alternative sources of drinking water.

Wastewater collection and treatment rates are even lower than those of potable water: For example, 28.4 per cent of the population in 2000 had access to a sewer system with treatment facilities, a figure that dropped to 9 per cent in 2007. With sewage treatment capacities dropping between 10 and 50 per cent of that which was planned, it is estimated that 50 per cent of wastewater collected is discharged into rivers without any treatment. Of particular concern is existing treatment facilities in Baghdad which are nearly non-operational. It is estimated that 75 per cent of wastewater is channelled untreated into the Tigris river. In addition, water treatment plants in Basrah (12 in number) have a total capacity of approximately 412,000 tons a day which falls significantly short of meeting the maximum demand of about 914,000 tons a day. As a

result, some 70 per cent of households in Basrah have access to water supply services for less than 12 hours a day, while the quality of treated water is less than satisfactory.

The situation in KRG is similar in that the facilities have aged, which has markedly decreased the region's ability to draw and purify water: With no option other than to impose restrictions, water is supplied approximately one hour a day in Sulaimaniya and Dohuk governorates, and four to five hours a day in Erbil governorate which is far short of the amount required. In Erbil, the capacity of the three water treatment plants is approximately 241,000 cubic metres (m³) a day, considerably short of the daily demand of 442,000 m³. In Halabja, in Sulaimaniya governorate, there are no water treatment plants, and residents must rely on springs and ground water as water sources. The capacity of the water supply is approximately 18,000 m³ a day, well short of the daily demand of 57,000 m³. Additionally, in Kurdistan, much of the water piping was laid before 1950s and it has significantly deteriorated.

RECOMMENDATIONS

Institutional development and sector reform are key near-term priorities. Policy and institutional issues related to infrastructure service delivery should be addressed early on to rationalize and realign regulatory oversight and delivery mechanisms. Development of the water sector has focused primarily on the implementation of engineering projects, with less attention given to: (i) strengthening the capacity and accountability of water service providers, and (ii) operation and maintenance sustainability.

Better institutional frameworks, policies and systems will improve the efficiency and effectiveness of the water sector. Significant physical investment is required and associated capacity development activities as outlined in the Country Water Resources Assistance Strategy.³⁷ The following actions are recommended:

- ***Increase access to safe and reliable water services*** and address the gap between supply and growing demand that is fuelled by a rapidly growing population.
- ***Increase connection to sanitation services in both urban and rural areas***, study the possibility of low-cost sanitation, and include governorates in investment plans.
- ***Rehabilitate and modernize existing infrastructure*** effectively and cost-efficiently.
- ***Reform water supply and sanitation utilities*** which currently only meet 30 per cent of operational and maintenance costs, and thus remain heavily dependent on central budgets.
- ***Reform the water governance system*** which is characterized by centralized control, inefficiency in water use and low returns on costly assets.
- ***Examine the possibility of establishing a water tariff policy*** aimed at improving water-use efficiency and reducing water waste.
- ***Build the capacity and coordinate the roles and responsibilities*** of national and local institutions.
- ***Advance regional water dialogue*** with riparian nations.

³⁷ Completed in June 2006

Other specific measures would include:

Develop water and sanitation master plans at the governorate level. These would identify, prioritize and schedule investment works required for the extension and gradual completion of water supply and sewage services, and community-based water supply and sanitation measures for rural and remote areas. At the same time, the plans should define guidelines to establish an operations and management structure to govern the water and sanitation services, guaranteeing their efficiency, effectiveness and sustainability, while also promoting the activation and implementation of water-saving and water re-utilization/recycling strategies. Moreover, the plans should seek opportunities in the southern governorates to better utilize resources; the scarcity of water resources suitable for human consumption suggests an urgent need for energy-intensive desalination using available and underutilized energy sources such as the flared gases produced by oil production projects.

Formulate a sector policy statement to address key issues of universal access to the water supply and sanitation infrastructure and the reliability, sustainability and affordability of the service.

Prepare a medium-term action plan to address policy and institutional reforms, and rehabilitation and extension of the water supply and sanitation infrastructure. There is a great need to improve planning at governorate and local levels to facilitate development of such plans.

Develop national policy on minimum water requirements and an implementation framework. Develop national legislation that articulates secure minimum health standards for water as a key component of water resource management. Shift towards preventive water quality management, and operationalize water safety plans. Undertake capacity building and training to upgrade the national drinking water quality management system.

CHAPTER 10

WATER RESOURCE MANAGEMENT

OVERVIEW

Over the past 30 years, Iraq has shifted from being a water-secure to a water-stressed country. Just in the past decade, the amount of water in its rivers has declined as a result of various upstream activities and as a consequence of longer periods of drought. Increasing salinity, mainly in the southern governorates, limits the availability of fresh water resources for primary users. In addition, the contamination of the river waters in Iraq and from upstream countries, due to untreated domestic and industrial wastewater discharge, causes extensive sedimentation in the reservoirs of dams. Improper water treatment and high temperatures has led to eutrophication³⁸ and increased water pollution, which has further contributed to water scarcity by reducing water usability downstream. Much of Iraqi territory is subject to desertification. (*See also Chapter 11, The Environment, and Chapter 12, Agriculture, below.*)

KEY ISSUES

Water resources: Taking into account an expected growth in population, gradual improvement in living standards and significant development in primary economic sectors (industry, agriculture and natural resources), it is anticipated that water availability and quality will further decrease and deteriorate in the next 20 years, leaving Iraq with constant shortages. Water flows into Iraq are largely controlled by Turkey, Syria and Iran, and there is currently no comprehensive regional agreement or mechanism between the four riparian countries on water management and sharing. (*See also Chapter 9, sub-section 9.4, Water, Sanitation and Municipal Services, above.*)

Agriculture is the main consumer of water in Iraq: It is estimated that 85 per cent of water resources are used in agriculture, that 8 per cent is used for other purposes while the rest is lost – especially through evaporation. Problems with irrigation systems are severe. In many instances, irrigation command areas have suffered widespread deterioration in complementary infrastructure (access roads, drainage systems and electricity). Historically, the government has tended to focus on small-scale emergency repairs and renovations to local irrigation infrastructure, and only recently has it developed a comprehensive water plan. (*See Chapter 12, Agriculture.*)

Institutional development and sector reform: In addition to immediate requirements to restore and improve basic service delivery, policy and institutional issues related to infrastructure service delivery should be addressed early on in order to rationalize and realign regulatory oversight and delivery mechanisms across the sectors. Global experience with conflict situations shows that crises provide an opportunity for instituting such policy reforms. This is particularly relevant in Iraq, where development of the water sector has been primarily focused on restoring water and sanitation systems, with less attention given to strengthening the capacity and accountability of water service providers and ensuring operational and maintenance sustainability.

Biodiversity and environmental protection: Unsustainable economic development and low awareness of the importance of functions of aquatic ecosystems has progressively led to severe degradation of nature and loss of biodiversity in Iraq, a country which has already experienced

³⁸ Eutrophication is the process by which a body of water acquires a high concentration of nutrients, especially phosphates and nitrates. (Source: U.S. Geological Survey, <http://toxics.usgs.gov/definitions/eutrophication.html>.)

the destruction of natural resources of international importance – for example, the Mesopotamian Marshes. Significant contraction of marsh areas has occurred due to lack of sustainable water supply. (See Chapter 11, *The Environment*.)

Water management challenges due to a variable hydrological regime: Extreme variability in the hydrological regime of the Tigris-Euphrates river system in the region makes water resource management challenging in Iraq. In addition, the effect of repeated drought events has increased the complexity of a sound water management solution.

Cross-border cooperation: Regional “water diplomacy”, together with existing mechanisms of cooperation, should be (encouraged) strengthened. The quantity and quality of water resources in Iraq has deteriorated as a consequence of repeated droughts, upstream development projects on several rivers and tributaries in the neighboring countries, as well as in the absence of a consolidated water management and consistent supervision in recent years. In addition, standards for cross-border water quality are missing and there is no (regional) 'trans-boundary water management strategy', which needs to be explored in a consorted effort at the regional level.

Uneconomical water utilization interlinked with dependence on government financing: Historically water development in Iraq has been driven more by hydraulic engineering than by the economics of water use, and this has created numerous problems in the present use and management of water. Iraq’s centralized, control-oriented institutional arrangements have resulted in weak accountability to users, lack of a pricing strategy, a dependence on government financing and limited attention to service standards, which has weakened the infrastructure and contributed to poverty. Antiquated water collection, storage and distribution infrastructure results in the loss of 20 to 30 per cent of total water availability through evaporation, waste and leakage.

Inefficient agricultural water use: Water use by farmers is inefficient due to poor water distribution grids and management practices, soil salination, poor maintenance of canals and scarcity of power for water pumps.

RECOMMENDATIONS

From a technical perspective, water resources management could be improved through the development and implementation of integrated investment and management plans. In addition to this, it is suggested that a clear legislative and institutional framework be developed to define competencies and effective coordination between different actors and stakeholders. Any future strategy for water resource management in Iraq will need to address the following issues (*in addition to water supply and sanitation topics discussed in Chapter 9*):

- ***Manage transboundary water resources by a combination of technical and political initiatives.*** From a technical point of view, there is an urgent need for a strategy at a regional level involving Iraq, Turkey, Syria and Iran. Such a plan needs to include a coordinated strategy to address drought events, flood management, hydroelectric production, and irrigation uses as a means to optimize the utilization of available water resources. Given the reduction in water availability in the Tigris and Euphrates, it is important to reach an agreement on equitable and just regional water allocation within a water resource management plan.
- ***Develop policy, legislative and institutional frameworks.*** To better coordinate and implement integrated water governance in Iraq, it is suggested that an appropriate policy and legislative and institutional framework be developed specific to Iraq’s needs but also

adapting principles from the integrated water resources management concept. To support the frameworks' development and effective implementation, an extensive capacity-building programme should be launched using a variety of approaches – including education and training, the sharing of experience and lessons learned, direct technical assistance and independent expertise – that targets public administration at the national, governorate and local levels.

- ***Develop a water strategy.*** Such a strategy should aim to increase the utilization of lower quality water resources while promoting the reutilization of treated water. This could entail switching a percentage of agricultural production to salt-tolerant crops, especially in southern areas where fresh water resources are lacking, thus allowing the utilization of drainage water mixed with fresh water. The strategy should consider water usage priorities such as the utilization of water for potable use and the production of food, while setting policies and regulations for other uses (industrial, transportation, etc.). In addition, drainage water could also be recycled for agro-environmental purposes, including marsh restoration and management, afforestation and agro-forestry projects, and the like. In the more remote and drier areas of the country, on-site water conservation techniques such as water harvesting could be adopted through the application of traditional techniques that are revised against current environmental conditions.
- ***Repair existing water infrastructure.*** Operability of the existing infrastructure should be optimized and a national maintenance programme established to address equipment that has either fallen into disrepair, is improperly or non-functioning. Such a programme should also address the use and maintenance of hydro-power plants which are a valuable source of sustainable alternative energy for Iraq. Water management efficiency could be improved by minimizing water pollution through improvements to the efficiency of sanitary and industrial wastewater collection and treatment facilities.
- ***Address biodiversity and environmental protection.*** The integrated management of water and land resources in Iraq should be based on the principles of environmental sustainability as a means to guarantee the protection and restoration of aquatic and terrestrial ecosystems and their biodiversity. Included is the development of a sustainable marsh-water management plan for the southern marshes, to support their biodiversity, fisheries development and other economic improvements.
- ***Upgrade agriculture and irrigation.*** In many instances, irrigation command areas have suffered widespread deterioration in complementary infrastructure (access roads, drainage systems and electricity). A significant technological upgrade of the agriculture sector is required through adoption of modern high-efficiency irrigation techniques that focus on optimal use of available water. The selection of irrigation delivery systems (flood, furrow, drip, sprinklers and centre pivot) should follow the adoption of a land classification system that identifies the location of soils based on crop yield potentials and constraints such as drainage, drought and salinity.
- ***Launch cooperation programmes between Iraq and foreign universities.*** These would promote applied research focused on updated technologies and the application of scientific and technical innovations in the management, protection, exploitation and use of water resources.

- ***Build capacity in water management and conservation, desalination technologies and agricultural crop water management techniques.*** In addition, media campaigns that explain the benefits and necessity of water conservation should also be implemented as a policy tool. The government should develop appropriate legislative tools, standards and plans while also introducing water licensing and a pricing policy for irrigation to limit water waste.

CHAPTER 11

THE ENVIRONMENT

OVERVIEW

Iraq's natural environment is seriously degraded, and this poses an increasing threat to the economic and social stability of the country. After suffering from decades of conflict and economic sanctions, and facing constant neglect and absence of vision, the country's environment is likely to undergo an irreversible process of degradation if reconstruction efforts are undertaken without due environmental and social consideration. Moreover, current economic policies aim to rapidly expand exploitation of the natural resource base as a main source of revenue.

Despite efforts to strengthen institutional response to environmental issues and to provide adequate expertise through the Ministry of Environment (MoEn)³⁹, serious legislative gaps, poor investment in the sector, and poor or nonexistent monitoring and enforcement systems, have kept the environment in a critical state, thus perpetuating problems facing the economy and livelihoods in Iraq. This further contributes to the vulnerability of the population while increasing the risks of social exclusion and environment-driven displacement.

KEY ISSUES

Land resources, size and quality: Inappropriate use of agricultural land, combined with water scarcity, significantly impedes sustainable agricultural production, economic growth and social development. The natural resource base in Iraq is seriously degraded. The quality of land is poor as a result of soil degradation, diminished fertility, overuse, and wind and water erosion. Rigid rangeland tenure policies and poor social organization have negatively impacted on the development of effective common-property management programmes that encourage beneficiaries to use and maintain rangelands in a more sustainable manner.

Soil salinity: Approximately 20 to 30 per cent of the land is unusable due to salinity problems caused by unsustainable irrigation regimes that have converted productive land to desert. The productive areas of southern Iraq have been seriously degraded over millennia by poorly engineered irrigation systems. The groundwater in central Iraq is already at 15 dS/m⁴⁰. Almost 80 per cent of the irrigated land around Baghdad is affected by salinity, while water in the south is almost as salty as sea water, at 35 dS/m. To reverse further land degradation, agricultural production efforts should focus primarily on areas that offer the greatest potential for cost-effective and ecologically sustainable increases in land productivity.

Water resources – scarcity, quality and management: Iraq is in the grip of a water crisis as seasonal rains in recent years have failed, causing entire crops to be wiped out in some parts of the country. Lack of water and the associated increase in desertification has contributed to an unusually high number of sandstorms in the country. The water level of both the Tigris and the Euphrates rivers has fallen by more than 60 per cent over the past 20 years, while the sequestering of upstream water in dams and reservoirs in neighbouring Turkey and Syria has also contributed to water scarcity in Iraq.

³⁹ Established in 2003.

⁴⁰ Groundwater is water located beneath the ground surface in soil pore spaces that can flow to the surface naturally; it is measured in decisiemens per metre (dS/m). Soil salinity levels of 15 dS/m are considered too saline for most crops to grow (source: http://www.dnr.nsw.gov.au/salinity/solutions/solutions_book02.htm).

The quality of water along the Tigris and Euphrates is also deteriorating due to the discharge of industrial effluents, untreated sewage, and agricultural run-off. A number of Tigris tributaries (such as the Diyala river) regularly face anaerobic conditions due to an overload in organic material discharges from untreated municipal and industrial effluents. Water-borne diseases are frequent due to polluted drinking water supplies. In 2009, studies undertaken by the MoEn indicated that bacteriological contamination in drinking water varied from 2.5 per cent to 30 per cent with a national average of 16 per cent.⁴¹ This exceeds the permissible limit of 5 per cent according to both Iraq national drinking water standards and WHO guidelines for drinking water. The bacteriological contamination is primarily due to the following factors:

- Water sources (e.g., wells) are not fully protected from contamination and vandalism. Poor water quality conditions (in and around the sources) result from unauthorized bathing and clothes washing, the entry of animals and unauthorized persons, etc.
- The condition of the water distribution network is poor and consists mostly of corroded, broken and leaky pipes. This allows free-flowing sewage, improperly dumped garbage, and cross-connection/flow of sewage to enter into water pipes.
- At least 250,000 tons of raw sewage a day is pumped into the Tigris river which threatens unprotected water sources and the water distribution network. Household wastewater is also disposed of in an unsustainable manner.⁴²
- Consumers directly and illegally puncture the main water-supply lines with unhygienic plastic (leaky) hoses causing direct and continuous contamination. Inappropriate personal hygiene and improper water storage practices in homes further contributes to the contamination of water.
- Unsustainable water chlorination and continuous power failures and breakdowns hinder efforts made to improve the situation.

Air pollution: Major contributors to urban air pollution in Iraq include: (i) an aging fleet of vehicles using leaded or diesel fuel; (ii) traffic congestion in urban areas; (iii) emissions from heavy industries, mainly refineries and metallurgical, petrochemical, and cement plants; (iv) the open burning of solid waste and emissions from smelters; and (v) the burning of oil wells whether deliberately started or otherwise. With around 600 million cubic feet of natural gas flared every day, Iraq is the fourth worst offender in the world in terms of air pollution.

Waste management: Municipal, social and domestic waste management services are critically degraded, and this is apparent in every urban centre and most villages in Iraq. The scale of the problem will only increase with economic growth and the resumption of normal life. Municipal waste collection is limited to some but not all residential areas. Those who do not receive waste collection services have to access informal dumpsites within urban areas. Burning waste openly worsens air quality, and its accumulation in urban areas poses a direct threat to human health.

Chemical waste: The principal source of hazardous waste in Iraq is likely to be from the oil industry. From sludge and oiled mud to used lubricating oil from machinery, this waste is likely to create dangerous levels of both water and soil contamination. Perhaps the greatest concern for the people of Iraq is military waste. The production, use and destruction of chemical weapons

⁴¹ Salinity in Central and Southern Iraq Report – International Centre for Biosaline Agriculture and Ministry of Environment.

⁴² Quarterly Report - Special Inspector General for Iraq Q2/2009.

(such as sarin nerve gas and mustard gas), and to some extent biological weapons, has already impacted on the health of society and their livestock. Their long term impact is still unknown and requires further study. Multiple wars in Iraq have left large quantities of military debris, depleted uranium, and unexploded ordinance, all of which pose great risks to human health.

Destruction of biodiversity, key ecosystems and habitats: In recent years, Iraq has faced widespread deterioration of waterways, forests and marshlands. The massive drainage of the Mesopotamian Marshes (covering about 20,000 km²) in southern Iraq has had a catastrophic impact on people's livelihoods, the ecosystem and biodiversity. The water-filtering role of the marshes has largely ceased and the remaining drainage canals, waterways, and creeks carry agricultural run-off, municipal wastewater, and water laden with silt and industrial effluents directly through the Shatt al-Arab to the northern Gulf. In addition to the southern marshlands, there are numerous locations with unique biodiversity, and especially birdlife. Limited information is available on mammal, reptile, fish and plant species in Iraq, but a number are endangered, including some species of bats, otters, turtles and tortoises.

Mainstreaming environmental aspects in sector policies: Environmental and social development policies and plans are required to support sustainable growth in Iraq. Governmental development strategies should place the sustainable needs of the environment at the heart of the development agenda with a similar level of priority as that received by economic competitiveness and improved quality of life.

Climate change: It has become increasingly clear that Iraq has been on the front line of climate change. Water infiltrating from the Gulf into the Shatt al-Arab has contributed to the salination of agricultural lands. The increase of dust storms in recent years has been attributed to a rising of temperatures. And while the rains in the spring of 2010 were considered good, the flow of the Euphrates and Tigris during the summer was only equal to that of summers of 2007 and 2009; both rivers depend on snow melt during the summer months, which has steadily declined. Government plans should increasingly address the challenge of adapting to climate change through the development of national action plans, vulnerability assessments, and satellite imaging monitoring techniques.

RECOMMENDATIONS

To mitigate the adverse impact of (i) industrial pollution, (ii) drought and desertification, (iii) poor water and waste management, and (iv) the destruction of ecosystems and biodiversity, the government at both central and local levels needs to grant higher priority to the policy agenda and strategic programmes required to improve land, water and air quality in Iraq and the region⁴³ While the environmental infrastructure needs to be built almost from scratch, institutional capacity-building efforts should ensure that environmental and social concerns are adequately addressed early on in the identification, design and implementation of development projects.

Basic environmental functions (such as monitoring and enforcement) and environmental issues (such as air and water pollution and hazardous waste) should be targeted for initial action. The government is strongly encouraged to respond to the challenge of environmental management and sustainability through:

- Endorsing a strategy of intervention and consolidation in a national plan for resource efficiency, cleaner production and reduction of greenhouse gas emissions.

⁴³ That said, it is important to acknowledge the slow response of the environment to specific stabilizing interventions.

- Adopting a legal framework to stimulate companies to implement cleaner production and resource-efficient practices.
- Fostering expertise at the national level (public and private sectors), to implement cleaner production and resource-efficiency methodologies and diffuse environmentally sound technologies.
- Establishing facilities for the appropriate management of solid waste, contaminated land and the treatment of hazardous waste and waste water.
- Developing new and renewable energy sources and providing incentives to the private sector and society, to use and invest in renewable energy sources.
- Adopting strengthened legislation and an enforcement regime for environmental impact assessments.
- Adopting a cross-sectoral approach towards climate change translated into a national action plan on adaptation.

Other recommendations would include:

Develop a national strategic policy framework for environmental sustainability. A national strategy for the environment would ensure that sustainability is factored into all new investment projects. It is highly recommended that coordination between the MoEn and the Ministry of Agriculture (MoA), the Ministry of Water Resources and the Ministry of State for the Marshlands, and including the Ministries of Oil and Industry, be pursued both in policy formulation and project planning and implementation.

Continue to build capacity of the MoEn. The host of environmental challenges that Iraq currently faces cannot be seriously tackled without a functioning institutional and legal framework. Providing substantial technical support to the MoEn is a prerequisite for enabling Iraq to confront its major environmental issues and ensure that the ongoing large and complex reconstruction efforts are undertaken without further deterioration of environmental conditions.

Assess the economic cost of environmental degradation. Until such a study is carried out in Iraq, there will be no clear understanding of the economic cost of environmental degradation expressed as a percentage of GDP; this will also serve as an indicator of environmental sustainability.

Manage hazardous materials and waste in an environmentally acceptable manner. The multitude of hazardous chemicals (especially post-war) and persistent organic pollutants is in need of proper management. Given this, a national programme for hazardous materials and waste management is required, including facilities for hazardous materials and waste management.

Manage fragile ecosystems. This is especially relevant and timely given Iraq's accession to the Convention on Biological Diversity in October 2009. As a part of regional cooperation efforts and in view of restoring the Shatt al-Arab and the Gulf's fragile marine ecosystems, a regional project to restore valuable environment resources should be considered. Biodiversity can be protected and managed through the expansion (and continuation) of projects that aim to safeguard areas of high environmental value, such as national parks.

Prevent/reverse pollution of water, air, and soil resources. The proper management of pollution levels in water, air and soil is essential to reversing deteriorating trends. National strategies for environmental resource management should be formulated, as should integrated programmes to

monitor water, air and soil. This would also include the proper management of “flare gas” which should not be uselessly burned but reused for power generation. In addition, a legal and regulatory framework should be established for enforcement purposes, while market-based mechanisms for pollution abatement need to be identified.

CHAPTER 12

AGRICULTURE

OVERVIEW

Agriculture can play a key role in political stability and economic development in Iraq. The country was once almost self-sufficient in many agricultural commodities, but years of war and sanctions followed by political instability have led to serious deterioration of all sectors of the Iraqi economy; this is especially true for agriculture, which has seen productivity, food security, and the livelihoods of the rural population decline. One third of the population resides in rural areas and is dependent upon agriculture as a livelihood. This segment of the population suffers disproportionately from poverty and food insecurity, and according to the most recent poverty assessment, poverty rates are much higher in rural areas (39 per cent) than urban areas (16 per cent), with the poorest of the poor living in rural areas.⁴⁴

After the public service, the agriculture sector is the second largest employer in Iraq, and the second largest contributor to GDP after the oil sector. Performance of the agricultural sector during the past three decades was disappointing not only as a result of exogenous constraints, e.g., wars, sanctions, and drought, but also due to: (i) poor management; (ii) inadequate planning and insufficiently trained human resources; (iii) land degradation and increased soil salinity; and (iv) declining crop yields due in part to outdated technology. To deal with the multiple challenges imposed by internal and external factors, the agricultural sector in Iraq needs to adjust itself structurally to address these challenges.

KEY ISSUES

Conditions are not supportive of long-term agricultural development: The agricultural sector is characterized by shortages of credit, investment, and the quantity and quality of water, fuel, seed, fertilizer, and farm equipment. Commitments by the government to the agricultural sector to supply seed, equipment, fertilizer and other inputs are largely unmet. For the most part, a private sector farm supply sector is still emerging in Iraq, yet it is constrained by the overall political and security situation as well as by inexperience, excessive regulation, and lack of credit. While state-owned industries are still present, their role in most cases is greatly diminished.

Power, water and production problems: Fuel for tractors and electricity for pumps are in short supply and add to farmers' production costs. Intermittent electricity supply makes food processing and storage more costly or commercially unviable. The breakdown of the long-standing irrigation water management system, as well as poor adoption of water efficient technologies, exacerbates the mounting shortfall in water supply, as does increased soil salinity. This contributes to constraints on crop production. Production and marketing are also stymied by a general lack of modern plant and animal genetics, quality fertilizers, mechanized equipment, and up-to-date production and post-harvest handling techniques. Human capital development in the agricultural sector has been neglected since the early 1980s, and agricultural education and research institutions have deteriorated.

Legacy of centrally-planned government continues to create barriers and impediments: The continued significant presence of the government within the sector has hindered market oriented

⁴⁴ World Bank (2009). *Iraq Poverty Assessment, Volume I*.

development. Under current government programmes, the MoA is unable to supply the quantities and requisite quality of seed and fertilizer for the principal crops of barley, corn and rice and prohibitive and costly import licensing and testing procedures function to severely limit the private sector's ability to supply these inputs. Procurement of strategic crops, principally wheat and rice, to supply the PDS, remains a serious market distortion. The MoA does not currently have a clearly defined strategic plan or evidence-based policies, and this has led to gaps and sluggishness in responding to the critical needs of the sector. More critically lacking elements are trained leadership and appropriate delegation of responsibility. True planning and goal setting at an administrative level is needed to develop an executable plan of work, and an efficient and responsive MoA.

Inadequate land tenure reform legislation: Agrarian reform efforts (1958 to date) that expropriate land have largely failed to distribute land to small owner/operators, which has resulted in a fragmented system of lease arrangements between producers and the MoA. This system is a major constraint to mechanization and economies of scale. The system of land tenure in Iraq, combined with inefficient government implementation of land reform, has contributed towards the low productivity of farmers and slow growth within the sector. Of the cultivatable land, 70 per cent is leased or distributed by the state with few legal protections. Given that the MoA is part of a large patronage system that administers such land, significant land reform is extremely challenging for the government.

Domestic agriculture policy and agribusiness remain unconnected: Since the 1950s, the population of Iraq has quadrupled while cultivated land area has decreased, as have the supply and quality of available water. The needs of Iraqi consumers have also changed and will evolve rapidly in the coming years. Currently, the government's PDS provides a basic basket of food and non-food items that include wheat flour, rice, powdered milk and other products. There are clear market distortions for both producers of basic commodities and the retail food sector. Policies that reconnect producers with the changing needs of consumers are suggested as a way forward.

Few linkages established between Iraqi agribusinesses and those of other nations: Because of the relative isolation of Iraq in recent decades, food and agricultural enterprises have not been able to benefit from international markets, modern production techniques and global trading standards.

Access to credit is non-existent outside government subsidized credit programmes: Private capital investment resources are lacking in Iraq, as are credit initiatives available to farmers. An increase in available credit for micro, SME and large business is necessary to kick start production.

Agricultural statistics are outdated and market information is lacking: As a result, farmers, agribusinesses and investors are not able to identify market opportunities. Without accurate data, policy makers are unable to assess the country's agricultural sector and make appropriate policy decisions and plans.

The effects of wars and insurgency have left a highly damaged and resource-drained agricultural sector: Where there once were robust (albeit state-subsidized) agricultural value chains, there are now severed value chains with non-functioning irrigation systems, low to no resource inputs, high unemployment, and very little market information, and farmers are somewhat constrained in moving products to market.

RECOMMENDATIONS

Future government programmes in agriculture should promote rapid growth in both agricultural production and rural employment and income as a means to stimulate the entire rural economy, reduce rural poverty, slow down migration to the cities, and provide an environment conducive to sustained socioeconomic development and political stability.

Short-term actions:

Create an enabling environment for a market-oriented, private sector-driven, competitive and profitable agriculture sector backed by appropriate government policy. Support development of a private-sector food marketing system and an enabling environment for food importers, exporters, merchandisers, wholesalers and retailers. Private agricultural stakeholders currently have only an informal and relatively small voice in government policy formulation.

Develop a cohesive agricultural policy, This should be one that integrates food policy, trade policy, industrial policy, water policy, environment and natural resource management policy and financial market development policy, and provides for the upgrading of national food safety policies and regulations. The development of priorities, domestic objectives, and mechanisms should be pursued, with the overall goal of developing a more market-driven economy. To this end, the government would benefit from unbiased and timely agricultural policy analysis from an independent domestic institution.

Rehabilitate soils, irrigation and drainage systems and address salinity problems. Major constraints to enhanced agricultural production in Iraq include low soil fertility due to high levels of salinity, and antiquated and inefficient irrigation and drainage systems. The removal of most of these constraints will require substantial public investment to rehabilitate the irrigation, drainage and other rural infrastructure as a necessary condition to entice farmers to increase agricultural production and productivity as a means to achieve sustained growth.

Reform the existing agricultural subsidy system to ensure that the subsidies lead to more (and not less) efficient utilization of resources, and particularly scarce water resources, while enhancing productivity and competitiveness in the sector. Reform of the subsidy system would also ensure that the types of subsidies and their magnitude are in line with WTO requirements in order to avoid hindering Iraq's eventual accession. The government may wish to consider alternative modalities for alleviating rural poverty through direct income support programmes rather than agricultural subsidies.

Medium- to long-term issues:

Support development of a private sector food marketing system. This should include an enabling environment for food importers, exporters, merchandisers, wholesalers and retailers. The private sector should be encouraged to provide materials and services to the agricultural sector. With a good transition strategy in place, the government can begin the process of transforming the highly dependent, semi-commercial agricultural system to a private market-oriented model.

Reform the Public Distribution System. Reform of the PDS is necessary for a healthy agricultural sector, as the system itself has had a number of damaging effects on the sector. First, state provision of some food for everyone dampens prices for commercial producers and prevents growth of a modern food retail sector. Second, the PDS suffers from deep-seated administrative issues and uneven delivery of goods. Third, the PDS fails to focus limited government resources

on Iraq's most food-insecure populations. (A major reduction and refocusing of the PDS in Iraq is discussed in *Chapter 5: Social Protection, sub-section 5.1, Public Distribution System.*)

Restructure MoA to focus on core regulatory functions, oversight, and overall policy guidance. Build capacity within the MoA to improve the delivery of services and provide regulatory functions and overall policy guidance through medium-term reform measures. This would enable the MoA to regulate and provide oversight to the agriculture sector.

CHAPTER 13

MINE ACTION

OVERVIEW

Iraq is massively affected by explosive remnants of war (ERW). These are a direct consequence of the 1980-1988 war with Iran, the 1991 Gulf War and the conflict since the 2003 invasion by the U.S.-led coalition. In addition, regular attacks with car bombs and other improvised explosive devices targeting civilians, the military and the police have seriously compounded the ERW problem.

KEY ISSUES

Iraq currently faces two major challenges in mine action: (i) absence of a relevant legal framework, and (ii) weak institutions.

Absence of legal framework: A national mine action programme was established in 2003 consisting of a national mine action authority under the Ministry of Planning and regional mine action coordination centres. However, this was not followed up with the necessary legislation on mine action. The mandate and structure of the programme was adjusted over the following five years to reflect the changing political situation and governance structures. In April 2008, the Ministry of Environment assumed responsibility for mine action and established the Directorate of Mine Action (DMA) and Regional Mine Action Centre (RMAC)-South to coordinate mine action in central and south Iraq. Although a draft decree has been discussed at the MoEn, it has not yet been approved by the CoM. In contrast, the Iraqi Kurdistan region has its own programme comprising a separate mine action strategy, policies, standards and work plan designed to meet the particular requirements of northern Iraq.

Weak institutions: Regarding state institutions, there are two major issues: (i) the absence of a legalized oversight authority and regulatory framework for mine action in Iraq, and (ii) weak institutional capacity at the DMA and RMAC-South, although both organizations have strived to take the necessary action for further improvement under the leadership of the minister and deputy minister of Environment. Still, this leadership is no substitute for a full-time director general, which has been absent from the DMA structure for the past two years. As a direct result of an absence in senior leadership, mid-level management subsequently found itself in a vacuum and without a structural framework or an overarching vision. Moreover, the long absence of cooperation with the international community during the previous regime only served to restrict necessary advances in knowledge and technology.

RECOMMENDATIONS

The government could consider taking action in the five key areas:

Legalize mine action in Iraq. The proposed decree should be reviewed and promulgated, including measures for structure, roles and responsibilities, liability during and after clearance of land, procedures for national planning and prioritization, procedures for regulating mine action services including accreditation, and penalties for misconduct by practitioners. It is also recommended that the legal instrument specifically authorize the DMA to establish such rules as it sees fit to fulfil its duties, and that the Higher Committee be given the responsibility to ensure

that the rules developed by the DMA are in accordance with the Constitution and do not contradict existing legislation. The current draft decree should refer to activities being undertaken in Kurdistan, indicating areas of common interest and common benefit.

Establish a government oversight authority for mine action comprising the prime minister's office, MoEn, MoI, MoD and MoFA. The PMO should assume the role of chair of the Higher Committee. Failing this, the committee should be chaired by one of the deputy prime ministers. Representatives on the committee should be at the ministerial level or his/her delegate. The government should consider whether the secretary general of the DMA should be appointed by the Higher Committee. The government should also consider the establishment of a Donor and Practitioner Support Group to work alongside the Higher Committee.

Empower a regulatory authority – namely the DMA. The MoEn should be authorized to ensure the existing DMA and RMAC are fully resourced and functional. A General Director should be appointed to the DMA and that person take immediate steps to reform and revitalize both the DMA and RMAC. Special arrangements should be developed for the coordination of work with the DMA and other mine action activities in Kurdistan. Initially this could focus on the establishment of links for information, knowledge and skills sharing. Assuming a positive outcome in these activities, cooperation could later focus on coordinated activities. The RMAC should be structured as the implementing arm of the DMA, where focus is on undertaking quality assurance, operational tasking and reporting and regional coordination.

Encourage more financial support to increase mine action services. A Mine Action Contact Group could be formed at the national level to develop mutually complementary positions regarding the organization of the programme and funding priorities, while preventing the duplication of activities, and ensuring a coordinated framework for the continuation of external support until it is no longer required. A distinction needs to be made in the state demining budget between different types of demining tasks – regarding whether they serve humanitarian/development or commercial purposes.

Ensure the obligations of the Anti-Personnel Mine Ban Treaty are met. The government should take steps to enact legislation to implement the Mine Ban Treaty.⁴⁵ It is not recommended to combine the mine action law (concept decree) and Treaty laws. The MoEn, in consultation with the Cabinet, should work on the two laws simultaneously.

⁴⁵ Also known as the Ottawa Treaty, the Mine Ban Treaty – formally the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction – was adopted in Ottawa on 3 December 1997.

CHAPTER 14

ENERGY

OVERVIEW

Iraq's vulnerability to changes in oil prices manifested itself in 2008-9 when the fiscal position deteriorated significantly due to the sharp decline in oil prices starting in late 2008. Oil prices have recovered, but they are still well below the 2008 peak. Iraq's 2010 budget is based on export of 2.15 million barrels of oil per day at a price of \$62.50 per barrel. Production has thus far averaged 2.65 million barrels a day and exports approximately 1.99 million barrels per day but at prices significantly above those projected in the budget, thus allowing the government to meet its revenue targets. The increase in oil production and exports projected for the next 7 to 13 years will significantly increase revenues, but could expose Iraq to even greater vulnerabilities from oil price volatility.

In response to Iraq's reliance on oil exports to support its fiscal position, the government is fully focused on the performance of its most significant economic sector. The challenge of rehabilitating and improving the oil and gas infrastructure and in reforming/building institutions is immense. Urgent action has begun, but significantly more will be needed to repair and expand the oil sector's infrastructure. The Ministry of Oil (MoO) has made inroads in addressing the infrastructure requirements of the sector, and through two rounds of bid has signed service contracts with international oil companies. The government has also recognised the need for better governance and increased transparency in the oil sector and has taken early steps to advance its candidature to the Extractive Industries Transparency Initiative.⁴⁶

Petroleum sector: Accounting for over 65 per cent of GDP, nearly 91 per cent of annual federal budget revenue, and nearly all foreign exchange, the oil sector is the backbone of Iraq's economy. The government has opened the oil sector to foreign participation. New service contracts are expected to generate new investment in the oil infrastructure to increase production and offset natural field declines. In addition to Iraq's upstream oil sector, its downstream sector is also opening to new investment, with plans to increase refining capacity by 740,000 barrels per day, which is likely to exceed domestic demand for petroleum products. However, the current shortfall in the domestic supply of fuel results in a wide gap between the supply and demand of petroleum products for civilian use, and forces Iraq to import petroleum products from other countries to fill the gap, thus triggering an outflow of capital. Direct budgetary fuel subsidies were eliminated in 2008 except for a small subsidy on kerosene. A draft hydrocarbon law is still under discussion.

Electricity sector: Electricity demand has increased significantly and by approximately 6 per cent a year over the last three years.⁴⁷ Electricity supply in 2009 was at about 67 per cent of peak demand, with periods of blackout still averaging nationally more than 9 hours a day.⁴⁸ The current supply situation is exacerbated by deteriorated network conditions brought on by many years without appropriate new investment, which has left all three components of the system –

⁴⁶ The Extractive Industries Transparency Initiative (EITI) is a coalition of governments, companies, civil society groups and international organizations which supports improved governance in resource-rich countries through the verification and full publication of company payments and government revenues from oil, gas and mining. (Source: <http://eiti.org/eiti>.)

⁴⁷ Reliable statistics are difficult to obtain.

⁴⁸ Reliable statistics are difficult to obtain.

generation, transmission, and distribution – in a significantly degraded condition. Electricity shortages have been mitigated only somewhat by a 119 per cent increase in the import of electricity from neighbouring countries from March 2008 to March 2010.

Inadequate electricity is seen by Iraqis today as a top concern, impacting on their daily life and family, compared to other matters such as national security, health care, unemployment, crime, high prices, etc. Moreover, inadequate and poor electricity services and infrastructure impede private sector development and negatively affect employment and economic growth. These shortages are creating hardship and undermining government credibility.

In addition to the continuing need for investments in transmission and distribution, adding new power generation capacity is of crucial importance. Electricity supply remained almost stagnant from mid-2004 to mid-2007 at approximately 90,000 MWH of daily supply. Starting in September 2007, a major push to expand generation and improve the transmission system led to significant gains in electricity supply, hitting a high of 169,000 MWH (just over 7,000MW of generation capacity) in March 2010.

Improving electricity supply is a significant priority for the government. The Ministry of Electricity (MoEI) is currently working on ambitious plans to develop 15,000MW of new generation capacity by the end of 2014, and plans a significant increase in crude oil production and refining which will yield additional heavy fuel oil, refined products, and natural gas to fuel these power stations. In addition priority rehabilitation projects are planned for existing assets, and the strengthening of transmission and distribution networks to accommodate additional supply. Access to sufficient capital to finance this generation expansion has proven difficult, and the MOEI has also embarked upon an ambitious programme to attract private investment through Independent Power Producer (IPP) projects for almost 4,000MW of new power stations. However, these plans have been under preparation for a long time and are not yet completed nor developed into a project-specific implementation strategy for the electricity sector.

Hydroelectric production declined from 30.8 per cent of the total of electricity produced in Iraq in 1996 to 17.5 per cent in 2006. In the long term, and considering the time frame for appropriate investment, there is good potential for hydro and for other renewable sources of energy – particularly solar.

Natural gas: Proven reserves of natural gas in Iraq total 112 trillion cubic feet. While 70 per cent of the reserve is associated gas, it has been rarely utilized. Natural gas is produced mainly in oil fields at Kirkuk, Ainzala, Butma, and Bi Hassan in the north, and Rumaila and Zubair in the south. Large quantities of associated natural gas are being flared because gas treatment plants and the pipeline infrastructure to transport gas for domestic use or export are not functional. In addition, gas turbine power plants are run inefficiently by an alternative liquid fuel. Development contracts for oil fields awarded in 2009-2010 require companies to eliminate almost all flaring of natural gas. At the same time, talks continue for a major integrated natural gas project throughout the southern fields, while the gas projects in the Kurdistan Region are increasingly geared toward electricity generation.

KEY ISSUES

Investment in rehabilitation of oil and gas facilities has been lacking: Oil production remains at around 2.5 million barrels per day, and oil exports are reliant on infrastructure that is in desperate need of repair, overhaul and expansion. Most oil-related facilities in Iraq were built in the 1970s, since which time there have not been any significant new investments, and operation and

management have been largely neglected. Consequently, the reliability and capacity of these facilities have been drastically reduced. The decline in reliability of the crude oil export facility off the Faw coastline in the southern province of Basrah, which accounts for about 75 per cent of Iraq's crude oil exports, is especially serious due to aging. The government has embarked on an ambitious \$2 billion project to replace and significantly expand its southern maritime export routes and hopes to complete the first two phases of that project by 2012.

Deteriorated electricity infrastructure: While some progress has been made in rehabilitating generation, transmission, and distribution infrastructure, the physical and operating conditions of some power generation stations still needs significant rehabilitation or replacement. New generating units (mainly gas turbines) have been installed, but their operation often suffers because of fuel supply problems, especially of natural gas which is the preferred fuel for this type of generating unit. Transmission and distribution networks were damaged during the 1991 conflict and have been negatively affected by chronic deterioration, deliberate destruction, and sabotage. However, 400kV transmission lines have drastically improved since 2007 and now have adequate transmission capability for up to 9,000MW. Despite these improvements, insufficient generating capacity makes it impossible to meet current demand.

Unreliable and inadequate fuel supply: Serious problems with fuel supply for power generation continues, especially in gas and diesel. The widespread use of crude and heavy fuel oil for power generation in gas-turbine power stations decreases efficiency and increases maintenance requirements and production costs, while a significant volume of associated gas is unutilized and flared. Improved fuel supply requires *inter alia*, better coordination between the oil, gas and electricity sectors in investment planning and policy making, which is critical for optimal long-term development of both sectors.

Uncertainty in the availability of funds and lack of capacity in project preparation and implementation: While significant resources have been made available to the sector, financing gaps have still been an important factor in delays to the expansion and strengthening of sector infrastructure. Even where funding was available, projects suffered due to depleted implementation capacity and procurement delays. Improved coordination between the MoEI, MoF, MoP and the MoO is required to mitigate the problem. Capacity building to improve project preparation, procurement, implementation and management remains a high priority. In addition, electricity tariffs remain nominal and far below the level of cost recovery. Collection rates are low and estimated at 40 per cent of cost recovery. The electricity sector therefore remains highly subsidized.

Natural gas is inefficiently utilized and largely wasted: As noted, there is significant flaring of natural gas; in addition to increasing oil production, the government is well aware that more efficient utilization of flared gas is a significant near term priority in the energy sector, with Iraq recently joining the Global Gas Flaring Reduction Partnership. The government has also mandated that new projects should not flare gas, and is considering project proposals for dry gas pipelines and liquefied natural gas bottling facilities.

Policy obstacles: The challenges facing Iraq in this sector are not only physical in nature; there are also financial, economic, legal, regulatory and institutional issues, especially related to lack of coordination between the MoEI and MoO which hampers effective strategic management of the sector, as well as planning and operation of its physical infrastructure. To address required improvements in the economic performance of the sector, including improved coordination, the prime minister's office has requested the Prime Minister's Advisory Commission to develop an Integrated National Energy Strategy, and the contract for the strategy will be awarded soon. The

strategy aims to improve efficiency and effectiveness in the energy sector through optimization of synergies and greater integration.

RECOMMENDATIONS

Oil and gas:

Ensure that policy, legal and institutional development reflects the sector's main priorities. This includes the need to mobilize sufficient investment for the maintenance and expansion of oil production, improvement in oil transportation infrastructure, utilization of associated gas and reduction in gas flaring, and improved supply of oil products.

Establish legal frameworks for the oil industry. The successful negotiation of service contracts for increased oil production has clarified to a certain extent the government's policy on foreign investment in upstream oil. However legal, administrative, financial, and institutional frameworks for the oil industry need to be established to further improve the business and investment climate in the oil and gas sector; this could also take into account the need to separate policy and regulatory authority from operational activities.

Develop downstream industries. While the upstream development of oil and gas can greatly contribute to the strengthening of the economy in the medium-term, it is also to be recognized that its impact on job creation and national competitiveness is relatively limited. In order to maximize the benefit of upstream development in the sector, a strategy to develop downstream industries, including petrochemicals, needs to be elaborated in conjunction with the implementation of upstream projects.

Electricity:

In the short-to-medium term, fuel supply, reconstruction efforts to expand power generation and strengthen transmission systems, project financing and implementation, control over the fiscal impact of subsidies, organizational restructuring and institutional strengthening will remain dominant issues in the electricity sector. Recommended actions to be taken:

- ***Form public-private partnerships to support accelerated infrastructure development*** through the provision of financial and human capital. As part of its generation expansion plans the MoEl has embarked upon an ambitious programme for development of up to 4,000MW of power generation through IPP arrangements. The size and nature of this programme will test the market for credible IPP developers and financiers, particularly given the risks inherent in the business environment. The government will need to ensure close coordination between the MoEl, MoO, MoF and the National Investment Commission and work with a strong transaction advisor to ensure the success of this programme.
- ***Initiate sector-wide reform.*** In order to ensure sustained benefits from investment projects and long-term development of the sector, it is necessary to initiate institutional, legal and regulatory changes as the political situation allows. Such changes should put in place a robust framework which would accelerate technical, operational and financial consolidation of the power system and its rehabilitation and expansion, including through participation of the private sector. Early actions could include:

- ***Strengthening policy making, regulation, and pricing*** to create conditions conducive to a more commercial operation of the sector as the political situation allows, which would help alleviate the fiscal burden and improve the environment for private investment.
- ***Carrying out electricity tariff reform*** to ensure that tariffs reach full cost recovery within a reasonable time frame, while taking into account that government social protection programmes are introduced to support low income, vulnerable electricity customers;
- ***Devolving responsibility for policy making and operations.*** The MoEl should consider moving away from playing the role of the utility toward establishing autonomous corporatized companies which would perform this function. This would create better conditions both for policy making and for improved operational performance of the sector.
- ***Encouraging private sector participation*** in sector investment, management, and operation, particularly in electricity generation.

Regional integration:

In the medium-to-long term, integration of the gas and electricity systems with neighbouring countries will improve the stability of the grid and allow Iraq to gain access to higher levels of available electricity supply from neighbouring countries. At the same time, such integration will provide Iraq with opportunities for exporting gas to neighbouring countries and beyond, where gas demand is increasing.⁴⁹

⁴⁹ The World Bank completed a study to assess the potential for energy integration of the Mashreq (including Iraq) and neighbouring countries. The Study recommends construction of an Iraq gas pipeline interconnection with the Arab Gas Pipeline (AGP). The project would represent a major source of gas supply into the AGP and a major outlet for Iraqi gas export.

CHAPTER 15

TRANSPORT AND TELECOMMUNICATIONS

- The transport and telecommunications sectors have seen some improvement in recent years, but improvement in both the physical infrastructure and in policy and regulatory frameworks is required to ensure that these sectors contribute towards economic development in Iraq. As noted in Chapter 4, these sectors have an important role to play in driving private sector-led economic growth.

-----15.1 TRANSPORT

OVERVIEW

Once regarded as having one of the Middle East's most comprehensive transportation systems, Iraq has suffered from more than two decades of neglect and under-investment in all modes of transport, including road, rail, air and maritime. Between 1980 and 2003, regional conflict, the utilisation of public resources to support military initiatives, an extended period of economic sanctions, and deferred maintenance all contributed towards a general decline in the quality of transport facilities and services, and to huge losses in rolling stock. With the onset of the 2003 military intervention, many assets were damaged due to the heavy bombing that occurred, while the looting that followed stripped ministries and transport facilities of equipment, machinery, furniture and supplies. In addition to these challenges, Iraq must transition from a centrally-planned command economy to one that is market-based. As a result, the country still faces enormous challenges in reconstructing its transportation networks, facilities, strategic planning and institutional capacities, as well as in re-establishing key transport services.

KEY ISSUES

Loss of key road and bridge assets: In a large country such as Iraq, roads play a central role in the movement of people and goods. A large portion of Iraq's 42,000-kilometre road network is however, in immediate need of rehabilitation. Most of the road network was developed in the 1970s and 1980s, and little new construction has taken place since. Backlogs of maintenance have accumulated over the years, and pavements have failed in many areas. Village access roads have been neglected to the extent that reconstruction rather than rehabilitation is needed along much of the rural road network. The deterioration of village roads has diminished access to markets and social services in many rural areas. In addition, as a result of the first Gulf war and subsequent conflicts, many bridges were damaged, with some key bridges never replaced. Instead, temporary structures (floating bridges) were put in place.

Weakened or lost capacity for quality control and management of the road network: Government road laboratories were decimated by looting in 2003. Not only were equipment and supplies stolen, but institutional capacity of both central and regional facilities was also negatively impacted. These laboratories played an important role in controlling the quality of road construction. Capacity for road network management has historically been strong and adequate in Iraq. Reliance on outdated procedures and equipment has unfortunately, eroded skills and abilities.

Iraq's extensive railway network suffers from poor condition of tracks and equipment: Derailments on the network operated by the Iraqi Railways Corporation are frequent despite speed restrictions. Telecommunications and signalling systems are not functional, and train movements are presently controlled using *ad hoc* methods that do not ensure safety while hampering the capacity of lines. In addition, productivity at the Railways Corporation, which has complete control of the sector, is low and staff members, while technically skilled, have limited exposure to modern managerial techniques and lack the discipline of commercially run organizations.

The country's seaports also suffer from insufficient and obsolete equipment: Proper maintenance has not been undertaken for many years. All Iraqi ports (Umm Qasr, Khor al-Zubair, Basrah, Abu Flus, Abu al-Khasib and Faw) are situated along or inland from the short stretch of coastline between the borders of Iran and Kuwait. Presently, the ports of Umm Qasr and Khor al-Zubair handle about 25 per cent of total imports into Iraq, but they have the potential to become major cargo and container handling facilities. In particular, Umm Qasr, which has a rated capacity of 10 million tons a year and good intermodal road and rail connections, is a vital node for international trade. While its infrastructure is generally in good condition, the port's waterway, superstructure and equipment are not. Significant port assets are in an abandoned state. Chronic siltation and wrecked vessels in approach channels pose additional challenges to increasing traffic volume. In the past, Basrah was the main port in Iraq, but now, like Abu Flus and Abu al-Khasib, it is unusable because of the many sunken vessels that block its waterway access.

The looting after the 2003 conflict devastated bus fleets, public transport offices, and maintenance facilities: These events have exerted tremendous pressure on public transport systems and services which are the only means of affordable transport to the majority of Iraqis. Ensuring mobility and affordable access to jobs, education and health services remains a key issue, especially in the fast growing metropolitan area of Baghdad. A tremendous increase in the number of aged private cars exacerbates congestion and air pollution, and makes mobility and access to job opportunities difficult, especially for the poor.

RECOMMENDATIONS

Rehabilitate the roads. In the short-term, there is an urgent need to reconstitute the government road laboratories, to restore key physical assets while also emphasizing capacity development in order to ensure that the laboratories can properly monitor and evaluate future road reconstruction. A road rehabilitation programme is also required, and this would include the restructuring and strengthening of road administration authorities, and a review of the road classification system. At the same time, it is crucial to maintain an effective system to manage and account for road assets for prioritized national roads and regional and local road networks.

Revitalize the railways. The future of the railway sector depends on its ability to capture a substantial share of the market for freight and logistics services, in competition with the extensive highway system and the subsidized trucking industry. To maximize the potential of the sector, it is recommended that a strategic study be undertaken to explore: (i) the future and development perspectives of the railways; (ii) the necessary restructuring of the railway company along commercial lines; and (iii) the preparation of a medium-term investment programme which would include the implementation of a logistic intermodal platform in the Baghdad area (Yousefiah) as a means to help the railway sector compete with road transport.

Reorganize public transport. In the past, Baghdad had a good public bus service, and as such,

restoration of a reliable service of safe and energy-efficient buses is a priority. There is also scope to reorganize the current system according to modern management principles, whereby the public sector sets policy and provides appropriate regulation, and private operators deliver adequate and affordable services. The immediate challenge is to give priority to a bus-based mass transit system (including bus rapid transit) building on the effective and extensive bus system Baghdad had until very recently. Development of a Master Plan for a Baghdad bus-based mass transit system would help indicate the requirement and stages to develop and extend public transport services, while raising the standard of operations. This would include a review of the regulatory framework and propose mechanisms for streamlining funding arrangements for urban public transport infrastructure.

Regain control of air transport. In the *short to medium term*, transitioning of airspace to Iraq is crucial. Establishing a contract directly with a private entity for air traffic control services with associated capacity building of Iraqi controllers for a period of 2-5 years, during which the government could gradually replace the contractors with national air traffic controllers is important. This could cost as much as \$30 million a year. Other priorities include, *inter alia*, the signing and executing of contracts for the purchase of equipment, equipment maintenance and training on communication and navigation systems; continued work on improving the technical operations of airports, while focusing on adherence with international standards and amending outdated laws for aviation and development of a detailed five-year strategic and operating plan with projected budget implications.

Prepare a master plan for ports. In addition to completing ongoing priority dredging and replacement of essential navigation aid equipment, the immediate priority is preparation of a comprehensive and integrated Master Plan for port facilities in Iraq through: (i) an inventory of port assets and assessment of their condition, value and location; (ii) a review of the sectors organizational and institutional arrangements; (iii) devising a plan for future development of the country's ports; and (iv) formulating a plan to restructure operations at the ports of Umm Qasr and Khor al-Zubair. It is recommended that port services provided by the General Company for Ports of Iraq be restructured to a landlord port authority, to promote private investments and facilitate access to trade-related transport activities. In addition, adherence to international standards and the amending of outdated maritime laws are of major importance.

Facilitate regional trade. As part of the Arab World Initiative, the government can increase its participation in the Regional Trade Facilitation and Infrastructure initiative, which would improve Iraq's connectivity with neighbouring countries through more efficient trade logistics and associated infrastructure facilities.

-----15.2 TELECOMMUNICATIONS

OVERVIEW

The government owns and operates two SOEs, namely the Iraqi Telecommunications and Post Company (ITPC) and the State Committee for Internet Services (SCIS). National communications policy is set through the Ministry of Communications (MoC), which also owns all Iraqi telecommunications (telecoms) infrastructure.

KEY ISSUES

A comprehensive plan to upgrade the telecoms sector has been proposed: The centrepiece would be a unified telecommunications bill that would balance the roles of the MoC within the government and the CMC, while removing impediments to private sector-led growth and investment. This includes addressing national communications infrastructure and the regulatory regimes to tax and manage spectrum, bandwidth and licensing systems, as well as consumer protection

The ITPC has upgraded the fibre cable backbone of Iraq but does not meet demand or maintenance needs: As a result, teledensity⁵⁰ remains far below needs. The ITPC employs the majority staff considered as being employed by the Ministry of Communications (22,000) and many of them are underutilized. Internet penetration is extremely low, although private competitors to SCIS exist.

The government has planned PPPs for international gateway operations and speaks favourably of privatization in public: However, such privatization has not yet taken place as evidenced by the government's proposal in 2009 to award a sole 3G mobile licence to itself. The relationship between the government and the CMC⁵¹, established by the CPA as an FCC-style independent regulatory authority could be improved. Although the CMC is responsible for licensing and managing Iraq's radio frequency spectrum, the government claims overlapping authority and issues its own licences. Several competing telecoms bills are in the CoR.

RECOMMENDATIONS

In the *short to medium term*, stepping up the institutional framework for reforming the telecommunications sector would entail the following initiatives:

- ***Create a steering committee and a working committee for telecom sector reform.***
- ***Update sector policy.***
- ***Enact telecommunications legislation reflecting both separations of policy (MoC) and operations (ITPC) and of post (IPC) and telecom (ITC).***
- ***Prepare accounts of the MoC, ITC, and IPC.***
- ***Corporatize the ITC and IPC.***
- ***Promote private participation.***
- ***Build capacity through development of targeted training programmes.***

⁵⁰ The number of land-line telephones in use for every 100 persons in a given area.

⁵¹ For more on CMC, see Chapter 7.3, *Independent Media and Freedom of Information*.

CHAPTER 16

CULTURAL HERITAGE

OVERVIEW

As one of the ancient “cradles of civilization”, as well as the place of origin of one of the major monotheistic religions, Iraq has a rich cultural heritage. The country possesses an abundance of archaeological sites (12,000 documented sites, with thousands more that remain undocumented), as well as religious buildings, several of which are considered the heritage of all mankind. Besides ancient history, Iraq in modern times has produced many prominent artists – painters, sculptors, writers, and poets well known in the Middle East region and internationally. While preserving Iraq’s cultural heritage is important for its own sake, that heritage should become a platform for the growth of the tourist sector, and thus for the development of related private and public sector activities, and contributing to the needed diversification of the economy.

KEY ISSUES

Damage to museums: Conflict, particularly since 2003, has negatively affected Iraq’s cultural heritage, with important sites and museums having been looted and pillaged. The Museum of Baghdad was damaged, and the pillage of a great part of its invaluable collection was symbolic of wider damage that occurred throughout the country. Other museums located in the governorates have also been damaged by conflict, by looters and by lack of maintenance. Basic infrastructure has been seriously affected and is not currently able to host permanent exhibitions in an appropriate manner, due in many cases to the lack of key systems such as power, air conditioning, proper lighting, and fire protection. Collections of artefacts have been removed by Iraqi authorities from provincial exhibition halls to safer locations, mainly in Baghdad, and there are concerns about moving them back to their original locations, since as noted, conditions may not exist to display and house the objects appropriately.

Damage to archaeological sites: Archaeological sites have also been ravaged, despite efforts by the Iraqi and international security forces to preserve them. (Local tribes often act as caretakers for sites, but they lack the proper authority to enforce the antiquities law.) Excavations conducted in the past by Iraqi archaeologists in cooperation with prominent international centres have come to a halt because of the security conditions of many areas. As a consequence, many sites suffer from a state of neglect and abandonment.

Illegal smuggling: Many artefacts have been illegally smuggled across the borders. The government has sought and obtained cooperation with friendly partners to recover some valuable pieces of ancient art. Nevertheless, the authorities suggest that this is only a small fraction of the actual number of artefacts still abroad. Lack of expertise is also an issue, as many prominent archaeologists have left the country and there has not been a sufficient handover of expertise to succeeding generations of experts.

Outdated legal frameworks: Antiquities laws need to be revised and updated (the current version dates to 2002). The Antiquities and Heritage Law No. 55 of 2002 lists the Ministry of Culture and the Public Authority for Antiquities and Heritage as the authorities over antiquities. The law was enacted prior to the renaming of the Public Antiquities Authority as the State Board of Antiquities

and Heritage. The law does not include language defining a buffer zone for modern buildings and their proximity to culturally sensitive sites.

Limited budgets and unclear institutional arrangements: Only very limited budgets have been allocated for the actual needs of the cultural preservation sector. In addition, there has been a sense of lack of coordination, as well as overlapping in the actions of the ministerial authorities with a competence in these sectors, notably the Ministry of Culture and the Ministry of State for Tourism and Antiquities. This situation has resulted in difficulties for partners to identify the most appropriate interlocutors for initiatives in support of Iraq.

Limited livelihood opportunities for artists: Currently, there are few incentives for the education of artists including opportunities to make a living from art due to the practical absence of a fine art markets in Iraq. Many are living in the neighbouring countries or in Europe or North America, where their works are appreciated and marketed, and where they have a network of relations. Additionally, the artistic output of Iraq's minorities is at risk of being lost, as many of them have left the country due to the spike of violence among the diverse components of the society.

RECOMMENDATIONS

Support efforts to restore and modernize museums and protect archaeological sites: A strategy aimed at addressing the key issues outlined above would also support: (i) the recovery of artefacts smuggled abroad; (ii) promoting fine art along with protection of Iraqi artists, (iii) legislative reform; (iv) upgrading human resources in the sector; and (v) the overall promotion of Iraq's cultural heritage, with important links to the tourist sector.

Step up modernization of the museums: The partial reopening of the Museum of Baghdad has proven a success but further interventions are needed, both regarding its physical infrastructure and on more qualitative terms (for example, arrangement of displays) to bring the museum up to modern standards. The government should also provide adequate funding for operations and maintenance – not only for the Museum of Baghdad, but also for museums in the governorates.

Step up protection of archaeological site: As with museums, it will be important to commit further resources to the protection and revitalization of the thousands of archaeological sites that Iraq boasts. Specifically, dedicated security guard units should be increased in number and capacity, allowing for improved security at sites and for resuming excavations and maintenance. Guards should be trained to international standards and provided with the proper equipment and knowledge. Guards should be literate, well versed in Law No. 55 of 2002, should follow a clear chain of command and possess the ability to enforce the law by issuing citations and the power of arrest. In addition, roving patrols should be provided with vehicles, fuel and all necessary enforcement equipment. In order to allow an efficient control of the sites, it should be possible to employ a remote control system using a geographic information system.

Recover missing artefact: The government can sustain ongoing cooperation with partners in this field by providing any available information to assist research and recovery activities. This would include providing a reliable and exhaustive database of missing artefacts. Iraq should continue its efforts to implement ratified conventions. Additional government outreach is crucial to create conditions for more effective cooperation with other countries and international organizations with respect to its requests for restitution.

Promote fine art, literature and protection of artists: In order to build on Iraq's traditions and reinvigorate the cultural environment, more resources could be devoted to institutions whose

primary objective is education in these fields and to those which foster Iraqi cultural promotion within and outside the country. (For example, Iraqi embassies and consulates may consider increasing the presence of cultural attachés.) This increase of resources could include: (i) legislative and economic incentives favouring the education of artists both in Iraq and abroad; (ii) the formation of artists' associations; (iii) organization of exhibitions and events; (iv) the provision of space using various media for artists to promote their work, and (v) development of a market for fine arts. All of these improvements would encourage artists residing abroad to return to Iraq.

Upgrade human resources: More resources should be invested in developing the human capital required for effective promotion of Iraq's culture. More scholarships, particularly at the PhD level, may be reserved for archaeological studies, fine arts and literature. New training could be provided in management (since the lack of turnover in managerial expertise might be a hazard for the future of the sensitive antiquities sector), and particularly in tourist-related positions such as managers, promoters, organizers, guides, etc. English language programmes and training should be incorporated into school curricula at an early stage. The formation of associations of artists and archaeologists could also be encouraged through economic allowances for organizational start-up.

Reform legislation to optimize the institutional framework: Antiquities and Heritage Law No. 55 of 2002 needs to be revised in order to include the name of the State Board of Antiquities and Heritage in all appropriate articles. In addition, Article 15 should add a prohibition against building modern structures near culturally sensitive sites, defining a buffer zone around sites that cannot be disturbed. In order to overcome the problems of coordination and efficiency which otherwise may result from overlapping responsibilities from several entities with unclear competence in the sector, it is recommended that policies and actions in the cultural sector be addressed by a single entity at ministerial level.

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