Kurdistan Region of Iraq: Overview of corruption and anti-corruption

Query
What do studies say about corruption in the Kurdistan Region of Iraq over the past ten years? What are the drivers of corruption, the key areas of corruption, and both the economic and political impact of corruption?

Purpose
We would like to provide all country offices with a current corruption country profile to inform their situation analysis.

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Summary
Levels of corruption in the Kurdistan Region of Iraq, while lower than in Iraq as a whole, are relatively high compared to other countries in the region. Corruption challenges are rooted in the strong role that the two established political parties have in the political system, nepotism, a weak bureaucracy and the difficulties associated with managing oil revenues.

While progress has been made on delivering the government's 2009 'Good Governance and Transparency Strategy' and the 'Vision for 2020', there have been few high-profile convictions for corruption cases. A challenging media environment remains a serious constraint on effective anti-corruption reform.

Contributors
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1. Background

Following the end of the first Gulf War and the establishment of a no-fly zone in the North, the Iraqi government administration withdrew from the Kurdistan Region of Iraq in 1991, ending years of oppression. The first Kurdistan Regional Government (KRG) was formed in 1992, following a free and fair election. However, the region quickly collapsed into civil war. Two political parties, the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK), separately controlled parts of Kurdistan (HofC 2015).

In 2003, the Kurdish forces fought alongside the US-led coalition to oust Saddam Hussein’s regime. The KDP and PUK ran on a joint Democratic Patriotic Alliance of Kurdistan ballot for the 2005 elections and won 104 of 111 seats. KRG parliamentary elections have subsequently been held in 2009 and 2013, and a Kurdish alliance has been part of every Iraq federal government to date.

As a federal state, the Iraqi constitution formally recognises the semi-autonomous status of the KRI. The KRG has control over domestic affairs, but international affairs and national security are handled by the federal government in Baghdad.

The KRG administers the three governorates of Dohuk, Erbil and Sulaymaniyah, as well as parts of the Nineveh and Diyala governorates, and some “disputed territories” (EIU 2014). Recently, the KRG proclaimed Halabja as its fourth province (HofC 2015), and Kurdish Peshmerga forces control the city of Kirkuk, after the Iraqi Army fled from Islamic State in Iraq and the Levant (ISIS) insurgents (BBC 2014).

There have been tensions between the KRG and the Iraqi federal government over the KRG’s right to sell oil (HofC 2015). In 2014 the KRG president proposed a referendum on KRI independence. This has since been postponed.

Compared with Iraq generally, the KRI is considered more stable, and there is greater respect for gender equality, and political and civil freedoms (EIU 2014). However, the region only scores slightly better than Iraq on the Economist Intelligence Unit’s Human Development Index (a composite index including measures for life expectancy, mean years of schooling, expected years of schooling and gross national income/capita) (EIU 2014). Iraq scores 0.7 compared with 0.743 for the KRI (EIU 2014).

2. Extent of corruption

There is limited information regarding the extent of corruption in the KRI. Indicators such as the Transparency International Corruption Perceptions Index, Global Corruption Barometer and World Bank Business Enterprise Survey do not disaggregate the results given to Iraq by region, making it difficult to assess levels of corruption in the KRI.

Available resources, however, suggest that corruption is less widespread in the KRI than in Iraq as a whole. Nevertheless, corruption is high in comparison with some countries in the region (EIU 2014). For instance, the KRI scores poorly on levels of corruption in an Economist Intelligence Unit assessment of the region, with a score in the mid-thirties where 0 is considered corrupt and 100 clean. Iraq received a score of 10 (EIU 2014).

Reported rates of bribery are lower in the KRI compared than other regions of Iraq. A 2011 Iraqi Knowledge Network Survey found 4% of Kurdistan Region adults who had encountered a public official in the past 12 months said they had paid a bribe. This compares with approximately 29% in Baghdad governorate, and 10% in the other governorates of Iraq (UNODC 2012).

Figures for civil servants reporting being offered bribes was comparable between the KRI and other regions of Iraq. A survey by ICS found that nearly 4% of civil servants in the KRI reported that they were offered a bribe. The figure for Baghdad was approximately 5% (UNODC 2012).

It should be noted, however, that civil servants are likely to underreport incidences of bribery, and additional surveys of both civil servants and the public are needed to further assess the extent of corruption in the region.

3. Nature of corruption challenges

The historical context of the KRG, the entrenched role of the two main political parties, nepotism, clientalism and weak governance structures are some of the factors that contribute to the nature of corruption challenges in the region.
Nepotism and clientelism

The two political parties, KDP and PUK, have played an important role in the history of the KRI and development of the current political system. This has allowed them to maintain a central place in the political system (Kurdistan Tribune 2015).

The strong role of the two political parties in the governance system creates risks of nepotism and clientelism based on political party affiliation, tribal kinship and/or family connections. A media source alleges that the two parties control the KRI armed forces, intelligence services, big business, public sector employment, salaries and investment (NYT 2009a).

Political and family connections play an important role in the recruitment process for the public sector. A 2011 survey of civil servants by ICS found that nearly a quarter (24%) of civil servants received help from friends and family during the recruitment process and 8% received help from political parties. This was higher than for other regions in Iraq, indicating a specific corruption risk area for the KRG (UNODC 2012).

Clientelism is reported to be an important factor in hiring decisions in ministries in the KRG. When asked what are the most important factors in recruitment in the civil service in their ministry, over a quarter of civil servants in the KRG cited political party affiliation (27%), nearly one in five (18%) said family and friendship networks and 6% said tribal affiliation (UNODC 2012).

There are strong connections between the political parties and major businesses in the region. For example, the Financial Times reports that the chairman of Korek Telecom, Masoud Barzani, is the nephew of the KRG President, and Asiacell, another telecom company in the region, has close links to PUK. Both companies are reported by the same source to have monopolies over parts of the KRI (FT 2012).

Currently the Kurdistan Commission of Integrity is investigating why a business owned by the son of the KRG prime minister was given 6,000 m2 portion of public land (EKurd 2015a).

It is reported that even the distribution of development money can be influenced by clientelism. Non-governmental organisations (NGOs) with close ties to the political parties are alleged to receive more government funding than those without close ties (EKurd 2011). NGOs often need political support to operate, and some international NGOs are headed by political party officials (Kweskin 2015). This can further entrench existing patronage networks leading the aid community to unintentionally undermine integrity systems (Le Billon 2008).

The political party Gorran, campaigning on a platform to challenge nepotism and corruption in the KRG, became the second largest party in the 2009 parliamentary elections shortly after its formation. The party has suffered from political intimidation, violence and death (Natali 2010).

Weak public administration

The weak bureaucracy in the KRI is exacerbated by non-standardised selection processes in the civil service, the lack of transparency in bureaucratic operations, lack of information and communication technologies (ICTs) to record communication and lack of training of civil servants (UNODC 2012; Shareef et al. 2010).

Recruitment to the civil service in the KRG is rarely through merit-based selection processes. Over half of civil servants in the KRI (UNODC 2012) reported in a survey that they were not recruited through a substantive selection procedure. This is far higher than in the federal government, where just under one in five (19%) said that they were not selected through substantive selection procedures. Civil servants in the KRG are more unhappy with recruitment processes than those who work in Baghdad (64% unsatisfied, compared with 52.5% in Baghdad).

The KRG civil service is also less likely than the civil service in Baghdad to have key transparency initiatives, such as a designated reception office, ensuring civil servants wear official badges, making available information on the ministries’ procedures and rules, and information on public rights and entitlements (UNODC 2012).

Many civil servants in the public sector in the KRG have not received training for their role, including on corruption risks. Over half (54%) of civil servants in the KRG have received no training at all since they began their role, with only 3% receiving anti-corruption training (UNODC 2012).

The KRG recognises that the increased use of ICTs by the civil service could enhance transparency and reduce corruption risks (Ministry of Planning 2013; Shareef Shareef et al. 2010).
Currently the KRG is overseeing the development of a public sector intranet system and a single datacentre to store public sector data. The Department for Information Technology has also recently begun training public sector employees in ICT to improve capacity of staff (Invest in Group 2014).

4. Key sectors

Corruption risks exist in several areas of the public and private sectors in the KRI (UNODC 2012; FT 2012). For the purposes of this Helpdesk answer, the focus is on key corruption risks in the oil and gas sector, for which a greater evidence base exists.

Oil and gas sector

The KRG has substantial natural resources with estimated reserves of 45 billion barrels of oil and 100-200 trillion cubic feet of natural gas. Oil and gas companies resumed work in the area after central government administration was withdrawn from the region in 1991 (Ekurd 2011). The KRI has received substantial investment in this sector of over US$15 billion1 since the fall of Saddam Hussein’s regime (Invest in Group 2013b).

The right of the KRG to buy and sell oil is a major source of dispute between the KRG and Baghdad (HofC 2015). The national government stopped any transfer of Iraqi budget expenditures to the KRG to punish it for attempting to sell oil independently (WSJ 2014). The national government and the KRG have since come to an agreement whereby its oil exports will go through Iraq’s national oil company, the State Organization for Marketing of Oil (SOMO), but in return the KRG will receive 17% of Iraq’s budget expenditure.

With oil contributing around 90% of Iraqi national government revenue (UNDP 2015), the substantial fall in the price of oil is likely to have a significant impact on both the national and KRI economies.

Oil smuggling

Oil smuggling remains a problem for the area with many unlicensed refineries operating in the KRI (NYT 2010). This acts as a destabilising feature for the region, funding corrupt networks and diverting funds from public coffers (BTI 2014).

Procurement and oil revenue management

In the KRI, private oil companies extract all oil (HofC 2015), while in the rest of Iraq it is extracted by state-run companies. Ensuring transparent licensing processes in the oil and gas sector remains a key challenge for the region (NRGI 2013).

The 2007 Kurdistan Oil and Gas Law outlined a legal framework for the oil industry in the KRG (IEITI 2013). The Oil and Gas Law (Articles 4 & 5) creates the Kurdistan Regional Oil and Gas Council, which established industry standards, and commercial terms for procurement in partnership with SOMO. The council comprises of the KRG prime minister; the deputy prime minister; the minister of natural resources; the minister of finance and economy; and the planning minister (IEITI 2013). As a result, a significant amount of power around the oil sector is concentrated in the hands of the main political parties (Rudaw 2014).

The KRG Ministry of Natural Resources (MNR) is responsible for issuing contracts, but it is not transparent and does not publish key information about the licensing process or signature bonuses (NRGI 2013). The Kurdistan Tribune revealed that politicians exert pressure over who is awarded contracts, and allege bribery, nepotism and clientelism influence how oil contracts are awarded in the region (Kurdistan Tribune 2014). A former deputy to the head of the MNR resigned over lack of transparency at the Ministry (Kurdistan Tribune 2014).

The KRG is planning organisational changes to merge or reorganise four oil organisations to create a single company with responsibility for signing oil contracts. This company will be publically floated if deemed publically viable (Rudaw 2014).

Adoption and implementation of the Extractive Industries Transparency Initiative (EITI), which encourages transparent natural resource management, is part of the “KRG Good Governance and Transparency Strategy” (KRG 2009. See section 5 ‘Anti-Corruption Framework’

1 Note: Transparency International takes “billion” to refer to one thousand million (1,000,000,000).
for further information). Iraq was found compliant with EITI in 2012 (EITI 2015). There was some controversy surrounding the launch of the Iraqi EITI report on 2010 revenues, which lacked an agreed chapter on the KRI. This chapter was subsequently released; a positive move to improve transparency in the sector (KRG 2013). However, it was noted by the Iraqi Transparency Alliance for Extractive Industries (a coalition of non-governmental representatives from the media, NGOs, unions, and professional syndicates) that there are some discrepancies in the figures and some information is missing (NRGI 2013b).

For the next validation by EITI, due in 2016, there is uncertainty over whether KRG material payments will be included (EITI 2015).

**Use of oil revenues**

Ensuring that revenues from the oil and gas sector are used for the benefit of the public remains a challenge for the region. Currently, there is a general lack of transparency on how KRG revenues are spent, with ministers having high levels of discretion on how public funds are used (Rudaw 2014). There are concerns that the two clans, Barzani and Talabani, who run the KDP and PUK parties, benefit financially by having control over the economy, with revenues used to help their supporters (Katzman 2009).

A new Kurdistan Oil and Gas Revenue Fund Law, which is currently pending parliamentary approval, is expected to improve monitoring of oil revenue and provide greater transparency on how revenue is used. The law will establish a body responsible for monitoring oil revenue from both private contracts and from the federal government, bonuses and net oil sales income. The law will also establish a Regional Oil and Gas Revenue Fund, which will act as a sovereign wealth fund to receive all petroleum related revenues (IEITI 2012). Once this law is passed, an assessment is needed of how the monitoring body and sovereign wealth fund impacts on transparency and accountability in this sector.

**5. Anti-corruption framework**

Anti-corruption initiatives in the KRG suffer from a confusing legal system, a lack of bureaucratic transparency, excessive red tape, new and inexperienced anti-corruption institutions, poor inter-ministry cooperation, little enforcement of anti-corruption laws and a challenging media environment (EIU 2014; BTI 2012). In 2009, the Council of Ministers, based on the findings of an independent assessment conducted by PriceWaterhouseCoopers, released a “KRG Good Governance and Transparency Strategy” to outline the government’s ambitions for anti-corruption reforms. These include ensuring the declaration of assets by government officials, improving access to information, legal reform, improving government oversight, ensuring whistleblower protection and increasing the role of civil society organisations in the policy process (KRG 2009).

In 2013, the KRG Ministry of Planning released a ‘Regional Strategic Development Vision for 2020’, to present a policy framework for the cabinet. It includes plans to reduce red tape and bureaucracy, improve rules and ethics in the civil service, improve access to information, demonstrate transparent use of government funds, and use integrity pacts for major infrastructure developments (Ministry of Planning 2013).

In recent years, the KRG has introduced some key reforms, including a code of conduct for civil servants. It has been working with UNDP, and has taken steps towards improving the legal and institutional framework to bring the region in line with international best practice (UNDP 2013). However, the Economist Intelligence Unit calls for more high profile convictions in corruption cases (EIU 2014).

**Legislation**

The legal framework in the KRG, as in Iraq generally, is complex and includes often conflicting regulations (BTI 2012). Furthermore, there is an added layer of complexity through the federal arrangement. The KRG has legal authority over the region, but the federal government has authority on international matters and national security policy (Global Justice Project 2009).

While Iraq adopted the United Nation’s Convention against Corruption (UNCAC) in 2007/2008, gaps exist in the KRG’s integrity framework in a number of areas where it is not compliant with UNCAC provisions as identified in an independent assessment by PriceWaterhouseCoopers (KRG 2009). The Good Governance and Transparency Strategy outlined a number of reforms that the government needed
to take to ensure it is compliant. Progress on enacting these reforms is explained in greater detail below.

The KRG aims to undertake penal code reform to include anti-corruption, money laundering and asset recovery laws (KRG 2009). Currently, some penal code reforms have stalled in the KRG parliament and still need to be enacted (Invest in Group 2013b).

In 2011, the Council of Ministers approved a code of conduct for all civil servants (No. 1 of 2011). It includes items related to transparency and conflict of interest. It also contains a specific anti-bribery provision for all KRG officials. Expert advisors to this Helpdesk query noted that the code of conduct is being updated to ensure there is no overlap with the Commission of Integrity Law that is discussed in the following section on ‘Institutions’. The new code has yet to be finalised.

Enforcement by the Kurdish Commission of Integrity (KCol) of financial disclosure laws for public officials in the KRG has recently begun. Since 2014, the KCol has reported that 98% of those required to do so have submitted their disclosure. Whether public officials will be penalised for non-disclosure has yet to be seen (EKurd 2015b).

According to a political parties law (section 14, amended law 17 of 1993), political parties receive an annual financial fund from the government budget. However, an assessment of this by the Kurdish Institute for Elections found parliamentary oversight and regulation to be weak. They recommend a revision of the law, and that the fund allocation ratio should be based on number of seats gained after an election (Kurdish Institute for Elections 2014).

In 2013, the parliament enacted an access to information law (Law No. 11 of 2013) which the Centre for Law and Democracy deemed as fairly progressive, giving it 98 points out of 150 in their Right to Access Information rating (CLD 2014). However, The International Federation of Journalists and the Centre for Law and Democracy recommend that the law should more clearly state procedures for information requests, include sanctions if requests are obstructed and create a new oversight body rather than burdening the existing KRG Human Rights Commission (Blueprint for Free Speech 2014). The access to information law does include legal protection for whistleblowers, but it is too early to assess how this is implemented in practice (Blueprint for Free Speech 2014).

The KRG has implemented the Competition and Consumer Protection Law (Law 9 of 2010) as per WTO agreements.

Institutions

The KRG has created new anti-corruption institutions to investigate corruption issues, and to advise on reform. However, their ability to challenge corruption would benefit from more training and resources, as well as an improved legal framework (UNDP 2013).

Office of Governance and Integrity

This office was launched in 2010 by the Council of Ministers. It reports directly to the KRG prime minister and it is responsible for the implementation of the KRG’s governance and transparency strategy, advising on ethics, and handling procurement process reform and integrity pact programs (OGI 2011).

Key achievements of this office include the release of the code of conduct for KRG officials, creating the financial disclosure programme and reviewing the draft law to establish the Commission of Integrity. However, the office faces challenges from having limited staff numbers and lack of support from some ministries (OGI 2011).

Kurdish Commission of Integrity (KCol)

In 2011, legislation was passed to create a Kurdish Commission of Integrity (Law 3/2011). The purpose of this independent commission is to investigate and prosecute corruption cases.

A number of high-profile officials have been charged with corruption, including a former mayor of Sulaymaniyah (EIU 2014). A UNDP review of the law finds that the KCol has more independence and impartiality than the Iraqi Commission of Integrity. However, further clarification is required as to the oversight role of the parliament (UNDP 2013).

Board of Supreme Audit (BSA)

The BSA at the federal level has investigative authority over publically funded institutions, including in the KRG (DoS 2012). The Kurdistan Board of Supreme Audit is responsible for auditing regional revenues (International Business Publications 2013).
The federal BSA suffers from low levels of awareness among Civil Servants in the KRG, with just 60% saying that they have heard of them. Among those who are aware of this institution, mostly they are critical of its efforts in fighting corruption - less than one-fifth (18%) believe that it is effective in fighting corruption while nearly two-thirds (64%) think it is not effective, and nearly one-fifth (18%) said they did not know (UNODC 2012).

The KRG-BSA was critically assessed by the UNDP as unable to meet even basic principles and standards as defined by The International Organisation of Supreme Audit Institutions (UNDP 2013c). UNDP has been working with the institution to build capacity and support its auditing (UNDP 2014).

**Transparency Development and Impeachment Board**

The board has the authority to monitor the employment and administrative situation in government institutions. The board includes KRG MPs, representatives of the attorney general’s office and civil society organisations. The board recently made recommendations to the government to investigate payroll fraud, with up to 100,000 individuals possibly receiving salary but not working. This investigation is still underway (Kurdish Globe 2015).

**Parliamentary Integrity Committee**

The KRG parliament has established an Integrity Committee to promote anti-corruption initiatives in the region. There is little information available on its effectiveness.

**Judiciary**

The KRG judicial system – separate and parallel to the judicial system in the rest of Iraq – has authority over people living in the region and over the KRG. The KRI Judicial Council is independent of the regional government (Global Justice Project 2009).

While the law guarantees the independence of the judiciary, separation of powers between the administration functions of the judiciary and the role of the judges is blurred, which can undermine its independence (UNDP 2013b).

The judiciary faces a number of challenges in fighting corruption. First, the penal code is confusing and occasionally contradictory, making it difficult to have consistent rulings. Second, judges lack training opportunities in the area of compliance with international standards. Third, KRI does not have an effective decision library/encyclopaedia for judges to review previous decisions in similar cases. Fourth, there is a lack of consistent rules and little transparency in the decision making process for how cases are assigned to individual judges (Ministry of Planning 2013; UNDP 2013b; WB 2015b).

In 2008, the Shura Council was established as an independent body, operating under the KRG Ministry of Justice (Law No 14 of 2008). The aim of this body is to advise in disputes between government agencies, and review existing and draft legislation and regulations. These roles are particularly important considering the confusing penal code and the way it is hampering effective anti-corruption efforts. In addition, it mediates disputes between members of the public (or the civil service) and the KRG.

The World Bank is supporting this institution with capacity building, to improve the standards in drafting laws (WB 2015b). An expert advisor to this Helpdesk query also informed that the World Bank is supporting the streamlining and automation of the Shura Council’s case management system. This is to be completed in 2015.

**Media**

The restrictive environment in the KRI prevents media effectively reporting on corruption. While the Iraqi constitution guarantees freedom of the press and freedom of expression, media outlets can be prosecuted if they are deemed to have undermined public order or morality (HRW 2011).

There are a number of reports that journalists in the region face risk of death, violence, harassment, destruction of property, arrest and fines. This is particularly the case for those media outlets that report on sensitive issues or corruption within the political establishment (Freedom House 2014; BTI 2014; Ekurd 2011). The NGO Metro Center documented 132 acts of harassment against journalists in 2012 in the KRG (DoS 2012).

In 2011, anti-government protests took place in the region regarding dissatisfaction with corruption, unemployment, and basic public services. It is alleged that journalists covering the
protests were harassed, detained, or had their property destroyed (BTI 2014).

The legal framework also provides opportunities for restricting freedom of the media. Freedom House (2014) reports that a 2008 KRG press law allows for journalists to be fined for reasons such as creating instability or spreading fear or intimidation. However, because that law has a cap on penalties that can be applied to publications, journalists are more frequently tried under the Iraqi 1951 civil code for causing “moral injury”, or the 1969 penal code for defamation or public insult. These codes are both more repressive and allow for stricter penalties (HRW 2011).

For example, in 2010 the KDP filed a US$1 billion defamation suit for an article that claimed the two leading parties were profiting from illegal oil smuggling to Iran (HRW 2011).

There exists a close relationship between some media outlets and the main political parties in the KRI, which undermines media independence. The main political parties own radio, TV and newspaper outlets. Public officials provide money and benefits to journalists, undermining the independence of journalists (Al Monitor 2014; Dos 2012).

Civil society

Civil society organisations started to re-enter the KRI during the 1990s after central government authorities withdrew from the region following the first Gulf War (BTI 2014).

On political and civil freedoms, the Economist Intelligence Unit rates the KRG as 3.5, where 1 is free and 7 is not free, which is similar to the score given to Turkey, but far better than Iraq which scores very poorly at 6.

The KRG passed laws supporting the role of NGOs in the policy making process. The registration process has been simplified and there is improved transparency of government funding of NGOs and financial sustainability (Kweskin 2015).

Although NGOs need to register with the government, this role is now held by an independent NGOs directorate under the Council of Ministers rather than the Ministry of Interior (Freedom House 2014, Kweskin 2015).

UNDP has been supporting civil society organisations in the region, particularly related to their roles in improving service delivery, challenging corruption and protecting human rights (UNDP 2013b).

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