

Evaluation the Iraqi SAI Role in Promoting Government Accountability by Parliament

¹Alaa Nafea Kttafah, ²Noor Farihah Binti Mohd Noor and ²Rohana Abdul Rahman

¹College of Law, University of Misan,

Ministry of Higher Education and Scientific Research of Iraq, Amarah, Iraq

²College of Law, Government and International Studies,
University Utara Malaysia, Sintok, Kedah, Malaysia

Abstract: The main purpose of this study is to assess the extent of the Iraqi Supreme Audit Institution (SAI) ability in strengthening the government accountability by parliament. This study discusses and analysis the nature of the relationship between the Iraqi SAI and the Council of Representatives (CoR) and its impact in promoting government accountability. Based on the analysis the content of legal texts, reviews, interviews and criticisms, the study confirms that the SAI's ability to promote government accountability through parliament is one of the necessary principles to ensure the implementation of effective control by the SAI. The study finds that despite, the Iraqi SAI has the ability to provide a variety reports to parliament and investigation of corruption issues which would contribute to strengthening government accountability, nevertheless, there were many constraints and challenges faced the Iraqi SAI and had a negative impact on its role in achieving its goals in the imposition the government accountability by the CoR.

Key words: SAI, Iraq, government accountability, parliament, corruption

INTRODUCTION

The Supreme Audit Institutions (SAIs) are oversight bodies that exercise external audit of expenditure, income and government activities of state institutions (Dye and Staphenurst, 1998). The SAIs are legally established by an act of parliament to ensure transparency and accountability of the government. In many countries, including Iraq, the SAIs continue to be responsible for overseeing and holding the governments to account for their use of public resources, together with the legislature (Staphenurst and Tittsworth, 2006). Hence, the SAI works closely with the parliament which depends on the audit reports for its government oversight. Government spending must be approved by parliament and through the audit reports, the parliament can ensure that the executive has operated within the financial limits permitted by parliament. In practice, the parliament is a political body and as such it can exert a political influence on the audit process on the government activities by SAIs (Evans, 2008; Hegarty and Musonda, 2010).

Accordingly, the parliament and parliamentary committees in most democratic countries (e.g., UK, Canada, Australia, France, etc.) rely heavily on the follow-up of corruption cases detected by the SAI's reports to impose the government accounting. This is due

to its specialization, effectiveness and the continuity of practice its functions compared with the short-term for the parliamentary session. Furthermore, the reports of the SAI are the only independent source of reliable information on budget implementation and the government's efficiency and effectiveness (Zyl *et al.*, 2009; Borge, 2001).

In the Iraqi context, the SAI should be strongly related and linked to the Iraqi Council of Representatives (CoR). This is because the main role of Iraqi SAI is to protect the public funds and detecting corruption. Thus, it meets the CoR goals which often seeks the same end in observation over the activities of the executive authority and strengthen its accountability. According to the Iraqi constitution of 2005, the main targets of the Council of Representatives (CoR) in Iraq, like most democratic regimes are supervision and legislation. Supervision fights corruption and re-corrects wrong policies while legislation imposes the rule of law, ensures citizen's rights and interests and provides the legal framework economy, politics and service. Article 61 of the Iraqi Constitution discusses the methods of parliamentary supervision of the executive branch which are: the right of questioning, raising a general issue for discussion, the right of inquiry and right of withdrawing confidence. Moreover, many of the parliamentary committees that have been formed within the Iraqi CoR in accordance with its rules of

procedure in order to enhance the supervision of government's performance. According to Article 77 of the CoR's rules of procedure, the finance and integrity committees are considered among the important committees which exercise control and supervision functions relating to the follow-up the implementation of the general budget and detecting financial and administrative corruption issues and all these committees exercise its functions in cooperation with the Iraqi SAI and depending on its reports (Faraj, 2012).

Related problems: Although, the existence of the relationship between the Iraqi SAI and parliament, there was a weakness in promoting government accountability on many issues of waste and corruption in public funds which exposed by the SAI's reports. Therefore, the study focuses on many questions such as: what are the features of the relationship between the Iraqi SAI and the CoR? Why the Iraqi SAI unable to impose the government responsibility through the CoR? And what are the challenges facing the Iraqi SAI in promoting government accountability through parliament?

MATERIALS AND METHODS

This research adopted a qualitative method by using a single embedded case study approach which involving multiple methods of data collection including public documents, semi-structured interviews. This methodology is chosen because the issues arising in this research are legally rooted and will be best resolved by reviews, criticisms and theoretical analysis and the application of statutes, practices and the legal principles of the Iraqi SAI's performance in its relationship with the parliament. Thus, it contributes to analyze and discuss the reasons and challenges that have a negative impact on the SAI role to impose accountability through the CoR.

The Iraqi SAI and its relationship with the parliament: In order to contribute to the enhancement of the parliamentary observation on the executive authority, the Iraqi legislations have been keen on the existence of a relation between the SAI and the CoR. Such a relationship is clearly shown by the contribution of the Iraqi SAI to help parliament in providing a variety of reports reflect the actual evaluation of the performance of the government. Also, the SAI has a mandate to the investigation of corruption cases at the request by the CoR.

Sending the SAI's reports to the CoR: Reports which prepared by the SAI are considered the gist of hard work

and technical operations reflecting the results of financial and legal observation and evaluation of the performance of the public sector institutions. The Iraqi Legislator has stressed the role of these reports in supporting the supervision role of the Iraqi CoR. According to the current law of the Iraqi SAI "within 120 days of the end of every year, the SAI through council of Financial Audit shall present to the CoR an annual report of the basic aspects ensuing from the implementation results of the Board's Annual Plan including the insights, observations and suggestions relevant to the financial, administrative, economic and legal circumstances. The report shall contain also evaluation of the efficiency and adequacy of the government procedures required to ensure effective and transparent collection of revenues and spending of public funds. Moreover, the SAI may forward a report to the CoR on every important matter relating to the audit and evaluation of financial, administrative and economic performance" (the Iraqi SAI law of 2011). On the other hand, with regard to the draft final account which includes the results of implementation of the final financial accounts of the previous budget and which should be submitted by the government to the CoR, the SAI plays a critical task of examining and auditing of these accounts before they be submitted to the CoR to be endorsed in a law.

In this regard, it is clear that these reports help the legislative authority to view the real picture in which public funds of the state are administered and to identify cases of cheating and corruption. For the CoR to benefit from these reports, it sends them to the integrity committee and the financial committee in the parliament according to the procedures indicated in the work stipulated contexts in the internal rules of procedures of the CoR. These committees are specialized in following up on cases of administrative and financial corruption identified in these reports in the different institutions of the state (Hameed, 2015). The financial committee is also specialized in following up on the affairs of the general state budget and the transfers among its exits and reviewing the financial policy of the different ministries and institutions in the state. In addition, through the SAI report on the final account, it can reveal the responsibility of the government for the malpractice in public funds, wasting the funds or not implementing the funds according to the law of the budget endorsement. This can be done also by SAI through the financial and the integrity committees in the CoR.

The investigation at the request of the CoR: The law provides the Iraqi SAI a mandate in investigating cases of administrative and financial corruption at the request of

the CoR (Article 6, SAI law of). This mandate is one of the core functions of the SAI in supporting the work of the integrity and financial committees in the CoR. The parliamentary committees have wide spectrum of specializations in identifying and investigating cases of governmental corruption, however, it dependent on the SAI due to the fact that these committees get busy with the legislative tasks within the CoR as well their lack of experience and specialty. In fact, the SAI's investigation in issues that requested by the Iraqi CoR is often related to cases revealed by the Iraqi SAI about the great corruption that involved of senior officials and ministers. Therefore, such a jurisdiction is one of the key features of the relationship between the Iraqi SAI and the CoR which can achieve the government's responsibility for all the corruption cases in effectively.

In evaluation of the legal mechanism of the relation between the SAI and the CoR it can be noted that the nature of the legal relation between the SAI and the CoR is considered important in enhancing the reality of observation on the activities of the executive authority. Also, this relation can give an additional importance to the SAI's reports in fight the corruption and strengthen the government accountability in case they have been confirmed by the CoR. Thus, the SAI works closely with the parliament which depends on its reports for imposing government accountability. However, the achievement of the government accountability required for the success of the relation between the SAI and the CoR remain governed by the extent of existence the guarantees that ensure for follow-up and implementation of the Iraqi SAI's reports by parliament. Also, it depends on the existence of safeguards to ensure the implementation of the results of investigations carried out by the Iraqi SAI.

Discuss the challenges to the Iraqi SAI in achieving government accountability by the CoR: It is widely recognized that the main features of parliamentary systems are that parliament has the power to impose political accountability of the government and its ministers. According to the approach taken in most countries including Iraq under the 2005 constitution, the parliament by parliamentary committees has the power to followed up and discuss several issues including governmental corruption cases which is one of biggest issues that require the imposition of political accountability and withdraw confidence from the government (Wang and Rakner, 2005). By contrast, the weakness of the Iraqi parliament in the follow-up cases of corruption in the SAI's reports or its results of the investigation of these cases were among the obstacles faced by the ability of the Iraqi SAI in promoting the

importance of its control in imposition the political responsibility by the parliament. Such restrictions and problems are discussed and analyzed in below as follows.

The weakness of Iraqi CoR role in a discussion the SAI's reports: There is no doubt that the great efforts made by the Iraqi SAI in the preparation of various reports about the government activities should be accompanied by a discussion of these reports and follow-up and implementation of its findings before parliament, this would strengthen the government accountability for all the wrong practices including corruption.

In this case, despite the fact that the law gave the SAI the mandate to reporting the CoR within 120 days of the end of the year but it did not indicate the legal mechanism on how to follow up the implementation of those reports before parliament or parliamentary committees in binding and mandatory manner. On the other hand, the rules of procedure of the Iraqi CoR although it gave the parliamentary committees (committees integrity and financial) follow cases of corruption in the Iraqi SAI reports but it did not refer to the mechanism that should ensure discussion of all of these reports in binding. Therefore, the Iraqi SAI's reports were not given much importance by the parliament or parliamentary committees which it considers just optional jurisdiction. For example, the SAI reports for the years 2004-2008 were not accompanied by a discussion by the CoR, just some of the suspicions of corruption related to contracts of the electricity and defence ministries. The same situation for the SAI's reports for the years (2009-2015) which were issued in a reasonable time, however, it did not present to the discussion in the sessions of CoR as is customary in the democratic parliamentary countries (Jurani, 2015; Faraj, 2012).

On the other hand, it can be argued that despite the Iraqi SAI's reports has containment of many cases arising from the waste of public resources and corruption in government institutions, parliamentary committees had not been discussed only some of the contents of those reports (e.g., the corruption of the central bank for sale of foreign currencies without controls, armament contracts for the Department of Defense, some develop oil production permits, contracts) and in closed sessions without the announcement of any results in the process of discussion. Meanwhile, many issues registered in the Iraqi SAI reports related to corruption on a large scale (for example, in the oil sector contracts and waste of public resources and lack of transparency in government budgets and so on), remained in the drawers of the parliamentary committee's offices waiting for political

consensus among the parties governing. Especially, since these committees do not belong to what is known in the political opposition in the parliament as it exists in parliamentary democracies countries which are completely independent of a parliamentary majority that makes up the government (Salman, 2015).

In addition to the above, the Iraqi CoR and throughout the years of 2006-2012 did not discuss any SAI's reports related to the final accounts of the government and this is one of the legal and constitutional violations that are not given to the parliament the right to approval of annual budget without discussing the final account report. More than that, the discussion of these reports of SAI were enough to hold the responsibility of the government and the withdrawal of its confidence because they contain corruption on a large scale (Hameed, 2015). However, the government led by al-Maliki remained until 2014 without accountability despite widespread wastage in the Iraqi state resources as announced by the SAI's reports. This reflects a clear picture of the poor performance of the Iraqi parliament and its deviation from the principles of democracy and the rule of law enshrined in the constitution of Iraq in 2005 which has become mere ink on study (Jameel, 2016). Thus, all these problems are reflected negatively on the efforts and the ability of the Supreme Audit Institution in access to final results of its reports

Based on the above data analysis, it is clear that there is a need to review the Iraqi constitution and the text on the importance of the Iraqi SAI's reports as mandatory reports that must be discussed publicly in the CoR sessions. Also, the law should provide that the Iraqi SAI and clear mechanisms to discuss these reports with the parliamentary committees with identifying all the issues relating to corruption as a prelude for investigation and the imposition of liability offender. This will help to provide political support to the Iraqi SAI's ability in hold the government accountability as well increases the trust and credibility to the SAI's tasks in front of public opinion.

RESULTS AND DISCUSSION

Negligence of implementing the results of the SAI's investigation of corruption cases: Although, the Iraqi SAI has the mandate of investigating the corruption cases at the request of CoR would impose political accountability, nevertheless, this jurisdiction was not accompanied by guarantees to an implementation of the outcome of such investigation. In this regard, it can be noted, ideally, there have been a number of corruption cases against senior officials and ministers have already been investigated by

the SAI at the request of the CoR but it was not accompanied by any imposition of political responsibility. And some important examples can be mentioned and discussed in this regard as follows.

First: In 2006, the SAI has conducted an investigation into suspicions of corruption that occurred in the contracts of the ministry of defense during the period of the interim Iraqi government which were awarded without tenders. Investigations by the SAI showed extensive corruption in these contracts. Where it was concluded that Defense Minister (Hazem Shaalan) in the transitional government got \$1.3 billion for new tanks, helicopters and armoured vehicles as well as rifles, body armour and helmets. However, these contracts have not been met and funds had been transferred through intermediaries and secret accounts with a few of records had been kept. However, the results of the investigation remained unimplemented due to lack of political consensus so that the minister was able to escape out of the country (Gunter, 2013).

Secondly: In 2007, during the first period of the mandate of Prime Minister Nuri al-Maliki, the SAI has offered to the issues of great corruption in the Ministry of Electricity, specifically suspicions of corruption and transactions carried out by the Minister of Electricity (Ayham al-Samarrai) himself. At the request of the council of representatives, the SAI has conducted the investigation into contracts worth a billion dollars. In result, the investigation showed that most of these contracts have been awarded to fictitious companies or incompetent. Eventually, after the completion of the results, the minister had fled the country with funds and records under the delay from the CoR to take measures to withdraw confidence of the minister (Ali, 2009).

Thirdly: In 2012, the Iraqi SAI took over the investigation into allegations of corruption and money laundering in the central bank's activities as a result of banking transactions and the sale of foreign currencies. Under this investigation which had been discussed in the CoR, the SAI has given estimating in up to US \$40 billion the flows of funds that could be leaving the country annually through money laundering schemes that use the Central Bank's activities. The reasons that clarified by the SAI by investigating were due not update the internal controls on government and private banks, non-application the standard know your customer by the Central Bank, lack of effective the office of anti-money laundering within the central bank. As a result, any action on this issue is not taken (Iraqi SAI reports for the years 2009-2012). The head

of the central bank (Ali Al-allak) was from the ruling Dawa party and instead of a vote on his dismissal and held his accountable, he resigned from his post and was appointed secretary-general of the council of ministers.

As evident from the examples above that although the results of SAI's investigation were showing the extent of corruption and expose the responsibility of officials and ministers, however, in practice the Iraqi CoR did not use its constitutional powers to impose political responsibility and withdraw confidence from the minister or the government. In discussing and analyses the most important factors that contributed to this situation, it was noted that the parliamentary committees in the Iraqi CoR (e.g., the Committees of Integrity and Finance) are responsible for monitoring the implementation of the results of the SAI's investigation of the corruption cases. However, these committees tracking frequently the recommendations of political entities and parties within the Iraqi CoR. This is contrary of what exists in democratic countries (e.g., the UK, Australia, Canada, France, etc.,) where the parliamentary committees are part of the opposition in parliament (Kayrak, 2008). Therefore, the absence of a political opposition in the Iraqi parliamentary sessions (2006 till now) resulted in a dramatic spread of corruption, unemployment and the deterioration of services and security due of the ineffectiveness of the implementation of the outcome of oversight investigations (Faraj, 2012).

In addition, these problems resulted from the nature of administration the Iraqi state after 2003 that has been approved by the US occupation and many politicians and parties who had come to Iraq with the occupation. The initial efforts by the US-led coalition to establish a post-invasion Iraqi government strengthened sectarian loyalties by making sectarian affiliation synonymous with representation. For example, rather than seek regional balance (representation based on the provinces and in accordance with the efficiency), the 25 member Iraqi Governing Council established in 2003 was deliberately composed of 13 Shi'a Arabs, five Sunni Arabs, five Kurds, a Turkman and a Christian. Thus, the current system continues in adopt the sectarian and ethnic approach and political consensus and the sharing of power between political parties without the presence of political opposition within the parliament. Thus, all these factors have helped in the absence of accountability and influenced the anti-corruption efforts by oversight institutions including the Iraqi SAI.

An evident from the analysis the foregoing data and interviews it can be noted that the weakness of the Iraqi CoR in implemented the results of SAI's investigations about the cases of corruption is one of the most

prominent problems and constraints that affected on its role in the imposition of political accountability and combating government corruption.

CONCLUSION

The SAI in Iraq by virtue of its jurisdictions in combating corruption in the public sector have a variety of measures to strengthen government accountability against corruption. One of these measures is the ability to provide a variety reports to parliament and investigate of corruption issues which would contribute to strengthening government accountability. Based on the analysis of data and interviews, there are many challenges that faced the SAI and had a negative impact on its ability to achieving its goals in the imposition the government accountability against corruption by the CoR. The Iraqi CoR is found to be responsible for the spread of corruption and reducing the SAI ability in imposing the accountability in terms of the negligence of corruption cases in the SAI reports, failure to imposing political responsibility for the results of an investigation of the SAI in governmental corruption cases. Therefore, this study suggests the need for a review the institutional and legal environment related to the policy of the Iraqi state administration by adopting the citizenship approach and renounce sectarian system. To activate the Iraqi SAI's efforts in combating corruption, it should be required to pass a law binding the CoR and parliamentary committees to follow up and implement all the reports and investigations carried out and be conducted by the Iraqi SAI on issues of corruption and retroactively. Also, the rules of procedure of the CoR should contain text required the formation of parliamentary committees from independent members of the majority party who is forming a government for the purpose of ensuring follow-up to the Iraqi SAI reports in impartially and effectively.

REFERENCES

- Ali, Z.A., 2009. Iraq: Face of corruption, mask of politics. Global Policy Forum GPF, Nadi, Fiji.
- Borge, M., 2001. Supreme audit institutions-their roles in combating corruption and providing auditing and accounting standards and guidelines. Proceedings of the 10th International Conference on Anti-Corruption Conference, October 7-11, 2001, INTOSAI Development Initiative (IDI), Prague, Czech Republic, pp: 1-9.
- Dye, K.M. and R. Staphenurst, 1998. Pillars of integrity: The importance of supreme audit institutions in curbing corruption. Economic Development Institute of the World Bank, Washington, USA.

- Evans, A., 2008. The role of supreme audit institutions in combating corruption. Chr Michelson Institute, Bergen, Norway.?
- Faraj, M., 2012. The Story of Corruption in Iraq. AL-Shajar Publisher, Damascus, Syria, pp: 33-78.
- Gunter, F.R., 2013. The Political Economy of Iraq: Restoring Balance in a Post-Conflict Society. Edward Elgar Publishing, Cheltenham, UK.
- Hameed, S., 2015. Personal Interview. Thi Qar University, Nasiriyah, Iraq.
- Hegarty, T. and K. Musonda, 2010. Good Practices in Supporting Supreme Audit Institutions. World Bank, Washington, USA.
- Jameel, A., 2016. The case of Iraq political parties in Iraq. Iraq Studies, Iraq. <http://www.iraqstudies.com/>.
- Jurani, M.H.A., 2015. Personal interview. Supreme Audit Institution, Iraq.
- Kayrak, M., 2008. Evolving challenges for supreme audit institutions in struggling with corruption. J. Financial Crime, 15: 60-70.
- Salman, A., 2015. Personal Interview. Supreme Audit Institution, Iraq.
- Stapenhurst, R. and J. Titsworth, 2006. Parliament and Supreme Audit Institutions. In: The Role of Parliament in Curbing Corruption, Stapenhurst, R. and J. Titsworth (Eds.). World Bank, Washington, USA., ISBN-13:978-0-8213-6723-0, pp: 101-110.
- Wang, V. and L. Rakner, 2005. The accountability function of supreme audit institutions in Malawi, Uganda and Tanzania. Chr. Michelsen Institute, Sub-Saharan Africa.
- Zyl, A.V., V. Ramkumar and D.P. Renzio, 2009. Responding to challenges of supreme audit institutions: Can legislatures and civil society help?. Chr. Michelsen institute (CMI), U4 Anti-Corruption Resource Center, Sub-Saharan Africa.