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Revenue Generation by Iraqi provinces

August 30-31, 2015

Objectives

- presenting results and recommendations two-month review and analysis of local revenues. The Workshop focused on:
- Best international practices on local revenue generation systems
- Legal framework and favorable environment for local revenues in Iraq
- Current distribution of revenues in Iraq
- Recommendations to develop a roadmap for local governments on local revenue generation system.

The need to amend Law 21 of 2008

I.1 Article 22: local authority to collect taxes.

Article 22: “Each administrative unit has judicial personality and administrative and financial independence” in performing their functions. This means it is possible for them to:

- Local authorities are independent within their competences, taking into account national legislation
- Judicial personality gives the local government the ability to collect revenues, based on federal legislation.
- It is not mentioned whether provinces have the ability to identify tax rates (policy and legislation).

I. The need to amend Law 21 of 2008

I.2 Article 44 (1): Transfers

Article 44 (1): Transfer, “first: part of federal budget allocations to provinces enough to

undertake their responsibilities based on population and deprivation and ensure balanced development through out the country.”

- This refers to the concept of vertical equality, where funding follows a function.
- It also refers to the principle of balance, but this is not implemented “only based on population, not deprivation”
- Recommendation 1: the paragraph C should determine the principle of “balanced development in different areas of the country” by using the concept of equality. Federal government should fill the gap between potential revenue and expenditure needs equally for all provinces”.
- Recommendation 2: Ensure that Accelerated Reconstruction and Development Program (ARDP) funds are divided partially on the basis of deprivation.
- Recommendation 3: allocations of the investment budget was not 100%.

I. The need to amend Law 21

I.3 Article 44 (2): Revenues generated in provinces

Sub-statement No. 2 “Taxes, fees and fines are to be imposed according to federal and local laws applicable in provinces”.

This definition is not enough. It does not state, as should be, the number of tangible income sources, and there is no real reference to laws. The urgent need for reform is to describe revenue sources to be allocated to provinces to replace the statement 44-2 in its entirety.

Suggestion: share of personal income tax. All taxes on real estates; all taxes on transfer of property; hotel taxes (tourism taxes); all customs. All of these should be shared with the federal government.

Ideally, taking a decision regarding revenue allocations is governed by MOF estimations for each province in terms of expenditure allocations related to the eight devolved ministries, and expected revenue amounts of revenue sources not to be transferred.

1. The need to amend Law 21

1.3 Article 44 (2): Revenues generated in provinces

The following priority: Minimum requirements in provincial laws regarding sources of revenues:

- tax payer (tax or fees)
- Fees rates
- Fees exemption
- Deadlines for fee payment
- Start date of the fees
- End date of the fee
- Penalties for arrears and non-payment
- Arrangements for dispute settlements and arbitration

I- The need to amend Law 21 of 2008

I.5 Article 44 (3): Financial transfers to local government units

- Article 44 (3) “Third: local authorities shall allocate fair share to administrative units to undertake their responsibilities according to population.
- Cases of transfer for another time. This needs to be passed to levels lower than the province: Municipalities?
- Principles: vertical parity, but not equality.

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I- The need to amend Law 21 of 2008

I.6 Article 45: Commission for Decentralization

Article 45, which is about the High Commission for Coordination between Provinces, should be entirely re-written; this entity could be turned to a permanent forum for dialogue between the federal and provincial governments.

There are issues related to get access to local revenues:

- Article 45 (1-2) “2. coordination between provinces to tackle local management issues and problems they are facing”
- Article 45 (1-3) “3. develop mechanisms to manage shared competences between federal and local governments cited in articles (112, 113,114) of the Constitution.
- It is recommended that there should be in place a permanent sub-commission or financial relationship committee among provinces.
- With representatives from the Ministry of Finance, Ministry of State for Provincial Affairs, Ministry of Municipalities, provinces, municipalities and experts (academics) in public finance.
- Along with legal delegation to provide consultation to the national government on permanent basis.

2. Requirements of provincial legislation regarding revenues

21. Revenue distribution is to be a clear process

- There is a national law that provides a comprehensive list of taxes that can be collected legally by the province, and at the municipal level too. Thus, the system is not absolute.
- Any local tax not cited in this local law is illegitimate.

2. Requirements of provincial legislation regarding revenues

2I. Revenue distribution is to be a clear process

With no audit on the local government, many types of chaos emerge including:

- Emigration of families and companies from areas where high taxes are imposed to areas with lower taxes
- Unstable economic situation resulting from improper tax management in all local government levels
- For local governments, the management of local taxes is an optional matter.

2. Provincial legislative requirements regarding revenues

2.2 Creating legislation

Local government levels have the right to adopt and amend laws related to them (Law 21 '3-7'), especially in regard with taxes.

These local laws has the feature of a law; this means Constitution I-28

Local tax law should always identify:

- Tax owner(landlord, estate user, advertisement board owner, etc.)
- Tax base (for example: estate value according to governmental estimates, size of the advertisement board in meters); tax rates (may vary by the user)
- Exemptions (such as embassies, UN organizations, charity organizations)
- Repetition of taxes (usually on annual basis)
- Deadline of paying the tax (cited for example in the Holland Municipality Law)

3. Choices of dividing revenues

- Surtax is a tax over another tax (sur in French means over)
- Management of the same tax twice, that is by two levels of the government. This is duplication and waste of efforts. Usually, surtax is managed by high-rank government level .
- Examples for this:
- Personal income tax: US states and local governments. One of the most important sources of revenues in the US states, Denmark and Norway.
- Retail sales taxes: USA states and local governments
- Surtax and profit taxes are not proper for this due to problems in dealing with companies which have many branches and offices.
- Vehicles tax; this is divided between the national and local governments in Holland. It has also the responsibility of building and repairing roads
- In Iraq: Customs revenues

3. Revenue Dividing Choices

3.2 Factors of success of revenue dividing (additional taxes)

- Strong national tax management is essential to revenue dividing success. Ideally, it should:
 - Be able to identify which province or municipality is concerned with these revenues (computerized tax management is important in this regard)
 - Be effective in reconciliation of revenues (for example, dealing with refunds and installments)
 - Transfer revenues in most cases, at least on monthly basis)
 - Transfer revenues during predictable periods of times (and paying of fees in case of delayed transfer process)
 - Provide explanation about transferred funds which should be subject accountability

These warranties should be stated in a law.

3. Revenue dividing choices

3.3 Principle of origin in relation with taxes. It is one of the disadvantages

- Additional taxes is base on the “principle of origin” whereby revenues are divided with areas or parties where revenues funds are raised, this means where . revenues are generated. his is a fair issue.
- The principle of dissension often means that rich areas have high personal income, retail sales and number of vehicles; thus, receiving much revenues. Poor areas, on the other hand, receive little revenues. This situation does not lead to national cohesiveness.
- Some sources of income are not adequate for the principle of origin
- Examples: customs fees (Iraqi Law No. 21 of 2008 (44-7) and airport tax. In addition, not all areas have outside border, airport or coastal cities such as Lagos (Nigeria) and Karachi (Pakistan), which collect lots of customs fees
- Iraq applies the Principle of origin in regard with oil revenues (despite the constitutional article 112 (1)
- The principle of parity means that poor areas are preferred than rich areas. Additional revenues are different from this principle.

4. Main functions of the provincial Revenue Section

4.1 Outreach with citizens regarding revenues. The Concept of serving citizens. Communication channels

- A citizen has the right to know his revenue obligations and his rights
- There are different possible channels of communication; they have their own strengths and weaknesses
- provincial website are available and fully operational; but now all people browse them on the internet.
- Manuals/publications: interpretation of laws may not give all details and such publications should be professional even in design and formatting, and should be placed on the electronic sites.
- Evaluation letters: this should be adjusted according to a certain state of tax payers. This means there is a need to templates.
- Reminding: this is through text messages. Once again, a standard letter should be used.
- Advertisement boards: these should be proper only to the road of vehicles and passer-by. The websites should be frequently referred to for more information.
- Advertisements in newspapers and radio and TV broadcasting may not be the best way. The recipient will throw the newspaper and may not watch the advertisement on TV.

4. Main functions of the provincial Revenue Section

4.1 Communication with citizens regarding revenues.

Sample of a publication (I)

The banner features the USAID logo on the top left and the Government of Kabul logo on the top right. The main text is in Pashto: "همشريان گرامی" (Dear Citizens) and "شاروالی کابل در بدل محصول صفایی خدمات شهری را عرضه می دارد. با پرداخت به موقع محصول صفایی در باز سازی و نو سازی شهر کابل سهم بگیرید." (The Government of Kabul offers clean services in exchange for timely payment of clean products for city reconstruction and renovation in Kabul. You will have a share in the timely payment of clean products for city reconstruction and renovation in Kabul.) Below the text is a collage of four photographs showing construction work: a green lawn, a stone wall under construction, a road being paved, and a park area.

www.km.gov.af: وسایت شاروالی کابل

www.kabulmayor.blogspot.com: ولايت شاروال کابل

4. Main functions of the provincial Revenue Section

4.1 Communication with citizens regarding revenues.

Sample of a publication (I)

USAID
FOR THE AMERICAN PEOPLE

شاروالی کابل

همشهریان محترم

پرداخت به موقع محصول صفایی عرضه خدمات شهری بهتر توسط
شاروالی کابل را سرعت می بخشد و نمادی از مشارکت مردم
در باز سازی و نو سازی شهر است.

وبسایت شاروالی کابل: www.km.gov.af
وبلاگ شاروالی کابل: www.kabulmayor.blogspot.com

4. Main functions of the provincial Revenue Section

I.4 Communication with citizens regarding local revenues. Method of communication

- Communication with citizen should be positive and respectful to citizens. Threats should be avoided (“we will find every mistake...”)
- The main goal is to enhance voluntary obligation.
- There are many factors to determine compliance to paying revenues; fear of carrying out actions. This may not be the most important. Other factors include citizenship, religious factors and trust in the way the government is going to expend revenues.
- There are many similarities between tax payer service and client service in commercial framework (market mixture: product, place, promotion)

4. Main functions of the provincial Revenue Section.

4.4 Carrying out legal requirements for local revenues

Revenue laws are in need to strict procedures. There are three principles to carry out the task:

- **Risk management and proportion.** Resources should be expended in proportion to the amount of governmental revenues. We should not waste time of small fish (i.e. petty cash)
- **Caution.** Some people get very angry. There should be retraction when there is threat. Security of public employees should be give a priority.
- Decision making at high level. Responsibility should not be delegated to lower levels. Decisions should be taken by the manager, not by subordinates. Sometimes, there should be a court order in this respect.

4. Main functions of the provincial Revenue Section

4.4 Carrying out legal requirements for local revenues- actions for carrying out laws I

Potential choices to implement the law include:

- Fines in case of delayed payment. Fines should be plausible and should not increase with time. Penalty is an educational tool; it does not intend to make a citizen almost broken or bankrupt.
- Tax clearance certificate. There may be a need to submit bids to obtain governmental contracts. Some countries use tax clearance certificate as a requirement to be a candidate in an election or get education scholarship; but it is not a good practice since it is among human rights.
- No documents are issued by the local and national governments. Passports (International Human Rights Declaration 13-2 “every individual has the right to leave any country including his own..”, or commercial occupation permits (this is effective in complying to all local revenues, but it is detrimental to commercial climate.

4. Main functions of the provincial Revenue Section

4.4 Carrying out legal requirements for local revenues- actions for carrying out laws 2

- Lock up of capitals and confiscation of properties in the auction. Iraq has such a law. Downsides to the government: 1) costs for auctions; 2) the price in the auction is probably less than the market value.
- Closing of companies. Both temporary or, as a last resort, permanently.
- Demolish properties constructed illegally, i.e. with no building permit. Downside: it is a stringent action; it can only be applied if it causes chaos and insecurity.
- Putting in prison is a national-level measurement in income tax and surtax; it is rarely applied at the local level.
- In all this, business climate is the forefront concern of the government; punishment should not go to the extreme.

4. Main functions of the provincial Revenue Section:

4.4 Carrying out legal requirements for local revenues.

Other means for debt management

Alternative tools for debt management:

- Installment payment: There should be written agreement. In case of delinquency, outstanding dues should be paid at one time.
- Cancellation of debt: This is the responsibility of key employees such as Director-general revenues in cooperation with the Governor.

4. Main functions of the provincial Revenue Section:

4.4 Carrying out legal requirements for local revenues.

Revenue Collection by private sector collectors (I)

- In certain scenarios (small income sources, non-essential functions) the government may involve third parties, as in the public-private sectors involvement. Revenue collection, however, is the main aspects of governmental sovereignty
- Ex: Market manager may collect market fees; a slaughter-house may collect fees of slaughtering; road fees may be collected by private sector companies.
- Cash should be regularly put in a bank account and a report should be submitted to explain the current amount for accountability.
- There are many types of contracts with external collectors.
- For small amounts (slaughter-houses) concluding a contract with a fixed amount for the government. All surplus revenues should be retained by the collectors from the private sector. A report on this issues should be developing citing the amount of money collected.
- For large amounts: fixed percentage should be set. Accountability is the most is the key here, such as conducting sudden inspection operations.

4. Main functions of the provincial Revenue Section

4.4 Carrying out legal requirements for local revenues. Collection of revenues by the private sector (2): Termination of fixed price contract (Amsterdam 1748)



4 4. Main functions of the provincial Revenue Section

4.4 Carrying out legal requirements for local revenues.

Collection of revenues by external collectors

- Potential external collectors are those from nearby directorates or areas, or the Ministry of Finance, or public utilities such as sewer or water
- In all cases there is a need to good written agreements in terms of accountability and transfer timeline and charges for services delivered
- Justification for collection of fee should be developed publicly in the annual financial report to the local government; it should not be developed for revenue flow. The general advantage of these arrangements
- The general advantage of these arrangements is to encourage the Governor or Municipality manager to support effort of revenue collection.
- Nearby directorates can make use of specialty and macro economy advantages
- Downside of such arrangements is transfer costs.

4. Main functions of the provincial Revenue Section

4.6 Classification of revenues and development of relevant reports (I)

- In some places, lower governments enjoy independency in determining their accounts tables. This, however, is not beneficial in making comparison. If the federal government wants to impose a unified accounts table, this table should be justified.
- Recurrent revenues should be separated from non-recurrent revenues. A piece of land could be basically sold once. Extreme dependence on non-recurrent revenues is not a good model for healthy development.
- When arrears are paid they should be separated from regular recurrent revenues; this is very important to predict and estimate revenues.
- Good classification of revenues involved other revenue items such as “other taxes”, “other fees” and others.
- Penalties should be separated individually. Penalties should not be included in main revenue sources.

4. Main functions of the provincial Revenue Section

4.6 Classification of revenues and development of relevant reports (2)

- Revenue classification is connected with part of the revenues. The problem is related to the expenditure aspect in the account table. It is however connected to the revenue policy.
- The unified policy related to fees (such as fees of entry to a zoo or museum or fees for issuance of documents) should be fees to cover costs.
- To compare fees with related costs, it is important that the accounts table should distinguish cost centers such as cleaning and vegetation sections, zoo, museum, and so on. In this way, it will be possible to divide cost categories (such as salaries or fuel) on cost center.

4. Main functions of the provincial Revenue Section

4.6 Classification of revenues and development of relevant reports (3)

- Revenue reports should provide comparisons with revenue collection in the previous items and not only with expected revenues.
- If the party collecting revenues cited in its report of large amounts of “other revenues” (more than 3% of the total), the report should explain or justify the amount. Otherwise, the local government should track the process.
- It is also necessary to inform about arrears, amounts still outstanding. It is also possible to give details according to activity sector. High level of the government may be hesitant to pay estate property tax. Embassies and consulates tends to neglect fees and fines for wrong parking of cars.

4. Main functions of the provincial Revenue Section

4.6 Classification of revenues and development of relevant reports (4)

- Revenue Collection Unit should in all conditions provide written explanation and narrative about reasons .of considerable deviations (whether positive or negative); for example: rise of actual estate tax due to completion of building a new residential area.
- Drop of rental revenues due to closing of store owners to their stores and it is improbable to find new lessees
- This requires skills in development of the report at the grassroots level.

4. Main functions of the provincial Revenue Section

4.7 Revenue Analysis

- Revenue analysis includes providing explanation for previous revenue performance and evaluation of recently adopted policies; and also analysis of new policies under consideration.
- All parties concerned with revenue collection should be monitored: Have they collected all revenue sources? Are they applying the penalty system in the same way?
- It is also important to monitor revenue sources performance. Here, everyone is considered responsible. Instead, procedures for public policy should be taken.
- In both cases, comparisons with the goals should be taken. What are the reasons behind considerable deviations.

44. Main functions of the provincial Revenue Section

4.7 Estimating and Predicting Revenues (I)

- Prediction of revenues is the first and decisive in the budget cycle.
- The purpose is to obtain real expectations and estimations; not considerably optimistic (and may lead to a budget that is unachievable, unfinished projects and waste of money); it is neither pessimistic in extreme way (leading to providing less quality services and unwarranted dismissal of employees
- It is necessary to involve the Revenue Collection Unit to get information about what is going on the ground. Statistical information about provincial economic development is also useful
- The good goal is hard to reach but it is not a big challenge (it could discourage employees). The will of power is not the main governing factor of revenues. Revenues should be collected according to the law.

44. Main functions of the provincial Revenue Section

4.7 Estimating and Predicting Revenues (2)

- **Method:** draw conclusions about the trend if data are available. Trends should reach their end, especially in the Iraqi economy oil. Trends are unstable.
- In the long run, local revenues should track development of the total nominal local output. Actual growth rate should be approximately equal the real economic growth rate of economy.
- Estimates are used to evaluate revenue collection performance. Methodology used to give expectations, however, is in need to evaluate itself. Each year comparison between expectations and actual revenues should be measured as a percentage from the actual collection

5. Human, physical and institutional capital

5.1 Integrity issues

- Nature of issue: such as traffic
- There is no miraculous, speedy and simple way for remedy
- The best solution is a mixture of various arrangements: 1) speed bumps; 2) wearing seatbelt is mandatory; 3) maximum speed limits; 4) raising awareness through public communication; 5) measures against drunk driving; 6) establish street roundabouts instead of intersections; 7) mandatory annual check of old cars; 8) others.

5. Human, physical and institutional capital

5.1 Integrity issues (2)

A set of arrangements to face corruption-related issues in revenue generation. They may include:

- Separate revenue staff from fund flow: payment will be via a bank not in cash. This is a priority in Iraq where most payments are in cash.
- Separate revenue staff from citizens: communication should be via a message, phone, e-mail instead of face-to-face encounter. Here, friendship is undesirable. The solution is to systematically alternate staff (different areas, different functions)
- Request an announcement about the assets in the beginning of taking over a position (as is the case in Iraq); this action should be also done at the end of the tenure of key officials; the same is to be verified by the Ministry of Finance.
- Instructing citizens to request a receipt after each payment.

5. Human, physical and institutional capital

5.1 Formulate policies and develop standard operation procedures (I)

- Most revenues are connected with the issuance of permits such as environment, work and building permits
- Mention in details terms for refusing permits (pollution, location near a residential areas, noise, type of building,...)
- Conduct inspection and use financial and non-financial penalties
- Create a database for each big group of permits along with communication information, ID, phone number for each tax payers, number of permit start and end of permit expiry, outstanding amount, etc.
- Confidentiality requirements, exchange of information with other governmental entities
- All current permits should be numbered.

5. Human, physical and institutional capital

5.1 Formulate policies and develop standard operation procedures (2)

- Dealing with “contamination in database”: payers who left their businesses or left their places to other places. Actions to those who are no longer able to extend their permits.
- Issuance of evaluation and reminders (via a text message for example); matching actual payments with payment obligations; selecting cases for follow-up (implementation); and issuance of standard messages (templates)
- Encouragement policy of payment via a bank (all transactions over a certain threshold, for example)
- Procedures for settlement of regular revenues
- Internal control and audit procedures; internal audit should be independent from the governor or head of municipality

5. Human, physical and institutional capital

5.5 Performance Management (I)

Good performance should be compensated; a compensation can be:

- More and better equipment
- Training
- Promotion or higher salary scale
- Letter of appreciation
- Encouragement words, a smile, patting on the back
- Threats and insults are not proper penalties for bad performance.

5. Human, physical and institutional capital

5.6 Performance Management (2)

Performance management can be applied to individuals and revenue collection units. In Revenue management, performance indicators are not the same. Regardless of total revenues collected, other possible indicators are:

- cost revenue rate (generally, local level at a rate more than 10%; this is too high)
- Collected revenues for each person in-charge
- Number of estates assessed

In performance management system, there is regular/annual performance review and performance agreements for the coming period.

55. HUMAN, PHYSICAL AND INSTITUTIONAL CAPITAL

5.7 LOGISTICS AND COMPUTERIZATION OF LOCAL REVENUE MANAGEMENT

- Important equipment include computers, generator, transportation means such as motorcycle
- Most of the work under 3.3.1 should be computerized. Waiting of citizens will be less and job satisfaction will be increased; and the commercial work climate will be improved.
- To get local revenues, there are no software programs; they are not available yet.
- Provincial websites should be used to communicate with citizens about revenue obligations

6. Development of legislation for self revenue Evaluation and amendment of legislation

- There is another element in policy making, that is evaluation of policies
- After inserting an income source, or changing its base or rate, achievement of public policy goals should be verified.
- Traditional ways for economic researches should be used since revenue data are very important before and after change. Meeting stakeholders and following international examples are also useful.
- Without evaluation of policies, detrimental policies may last for decades.

7. Improve Iraqi system of financial transfers between governments

7.1 Grants for public and private purposes

- Transfers or grants can be for public and private purposes
- Private grants may be expended for specific purposes such as education and health. A report should be submitted to the ministry in this respect (upward accountability)
- Grants may be expended for public purposes according to local government preferences. A report should be developed for this purpose within the annual financial report (downward accountability)

7. Improve Iraqi system of financial transfers between governments

7.1 Equality through general purpose grants

- Transfers should not be based on the gap between the actual expenditures and actual revenues. This may encourage waste of expenditures and lead to neglect of revenue collection.
- Transfers should be based on the gap for each area and possible revenue and expenditures needs. Formulas should be equally developed for each case
- Generally, expenditures needs depend on population, land area and other variations such as magnitude, tourist site, antiquities, etc.)

7. Improve Iraqi system of financial transfers between governments

7.2 Equality through general purpose grants (2)

- Some Formulas are very refined with scores of variations. For instance, population can be classified as those at the age of schools (connected with the need to expend on education), and elderly population (expenditures on health care)
- Ideally, local governments do not have the ability to influence variations value
- Transfers of Accelerated Reconstruction and Development Program (ARDP) are based only on population; this will not lead to equality.

7. Improve Iraqi system of financial transfers between governments

7.3 Equality through general purpose grants (3)

Equality is not necessarily promoting national solidarity; rich areas may not desire to contribute to poor areas. This dissatisfaction on the part of the poor is the same dissatisfaction on the part of the rich and may lead to separation.

Examples on this:

- Slovenia and Croatia in former Yugoslavia (1945-1991)
- Italy (North League)
- Catalonia in Spain
- Flanders in Belgium

8. Constitutional Issues

8.1 Local government preventive procedures

A good constitution provides for financial assurances to local governments With the following preferences:

1. Ensure financial support for local governments by the national government
2. Ensure vertical equality whereby enough revenues are given to local governments to meet their legal needs (this is achieved either by revenue distribution of financial support)
3. Ensure horizontal equality whereby governmental entities of the same levels become equal, such as the case in South Africa.
4. Ensure financial support and connect it to national taxes (such as the case of Spain), or national revenues (such as the case of South Africa), or National oil proceeds.
5. Ensure institutional arrangements that govern financial relations among governments in the form of a committee or a fund. Some countries have separated laws, committees and fund for 1) provinces, 2) states. Other countries combine the two to avoid splitting.

8. Constitutional Issues

8. 2 Funding of local governments in the Constitution

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“A public commission shall be established by a law to audit and appropriate federal revenues. The commission shall be comprised of experts from the federal government, the regions, the governorates, and its representatives, and shall assume the following responsibilities: First: To verify the fair distribution of grants, aid, and international loans pursuant to the entitlement of the regions and governorates that are not organized in a region.

Second: To verify the ideal use and division of the federal financial resources.

Third: To guarantee transparency and justice in appropriating funds to the governments of the regions and governorates that are not organized in a region in accordance with the established percentages.

8. Constitutional Issues

8. 2 Funding of local governments in the Constitution (2)

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The federal government shall have exclusive authorities in the following matters:
(...)

Third: Formulating fiscal and customs policy ... and regulating commercial policy

- The term “financial” does not mean that imposing taxes is an exclusive right of the Federal Government. Refer to Law 21 of 2008 Article 1-22 “each administrative unit ...collect taxes, fees and charges according to federal laws provisions. Also, refer to the same law in Article 45-1 “the role of ministries will be that of planning for the public policy.
- So, in regard with the local taxes, apparently, it means “revenue distribution and other aspects of the public policy framework (1.2.3 above)
- Recommendation: in addition to Article 110-1 “ Local governments shall have powers to identify local legislation and policies regarding revenues sources as per national legislation.

8. Constitutional Issues

8. 2 Funding of local governments in the Constitution (3)

112: First: The federal government, with the producing governorates and regional governments, shall undertake the management of oil and gas extracted from present fields, provided that it distributes its revenues in a fair manner in proportion to the population distribution in all parts of the country, specifying an allotment for a specified period for the damaged regions which were unjustly deprived of them by the former regime, and the regions that were damaged afterwards in a way that ensures balanced development in different areas of the country, and this shall be regulated by a law.

Recommendation: replace “its revenues” {related to oil and gas} with “a minimum fixed rate of its revenues set by the law”. And the paragraph “in proportion of population distribution throughout the country,” should be replaced by “... throughout the country, and impoverished areas should get more in proportion to their population”. This recommendation assumes that this paragraph applies to the ARDP funds and not to the Petrodollar funds.

8. Constitutional Issues

8. 2 Funding of local governments in the Constitution

(4)

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The following competencies shall be shared between the federal authorities and regional authorities: First: To manage customs, in coordination with the governments of the regions and governorates that are not organized in a region, and this shall be regulated by a law.

Recommendation: This paragraph needs to be rescinded though it gives provinces a role in customs management. Provinces should be compensated by additional transfers and/or redistributing of revenue sources

8. Constitutional Issues

8. 2 Funding of local governments in the Constitution (5)

3- 121 (the text in chapter one is about regions)

Third: “Regions and governorates shall be allocated an equitable share of the national revenues sufficient to discharge their responsibilities and duties, but having regard to their resources, needs, and the percentage of their population.”

3-122

Second: Governorates that are not incorporated in a region shall be granted broad administrative and financial authorities to enable them to manage their affairs in accordance with the principle of decentralized administration, and this shall be regulated by law. 5-122

5-122

Fifth: The Governorate Council shall not be subject to the control or supervision of any ministry or any institution not linked to a ministry. The Governorate Council shall have independent finances. 123

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Powers exercised by the federal government can be delegated to the governorates or vice versa, with the consent of both governments, and this shall be regulated by law.

8. Constitutional Issues

8. 7 Conclusions (I)

- Municipalities is not mention in the Constitution, Section 5 Chapter 4; rather, it mentions “local administrations”. Thus, the Constitution does not give the Municipalities any guarantees.
- All items cited in slide 8 were covered by the Constitution in one way or another. Item 1 is covered by articles 112, 121-3. Item 2 is covered by articles 121-3 and 122-2; item 3 is covered by 121-3 again; and item 4 is covered by Articles 112-1 and Article 106-5.

8. Constitutional Issues

8. 8 Conclusions (I)

Anyway:

- Regarding 121-3, the term “their needs” is not fully met so far (deprivation and poverty do not play a role in plans related to accelerated reconstruction and development)
- Oil revenues cited in Article 112-1 is very unstable (connection of transfers to national tax revenues makes it more stable)
- Article 6 (Audit Commission) is not implemented yet.
- Even it is implemented, it will not be a program of permanent dialogue with the Ministry of Finance and concerned governmental entities. Such a program will not be desirable.

Recommendation for 121-3, about financial transfers to provinces, the following should be added: “the size of total available funds, transparency, accountability, audit, transfer timing, is to be regulated in that law”.

8. Constitutional Issues

8.9 Other constitutional issues regarding local revenues (2)

- Article 28-1

First: “No taxes or fees shall be levied, amended, collected, or exempted, except by law.

In regards with taxes, this is a normal issue, but in regard with fees, such as fees for entry to zoo, museum, etc. , it is not normal. It could be a barrier to collection of fees at the local level; and hence, it will affect delivery of services at the local level.

. Positive aspect: the Constitution in Article 28-1 :“implied tax” prohibits fees higher than cost coverage, or without individual benefits in return.

Recommendation: to replace the term “fees” under the provisions of Article 21 of 2008 which prevents imposition of any fees without providing services. Rates of fees should be based on service costs.

8. Constitutional Issues

8.8 Other constitutional issues regarding local revenues

(I)

- Article 122-5 does not allow financial monitoring to “bankrupt” provinces, including revenue generation. Practically, a way is to be found to overcome this issue.
- Article 123 allows for revenue division; this is a good thing.
- Article 19-9

Ninth: Laws shall not have retroactive effect unless stipulated otherwise. This exclusion shall not include laws on taxes and fees.

May be due to good faith to prevent imposition of retroactive taxes; the unfortunate wording prevents existence of a law stipulates for tax exemption. This is undesirable since taxes exemption is considered a good policy.

Recommendation: To replace the second sentence “this exemption does not include laws related to tax or new and high fees imposition.

8. Constitutional Issues

8.9 Other constitutional issues regarding local revenues

(3)

- Article 28-2 Second: "Low income earners shall be exempted from taxes in a way that guarantees the preservation of the minimum income required for living. This shall be regulated by law.

The content of this Article requires that estates of low value are exempted of tax. This is a good policy in relation to effective and efficient revenue generation and social justice.

If it is taken literally, however, it requires the local governments should have information about tax payers income levels. This is not going to be happened in the near future.

9. Municipal Revenues (Law 130 of 1963)

9.1 Revenue Policy Principles

- The source of a good income should be large . and stable, for example, the estate tax. Taxes coming from building permits or tourism are more unstable.
- Costs of revenue source management should not be exaggerated and no complicated accounts and legislation are involved
- Estate taxes and commercial permits taxes should be upwardly designed so that features of higher value will have higher rates of taxes. This is to protect people with low incomes (content of Article 28-2)

9. Municipal Revenues (Law 130 of 1963)

9.2 Sources of sound revenues

- In most countries, taxes are referred to the third level of the government. Avoiding taxes, which legal, and tax evasion (illegal) is not an easy thing since estates are not mobile and hard to conceal.
- In Iraq, estate taxes are collected by the Ministry of Finance; these revenues should be referred again along with tourist hotels taxes. After referral there could be decentralized management.

9. MUNICIPAL REVENUES (LAW 130 OF 1963)

9.3 SOURCES OF SOUND REVENUES (2)

	2009		2010	
Basic property tax	34.865	1.0%	47.388	3.2%
Additional property tax	905	0.0%	6.266	0.4%
Basic land tax	7.563	0.2%	24.719	1.6%
Additional land tax	582	0.0%	1.614	0.1%
Arrears of tax on crop land	7.043	0.2%	10.044	0.7%
Property taxes	50.958	1.5%	90.031	6.0%
Total tax revenue	3,335.125	100.0%	1,503.516	100.0%

www.mof.gov.iq/pages/en/GCTStatistics.aspx

9. MUNICIPAL REVENUES (LAW 130 OF 1963)

9.4 SOURCES OF SOUND REVENUES: TAX ON HOTEL SERVICES

- Tourism tax in Iraq is managed at the central level un the title “Hotel Tourist Service Tax” . In 2009, it generated 2.8 billion ID (0.1%); and in 2010, it generated 1.1 billion ID (again 0.1%).
- In some areas, hotels supports this tax only when they make sure that the governments expend these revenues for the benefits of these hotels. Example of these projects are building road leading to tourist hotels, establishing car parks and cleaning tourist areas.

9. MUNICIPAL REVENUES (LAW 130 OF 1963)

9.5 SOURCES OF SOUND REVENUES (4):

OTHERS

- Other recurrent revenue sources for the Municipality such as job permits, land reclamation, market fees, parking fees, rental, investment revenues,...
- Borrowing. Common national law may allow this with some restriction such as national supervision or borrowing from specialized banks. A lender would normally request reliable financial reports; that is audited by an external auditor with good reputation.
- Grants: the Ministry of Foreign Affairs may desire to be acquainted with foreign donors. In most countries, the Ministry of Foreign Affairs needs to approve the support provided by foreign donors. In Iraq, the Ministry of Finance does that.

9. Municipal Revenues (Law 130 of 1963)

9.6 Law No. 130 of 1963 on Municipal Revenues: General remarks (I)

- Since 1996, the Law has not been revised or updated.
- There is no revision to inflation . Amounts were determined 33 times in the Iraqi Dinar (in 1963 one ID is equivalent to 2 USD). After years of inflation, all the amounts should be multiplied by 1000 times (?)
- Most topics are dealt with for a very short time.
- Powers and authorities of the Municipalities, if any, are not mentioned in order to organize municipal aspects in the Municipality Law.

9. Municipal Revenues (Law No. 130 of 1963)

9.7 General Remarks (2)

- There is no clear definition for a tax or fee payer; for instance, taxes can be paid for tobacco, spirits and soft drink products by producers, importers and wholesale or retail merchants or both of them.
- Deadlines of payment are not cited. Apparently, fees can be paid at the last day of the year, or long after that.

9. Municipal Revenues (Law No. 130 of 1963)

9.8 General Remarks (3)

- There is no mention to the amounts for which charges are to be paid in arrears, as a compensation that the Municipality can not make use of the money that they had from the legal aspect. This is called “liquidity charges” or “legal interest”.
- References to such amounts in other laws are vague: 3-1 “according to applicable laws...”, “4-1 and applicable laws. Ideally, references should mention the name of the law, its number and the year of issuance.
- The Law does not explain if under any circumstances, revenues have been collected by the private sector (or partnership between the public and private sectors)

9. Municipal Revenues (Law No. 130 of 1963)

9.9 General Remarks (4)

- The law will not be “strict” unless there are enough legal terms and provisions to implement it. Temporary closing of the workplace, refusal of issuing commercial permits and illegal demolition of buildings are not covered by the law.
- Some of the “small revenues” of the Municipality are: fees of slaughter houses (Article 2), lottery (Article 4), auction (Article 7) and Casino (Article 8)
- The Law does not give any authority to Municipality to determine Municipal taxes and fees, not even to revise previous inflation rates.

Conclusion: The Law should be entirely re-written.

9. Municipal Revenues (Law No. 130 of 1963)

9.10 Fees for commercial profession permits (I)

- New professions have emerged such as software developers, internet café, cell phone companies, company advisory offices. These professions have not been mentioned in annex 6.
- There are some overlaps: construction materials (5%) against importing of construction materials (10%); car importers (10%) against cars and spare parts (5%); metal furniture (10%) against furniture (5%); and shoes and hats (10%) against shoes (5%)
- There are also gaps: aviation companies, lawyers, translation offices, accounting companies, health and education institutions, and other non-conventional services providers.
- There is no chapter for “other professions” and not identified in other place.

9. Municipal Revenues (Law No. 130 of 1963)

9.11 Fees for commercial profession permits (2)

- To deal with these problems, can the categorization of the Statistic Central System be used?
- Rental is the basis for a tax; but this is hard to manage if a rental is paid “under the counter” with no written contract. The alternative is that there should be in place a commercial permit tax managed by the National Tax Department (Ministry of Finance), based on capital rotation rates.
- Issuance of commercial permits affect the business climate. Permits effective for more than one year can be issued to prevent annoyance and disputes.
- Even this part of the law is in need to be re-written in its entirety.

Thank you

