

# State-building

## **A Roadmap for the Rule of Law and Institutionalisation in the Kurdistan Region**

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### **Executive Summary**

Despite frequent digressions, the system of governance in the Kurdistan Region of Iraq (KRI) has made significant progress. However, this has always been influenced by internal and external political, economic, and security dynamics. In parallel, the system has inherited aspects from the former Iraqi, Middle Eastern and other models of governance- resulting in the formation of unique system. Further developing and reforming the governing system in the KRI requires a tailor-made solution that takes into account Kurdistan's historical, cultural, religious and geographical background.

Clearly the achievements and progress of the Region in the past 26 years should not be underestimated; as the KRI is in a neighbourhood bedevilled with regional powers with political agendas as well as weak or failed states. In addition, the KRI faces existential threats from violent extremist forces using the pretext of religion or nationalism in attempt to destabilise the Region.

However, the KRI's own increasing weakness is in its governance, which poses the greatest threat to its fate and future. Hence, this research-based policy book aims (1) to identify the key structural and functional weaknesses in the KRI's governance system, and (2) to provide a 10-year roadmap capable of addressing these weaknesses. This book is an extended policy-report, a product of extensive research based on in-depth face-to-face interviews and roundtable meetings with more than 200 experts, including policy-makers, decision-makers and academics across the KRI's governorates. In particular, the report focuses on reforming the management structures and mechanisms needed to promote the rule of law and create an environment conducive to achieving good governance, through:

- Adopting a transitional constitution for the KRI to serve as a framework and roadmap until the issue of the disputed territories is resolved.
- Transferring the political decision-making authority into the key democratic institutions.
- Enhancing legitimacy in the decision-making process.
- Maintaining the independence of government institutions.

- Consolidating the legislative, executive and judiciary institutions so they become sources of independent authority rather than tools for political interests.
- Amending dated laws and filling the numerous legislative gaps.
- Devolving power through administrative decentralisation and empowering local government.
- Enhancing the decision-making process and minimising bureaucracy.
- Strengthening institutions through restructuring and optimisation of staff numbers and performance.
- Enhancing institutional audit, monitoring and performance assessment. .
- Creating a tailor-made system for quality assurance, accreditation and performance management.

This book provides detailed policy recommendations with the aim of introducing radical changes in the governance system, ensuring strengthened institutional structures, and empowering leadership and decision-making processes. The recommendations are designed to enhance the **functionality** and **resilience** of KRI's system of governance in the face of future threats and crises. The public and the political leadership (including those in power and the opposition) have no choice but to engage heavily in nation- and state-building in the KRI with clear will and determination in order to achieve unity and prosperity. Left unaddressed, the status quo will not achieve the legitimate expectations of the people and will ultimately lead to failure of the entire governing system.

Indubitably, reform and institutionalisation cannot be actualised in one institution or one sector of governance alone. Rather, these processes require a comprehensive and overreaching approach involving not only the public, but also the governing and opposition parties as well as the civil society.

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## **THE LEGISLATIVE AND JUDICIAL AUTHORITIES**

In its current form, the KRI's parliament has been unable to become a source of power, resolve conflicts and crises or engage in strategic debates to steer the Region's direction.

In this book, a series of detailed recommendations have been laid down to transfer power and authority from the political parties to the parliament and other legitimate institutions of the KRI. These include:

- The leader of each political party should run in parliamentary elections and defer to the legislature as a source of power.
- The Prime Minister (PM) and Deputy PM should be chosen from within the MPs and should remain in the Parliament even after forming a government.
- The PM and Ministers should submit their vision, strategy and plans to the Parliament within the first month of their inauguration and attend the Parliament once a month thereafter to answer parliamentary questions. Meanwhile, Ministers' engagement with parliamentary standing committees must be institutionalised.
- A House of peers (Senate, Lords) should be established to accommodate high-ranking political or government leaders who wish to retire from their positions of power but remain in the political system. This will not only allow for greater turnover at top positions but will also enable the post-holders to pass on their experiences, contribute to the governance system and enjoy their accustomed status.

The KRI Parliament, akin to all other KRI institutions, requires an efficient management structure. In this report, evidence-based recommendations are presented for amending the electoral law, preserving institutional knowledge through election cycles, improving the parliamentary culture and proceedings, and reaffirming the roles of the parliamentary constituents. Recommendations also

include de novo establishment of a **Legislation Council, Legislation Board** and **Legislation Research Institute** to institutionalise the process of preparing draft legislations by the Kurdistan Regional Government (KRG) and their communication with the Parliament.

### **The Judicial Authority**

In the KRI, leadership and administrative mechanisms of the judicial system remain weak. As a result, the authority and standing of courts are undermined and rendered a tool for promoting private and political interests. This report discusses issues concerning transparency, accountability and independence of the judicial system and makes recommendations for introducing a quality and performance management system within the courts.

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## **STRENGTHENING AUDIT AND MONITORING SYSTEM**

There are several strategic institutions in the KRI's governing system that are designed to play essential roles in monitoring institutions and ensuring the rule-of-law. The report critically appraises their roles and structural problems and suggests ways to empower them. These institutions include:

- (i) Specialised audit and monitoring bodies: The Board of Supreme Audit, the Public Prosecutors' Presidency, the Commission for Integrity, parliamentary committees, the Provincial and District Councils.
- (ii) Organisations which are indirectly involved in monitoring performance: civil society organisations, press, media, professional syndicates, and unions.
- (iii) Internal mechanisms within the institutions: legal departments, internal auditing systems, inspection, institutional and individual performance assessment, supervision and quality assurance departments.

### **A Tailor-made System for Quality Assurance**

The main goal of creating any quality assurance and accreditation system is to incentivise and assist government employees to: provide quality services, improve performance, strive to achieve institutional goals as team players, improve efficiency and earn their promotion and pay. Historically, these practices have not been well-enforced in KRI institutions.

In this report, a local model for quality assurance and institutional performance management is proposed, which can be adapted to different institutions. Its key components include: (1) quality manuals that define good practice and key performance indicators, and (2) employees' portfolio which is designed to collect data and evidence on performance. Such a portfolio can serve as a formal basis for assessing, assisting, rewarding and promoting employees. Similarly, institutional licensing and accreditation systems must be put in place for both the public and private sectors.

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## **GOVERNMENT EFFICIENCY AND RESTRUCTURING**

The administrative structure of the KRG has evolved into a highly centralised, inflated, and inefficient bureaucracy. Reforming its management structure and operation system requires a radical review from the Cabinet level down to the local governments. A summary of the main recommendations presented in this book include:

- (A) Restructuring the current KRG ministries:** Remove silos among ministries and restructure them based on functional compatibilities while eliminating redundancies.
- (B) Redefining the role of ministers and civil servants:** Empower ministers to *lead* rather than manage, emphasising the importance of providing vision, strategy, and delivering the

government's mandate. Ministers should empower their civil servants to manage institutions with focus on quality and delivery.

- (C) **Reconsider the role of ministries:** Highlight that role of the Cabinet should be restricted to formulating overarching visions and strategies, issuing regulations and ensuring quality implementation by local governments, with a focus on the District rather than the Governorate level.
- (D) **Redefining the structure of governorates:** Governorates should no longer administer Districts. Rather their role should be restricted to designing governorate level strategies and coordinating between ministries and local governments.
- (E) **Districts- The cornerstone of local governance:** Districts must become self-sufficient and semi-autonomous executive structures with several semi-independent administrative District Directorates. They should be led but not micromanaged by District Mayors (*Qaimqam*).
- (F) **District Directorates- Basic executive units:** Directorates within districts should be seen as the face of the local government at the forefront of service to the public. Their departments should mirror that of government and execute their functions as per the rules, regulations and guidelines provided by the ministries and Provincial and District Councils. They should also be responsible for vertical and horizontal coordination with other government institutions on behalf of their constituents.
- (G) **Single-window administrative services at Sub-District level:** Citizens' affairs and administrative services must be handled in its entirety at the sub- district level without the need to refer them to ministries or provincial capitals. Administrative units in small towns at sub-district level should mirror those of the District's directorates, conforming to the District-wide strategies, plans and instructions.
- (H) **One election, two councils:** There should only be one election at the Sub-District-level for the subsequent formation of the District Council and Provincial Council which would oversee the local government. Each Sub-District will be represented at these councils and contribute to the formulation of strategies, plans and regulations. Governorates should be divided into 2-3 Districts before these elections are held.
  - i. **District Council in the form of Board of Trustees:** The Council will consist of three types of members (total 15-17), including those elected (7-9), *ex-officio* (District Mayor, 1-2 Sub-District Directors and 1-2 District Directors), and co-opted members (3-4). The Chair, deputy Chair and secretary of the District Council will be among the elected members.
  - ii. **The Provincial Council:** Provincial councils should be comprised of 25-31 members and structured along the line of the District Councils. The elected members should include the Chair and deputy Chair of the District Councils. This will ensure that all districts within the boundary of the Province are represented. The Chairman of the Provincial Council will be among the elected. The Governor, deputy Governor, two District Mayors and two Sub-District Directors will be *ex-officio* members. Co-opted members will be among local (province-wide) figures such as retired ministers, MPs, diplomats and business leaders.
- (I) **Appointing District Mayors:** The role of District Mayors should be redefined as executive leaders with a focus on formulating and implementing strategies for district-wide investment, development and budget expenditure. They should ensure quality, efficiency and timely delivery as per rules, regulations and guidelines of ministries and elected councils. Three separate mechanisms for appointing and endorsing District Mayors' appointments are proposed in this book. Appointment mechanisms for directors of directorates in districts and sub-districts are also recommended.
- (J) **The appointment of Governor: Leader and ambassador for the Province:** The role of Governor is to provide leadership at the governorate level, without micromanaging Districts' financial and

administrative affairs. The Governor is expected to formulate and pursue overarching visions, strategies and plans for developing and attracting investment to the Province. He/she will act as the prime minister of his Province to ensure quality, efficiency and timeliness of delivery by District Mayors, as per rules, regulations and guidelines from ministries and provincial councils. The Governor should be elected within the provincial council among the elected members via a simple majority vote. The Council has the right to endorse or withdraw confidence from the Governor without the need for further approval from the Government. Governors should not be endowed with the title of Deputy Ministers of Interior, as is currently the case.

The benefits of the proposed decentralisation model are many, including: minimising bureaucracy, creating a single-window system, empowering District Mayors and Sub-District administrators, increasing confidence in government authority, resolving government bloat, reducing and redistributing government employees, developing and improving quality of life in towns and villages, countering corruption through the devolution of authorities and responsibilities and better enabling audit, inspection and monitoring systems.

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## **RESTRUCTURING MINISTRIES**

In this report, the structure and functionality of each Government Ministry is critically appraised and a clear set of recommendations are provided to affect a radical restructuring of the Cabinet. A total of eleven consolidated ministries and a council for the quasi-independent bodies are proposed.

- 1) The Ministry of Finance and Planning:** Established by merging: (a) the Ministry of Finance and Economy; (b) the Directorate General of Strategic Planning of the Ministry of Planning.
- 2) The Ministry of Economic Development:** Established by merging: (a) the Ministry of Trade and Industry; (b) the Directorate General of Customs of the Ministry of Finance and Economy; (c) the Directorate of Minerals of the Ministry of Natural Resources; (d) Departments of Agricultural Products and Directorate of Veterinary of the Ministry of Agriculture and Water Resources; (e) Department of Tourism of the Ministry of Municipalities and Tourism; (f) Board of Investment, (g) Department of Heritage of the Ministry of Culture and Youth; (h) Departments of Coordination, Cooperation, Development, Investment and Private Sector Development of the Ministry of Planning.
- 3) The Ministry of Energy:** Established by merging: (a) Departments of Oil and Gas of the Ministry of Natural Resources; (b) the Ministry of Electricity.
- 4) The Ministry of Strategic Infrastructure Development:** Established by merging: (a) the Ministry of Transportation and Communications; (b) Departments of Construction, Roads and Bridges of the Ministry of Construction and Housing; (c) Departments of Municipality of the Ministry of Municipalities and Tourism; (d) the Department of Information Technology of the Divan of the Council of Ministers; (e) the Department of Information Technology of the Ministry of Planning.
- 5) The Ministry of Justice:** Established by merging: (a) the Ministry of Justice; (b) Departments of Social Reform (Prisons) within the Ministry of Labour and Social Affairs.
- 6) The Ministry of Interior:** Established by merging: (a) the Ministry of Interior; (b) the KRI's General Security Agency (*Asayesh*); (c) the Directorate of Counter Terrorism of the KRI's Security Council.
- 7) The Ministry of Peshmerga:** Established by merging: (a) the Ministry of Peshmerga; (b) the fighting forces of *Zeravani*, Defence and Emergency under the Ministry of Interior; (c) Departments of Pension of Peshmerga, Families of Martyrs and Anfal Victims

- 8) **The Ministry of Education:** Established by merging: (a) the Ministry of Education; (b) the Ministry of Higher Education and Scientific Research; (c) Nurseries and Education Centres for the Blind, and Private Schools under the Ministry of Labour and Social Affairs; (d) Schools and institutes within the Ministry of Culture and Youth; (e) Educational and Human Capacity Development Units within the Ministry of Planning; (f) Institutes within the Ministry of Endowment and Religious Affairs; (g) Educational and Curriculum Development Department units within the Ministry of Martyr's and Anfal Affairs.
- 9) **The Ministry of Health:** Established by merging: (a) the Ministry of Health; (b) Centres of Autism and Protection for the victims of Violence against Women within the Ministry of Labour and Social Affairs; (c) Health duties and departments within the Ministry of Martyrs and Anfal Affairs to the victims and the families.
- 10) **The Ministry of Human Affairs:** Established by merging: (a) the Ministry of Culture and Youth; (b) the Ministry of Endowment and Religious Affairs; (c) the Ministry of Martyrs and Anfal Affairs; (d) the Ministry of Labour and Social Affairs; (e) Board of Religious Components (suggested in the report); (f) Board of Ethnic Components (proposed here); (g) the Kurdish Academy; (h) High Council for Women's Affairs (alternatively, the Council can also merge with 12 below).
- 11) **The Ministry of Environment, Natural and National Resources:** Established by merging: (a) Board of Environmental Protection and Improvement, (b) Health, Safety and Environment Department from the Ministry of Natural Resources; (c) Forest Department from the Ministry of Agriculture and Water Resources; (d) the Directorate of Kurdistan's Weather Forecast from the Ministry of Transportation and Communications; (e) Board of Water Resources from the Ministry of Agriculture and Water Resources; (f) Board of Land Resources (proposed in this book); (g) General Agency for De-mining; (h) Environmental and Forest Police from the Ministry of Interior.

## 12) The Council of Specialised Boards and General Directorates

There are several specialized quasi-independent government institutions that cannot be accommodated within the above ministries but remain isolated as they stand. They require greater access to the KRG's Cabinet for the facilitation of their functionality and decision-making. They could be accommodated under a Council of Specialised Boards and General Directorates where they retain their autonomy while maintaining representation at the Cabinet level. The Chair of this Council should be a member of the Cabinet. These entities include: (a) Board of Labour and Employment, to be created after merging the Labour Department from the Ministry of Labour and Social Affairs with the Human Development units within the Ministry of Planning; (b) Board of Central Statistics from the Ministry of Planning; (c) Standardization and Quality Control from the Ministry of Planning; (d) the General Directorate for Non-Governmental Organisations.

As part of the proposed structural changes, this book critically appraises the post of **Presidency** of the Kurdistan Region and recommends that the post and its directorates abolished. The report also recommends that the current KRI's **Security Council** should also be abolished and its components re-integrated within the KRG as appropriate. Finally, the **Offices of Prime Minister** and its **Chief of Staff** at the Cabinet level should be redefined and better institutionalised while introducing a new model of a General Secretariat with minimal bureaucracy. A Department of Coordination and Follow-up should merge within this General Secretaries and be given the responsibility for auditing, inspecting and monitoring delivery on governments projects in order to ensure quality and assess institutional performances across the Government.