



# White-Collar Crimes and Corruption at Border Crossings in the Kurdistan Region of Iraq: Causes, Effects, and Challenges for Reform

**Dr. Sarwar Abdullah**

College of Political Science, Department of Politics  
and International Relations

University of Sulaimani & University of Tishk,  
Sulimani, Kurdistan Region of Iraq

,Email: [sarwar.abdullah@univsul.edu.iq](mailto:sarwar.abdullah@univsul.edu.iq)

**Prof. Tim Gray**

Politics division, School of Geography, Politics  
and Sociology

Newcastle University- UK  
Email: [tim.gray@ncl.ac.uk](mailto:tim.gray@ncl.ac.uk)

## Abstract

**This paper examines border crossing corruption in Kurdistan in northern Iraq. The study uncovered widespread white-collar fraud by criminals and corruption in all four formal, and all five informal, border crossings in Kurdistan. These criminals and corruption take two forms: collusion between factional groups and private companies; and white-collar fraud committed by criminals. The unique feature of these criminals and corruption is that it is the result of an officially sanctioned system of sharing management of border control posts between Kurdistan's two main political parties - the (PUK) and (PDK). Privatization in this context attracted criticism due to abuse and inefficiency. For the most part, the abuse focuses on consequences of privatization. Moreover, politicization has drawn the private sector into its web of corruption thereby creating a blend of politicization and privatization wherein officials and owner of firms have used legal means to protect their own interests thereby exercising an artificial monopoly and privilege. The total estimated sum of revenue lost to the government of Kurdistan because of these criminals and corruption is more than \$US 200 million per month. The present paper discusses two alternative ways of dealing with these criminals and corruption: either radical change to end border control corruption completely by structural and/or cultural change; or piecemeal reform to reduce the extent of the damage caused by border control corruption. While the long-term aim should be radical change in order to eliminate the problem, a more realistic objective is piecemeal reform in order to manage the problem by minimizing its effects.**

**Keywords: criminals and corruption at border crossing points; Kurdistan; Iraq; politicization and privatization of customs controls; Muhasasa system.**

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## Introduction and context

### 1.1 introduction

The main question this study seeks to answer is how and why criminals and corruption occurs in border crossings in the Kurdistan region in northern Iraq. There are two sub-questions: does criminal corruption when crossing borders in Kurdistan have any unique features, and if so, what are they? What policies can be adopted to minimize such corruption? There are three reasons for this study. First, there has been much written about security issue, organized crime and corruption in general in Iraq after 2003, and although border crossings are always cited as the most uncontrolled arena in Iraq and Kurdistan, little or no research has been carried out on its border crossing crimes. Indeed, despite extensive reports on the inadequacy of border crossing customs procedures, there has been no study of border crossing corruption anywhere in Iraq. Second, border crossing corruption is an issue of great economic importance in Iraq and the Kurdistan Region of Iraq KRI. Given the vital role of border crossings for collecting revenues, facilitating trade, and protecting national security, border crossing corruption can seriously affect both regional and national economies. Third, corruption in Iraq in general is so endemic and deep-rooted that any attempt to deal with it as a whole is futile. Such wholesale change requires political will and a widespread consensus across the sectarian spectrum in favour of reform, but there is no sign of that in Iraq at present because there are too many groups with vested interests in maintaining the status quo. Given this situation, the present study argues that a more practicable approach is to select a segment of the governing system for investigation to discover how corruption has crept in and to explore ways of mitigating it. Focusing on corruption in one small area - a single sector or a department within one sector- will provide more feasible targets for institutional improvement. In this study, we will focus exclusively on border crossing criminals and corruption in Kurdistan Region of Iraq.

The main objectives of this paper are twofold: first, from examining the general literature of corruption, the study develops a conceptual understanding of border crossing corruption as well as constructing a simple typology of corrupt practices that have been experienced during the last two decades in Iraq and Kurdistan Region. Second, based on this typology, for each of the two types of corrupt practice (collusion with private companies and white-collar fraud), specific policy recommendations of anti-corruption strategies will be discussed. The paper is organized in the following manner. First, it reviews the literature on border crossing corruption; sets out the conceptual and theoretical framework employed in the paper; and explains the research methods used. Second, using data from fieldwork, the article will construct a dual typology of the patterns of corrupt practices found in crossing border in Kurdistan region: collusion between factional groups and private companies; and white-collar fraud committed by criminals. Third, the study discusses two alternative strategies for dealing with border crossing corruption – radical change and piecemeal reform. Finally, the paper concludes with a summary of its findings and their significance.

### 1.2 The context of the system of border crossing points in the (KRI)

The purpose of border crossing points in Kurdistan is to check commodities for two reasons: to prevent security risks and to collect customs revenue. This paper is concerned solely with their revenue collection function. There are both formal and informal crossing border points between KRI, Iran and Turkey. A formal border crossing point is officially recognized by the Iraqi government as a legitimate site in which foreign imports and exports as well as travel journeys are validated. An informal border crossing point is not officially recognized by the Iraqi government but is managed by the KRG administration. KRI has three formal border crossing points with Iran (Haji Omeran, Parwez Khan, and Bashmakh), and one formal border crossing point with Turkey (Ibrahim al-Khalil). Although these four formal border crossing points are officially recognized and administered by KRG's Ministry of Finance on behalf of the Federal Government of Iraq, in practice, because of the political divisions in Kurdistan, control of the formal border crossing points is divided between Kurdistan's two main political parties – the Patriotic Union of Kurdistan (PUK), and the Democratic Party of Kurdistan (PDK). The PUK controls the formal border crossing points at Parwez Khan and Bashmakh (though since the Goran Party's success in Kurdistan's recent regional elections, the PUK has had to share some control with Goran), while the PDK controls the formal border crossing points at Haji Omeran and Ibrahim al-Khalil (Interviews with KI-1, 3, 5 and 12, July 2021).



In addition, there are four informal border crossing points between KRI and Iran (Kelle, Sairanban, Pshta, and Shoshme) and one informal border crossing point between KRI and Syria (Peshkhpur or Smelkan). Of these five informal border crossing points, the PUK controls four of them (Kelle, Sairanban, Pshta and Shoshme), while the PDK controls one (Peshkhpur or Smelkan). These informal border crossing points are administered by the KRG, but they are not officially recognized by the Iraqi Federal Government (IFG) as formal border points between sovereign countries. A committee has been established between the IFG and the KRG to study the economic and technical conditions that need to be met in order for the five informal border crossing points to become recognized as formal border crossing points. While this process is going on, there are daily communications between KRG and Iran about the workings of the informal border points (Interview with KI-1, 5, 8, July 2021).

All border crossing agencies have two common aims: facilitating trade (import, export and transit); and maintaining security, which includes protecting residents. With regard to trading operations, the main objectives are to combat smuggling, collect duties and taxes, and protect the local economy. Fieldwork information indicates (Interviews with high officials in border crossing points, including KI 2, 3, and 5, July 2021) that the procedures for doing so in KRI are as follows. First, on the arrival of a consignment, a legal document is prepared by customs officers to enter a code for the consignment which includes details of the certificate of origin of the consignment, and the nature of the goods in the consignment, including their quantity, value, and destination. The second step is to check by sonar equipment to ensure the consignment does not carry drugs, guns or anything else that would compromise its security clearance. A random selection of goods is subjected to physical inspections, and occasionally, some commodities are examined under laboratory conditions. Third, the consignment is assessed for its value to determine how much custom tax is due. The fourth step is to make a customs declaration, the data from which are sent to the Department of Manifest, and when the proper legal documents are ready, entered into the software system which codes the information and decides how much money has to be paid by which firms. The fifth step is when the goods are released in return for tax payment through the banking system. Finally, a retrospective check is carried out to verify that all the data provided during the trading operation are accurate. Some categories of goods are exempt from custom tax – including imports that are capital equipment for domestic investment. Imported goods for local consumption (such as food) pay 5% duty; imported goods in transit for third countries pay 20% duty. The above procedure applies to the formal border crossing points. In the case of the informal border crossing points, the processes are carried out manually by officials and face-to-face interactions and there is no software (Interviews with KI-2, 4, 7, and 11 July 2021).

Map of crossing borders of KRI.





## 2. Literature review, conceptual framework and methodology

### 2.1 Literature review

Border has been always an important marker of national sovereignty of the states, but the nature and meaning of crossing border governance has undergone significant changes in which the traditional notion of border to check every travellers and everything is no longer a case. Within this free movements, recently there have been some important developments in crossing borders such as migration (Bosworth, 2016, Bosworth, Liebling and Maruna, 2017), human smuggling (Sanchez, 2014) and border control are high priority on many governments agenda. Despite this attention for these issues, a large body of literature focused on border crossing corruption which shows that the causes of it lie mainly in deficient legal frameworks and weak institutions set up to combat corruption. For instance, Hors (2001) examined three cases of border crossing corruption - Pakistan, Bolivia and the Philippines - identifying three types of corruption in the three cases: routine, fraudulent, and criminal corruption, respectively. According to Hors (2001), Pakistan and Bolivia were unsuccessful in their fight against border corruption because of their half-hearted efforts, whereas the Philippines was successful because of its strong political will to back the reform process. Mclinden (2006) classified border crossing corruption into three types - bribery, nepotism and misappropriation - and he developed a strategy to reduce corruption in customs administration that drew on guidelines from the international customs community for improving the general framework of regulation for ending corruption. Yang (2006) discussed two types of border crossing corruption: extraction of bribery from imported goods; and theft of revenue that should go to the government by corrupt officials who falsified records and other documents. Buehn and Eichler (2009) studied the issue of smuggling goods between the United State and Mexico, and identified two forms of corrupt border crossing practice: criminal activity such as trafficking illegal drugs and illegal migrants; and legally importing or exporting goods but misreporting the value of those goods in order to evade customs taxes. Jancsics (2019) produced a typology of border crossing corruption which focuses on the corrupt actors rather than the corrupt acts, distinguishing between individuals, informal groups, and formal organizations.

However, the literature has paid little or no attention to the particular form of border crossing corruption that exists in the KRI where political division between the two main political parties caused the customs administration to be divided up between the parties. The process has been politicized in that each of the two parties obtain funds by controlling commodities that cross four formal and five informal border points. So this case study is unusual (and possibly unique) in two respects. First, although in KRI, customs administration is formally under the control of government, by contrast to most forms of border crossing governance the border crossing points have been handed over to political parties as part of the post-invasion political settlement of power-sharing reached in KRI: the parties 'share in power, and thereby they share in the wealth' (Interview with senior official (KI-12) at a crossing border point, July 2021). Second, also by contrast to most countries where border crossing points are controlled by government-appointed public or private agencies, many crossing border points' tasks in Kurdistan have been privatized, so some private operators can conduct inspections of imported and exported commodities on behalf of government agencies in ways which benefit their own companies at the expense of public benefit. This manipulation of inspection processes is estimated to cost the RG up to US\$ 200 million per month in revenue.

### 2.2 Conceptual framework: Corruption: concept and context

The literature on corruption can be broadly categorised into four conceptual interpretations. First, corruption is defined as violation of community norms. This interpretation emphasises the local dimension of corruption and focuses on the ethical values of communities (Walton, 2013; Friedrich, 1989). However, it is not clear what 'community ethics' means, since communities may be divided in their ethical orientation, and there may be more than one community in society. Second, corruption is defined as illegality (Scott, 1972). On this interpretation, if the act is illegal, it is corrupt, even if it is not immoral; and if the act is not ille-



gal, it is not corrupt, even if it is immoral. However, this would imply that all crime is corruption and all corruption is criminal, which is counter-intuitive. According to Brooks (2016) corruption is always but not often a non-violent crime. The criminal law cover a substantial corpus of work, but the definition from criminological perspective cannot encompass a range of crimes that are part of the corruption. The scope of criminology should go beyond simply the law and extended to acts that might not be considered as criminal but it could conduit to criminal corruption such as acts of collusion, and networking and lobbying.

The third interpretation defines corruption as the misuse of public office for private gain. This is the interpretation adopted by both the World Bank (1997)– “the abuse of public office for private gain” - and Transparency International (2021)– “abuse of entrusted power for private gain”. But these definitions beg the questions of what constitutes ‘abuse of power’ and ‘private gain’ (Johnston, 2002). What if officials used their public role not for their own benefit, but for the benefit of their parties, for example, by obtaining jobs or public contracts for party members? We could meet this objection by widening the definition of corruption to include not only private gain but also party gain. However, what if such gain was inadvertent rather than intentional, would it still be corrupt? According to Brooks (1909) corruption is ‘intentional action’, but it is very difficult to distinguish intentional from unintentional action.

The fourth interpretation defines corruption as any act which has the effect of subverting the public interest. However, on this criterion, any act that benefits the public interest, even if it violates social norms, is illegal, and is an abuse of public office, would not be considered corrupt, which seems unsatisfactory (Gardiner, 2002). Another problem with this interpretation is how do we determine what is the public interest? One answer to this question is that public opinion is the best judge of the public interest, but as Peters and Welch (1975) point out, public opinion may vary between, or even within, segments of society, and as Philp (1997: 441) asks, therefore, whose opinion should be given priority?

Clearly, the concept of ‘corruption’ is complex and ambiguous, and any definition is likely to be challenged. Indeed, like many other concepts in social sciences, it is ‘essentially contested’ (Gallie, 1956). Many of the above issues are context-dependent, and raise the question whether a single definition of corruption can fit all situations, or whether incidences of corruption are always sui generis. In other words, the discussions above is contested and trouble in reaching a definition of corruption, however, this should not prevent us from producing

a workable definition. Because of this developments, I would prefer to avoid definition provided by Transparency International and World Bank. In any context, it seems to be contested and challenged in what is a legitimate definition.

Drawing briefly on a range of theoretical approaches of corruption and applying this analysis to the case of border crossing corruption, we propose a multi-interpretation approach. Largely by amalgamating some of the above definitions. If not doing so, the act of corruption will be limited to the usual suspect. Typically, corruption appears sometimes as a form of crime and also deviant acts. What criminology can contribute to is that the notion of corruption could covers illegal activities but to acts that might not be considered as criminal and can conduit to criminal corruption such as acts of collusion. In addition, by expanding theoretical understanding and applying economic and political approaches to the corruption we can broadening our understanding to a kind of preferential treatment. In such politicization environment, many politically connected firms received more credit because of political considerations than did non-politically connected firms. So some political figures either directly, or indirectly through using intermediaries, have also become market actors. Some firms start to build links with the political parties through which many of them accumulated capital which they shared with the parties in power. This activity is what Krueger (1974:302) labelled “showing favouritism” to one group in the community over others, and favouritism is favouring a person not because s/he is competent or capable of doing his/her job but rather due to her/his membership of a favoured group.

These collusion and favouritism are an abuse of power and unfair competition– in short, corruption. Such collusion/favouritism may be for personal private gain and/or for party political advantage, but either way it is subverting the public interest, and is therefore corrupt, regardless of whether it is contrary to community norms or is illegal. So our working definition of corruption for the current paper is “behaviour which takes advantage of privileged access to public resources to obtain a personal or group benefit through collusion and favouritism by appropriating public resources for purposes that serve personal or sectional interests”.





## 2.3 Methodology

The methodological approach used for this study is qualitative analysis which has produced a conceptual definition of border crossing corruption as well as a classification of border crossing corrupt practices. The study is based on data obtained from 15 key informant (KI) interviews conducted in June, July and August 2021. Five interviewees were Members of the Kurdistan Region Parliament (from different political parties); seven were officials (from customs administration); one was a commissioner; one was an independent commentator; and one was from the private sector. All interviewees agreed that their responses could be used for publication purposes, though only in an anonymized format, and the sources of interview data have been anonymized. Information was also gathered from government documents, peer review literature and grey literature.

## 3. Causes of border crossing corruption in Kurdistan

Most border crossing corruption in Kurdistan occurs because of either politicization or privatization. Politicization means that officers whose duty is to collect revenue have been appointed through the patronage system (i.e. by political parties in power) to systematically divert some revenues to his/her political patron. Privatization means that some customs services (such as inspections) are delegated by the political appointees to private companies who pay the appointees for the opportunity to charge exorbitant fees, of which only a small proportion are forwarded to the government as customs duties. At the root of both practices lies the Muhasasa appointments system which refers to the process of division of public institutions between groups in power. The Muhasasa system also involves private actors who are given official power through which they have gained influence over regulatory authorities to serve personal and party interests in part through control of lucrative border crossing transactions.

By contrast to most countries, where border crossing points are controlled by government-appointed public or private agencies, fieldwork information indicates that in KRI they have been handed over to political parties as part of the post-invasion political settlement of power-sharing based on Muhasasa appointments. This settlement was reached in KRI in 1993 to maintain peace between the main warring factions by ensuring that no major political faction feels itself excluded and thereby alienated and potentially rebellious. Note that although the manipulation is informally and covertly conducted by some party officials, it is directly carried out by agents, not the political party officials themselves. This is politicization of the system of border crossing management, which although formally under the control of the KRG, is in reality run by political parties. This means recruitment, postings, and promotion of staff at these border crossing points are not based on merit, but on political affiliation, and the staff are required to demonstrate their loyalty to their political masters by diverting as much revenue as possible to the political parties. So the politicization of border crossing management has created considerable opportunities for corrupt practices (Interview with a Kurdish MP (KI-8) in the Kurdistan Parliament July 2021).

The private sector has been drawn into this web of corruption in the form of collusion between political figures/customs officials and private companies. Fieldwork information indicates that the politically appointed border crossing officials have created a friendly environment in which private companies can operate, forming a network of accomplices from the private sector (Interviews with KI-1, 2, 4, 9, and 15 between June-July 2021). For example, in return for contributions to political parties, private companies are permitted to import commodities at lower rates of duty.

Lack of effective oversight over the system of border crossing transactions has allowed these corrupt practices to flourish. The practices are particularly easy to carry out in the informal border crossing points because of the lack of computer software records and greater reliance on face-to-face interactions which are harder to monitor. Many cases of corrupt conduct have been publicized but little action has been taken against them. Investigations have been very slow, and few if any charges have been laid, let alone convictions secured or sanctions applied against perpetrators. This lack of an effective legal framework to deal with the corruption is hardly surprising since legal officials are themselves politically appointed by political parties, so the legal



system lacks the will to implement sanctions. Further, given the nature and secrecy around corrupt practices, it is difficult to identify corruption, and even if identified, it is hard to prove in court. Moreover, when any legal authority investigates a case of corruption, it takes several months, during which time the case invariably attracts intervention from political figures which prevents the gathering of evidence. Many cases are dismissed by the courts for lack of evidence, or are abandoned because of the long delays, or are withdrawn because of pressure on the courts exerted by powerful political elites (Interviews with KI 1, 3, 5, 8, and 9 between June-July 2021).

#### 4. Illustrations of border crossing corruption in Kurdistan

We have found evidence of two different types of border crossing corruption in Kurdistan: collusion between factional groups (i.e. political party affiliates) and private companies; and white-collar fraud by criminals.

##### 4.1 Collusion between factional groups and private companies

The first type of border crossing corruption is the privatization and manipulation of inspection processes. This kind of corruption is very frequent and involves a great number of actors from the private sector as well as officials and political figures. Typically, it entails private companies being allowed by the political parties to take over the machinery for inspecting imports and exports. This is a usurpation of public resources whereby some private operators carry out tasks on behalf of government agencies which benefit their own companies at the expense of other companies or public resources. Many MPs and officials believe that politicians are behind such private operators. For instance, in the border crossing point under the control of the PUK at Bashmakh, sterilization of consignments is undertaken by the Sdiq Alah-Karam Company, charging \$US 10 each, of which only 10% goes to the government. Also at Bashmakh, the New IT Air Company carries out sonar scans on all consignments entering the region for which the company takes \$US 20, of which only 20% goes to the government. The nine sets of scales and balances at the Bashmakh border crossing point are owned by private individuals, not the government, and for each consignment weighed and measured, these individuals take 5,000 IQD, only 20% of which goes to the government. The Rozha Company undertakes all the customs declarations at Bashmakh, and each declaration costs 15,000 IQD, of which only 30% goes to the government. Al-Ashraaq Awad undertakes the manifest for all consignments entering the region at Bashmakh, charging \$US 25 for each manifest, of which nothing goes to the government because the company does not have a contract with the government. The Ragaz Company controls all inspections at Bashmakh, and generates \$US 540,000 per month, only 20% of which goes to the government. The Asmany Kurdistan Company provides a form called a 'statement of arrival' to anyone who wants to enter the Kurdistan region via the Bashmakh border crossing point. Each form costs 5,000 IQD, and since this company does not have a contract with the government, all the revenue is kept by the company. Another company called Loks Ajans at Parwez Khan carries out quality control inspections on imported goods, charging \$US 85 for each consignment. According to an anonymous interviewee, neither Ragaz nor Loks Ajans have proper methods for inspection and they are accused of facilitating the importation of poor quality vehicles into KRI (Interviews with KI-1, 2, 5, and 9 between June-July 2021).

Turning to the formal border crossing points controlled by the PDK, in two of them (Ibrahim al-Khalil and Haji Omaran), many private companies have been undertaking tasks which, according to officials and MPs (Interviews with KI-1 and 2 at June 2021) should be carried out by government agencies. These companies have control over the processes of inspection, manifests, testing, sterilization, scanning, and clearance of imported goods, and they divert public resources into their own pockets, claiming they have a contract with the government to carry out these services. An illustration of this privatization of inspection processes for the benefit of the private companies is the Corridor Company which operates at the border crossing point of Ibrahim Khalil. The Corridor Company issues a certificate called a clearance paper which attests the legitimacy of each consignment presented for crossing the border. For each clearance paper issued, the company takes 15,000 IQD which is equivalent to \$US 12. Previously, the process of clearance had been undertaken by the government, but from September 2019 the franchise was given to the Corridor Company. In another illustration, a company called Jabal Al-Nahza has the franchise for issuing manifests for consignments



for export or import at the Ibrahim Khalil border crossing point and charges \$US 25 for every manifest it issues. Likewise, a company called Ishraaq al-Auda, operating at the border crossing point of Haji Omaran issues manifests for consignments and charges \$US 25 per manifest. The Star Company at two border crossing points (Ibrahim al-Khalil and Haji Omaran) carries out mandatory insurance checks and only 10% goes to the government. The Handwn Company scans commodities and takes \$US 50 for each scan, conveying only 20% to the government. It also carries out sterilization of imported consignments, charging \$US 10 per consignment, sending only 15% to the government. In the border crossing points at Ibrahim al-Khalil and Haji Omaran, quality control inspections are undertaken of foodstuffs and other commodities by the New Standard Company, and for each inspection the company takes \$US 90. There is a company called Sabkakar at the border crossing point of Haji Omaran which chaperones each transit car at a cost of \$US 50 per car, of which only 30% goes to the government. In the informal crossing border controlled by the PDK (Smelkan), most import and export customs and trade activities are controlled by a company called Steer Group (Interviews with KI-1, 6, 8 and 9 between June-July 2021).

Three observations can be made from the above discussions. First, the majority of KIs whom I have interviewed believed that these contracts are made in a very preferential way and in unfair circumstances. The government should receive at least 50% of the taxes that are imposed on imports and exports but because of the political links between companies and political elites the contracts are made in such a way as to provide the government with only a fraction of that percentage. Second, the reader might think the illustrations reveal that the above contracts are given to firms under the legal system and therefore do not constitute corruption. However, our analysis of the concept of corruption shows that a practice may be corrupt even if it is legal, because this is happened through collusion, as in these cases, in that it shows favouritism by permitting appropriation of public resources by a privileged group for personal or sectional benefit. In other words, people who are involved in such acts are privatising the public interest for a particular segment of the community. As Hutchcroft (1997) put it, it is a particularistic of public advantage. Such acts may not be illegal in the border crossing context because they take place between public administration and factional groups and private companies in accordance with the legal basis of the Muhasasa system of sharing the task of governance between the PUK and the PDK. But on our definition of corruption, they it could be collusion/favouritism which is form of crime/corruption.

The third observation is that these examples may seem to illustrate tax evasion rather than corruption. However, the reason why they are corrupt acts is because they are nested in a systemic web of abuse of public office involving discriminatory favouritism by allocating public resources in the form of lucrative contracts with preferential treatment of some firms over others. As one respondent put it, it is “Muhasasa monopoly capital” (Interview with a Kurdish official (KI-2) in the customs administration Jun 2021) where there is no accountability for the use of public resources (Hafez, 2009). The firms which were given priority positions and access to various privileges would not have obtained these privileged allocations if they had gone through official channels or a transparent competitive selection process. Such collusion and preferential treatment enables politically-connected companies to benefit from public funds and obtain privileged treatment because such firms are either directly owned by political parties or are influenced by political parties. In all the cases discussed, illicit rents were produced for political parties. The above actions are corrupt not because they are illegal, which many of them clearly are not, but because they constitute collusion and privileged access to public resources – access which is denied to others, and which is at the public’s expense. They are acts of collusion and preferential treatment which constitute abuse of power and unfair competition for personal or sectional gain.

#### 4.2 White-collar fraud committed by criminals

Four types of white-collar fraud were found in the border crossing points in Kurdistan. The first type is the submission of false claims. One example of this kind of misconduct is importing commodities under the title of transit but selling it locally. The fraud here is because for goods imported for transit to another country, firms pay only 20% of the import tax due on goods for sale locally. An illustration of such fraud is automobile imports: in 2017, the Finance Ministry agreed to the import of 2,000 cars at the border crossing point of Ibrahim al-Khalil for onward transit to Syria, but these cars were sold in Kurdistan. Another illus-





tration is eggs: in 2019, the Finance Ministry agreed to the import of 300,000 packs of eggs to transit through Kurdistan to Syria, but again they were sold in Kurdistan. The second type of white collar fraud is illegally lifting export restrictions. According to KRI law, commodities such as steel, aluminium, copper and batteries should not be exported from the country. However, every day, more than 20 lorry loads of such commodities are exported illegally through border crossing points. Some of these activities occur by force; others involve payment of bribes to border officials. The third type of white-collar fraud is tax evasion which includes exempting clients from paying import or export taxes. For instance, some private operators have been granted exemption from taxes on grounds that KRG law allows the private sector to import equipment for investment without paying taxes. The corruption occurs when private operators falsely claim the imported goods are for investment purposes when they are actually imported for consumption purposes to be sold in local markets (Interview with a Kurdish official (KI-2) in the customs administration Jun 2021). The fourth type of white-collar fraud is waiving inspections of imported or exported goods. A senior official says that in every border crossing there are two customs channels: one for travellers, the other for goods. Some consignments of cigarettes and animal fats have been entering the country by going through the travellers' channel instead of the goods channel (Interview with a Kurdish official (KI-2) in the customs administration Jun 2021). According to an anonymous interviewee, only 19% of imported cigarettes in Kurdistan are recorded as going through the goods channels of border crossing points, so 81% enter the country without paying any taxes (Interview with a Kurdish official (KI-3) at a formal crossing border office July 2021). Another key informant said animal fats and eggs have been imported through the border crossing point at Bashmakh without paying any taxes (Interview with a Kurdish MP (KI-10) at the Kurdistan Parliament July 2021). Turning a blind eye to smuggling of contraband has meant that every day, hundreds of young Kurdish people are crossing borders risking their lives to smuggle goods like cigarettes and alcohol into Iran. Smuggling is a daily occurrence which has become a main source of income for many families near to Iran border crossing points, yet it does not generate any income for government.

An objection might be raised that these examples of white collar fraud are illustrations of purely criminal, but not corrupt, activity. However, they are allowed to occur because of the collusion of public officials with private companies to conspire to exempt them from paying taxes to which all other companies are liable. Another objection might be raised that even if this tax evasion is corrupt, it is relatively trivial by comparison to the vast scale of corruption involved in the contracts for military hardware and civil infrastructure projects that has been well documented in the literature. However, border crossing corruption has a major impact on public revenues. The estimated loss of US\$ 200 million per month in revenue because of border crossing corruption is a huge amount which the government can ill afford to lose. If this figure seems exaggerated, we should bear in mind that at one border crossing point alone, the lost revenue from smuggling imported eggs and cigarettes amounts to between 20 and 25 million US dollars per month (Interview with a senior official (KI-3) at a border crossing point July 2021). At present, the government receives US\$ 280 million per month in customs duties, so if all border crossing corruption were eliminated, the government's revenue from customs would rise to \$US 480 million per month (Interview with a senior official (KI-5) at a border crossing point July 2021). Lost government revenue on this scale means that the KRG has significantly fewer financial resources to spend on public services. Moreover, border crossing corruption inflicts an additional blow on citizens because the gratuitous charges levied on imported commodities by corrupt officials increase the price of imported goods to consumers in Kurdistan.

## 5. Suggested measures to eliminate or reduce border crossing corruption in Kurdistan

There are two alternative strategies that Kurdistan could adopt to deal with border crossing corruption: radical change or piecemeal reform.

### 5.1 Radical change

There are two types of radical change: structural and cultural. The structural type of radical change is to end the politicization of border crossing points, and return to the traditional system of government agencies managing customs procedures. A senior official in customs administration said: "Border points must be protected by the Border Protection Force which is part of the IFG



rather than a politicized force such as the Regional Security Force” (Interview with a senior official (KI-12) at a border crossing point July 2021). Customs administration would then become autonomous, independent of political groups’ manipulation, and managed by people who are hired (and fired) using objective criteria of merit not political affiliation (Interview with a Kurdish MP in the Kurdistan Parliament (KI-8) June 2021). In order to provide guidance for a depoliticized border crossing workforce, the border regulations would be modelled on the standard rules for good governance set out in international agreements such as the World Customs Organization (WCO), the Revised Arusha Declaration, and the Kyoto and TIR Conventions. Iraq is not a member of these organizations and Conventions, and Iraqi customs management works in accordance with very old legislation – Law No. 23 passed in 1984, which comprises 260 articles of which nearly 150 need amendment (Interview with a senior official (KI-6) at a border crossing point July 2021). Although this old legislation does not legitimise politicization, it does not explicitly rule it out, and it incorporates outdated modes of regulation which fail to acknowledge modern principles of good governance such as transparency and accountability. So the radical change would focus on achieving a complete overhaul of the legal framework for border crossing management not only to eliminate its politicization, but to lay down rules of good governance guided by new relationships between Iraq and international organizations. However, the Muhasasa system of dividing jobs and resources between the two main political parties – the PUK and the PDK – is so deep-rooted in the political structure in Kurdistan that the chances of dismantling it swiftly are remote. There is no political will to support radical structural change because current politicians themselves benefit from the corruption that is entrenched in the political system (Interview with a senior official (KI-7) at a border crossing point July 2021).

If the structural type of radical change - depoliticization and new regulations for good governance - is unfeasible, a different radical policy could be considered – a radical change in culture. Cultural change means reorienting the attitudes of people away from tolerance of corruption towards active adoption of ethical norms that reject corruption. Cultural norms can be changed: witness, for example, the fact that in many western countries, norms about women, the environment, and smoking have all been transformed during the last 30 years. There is already a groundswell of revulsion against corruption in many countries (developed and developing): a sustained anti-corruption campaign in KRI could conceivably turn that groundswell into a tsunami. If a cultural rejection of corruption were to take place, a strong top-down anti-corruption strategy could be launched to root out corruption from the existing border crossing system without dismantling the Muhasasa system it. Such a strategy would involve strict and regular monitoring of the customs operations; intensive investigations into alleged corruption undertaken by political groups and private companies; and severe penalties handed out to offenders. In effect, this means not radically changing the structure of governance (depoliticization), but radically changing the culture of governance (norm changes).

However, the prospects of success in changing the culture in KRI towards the norms of good governance in order to facilitate a hard-line strategy of intolerance towards corruption, are not promising. If we look at past experience of similar efforts made to root out corruption in other parts of the governmental system in Iraq, we discover that several anti-corruption agencies have been established since 2004 in Iraq, but their efforts were quickly nullified by being engulfed in corruption themselves. The very agents recruited to stamp out corruption were accused of being sucked into the web of corruption by people and groups whose illegal livelihoods were being investigated (A 40, 2019). The culture of corruption has proved to be as resistant to change as is the structure of corruption. In the case of KRI, any attempt at implementing such anti-corruption measures requires widespread consensus in favour of cultural change across the spectrum of political groups, and there is little or no sign of that at present, because there are too many vested interests benefitting from the status quo at border crossing points. Groups who benefit from border crossing concessions and exemptions are opposed to any attempt to radically change the existing system to make border crossing officials accountable for their conduct, and they are only willing to pay lip service to radical recommendations for change. Some way will have to be found to achieve a cultural change in attitudes among what Grindle and Thomas (1989) call ‘policy elites’ to persuade them that their own long-term interests lie in accepting radical change to end border crossing corruption.



The fact is that at present the Muhasasa system is too deep-rooted in Kurdistan for it to be uprooted or by-passed by either structural or cultural change. The corrupt funds obtained by systems such as border-crossing transactions enable political parties to fund expensive media platforms including more than 10 TV stations, 30 radio stations, and 40 newspapers and magazines and websites (Interview with a Kurdish independent commentator (KI-13) July 2021). These platforms are crucial to the efforts of the political parties to maintain themselves in power. Neither party would risk the loss of such electoral assets by unilaterally abandoning the Muhasasa system, and a multilateral dismantling of the Muhasasa system is unlikely because of the prisoner dilemma problem of lack of trust between the two parties. As a high ranking official in a political party in power said, “we are waiting for each other to reform customs administration” (Interview with a Kurdish MP at a Kurdistan parliament (KI-8) July 2021)– meaning the PUK would never carry out wholesale change until the PDK did so, but the PDK would never start change until the PUK did so. As a result, Kurdistan has two rich political parties permanently benefiting from the corrupt draining of public resources.

Some commentators defend the continuation of the (corrupt) Muhasasa system on grounds that it keeps the peace by preventing warring factions from committing violence against each other and precipitating a return to the civil war of 1994-1996. In other words, corruption may serve as the price to be paid for maintaining peace and stability. Richmond and Franks (2007) referred to “corruption and power sharing”, and one commissioner said “sharing in power is sharing in wealth” (Interview with a commissioner (KI-13) July 2021). One interviewee warned that ending Muhasasas could destabilise KRI in the way that Gorbachev destabilised the Soviet Union in the 1980s: KI-8 said “such radical reform will end the political parties as Soviet Union did in 1980s after Mikhail Gorbachev took power and start reform called perestroika” (Interview with a Kurdish independent commentator (KI-14) July 2021), and as a result, the Soviet Union collapsed. However, even if corruption provides a short-term means of reconciliation between two main parties, in the long-term it may be harmful not only because of its economic damage but because of its erosion of trust in political institutions in KRI. According to a recent opinion poll, Kurdish people believe that corruption is the greatest challenge in the region, even greater than the challenge of ISS. Moreover, although at present the Muhasasa system seems impregnable, it may not last forever, especially if inward investment from the West becomes conditional on dismantling it.

## 5.2 Piecemeal reform

In the absence of radical change, perhaps Kurdistan should follow a strategy of piecemeal reform. Here, the aim is to reduce corruption by re-engineering procedures – in other words, to focus on specific technical solutions rather than on comprehensive structural or cultural change. Eight proposals for piecemeal reform have been suggested by interviewees. First, there is a suggestion by KI-1 for a thorough data-gathering exercise to find out which import and export contracts have been treated in which ways at each of the formal and informal border crossing points, so the facts can be put on the table (Interview with a Kurdish MP (KI-11) July 2021). Another proposal by a senior official at customs administration, KI-2, is that all contracts should ensure the KRG receives at least 50% of any customs duties levied by border control officers (Interview with a Kurdish official (KI-2) in a border crossing office June 2021). Third, it has been proposed by an MP, KI-10, that inspections of foodstuffs, medical supplies, and commodities which have national security implications, should be carried out by non-partisan officials (Interview with a Kurdish MP (KI-8) July 2021). A fourth proposal came from a senior official in the customs administration, KI-2, that permission for transit goods should not be given to any firm without official written authorization proving that the consignments will directly go to the third country (Interview with a senior Kurdish official (KI-3) in a border crossing office July 2021). According to a senior official, this authorization must be digitalized and linked with GPS until the consignment reaches the third country (Interview with a senior Kurdish official (KI-4) in a border crossing office July 2021). A fifth recommendation by an MP is that commodities for import which are claimed to be for investment purposes, should be checked to ensure they are sold as capital goods not consumer goods (Interview with a Kurdish MP (KI-9) member of the finance committee in the Kurdish parliament 4 June 2021). Sixth, there is a proposal to monitor staff behaviour electronically. This might be accomplished by remote control – for example, by using intelligence apparatus such as wiretaps, concealed cameras and microphones. Random checking could be made of the amount of cash that officers take. Staff rotation could be used to limit the opportunity for customs officers to build long-term relationships with clients (Jancsics, 2019). Seventh, there is a suggestion by a senior official in customs administration



to extend to all formal and informal border crossing points the practice of computerizing record keeping of every transaction, including tax collection, determination of payments of duties and taxes, issue of clearance, and selection of consignments for inspection or examination (Interview with a senior Kurdish official (KI-5) in a border crossing office July 2021). This measure would speed up the process of clearance; make transparent the amount of customs charges paid for imported goods; reduce the discretionary power of officials who use their position for private gain; and depersonalize the relations between private operators and officials. Eighth, a programme of staff training could be introduced, enhancing the professional development and technical competence of officials and providing instruction in anti-corruption measures to increase the level of public confidence in the border crossing administration.

In answer to the question of how likely it is that such piecemeal reforms could be implemented, the fact that they have been suggested by KIs who include senior officials implies they are not beyond the pale of possibility. To sugar the pill, many reforms could be introduced gradually at successive border crossing points. According to Johnston (2014), reforms in post-conflict societies should be incremental and selective: “it is important to start small by doing a few things well [...] choosing a few strategic functions provides clear targets for resource, and for administrative and institutional improvements – much more so than pledging to fight all corruption, and associated pathologies, everywhere at once” (p.63-64). The Federal Iraqi Government (FIG) could play a role in reducing border crossing corruption if it chose to do so, and its current (2021) budget arrangement with the (KRG) to divide 50/50 between them the revenue from the crossings is a potential source of leverage for exerting pressure on the KRG. However, there is a danger that such pressure could de-stabilize the fragile relationship between Baghdad and Erbil, and undermine the uneasy peace that currently exists in the region. Finally, an incentive to take piecemeal action may come from pressure from the UN, EU, US and the UK as major donors and important players within Iraq exerted upon the KRI to improve its quality of good governance or risk being labelled a non-desirable region.

## 6. Conclusion

The main aim of this paper has been to introduce and discuss the vexed issue of border crossing corruption and the complexity of dealing with it in the KRI. Two main conclusions can be drawn from the preceding discussion. First, by contrast to most examples of border crossing corruption, the case of KRI has shown that customs administration is formally under the control of government but in practice it has been handed over to political parties as part of the post-invasion political settlement of power-sharing reached in Kurdistan in which they ‘share in power, and thereby they share in the wealth’ (Interview with senior official (KI-7) at a crossing border point on July 2021). Also by contrast to most countries, where border crossing points are controlled by government-appointed public or private agencies, many border crossing points’ tasks have been privatized whereby some private operators carry out services on behalf of government agencies which benefit their own companies at the expense of the public coffers. So privatization has been added to politicization in an integrated web of corruption, at the cost to the KRG of up to US\$ 200 million per month in lost revenue from customs dues.

Second, of the two alternative ways of dealing with this corruption, we found that radical measures to change either the structure or the culture of the border crossing control system were unlikely to succeed because of the vested interests of the political classes who benefit from the status quo. However, piecemeal reforms – especially of a technical nature and if introduced incrementally - might succeed in chipping away at the system, and reduce the scale of the damage inflicted by border crossing corruption on the Kurdistan economy.



## جرائم الیاقات البیضاء والفساد عند المعابر الحدودية في إقليم كردستان العراق

### أسباب وأثار وتحديات الإصلاح

#### المخلص

تتناول هذه الورقة فساد المعابر الحدودية في كردستان العراق. استناداً إلى البيانات التي تم الحصول عليها من المخبرين الرئيسيين والوثائق الحكومية، كشفت الدراسة عن الفساد على نطاق واسع من قبل المجرمين في جميع المعابر الحدودية الأربعة الرسمية، وجميع المعابر الخمسة غير الرسمية في كردستان. يتخذ هؤلاء شكلين الرئيسيين: التواطؤ بين جماعات السياسية والشركات الخاصة، والاحتيايل الذي يرتكبه المجرمون. السمة الفريدة لهذا الفساد هو أنه تم بحكم تقاسم إدارة مراكز مرافق الحدودية بين الحزبين السياسيين الرئيسيين في كردستان - الاتحاد الوطني الكردستاني والحزب الديمقراطي الكردستاني. - أي التسييس و الخصخصة ادارة المرافق الحدودية. ان الخصخصة في هذا السياق يؤدي الي سوء الاستخدام وعدم الكفاءة في ادارة الحدود. علاوة على ذلك، أدى هذا التسييس إلى جذب القطاع الخاص إلى شبكة الفساد الخاصة به، وبالتالي خلق مزيجاً من التسييس والخصخصة بحيث استخدم المسؤولون وأصحاب الشركات الوسائل القانونية لحماية مصالحهم الخاصة، وبالتالي ممارسة الاحتكار والامتياز المصطنعين بطرق القانونية. ويقدر إجمالي الإيرادات التي خسرتها حكومة كردستان بسبب هذا الفساد بأكثر من ٢٠٠ مليون دولار شهرياً. تناقش هذه الورقة طريقتين بديلتين للتعامل مع هذا الفساد: إما التغيير الجذري لإنهاء الفساد الحدودي بالكامل عن طريق التغيير الهيكلي أو الثقافي أو الإصلاح الجزئي لتقليل حجم الضرر الناجم عن فساد الحدودي. بينما يجب أن يكون الهدف على المدى الطويل تغييراً جذرياً من أجل القضاء على المشكلة، فإن الهدف الأكثر واقعية هو الإصلاح التدريجي من أجل إدارة المشكلة عن طريق تقليل آثارها.

**الكلمات المفتاحية: لمجرمين والفساد في المعابر الحدودية؛ كردستان؛ العراق؛ التسييس والخصخصة الضوابط الجمركية؛ نظام المحاصصة**

#### پوخته

نارطومینتی سەرەکی ئەم تەئبەتەرە بریتیە لە پلەندەێ لێ رێرەوێ سنوریە کانی هەریمی کوردستان. بە تشریح بەستن بە و داتایانە کە دەستمان کەوتووون لە زاوئیکەوتنی راستەخۆ لێ پلە تەو کەسە فەرمانە کە لێ سنورە کاندای کار دەکەن لێ پلە بە کار هێنای دیکۆمینی حکومی، ئەم تۆبێنەوێە ضەند جۆریک لێ پلەندەێ بە شێوەیە کێ فراوای دەرخواستوو کە لێ هەر ضوار دەروازە فەرمانە کە و لێ تێنج دەروازە نافەرمانە کە دەرکێت لێ هەریمی کوردستاندا. ئەم پلەندە لێیە دوو جۆری سەرە کێ وەرطرتوو: دەست تیکە ل کوردنی نیوان طروئە سیاسیە کان و کۆمە لێک کۆمئانیای تاییەت. دووێم بریتیە لە احتیال کە زیاتر بە کەتکردن ناو دەرکێت. صفاتی سەرە کێ ئەم جۆرانیە لێ پلەندەێ ئەوێە بە هۆی دابەشکردنی بەرێوێ بردنی ئیداری نیوان هەر دوو حیزبی سیاسی کوردستاندا یە کێتێ نیشتمانی کوردستان و ئارتی دیموکراتی کوردستاندا. ئەمەش بریتی لێ بە سیاسی کوردنی و بە تاییەتیکردن و بەرێوێ بردنی سنور. بە تاییەتێ کردن لێم سیاقەدا دەرکێت هۆی خراش بە کارهێنان و بی توانایی لێ بەرێوێ بردنی سنوردا. لێ سەرۆی ئەمەشەو، ئەم بە سیاسی کردنە بووئە هۆی راکێشانی کەرتی تاییەت بۆ ناو تۆریکی تاییەتێ پلەندەێ بە شێوەیە کێ تیکە لێیە کە لێ نیوان بە سیاسی کردن و بە تاییەتێ کردندا دروستکراو، کە سیاسیە کان و خاوەن کۆمئانیایکان ئامرازێ یاسایی دەرئەبەر بۆ بەرطری کردن لێ تپتە و بەرژەوێ نندی خۆیان بۆیە دەرئەبەر







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