

Methods of Prevention and Combating the Crime of Abuse of Functional Influence with an Emphasis on the Legal System of Iraq

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The aim of this study was to examine the methods of prevention and combating the crime of abuse of functional influence, with a specific emphasis on the legal system of Iraq. This study is based on a descriptive-analytical approach. Additionally, the study focused on reviewing library resources and analyzing existing legal texts. The findings indicated that the absence of explicit legal provisions and legislation against perpetrators of this crime does not imply its non-existence. The public reputation of officials and public figures serves as a recognized governmental reference, and in order to maintain trust between the government and citizens, as well as the public's confidence in governmental institutions, significant penalties for this crime are rarely found. Moreover, public employees or officials exploit their professional influence to obtain benefits and advantages that are not necessarily financial in nature. They take advantage of their managerial authority and power through obtaining privileges, commissions, contracts, and appointments, knowing that there is no legal provision to penalize them, especially if they enjoy immunity. Even when punishments or penalties exist, they are insufficient as deterrents for the crime of abuse of functional influence. The mere presence of punishment does not necessarily contribute to the detection of the crime, whereas crime detection significantly increases the likelihood of deterring offenders. Furthermore, the crime of abuse of functional influence, similar to offenses such as prostitution and financial adventurism, occurs between corrupt individuals who mutually benefit from the crime. As a result, there is often no specific victim to report the offense, since all involved parties are complicit, and there is no clear victim in such cases.

Keywords: *Crime, Abuse of Functional Influence, Abuse of Influence, Criminal Liability, Criminal Law.*

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1. Introduction

The crime of abuse of functional influence differs from other administrative corruption crimes. It remains ambiguous for most people, who do not fully grasp its true meaning. Even among law students,

references to this crime are rare, except for a few instances where it is mentioned in discussions on bribery and abuse of power. The definition of the crime of abuse of functional influence has caused significant confusion among legal scholars, as it has only recently been incorporated into the criminal laws of most



countries. In contemporary society, this issue has gained substantial prominence, prompting efforts to prevent this crime. The crime of abuse of functional influence is one of the most serious offenses threatening national stability. The failure of criminal policy, which relies on direct control as a means of field-based intervention, has led many countries to reconsider their approach by emphasizing a preventive criminal policy to address this criminal phenomenon. This includes implementing precautionary measures before the crime occurs and adopting modern scientific approaches linked to criminology, psychology, and related disciplines.

The crime of abuse of professional influence is of great significance. However, despite its importance, the Iraqi legislator has not provided sufficient and satisfactory attention to punishing individuals who exploit their professional influence. The Iraqi legislator addressed the crime of abuse of power in Article 341 of the 1969 Iraqi Penal Code, which states that “any public employee or appointee to public service who harms the state budget or the interests of the institution in which they work due to abuse of power shall be subject to imprisonment for a maximum of three years or a fine exceeding three hundred dinars.” This punishment is disproportionate to the serious risks posed by such abuses, particularly the harm inflicted on public property and finances.

Furthermore, upon examining the crime of abuse of power, it was observed that the Iranian legislator addressed this crime in paragraph (a) of Article 126 of the 2013 Penal Code, specifying that “anyone who encourages, threatens, or incites the commission of a crime through conspiracy, deception, or abuse of power” shall be held liable. This provision effectively criminalizes both abuse of power and abuse of functional influence, whereas the Iraqi legislator has only established legal provisions for abuse of power, without specifically addressing abuse of functional influence.

As a result, it can be concluded that most constitutional laws worldwide do not differentiate between the crime of abuse of functional influence and the crime of abuse of power. The primary reason for their criminalization lies in the misuse of governmental positions, which undermines the dignity and prestige of public office. Such offenses lead government employees to pursue illicit financial gain instead of fulfilling their professional duties, ultimately facilitating unlawful enrichment (Saqr, 2015). These two crimes are committed by public

employees, with one involving the exploitation of professional influence for personal or third-party benefits, while the other entails the misuse of power, resulting in advantages for some and harm or danger for others due to the actions of the employee or appointee. Within the Iraqi legal system, the issue of abuse of functional influence is of critical importance, necessitating further research in this field. Accordingly, this study aims to explore the methods of prevention and combating the crime of abuse of functional influence, with a particular emphasis on the Iraqi legal system.

2. Literature Review

An examination of legal sources related to the crime of abuse of professional influence and the associated criminal liability in Iraq and Iran revealed a lack of studies specifically addressing this issue. Among the existing studies is a doctoral dissertation from the Faculty of Law and Political Science by Rafiq Shweish (2016), titled *Crimes Harmful to Public Interests in Criminal Legislation*, which categorizes various crimes affecting public interests but does not cover the crime of abuse of professional influence. Another study, titled *The Crime of Abuse of Influence: Prevention and Control Mechanisms*, by Shabah Bou Zeid (2013), presented as a master's thesis in law, generally discusses the crime of abuse of influence but does not analyze the functional abuse of influence or its prevention mechanisms.

Additionally, another relevant study is *The Crime of Exploiting Public Funds*, authored by Huda Hatif Al-Zubaidi as a master's thesis at the University of Baghdad in 2002. This study primarily focuses on the misuse of public funds through embezzlement, bribery, and other financial and administrative corruption offenses but does not specifically address the abuse of professional influence or its criminal sanctions.

Other reviewed studies include a doctoral dissertation titled *The Criminal Will and Its Role in Determining Criminal Liability*, by Dr. Abdul-Jabbar Dami Awad from Al-Nahrain University, Iraq (2015). This research discusses the role of criminal intent in determining liability for crimes. Another study, *Criminal Liability Arising from the Illegal Use of Public Employees in Government Contracts*, by Mazen Abdul-Ali Suleiman Al-Zuhairi, was presented as a master's thesis at Al-Mustafa University, Iran (2020). This study explains the criminal liability of government employees involved in

embezzlement related to public contracts and explores the role of governmental regulations in limiting this phenomenon.

A significant study that contributed to this research is a doctoral dissertation titled *An Examination of Iran's Criminal Policy on Judicial Offenses and Disciplinary Violations of Judges Based on Fair Trial Principles*, written by Monireh Mahallouji at Islamic Azad University, Isfahan, Iran (2020). This dissertation examines cases of judicial misconduct, the accountability mechanisms for judges, and the disciplinary measures implemented by Iranian laws to ensure their deterrence. It also provides recommendations for addressing these offenses based on Article 2, Clause 2 of the *Law on Judicial Conduct Oversight* (2011) and subsequent legal procedures. These were among the most notable studies reviewed for this research.

3. Methodology

This study is based on a descriptive-analytical approach. It analyzes the crime of abuse of functional influence and the associated criminal liability. Additionally, it examines the Iraqi legal framework, which primarily addresses this crime through laws on bribery, financial corruption, and embezzlement rather than through specific legislation targeting abuse of functional influence. Furthermore, the study relies on a review of library resources and an analysis of existing legal texts.

4. The Crime of Abuse of Functional Influence

The crime of abuse of functional influence is similar to the crime of abuse of power, as both involve a violation of public trust and the integrity of governmental authority and institutions, which are supposed to operate according to the law. However, distinguishing between them is difficult because abuse of functional influence is committed by a public employee or an appointee to public service. Similarly, the abuse of power cannot occur without actual power being exercised. The primary distinction between them lies in their nature and outcomes. The crime of abuse of functional influence primarily results in personal or third-party benefits, while the crime of abuse of power may lead to either personal gain or harm to others, such as damage to public interests, retaliation against an individual, or causing harm or risk due to the actions of a public official.

The crime of abuse of functional influence involves an exchange, in which the offender leverages their functional influence. A broad definition encompassing all these aspects includes gifts, benefits, and advantages (Madani, 2005, Vol. 45, p. 3).

5. Distinguishing Between the Crime of Abuse of Functional Influence and the Crime of Bribery

There is significant overlap and similarity between the crime of abuse of functional influence and the crime of bribery, necessitating a clear distinction between them. Bribery is defined as a transaction involving a public employee or an appointee to public service. This transaction occurs within their professional duties, requiring the involvement of two parties: the public employee or appointee, who requests or accepts gifts in exchange for performing a task within their professional scope, or refrains from carrying out their duties to benefit a specific person or entity.

Criminal jurisprudence offers varying definitions of bribery, resulting in two perspectives:

The first perspective considers bribery as a crime that involves both the bribe-giver and the bribe-taker, as it requires offer and acceptance. This view has been adopted by the Iraqi legislator, who classifies bribery as a crime only when a public employee accepts the bribe (Al-Jayoush, 2001). This classification is codified in Articles 307–310 of the amended 1969 Iraqi Penal Code. The crime of bribery consists of three elements: the act of the perpetrator (requesting or accepting), the object of the transaction (a gift, benefit, or promised advantage), and the obligation of the public employee or public service appointee to either perform an act or violate their duties in return (Al-Haidari).

The second perspective argues that bribery constitutes two separate crimes, adopting the concept of "double bribery." Under this view, the crime involves both the bribe-giver and the bribe-taker, making it a dual offense. It is evident that bribery differs from the crime of abuse of functional influence. Bribery cannot occur without the presence of two parties: a public employee or appointee to public service and another individual, often from outside governmental institutions, who acts as the bribe-giver. In contrast, the crime of abuse of functional influence may be committed by a single party, either solely by a public employee or in collaboration with a beneficiary. In some cases, a public employee misuses

their position to influence public duties, driven by personal ambition and financial interests, purely for greed and the desire to accumulate wealth at the expense of public funds and institutions. This distinction sets the crime of abuse of functional influence apart from bribery. However, both crimes share similarities, as they harm public institutions and undermine trust in the government and its institutions.

6. Distinguishing the Crime of Abuse of Functional Influence from the Crime of Mediation

Mediation is a crime stipulated in Article 330 of the Iraqi Penal Code, which states: "Any official or public service employee who refuses to perform their duties or intentionally violates their job responsibilities due to a request, recommendation, mediation, or any other unlawful reason shall be held criminally liable." This provision establishes that mediation is only realized when three elements are present. The material element is demonstrated when the public employee responds to a recommendation or mediation, or refuses to perform their duties, thereby violating their obligations (Rawdan Al-Haidari, 2009, p. 14). The third presumed element involves the presence of a public employee or public service official. Mediation typically manifests in forms such as recommendations or hopeful expectations. The latter refers to efforts made to appeal to a public employee's emotions or to persuade them to fulfill a particular request. A recommendation, on the other hand, is a significant social duty that compels the public employee to meet a specific demand (Zain Al-Din, 2009). It was observed that the Iranian Penal Code of 2013, in paragraph (T) of Article 36, addresses penalties related to favoritism, influence, and participation in government transactions and privileges. This legal provision explicitly criminalizes acts of recommendation and mediation.

Based on this, it can be concluded that Iraqi laws recognize mediation as a crime and impose penalties on perpetrators. Both the crime of abuse of functional influence and the crime of mediation involve an individual with a position close to a public employee. However, the crime of abuse of functional influence is committed by a public employee without the mediation of another party, whereas the crime of mediation typically involves a favor, recommendation, or request, which the public employee may or may not respond to.

In contrast, the crime of abuse of functional influence directly relates to leveraging one's job position for material gain. Mediation often takes the form of a recommendation provided without compensation, whereas abuse of functional influence is always linked to financial or material interests.

7. The Mental Element of the Crime of Abuse of Functional Influence

The existence of the crime of abuse of functional influence requires more than just the element of influence and the material element. These elements must be accompanied by the presence of a guilty will, representing the moral element, which refers to criminal intent. The crime of abuse of functional influence is an intentional crime, meaning that its commission requires the perpetrator to have criminal intent. The moral element in this crime is manifested as criminal intent because mere error does not constitute its commission. It is not reasonable to assume that a public employee mistakenly commits the crime of abuse of functional influence, as it inherently involves material conduct accompanied by the perpetrator's criminal intent to obtain material or moral benefits (Haroun, 1994).

From this, it is concluded that for the crime of abuse of functional influence to occur, knowledge of its elements must exist at the time of its commission. The perpetrator must be aware that their exploitation of functional influence is the reason for obtaining material or moral benefits. They must recognize that such benefits result from their misuse of professional influence. Two aspects must therefore be present in the assumption of specific criminal intent in the crime of abuse of functional influence: awareness and intent.

The crime of abuse of functional influence is one that requires general intent, meaning the perpetrator's intention to achieve specific objectives, including personal benefit. It is classified as an intentional crime, characterized by will and knowledge. It is not necessary for "the offender's intent in using functional influence to be aimed at achieving public interest" (Sorour, 1962).

The crime of abuse of functional influence necessitates the presence of general criminal intent, in addition to specific criminal intent. The perpetrator directs their will towards "carrying out a specific activity through the use of functional influence, with the intention of gaining personal benefit" (Al-Kubaisi, 2005).

The second perspective regarding the crime of abuse of functional influence appears to be the most accurate, as it holds that this crime requires both specific and general criminal intent. This means that the perpetrator must intend to commit a criminal act and use their functional influence with the goal of obtaining material or moral compensation. Additionally, the moral element of the crime of abuse of functional influence includes "bad faith," as it compels the public employee to exploit their functional influence while fully aware that their conduct is improper, thereby placing them in the category of offenders.

8. Reasons for the Spread of the Crime of Abuse of Functional Influence in Iraq

The spread of this phenomenon can be attributed to various factors, including social, economic, administrative, and legal causes. Its expansion has significant negative consequences for society, politics, and the national economy. The reasons for the widespread occurrence of this crime in Iraq can be outlined as follows:

8.1. Administrative Factors

There is no doubt that administrative policies play a major role in the success or failure of governmental institutions and their professional operations. Administrative approaches either enhance institutional efficiency or contribute to the spread of administrative corruption.

8.1.1. Hiring Employees Based on Incorrect Criteria

The appointment of public employees or officials is an integral part of governmental institutions. The efficiency of an employee directly impacts the success and management of these institutions. Therefore, the appointment of public employees should be based on objective criteria, ensuring that competency and ability contribute to institutional success. The motivation and effectiveness of an employee are linked to the extent to which their competence aligns with the nature of their work and whether their academic qualifications match their assigned administrative position. There must also be behavioral harmony between employees and their colleagues, ensuring that individuals are placed in positions suited to their abilities.

However, if appointments are based on incorrect criteria—such as nepotism, familial ties, mediation, or bribery—it leads to the spread of administrative corruption in government jobs. Those seeking appointments resort to illegal methods to achieve their goals, further expanding this phenomenon. Additionally, this issue affects those interacting with governmental administrative institutions, as they find themselves dealing with incompetent and unsuitable employees. This directly impacts institutional productivity and disrupts the interests of those dealing with public administration. Consequently, individuals may resort to corrupt methods to expedite their transactions, such as offering bribes or seeking assistance from influential figures. This ultimately leads to the expansion of administrative corruption, including the crime of abuse of functional influence (Oweis Hamdi Abu Al-Nour Al-Sayed, 2015; Owais Hamdi Abu Al-Nour Al-Sayed, 2015).

8.1.2. Complex Bureaucratic Procedures in Administrative Work

The bureaucratic procedures in governmental departments and administrative institutions have become excessively complicated, to the extent that "organizational structures have turned bureaucracy into an institutional disease" (Abdullah Talaba, 1990, p. 203). The complexity of procedures in public institutions and the introduction of unnecessary obstacles to administrative transactions, coupled with the concentration of most ministries and governmental offices in the capital, Baghdad, have slowed down administrative processes. This has led to an increase in public complaints against governmental administrative institutions, driving citizens toward illegal means to expedite their transactions. This has, in turn, facilitated the emergence of the phenomenon of abuse of functional influence within governmental institutions (Talba, 1994). It has also enabled citizens to resort to unlawful avenues to ensure their transactions are completed quickly.

8.1.3. Weak Oversight in Governmental Institutions

It is undeniable that oversight mechanisms within government-affiliated institutions are essential for ensuring the smooth and organized flow of operations.

Such oversight may be conducted internally by department heads or externally by regulatory bodies. However, research indicates that there is a significant oversight weakness within most governmental institutions in Iraq, resulting in the failure to detect numerous cases of abuse of functional influence and administrative corruption. Additionally, the absence of explicit legal provisions criminalizing high-ranking officials—especially those with legal immunity—has allowed corruption to persist. This has enabled corrupt officials to continue exploiting their professional influence for personal gain without fear of prosecution. In this context, it is imperative that Iraqi legislators impose severe penalties on employees or public service appointees who abuse their functional influence. Strict punishments would deter public employees from engaging in such misconduct, preventing them from exploiting their influence and eliminating any attempts to commit other forms of corruption.

8.2. *Economic Factors*

Undoubtedly, economic factors play a critical role in the emergence of most crimes and professional misconduct, particularly in cases involving low public sector wages, rising costs of living, and increasing financial demands. These factors often lead employees to exploit their functional influence for financial gain through illegal means.

However, this does not fully apply to Iraq, as government employees in Iraq receive relatively high salaries that align with social realities. Notably, most cases of abuse of functional influence are committed by high-ranking government officials, including general directors, agency heads, ministers, and deputy ministers—individuals holding prestigious administrative positions. Many of them do not actually need the financial gains they pursue, as they already own luxurious palaces and hold substantial bank accounts.

In such cases, it is not financial necessity that drives them to commit these crimes but rather the widespread culture of corruption within society, which encourages such behavior. Achieving job satisfaction is crucial for public employees and individuals appointed to public service, as contentment is an invaluable asset that prevents the pursuit of illicit enrichment.

8.3. *Social Reasons*

Social factors play a significant role in the expansion of the phenomenon of abuse of functional influence. Among these factors is the spread of certain corrupt and unusual values in Iraqi society, which have become more prevalent in recent years. These include the exploitation of opportunities, the misuse of professional positions, deception, and unlawful financial gain, often justified by the claim that individuals were oppressed in the past and are now entitled to compensation. This mindset has had a major impact on the spread of abuse of professional influence in Iraq, as public employees are part of this society and many of them are influenced by such ideas and practices. As a result, they use their professional influence to "increase their financial gains or to establish connections with influential individuals" (Issam Abdel-Fattah, 2015; Kamal Al-Din, 2008).

Many of these employees attempt to justify their actions, further deepening the issue. Most of them argue that exploiting their positions and appropriating public funds is a means of reclaiming what was previously stolen from them. They view mediation as a form of cooperation and assistance, and they rationalize bribery as a mere gift. Some even consider abuse of functional influence a form of social intelligence. Such beliefs cultivate a destructive culture for public office in the future.

Additionally, one of the social reasons behind the spread of abuse of functional influence is the weakening of religious faith. Religion inherently opposes all forms of deviant behavior and discourages individuals from succumbing to their desires and becoming slaves to their own temptations. Religious faith plays a crucial role in self-discipline and in deterring individuals from committing offenses. There is no doubt that a lack of religious commitment among certain public employees contributes to the rise of administrative corruption, as they fail to consider the consequences of their actions in both this world and the hereafter. Employment is a form of trust, and God has commanded people to uphold trust. On the Day of Judgment, public officials will be held accountable for their actions before their Creator.

9. **Measures to Prevent the Crime of Abuse of Functional Influence**

Preventive measures play a fundamental role in achieving objectives in various fields. This principle has

been well known in medical sciences since ancient times, expressed in the adage that prevention is better than cure. This notion is also applicable in criminal policy and criminology (Jaafar, 2003). Given the widespread administrative corruption in Iraq, it is necessary to implement preventive measures and strategies to eliminate this phenomenon, particularly the crime of abuse of functional influence.

There is no doubt that high levels of professional corruption in any country reflect the absence of effective laws and a sound political system. Between 2003 and 2012, Iraq consistently ranked among the most corrupt

nations in administrative governance. The expansion of professional corruption to the extent that it threatens political stability has positioned Iraq at the bottom of Transparency International's corruption index, classifying it as one of the world's most administratively corrupt countries. This corruption obstructs the establishment of governmental institutions and hinders economic development (Baham, 2011).

To address this issue, it is essential to enforce strict measures against the abuse of professional influence. The global corruption index ranks Iraq among the most corrupt nations, as illustrated in the following table:

Table 1

Global Corruption Index (2003–2012) and Iraq's Ranking

Year	Number of Countries	Iraq's Rank	Corruption Index Score for Iraq
2003	130	113	2.2
2004	146	129	2.1
2005	194	170	2.2
2006	163	160	1.9
2007	180	178	1.5
2008	180	178	1.3
2009	180	176	1.5
2010	178	175	1.5
2011	183	175	1.8
2012	178	169	1.8

It is important to note that the corruption index score is measured on a scale from zero to ten, where ten represents a country with a very low level of corruption, and zero represents a country with extremely high corruption. The scores of other nations fall between these two extremes. Over the years, Iraq has consistently ranked among the most corrupt countries, indicating persistently high levels of corruption.

The widespread phenomenon of abuse of functional influence in Iraq is largely due to the failure of high-ranking officials to adhere to laws and professional regulations, as well as the absence of legal frameworks that criminalize this practice. Many public officials exploit their positions and authority for purposes other than those intended, engaging in financial and administrative corruption. This situation is exacerbated by the fact that most government positions are obtained through political quotas or partisan considerations, rather than through a merit-based system.

The failure to implement the principle of equal opportunities among citizens, along with the power struggles within government institutions, has further

contributed to the lack of collaboration and teamwork. The rise of individualistic management styles in public institutions, coupled with a lack of transparency in interdepartmental cooperation and coordination, has allowed abuse of functional influence to flourish. The reluctance to prosecute senior government officials accused of corruption and misconduct has further weakened institutional integrity.

As a result, Iraq has witnessed the collapse of ethical and moral values in its public sector, along with a deterioration in functional integrity. This has necessitated the need for research to identify preventive strategies to combat this crime before it occurs. These strategies can be classified as preventive measures or crime prevention mechanisms specifically targeting the abuse of functional influence.

In the following discussion, an effort will be made to clarify key concepts and terminologies related to prevention, which are primarily associated with crime and offenders. Both elements play a role in addressing the criminal behavior of public employees and individuals appointed to public service.

10. The Concept of Crime Prevention

The process of crime prevention does not involve confronting or dealing with an actual offender because the crime has not yet occurred. Criminal penalties alone are ineffective in reducing the crime of abuse of power. Despite the diversity of criminal sanctions in form and severity, most are designed to deter offenders or dissuade others from engaging in similar conduct. However, these measures have failed to make traditional punishment an effective tool for eradicating crime in society. The increasing wave of crimes worldwide indicates that the law and criminal penalties alone are not sufficient deterrents. This realization has led to the emergence of the concept of crime prevention, which is one of the "modern concepts frequently misunderstood" since it is often used but rarely comprehended (Talib, 2001).

The term "crime prevention" refers to the process of preventing individuals from engaging in criminal behaviors by addressing the root causes of crime before they materialize. It involves eliminating the factors and conditions that contribute to criminal behavior (Ali, 1964). The concept of crime is not solely linked to a tangible criminal act but also to its underlying criminal circumstances and consequences.

Numerous definitions of prevention exist. Prevention is defined as "any planned response implemented in anticipation of a specific problem to partially or completely eliminate the issue or its consequences" (Wisal, 2020). Prevention has also been described as "an effort to overcome the conditions that drive individuals toward criminal behavior" (Talib, 2001). In our view, crime prevention refers to any measure that limits or reduces crime rates by addressing its causes and preventing its occurrence.

Based on the definitions provided above, crime prevention encompasses all factors and causes of crime, whether social or personal. The concept does not focus on a specific offender but rather on understanding and addressing the motivations that lead to criminal behavior. It involves predicting the behavior of individuals prone to deviance and crime and taking preventive actions before the crime occurs.

The process of preventing the crime of abuse of functional influence or any other crime consists of three stages:

1. **Theoretical Stage (Persuasion Stage):** In this stage, scholars and researchers focus on reviewing and revising ideas related to punishment and crime. The goal is to convince society that a particular act constitutes a crime and that society must play a role in its prevention and deterrence.
2. **Model Development Stage (Preventive Models):** This stage involves researching and identifying models and practical methods for implementing crime prevention measures. The objective is to transition from theoretical concepts to practical applications by developing procedural approaches to crime prevention.
3. **Innovation and Evaluation Stage:** This phase involves assessing and modifying the implemented measures to develop a targeted theory of crime prevention. The goal is to create effective strategies and programs that prevent criminal behavior at its root and control crime rates (Talib, 2001). The theory of crime prevention is a collective effort involving multiple scientific disciplines, including criminology, criminal sociology, forensic psychology, and penal sciences.

The immunity of society from crime can be achieved through several measures, including:

1. Establishing committees to monitor governmental institutions and ensure the integrity of their employees.
2. Strengthening the role and effectiveness of regulatory agencies, as their findings are often neglected.
3. Investigating the sudden accumulation of wealth among high-ranking Iraqi officials, including deputy ministers, ministers, and parliament members.
4. Enacting strict laws that criminalize acts of corruption and penalize individuals who exploit their governmental positions.
5. Encouraging public accountability and media oversight to ensure that the press serves the public interest rather than political agendas.
6. Regulating and monitoring the financial and commercial activities of politicians, businessmen, and bureaucrats both domestically and internationally.

7. Isolating individuals who pose security risks to governmental institutions, especially those with criminal backgrounds, to prevent their influence within government entities.
8. Implementing programs to channel dangerous ambitions into constructive activities, thereby reducing the temptation of financial and ethical corruption.
9. Reducing opportunities for crime by increasing the difficulty of illicit activities, while simultaneously enhancing the likelihood of detection before they occur.

If effectively implemented, these measures can help eliminate the abuse of functional influence. The psychological aspect of crime prevention plays a crucial role in curbing criminal motives and deterring potential offenders.

11. Contemporary Approaches to Crime Prevention

Research indicates two primary models for crime prevention:

1. **General Social Protection:** This form of prevention focuses on addressing social and economic factors that contribute to crime. It emphasizes measures such as education, training, and setting clear professional boundaries within governmental institutions.
2. **Situational Self-Prevention:** This approach targets social groups that are particularly vulnerable to criminal influences or operate in high-crime environments. It involves hierarchical assessments to address extreme self-interest and its role in shaping deviant behavior (Al-Faris, 2008). This model aims to mitigate threats to government institutions and society as a whole.

Crime prevention is not a single or isolated action; rather, it is a comprehensive process based on scientific methodologies. It includes various activities, such as:

1. Addressing the root causes of crime before it occurs. This includes factors such as education, upbringing, and professional training.
2. Eliminating criminal motivations at an early stage through measures like transparency, accountability, and oversight.
3. Reducing opportunities that may tempt public employees into criminal activities. This applies

to both lower-level employees and high-ranking officials and can be achieved through measures such as centralizing decision-making authority and limiting excessive discretionary power.

4. Redirecting criminal motivations toward lawful avenues, such as improving salaries and offering additional incentives if financial hardship is a contributing factor.

In most cases, public employees in Iraq are financially stable and do not suffer from poverty. However, they still engage in abuse of functional influence due to greed and self-interest. This issue will be further explored in subsequent research.

12. Methods and Procedures for Combating the Crime of Abuse of Functional Influence

Despite extensive efforts to prevent crime and minimize opportunities for criminal behavior, there will always be individuals with an inherent criminal will that cannot be deterred through preventive measures alone.

While crime prevention does not involve confronting an actual offender, it relies on understanding factors that contribute to criminal behavior and anticipating potential offenses. In contrast, combating crime involves dealing with an actual offender who has committed or is attempting to commit a crime, posing an immediate threat to society and governmental institutions.

Researchers and criminologists have attempted to define the concept of crime control, describing it as "the process of protecting society from criminal activity and reducing opportunities for criminal behavior" (Dr. Badr al-Din, previous reference, p. 31).

Theoretical and practical efforts to combat the crime of abuse of functional influence aim to eliminate criminal elements within public institutions and prevent the crime from occurring. However, in reality, this crime persists as an ongoing issue in society. It is essential to contain and limit it, reduce the extent to which public employees exploit their functional influence, and prevent its further spread. Identifying and prosecuting offenders, along with gathering evidence against them, remains a fundamental aspect of crime control.

13. Obstacles to Combating the Crime of Abuse of Functional Influence

Through our examination of the crime of abuse of functional influence, we have identified several obstacles

that hinder efforts to combat this crime in Iraq, including the following:

1. The existence of interdependence between government organizations, state-affiliated institutions, and ruling party apparatuses to such an extent that they are deeply integrated and cannot be separated (Judge Rahim Al-Uqaili, interview with Al-Hurra TV, Iraq, March 16, 2011).
2. The adoption of bargaining as a means to cover up financial corruption and abuse of functional influence. Most security agencies and high-ranking officials are aware of corruption cases, yet they use bargaining to silence opposition and anyone who speaks out. All parties involved in corruption benefit from these operations, leading to the normalization of this type of crime in Iraq.
3. The relationships between senior officials, members of parliament, deputy ministers, ministers, and high-ranking state officials with tribal leaders, which result in prioritizing the interests of their relatives over public interests. This fosters illegal relationships between public employees and individuals seeking illicit benefits, creating a system of nepotism, corruption, abuse of influence, and mediation. Public employees and government appointees begin to perceive these practices as normal, as corrupt individuals believe that their closest associates should be the first to benefit.
4. The government's disregard for most reports on administrative and financial corruption issued by the Integrity Commission and the judiciary's lack of seriousness in addressing administrative corruption and abuse of professional influence. This has rendered efforts to hold corrupt officials accountable ineffective.
5. The lack of awareness about the Integrity Commission, as well as the absence of legal protections for this body. Anyone attempting to expose corruption by senior officials or employees of the Integrity Commission faces threats or even death, forcing them to abandon their efforts. Additionally, there is a lack of cooperation between government ministries

and the inspectors of the Iraqi Integrity Commission.

6. Many ministers, government officials, and senior state figures hold dual citizenship, which has prevented them from being held accountable and has allowed them to commit crimes of abuse of influence before fleeing to their second country of citizenship. A prominent example is the former Minister of Electricity, Ayham Al-Samarrai, who held U.S. citizenship. After being accused of abuse of influence, he fled to the United States, where he avoided prosecution despite issuing multi-million-dollar contracts and allocating funds for purchasing power plants. Due to his American citizenship, he was not penalized, and Iraqi law was unable to prosecute him. This legal loophole exists because individuals with dual citizenship are not held accountable in Iraq, and their punishment is left to the jurisdiction of their other country of nationality. This enables them to escape justice. Therefore, a law should be enacted to revoke the foreign citizenship of anyone appointed to a high-ranking position in Iraq.

14. Combating the Crime of Abuse of Functional Influence in Iraqi Law

As discussed in previous sections of this study, Iraqi law and its provisions are nearly obsolete in addressing the crime of abuse of functional influence in its current form within Iraqi society and governmental institutions. The relevant legal framework dates back to 1969, making it outdated and inconsistent with contemporary issues in Iraqi government agencies. Notably, there is no specific legal provision penalizing senior officials and those with immunity, including employees, deputy ministers, judges, ministers, and even lower-ranking employees. The current legal framework primarily addresses abuses related to forced labor and withholding workers' wages, as outlined in Article 320 of the amended Iraqi Penal Code No. 111 of 1969. It states: "Any government officer or public service employee who compels workers to perform tasks related to their position and withholds all or part of their wages shall be punished with imprisonment not exceeding ten years." Additionally, individuals who enroll fictitious names in government

payrolls to collect their salaries without performing actual work fall under this provision.

This law is disconnected from the modern reality of abuse of functional influence in Iraq, which includes financial and administrative corruption, monopolization of power, nepotism, favoritism in promotions, and exploitation of public resources. The law is ineffective in holding high-ranking corrupt officials accountable, allowing them to persist in their abuses and contributing to the expansion of this phenomenon in Iraqi society, as there is no deterrent or punishment in place.

Additionally, the amended 1969 Iraqi Penal Code addresses corruption-related offenses in Articles 338, 340, and 341. These articles stipulate that “the penalty for such offenses shall be imprisonment for a period not exceeding one year and a fine of no more than 200 dinars, or either of these penalties.” The law further states that “any public employee or official working in a governmental department who exploits their position to harm state interests or public property shall be subject to these penalties.”

The inadequacy of these penalties raises several concerns. Does a prison sentence of less than a year correspond to the severity of the crime committed by the employee? Does abuse of influence solely involve financial damage to public funds? In reality, abuse of functional influence may involve facilitating the escape of a murderer due to the immunity of senior officials, smuggling illicit drugs or funds, or appointing individuals in exchange for money. Despite these severe implications, the penalty remains only a 200-dinar fine—an amount that has been rendered meaningless by inflation, as it can no longer even buy a box of matches in present-day Iraq.

This indicates that the crime of abuse of functional influence in Iraq does not lead to significant criminal liability or strict punishment for offenders. Otherwise, corruption would not have reached its current levels. No existing law effectively criminalizes this phenomenon in Iraq, and there are no deterrents or enforcement mechanisms to combat the abuse of professional influence.

15. Combating the Crime of Abuse of Functional Influence in the Iraqi Integrity Commission Law

The Iraqi Integrity Commission was established by order of the Coalition Provisional Authority, which governed

Iraq after 2003. The commission was formed in 2004 as an independent entity with legal personality, enjoying financial and administrative autonomy. It is headed by a president who represents it, and under Article (2) of Law No. 30 of the Integrity Commission of 2011, the commission is directly linked to the Iraqi Council of Representatives. The Integrity Commission is an independent body under the supervision of the Iraqi Parliament, possessing legal, administrative, and financial independence, with a president who represents it or delegates representation to another person. The commission’s primary mission is to combat and prevent corruption within governmental institutions (Al-Shammari, 2019). This function is carried out through inspectors affiliated with the commission, who legally perform their duties under the supervision of a specialized investigative judge. Their work is governed by the provisions of the Integrity Commission Law No. 30 of 2011 and the Iraqi Code of Criminal Procedure No. 23 of 1971. The commission seeks to protect public funds and prevent corruption that harms the public budget. Consequently, its role is to combat corruption, safeguard public interests, and enhance public trust in government operations.

It was found that the Iraqi Integrity Commission operates under its specific law, No. 30 of 2011. Article (1) of this law defines corruption cases as those related to crimes that violate the duties of public institutions, including bribery, embezzlement, and cases where employees exceed their legal authority. Corruption crimes are also categorized under various provisions of the Iraqi Penal Code No. 111 of 1969, as amended, including Articles (233, 234, 271, 272, 275, 276, 293, and 296). Article (233) classifies mediation as a form of corruption, stating that “any public official who mediates before a judge or court in favor of or against a litigant shall be punished by imprisonment.” Article (234) criminalizes the issuance of unlawful judicial decisions resulting from mediation, stipulating that a public servant or an appointee to public duty shall be sentenced to imprisonment if they facilitate the escape or neglect the arrest of an accused individual. Article 272 of the Iraqi Penal Code states: “Anyone responsible for guarding an arrested, detained, or imprisoned individual who facilitates their escape shall be punished by imprisonment or a fine.”

Furthermore, the Integrity Commission Law classifies crimes involving forgery of seals, emblems, and stamps as breaches of public trust. These offenses are considered acts of corruption under Articles (275) and (276) of the Penal Code. The commission also addresses the crime of forgery, as outlined in Article (290) of the amended Iraqi Penal Code No. 111 of 1969, which states: "Anyone who, while holding public office, falsifies an official report by recording a different name or assigning the position to another person, or who deliberately falsifies an official document to alter its substance, shall be sentenced to imprisonment for up to 15 years." Additionally, Article (296) of the Iraqi Penal Code stipulates that "any public official entrusted with maintaining official records who falsifies or inserts false information into these records to mislead authorities shall be punished by imprisonment."

These provisions and laws address financial and administrative corruption cases in which public employees or government officials may be held accountable. However, none of these provisions explicitly criminalize the abuse of functional influence. Notably, major corruption operations involving high-ranking officials—such as members of parliament, ministers, deputy ministers, and general directors—are not explicitly covered under these laws. This indicates that while the Iraqi Integrity Commission has enacted legislation to combat professional corruption in various forms and supervises the functioning of public administration, it has neglected to criminalize the abuse of functional influence explicitly.

The Integrity Commission was established in accordance with the United Nations Convention Against Corruption in 2003 and is legally obligated to combat corruption under this agreement. However, it appears that the commission's efforts have been limited to its establishment without enacting laws that explicitly criminalize the abuse of functional influence. Moreover, the commission has not effectively combated financial and administrative corruption, except for cases that remain stalled in court proceedings. Most accused individuals have either fled the country or avoided punishment through bribery. In many instances, accused individuals have been acquitted by paying bribes to members of the Integrity Commission or parliamentarians, given that the commission operates

administratively under the authority of the Council of Representatives, despite its supposed independence. Additionally, some judges working within the commission face threats and assassination attempts if they carry out their duties honestly. A notable example is the assassination of the Integrity Commission's president, Judge Izzat Tawfiq Jaafar, who was murdered in Baghdad two days after attending a meeting of the Supreme Council for Combating Administrative Corruption, where he threatened to reveal high-profile corruption cases involving senior officials (Al-Shammari, 2019). Another example is the assassination of Judge Ibrahim Jihad near his home in Kirkuk (Al-Akhbar Newspaper, June 16, 2014).

These incidents highlight the challenges of combating corruption and holding corrupt officials accountable, despite the Integrity Commission's extensive efforts to prosecute corrupt employees, including ministers and general directors accused of embezzling public funds. The commission has issued orders to prevent the accused from traveling and to recover stolen funds, yet many accused individuals evade justice by fleeing the country or paying bribes. It is rare to hear of a public official being prosecuted for embezzlement or bribery. Regarding the abuse of functional influence, no legal framework currently exists to hold perpetrators accountable. No law explicitly criminalizes this offense, and many public employees or government officials perceive the exploitation of influence as their right and within their authority. As a result, they arbitrarily appoint individuals of their choice in exchange for financial gain, manipulate and reassign employees under their control, and grant promotions and high-ranking positions to relatives, friends, and those who provide them with benefits.

Given the legal gaps mentioned above, we sought to identify legal solutions for combating the crime of abuse of functional influence in Iraq's legal system. However, no effective legal provisions were found. Consequently, it is imperative to introduce legal texts that explicitly criminalize this growing phenomenon in Iraq, as it is one of the most dangerous forms of corruption that threatens governmental institutions and undermines stability.

16. Conclusion

This study aimed to examine the methods of preventing and combating the crime of abuse of functional influence,

with a particular focus on the Iraqi legal system. The absence of explicit legal provisions criminalizing this offense does not imply that it does not occur. The reputation of officials and public figures, as recognized governmental authorities, plays a crucial role in maintaining trust between the government and its citizens, as well as public confidence in governmental institutions. However, no significant penalties exist for this crime in Iraq, whereas Iranian legal texts explicitly criminalize this offense and impose the strictest punishments on perpetrators.

From the findings, it was concluded that public employees and officials exploit their professional influence to obtain benefits that are not necessarily financial in nature. They take advantage of their managerial authority and power through securing privileges, commissions, contracts, and appointments. Such individuals are aware that no legal provisions exist to penalize them, especially if they enjoy immunity, such as deputy ministers, ministers, vice ministers, and general directors, who are politically protected. Public employees also recognize the absence of sufficient oversight mechanisms to hold them accountable for the abuse of their influence. Furthermore, even when penalties or fines are imposed, they are inadequate to serve as effective deterrents for the crime of abuse of functional influence. Criminal penalties alone do not necessarily contribute to crime detection, whereas the detection of a crime significantly increases the likelihood of deterring offenders.

It was determined that the possibility of detecting the crime of abuse of functional influence largely depends on the willingness of one of the corrupt individuals or parties involved in the process of exploitation to report the crime. However, it was also concluded that the crime of abuse of functional influence, like offenses such as prostitution and financial misadventure, occurs between corrupt individuals who mutually benefit from it. As a result, there is usually no specific victim to report the crime, as all involved parties are complicit, leaving no clear victim.

Additionally, the findings indicated that the severe consequences of abuse of functional influence become evident over time, ultimately undermining the credibility of the law. Public employees, through government procedures, become increasingly negligent, leading citizens to lose trust in public administration and

contributing to the expansion of administrative corruption. The more widespread the abuse of functional influence becomes, the more it is socially accepted and normalized, thereby increasing its risks. Specialists in administrative corruption facilitate its occurrence and weaken efforts to detect it. Over time, the abuse of influence becomes a routine practice, as is currently the case in Iraq.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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Declaration of Interest

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Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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