



GOOD PUBLIC GOVERNANCE IN IRAQ: SPECIAL
REFERENCE TO THE ERADICATION OF
CORRUPTION IN THE PUBLIC SECTOR

BY

RAFID ALI ABBAS

A dissertation submitted in fulfilment of the requirement for
the degree of Master of Comparative Law

Ahmad Ibrahim Kulliyah of Laws
International Islamic University Malaysia

SEPTEMBER 2015

ABSTRACT

In the Iraqi public sector, good public governance and corruption have a reversed connection which simply means that in order to achieve good public governance, a country has to treat its problem in corruption and vice versa. In this study, the actual reasons, impacts and solutions for administrative corruption, which have existed for more than ten years in Iraq, will be looked into. This study is devoted to simplify all the efforts put in by the Iraqi government in halting corruption through a combined effort with several bodies. In short, this study is completely aimed at straightening out all the deep-rooted and underlying motives towards corruption which are directly the causes for the problem. With this, a small conclusion can be proposed, that is, when there is equitableness in job among employees in the public sector, mainly in terms of their rights and responsibilities, the level of corruption can be brought down dramatically, vice versa. This study depends on the results of employees' perspective about good governance and its actual applications in Iraq, the level of employees' satisfaction about their entitlements and the effectiveness of governmental agencies in fighting corruption.

خلاصة البحث

ان للحكومة العامة الرشيدة والفساد في القطاع العام العراقي علاقة عكسية، والذي يعني ببساطة، من اجل تحقيق الحكومة العامة الرشيدة، يجب على اي دولة التعامل مع مشكلة الفساد والعكس بالعكس. في هذه الدراسة، الاسباب الحقيقية، الاثار والحلول للفساد الاداري الموجود لاكثر من عشر سنوات في العراق سيكون في موضع النظر. ان هذه الدراسة مكرسة لتبسيط كل شيء عن الجهود التي بذلتها الحكومة العراقية في وقف الفساد من خلال جهد مشترك مع العديد من عدة هيئات أخرى. وباختصار، تهدف هذه الدراسة تماما في الخوض بالدوافع والجذور الكامنة للفساد التي تحدد الاسباب المباشرة لتلك المشكلة. مع هذا، الخاتمة المقترحة لهذا الموضوع، هي، عندما يكون هناك انصاف في العمل بين كافة الموظفين في القطاع العام، وذلك أساسا من حيث حقوقهم ومسؤولياتهم، فان الفساد يمكن ان يكون في ادنى مستوياته تدريجياً، والعكس بالعكس. أيضا، اعتمد هذا البحث على وجهات نظر الموظفين حول التطبيق الفعلي للحكومة العامة الرشيدة في العراق، مستوى الرضا الوظيفي لمستحقائهم و مدى فعالية الاجهزة الحكومية بمحاربة الفساد.

APPROVAL PAGE

I certify that I have supervised and read this study and that in my opinion; it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Master of Comparative Law.

.....
Ibrahim Bin Ismail
Supervisor

I certify that I have read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Master of Comparative Law.

.....
Khairil Azmin Mokhtar
Examiner

.....
Shamrahayu Ab. Aziz
Examiner

This dissertation was submitted to the Department of Civil Law and is accepted as a fulfilment of the requirement for the degree of Master of Comparative Law.

.....
Nor Asiah Mohamad
Head, Department of Civil Law

This dissertation was submitted to the Ahmad Ibrahim Kulliyah of Laws and is accepted as a fulfilment of the requirement for the degree of Master of Comparative Law.

.....
Hunud Abia Kadouf
Dean, Ahmad Ibrahim Kulliyah
of Laws

DECLARATION

I hereby declare that this dissertation is the result of my own investigations, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

Rafid Ali Abbas

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**GOOD PUBLIC GOVERNANCE IN IRAQ: SPECIAL
REFERENCE TO THE ERADICATION OF CORRUPTION IN
THE PUBLIC SECTOR**

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All praise is due to Allah the Most High. May the peace and blessings of Allah be further bestowed upon the Holy Prophet Muhammad (peace and blessing upon him and his family). This dissertation is wholeheartedly and sincerely dedicated to my beloved father, mother, all innocent people who are going under the dust, gave themselves as sacrifice for Iraq as martyrs and all Muslims who still struggle to have the state of justice.

ACKNOWLEDGEMENTS

Glory be to Allah (SWT) and peace with blessing be to His Prophet Mohammad and his family.

My appreciation goes first to my supervisor, Assoc. Prof. Ibrahim Bin Ismail for his role in the form of advice, guidance, directives and encouragements from the beginning to the end of this work. May Allah in his mercy elevate his higher for the service of Islam and human community.

My sincere appreciation goes to the following lecturers for their contribution towards successful completion my coursework and other academic activities: Prof. Dr. Hunud Abia Kadouf, Prof. Dr. Mohammed Akram, Prof. Dr. Mushera Bibi Bt. Ambaraskhan, Assoc. Prof. Dr. Khairil Azmin, Asst. Prof. Dr. Umar Oseni, and Asst. Prof. Dr. Zaid Mohammed.

My greatest gratitude goes to my beloved mother Hajjah Karima and my father Haji Ali for their patience and sacrifice. I especially want to thank my brothers: Wisam, Mohammed, Sa'ad and with greatest thank to my beloved brother Haider for his efforts to help me to complete my dissertation.

My specific thanks go to my close friends in IIUM, especially my friend Ahmed Talib Alber for his supporting and his guidance. My thanks go to my friends in Iraq; Qasim, Salam and Rasul who stand with me throughout my journey and did not forget me in all their times.

May I conclude by once again thanking Allah (swt) for his countless blessing by adopting his words where he said in Surat al-ahqāf:

﴿ رَبِّ أَوْزِعْنِي أَنْ أَشْكُرَ نِعْمَتَكَ الَّتِي أَنْعَمْتَ عَلَيَّ وَعَلَىٰ وَالِدَيَّ وَأَنْ أَعْمَلَ صَالِحًا تَرْضَاهُ وَأَصْلِحْ لِي فِي دُرِّيَّتِي إِنَّي تُبْتُ إِلَيْكَ وَإِنِّي مِنَ الْمُسْلِمِينَ ﴾

TABLE OF CONTENTS

Abstract	ii
Abstract in Arabic	iii
Approval Page.....	iv
Declaration	v
Copyright Page.....	vi
Dedication	vii
Acknowledgements	viii
List of Tables	xiii
List of Figures	xiv
List of Cases.....	xv
List of Statutes	xvi
List of Abbreviations	xvii
CHAPTER ONE: INTRODUCTION	1
1.1 Background of the Study	1
1.2 Statement of the Problem.....	2
1.3 Hypothesis	3
1.4 Objectives of the Research	4
1.5 Scope and Limitations of the Study.....	5
1.6 Literature Review	6
1.6.1 Good Governance	6
1.6.2 Eradication of Corruption in the Public Sector.....	14
1.7 Research Methodology	17
CHAPTER TWO: OBSTACLES OF GOOD PUBLIC GOVERNANCE	20
2.1 Introduction.....	20
2.2 Good Public Governance and its Applications.....	21
2.2.1 Emergence of Good Public Governance	21
2.2.2 Good Public Governance in Islam and from Iraqi Perspective.....	24
2.2.3 Good Public Governance and Administrative Reform	26
2.3 Public Sector in Iraq	28
2.3.1 Brief History about Public Sector in Iraq.....	28
2.3.2 Current Structure of Iraqi Public Sector	30
2.4 Corruption as a Serious Issue in the Public Sector	31
2.4.1 Background of Corruption	31
2.4.2 The Relationship between Corruption and Public Career.....	33
2.4.3 Principles of Good Governance as an Effective Instrument to Eliminate Corruption	34
2.5 Corruption and its Psychological Origins.....	37
2.6 Corruption and its Natural Effects	43
2.6.1 Inspecting the relationship between corruption and development process.....	44
2.7 Conclusion	46

CHAPTER THREE: CORRUPTION IN IRAQI PUBLIC SECTOR: FACTORS, TYPES AND ANTI-CORRUPTION MECHANISMS	47
3.1 Introduction.....	47
3.2 Factors Aggravating Corruption in the Public Sector	48
3.2.1 Regulations and Authorizations	49
3.2.2 Desire to Gain Unfair Advantages over Peers	51
3.2.3 Lack of Respect for Checks and Balances within the System	53
3.2.4 Insufficient Transparency	54
3.2.5 Inadequate Incentives and Rewards Systems for Employees	55
3.2.6 Deficient Legislative and Judicial Systems due to Government's Instability.....	56
3.2.7 Political Instability.....	57
3.2.8 Poverty	57
3.2.8.1 Associating Corruption with Poverty	59
3.3 Nature of Corruption in Iraqi Ministries.....	60
3.4 Corrupt Administrative Practices and the Relevant Laws	62
3.4.1 Bribery	63
3.4.2 Favouritism or Nepotism	63
3.4.3 Embezzlement.....	64
3.4.4 The Employment of Fraudulent Schemes	65
3.4.5 Extortion.....	66
3.4.6 Abuse of Official Powers	66
3.4.7 Conflicts of Interests	67
3.4.8 Prohibited Donations.....	67
3.4.9 Money Laundering.....	67
3.4.10 Cases of Stolen Identities.....	68
3.4.11 Perpetration of White Collar Crimes	69
3.4.12 Intimidation.....	70
3.4.13 Harassment.....	70
3.4.14 Concealment and Hiding of Documents	71
3.4.15 Unlawful Obliteration of Official Records	71
3.4.16 Mishandling Governmental Power	72
3.4.17 Obstruction in the Implementation of Justice	72
3.4.18 Servitude	73
3.4.19 Discrimination.....	73
3.4.20 Other Related Offenses	74
3.5 Projects in Iraq after 2003 that are against Corruption.....	74
3.5.1 The Board of Supreme Audit (BSA).....	76
3.5.2 The Inspector General (IG).....	77
3.5.2.1 Risks Associated with IG Operations.....	78
3.5.3 The Investigative Judges (IJ)	79
3.5.4 The Commission on Public Integrity (CPI)	81
3.5.4.1 Concerns regarding the CPI.....	82
3.5.4.2 The Roles and Limitations of the CPI	82
3.5.4.3 The CPI order of investigation	83
3.6 Finding and Analysis	83
3.6.1 Method	84
3.6.2 Findings from the Survey.....	87
3.6.2.1 Good Public Governance in Iraq after 2003	87

3.6.2.2 Examining Job Satisfaction and Level of Consciousness of Public Servants	89
3.6.2.3 The Causes of Corruption in the Public Sector	91
3.6.2.4 Is there any sound environment in the public sector to achieve satisfaction?.....	92
3.7 Analysis	93
3.8 Conclusion	97
CHAPTER FOUR: SOLUTION FOR CORRUPTION: EMPOWERMENT OF PUBLIC SERVANTS	100
4.1 Introduction.....	100
4.2 The Career as a Public Servant in Iraq	101
4.2.1 The Laws and Regulations in Governing the Matters Related to Public Servants	102
4.2.2 Legal Rights of Public Employees in Iraq	103
4.2.3 Legal Duties of Public Employees in Iraq	104
4.3 Disciplinary System in the Public Sector.....	106
4.4 The Importance of Achieving Employees' Satisfaction in Eliminating Corruption and Building Good Government in Iraq	107
4.4.1 Occupational Equitableness	112
4.4.2 Problems Related to Low Salaries	112
4.5 Conclusion	113
CHAPTER FIVE: COMPARATIVE ANALYSIS BETWEEN ADVANCED COUNTRIES AND ISLAM ABOUT CORRUPTION.....	115
5.1 Introduction.....	115
5.2 Elimination of Corruption in Singapore after Independence.....	116
5.2.1 Lessons from Singapore Experiences	117
5.3 Level of Corruption in Malaysia	119
5.3.1 Strategies by the Malaysian Government in Eliminating Corruption.....	120
5.3.1.1 Malaysian Anti-Corruption Commission (MACC).....	120
5.3.1.2 Malaysian Institute of Integrity (IIM)	122
5.3.1.3 National Integrity Plan (NIP)	123
5.3.1.4 Corruption Monitoring and Coordination Division (NKRA).....	124
5.3.1.5 Curbing Corruption within Enforcement Agencies.....	125
5.3.1.6 Entering Better Deterrents	126
5.3.1.7 Treating Backlog of Corruption Legitimates.....	126
5.3.1.8 Good Governance in the Private Sector	127
5.4 The Principles of Islam in Curbing Corruption	128
5.5 Conclusion	136
CHAPTER SIX: CONCLUSION AND RECOMMENDATIONS	138
6.1 Conclusion	138
6.2 Recommendations for Good Public Governance and Eradication of Corruption in Iraq	140
BIBLIOGRAPHY	144

APPENDIX A: FORMS 1 AND 2.....	152
APPENDIX B: FORMS 3 AND 4.....	155

LIST OF TABLES

<u>Table No.</u>		<u>Page No.</u>
3.1	Perspectives of public servants in Iraq on level of efficiency within public bodies	89
3.2	Positions of public servants regarding to their financial and material status as a factors to commit corrupt practices	92
3.3	Satisfactions of public servants about good environment in the workplace provided by government in the public sector	93
3.4	Satisfactions of public servants about justice and non-discrimination in distributing the rewards and incentives	93

LIST OF FIGURES

<u>Figure No.</u>		<u>Page No.</u>
3.1	Years of services of public servants within public sector	86
3.2	Job titles of public servants who filled the questionnaire and left feedback	87
3.3	Position of public servants about good governance in Iraq after 2003	88
3.4	Consciousness of public servant on their legal rights and duties within public sector	90
3.5	Results of less consciousness and job dissatisfaction to commit corrupt practices	91
3.6	Category of legal experts who filled the questionnaire	91
4.1	Role of government to eradicate corruption	111

LIST OF CASES

Chief of Integrity Body v. The Cabinet [2006] 1 SC 2005.
Central Bank of Iraq v. M.Y.N [2014] CCCI 13B33.
Ministry of Health v. D.W.A [2006] COC 16.
Ministry of Municipalities and Public Works v. R.R.R [2006] COC 33.
Ministry of Finance v M.U.J [2006] COC 22C65.
Ministry of Finance v R.M.N [2004] 3 MLJ 137.
Ministry of Finance v W.R.M [2010] 3 COC 2222.
Ministry of Justice v Y.R.B [2013] 3 COC 557.
M.N.B v U.R.D [2013] CCCI 25C4.
Ministry of Interior v M.J.R [2013] COC 2124J.
Nor Ahmed v. Ministry of Justice [2007] 3 COC 127.

LIST OF STATUTES

Anti-Money Laundering Law 2004 (Act 93)
Board of Supreme Audit Law 2004 (Act 77)
Code of Ethics of Employees 2006 (Act 31)
Code of Hammurabi 1780 BCE
Health Deficit Act 1999 (Act 11)
Iraqi Constitution 2005
Iraqi Criminal Procedure Act 1972 (Act 23)
Iraqi Inspectors General Act 2004 (Act 57)
Iraqi Notary Law 1998 (Act 33)
Iraqi Penal Code 1969 (Act 111)
Law of Board and Audit 2011 (Act 31)
Law of Central Criminal Court of Iraq 2004 (Act 13)
Law of Civil Service 1969 (Act 24)
Law of Discipline of State Employee and Public Sector 1991 (Act 14)
Law of General Assembly of State Consultative Council 1979 (Act 65)
Law of Integrity Body 2011 (Act 30)
Law of Organizing Public Sector 1977(Act 337)
Malaysian Anti-Corruption Commission Act 2009 (Act 694)
Occupation's Manner of State Employees and Public Sector Acts 2005 and 2006 (Act 1 and 2)
Official Secret Act 1972 (Act 88)
Pension Act 2006 (Act 27)
Salary of State Employees and Public Sector 2008 (Act 22)

LIST OF ABBREVIATIONS

GDP	Gross Domestic Product
IMF	International Monetary Funds
PPP	Purchasing Power Parity
BSA	Board of Supreme Audit
CCCI	Central Criminal Court of Iraq
COC	Court of Cassation
CPA	Coalition Provisional Authority
CPI	Commission on Public Integrity
CPIB	Corrupt Practices Investigation Bureau
IACAC	Inter-American Convention against Corruption
IG	Inspector General
MII	Malaysian Institute of Integrity
IJ	Investigative Judges
IPC	Iraqi Penal Code
MACC	Malaysian Anti-Corruption Commission
n.p	no place: no publisher
NIP	National Integrity Plan
P. B. U. H	Peace Be Upon Him
PAP	People's Action Party
POCA	Prevention of Corruption Act
U.N.A.M.I	United Nations Assistance Mission in Iraq
US	United States
WB	World Bank

CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND OF THE STUDY

After 2003, most political leaders, constitution experts, legal scholars and even ordinary citizens in general were expected to constitute the real player for good governance in the new Iraq. This necessity was a subsequent of the long suffering of Iraqis under the former autocratic government. The principles of obtaining good governance were lost under the previous legal system and Iraq was primarily dominated by corruption. Although the new system was established with the promise of increased transparency, accountability, openness and decreased bureaucratic complexity and reckless spending, the public sector,¹ however, was still suffering from corruption, which in fact hindered the process of obtaining good governance.

Scholars have explored various options to combat corruption. However, understanding employees' rights with obligations and measuring their consciousness as a means to develop anti-corruption strategies have never been conducted. Essentially, public servants are the fundamental driving force in any public sector. It is the employees that give spirit to the organization. Conclusively, it has been argued that if employees are corrupt, it is more likely that the organization will suffer. Therefore, it is deemed essential to reform the public sector from the beginning. The process of systemizing the study of the rights and duties of employees is the first step towards clarifying the reasons for the deteriorating public sector in Iraq. For example, the public sector should have analysed employee behaviour and entitlements, and

¹ The term public sector covers all agencies which have link with government, whether they are styled as departments, ministries, authorities, bodies and all official infrastructures.

clarified the rules when the employees were first hired. It may have also been beneficial for the public sector to classify corruption cases in Iraq and analyse them from the viewpoint of Islam, as well as the practices of developed countries. Moreover, a comparative study of rewards and disciplinary theories between developed countries and Iraq is very relevant in this case. The above mechanisms could assist Iraqi policymakers, along with the public sector, to identify current problems and formulate future strategies.

1.2 STATEMENT OF THE PROBLEM

The process of good public governance in Iraq has encountered problems such as administrative corruption. Administrative corruption has taken many forms inside institutions in Iraq. For example, bribery, nepotism and clientelism that have seriously affected, and sometimes destroyed, administration systems. For instance, public servants have exploited public occupation through secret bargains to achieve personal benefit. Subsequently, these bargains have destroyed the collaborative work environment. Moreover, it has made public servants become increasingly motivated towards personal financial gain instead of working towards the true purpose of public service. Additionally, it has spread negligence within institutions as people have become dependent on specific public servants for clearance of various documents and other works. Corruption is further encouraged when public servants are recruited based on connections with influential political figures. Furthermore, the over-use of flattery and ingratiation in the workplace to get the desired promotions and postings not only put the wrong people in the right place, but also encourages corruption in the Iraqi public sector. All of the above problems have resulted from too many reasons. Political instability, poverty, inefficient legislative and judicial system due to

government instability, inadequate incentives and rewards systems for public servants, insufficient transparency and lack of respect for check and balance within the system have led Iraq to lose valuable public funds. This has bred ignorance and sullied the image of the country in front of the world. These problems confirm the fact that development indicators are still immature in Iraq. As a result, poverty is on the rise and the country's reputation is at stake.

1.3 HYPOTHESIS

Various methods to reform the public sector have been identified. The achievement of good public governance can be considered one of them. Various factors that contribute to corruption, which impedes good public governance in the Iraqi public sector, are noted. However, there is no exact or clear reason for corruption that on its basis can establish preventative measures to curb corruption. This paper attempts to establish potential solutions by:

- 1- Measuring the process of good public governance in Iraq after 2003. This includes providing a brief history of the public sector in Iraq and emergence of principles of good public governance.
- 2- Clarifying the rights and obligations of public servants to gauge their satisfaction or dissatisfaction regarding their entitlement.
- 3- Identifying the basic reasons, which have led public servants to commit serious crimes, such as corruption.
- 4- Comparing Islamic perspective on good governance and corruption by comparison with the legal systems of the developed countries and identifying their methods to mitigate these problems.
- 5- Data that provided statistics on are collected:

- a- The perspective of government employees on the procedures taken by the Iraqi government in achieving good public governance. Moreover, their consciousness in terms of their legal rights and duties under Iraqi law is further examined.
- b- Identification of the current legal measures against corruption. Feedbacks on the perspectives of employees regarding the effectiveness of current regulations in combating corruption are also collected.

The researcher attempts to identify the best possible methods to uproot the problems mentioned above and suggest effective ways to achieve good governance in Iraq.

1.4 OBJECTIVES OF THE RESEARCH

This study is dedicated to analysing the steps that would lead to achieving good governance in Iraq by eradication of corruption. Therefore, the research objectives are:

- To understand the process of good public governance and the structure of the public sector in Iraq.
- To discover the barriers to achieving good governance in Iraqi public sector.
- To discuss standard operating procedures of public servants in Iraq.
- To discuss good governance principles from the Islamic point of view.
- To examine the relationship between clarifying the rights and obligations of employees and corruption in Iraq.
- To review the reasons behind corruption in the Iraqi public sector.
- To learn how the Iraqi legal system is dealing with corruption issues.

- To compare corruption situations between Iraq and developed countries from the Islamic point of view.
- To provide good governance implementation strategies to eradicate corruption.

1.5 SCOPE AND LIMITATIONS OF THE STUDY

This study is area specific. The scope of this study is Baghdad only. Since Baghdad is the capital city of Iraq, all ministries and directorates of Iraq are situated in Baghdad. Therefore, focusing the study within Baghdad has allowed the researcher to collect sufficient information to fulfil the objectives of this study. Moreover, examination of the structure of the main public bodies in the capital city provides valuable insights to the researcher on finding strategies to achieve good governance and eradicate corruption in the Iraqi public sector. It is evident that if the heads of the public sector are honest, the subsidiary bodies would automatically be free of corruption. Furthermore, the researcher has worked as a government employee in Baghdad before, thus, he has first-hand experience in the management of the Iraqi public sector. Similarly, good public governance would play a role in the development and stabilization of the public sector.

The study covered ministries within the public sector. This paper considers historical data of the last ten years, starting from 2003 until 2014. The period after 2003 was chosen because Iraq had commenced rebuilding itself after the American occupation in 2003.

Corruption is a serious issue which takes various forms and images. However, this paper aims to examine administrative corruption by mentioning its current

condition, reasons for and effects. This study looks at the processes that are adopted by the Iraqi policy makers in achieving good governance in the public sector.

1.6 LITERATURE REVIEW

The issue of corruption is a widely researched topic, particularly for those who want to achieve or advocate stability in the public sector.

1.6.1 Good Governance

Ismail (2011) demonstrates the idea of good governance by clarifying its general principles in public administration as a judicial approach.² According to him, good public governance denotes the decisions elaborated by a government within the borders of its constitution and its legal framework. Public governance would be bad governance if a government abuses its authority by implementing decisions outside of its legal framework. This article thoughtfully describes the doctrine of separation of powers, transparency and responsibility of a government whereby, the government's power is observed by a judicial review. This study is in line with Islamic principles. It concludes by illustrating that all are accountable. This study has enriched and guided the researcher because it revolves around a principle idea that can help the Iraqi public sector to develop, achieve good governance and eradicate corruption.

The Independent Commission on Good Governance in Public Services (2004) has outlined six standard principles for achieving good governance.³ According to them, good governance is vested in the responsibility, transparency, participation,

² Ismail, I. b. The General Principles of Good Governance in Public Administration in Malaysia: A Judicial Approach. In Mokhtar. K. (ed.), *Constitutional Law and Human Rights in Malaysia: Selected Issues* (at 2 of chapter 11). Kuala Lumpur: IIUM Press, 2011 at 199-214.

³ Services, T. I. *The Good Governance Standard for Public Services*. London: OPM and CIPFA, 2004, at 22.

openness, political legitimacy, freedom of expression and, most importantly, the rule of law within a country.

This study also concentrates on the good governance practices of developed countries such as the UK or the USA. This provides helpful guidelines for the Iraqi reformation process.

Holi (2009) describes the public sector by clarifying its characteristics, importance and the obstacles that hamper its operations.⁴ Furthermore, he applied comparative study methods to discover how developed countries have achieved good governance. According to him:

Management means the process of planning, regulating, guiding and controlling the efforts of some individuals for the optimum utilization of available resources in order to achieve specific goals in the future (12).

According to the author, these are the areas that need to be monitored and developed in order to achieve good governance. He identifies that planning, centralization among public institutions and forecast of problems are the ways to achieve good governance. However, he explains the problem from his point of view. He argues that despite the orientation of the public or private sector, the success of good governance lies with the comparative approach. It should be noted that this is a theoretical study, and thus it might be insufficient to solve vast problems such as corruption. Moreover, this study does not contain solutions for the research problems that are addressed.

Christopher (2000) gives a comprehensive insight on the reformation of the public sector.⁵ Chapters 3, 4 and 8 focus on the methods utilised by other countries to reform public institutions. For example, he mentions the idea of identifying the

⁴ Holi Abu-Bakr *The Management: It's Nature, Importance and schools*, at 14. Jeddah: The Other Press, 2008, at 14.

⁵ Christopher. Greet, P. B. *Public management reform: Comparative analysis*. Oxford: the Neo-Weberan, 2000, at 22-23.