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## The Legal Regulation of Health Insurance Institute in Accordance with Iraqi Health Insurance Law No.22 in 2020 Analytical Study

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### Abstract

Iraq, like most of the world countries, suffers from various dilemmas that are characterized by continuity to some extent in addition to clear kind of shortage in processing at the level of achieving problems managed to improve and level up the Iraqi individual's life. In general, the health sector is one of the most important facilities of life, since it facilitates continuously improved health levels to society. And, it is considered among the factors in which the extent of submitting health services and medicine is realized for individuals and their families. As adopted in the international charters and constitutions, health is one of the essential human rights that have been admitted entirely. Hence, this matter requires legal and ethical responsibility to guarantee this right in such countries. In addition, plans of development and legal legislations have been set to solve such problems or at least to prevent its risk via different ways characterized by national health institutes. Vital solutions have been also figured out for supporting the improvement of these facilities by means of financial or human resources, regarding that the provided staffs, established institutes and accessible sums are indispensable. Because of the accumulative financial burdens, like general debts and financial instability, Iraqi authorities concerned submit legal provisions that need to be successfully realized;. They have established an institute to be responsible for running the Iraqi health insurance and providing additional channel to make health services available for limited class, i.e. the beneficiaries. This does not neglect the main role made by the (Iraqi) Ministry of Health which is responsible for conducting the various works of health duties in the country. This research focuses on the legal items related to this new institute and how the legal legislator sets them from the legislative construction perspective whether it is successfully organized or it has some defaults and weak points that can be uncovered with their relevant solutions and suggestions in order to improve the work of this institute in a better way.

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## التنظيم القانوني لهيئة الضمان الصحي وفق قانون

الضمان الصحي العراقي رقم ٢٢ لسنة ٢٠٢٠

-دراسة تحليلية-

قبي حسن عواد

محمد فؤاد طلب

كلية الحقوق / جامعة الموصل

كلية العلوم الإسلامية / جامعة الموصل

### المستخلص

تعاني اغلب الدول ومنها العراق من مشاكل عديدة ذات تأثير سلبي على آفاق التنمية البشرية المنشودة حيث تتميز تلك المشاكل بالديمومة وفي مقدمتها مشكلة توفير الخدمات الصحية والعلاجية والتي تستهدف الأفراد الذين يعانون من امراض طارئة او مزمنة ، ويعد الحق في الصحة من الحقوق للصيقة بالإنسان والتي يحتاجها الفرد دوماً وهي احدى المقومات الاساسية لحقوق الانسان وفقاً للعهد الدولي والاتفاقيات الدولية المبرمة بين الدول وفقاً للرؤيا الدولية فضلاً عن ما نصت عليه الدساتير الوطنية والتب عالجته هذه المشكلة قانونياً مما تتطلب من تلك الدول وضع خطط تنموية وتشريعات قانونية لحل تلك المشكلة او التخفيف من حدتها على اقل تقدير عن طريق قنوات عديدة تتمثل بالمؤسسات الصحية وصندوق الضمان الصحي وصولاً الى المنظمات الدولية المتخصصة في هذا المجال مثل منظمة الصحة العالمية.

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## **Introduction**

### **1. Importance of the Study**

Health insurance holds significant importance worldwide, as it aims to provide healthcare services to a diverse segment of the population. In some countries, it extends to cover all citizens under a unified system of health insurance. This research examines the extent to which the Health Insurance Law in Iraq can address and improve the current healthcare reality, comparing it to other countries that have established specialized health insurance authorities. The study also explores the role of the Health Insurance Fund in securing healthcare and treatment services for individuals, considering these services as fundamental requirements for a healthy life. This is particularly relevant in societies experiencing financial and economic instability, including Iraq.

### **2. Research Objectives**

The research focuses on analyzing the legal framework governing the Health Insurance Authority under Iraqi law to assess whether it effectively fulfills its intended objectives. It also aims to evaluate the legal structure of the Health Insurance Fund to enhance its efficiency and performance, as it serves as the primary channel through which the Authority provides services to beneficiaries. Additionally, the study proposes specific mechanisms and solutions to address challenges in Iraq's healthcare sector by highlighting the legal organization of this entity, which represents a qualitative addition to the country's public healthcare system.

### **3. Research Problem**

The core issue explored in this research is the impact of financial constraints on the implementation of laws requiring substantial budget allocations. Specifically, the enforcement of Health Insurance Law No. (22) of 2020 has faced

obstacles due to a lack of funding, as the Iraqi government did not approve the general state budget for 2022. Consequently, the financial resources necessary for executing the law were unavailable, leading to delays or failures in implementing the planned programs for both the Authority and the Health Insurance Fund.

#### **4. Research Hypothesis**

The Health Insurance Fund in Iraq plays a crucial role in providing healthcare and treatment services to individuals through straightforward and effective mechanisms across all regions of the country. The legal organization of the Fund is expected to contribute significantly to meeting the actual healthcare needs of the population. If properly implemented, this system could positively impact the state of healthcare services, particularly in light of the overall deterioration of the sector.

#### **5. Research Methodology**

This study adopts an analytical and inductive approach to examine the provisions of Iraqi law concerning the provision of healthcare and treatment services to communities.

#### **6. Research Structure**

To achieve the objectives of this study, the research explores Iraq's healthcare policies by analyzing the legal framework governing the Health Insurance Fund and identifying obstacles that hinder the Health Insurance Authority's operations, particularly its financial division. The study is divided into two main chapters:

- Chapter One: provides an overview of the Health Insurance Authority.
- Chapter Two: examines the sources of funding for the Health Insurance Authority and the role of governmental institutions in financing it.

## **Chapter One**

### **Definition of the Health Insurance Authority**

The Iraqi Health Insurance Law No. (22) of 2020 is designed to provide healthcare services to citizens by ensuring comprehensive coverage for insured individuals. It aims to achieve the principles of social justice and solidarity, reduce the financial burden on citizens, and contribute to poverty alleviation. To develop a clear understanding of this topic, the study examines two key aspects: the concept of health insurance, and the legal entities responsible for managing the Health Insurance Fund.

### **Section One**

#### **The Concept of Health Insurance**

Health insurance has become an essential societal necessity in the modern era for every country, regardless of its economic philosophy or capabilities. Without a comprehensive health insurance system, a state cannot effectively develop its human resources by enhancing their knowledge and health standards—both of which serve as fundamental pillars for progress and well-being. This recognition has led governments to focus on vital sectors that have the greatest impact on individuals' lives, such as healthcare and education, adopting an approach aimed at achieving social development and improving people's living conditions and quality of life.

To fully grasp this subject, it is essential to examine both its linguistic and terminological meanings.

## Subsection One

### Linguistic Meaning of Health Insurance

**The term "insurance" (Al-daman) is derived from the trilateral root (ḍ-m-n), with meanings that include:**

- "To guarantee" or "to be responsible for something."<sup>(1)</sup>
- "To ensure the validity of something."
- "To encompass or contain something."
- "To pledge or undertake an obligation on behalf of someone else."<sup>(2)</sup>

**(Al-maḍmūn) refers to the content or what is guaranteed.**

**The term (Sihi) is derived from the root (ṣ-ḥ-ḥ), meaning:**

- "To recover from illness" or "to be free from defects."
- "Clear weather after the dispersal of clouds."
- "Completion and validity of an action, such as in religious or legal contexts."
- "To take medication and be treated."<sup>(3)</sup>

Health insurance is a form of financial protection against health-related risks that individuals may encounter. It typically covers expenses related to medical examinations, diagnosis, treatment, and both physical and psychological support. Additionally, it may provide compensation for temporary work absence due to illness or permanent disability. Essentially, health insurance serves as a mechanism to ensure individuals receive necessary healthcare services.

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(1) Al-Mu'jam Al-Waseet, (4th edition, Dar Al-Shurooq International, Cairo| 2004), p. 442.

(2) Mohammed Bn Abi Bakr Al-Razi, Mukhtar Al-Sihah, (Dar Al-Kutub Al-Ilmiyah, Beirut| 1971), p. 161.

(3) Ahmed Mukhtar Omar, Arabic Language Cotemporary Dictionary, Vol.1, (Alam Al-Kutub, Year 8), p. 157.

## Subsection Two

### Terminological Definition of Health Insurance

In addition to its linguistic meaning, health insurance carries a distinct terminological definition. Islamic jurists have provided various definitions for the term "**ḍamān**" (**insurance or guarantee**), including:

- The obligation to provide compensation in kind or value, meaning that a replacement must be given if the insured item is replaceable, or its value must be paid if it is not.
- A commitment to compensate another party for any financial loss, damage to benefits, or partial or total harm to human life.
- The term "**ḍamān**" is also used to refer to the lawful or unlawful possession of property<sup>(1)</sup>.

The **World Health Organization (WHO)** defines health insurance as **a mechanism for covering some or all healthcare costs**, protecting insured individuals from direct out-of-pocket payments for medical expenses. The fundamental principle of health insurance is that the **insured person (beneficiary)** pays a regular premium to an administrative entity responsible for managing these payments within a structured system that ensures healthcare providers receive payment for services rendered<sup>(2)</sup>.

In summary, the state plays a pivotal role in ensuring social responsibility toward society as a whole, with particular emphasis on protecting vulnerable and low-income groups. Historically, as states assumed responsibility for advancing and modernizing societies, they initially bore the full financial burden of meeting citizens' needs, regardless of their governing philosophy. However, due to escalating financial strains and recurring economic crises,

(1) <http://www.wistdoctor.com>

(2) Ahmed Mustafa Khater, Social Service: A Historical Perspective (Modern University Office, Alexandria| 1988), p. 83.

governments shifted toward a shared responsibility model, where individuals contribute to the provision of essential services—foremost among them being healthcare.

To achieve this, many states have implemented comprehensive service policies that guarantee fundamental human needs without discrimination. This shift has been reinforced through legislative measures in the health sector and beyond, ensuring the availability and enhancement of essential services for all citizens<sup>(1)</sup>.

## **Section Two**

### **The Legal Entities Responsible For Managing The Health Insurance Fund**

Although our study focuses on the Health Insurance Fund, the novelty of the law and the interrelation between the Authority's work and the Fund's activities necessitate an examination of the administrative organization of health insurance in Iraq under Law No. (22) of 2020.

A body called the **Health Insurance Authority** was established, linked to the Ministry of Health, with the Minister of Health serving as its head and one of his deputies as vice president. This authority oversees a fund that will have its own financial resources and will receive a share of the federal budget through the Ministry of Health. The authority comprises several entities, summarized as follows:

- 1. The Head of the Authority**, who is the Minister of Health.
- 2. The Board of Directors of the Authority**, which has broad powers in managing the affairs of the Health Insurance Authority as stipulated in Article 9/First of the law, including:

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(1)Ahmed Abdel Fattah Naji, Social Welfare Policy (Cairo, Dar Al-Sahab| 2008), p. 42.



- 1- Approving the draft annual budget and submitting it to the Ministry of Finance, which is an estimation process for ministries' revenues and expenditures for the upcoming fiscal year.
- 2- Approving the Authority's final accounts and submitting them to the Ministry of Finance, representing the total revenues and expenditures for the previous fiscal year, which should ideally be balanced.
- 3- Determining or adjusting the subscription fees and annual or monthly premiums for state employees and retirees, as well as setting rules and conditions for covering family members who are not automatically included under this law.
- 4- Establishing a salary scale for private sector subscribers and self-employed professionals equal to that of government employees, in addition to determining the required subscription and premium amounts. However, the law does not specify the legal criteria for setting this scale or the procedures to be followed.
- 5- Determining the mechanism for employees covered by the law to pay for health services.
- 6- Establishing a list of health insurance-covered medications in collaboration with the Ministry of Health and the Pharmacists Syndicate, with regular reviews.
- 7- Acting as the body responsible for accepting donations and grants in accordance with the law.
- 8- Defining the roles of healthcare services, which are divided into preventive and curative services. The council has the authority to determine whether a healthcare institution provides preventive or curative services in cooperation with the Ministry of Health, the Medical Syndicate, private institutions, charities, and relevant unions. In our view, the legislator aimed to regulate pricing in public and private institutions to curb

the exploitation of some private healthcare providers and promote social justice.

- 9- Entering into domestic and foreign loan contracts, provided they comply with the law. This means the council can borrow internally and externally through legal mechanisms permitted under the Federal Financial Management Law and annual budget laws, which outline borrowing procedures. However, this contradicts the Federal Financial Management Law No. (6) of 2019, which states that borrowing requires the approval of the Iraqi Minister of Finance. The legal text above, however, grants the council the authority to enter into loan agreements independently.
- 10- Determining how the Authority's funds should be invested and approving such investments in line with the law<sup>(1)</sup>. This implies that the council has an advisory role that influences the investment of the Authority's funds before their final approval under applicable law.

The law governing the establishment of health insurance funds designates specific entities responsible for managing these funds based on their legal description and granted powers. These entities may vary across different countries, including Iraq and comparative jurisdictions.

Referring to Egypt's **Comprehensive Health Insurance System Law No. (2) of 2018**, we find that it established an insurance system composed of three bodies:

1. **The Comprehensive Health Insurance Authority**, an economic entity that funds, manages, and invests the system's resources.
2. **The Healthcare Authority**, a service body that monopolizes government healthcare services and converts them into paid services.

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(1) See Article 9 / First of Iraqi Health Insurance Law.

### 3. The Accreditation and Oversight Authority, responsible for granting necessary accreditations for operations under the system and regulating the medical sector, including inspecting medical establishments and hospitals.

The entity responsible for managing the fund, as indicated in the law, is the **General Health Insurance Authority**, which has a board of directors chaired by the Minister of Health or a representative. However, the law does not specify who can act on behalf of the Minister of Health as the chairman of the board, nor the circumstances under which a representative can assume leadership of the Authority.

The board includes members such as the **General Director of the Fund**, along with directors of legal, administrative, financial, and technical departments—given their relevance to the council's work. Additionally, an **Audit and Oversight Director** ensures financial integrity and prevents corruption, a major issue in Iraq<sup>(1)</sup>.

Representatives from other ministries related to health insurance, holding at least the rank of **Director General**, also serve on the council. These include representatives from the **Ministries of Health, Finance, Labor and Social Affairs, and Planning**. The law also appoints **representatives from professional unions**, such as the **Doctors, Dentists, and Pharmacists Syndicates**, limiting their representation to their respective presidents. This composition highlights a deliberate selection of executive decision-makers in the healthcare sector, represented by the Ministry of Health and relevant ministries, alongside union representation.

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(1) See Article 7 / First of Iraqi Health Insurance Law No. 22 of 2020.

Additionally, the law includes representatives from the **Nursing Syndicate and the Allied Health Professions Syndicate** on the board, as well as representatives from the **General Federation of Labor Unions and business owners**, nominated by the **Chambers of Commerce and Industry**. However, the law does not specify the qualifications and expertise required for these nominees.

These omissions represent **legal loopholes** that may affect the law's implementation. Therefore, careful precision is required when drafting laws to avoid future complications in their execution. Finally, the law mandates the appointment of **two experts in the medical and nursing professions** as board members, chosen by the Minister of Health. These experts must hold at least a **university degree or its equivalent** and have a minimum of **15 years of specialized experience**.

Another board member is the **Secretary of the Authority**, holding the rank of **Director** and appointed by the **Chairman of the Authority**, provided they meet certain criteria, including a **bachelor's degree in law or administrative sciences** and at least **10 years of experience in their field**. This requirement demonstrates the legislator's intent to prioritize expertise and accumulated experience to enhance the Fund's management.

The council must convene **at least once a month**, with additional meetings as necessary. Meetings are called by the **Chairman or their deputy**, or upon the request of **one-third of the board members**. A quorum is established when a majority of members are present, and decisions are made by a **majority vote**. In case of a tie, the **Chairman's vote prevails**<sup>(1)</sup>.

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(1) Article 8 / First / Second / Third of Iraqi Health Insurance Law.

The council's competencies, as defined by **Article (9)/First of the law**, vary in nature and include financial and managerial responsibilities, such as<sup>(1)</sup>:

1. Approving the annual budget and submitting it to the Ministry of Finance.
2. Approving the final accounts of the Authority and sending them to the Ministry of Finance.
3. Setting or adjusting subscription fees and premiums for state employees and retirees, as well as determining the conditions for including family members.
4. Establishing a salary scale for private-sector subscribers and self-employed individuals, ensuring it is equal to public-sector wages, though the law does not specify the legal criteria for this scale.
5. Determining the mechanism for employees to pay for health services.
6. Establishing and periodically reviewing a list of health insurance-covered medications in coordination with the Ministry of Health and the Pharmacists Syndicate.
7. Managing the acceptance of donations and grants in accordance with the law.
8. Defining the roles of healthcare services (preventive vs. curative) in collaboration with relevant institutions.
9. Entering into loan agreements domestically and internationally, despite legal contradictions with existing financial laws.
10. Overseeing the investment of Authority funds and ensuring compliance with applicable laws<sup>(2)</sup>.

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(1) Article 7 / First of Iraqi Health Insurance Law.

(2) See Article 9 / First of Iraqi Health Insurance Law.

The law has defined the exclusive powers of the Council Chairman as follows<sup>(1)</sup>:

- 1- Presiding over and managing the Council when convened.
- 2- Approving the budget proposal submitted by the Fund and referring it to the Council, in addition to endorsing the final accounts.
- 3- Exercising a supervisory role through the formation of the necessary committees for the Authority's operations, ensuring alignment with the objectives and purposes of the law

Finally, the law outlines the duties of the **Director General of the Fund**, who oversees the fund's **executive management**, including<sup>(2)</sup>:

1. Collecting **subscriptions, premiums, penalties for late payments, and financial dues**.
2. Managing the **budgeting process** and preparing **final accounts** for approval.
3. Acting as the **official representative** of the Authority when necessary.

### **Section Three**

#### **Objectives and Jurisdiction of the Iraqi Health Insurance Authority**

To understand the nature and scope of the Fund's operations, it is essential to examine the objectives it aims to achieve and the jurisdiction granted to it by law to fulfill these objectives. This section provides a detailed discussion of these aspects, divided into two parts: the first outlines the Fund's objectives, representing the substantive scope, while the second defines its jurisdiction, as follows:

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(1) Article 9 / Second of Iraqi Health Insurance Law.

(2) Article 13 / Second of Iraqi Health Insurance Law.

## Subsection One

### Objectives of the Iraqi Health Insurance Fund as a Formation of the Authority

The Iraqi Health Insurance Fund pursues specific goals and objectives that it aims to achieve through the implementation of the law. These objectives are clearly outlined in the legal provisions governing the Fund, in addition to the legal powers granted to the entities responsible for its management, enabling them to perform these functions effectively.

The law aims to provide comprehensive health coverage for the insured individual, meaning that they receive the healthcare services they need in an easy and simple manner, in accordance with their limited financial capabilities. This is achieved through the principles of social justice, where the wealthy help the poor via social solidarity. However, the question arises: Is social solidarity a legal duty that individuals owe one another, or is it solely the state's duty toward the individual, according to the constitutions and the prevailing laws?

Additionally, the law aims to reduce the financial burden on citizens and alleviate poverty. In our opinion, the issues of social solidarity and poverty reduction should not have been included in the Health Insurance Law because they contradict the rights guaranteed by the Constitution, particularly through Articles 30 (First and Second), which guarantee health and social security to the individual as the state's responsibility<sup>(1)</sup>.

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(1) Article 30 of Iraqi Constitution of 2005.

## Subsection Two

### The Powers of the Iraqi Health Insurance Authority

The law granted the Health Insurance Authority specific powers to carry out its objectives, as previously explained. These powers are as follows:

- 1- Legal Acts:** The law grants the Health Insurance Authority the right to perform all legal acts that align with its activities. It is noticeable that the law has given the authority broad discretion in this area, which ideally should have been defined in a more restrictive manner. However, Article (3) stipulates that the legal acts should be in line with the authority's activities, leaving room for interpretation of these powers within the scope of the authority's functions.
- 2- Employee Selection:** The law grants the authority the power to select the employees who will work within it, specifying the legal methods for doing so, whether through contracts or by seconding employees from their original departments to the authority based on the need for expertise and specialization. However, the law does not specify the required experience or specialization. It only provides a general guideline. Leadership positions, on the other hand, are exempt from this provision, and it is presumed that this refers to positions at the level of Director General and above<sup>(1)</sup>.

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(1) Article 4 of Iraqi Health Insurance Law.



## **Chapter Two**

### **The Sources of Funding for the Health Insurance Authority and the Role of Governmental Institutions in Financing it**

The sources of funding for healthcare services vary from one healthcare system to another. In some systems, multiple funding sources exist, while in others, a single source is relied upon. The process of financing healthcare services is closely linked to the health policies and healthcare systems adopted in each country, in addition to the strength of the economy and the financial position of the state. These factors determine the methods of collecting financial resources, their utilization, and the rules governing their distribution, a process commonly referred to as reallocation.

#### **Section One**

##### **Sources of Funding for the Authority**

The funding of health insurance funds directly impacts the level of healthcare financing per individual and, consequently, the entire family. This percentage varies from one country to another, depending on the state's approach to shaping health policy in alignment with its economic capacity. Health financing methods refer to the process of securing the necessary financial resources to establish healthcare institutions and achieve their objectives.

#### **Subsection One**

##### **Funding Methods**

Funding methods are classified into two types, as follows<sup>(1)</sup>:

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(1) Sabah Sahib Al-Mistwaffi, [”Financing Public Health Services in Iraq, -An analytical Study- of the years 2022-2014”], No. 62, [Al-Mustansiryah Journal of Arabic and International Studies], p. 168.

## First: Centralized Funding (General Budget)

The general budget includes the financial allocations for the government sector, which is centrally funded through the collection of all expected revenues from various sources. The responsibility for collecting these revenues falls on ministries, affiliated departments, and independent governmental entities. It also includes the approved allocations for expenditures during the fiscal year.

According to the theory of allocated funds, the financial capacity of an accounting unit is determined in terms of quantity and type, based on the resources made available to it for a specified period. The relationship between the governmental accounting system and the theory of allocated funds has been defined under the basic rules of the unified governmental accounting system for Arab states as follows:

- A- The principle of approved allocations is based on the accounting unit, which derives its financial authority from the designated allocations made available to it in specific amounts and for a limited duration to provide public services.
- B- The budget is the sole instrument for executing the approved allocations.

All financial revenues are placed in a single fund under the control of the Ministry of Health to purchase healthcare services from the public or private sector and distribute medical treatment to all patients. This approach ensures **equity** in the healthcare system and provides **financial risk protection**, preventing poor patients from being deprived of essential medical treatment due to an inability to afford healthcare costs while also reducing the financial burden on other patients.

The first step in preparing for the practical implementation of the budget, particularly concerning healthcare funding, is establishing a **national fund**. This

fund would require all governmental entities to deposit the revenues they collect into a central account. This measure serves as an effective mechanism for financing healthcare services while ensuring that the fund covers the expenditures of various governmental agencies according to the budget's approved allocations.

### **Second: Fees Paid by Beneficiaries**

This method is among the most common, particularly in economically advanced countries. Under this system, patients make direct payments for healthcare services received. Fees may be imposed on various aspects of healthcare, such as initial doctor visits, medications, and hospital stays.

Charging fees for healthcare services can help **reduce misuse** and prevent excessive use of medical services by patients, limiting them to actual needs based on their ability to pay. Additionally, it provides **incentives for healthcare providers** to improve the quality of care, assuming that the collected fees remain under their control.

However, this system may **lack fairness and equality**, potentially preventing low-income patients and those with chronic illnesses from accessing proper care if they cannot afford the costs. If fees are set at a level high enough to generate significant revenue, they may exceed what economically disadvantaged individuals can afford.

To address this issue, a **policy could be developed** to exempt low-income patients from paying fees. This could involve refining the fee collection system to ensure **equity** in healthcare by charging only those who can afford to cover the costs while providing financial aid or subsidies for those who cannot. Another approach could be to introduce **exemptions** for financially disadvantaged patients, allowing them to benefit from healthcare services without financial barriers.

Below is a detailed breakdown of the **funding sources for health insurance funds under Iraqi law:**

## **Subsection Two**

### **Funding Sources of the Iraqi Health Insurance Authority**

**Article (12)** of the Iraqi Health Insurance Law outlines the sources of funding for the Health Insurance Fund as follows<sup>(1)</sup>:

#### **1. Funding from the Ministry of Health via the State General Budget**

Since the **Ministry of Health** is responsible for healthcare activities in Iraq, the law designates the general state budget as a key funding source. However, in our view, Iraq's reliance on budget allocations to finance strategic projects aimed at public welfare has often **proven ineffective**. The country's frequent **political and economic instability** disrupts budget approvals, delaying project implementation. Under normal circumstances, the approval of loans serves as a **green light** for launching the budget after presidential ratification, similar to other legislative procedures. However, reliance on the state budget negatively impacts the execution of laws that depend on it, including **Law No. (22) of 2020**, which established the Iraqi Health Insurance system.

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(1) See Article (12) of Iraqi Health Insurance Law.

## 2. Contributions from Individuals Covered Under the Health Insurance Law

The fund also collects **subscription fees** from individuals enrolled in the health insurance program. Additionally, it receives **35% of** tax revenues and fines imposed on products harmful to public health, such as cigarettes, alcoholic beverages, and other substances that negatively impact human health. The rationale behind this measure is to reduce consumption of such products, as they contribute to diseases that increase healthcare costs.

Since this fund operates under the direct supervision of the Council of Ministers, the government is responsible for ensuring financial stability and covering any deficits to maintain the continuous provision of healthcare services<sup>(1)</sup>.

### Section Two

#### The Role of Government Institutions in Financing Healthcare Projects and Supporting the Fund

Financial resources are the **lifeblood** of any healthcare system, and ensuring their availability remains one of the most significant challenges facing government health systems—especially in countries striving to provide **accessible and free** healthcare services to their citizens.

One of the key government institutions contributing to the funding of the Iraqi Health Insurance Fund is the Central Bank of Iraq<sup>(2)</sup>. However, due to delays in implementing the Health Insurance Law, the Iraqi Ministry of Health announced the postponement of its enforcement, citing insufficient financial allocations. The law was initially set to take effect in August 2022, with a three-phase rollout across three provinces:

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(1) See Article (15) / Second of Iraqi Health Insurance Law.

(2) <http://ar.wikipedia.org>.

1. **Mandatory registration** of government employees for health insurance coverage.
2. **Voluntary registration** for all citizens.
3. After several months, **universal registration** of all individuals under the health insurance system. This law is intended to **enhance healthcare services** and ensure **high-quality medical care** for all citizens.

The **Central Bank of Iraq** played a crucial role in **combating the COVID-19 pandemic**, which impacted nearly every country worldwide. The bank allocated **44 billion Iraqi dinars** primarily to address shortages in ventilators, which were a key factor in rising mortality rates, and cover expenses related to containing the spread of the virus.

### **Section Three**

#### **The Legal Nature of Payments for Accessing the Fund's Services in Iraqi Law**

Upon reviewing the provisions of the law establishing the Iraqi Health Insurance Fund, it becomes evident that the Iraqi legislation emphasizes two key financial obligations: **Subscription Fee and Insurance Premium**. This distinction implies that subscribers are required to make two types of payments in exchange for the healthcare services provided by the fund<sup>(1)</sup>.

#### **Subsection One**

##### **Payment for Accessing Healthcare Services**

##### **First: Subscription Fee**

This refers to a monetary payment stipulated by law, which every subscriber must pay to ensure health coverage. The subscription fee serves as both a charge and a price for healthcare services, which are productive services rather

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(1) See Article (1) items (7 and 8) of Iraqi Health Insurance Law.

than merely administrative ones. These services include medical examinations, treatment, and even surgical interventions. Since these healthcare services involve tangible goods, tools, and professional medical efforts, they inherently require a price to compensate for their provision under the Health Insurance Law. However, if healthcare services were classified as administrative services with technical and material aspects, then the payment would be considered a fee, subject to legal regulations. In such a case, it would be uniformly determined by law for all obligated individuals, varying based on the type of service covered by the subscription.

### **Second: Insurance Premium**

The insurance premium is a mandatory amount that subscribers must pay annually or monthly to maintain their health coverage. This creates a triangular relationship involving:

1. The Fund and its Administration
2. The Subscriber (Beneficiary)
3. An Insurance Company (licensed by the state)

The law allows for variety in insurance providers, permitting any licensed Iraqi insurance company or authorized entity to offer coverage. However, while Iraqis are given the option to contract with private insurance companies for supplementary health services, non-Iraqis (residents and foreign visitors) are obligated to secure insurance coverage when using the fund's services. This distinction raises a legal question: **What is the difference between a resident and a foreign visitor?** The key factor is the length of stay, which could range from a few hours to several months. However, both categories involve a physical

presence, prompting the question of why they should be treated differently under the law <sup>(1)</sup>.

## **Section Four**

### **Challenges Facing the Iraqi Health Insurance Fund**

The fund faces obstacles and constraints that impact its continuity, varying depending on the perspective from which they are viewed. These may include social challenges related to the nature and issues of society, as well as financial challenges, which serve as the main source of funding for the fund and directly affect its operation.

#### **Subsection One**

##### **Social Constraints<sup>(2)</sup>**

Due to the population explosion and the rapid increase in the global population, including Iraq, where birth rates may double the current figures, governments are required to intensify their efforts in providing essential services to society, foremost among them being healthcare services in all their forms.

Moreover, the financial and economic crises that have shaken the world have inevitably led to rising levels of illiteracy and poverty, affecting between a quarter to a third of the population. This, in turn, has resulted in a lack of awareness regarding proper health and nutritional practices, limited access to high-quality medical services, and the spread of epidemics and deadly diseases, most notably the COVID-19 pandemic.

Additionally, the increasing prevalence and complexity of non-communicable diseases, such as heart disease and hypertension—responsible for more than 5% of total deaths in Iraq—has significantly heightened the demand for

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(1) See Article (1) item (13) of Iraqi Health Insurance Law.

(2) <http://phrase.org>.



medical services. Meeting these demands requires additional funding to support healthcare institutions.

However, due to the aforementioned crises, there has been a decline in the quality of nursing and preventive services, weakened training and development programs, and insufficient medical rehabilitation efforts. Consequently, these factors have become significant obstacles to the success of the Iraqi Health Insurance Fund, preventing it from being an effective system capable of delivering the intended benefits originally envisioned in its legislation.

## **Subsection Two**

### **Financial and Administrative Constraints**

The **Iraqi Health Insurance Fund** faces several financial and administrative challenges that affect its efficiency and productivity, including:

#### **1. Excessive Centralization in Healthcare Management:**

The **general health directorates** have **limited authority** and are geographically distant from the **decision-making center**, making it difficult to issue appropriate decisions at the right time. Additionally, the **lack of an integrated and interconnected health information system** has further complicated the process of making sound administrative decisions.

#### **2. Weak Oversight Role:** The **Ministry of Health** and general directorates suffer from **ineffective supervisory mechanisms** due to the **insufficient administrative training** of specialized personnel.

#### **3. Failure to Implement the Health Insurance Law:** The **Iraqi Ministry of Health** announced the **postponement** of the implementation of the **Health Insurance Law** due to the lack of financial allocations. The law was originally scheduled to be implemented in **three provinces in August 2022**; however, due to the **failure**

**to approve the 2022 state budget**, the enforcement of **Health Insurance Law No. 22 of 2020** was hindered.

Although **budget approval** is a **legislative and legal process** under the responsibility of the **Iraqi Parliament**, the **political and economic circumstances** Iraq faced prevented the enactment of the **state budget**, which included funding for the **Health Insurance Fund**. Consequently, the law was not implemented due to **insufficient financial allocations** within the **Ministry of Health**, along with the **political instability** that further complicated its execution.

### **Conclusion**

The **Iraqi Health Insurance Law No. (22) of 2020** represents a **human effort** that is not without **legal gaps**. The key findings of this research can be summarized as follows:

1. The Health Insurance Authority, as per the Iraqi Health Insurance Law, is an entity affiliated with the Ministry of Health. It does not share the same legal classification as other independent commissions established in Iraq, such as the Integrity Commission and the Communications and Media Commission.
2. The Iraqi Health Insurance Law marks a significant shift in financial legislative policy, introducing citizen participation in bearing the costs of essential services, including healthcare, to ensure service quality. The decline in healthcare services in Iraq, particularly due to security and economic challenges post-2003, underscores the need for such a policy. The law includes several principles that can serve as a foundation for further improvements, particularly its goal of achieving social solidarity among community members.
3. Recognizing the importance of the Health Insurance Authority, the law stipulates that the Federal Council of Ministers is responsible for covering any financial deficit

- in the Health Insurance Fund, a provision aimed at ensuring financial sustainability.
4. The implementation framework of the Health Insurance Authority's activities relies on contracts between the Health Insurance Fund, the Authority, and both public and private healthcare institutions. Through these contracts, healthcare services can be provided to all Iraqis.
  5. The Health Insurance Authority operates a dedicated fund that will be financed through multiple sources, including a share from the federal budget, allocated via the Ministry of Health. Additional funding comes from subscription fees, membership dues, and insurance premiums, with some contributions deducted directly from insured individuals.
  6. The law could not take effect due to the non-approval of the 2022 federal budget, which was supposed to enable its enforcement. This delay has negatively impacted Iraq's healthcare sector, which already suffers from deteriorating hospitals and inadequate medical services that do not meet the actual demand for healthcare.
  7. The funding of the Health Insurance Fund depends on several factors, primarily the country's economic capacity, the level of financial and administrative corruption, and, ultimately, the willingness of decision-makers to provide the necessary financial resources.
  8. The funding sources for the Health Insurance Fund are limited to the federal budget, placing a significant financial burden on the government. This contrasts with health insurance systems in other countries, which benefit from diverse funding sources, reducing dependency on state budgets.
  9. Government institutions supporting the law have played little to no role in ensuring its implementation, as its

execution was contingent on the approval of the federal budget. The Central Bank of Iraq's financial support was restricted to the COVID-19 response and did not extend to backing health insurance funds, unlike similar health insurance models in Egypt and Saudi Arabia.

10. The Health Insurance Fund has a defined structure, outlining the responsible administrative bodies, their roles, and the fund's objectives and jurisdiction as stipulated in the law.
11. The Health Insurance Fund operates under a specific internal system, detailing its operational framework. This model aims to share the burden of providing healthcare services among the state, insured individuals, and other stakeholders, ensuring sustainable healthcare financing for the Iraqi population.

### **Recommendations**

1. Establish clear criteria to differentiate between wealthy and poor individuals to accurately define the target group eligible for health insurance benefits.
2. Amend certain provisions of the law to make state employee participation optional, rather than mandatory.
3. Expand the scope of healthcare services covered by the law, ensuring a balance between preventive and curative treatments, including chronic and communicable diseases and accidental injuries.
4. Utilize revenues from the health insurance system to develop Iraq's healthcare sector and encourage investment in medical services.
5. Ensure diversified funding sources for developmental projects, particularly in the health sector, instead of relying solely on the state budget, which is heavily dependent on oil revenues. Given the fluctuating global oil prices and Iraq's political instability, which delays

budget approvals, healthcare policies, including Health Insurance Law No. (22) of 2020, suffer from implementation challenges.

6. Ensure that the fees paid by healthcare recipients are proportionate to the quality of services provided, maintaining a fair balance between cost and service quality.

**The Authors declare That there is no conflict of interest**  
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**Adopted Laws of the Study:**

1. Health Insurance law of Iraq no. 22 in 2020.
2. Egyptian Law of the Whole Health Insurance System, n. 2 in 2018.
- 1 - <https://ar.m.wikipedia.org>
- 2 - <https://phrase.org>
- 3 - <https://wisst doctor.com>