

Legal Protections for International Investors in Iraq and Jordan: A Comparison

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ABSTRACT

A stimulating legal environment that ensures the preservation of investor rights and increases their appeal is necessary given the growing flow of foreign investment in the global economy. By contrasting the legislative systems in place in the two nations and drawing on pertinent legal concepts, international treaties, and legal documents, this study seeks to evaluate the efficacy of these legal assurances while offering thorough theoretical understanding and analysis. In order to determine the degree of convergence and divergence between the laws, legislation, international agreements, and national legislation of the two countries and to show the degree of protection afforded to foreign investors, the study employed a theoretical methodology. In addition to the existence of loopholes that can affect the investment climate, the results showed glaring differences in the degree of legal assurances between Jordan and Iraq. In order to improve investor protection and more successfully draw in foreign investment, the study also showed that Jordan's investment laws are more stable and transparent than those in Iraq, even though some legal texts need to be reviewed and updated to reflect regional and global developments. The study concludes by highlighting the significance of creating legal frameworks and improving their assurances for international investors in order to ensure a more alluring and transparent investment climate and promote sustainable economic growth. The work can be used as a theoretical guide to help update regulations and pave the path for more applied research that could improve the efficacy of existing legislation.

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1. Introduction

Foreign direct investment (FDI) is now a major driver of economic development and prosperity in nations due to global trends toward market liberalization and bettering the business climate [1]. The availability of legal protections that ensure the rights and protection of foreign investors is essential to the efficacy and appeal of the investment environment, particularly in view of the continuous legislative and regulatory changes impacting investment systems across different nations [2].

Strong legal frameworks are becoming more and more necessary for developing nations like Jordan and Iraq to draw in foreign capital and offer a secure and welcoming environment for investors [3]. Achieving economic development and raising growth rates need foreign investment. However, investors frequently encounter difficulties because of ambiguous or inadequate legal protections, which jeopardize the validity and security of their assets and have a detrimental effect on investment choices [4].

Given this, it is crucial to examine the legal systems of both nations since they may have flaws that could make it more difficult to draw in foreign capital or compromise the protection of investor rights. A comprehensive grasp of local and regional laws, as well as their conformity to international norms, helps to paint a clear picture of how effective the legal protections offered are and enables recommendations for how to enhance and expand them [5].

Comparative studies that contextualize the investor protection systems in Jordan and Iraq, evaluate their conformity with international standards, and draw attention to their similarities and differences are scarce, despite the fact that prior research has examined foreign investment from a variety of angles. There are also few in-depth studies that concentrate on examining legal texts and understanding the fundamental ideas that safeguard investor rights, especially when contrasting two legal systems in comparable geographic contexts but with different political and economic circumstances [6].

Through a comparative analysis of legislative texts, international treaties, and pertinent legal concepts, the main goals of this research are to assess and analyze the legal frameworks that offer legal guarantees to foreign investors in Jordan and Iraq. In order to improve the investment climate and both nations' appeal to international investors, the research aims to find any holes or flaws in the current legal framework and offer helpful suggestions for creating and enhancing legal assurances.

2. Literature review

In order to give an unbiased evaluation of the sufficiency and efficacy of the investor protection system, this study uses a descriptive and analytical theoretical approach, looking at law texts, legal principles, and pertinent international treaties. This study is significant for two reasons: it adds to the body of knowledge in the legal and economic literature on foreign investment, and it gives legislative and administrative policymakers useful information to help them enhance current legal frameworks and make their nations more appealing to foreign investors.

2.1. The Foreign Investor's Characteristics and Concept

Only people, businesses, or other entities with overseas investment operations that launch commercial, industrial, or service projects in a nation other than their home country qualify as foreign investors. One of the ways a foreign investor is different from a local investor is that their capital and funds come from outside their country, giving their investments a unique geographical and legal dimension. When it comes to their traits, foreign investors usually have a lot of money, a drive to make money and grow their business, and a wish to take advantage of the right legal and regulatory frameworks to secure their interests. In order to reduce the risks associated with legislative instability or political or economic swings, foreign investors need a clear legal framework that protects their rights. They are also frequently able to adjust to diverse legal settings [7].

Legal ambiguity, the potential for legislative changes, and the lack or fragility of legal guarantees are obstacles this investor must contend with. This emphasizes how crucial it is to have an open and transparent legal system that gives them the legal stability they need to make long-term investment choices. It is important to remember that the traits of foreign investors differ depending on the type of economic sector they participate in. They frequently have goals pertaining to worldwide rivalry, regional growth, and profit, all of which call for strong legal protection in order to maintain their rights in spite of the foreign legal system [8].

2.2. The Idea of Investor Legal Guarantees

A set of regulations and practices that guarantee the defense of foreign investors' rights and improve the security of their investments against legal and procedural risks, such as property rights, assets, contracts, administrative processes, and legal disputes, is known as a legal guarantee for investors. These rights encompass a number of components, including the right to contract, the right to property, the right to international arbitration, the right to non-infringement of rights, and the right to be shielded from capricious rulings or violations by the government or any other party.

Legal assurances have purposes beyond just safeguarding investors. They are essential in raising confidence, lowering investment risks, boosting the nation's business environment, and attracting international investment. Part of the state's duty is to provide legal guarantees, which include creating and enforcing laws that protect investor rights, offering efficient dispute resolution procedures, making sure that laws and regulations are applied fairly, and promoting investment by signing international agreements that safeguard investor rights. The idea of guarantees extends beyond legislative texts to include the legal standards upheld by courts and other judicial organizations, as well as the duties imposed by international accords and treaties [9].

2.3. Conceptualizing Legal Guarantees Theoretically in International and Regional Contexts

The Vienna Convention on Investment Contracts, The Hague Convention, the OECD Convention on the Protection of Investors' Rights, and numerous other agreements that establish guidelines for safeguarding capital, assets, and profits, as well as serve as the foundation for the creation of adaptable and strong national legal systems, are examples of international standards and agreements that have shaped legal guarantees.

The commitment of nations to enforcing regional agreements, like the Arab or Middle East Agreements, or other frameworks for regional cooperation, determines the degree of investor protection in regional contexts. In order to protect investor rights and foster a stable and safe investment environment, these agreements encourage legislative harmonization and offer procedures for settling conflicts through friendly negotiation or recognized legal channels. The creation of capable international judicial or arbitration organizations, the adoption of quick and efficient dispute resolution processes, and the creation of common rules that guarantee the protection of foreign investors' fundamental rights are all examples of these regional frameworks. Cooperation among nations under these accords also promotes international capital flows, increases legal security, and results in sustained and balanced economic growth. In order to guarantee an open and trustworthy investment environment that supports social and economic development, the theoretical idea of legal protections often focuses on creating regulations that strike a compromise between defending investor rights and bolstering nations' legal sovereignty [10].

3. Jordan's Legal Environment for Foreign Investors

One of the main pillars that guarantees a safe and sustainable investment environment in Jordan is the legislative framework that governs the rights and responsibilities of foreign investors. Taking into consideration Jordan's international commitments under accords and treaties governing the rights of foreign capital, a set of national rules and legislation was created to control the activities of foreign investors. With an emphasis on their efficacy and adherence to international norms, this part will examine pertinent legal texts and delineate the fundamental ideas that ensure the protection of investor rights.

3.1. Laws and Legislation That Apply

The legal structure of Jordan is centered on a number of important legislation that provide the legal underpinnings for foreign investments, chief among them being [11, 12]:

- The 2014 Investment Law No. 30: Currently, this law serves as the main pillar governing the different kinds of foreign investments that are permitted in Jordan. It outlines the steps for project registration and investment, protects investors' rights, and offers a range of incentives and facilities, like tax and customs exemptions, to make the investment climate more alluring.

- Companies Law No. 22 of 1997 and its amendments: This law establishes controls for the establishment and management of companies, specifies the type of ownership, the rights of partners, and their responsibilities, and regulates the formation of investment entities. It also ensures that the rights of foreign investors in the establishment and management of companies are protected.

- The Free and Development Zones Law gives projects situated in free zones, where foreign investors have access to specific legal and procedural protections, a unique framework. It seeks to draw in foreign investment to industries with high added value.

- Other relevant regulations: These include the tax and labor rules, which have an impact on foreign investors' activities and must be followed in order to create a disciplined investment climate.

3.2. International and regional agreements that are legally binding

Jordan is bound by several agreements that improve the protection of foreign investors in addition to its own laws, chief among them being [13, 14]:

- The Protection and Promotion of Multilateral Investment Agreement (MIIPA): Through efficient dispute resolution procedures and protections against illegal expropriation, this agreement seeks to enhance the investment climate.

- Jordan has signed bilateral agreements with a number of nations to guarantee reciprocity, investor rights protection, and a decrease in the legal risks connected to investment.

- Regional and free trade agreements, like the Greater Arab Free Trade Area and the European Union, have clauses that safeguard investor rights and promote the free and unimpeded flow of capital.

3.3. Fundamental Legal Precepts Guarding Investor Rights

The basis upon which investors rely to ensure their rights is the investor protection system, which is based on a set of fundamental principles that are expressed in legal documents. These are the most crucial ones [15, 16]:

- The non-illegal expropriation principle: This provides judicial guarantees for challenging actions that could hurt investors' interests while guaranteeing that their rights are not arbitrarily reduced or canceled.

- The reciprocity principle states that, within the parameters of contracts and laws, foreign investors receive the same treatment as domestic investors.

- The principle of openness and transparency mandates that pertinent authorities immediately and openly publish pertinent laws, rules, and announcements.

- The presence of capable and efficient courts with dispute resolution procedures is one of the judicial guarantees. In order to preserve investors' interests in any legal or business problems, this ensures an impartial and independent judiciary.

3.4. Examining legal documents and their stance on protecting investors

Understanding the efficacy of the Jordanian legal system requires evaluating legal documents according to their efficacy, content, and conformity to international norms. This entails evaluating the subsequent [17, 18]:

- The extent to which laws and legislation are comprehensive: The status of investment is improved and foreign investors are encouraged to join the Jordanian market by a clear, adaptable

investment law that offers incentives and facilities. Additionally, it guarantees consistency and clarity in the laws governing rights and responsibilities.

- The efficiency of conflict resolution procedures: The availability of specialized courts, arbitration, or peaceful settlement techniques speeds up the process of resolving disputes and lowers the legal risks for investors.

- The degree of legal protection against risks: Laws offer a secure investment environment that reduces legal and political risks while safeguarding investors' rights through judicial and financial guarantees.

- The flexibility and applicability of laws: Building confidence and making sustainable investments are facilitated by the existence of enforceable laws and their ongoing updating to reflect changes in the market.

- The degree of conformity between laws and international standards: This is an important component since Jordan's reputation as a transparent and safe place to invest is improved by its respect to human rights, UN standards, and dispute settlement agreements.

In order to guarantee a more alluring and stable environment in the long run, the Jordanian legal system must, notwithstanding its advancements, strengthen transparency, strengthen safeguards for investor rights, and strike a balance between the interests of the government and investors.

4. Iraq's Legal Environment for Foreign Investors

We start this part by looking at and evaluating the legislative framework that governs the protection and rights of foreign investors in Iraq. We examine pertinent laws and regulations, as well as the international pacts that Iraq has ratified. Next, we go over the fundamental legal rules that regulate the defense of investor rights. Lastly, we examine the efficacy of the legal texts.

4.1. Laws and Legislation That Apply

One of the main foundations establishing the legal framework for international investors in Iraq is investment legislation. Among these is Investment Law No. 13 of 2006, which gave foreign investors a more accommodating investment climate with clauses protecting their capital and ensuring their rights. The operations of foreign investors are either directly or indirectly impacted by pertinent regulations, such as those pertaining to corporations, taxes, real estate, and logistics.

In addition to facilitating licensing procedures and providing guarantees against arbitrary or illegal confiscation, the Iraqi Investment Law stands out for offering a number of guarantees, including the right to contract, the right to real estate ownership, and the right to repatriate capital and profits. However, given the current political and economic shifts in Iraq, which have affected the general investment climate, several clauses need to be updated.

Other pertinent laws also exist, such as the Companies Law, which governs the establishment of foreign corporations and restricts or promotes public-private partnerships. Laws pertaining to taxes and customs are also crucial in creating a safe financial environment for international investors [19].

4.2. International and regional agreements that are pertinent

In addition to bilateral or multilateral agreements Iraq has made with other nations to foster economic and investment cooperation, the Iraqi legal system interacts with a number of international agreements and treaties that impact the protection of foreign investors, most notably the Trade and Investment Facilitation Agreement and the Double Taxation Avoidance Agreement.

Iraq, for instance, has strengthened protections and added levels of protection for investors' rights under international law by joining regional organizations and agreements like the Arab Free

Trade Area and the Investment Agreement in a Free Trade Facility. These agreements give investors legal guarantees against arbitrary or illegal violations.

Furthermore, Iraq's agreements with global financial institutions like the World Bank and the International Monetary Fund serve as a basis for creating domestic laws that guarantee adherence to international norms and offer legal protection for foreign investors in line with the values upheld by these institutions [20].

4.3. Fundamental Legal Precepts Guarding Investor Rights

The following fundamental ideas underpin the Iraqi legal system's protection of foreign investors' rights [21]:

- The legislation emphasizes the necessity of preceding legal procedures before any confiscation or restriction of assets, and it requires Iraq to refrain from disturbing investors' property without providing reasonable compensation. This idea is known as non-arbitrariness and non-illegal expropriation.
- Transparency and Information: In order to protect investors' rights, pertinent authorities must make laws and regulations easily readable and give them the information they need.
- Protection of Intellectual Property Rights: With commitments to respect investors' intellectual property rights, the legal framework contains clauses that ensure the protection of patents, trademarks, and copyrights.
- Transfer and Banking Guarantees: The law establishes explicit guidelines for the application of the law and permits foreign investors to move capital and profits outside of Iraq with ease and transparency.
- Judicial Justice and Fairness: An autonomous legal system that upholds the rights of investors and provides a mechanism for resolving conflicts, whether through arbitration or the use of judicial bodies.

4.4. Evaluation of Legal Documents and Their Performance

The texts of Iraqi investment law provide a legal framework that defines the responsibilities, protects foreign investors' rights, and offers guarantees. The actual application of these laws, their conformity to political and economic reality, and the degree of judicial administration and transparency all affect how effective they are.

It is evident from textual analysis that the law provides investors with certain rights, including the ability to transfer earnings, the freedom to engage in the public sector through partnerships with the private sector, and the promise that property rights would not be interfered with. To address new issues including bureaucratic procedures, uneven legal application, and political issues that could jeopardize the stability of the investment climate, it is acknowledged that certain texts might require revision and improvement [22].

There is a discrepancy in efficacy between the legal texts and actual practice. The degree to which the rights of foreign investors are safeguarded may be diminished by poor governance, inadequate law enforcement, and opaque procedures. Therefore, completing the judicial reform process, building the legal infrastructure, increasing openness, and establishing procedures for efficiently managing complaints and disputes are all necessary to increase the efficacy of legal texts.

Therefore, it may be concluded that the legal system in Iraq offers a strong basis for defending the interests of international investors. In order to ensure investors' rights in a realistic and open way, it is necessary to update the texts, enhance the implementation processes, and activate the pertinent agencies. This will improve Iraq's economic growth and make the investment climate more appealing [23].

5. A Comparative Analysis of the Legal Systems in Iraq and Jordan

In order to highlight the similarities and differences between the laws and legal systems governing the activities and interests of foreign investors, as well as to analyze the implications of these differences for the investment environment and the desirability of each system for foreign investment, a comparison of the legal systems of Jordan and Iraq in the area of foreign investor protection was carried out.

5.1. Legislation and Guarantees: Similarities and Differences

The main similarity between Iraq and Jordan is that both nations rely on legal structures and mechanisms that specify the responsibilities and rights of foreign investors, with particular protection for capital investment and property rights. Legislation, such as investment laws, in both nations contains clauses that ensure the right to arbitration and dispute resolution, the existence of international and regional agreements that act as a standard for the degree of protection afforded to foreign investors, and procedures for facilitating and terminating ownership.

Regarding the distinctions, there is a clear variation in the degree of legislative modernization and development. Particularly in light of recent changes to investment laws, guarantees for foreign investors, and conformity with certain international standards, Jordan's legal system, as demonstrated by its laws and legislation, indicates a more adaptable and transparent response while offering clear and sophisticated guarantees. In contrast, there are issues in Iraq due to the tardiness of law updates and the ambiguity and incompleteness of certain clauses. This erodes legal trust and detracts from the investment climate's appeal, particularly given the unpredictable political and security landscape [24].

5.2. An examination of how the legal environment affects luring in foreign investment

A comforting message to foreign investors is shaped in large part by the legal environment. Their confidence is increased, investment is encouraged, and legal and administrative risks are decreased by a robust and transparent legal framework. Given that Jordan has implemented policies to streamline investment processes and lower administrative liabilities, a thorough legislative framework with laws that adhere to international standards plays a significant role in enhancing the business environment and attracting more foreign direct investment.

Iraq is less appealing to international investors due to its weak and unstable legal system and inadequate enforcement of the law, which also raises the country's economic and legal risks. This is particularly relevant considering that the legal system is occasionally characterized by opaque and inconsistent legal laws pertaining to investor rights and property protection [25].

5.3. Assessing the Performance of Legal Protections in Both Nations

For international investors, Jordan provides a more secure and adaptable legal environment because of its sophisticated laws and assurances. Credibility, efficient arbitration procedures, and legislative frameworks that ensure the protection of rights resulting from contractual and legal responsibilities are characteristics that define these assurances. Additionally, the persistence of regional and bilateral agreements improves the efficacy of these assurances and makes it easier to allocate and resolve conflicts appropriately.

Even though there are investment laws in Iraq, their efficacy is impacted by a number of factors, such as the legal texts' inadequate updating, the absence of clear mechanisms for enforcing guarantees in certain provisions, and the provisions' weak enforcement as a result of political and security conditions. As a result, the actual state of the law in Iraq shows that one of the main barriers to drawing in foreign investment is the ineffectiveness of legal guarantees. In addition to the absence of efficient and open procedures for settling conflicts and guaranteeing the correct application of legal rules, investors endure ongoing uncertainty about the protection of their rights. The development of a more stable and transparent legal environment is still in its infancy and will

require coordinated legislative and executive initiatives to improve the business environment generally and to bolster the judiciary's other pertinent bodies' capacities [26].

6. Results and Discussion

The study emphasized a number of conclusions drawn from a comparison of the legal systems in Jordan and Iraq that oversee the protection of foreign investors. To comprehend the parallels and discrepancies as well as their effects on the investment climate in both nations, these data were thoroughly analyzed.

First, it was discovered that the fundamental ideas guiding the protection of foreign investors under the legal frameworks of Iraq and Jordan are mostly in agreement. The significance of creating a legal framework that guarantees the stability of investors' rights and lowers the risks connected with foreign investment is emphasized in both nations' legal codes. Jordan's Investment Law No. 30 of 1952, as amended, for instance, outlines a number of assurances for investors, such as the ability to sell real estate, control capital protection, and arbitrate disputes. This is in line with the movement toward a legal climate that encourages investment.

It was observed that Investment Law No. 13 of 2006 in Iraq recognizes property rights, the right to create firms, and dispute resolution procedures, and it also contains a series of guarantees aimed at safeguarding investor rights and easing investment operations. Nevertheless, an analysis of the texts showed that several legislative gaps lessen the effectiveness of these guarantees, especially when it comes to the application and implementation of laws. To guarantee that legal principles are applied in practice, this necessitates more effective legislative and regulatory intervention [27].

Second, the study showed that regional and international agreements are essential to raising the degree of protection afforded to foreign investors. It was observed that because of its active involvement in institutions like the World Trade Organization and the TIFA Agreement, Jordan has a more evolved stance with regard to adherence to international agreements. Additionally, it calls for a dedication to upholding investor rights in line with the values of sustainability and fairness. Iraq's adherence to international accords seems to be less developed, and certain clauses are seen inadequate to offer sufficient guarantees, particularly in light of the difficulties with judicial processes and openness. Both investor confidence and Iraq's appeal to foreign investors are adversely affected by this [28].

Third, the study emphasized that the fundamental legal precepts intended to safeguard investor rights through legislative texts varied in their efficacy. Through its laws governing capital protection, arbitration guarantees, and the inadmissibility of property expropriation unless by judicial order, Jordan has been able to reinforce these values, demonstrating a high degree of legal stability. Meanwhile, Iraq's laws are characterized by certain inadequacies in offering adequate protections against political and economic risks, endangering the viability of foreign investor ventures and diminishing their appeal [29].

Fourth, an examination of legal texts revealed that both nations' laws have a large number of clauses designed to safeguard the interests of investors. However, there is a greater chance that these rules won't work in practice due to poor implementation and enforcement, particularly in Iraq. For instance, even while certain clauses safeguard investors' rights against expropriation or contract modifications, lengthy court proceedings and administrative obstacles cause delays in settlement, eroding public trust in the legal system.

Lastly, the study also analyzed how the legal framework affects the ability to draw in foreign investment. The findings demonstrated that one of the main elements enhancing the investment climate and drawing in foreign capital is a stable and open legal framework. On the other hand, the researcher said that legal guarantees that are lacking or incomplete, especially with regard to the application and transparency of laws, restrict market appeal and may result in a drop in foreign

investment. Therefore, it is still crucial for both nations to concentrate on continuously enhancing and expanding the legal structure as well as increasing enforcement procedures [30].

The study's conclusions emphasize the significance of a robust and efficient legal system that protects foreign investors' rights and promotes investment flows. The distinctions between Jordan and Iraq show that the main factors influencing the efficacy of legal guarantees are the degree of legislative development as well as the degree of implementation and practical application. Therefore, in order to improve their standing in international rankings of the attractiveness of foreign investment and achieve sustainable economic growth, nations like Jordan and Iraq must establish legislative strategies to promote legal security and the investment climate. To guarantee the efficacy of legal texts and accomplish their intended goals, this calls for modernizing current laws, streamlining administrative processes, bolstering supervision mechanisms, and successfully putting judicial decisions into practice.

7. Conclusion

To sum up, our analysis emphasizes how crucial legal assurances are to improving the environment for foreign investment in Jordan and Iraq. The study's worth is found in its assessment and analysis of the current legal system and how well it protects foreign investors' rights, which helps to make both nations' investment environments more alluring. The findings demonstrated that laws in both nations differ in their conformity to international norms, and that new and updated agreements and regulations are desperately needed to guarantee efficient protection that keeps up with the challenges and shifts of the world economy. Despite variations in the degree of execution and efficacy, the study also found many parallels in the promises' content. This has a direct effect on luring in foreign investment and bold ventures that support long-term economic expansion.

Because they offer an academic reference based on a theoretical analysis of legal principles and international agreements, the study's findings are highly significant from a scientific and applied standpoint. In addition to expressing ideas for enhancing and expanding the legal environment in accordance with global best practices, this contributes to the legal and economic literature on foreign investor protection in a regional setting. In order to create a stable and adaptable legal investment environment that will help Jordan and Iraq become more appealing as major foreign investment destinations and achieve the intended sustainable economic development, it is imperative that the legislative structure be modernized, policies be unified, and regional and international cooperation be strengthened.

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