

Carnegie Endowment for International Peace

Inside the 2010 Iraqi Elections

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Election Date

Iraqi parliamentary elections will take place on January 18 or 21, 2010. Originally scheduled for January 16, they were postponed after a delay in the approval of a new election law.

The Electoral System

Elections will be held under a system of proportional representation, with parliamentary seats apportioned among parties on the basis of the number of votes they receive in each of the provinces into which Iraq is divided. The number of representatives per province is based on population, and in the 2005 elections varied from a low of seven in Maysan and Dahuk to a high of 59 in Baghdad. In 2010, the total number of seats is expected to increase to 323.

Smaller parties or ethnic and confessional minorities often favor proportional representation, which enables them to obtain seats in parliament even when they cannot win a majority of the votes in any one district. But proportional representation also enhances the role of the party over that of individual candidates, as citizens cast their main vote for an organization and its entire slate of candidates, not for individuals. Thus, if a party gets enough votes to obtain three seats in parliament, the first three candidates on its list will get those seats. The system strengthens party bosses, who decide which candidates make the list, and how close to the top they are.

To reduce the excessive power of party bosses, some countries employ proportional representation systems with open lists, which allow voters not only to cast a vote for a party, but also to indicate their preference for particular candidates on the list. If voters avail themselves of that right in large numbers—and in many countries, they do not—they can overrule the party leadership and ensure a parliamentary seat for a candidate whose name appeared lower on the list.

In Iraq, the 2005 parliamentary elections were conducted under a closed list system, but the January 2009 provincial council elections used an open list and, after much debate, the 2010 parliamentary elections will do the same. A preliminary analysis of the 2009 provincial elections suggests that enough voters availed themselves of the opportunity to prioritize individual candidates to affect the outcome. No overall figures are yet available to indicate how many seats were affected.

The Election Commission

Iraq's Independent High Electoral Commission (IHEC), first established in 2004 by the Coalition Provisional Authority, is responsible for organizing the elections. It is supported by the Electoral Team of UNAMI (United Nations Assistance Mission in Iraq), other UN agencies, and several international NGOs.

The Dispute Over the Election Law

Iraq has had several election laws since the U.S. occupation began in 2003. The latest was approved by the parliament, after much controversy and delay, on November 7.

The January 2005 elections for the Transitional National Assembly were held on the basis of proportional representation with a closed list system, with the entire country forming a single electoral district.

The December 2005 parliamentary elections were also held on the basis of proportional representation with a closed list system, but the country was divided into eighteen electoral districts corresponding to the provinces. Seats were allocated among the provinces on the basis of population, with one seat for every 100,000 people. This was something of a challenge in a country that has not had a census since 1957, and where considerable population movements have taken place in the intervening years as a result of Saddam Hussein's policies, and conflict and ethnic cleansing since the U.S. invasion.

In total, 230 seats were allocated to the provinces in 2005. In addition, 45 seats were contested on the basis of proportional representation at the national level. The allocation of these "compensatory seats" among provinces was extremely complex, and most voters did not understand the process, which made it controversial. Compensatory seats were allocated to parties that had received many votes nationally, but not enough in any single province to win a seat; and to reward parties with the largest nationwide support.

The January 2009 provincial council elections were held on the basis of proportional representation, but for the first time the law called for an open list rather than a closed list system.

Two particularly thorny issues delayed the approval of the election law for the 2010 parliamentary elections: disagreement about the voter rolls in the northern city of Kirkuk, and whether to hold elections on an open or closed list system.

The Kirkuk Conundrum – This was the main obstacle to the adoption of the election law and indeed to the holding of elections countrywide. The electoral dispute centered on who has the right to vote in Kirkuk. The underlying issue is whether Kirkuk should be part of the Kurdistan region.

Open vs. Closed Lists - The open list issue was the less important of the two and probably received more attention than it deserved under the circumstances. The new law calls for an open list system.

In October 2008, when the elections law for the 2009 provincial council elections was approved, the parliament failed to agree on a formula for Kirkuk and appointed instead a committee to study the situation further and find a solution by March 31, 2009. The life of the committee was extended by two months, but to no avail. Thus, provincial elections did not take place in Kirkuk.

Approval of an election law for 2010 almost failed as well, owing to the convergence of three problems:

- Saddam Hussein had tried to “Arabize” Kirkuk by forcing Kurds out of the city and resettling Arabs from Iraq’s South in their place;
- After 2003, Kurds started moving back into Kirkuk in considerable numbers. These Kurds claim that they or their parents had been removed by Saddam Hussein. In response, Arabs and Turkmens (who constitute the third component of Kirkuk’s population) allege that the Kurds are newcomers who are moving to Kirkuk at the behest of the Kurdistan Regional Government, which wants to turn Arabs and Turkmens in Kirkuk into minorities in order to annex Kirkuk to Kurdistan.
- The Iraqi government, the United States, and the United Nations have failed to implement the provisions of the Transitional Administrative Law of 2004 (TAL) and of the Iraqi constitution of 2005. Article 58 of the TAL, written under the supervision of the Coalition Provisional Authority, set up a commission charged with investigating the claims of people alleging that they had been expelled from Kirkuk under Saddam Hussein and with facilitating the return to the city of those whose claims were found to be legitimate. At the same time, the commission was supposed to help resettle the Arab newcomers brought in by Saddam to their areas of origin. The commission was also charged with investigating the changes Saddam’s regime made to the administrative boundaries of the provinces, which Kurds claimed incorporated Kurdish majority areas into predominantly Arab provinces. Article 140 of the 2005 constitution went one step further: not only did it call for the implementation of TAL article 58, but it mandated that after claims were settled and the population presumably restored to its “natural” composition, legal residents of Kirkuk should decide in a referendum held by December 31, 2007, whether Kirkuk should be annexed to Kurdistan. The deadline for the referendum was later extended to December 31, 2008, by the United Nations, which was then in charge of managing the Kirkuk problem. In reality, the claim commission never finished its job, the referendum was never held, and the fate of Kirkuk remains the object of major dispute.

Under the election law approved in November 2009, all residents registered in Kirkuk in 2009 had the right to cast their votes, but the law also set up a process to review the problem of eligibility after the election, at which point, major controversy is sure to erupt.

Voter Registration

In all elections held in Iraq after 2003, voter rolls have been based on the food rations distribution system that Saddam’s regime set up after the Gulf War, which remains in place today.

All families are entitled to receive food rations, with the amount determined by the numbers and ages of family members. As a result, families have to register with the food distribution center in the areas where they reside. These lists have been used as the basis for the voter lists, and a system is now in place that allows citizens to check if their names appear on the lists and to request to be added if they can prove proper residence. The system has worked reasonably well in most of the country, and was probably the best way to register voters under the circumstances. Ideally, the country should hold a new census, but this is not likely to happen soon.

But the food rationing rolls do not help settle the problem of who has the right to vote in Kirkuk, since the dispute is not about who resides in the city, but who has the right to reside there—a highly political issue.

Arabs and Turkmens favored using the voter lists drawn up in 2004, thus excluding Kurds who arrived in Kirkuk more recently. Kurds argue that the 2004 list reflects a population distorted by Saddam Hussein's ethnic cleansing, and demand a new list reflecting today's population. Possible compromises discussed at various times included granting equal numbers of seats to each population group, or granting compensatory seats to some population groups.

Although the new law mandates the use of the new 2009 lists, elections in Kirkuk are certain to be highly contentious, contested along purely sectarian lines, and quite possibly violent.