

NON - PAPER

Governorate Elections in Iraq 2007

Necessary Pre-conditions

Governorate elections were last organized in January 2005 as mandated in the Transitional Administrative Law and they were largely boycotted by the Sunnis. Recently, there has been an acceleration of interest in holding Governorate elections in 2007 although there is little consensus on when such elections should be held, and whether they would have a positive or negative effect on the security situation in Iraq.

In order to ensure credible Governorate elections, and before determining their date, eight questions would have to be satisfactory answered.

1. Will the IHEC have the capacity and ability to conduct Governorate elections in 2007?

Key legislation forming the new permanent Independent Higher Electoral Commission of Iraq (IHEC) was adopted by the Council of Representatives (CoR), and ratified at the end of February by the Presidency Council. There is a 60 day period for selecting a new board of commissions for IHEC and 18 heads of the Governorate Election Officers and it is hoped they can be in office by mid-April. Since the last election as much as 25% of the electoral staff and expertise has left the election commission and there is ongoing concern that new commissioners will replace senior management staff further depleting the skill and knowledge base of the commission.

It must be noted that the selection process for new commissioners will be highly politicized¹ and may result in a less independent electoral body. Although the UN is prepared to provide training and capacity building for election commission staff, including new commissioners, it remains to be seen how effective that can be under current movement and security restrictions.

2. Can the legal framework be put in place in time?

Fundamental legislation is necessary to define both the powers/competencies of the governorate councils, including the electoral system to be used. Such issues will undoubtedly be very divisive and politically sensitive. Past experience demonstrates that passing such controversial legislation is likely to take time. In addition to legislation on the powers of the councils, the legislative agenda should include laws that pertain to electoral process, eligibility criteria, political entities and parties, observation by non-governmental organizations, and media access. The laws should describe a method of adjudicating election disputes, either through a standalone body or through a prescribed process with the Iraqi court system. The laws should describe the discretionary rule-making authority of the IHEC to implement the legislation.

¹ The previous commissioners were selected by the United Nations and appointed by Amb Bremer of the CPA. It is believed the Council of Representatives will appoint new IHEC commissioners.

NON - PAPER

In addition to these electoral issues, legislation will also be required to confirm the scope and authority of governorate and municipal councils; and on other related constitutional issues now being discussed in the constitutional review process.

3. Can a credible voters' register be prepared?

Voter registration remains one of the most contested issues in the electoral landscape. Without assignment of voters to their constituencies it will be impossible to allocate voters to voting locations within their governorate. Current legislation is again insufficient to support the voter registration process and must be reviewed by the CoR. In addition, the voters list is based on the Public Distribution System (PDS) and is now outdated. It must be remembered however that the PDS is not a voter registry and it became an increasingly flawed instrument with each election where it was used. For the December election, the voter registry was the object of 164 complaints (12% of the total "non-red" complaints) about omissions of voter's names from polling station registry books. To compensate for these omissions, poll workers either added names to the lists according to procedures (with identification documents); added names without regard to procedures; or turn people away from the polls. Obviously, such deficiencies in the registry can undermine the credibility of the process and the acceptance of election outcomes.

In order to correct these deficiencies, the PDS instrument should be abandoned and a new registry established. No progress has been made in this regard and any election in the next 12+ months will likely have to rely on the PDS. A new extract is likely to be the best option if Governorate elections are to occur in 2007. Procurement of this database has been intensely problematic; sampling of the data will be necessary to estimate the work required to update it and produce an operationally reliable data set. That will then have to be followed by a public exhibition and review period to allow for corrections, otherwise Election Day can be chaotic with voters missing from the list and choke points developing in polling stations.

4. Will agreement be reached on Governorate boundaries?

Administrative boundaries must also be clarified and cannot be mandated without discussion with Iraqi representatives. Article 140 of the Iraqi Constitution provides a process for resolving the boundaries of "disputed territories including Kirkuk." That process may affect the boundaries of four or more contested Governorate boundaries and the process is not providing the clarity needed to conduct election planning.

5. Will funding be in place for elections?

The Iraq national budget for 2007 includes funds to cover the operational costs for the IECI/IHEC only. Insufficient funds may have been allocated for election events, which means additional funding will have to be found.

6. What is the election calendar?

There are two kinds of election calendars – technical calendars and political calendars. Technical calendars concern the time requirements for transport, logistics, printing and other "mechanical" aspects of conducting an election that can be projected by planners.

NON - PAPER

The IECI/IHEC has advised the CoR that at least 6 months will be required to prepare the technical aspects of any election in 2007, assuming all the questions above are answered and in place. This period may be extended if other election events are scheduled concurrently or sequentially (such as, referenda, district etc.)

Political calendars represent both judgments and forecasts. For example, a political calendar establishes a time period for political campaigning that is based upon a judgment. Political calendars also possess certain unknowns. For example, the passage of election legislation, or the appointment and capacity of the IHEC as discussed above. The election calendar should be a reflection of both technical parameters and political consensus

7. What role will or can the UN play?

For the two elections and one referendum in 2005, the UN had a clear mandate from the UN Security Council (SCR 1546). The UN not only selected the seven Commissioners but also had a non-voting UN Commissioner as part of the Board of Election Commissioners. In other words, the UN had a strong, internationally supported and mandated role for electoral events that took place during Iraq's political transition.

With Iraq having reached full sovereignty, this is no longer the case. Unless there is another Security Council resolution, any UN involvement or support can only be provided at the explicit request from the Government. Any such involvement would hence only have the character of technical assistance and not hands on management. Hence, the ability of the UN to advance the electoral process or to guarantee its credibility is much reduced in 2007.

And finally, but probably most importantly:

8. Would Governorate elections stabilize or destabilize the security situation?

Security is of paramount importance and should be considered in the context of the destabilizing effect any electoral event may have in the current political environment. Such elections would be organized during a conflict and will likely become conflictive themselves through the proliferation of sectarian violence, insurgent attacks, and political party militias. This is of course difficult to anticipate and it may vary from Governorate to Governorate. It must be remembered that not only does security influence the population at large it directly affects the operational capacity of the electoral commission to plan and conduct electoral activities.

UNAMI/ Electoral Team
5 March 2007