

**IEAT working paper # 7:
VOTING BY INTERNALLY DISPLACED PERSONS (IDPs)**

Introduction. Overall, electoral processes benefit from being inclusive. In transitional contexts, participation by internally displaced persons (IDPs) is often extremely important in ensuring the credibility of the elections and the legitimacy of the elected institutions. As the Council of Representatives (CoR) proceeds with its discussions on the Electoral Law for the upcoming provincial elections, one important political decision will concern the eligibility of IDPs and the inclusion of mechanisms enabling the enfranchisement of these groups.

Context. Participation of IDPs was not a major issue when the legal and regulatory framework for the 2005 elections was being discussed. As a result, no special IDP enfranchisement provisions were made for those elections. However the situation has changed significantly since then. Following the last elections, there has been an increase in population groups forced to move from their places of origin because of the political and security environments; at the beginning of 2008, large populations of IDPs continue to reside away from their habitual residences. With uncertainty still looming in relation to their options for return, it is important to include these groups in the discussions around the legal framework for the forthcoming elections. Solutions for the registration and voting of IDPs must be found under the prevailing circumstances while guarding against possible manipulation and without compromising the credibility and acceptance of the elections.

Political decisions. In order to move forward, the CoR needs to make political decisions concerning the enfranchisement of IDPs. This is particularly important for advancing the preparations for voter registration. During its discussions with the various political blocks regarding the electoral law, the IEAT has found a general consensus regarding the importance of ensuring the participation of IDPs in the election of provincial councils. Formerly, IDPs were allowed to register and vote in their places of current residence. What is being discussed now is the possibility of allowing special registration and voting procedures for IDPs – namely, that IDPs be allowed to register and vote for a constituency that is not their current place of residence. The discussion should then focus on determining:

- a) for what constituency their votes should count; and
- b) where IDPs should vote.

Based on these decisions, the CoR would need to identify what special provisions, if any, are required to implement those decisions about the inclusion of IDPs in the electoral process. Overall voter eligibility criteria also need to be defined, taking into account the special cases of IDPs, especially when referring to any residency requirement. Finally, a fundamental issue that requires clarification from the CoR is: what constitutes an IDP? Or, more rigorously, which IDP groups will be covered by the special voting provisions?

Special provisions. In the case of the provincial council elections, the question arises as to which governorates IDPs should be entitled to cast their ballot for – that is to say,

which constituencies should IDPs have their votes counted for? Basically, there are three options:

- a) IDPs have their votes counted for the constituencies of their current residence;
- b) IDPs have their votes counted for their constituencies of origin; and
- c) IDPs are given the choice between their votes being counted for their current constituencies of residence or for their constituencies of origin.

The first option was applied for the 2005 elections; the problem with it is that, because of the massive displacements since then, many IDPs would be disenfranchised or would be forced to vote in constituencies they do not consider their own. A better option would be to allow IDPs to vote for the provincial councils of their places of origin. In fact, international best practices would encourage allowing each IDP who is qualified to be a voter to choose whether to vote for the constituency of origin or for the constituency of current residence. While it does create operational pressures, the last option is preferred because it satisfies IDPs' political rights under the Constitution. In any case, both options imply that IDPs will be able to cast a ballot *in absentia* (absentee ballot), that is to say, at polling locations other than those to which they would be allocated according to the voters lists for their residences in their constituencies of origin.

Voting locations. In terms of the voting locations, there has also been a consensus that IDPs should vote in their place of current residence. Due to the challenging security situation, to date very few IDPs are reported to have returned to their places of origin. It is not expected that significant numbers will have returned to their places of origin by the time that a voter registration update must be completed before the 2008 council elections.

Under the current security situation, those IDPs who choose to register to vote for the constituencies of their origin would not be expected to travel to their constituencies of origin on polling day. Hence if absentee voting is to take place, all IDPs registered to vote for their constituencies of origin would vote in their current places of displacement as absentee voters and not in their places of origin.

Operational provisions. Absentee voting will require special operational provisions to be adopted and implemented by the IHEC. If an absentee ballot is adopted and IDPs are allowed to vote for their constituencies of origin (or each IDP is given the choice to vote for their constituency of displacement or their constituency of displacement), voter registration will need to take this into account. IDPs should be identified as such and registered according to their choice of constituency. In the final voter lists, the IDPs will be identified as such in separate registers so that they can be allocated to the absentee polling stations in their places of displacement.

These decisions and operational preparations need to be finalized well in advance of any voter registration update. This is why it is very important for IHEC to have a political agreement from the CoR on the issue of IDP eligibility and voting locations.

On election day, special polling stations would be required for absentee voters. Specific voter lists must be created for such stations specifying the constituencies for which they are registered to vote. The stations must be supplied with sufficient numbers of ballots for all constituencies in each polling station as identified in the voters list – quite a complex operational challenge.

Definition of population group. There are many different types of population groups that fall under the category of IDPs. For clarity in the political decision and in the efficient and fair implementation of the policies adopted, it is important that there be precision within the CoR as to exactly what population groups are being discussed. Massive displacements occurred during the Baa’thist regime, but further substantial population movements took place after the occupation in 2003 and, in particular, since the last elections took place in December 2005. According to the Ministry of Displacement and Migration (MoDM) and other sources, more than one million people have been internally displaced since February 2006. The nature and make-up of these different IDP groups vary enormously: integration in their current places of residence differs significantly from one group of IDPs to another, expectations as to a possible return to their places of origin are very different from one group to another, and the residence arrangements are also completely diverse. Importantly, these variations create very specific operational issues, because very strict identification mechanisms will be required to avoid both loss of credibility of the electoral process and possible political manipulation of these groups.

Under these circumstances, it would seem prudent to limit the definition of IDPs that should be enfranchised with special status for voting. (Other IDP groups will be allowed, as in the past, to register and vote in their current places of residence). One realistic option from an operational perspective is to restrict special voting rights to IDPs registered by MoDM or registered by the Directorate of Displacement and Migration Kurdistan. Such special status means that IDPs displaced since the Sammara bombing will be allowed to register and vote (by absentee balloting) for a constituency that is not their current place of residence. The documents used to prove identity, age and IDP status will need to be defined by the IHEC Voter Registration Regulations and Procedures. In order to minimize the options for manipulation, all IDPs must be required to register in person; no proxy registration should be allowed. To avoid manipulation, if an IDP who was previously registered at their place of origin chooses to register as a voter for their place of displacement, there must also be efficient mechanisms for IHEC to remove that IDP from the voters list for the place of origin.

It should also be clear that the discussion on IDPs does not apply to another category of displaced populations, namely refugees. The issues of out of country voting are of a different nature and have different implications from those of IDPs. It is important to note that generally external voting is not encouraged for local level elections. Although out of country voting was implemented for the December 2005 elections, those votes were only for the nation-wide compensatory seats for which there is no equivalent in provincial elections.

Final considerations. Given the political requirement to enfranchise IDPs but also being realistic as to the operational challenges that absentee balloting presents, it is important to keep in mind the implications of various electoral system options on the CoR's decisions about IDP enfranchisement and its implementation. It is clear, for example, that should absentee balloting be allowed for IDPs, small units of representation (such as the district) would be much more complicated to implement and would require significant additional time and resources than using a larger unit of representation, such as treating the whole governorate as a single electoral district.

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