



**United Nations Assistance Mission for Iraq
(UNAMI)**

**UNAMI Political Affairs Office (PAO)
Background Papers Series**

***GOVERNORATE COUNCIL
ELECTIONS:
CONSIDERATIONS FOR AN
ELECTORAL SYSTEM***

About PAO Background Papers:

The paper series encompasses concise briefing papers covering topics of current interest and longer background papers related to institutions, organizations or more complex subjects from the realms of politics, religion, society and economy. It is produced by the PAO and receives regular contributions from the Office of Constitutional Support and the Electoral Assistance Team.

The purpose of this series is to inform, stimulate, and invite discussion with a view to develop a more accurate perspective of the subject at hand and of the environment within which the UN operates in the region. These papers are subject to regular up-date and may not reflect UNAMI policy.

February 2008

GOVERNORATE COUNCIL ELECTIONS: CONSIDERATIONS FOR AN ELECTORAL SYSTEM

Executive Summary

For governorate council elections in Iraq the choice of election system will be tightly constrained by issues of feasibility. A number of factors will need to be addressed that includes both the type of election system as well as constituency boundaries. The Council of Representatives (CoR) should be the body that takes the lead on these with input, where relevant, from the Independent High Electoral Commission (IHEC).

In particular the CoR will have to frame future electoral activity by deciding on the following: governorate boundaries, which electoral formula will apply, number of seats in each governorate council, voter eligibility criteria, women's representation, and minority representation. The CoR has the option to decide that the framework in place in 2005 can be used yet again, but political dissatisfaction with much of the existing framework will undoubtedly lead to discussion of these key issues. UNAMI has prepared this technical paper to assist in identifying some of the considerations for determining an election system and provides observations where relevant.

Of note is the feasibility of creating electoral constituencies below the governorate level. If electoral timelines are abbreviated or voter registration data is not accurate enough then any attempt to design future election activity on district level constituencies may be impossible. In any event the current option of using the Public Distribution System as a basis for a future voter registry is politically sensitive and may not be accurate enough to satisfy calls for district based constituencies even in the mid to long term.

Drawing constituency boundaries and apportioning seats between constituencies requires detailed demographic data and reliable political and judicial processes for weighing communities' competing claims. Broad political agreement will be needed where new boundaries lie. A transparent and legitimate process of creating new electoral constituencies (should the current ones be deemed unacceptable) could take at up to a year and then only if there is broad political acceptance of a credible and binding process. A clear legislative framework and accurate demographic data must be available if alteration of constituencies is to be considered.

Upon this foundation an election system will have to be agreed upon. There are strong criticisms of the non-representative nature of the current governorate councils. Calls to change the system of representation from closed list proportional representation are widespread. Changing this system will require careful consideration of the impact any alteration will have on the future composition of the councils. Without reliable data on political organization and public preferences it is not easy to project the likely outcomes of any given system of representation for a particular election event.

Further complicating the political decision making process will be the struggle to accommodate Iraq's more than two million internally displaced persons and two million refugees.

1. Introduction and Background: There is no consensus as to the “correct” system of representation in any given environment. It is also generally recognized that choosing a good system of representation cannot alone ensure the emergence of a representative and effective government. However, what has been found is that the selection of a system has important effects in the medium and long term for a country. In Iraq, where reliable data on political organization and public preferences are unavailable, it is not easy to project the likely outcomes of any given system of representation for a particular election.

The following paper outlines some major issues when considering options for choosing an electoral system and identifies some of the obstacles that must be overcome if elections are to take place. The observations are primarily framed in relation to the holding of any future governorate council or sub-national elections.

The roots of the current political context can be drawn from events in 2005. In January 2005 elections for 15 governorate councils¹ were held. As mandated by the Transitional Administrative Law, the administrative boundaries of the existing governorates remained unaltered for electoral purposes. The then Independent Electoral Commission of Iraq (IECI) allocated 41 seats to each governorate council with the exception of Baghdad which was allocated 51 seats. The IECI also adopted a system of proportional representation with closed lists and the seats were allocated through a formula of Hare Quota and largest remainders with a natural threshold.² Currently there have been no decisions made on boundary delimitation, the electoral system, or the date of any future elections.

Additionally, due to the boycott of the elections by many Sunni parties, governorate councils established after January 2005 in the Diyala, Salahadeen, Ninewa, Anbar and Baghdad provinces are perceived as non-representative by part of the population. In other parts of the country, there is discontent with the performance of the existing councils, whose members are thought of as unaccountable and detached from citizens.

2. The Importance of Electoral Systems: The design of a country’s electoral system is important to the political system as a whole. The choice of each element may not only generate different results in terms of the number of seats won by each party, but may also impact the evolution of the political party system. It can also influence other aspects, such as the representation of women, minorities and small parties, conflict resolution, and the level of voter interest and participation in any elections. Thus, electoral system design is a careful process that requires awareness of the complexities of the society, understanding of the consequences of each system and

¹ Councils were elected in all governorates of Iraq with the exception of Dohuk, Erbil and Sulemania.

² Note: this voting system is used under some forms of the Single Transferable Vote (STV). The number of votes required to gain a seat (i.e., the “natural threshold”) will be determined by the number of total votes cast. The “Hare Quota” refers to the minimum number of votes required to capture a seat and proceeds after the “natural threshold” is determined.

clarity on what results the system will produce. Furthermore, agreement from stakeholders is essential, otherwise any resulting councils/legislative body will be questioned by segments of society leading to further division and possible increased tensions.

3. Criteria for electoral system design: When looking at electoral systems the following criteria should be met:

- The result of an election, as a group of representatives who are elected, should reflect the makeup of the society it represents.
- The electoral system should be affordable and sustainable.
- The electoral system should be practical.
- The electoral system should be understandable to voters, political parties, observers and other stakeholders³.
- The electoral system should be acceptable to all of the political forces in the country to avoid any of them from resorting to violent means to resolve their demands.

The electoral system should promote inclusiveness of different political groups while enabling for the representation of women and to reflect ethnic diversity.

4. Elements of an Electoral System: Electoral systems have several components. The two main ones are: the “**Unit of Representation,**” which refers to the division of people into groups to be represented (i.e., electoral constituencies), and the “**Electoral Formula,**” which refers to votes that are translated into seats.

- a) **Unit of Representation (also called Electoral Constituencies).** The decision on electoral units will condition options for the electoral formula. If governorate council elections were to be held in the next 12 months, the most important constraint on the choice of the electoral system is the impracticality of creating constituencies below the governorate level. This is primarily due to the availability of reliable demographic data. Further, the situation is more complicated now than in 2005 due to the internal displacement of approximately two million Iraqis and the more than two million Iraqi’s living abroad. Allocating internally displaced persons and refugees to newly created sub-governorate electoral constituencies may not be operationally feasible and is sure to be questioned politically.

For the 2005 elections, the Coalition Provisional Authority under US Ambassador Bremmer set the administrative boundaries used under the rule of Saddam Hussein as the electoral constituencies. However, acceptance now of the boundaries to be used for electoral constituencies will require a broad agreement of all the main stakeholders in the Council of Representatives (CoR). The CoR decision on electoral constituencies may affect the credibility of the whole electoral process. Without explicit agreement, it is not possible to determine basic factors such as how many members each governorate council will have, those entitled to vote and how the governorate councils will be elected.

³ This was one of the main criticisms of the system adopted for the December 2005 elections.

The CoR in making these decisions must also consider that the smaller the constituencies the greater the susceptibility to, and impact of, any possible intimidation and hence the more contested the results of any election. Recognizing the impediments to the creation of smaller electoral units, it is likely that governorate elections in Iraq may have to be conducted in single, governorate-level electoral constituencies.

- b) **The Electoral Formula** is the way in which votes are converted into seats. There are two primary ways of doing this:
- **“Majoritarian”** (the candidate or party that wins the most votes wins all the available seats) or
 - **“Proportional”** (parties win seats in proportion to the number of votes they receive).

There are a number of variants to these including systems deemed as “mixed systems” which combine elements of majoritarian and proportional elections in a legislative election.

5. **Majoritarian elections:** usually require dividing each province into as many electoral districts/constituencies as there are seats in the council. The most voted candidate in each constituency wins a seat to the council. There are two basic types of majoritarian elections:

- **Plurality** (also called “relative majority”), in which the winner is the candidate who gets the most votes, regardless of the proportion of the overall votes cast. This system is also known as “First Past the Post” or “Winner Takes All”. It is used in many countries, including UK parliamentary elections, Canada, the USA and India. For governorate council elections, this would require dividing each governorate into as many single member districts, with similar numbers of voters, as there are seats in the council. For example, Baghdad would be divided into some 50 districts with more or less the same number of registered voters in each.
- **Majority (also called “absolute majority”)**, in which the winner is the candidate who wins more than half of the valid votes cast. If no candidate wins more than half the votes, there is usually a second election among the two leading candidates. A variation of this is the Alternative Vote System which is used in Australia, in which voters rank candidates according to their preference. These preferences are allocated until a candidate wins 50% of valid votes plus one vote.

Advantages to majoritarian elections:

- Are simple to understand and to administer.
- Promote a strong link between the elected representative and the constituency s/he represents.
- Give an accurate sense of legitimacy and support received by the elected representatives.

Disadvantages majoritarian elections:

- Require districting.
- Alienate all political contestants except the winner; “winner takes all” there is no apportionment of seats according to the number of votes cast.
- Make more difficult the representation of smaller parties, women and minorities.

Some majoritarian elections allow for more than one representative to be elected from a district. This is called the **Single Non-Transferable Vote** system (used in Jordan, Taiwan for local elections, Vanuatu and Afghanistan) in which seats are allocated to the most voted candidates in the constituency. In addition to the advantages and disadvantages listed above, this system is criticized because it promotes fragmentation within political parties and because there can be large differences in the number of votes required for individuals to be elected. Also, the **Block System** (the system used in Iraq under Saddam Hussein) is when voters as many times as there are seats in the constituency. In constituencies with a large number of seats like Baghdad (around 50 seats), voters mark an equal number of candidates (50) on the ballot. One immediate disadvantage to this system is that it can lead to large and unwieldy ballot papers.

6. Proportional Representation (PR) elections: are those in which parties or candidates win seats **in proportion** to the number of votes they receive.

There are many varieties within the “family” of proportional representation electoral systems. The principal variants are “party lists” and the “single transferable vote”.

- **In party-list elections**, each party presents a list of candidates, generally with as many candidates as there are seats to fill in a constituency. Voters mark their choice for a party, and the seats are divided amongst the parties that receive more votes than the “electoral threshold” or quota (i.e., the simplest quota is the number of votes divided by the number of seats to be filled.)

Closed (or Blocked) Lists are those in which each party determines the order of candidates on their list, and thus the order in which candidates are elected. The primary advantages of this system, used in continental Europe, Latin America and Francophone Africa,⁴ is that it is easy to explain, the procedures are straightforward and it provides for the election of women. Lesser known candidates can benefit from the support that popular candidates attract. It is commonly criticized because citizens are not told what the order of candidates will be on the list. Political parties and coalitions can often choose the order without elements of transparency.

Open Lists are those in which the voters mark their preferred candidate within a list. Proportional representation based on open lists can be

⁴ Examples include Algeria, Angola, Argentina, Belgium, Benin, Bolivia, Bulgaria, Burkina Faso, Burundi, Cambodia, Cape Verde, Costa Rica, Eritrea, Estonia, Germany, Greece, Morocco, Nicaragua, Peru, Portugal, Romania, Sierra Leone, and Turkey.

thought of as a combination of two elections. In one election, voters select one or more candidates from a list presented by a political entity. The seats won by the political entity are then distributed to their candidates on the basis of their popular vote. Although it adds some complication to training and counting processes, the system enhances the role of the voter in the election beyond casting the vote, however the extent of this effect should not be overstated. Parties or coalitions still form the list and manage campaign resources and, in Iraq, have access to patronage and personal security.⁵

- **Single Transferable Vote** is a variant of the system of proportional representation, whereby each voter indicates their preferred order of candidates. If a candidate receives more “first preference” votes than needed to be elected (the quota), the extra votes are transferred to the next-preferred candidate or candidates. Candidates with the fewest votes are eliminated at the end of each round of vote transfers and their unused votes are then distributed. This process continues until all the seats are filled. This system is used in few places, but includes Ireland, Malta and Estonia. Although it is perceived as very democratic, this system is unpractical as it requires high levels of literacy and numeracy in the population and the counting process can be long and open to controversy. This last aspect means it is less popular for societies in transition. Political parties require a sophisticated approach to campaigning to guarantee success and considerable resources must be invested in voter education and in training of counting staff.
7. **Mixed systems:** this involves combining majoritarian elections at the local level for part of the legislature (through either single or multi-member constituencies) and using the system of proportional representation for the remainder. Mixed systems, used in Germany, New Zealand and Denmark, are praised because they provide linkages between local constituencies and candidates, while also favouring women and minority representation through the provincial lists. Mixed systems often require two ballot papers, which in turn complicates logistics, voter education and counting processes. In Iraq this system may currently not be practical as it would require creating constituencies below the governorate level.
 8. **How seats are allocated to lists in proportional representation elections:** (or how the number of votes for a list is translated into the candidates who win seats) is one of the most important decisions to make because it has implications for the composition of the parliament or council. The **seat allocation formula** is the mathematical operation that calculates who will win the seats. The seat allocation formula is composed of two elements, **the threshold** (“natural” or “legal”), and the formula for the allocation of seats.

⁵ Countries that use open list (PR) include: Bosnia, Brazil, Colombia, Democratic Republic of Congo, Finland, Iceland, Indonesia, Japan, Latvia, Luxemburg, The Netherlands, Norway, Poland, Syria, Spain, and Sri Lanka.

- **Thresholds** (or minimum number of votes required to obtain a seat)
The “natural threshold” is calculated by dividing the number of voters by the number of seats. This calculation should be stipulated in the electoral law (and not presumed). The “legal threshold” is set in the electoral law and is usually higher than the natural threshold. It normally varies between three and five percent of the votes.

For the January 2005 elections in Iraq, the threshold was a natural one, as established by IECI regulations (CPA Order 92). For the December 2005 Council of Representatives election, the Election Law did not include a threshold. For future governorate council elections, legislation should not include any reference to thresholds if it was decided to facilitate the election of minority groups.

- **Formulas:** The most common formulas are:
The “Hare Quota.” The number of votes necessary to obtain a seat is established by dividing the total number of valid votes by the number of seats. The number of votes that each list obtains is divided by the result of the previous calculation. The result is the total number of seats a list will gain in a constituency. This was the formula used in Iraq in January and December 2005.
The “D’hondt” Formula divides the total number of votes in a constituency by as many seats as there are in the constituency. If, for example, there are five seats, the votes of each list will be divided by 1, 2, 3, 4 and 5. The largest numbers are extracted and the lists which obtained those numbers will gain the seats. This system is designed to favour larger parties over smaller ones.
The “Saint-Lague” Formula is obtained by dividing the number of votes obtained by each list by 1, 3, 5, 7 and so on. The seats are allocated to the lists that obtain the largest numbers resulting from that division. This formula is more favourable to smaller parties than the D’hondt formula.

Advantages of PR elections:

- Generally produces legislatures that tend to reflect the strength of various political views among the population. It is thus more likely that decisions of the legislative body will more accurately reflect the political views of society.
- Often recommended for transitional, post-conflict or divided societies, since they facilitate political dialogue, pluralism, and inclusion of women and of different ethnic groups.

Disadvantages of PR elections:

- Primary political accountability is vested in the party entity, not in its individual candidates and representatives.
- In practice, it can be difficult to hold parties to account, and when the major political forces join into a small number of ethnic or sectarian super-coalitions, it can be almost impossible for a party opposition to emerge.

9. **Credibility of the process:** In order to ensure the credibility of an election, in addition to freedom, fairness and competitiveness, there should be a voter registration update, periods of outreach and education for candidates and voters, registration of

political entities, a candidate nomination and vetting process and a political campaign period held prior to the election. It is widely accepted by both international experts, stakeholders and the IHEC that operational timelines for preparation of an electoral event are to be no less than six months. To shorten this timeline would likely compromise the credibility of the electoral process.⁶

10. Inclusion, Fraud and Intimidation: Management of security and the environment for election activities will become one of greatest challenges for security forces and electoral officials. In the three electoral events that took place in 2005, accusations of fraud cast a shadow of doubt over each event. This was counterbalanced by an increase in voter turnout which in December 2005 reached 76% of the electorate. Events such as governorate council elections may not in itself be a sufficient incentive for participation unless they are associated with an improvement in the security situation and are seen to be representative and accountable. Governorate council elections may bring about an increase in violence and intimidation at the local level as parties in existing coalitions may seek to run independently, thereby competing for the same pool of votes.

Furthermore, there is the risk that any voter register update will become an exercise of electoral engineering in which IDPs and individuals who are not Iraqi citizens are moved around to secure seats. Areas where this could result in increased attempts at fraud, possible intimidation or incite deterioration in the security situation could include Baghdad, Kirkuk, Diyala and Salahadeen.

11. Issues that require decision by the Council of Representatives:

a. **Governorate boundaries.** The CoR will have to state clearly in legislation what will be the future electoral constituencies. If the CoR decides to adopt different electoral boundaries to those of 2005, the seat allocation will have to be reviewed. In all cases, the decision on boundaries will have to be endorsed by political parties in the CoR, or the elections could be marred by accusations of “gerrymandering” (i.e., the manipulation of election results by changing the boundaries of the constituencies).

Which electoral formula(s) will apply. Majoritarian systems in Iraq are likely to be ruled out for the foreseeable future given the constraints of establishing electoral constituencies below the governorate level. In addition to the issues related to boundaries, they present complications to the election of women and minorities and they force a re-run election each time a seat is vacated by death, disability or resignation of a council member.

⁶ Electoral timelines consist of two elements – the operational timeline and the political timeline. The operational timeline relates to the preparedness of the electoral commission to implement an election. The political timeline relates to the need to pass key items of legislation – in Iraq these include decisions on eligibility to vote (and how IDPs will be accommodated in any voter registration drive or update); what electoral system will be used; which constituency boundaries will be used; and the passing of a budget to implement election activities.

- b. **Number of seats in each governorate council.** The CoR will have to determine, based on population figures or estimates, how many seats will be allocated to each governorate council. As the census has recently been postponed, the use of voter registration data or the voter turnout for the December 2005 elections, unreliable as they may be, are likely the only realistic options to explore for the near to medium term. It is possible that responsibility for seat allocation is deferred to the IHEC, but procedures will have to be clearly stipulated in any Election Law in order to avoid the IHEC's credibility being brought into question. It is highly desirable that the CoR decides this issue.
- c. **Eligibility Criteria.** The population movements that have occurred since February 2006 raise the question "who is entitled to vote and where?" Can IDPs register and vote where they currently reside, where they are originally from? Issues concerning whether to include population groups such as IDPs, refugees, and economic migrants can be used for the purposes of engineering the electoral process in favour of one party over another. The CoR should establish eligibility criteria based on age and nationality requirements, as well as defining criteria related to residence in a particular governorate. The CoR will no doubt appreciate the complexities of including refugee populations in any sub-national electoral event and will need to manage the expectations of these constituencies accordingly.
- d. **Women's representation.** Whatever formula the CoR adopts, it should enable the representation of women in the governorate councils. This can be achieved through the process of **reserved seats** which is accomplished by having separate lists for the election of women. However it has the disadvantage of requiring two ballots. Alternatively, women could be integrated into the overall party lists. If the formula is PR with a closed list then it is advisable that at least one woman should be placed among every three candidates. If the formula is PR with an open list is used a quarter of the seats from each list should be awarded to the most voted women regardless of the number of votes they received.
- e. **Minority representation.** The governorates of Ninewa, Diyala, Baghdad and Basra have groups of ethnic minorities such as the Turkomen, Yeçidis, Chaldo-Assyrians, Shabeans and Shabaks. Their representation can be facilitated through different measures. One option is to establish **reserved seats** for minorities. This would mean that the CoR would have to decide how many seats to reserve and for what minorities in each governorate. This measure secures minority representation but can be criticized if a particular group is excluded. The other alternative is to **remove the threshold** necessary to win a seat, which would improve chances for their election.

February 2008 UNAMI Office of Electoral Assistance