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Iraq: Post-Saddam National Elections

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Summary

Iraq, the United States, and the United Nations are preparing for Iraq's planned elections for a transitional National Assembly, scheduled for January 30, 2005. However, elections preparations are significantly hindered by continuing insurgency and threats of a boycott by many of Iraq's Sunni Arabs. This report will be updated regularly. See CRS Report RL31339, *Iraq: U.S. Regime Change Efforts and Post-Saddam Governance*.

Shortly after Operation Iraqi Freedom (OIF) deposed Saddam Hussein's regime in April 2003, the Bush Administration made the end of U.S. military occupation contingent on the completion of a new constitution and the holding of national elections, tasks expected to take two years. However, major Iraqi factions agitated for an early restoration of sovereignty, and the Bush Administration decided to hand sovereignty to an appointed Iraqi government by June 30, 2004, and to hold elections and write a constitution thereafter. The current transition roadmap was laid out in a Transitional Administrative Law (TAL), drafted and signed by Iraqi officials on March 8, 2004.¹ Its key points are as follows:

- A "transition government" is to be formed, chosen by a 275-seat National Assembly, elected in voting no later than January 31, 2005. Provincial assemblies and the Kurdistan regional assembly are to be elected simultaneously. The Assembly is to choose a "presidency council" (a president and two deputy presidents) and a prime minister.
- The election law for the National Assembly "shall aim to achieve the goal of having women constitute no less than 25%" of its membership.
- The transition government (post-January 31, 2005) is to draft (by August 15, 2005) a constitution to be put to a national vote by October 15, 2005.

¹ The text of the TAL can be obtained from the Coalition Provisional Authority website [<http://cpa-iraq.org/government/TAL.html>].

A highly controversial provision allows two-thirds of the voters in any three Iraqi provinces to veto the permanent constitution, effectively giving the Kurds (who control three northern provinces) a veto. If the constitution is defeated, a re-draft is to be voted on by October 15, 2006.

- If the permanent constitution is approved, elections for a permanent government are to occur by December 15, 2005, and it would take office by December 31, 2005. If the constitution is not approved, then the December 15, 2005 elections are to be for a new National Assembly.

The TAL did not address how an interim (post-handover) government would be chosen, a key issue because the January 2005 elections will be held while the interim government is running Iraq. The United States ceded to U.N. envoy Lakhdar Brahimi substantial responsibility for selecting the interim government, but maneuvering by major Iraqi faction leaders led to the inclusion of many of them — or their political allies — in the interim government. Some cabinet seats were given to non-politicians. The interim government was selected on June 1, 2004 and began work immediately, but the formal handover of sovereignty took place in a brief ceremony at about 10:30 A.M. Baghdad time on June 28, 2004, two days ahead of schedule.

Many of the powers of the interim government are spelled out in U.N. Security Council Resolution 1546 (June 8, 2004). It endorsed the handover of sovereignty and granted the United Nations a major role in assisting the Iraqi government in preparing for the elections. It also authorized a force within the coalition to protect U.N. personnel and facilities. Resolution 1546, along with an addendum to the TAL, provided for the holding of a conference of over 1,000 Iraqis to choose a 100-seat advisory council (“Interim National Council”) which lacks legislative authority but is able to veto decisions by the executive branch with a two thirds majority. The conference was held under tight security on August 13-18, 2004; it selected a council dominated by the major Shiite Islamist, Kurdish, and other established parties. It was sworn in on September 1, 2004.

The Planned January 2005 Elections

U.S. and Iraqi attention is now focused on the Assembly elections and simultaneous elections for governments of Iraq’s 18 provinces, and the Kurdish assembly; election day is set for January 30, 2005. In June 2004, the United Nations formed an 8-member Independent Electoral Commission of Iraq (IECI), nominated by notables from around Iraq, to run the election process. The United Nations, as well as CPA orders 92, 96, and 97 — issued just before the sovereignty handover — provided for voting by proportional representation (closed list), in which voters choose among competing party/coalition slates and individuals running as independents. Seats in the Assembly are to be allocated in proportion to a party list’s showing in the voting. Some have criticized the proportional representation system as unable to accommodate the possibility of delayed elections in insecure areas of Iraq and likely to favor well-established parties.² Others say this system is easiest to administer and maximizes candidates’ security by eliminating the need to campaign in individual districts. Under IECI rules, a woman candidate is to

² Diamond, Larry. Not Perfect, But ‘Reasonably Credible.’ *Wall Street Journal* op.ed. Oct. 25, 2004.

occupy roughly every third position on any electoral list in order to meet the goal for women's membership in the new Assembly. Under an Iraqi decision announced on November 4, 2004, Iraqis abroad — estimated at about 3.5 million — will be allowed to vote, with voting to be organized by the International Organization for Migration (IOM). U.N. electoral advisers had opposed that decision because of the complexity and expense of distributing and collecting ballots abroad.

Registration of voters, parties, and candidates (the latter two categories are “political entities”) began on November 1, 2004. According to U.N. elections officials in Iraq, voter lists are based on ration card lists containing about 14 million names; voters must be at least 18 years old. Each political entity (party or individual) must obtain 500 signatures from eligible voters and pay about \$5,000 to be registered. The voter and entity registration process, which involves 550 centers around Iraq co-located with food ration distribution points, closed on December 15, 2004, although approximately 100 centers in restive Anbar, Diyala, and Nineveh provinces were not open during the registration period. It is estimated that there will be about 28,000 polling places on election day. Thus far, 6,000 Iraqis have been hired to staff the registration centers. U.N. officials estimate that over 100,000 staff will eventually be needed for the election.

Security and Logistics

A major issue is whether Iraq is secure enough to permit a free and fair election. Virtually all commentators on the issue, including U.S. officials, say that the insurgency, which is particularly strong in several provinces dominated by Sunni Arabs, poses a challenge to the election. However, President Bush said in December 2004 that the elections should proceed on schedule, and U.S. officials, including some that have sometimes appeared to leave room for a postponement, say the elections will happen on time. A regional conference on Iraq, held in Egypt on November 22-23, 2004, endorsed the holding of elections by that date. The commitment to the election schedule came despite a move, on November 26, 2004, by fifteen mainly Sunni Arab Iraqi parties, to obtain a six-month postponement to allow time to calm the restive areas. One issue that has arisen is whether or not there could be a delay in voting only in those areas deemed insufficiently secure, such as the Sunni Arab-inhabited towns of Fallujah and Ramadi, but that possibility has apparently been ruled out on the grounds that the Sunni Arabs would feel disenfranchised and would likely continue to provide support to the insurgency.³ In December 2004, Prime Minister Iyad al-Allawi floated another idea under which voting might be conducted over a period of a few weeks, a method that presumably would allow for enhanced voting security, although support for that idea appears to have receded.

In an effort to address the security issues, in September 2004 U.S. forces began offensives against insurgent-held towns in hopes of restoring security and paving the way for these towns to vote. In a major operation in November 2004, U.S. forces largely ended insurgent control of Fallujah and conducted similar but smaller operations in Samarra, Mosul, and towns south of Baghdad, although insurgents are still said to be operating in virtually all of these areas. U.S. commanders say U.S. force levels in Iraq have now risen to 150,000 from the prior level of about 140,000, in order to better secure the election period.

³ Schmitt, Eric. In Iraq, U.S. Officials Cite Obstacles to Victory. *New York Times*, Oct. 31, 2004.

Security concerns have also affected the ability of the United Nations to assist Iraq's election preparations. Iraqi officials have complained that the 35-person U.N. contingent now in Iraq — which includes new U.N. envoy to Iraq Ashraf Jahangir Qazi (a Pakistani U.N. diplomat) but only 19 election specialists — is far too small to prepare for the elections. U.S. officials have found some donors to a U.N. protection force provided for by Resolution 1546, and the United Nations said on December 15 that it plans to increase the election specialist component to at least 25. Fiji is deploying 130 troops and Georgia has begun to deploy a contingent of 691 troops to the force as well.

Emerging Competition⁴

The Iraqi groups that have thus far taken the most active interest in the upcoming elections are primarily those parties best positioned to win seats: Shiite Islamist parties, the Kurds, and secular parties that emerged just prior to or after the overthrow of Saddam. These factions apparently believe that free elections offer them an opportunity to gain a legitimate share of power in post-Saddam Iraq. It is not known how many voters are registered to date, although press reports suggest that registration in the Sunni Arab-inhabited areas of Iraq has been relatively low.

As of the December 15, 2004 close of registration, 6,400 total “political entities” have registered, including 100 election “lists.” Of those 100 lists, 66 lists were put forward by political parties, 25 were furnished by individual candidates, and nine were broad multi-party coalition slates. The most prominent coalition list announced to date was unveiled on December 8, 2004, brokered by Grand Ayatollah Ali al-Sistani and his top aides, including former nuclear scientist (and potential prime minister) Hussein Shahrastani. Sistani himself, who is Iraq's supreme Shiite leader, is not a candidate. His so-called “United Iraqi Alliance” list consists of 22 parties and contains 228 candidates. In an effort to attract a diverse range of voters, the list includes a smattering of non-Islamist Shiites, Sunni tribal candidates, and Turkoman and Yazidi ethnic and religious minority candidates, but it is clearly dominated by two moderate Shiite Islamist parties: the Supreme Council for the Islamic Revolution in Iraq (SCIRI) and the Da'wa Party. Both parties, but particularly SCIRI, are considered close to Tehran, and their prominence has led to allegations by some Iraqis that Iran is meddling in the Iraqi election. The first candidate on the United Iraqi Alliance list is SCIRI leader Abd al-Aziz al-Hakim, who was in exile in Iran during the 1980s-1990s. Da'wa leader Ibrahim Jafari, currently a Vice President, is number seven on this slate.

One candidate on the Sistani list, the tenth position, is secular Shiite Ahmad Chalabi, a former U.S. ally who fell out with the United States. He heads the largely secular Iraqi National Congress (INC) but he has aligned the INC with moderate Shiite Islamists in a “Shiite Political Council.” Largely absent from the Sistani list are candidates publicly aligned with radical young Shiite cleric Moqtada al-Sadr, whose faction did not register as a political entity and who has said his grouping will not participate in the elections unless there is a firm date for a U.S. military withdrawal. In an early indication of

⁴ A detailed discussion of many of these competing groups is contained in CRS Report RL31339, *Iraq: U.S. Regime Change Efforts and Post-Saddam Governance*. Some of the information in the section comes from CRS conversations with experts and U.S. officials advising Iraq on the elections.

election-related violence, one of the slate's candidates, Iraqi Hizbollah figure Sattar Jabar, was assassinated on December 9, 2004.

Other large slates consisting of long-established parties have formed. The two main Kurdish parties — the Patriotic Union of Kurdistan and the Kurdistan Democratic Party — are offering a joint list. Another list was offered by President Ghazi al-Yawar, a Sunni tribal figure who has formed his own "Iraqis' Party." The Communist Party, headed by former IGC member Hamid al-Musa, has filed a 257-candidate slate. On the eve of the filing deadline, Prime Minister Iyad al-Allawi filed his own six-party, 240-candidate slate ("the Iraqi List") led by his Iraqi National Accord (INA) party, but which includes tribal leaders, mostly secular Sunni and Shiite independents, and at least one moderate Shiite Islamist, Hussein al-Sadr. Allawi said his slate, should it be victorious, would push for the "eventual" withdraw of international forces from Iraq.

Smaller, emerging parties have filed to compete as well. These parties appear to be based less on sectarian identity than some of the major parties, and they are generally secular and pro-Western. Some of these smaller parties include the National Democratic Party of Baghdad lawyer Nasser al-Chaderchy, a former IGC member; a four-party coalition called the National Brotherhood for Liberation and Development, headed by Baghdad academic Wamidh al-Nadhmi; the "Iraq Coalition Party," a mostly Sunni Arab tribal party led by the prominent Jabburi clan; the Iraq National Movement, headed by former military officer Hatem al-Mukhlis; and the Iraq Democratic Congress of Jawat Obeidi.

Press reports say there is little evident enthusiasm for the elections among Sunni Arabs, who apparently believe that their small numbers in Iraq (about 20% of the total population) means that elections will result in their defeat. Many observers appear to agree that a broad boycott or non-participation by Sunni Arabs could threaten the legitimacy of the elections. Sunni Arab clerics belonging to an organization called the Iraq Muslim Clerics' Association, which is said to be close to the insurgents, called for a broad Sunni boycott after U.S. forces began their assault on rebel-held Fallujah on November 8. A more moderate Islamist Sunni party, the Iraqi Islamic Party of former IGC member Muhsin Abd al-Hamid, has registered for the elections with a 275-seat slate, but it has said it will not decide until the last minute whether to compete. Another mostly Sunni party, the Iraqi Independent Democrats, headed by pro-U.S. former diplomat and former IGC member Adnan Pachachi has filed a slate consisting mostly of professionals. Pachachi registered his list even though he led the late November effort to bring about a postponement and he says Sunni Arab turnout might be lower than 10% in restive areas. In an effort to try to increase Sunni Arab participation, Prime Minister Iyad al-Allawi has held talks in Jordan with Sunni factions, including some believed close to the insurgency.

Election Funding

To run the elections, the Iraqi government has budgeted about \$250 million, of which \$130 million is expected to be offset by international donors, including about \$40 million from the European Union. The Bush Administration is assisting Iraq in the elections process as well as other election-related functions. In October 2004, based on a review of how best to use funds from an \$18.6 billion Iraq reconstruction appropriation (FY2004 supplemental appropriation, P.L. 108-106), the Administration increased allocations for election-related assistance in Iraq. According to a State Department fact

sheet issued October 22, 2004, the United States now expects to spend \$871 million of the reconstruction funds on election assistance and related “democracy promotion and governance” programs — an increase of \$180 million from previous allocations.

Of the \$180 million increase: (1) \$40 million is to improve the capacity of Iraq’s election commission that will run the election; (2) \$20 million additional (in addition to \$25 million previously allocated) will be for a nationwide elections monitoring program; (3) \$30 million will go to the National Endowment of Democracy to provide technical assistance for “moderate and democratic” political parties in Iraq; (4) \$100 million (in addition to \$134 million previously allocated) will go to support local and provincial governing institutions around Iraq; and (5) \$20 million (in addition to \$21 million already allocated) will be used to support operations of the Iraqi interim government. About \$40 million previously allocated is being used to fund Iraqi political party development through the National Endowment of Democracy (NED) and its party-based partners the National Democratic Institute (NDI), and the International Republican Institute (IRI). Remaining funds from the \$871 million total are to be used to promote democracy and civil society, including training emerging Iraq leaders and educating Iraqis on democracy, human rights, and governance through these same organizations as well as others, including the U.S. Institute of Peace (USIP).

Conclusions

The planned January 30, 2005 elections might provide a major test for U.S. policy. An electoral process that is significantly postponed, subjected to a boycott by major segments of the Iraqi population, or significantly marred or derailed by major insurgent violence, could lead to a major U.S. review of Iraq policy. A failed election process could prompt consideration of other options, such as U.N.-backed power-sharing negotiations among major factions to form a coalition government, or U.S. backing for indefinite rule by the existing leadership of Prime Minister Allawi. Another option could be to support one major faction, such as Grand Ayatollah Ali al-Sistani and his Shiite allies, in the formation of a new government that might design a new transition plan.

On the other hand, elections that are considered successful (broad participation, limited violence, accepted outcome) could become a turning point in Iraq’s transition. Successful elections could reduce popular support for the insurgency, prompt negotiations on an end to anti-government violence, and pave the way not only for further political reconstruction, but also accelerated economic reconstruction. These developments could create conditions for reduced U.S. force levels in Iraq.