

CRS Report for Congress

Received through the CRS Web

Iraq: Elections, Government, and Constitution

Kenneth Katzman
Specialist in Middle Eastern Affairs
Foreign Affairs, Defense, and Trade Division

Summary

Elections for a transitional National Assembly, provincial councils, and a Kurdish regional assembly were held on January 30, 2005. Insurgent violence has remained high, but a government has been formed, a permanent constitution is being drafted, and additional Sunni Arabs are being brought into the new power structure. 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 linked the end of U.S. military occupation to the completion of a new constitution and the holding of national elections, tasks expected to take two years. Prominent Iraqis prevailed on the Bush Administration to accelerate the process, and sovereignty was given to an appointed Iraqi government on June 28, 2004. A new government and a permanent constitution were to be voted on thereafter. The subsequent transition was laid out in a Transitional Administrative Law (TAL), signed on March 8, 2004, as follows:¹

- The elections held on January 30, 2005 (within the prescribed time frame) were for a 275-seat National Assembly; for a provincial assembly in each of Iraq's 18 provinces (41 seats each; 51 for Baghdad); and for a Kurdistan regional assembly (111 seats). Results are in table below.
- The TAL specified no deadline for the elected National Assembly to select an executive (a "presidency council" of a president and two deputy presidents) by a two-thirds Assembly vote. The presidency council had two weeks to choose a prime minister by consensus, and the Prime Minister had one month to obtain Assembly confirmation of his cabinet choices. The Prime Minister and his cabinet are subject to confirmation by a majority Assembly vote. Cabinet ministers may be persons not in the Assembly.

¹ For text, see [<http://cpa-iraq.org/government/TAL.html>].

- The National Assembly is to draft a constitution by August 15, 2005, to be put to a national vote by October 15, 2005. Two-thirds of the voters in any three Iraqi provinces may veto the constitution, essentially giving Kurds, Sunnis, and Shiites a veto. 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 defeated, the December 15 elections would be for a new transitional National Assembly and a new draft is to be voted on by October 15, 2006.

The Election Process and Planning

In June 2004, the United Nations formed an 8-member central Independent Electoral Commission of Iraq (IECI), nominated by notables from around Iraq, to run the election process. CPA Orders 92, 96, and 97, issued in mid-2004, provided for voting by proportional representation (closed list). Voters chose among “political entities”: a party, a coalition of parties, or individuals running as independents. Seats in the Assembly (and the provincial assemblies) were allocated in proportion to a slate’s showing. Any entity that obtained at least 1/275 of the vote (about 31,000 votes) obtained a seat. Under IECI rules, a female candidate occupied every third position on electoral lists in order to meet the TAL’s goal for at least 25% female membership in the new Assembly. A total of 111 entities were on the National Assembly ballot: 9 were multi-party coalitions, 75 were single parties, and 27 were individual persons. The 111 entities contained over 7,000 candidates. Another 9,000 candidates, also organized into party slates, competed in the provincial and Kurdish elections.

Under an Iraqi decision, Iraqis abroad, estimated at about 1.2 million, were eligible to vote. The International Organization for Migration (IOM) was tapped to run the “out-of-country voting” (OCV) program. U.N. electoral advisers had opposed OCV because of the complexity of the task, as well as the expense.² About 275,000 Iraqi expatriates (including dual citizens and anyone who can demonstrate that their father was Iraqi) registered, and about 90% of them voted.

Inside Iraq, certification of voters and political entities took place November 1-December 15, 2004. Voter lists were based on ration card lists containing about 14 million names; voters needed to be at least 18 years old. Voters did not need to formally “register,” but they verified or corrected personal information on file at 550 food ration distribution points around Iraq. In the most restive areas, this verification process did not take place, but voters were able to vote by presenting valid identification on election day. Each political entity was required to obtain 500 signatures from eligible voters and pay about \$5,000. About 5,200 polling centers were established; each center housed several polling stations. About 6,000 Iraqis staffed the branches of the IECI around Iraq, and 200,000 Iraqis staffed the polls on election day.

² The 14 countries in which this voting took place were Australia, Canada, Denmark, France, Germany, Iran, Jordan, Netherlands, Sweden, Syria, Turkey, UAE, Britain, and the United States. For more information on the out-of-country voting, see [<http://www.iraqocv.org>].

Security, Logistics, and Funding

Election security was an issue under nearly constant review in the months before the election, but in December 2004, President Bush stated that postponement would represent victory for the insurgents and that elections should proceed as scheduled. That U.S. insistence came despite a postponement petition in November 2004 by seventeen mainly Sunni Arab parties. Prior to the election, insurgents repeatedly targeted polling stations and threatened to kill anyone who voted. In an effort to secure the vote, U.S. force levels in Iraq rose to 150,000 from the prior level of about 138,000. Polling centers were guarded on election day by the 130,000 members of Iraq's security forces, with U.S. forces close by for back-up. Two days prior to election day, all vehicle traffic was banned, Iraq's borders were closed, and polling locations were confirmed.

Security concerns also affected the ability of the United Nations to assist Iraq's election. The 100-person U.N. contingent in Iraq included only 19 election specialists, with another 12 U.N. election specialists based in Jordan. U.S. officials obtained some donors to a protection force for the U.N. contingent, provided for by U.N. Security Council Resolution 1546 (June 8, 2004) — Fiji deployed 130 troops and Georgia deployed 691. Vote monitoring was limited to a Canada-led contingent of about 25 observers from eleven nations based in Jordan, which assessed reports on the voting by about 50,000 Iraqi monitors. (One of the international observers was in Iraq). Another 129 foreign observers, mainly foreign diplomats posted to Iraq, did some monitoring from Baghdad's "Green Zone."

Funding. The Iraqi government budgeted about \$250 million for the elections inside Iraq, of which \$130 million was offset by international donors, including about \$40 million from the European Union. Out of \$18.6 billion in U.S. funds for Iraq reconstruction contained in an FY2004 supplemental appropriations (P.L. 108-106), the United States provided \$40 million to improve the capacity of the IECI; \$42.5 million for elections monitoring by Iraqis; and \$40 million for political party development, through the International Republican Institute and National Democratic Institute. The out-of-country voting cost an additional \$92 million, of which \$11 million was for the U.S. component. No U.S. funds were spend for the out-of-country voting.

Election Competition and Results³

The Iraqi groups that took the most active interest in the elections were primarily those parties best positioned to win seats: Shiite Islamist parties, the Kurds, and established secular parties. The most prominent slate was the "United Iraqi Alliance" (UIA), brokered by Grand Ayatollah Ali al-Sistani and his top aides. The 228-candidate UIA slate consisted of 22 parties, but dominated by two large Shiite Islamist parties, the Supreme Council for the Islamic Revolution in Iraq (SCIRI) and the Da'wa Party. Both, but particularly SCIRI, are politically close to Tehran. The first candidate on this slate was SCIRI leader Abd al-Aziz al-Hakim; Da'wa leader Ibrahim Jafari was number seven. There were 14 supporters of radical Shiite cleric Moqtada al-Sadr on the slate — of which eight won seats — even though Sadr himself denounced the election as a

³ For a detailed discussion of many of these groups, see CRS Report RL31339, *Iraq: U.S. Regime Change Efforts and Post-Saddam Governance*.

product of U.S. occupation. Pro-Sadr Shiites also competed separately on a “National Independent Elites and Cadres” list and competed in provincial elections.

Among other major slates, the two main Kurdish parties, the Patriotic Union of Kurdistan (PUK) and the Kurdistan Democratic Party (KDP) put aside lingering rivalries to offer a joint 165-candidate “Kurdish Alliance” list. Interim Prime Minister Iyad al-Allawi filed a six-party, 233-candidate “Iraqi List” led by his Iraqi National Accord (INA) party, but including tribal leaders and some secular Sunnis and Shiites. The Communist Party, headed by Hamid al-Musa, filed a 257-candidate “People’s Union” slate.

Sunni Arabs (20% of the overall population), perceiving electoral defeat and insurgent intimidation, mostly stood on the sidelines. The relatively moderate Sunni Islamist group, the Iraqi Islamic Party, filed a 275-seat slate, but it withdrew from the election in December 2004. The Iraqi Muslim Clerics’ Association, which is said to be close to the insurgents, did not compete and called for a Sunni boycott. On the other hand, an 80-candidate, mostly tribal Sunni, “Iraqis Party” slate was offered by interim President Ghazi al-Yawar. Adnan Pachachi, a Sunni elder statesman who heads the Iraqi Independent Democrats, offered a slate consisting mostly of Sunni professionals. A pro-monarchist slate of the Movement for Constitutional Monarchy (MCM) was mostly Sunni as well. Some Sunni groups that boycotted the National Assembly contest nonetheless participated in the provincial assembly elections.

The vote was conducted relatively smoothly. Insurgents conducted about 300 attacks, killing about 30 Iraqis, but no polling stations were overrun, and Shiite and Kurdish voters appeared mostly undeterred. Total turnout was about 58% (about 8.5 million votes). After the polls closed, President Bush said “In great numbers and under great risk...The Iraqi people, themselves, made this election a resounding success.” World reaction was favorable, including from governments, such as France and Germany, that have criticized U.S. Iraq policy. Members of Congress widely praised the vote.

National Assembly results, contained in a table below, appeared to match many predictions. Sunnis hold only 17 seats (about 6% of the total seats), leaving them under-represented relative to the population, and Kurds and Shiites over-represented. There are about 90 women in the Assembly. In provincial elections, the Kurds won about 60% of the seats in Tamim (Kirkuk) province (26 out of 41 seats); Sunni Arabs hold 6 and Turkomens hold 9 seats. This has strengthened Kurdish attempts to gain control of oil-rich city of Kirkuk and provoked an Arab and Turkmen boycott of that council.

Post-Election Government

The election results triggered factional bargaining over positions in the new government and the future of Iraq; much of the negotiating centered on Kurdish demands for substantial autonomy, control over resources, and the incorporation of Kirkuk, which has a large Kurdish population, into the Kurdish-administered areas in northern Iraq. Press reports suggest that the UIA and Kurdish blocs agreed to defer some of these issues, but Sunnis were left unsatisfied at the extent of their incorporation into the government.

The groups began establishing the new government on April 3 with the naming of a National Assembly speaker (Hajim al-Hassani, a Sunni from Ghazi Yawar’s list) and two deputies: Arif Tayfour, a Kurd, and Hussein Shahristani, an aide to Ayatollah Sistani.

On April 6, the presidency council was approved: PUK leader Jalal Talabani, whom the Kurds were pushing for president, was given that post. His two deputies are SCIRI's Adel Abd al-Mahdi and Ghazi al-Yawar. They named the UIA's choice for Prime Minister, the Da'wa Party's Ibrahim al-Jafari, to that post. Subsequently:

- On April 28, Jafari received Assembly approval for a cabinet of 32 ministers, of which six are women, and 3 deputy prime ministers.⁴ Leading anti-Saddam figure Ahmad Chalabi and KDP activist Rosch Shaways were named deputy prime ministers. Five cabinet positions and a deputy prime ministership was initially filled only temporarily or left vacant, pending an agreement to appoint more Sunnis.
- On May 7, Jafari filled out the cabinet by appointing three Sunnis and two Shiites to ministerial posts, and the remaining deputy prime minister (Abid al-Jabburi, a Sunni). However, the nominated Minister of Human Rights, Hashim al-Shibli, refused to take up his post on the grounds that he was appointed only because he is a Sunni. (That post is filled by a Kurdish woman on an acting basis). Even though these latter appointments included a Sunni, Sadoun al-Dulaymi, as Defense Minister, Sunni Arabs complained that Sunnis hold slots considered relatively unimportant, such as the ministries of culture and of women's affairs. Of the four other major posts, SCIRI activists hold two — Interior and Finance; the Oil Minister is an independent Shiite Islamist; and a KDP activist is Foreign Minister.

Permanent Constitution

Continuing the transition process, on May 10, the National Assembly appointed a 55-member committee (all Assembly members) to begin drafting the permanent constitution. The UIA was given 28 slots, and a SCIRI top official, Humam al-Hammoudi, was named committee chair. The Kurdish alliance was given 15 slots, and Allawi's bloc got 8 seats. Also appointed were one Christian, one Turkomen, and two Sunni Arabs, prompting Sunni resentment and some reported U.S. pressure on Iraqi leaders to appoint additional Sunni Arabs. On June 23, 2005, an agreement was finalized for 15 additional Sunni Arabs (and one member of the small Sabian community) to become voting members of the committee, with 10 more Sunni Arabs to serve as advisors. One voting Sunni and one advisor were assassinated in early July 2005, causing a several day boycott by the committee's Sunni Arabs.

Iraqi leaders now say that a draft will be completed by the August 15, 2005, deadline, although some are suggesting that some major issues discussed below might be left unresolved in the draft. The committee had considered requesting an extension (there was an August 1, 2005 deadline for such a request) but reported U.S. pressure led the committee not to do so. Based on press reports of drafts of the constitution that are

⁴ In the final cabinet, there are 17 Shiite ministers, 8 Kurds, 6 Sunnis, and one Christian (a Christian woman is Minister of Science and Technology), in addition to the three deputy prime ministers.

circulating, major disputes, which will be discussed at a national conference of Iraqi factions on August 5, 2005, include:

- Efforts by the UIA bloc to elevate the role of Islam as a source of law, including a reported stipulation that families would be able to choose Islamic courts from their sect to adjudicate domestic issues such as divorce and inheritance. These provisions have provoked opposition from women, who want domestic issues to come before civil courts, and from the Kurds, who tend to be secular Muslims. On the other hand, the 25% electoral goal for women apparently will be retained, and the concept of equal rights for men and women stated. The UIA bloc also reportedly wants to designate a special status to the Shiite clergy (the *marjaiyya*, currently Sistani) and (mostly Shiite) religious sites, and to include “Islamic” in Iraq’s name.
- The Kurdish and Shiite push for a weak central government, and for the ability of several provinces together to form autonomous “regions” with their own regional governments. The Sunnis are opposing this concept, because their region, unlike those inhabited by the Shiites and the Kurds, lacks oil and they depend on the central government for revenues.
- The reported Kurdish threat to veto the constitution unless it expands the boundaries of the Kurdish administrative region, puts in place a process for the Kurds to gain control of Kirkuk, and allows them to retain their *peshmerga* militia.

National Assembly Election Results

Slate/Party	Number of Seats
UIA (Shiite Islamist). About 58% of vote; Shiite turnout 75%	140
Kurdistan Alliance. About 26% of vote; Kurdish turnout 90%	75
Iraqis List (Allawi). About 14% of vote.	40
Iraqis Party (Yawar, Sunni). 1.8% of vote. Sunni turnout less than 10%	5
Iraqi Turkomen Front (Turkomen, Kirkuk-based, pro-Turkey)	3
National Independent and Elites Cadre (pro-Sadr)	3
People’s Union (Communist, Sunni/Shiite)	2
Kurdistan Islamic Group (Islamist Kurd)	2
Islamic Action (Shiite Islamist, Karbala)	2
National Democratic Alliance (secular)	1
Rafidain National List (Assyrian Christian)	1
Liberation and Reconciliation Gathering (secular)	1