



Iraq: Politics, Elections, and Benchmarks

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Summary

Iraq's political system, the result of a U.S.-supported election process, continues to be riven by sectarianism and ethnic and factional infighting. As 2009 begins, there is renewed maneuvering by opponents of Prime Minister Nuri al-Maliki to possibly try to replace him. Internal dissension aside, the Bush Administration has been optimistic that the passage of key laws in 2008, coupled with the provincial elections to be held January 31, 2009, will sustain recent reductions in violence. Campaigning for the provincial elections, to be held in all provinces except Kirkuk and the Kurdish-controlled provinces, has thus far been relatively peaceful and enthusiastic and party slates appear to be considerably different than those that competed in the January 2005 provincial elections. See CRS Report RL31339, *Iraq: Post-Saddam Governance and Security*, by Kenneth Katzman.

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Elections and Constitutional Referendum in 2005

After about one year of occupation, the United States handed sovereignty to an appointed Iraqi government on June 28, 2004. In line with a March 8, 2004, “Transitional Administrative Law” (TAL), the first post-Saddam election was held on January 30, 2005, for a 275-seat transitional National Assembly (which formed an executive), four-year term provincial councils in all 18 provinces and a Kurdistan regional assembly (111 seats). The election system was proportional representation/closed list: voters chose among “political entities” (a party, a coalition of parties, or persons); 111 entities were on the national ballot, of which nine were multi-party coalitions. Sunni Arabs (20% of the overall population) boycotted, winning only 17 Assembly seats, and only one seat on the Baghdad provincial council. Radical Shiite cleric Moqtada Al Sadr, then at odds with U.S. forces, also boycotted, leaving his faction under-represented on provincial councils in the Shiite south and in Baghdad. The resulting government placed Shiites and Kurds in the most senior positions—Patriotic Union of Kurdistan (PUK) leader Jalal Talabani was President and Da’wa (Shiite party) leader Ibrahim al-Jafari was Prime Minister. Sunnis were Assembly speaker, deputy president, a deputy prime minister, and six ministers, including defense.

Permanent Constitution

The elected Assembly was to draft a constitution by August 15, 2005, to be put to a referendum by October 15, 2005, subject to veto by a two-thirds majority of voters in any three provinces. On May 10, 2005, a 55-member drafting committee was appointed, but with only two Sunni Arabs (15 Sunnis were later added as full members and 10 as advisors). In August 2005, the talks produced a draft, providing for: a December 31, 2007, deadline to hold a referendum on whether Kirkuk (Tamim province) will join the Kurdish region (Article 140); designation of Islam “a main source” of legislation;¹ a 25% electoral goal for women (Article 47); families choosing which courts to use for family issues (Article 41); making only primary education mandatory (Article 34); and having Islamic law experts and civil law judges on the federal supreme court (Article 89). Many women opposed the two latter provisions as giving too much discretion to male family members. It made all orders of the U.S.-led occupation authority (Coalition Provisional Authority, CPA) applicable until amended (Article 126), and established a “Federation Council” (Article 62), a second chamber with its size and powers to be determined by subsequent law (not adopted to date).

The major disputes—still unresolved—centered on regional versus centralized power. The draft permitted two or more provinces together to form new autonomous “regions”—reaffirmed in passage of an October 2006 law on formation of regions. Article 117 allows “regions” to organize internal security forces, legitimizing the fielding the Kurds’ *peshmerga* militia (allowed by the TAL). Article 109 requires the central government to distribute oil and gas revenues from “current fields” in proportion to population, and gave regions a role in allocating revenues from new energy discoveries. Disputes over these concepts continue to hold up passage of national hydrocarbons legislation—Sunnis dominated areas of Iraq have few proven oil or gas deposits,

¹ <http://www.washingtonpost.com/wp-dyn/content/article/2005/10/12/AR2005101201450.html>.

and favor centralized control of oil revenues. The Kurds want to maintain maximum control of their own burgeoning oil sector.

With contentious provisions unresolved, Sunnis registered in large numbers (70%-85%) to try to defeat the constitution, prompting a U.S.-mediated agreement (October 11, 2005) providing for a panel to propose amendments within four months after a post-December 15 election government took office (Article 137), to be voted on within another two months (under the same rules as the October 15 referendum.) The Sunni provinces of Anbar and Salahuddin had a 97% and 82% “no” vote, respectively, but the constitution was adopted because Nineveh province only voted 55% “no,” missing the threshold for a “no” vote by a two-thirds majority in three provinces.

December 15, 2005 Elections

In the December 15, 2005 elections for a four-year government (in line with the schedule laid out in the TAL), each province contributed a predetermined number of seats to a “Council of Representatives” (COR)—a formula adopted to attract Sunni participation. Of the 275-seat body, 230 seats were allocated this way, with 45 “compensatory” seats for entities that would have won additional seats had the constituency been the whole nation. There were 361 political “entities,” including 19 multi-party coalitions, competing. As shown in the table, voters chose lists representing their sects and regions, and the Shiites and Kurds again emerged dominant. The COR was inaugurated on March 16, 2006, but political infighting caused the Shiite bloc “United Iraqi Alliance” to replace Jafari with another Da’wa figure, Nuri Kamal al-Maliki, as Prime Minister. On April 22, the COR approved Talabani to continue as president. His two deputies are Adel Abd al-Mahdi (incumbent) of the Islamic Supreme Council of Iraq (ISCI) and Tariq al-Hashimi, leader of the Accord Front (Iraqi Islamic Party). Another Accord figure, the hardline Mahmoud Mashhadani (National Dialogue Council party), is COR speaker. Maliki won a COR vote for a 37-member cabinet (including himself and two deputy prime ministers) on May 20, 2006. Three key slots (Defense, Interior, and National Security) were not filled permanently until June 2006, due to infighting. Of the 37 posts, there were 19 Shiites; 9 Sunnis; 8 Kurds; and 1 Christian. Four were women.

Benchmarks, Reconciliation, and Provincial Elections

The 2005 elections did not resolve the grievances in Iraq’s communities over their new positions in the post-Saddam power structure. In August 2006, the Administration and Iraq agreed on a series of “benchmarks” that, if adopted and implemented, might achieve political reconciliation. Under Section 1314 of a FY2007 supplemental appropriation (P.L. 110-28), “progress” on eighteen political and security benchmarks—as assessed in Administration reports due by July 15, 2007 and then September 15, 2007—were required for the United States to provide \$1.5 billion in Economic Support Funds (ESF) to Iraq. The President used the waiver provision. The law also mandated an assessment by the GAO, by September 1, 2007, of the degree to which the benchmarks have been met, as well as an outside assessment of the Iraqi security forces (ISF).

As 2008 progressed, citing the achievement of almost all of the major legislative benchmarks – and the dramatic drop in sectarian-motivate violence attributed to the U.S. “troop surge” – the Bush Administration asserted that political reconciliation was well under way. However, U.S.

officials continue to maintain that the extent and durability of reconciliation will largely depend on the degree of implementation of the adopted laws. The legislative progress achieved a breakthrough on February 13, 2008 with passage (unanimously, with 206 members voting) of an amnesty law, the provincial powers law, and the 2008 national budget. However, a June 2008 study by the Government Accountability Office (GAO-08-837) said the legislative moves have had limited effect in healing the rifts in Iraqi politics. Iraq's performance on the "benchmarks" is in the table below.

During 2008, Maliki's growing perceived strength helped him rebuild his government, but has caused some adverse consequences for his political position. The pullout of the Accord Front, the Sadr faction, and the bloc of former Prime Minister Iyad al-Allawi in 2007 left the cabinet with about 13 vacant seats out of a 37 seat cabinet. A March 2008 offensive ordered by Maliki against the Sadr faction and other militants in Basra and environs ultimately pacified the city, weakened Sadr politically, and caused some Sunnis and Kurds to see Maliki as more even-handed and non-sectarian than previously thought. This contributed to a decision by the Accord Front to return to the cabinet in July 2008. Other cabinet vacancies were filled, mostly by independents, to the point where the cabinet now only has one vacancy (ministry of Justice). At the same time, U.S. officials became concerned that Maliki's growing independence from the United States could lead to reversals, for example by creating restiveness among the Sunni "Sons of Iraq" fighters who he has refused to integrate wholesale into the Iraqi Security Forces. The 100,000 fighters nationwide cooperate with U.S. forces against Al Qaeda in Iraq and other militants. Still, the assumption of the payments of the Sons by the Iraqi government in November 2008 has been relatively without incident to date, calming U.S. fears to some extent. Emboldened by his political strength but also attentive to pressure by Iran, Maliki insisted on substantial U.S. concessions in the U.S.-Iraq "status of forces agreement" (SOFA) that passed the COR on November 27, 2008 over Sadrist opposition, and notwithstanding Sunni efforts to obtain assurances of their future security. The pact took effect January 1, 2009, limiting the prerogatives of U.S. troops to operate in Iraq and setting a timetable of December 31, 2011 for a U.S. withdrawal.

Maliki's growing strength is causing concern even among Maliki's erstwhile political allies. The Kurds, a key source of support for him, are increasing at odds with his leadership because of his formation of government-run "tribal support councils" in northern Iraq, which the Kurds see as an effort to prevent them from gaining control of disputed territories. ISCI, the longstanding main ally of Maliki's Da'wa Party, is competing with the Da'wa for provincial council seats, as discussed below, and accuse him of surrounding himself with Da'wa veterans to the exclusion of other decision-makers. The competition has prompted reports that several major factions are considering attempting to bring about a "no-confidence" vote against Maliki. The late December 2008 resignation, under pressure, of Sunni COR Speaker Mahmoud al-Mashhadani, who was perceived as blocking a no confidence motion, could be one outward indicator of the dissension. Still, Maliki's opponents are said to be unable, to date, to agree on who would replace him as Prime Minister – a consideration that was widely judged to have kept Maliki in office in 2006 and 2007.

Provincial Elections

The Bush Administration and President-elect Obama are placing significant weight on the January 31, 2009 provincial elections to consolidate the reconciliation process. Provincial councils in Iraq choose the governor and provincial governing administrations in each province, making them powerful bodies. The elections had been planned for October 1, 2008, but were delayed when Kurdish restiveness over integrating Kirkuk and other disputed territories into

the KRG caused a presidential veto of the July 22, 2008 election law needed to hold these elections. The draft law provided for equal division of power in Kirkuk (between Kurds, Arabs, and Turkomans) until its status is finally resolved, prompting Kurdish opposition to any weakening of their dominance in Kirkuk. Following the summer COR recess, the major political blocs agreed to put aside the Kirkuk dispute and passed a revised provincial election law on September 24, 2008, providing for the elections by January 31, 2009. (This is now formally set.) The revised law stripped out provisions in the vetoed version to allot 13 total reserved seats (spanning six provinces) to minorities. However, in October 2008, the COR adopted a new law restoring six reserved seats for minorities: Christian seats in Baghdad, Nineveh, and Basra; Yazidis one seat in Nineveh; Shabaks one seat in Nineveh; and Sabeans one seat in Baghdad.

U.S. officials have hoped that the elections would bring Sunni Muslims ever further into the political structure. Sunnis boycotted the January 2005 provincial elections and are poorly represented in some mixed provinces, such as Diyala. It is also hoped that the elections will help incorporate into the political structure the tribal leaders (“Awakening Councils”) who recruited the Sons of Iraq fighters. These Sunni tribalists are hoping to show strength at the expense of the established Sunni parties. Others see the elections as key opportunity to move Moqtada al-Sadr’s faction firmly away from armed conflict against the mainstream Shiite parties. That conflict surged in the March 2008 Basra offensive discussed above. .

As campaigning heats up in January 2009, there are 14,500 candidates vying for the 440 provincial council seats in the 14 Arab-dominated provinces of Iraq. This yields an average of 33 candidates for each seat, which some see as enthusiasm for democracy in Iraq. Voters can choose an individual candidate, or they can vote for political parties instead. The parties will then choose who on their slate will occupy seats allotted for that party.

Some of the political tensions and fissures are evident in the candidate lists offered so far. In the mostly Shiite southern provinces, ISCI and Maliki’s Da’wa are offering competing lists. Sadr announced in October 2008 that he would not field a separate list in the provincial elections but support Sadrist on other lists. Sadr’s faction has not yet announced who are the candidates it is supporting, but the pro-Sadr “Risalyun” (Mission) grouping has filed candidate slates in several provinces mostly in the south. Two other parties competing are considered Sadrist – the “Blamelessness and Reconstruction” party and the “Sadr al-Iraq” party. The Shiite independent Interior Minister Jawad al-Bulani has fielded candidates under his “Constitutional Party” not only in the Shiite south but also in Sunni areas, suggesting he is trying to portray his party as national and non-sectarian. The competition in the provincial elections in the south comes amid a move by many Basra citizens to file a petition, under the 2006 regions law, to form a new region consisting only of Basra province. Whether or not a formal referendum will take place in Basra could be determined before the provincial elections, and could thereby favor or hurt such Basra-specific parties as Fadhila (Virtue), an offshoot of the Sadr faction.

Table I. Election Results (January and December 2005)

Bloc/Party	Seats (Jan. 05)	Seats (Dec. 05)
United Iraqi Alliance (UIA, Shiite Islamist). Now 85 seats after departure of Fadilah (15 seats) and Sadr faction (28 seats) in 2007. Islamic Supreme Council of Iraq of Abd al-Aziz al-Hakim has 30; Da'wa Party (25 total: Maliki faction, 12, and Anizi faction, 13); independents (30).	140	128
Kurdistan Alliance - KDP (24); PUK (22); independents (7)	75	53
Iraqis List (secular, Allawi); added Communist and other mostly Sunni parties for Dec. vote.	40	25
Iraq Accord Front. Main Sunni bloc; not in Jan. vote. Consists of Iraqi Islamic Party (IIP, Tariq al-Hashimi, 26 seats); National Dialogue Council of Khalaf Ulayyan (7); General People's Congress of Adnan al-Dulaymi (7); independents (4).	—	44
National Iraqi Dialogue Front (Sunni, led by former Baathist Saleh al-Mutlak) Not in Jan. 2005 vote.	—	11
Kurdistan Islamic Group (Islamist Kurd) (votes with Kurdistan Alliance)	2	5
Iraqi National Congress (Chalabi). Was part of UIA list in Jan. 05 vote	—	0
Iraqis Party (Yawar, Sunni); Part of Allawi list in Dec. vote	5	—
Iraqi Turkomen Front (Turkomen, Kirkuk-based, pro-Turkey)	3	1
National Independent and Elites (Jan)/Risalyun (Message, Dec) pro-Sadr	3	2
People's Union (Communist, non-sectarian); on Allawi list in Dec. vote	2	—
Islamic Action (Shiite Islamist, Karbala)	2	0
National Democratic Alliance (non-sectarian, secular)	1	—
Rafidain National List (Assyrian Christian)	1	1
Liberation and Reconciliation Gathering (Umar al-Jabburi, Sunni, secular)	1	3
Ummah (Nation) Party. (Secular, Mithal al-Alusi, former INC activist)	0	1
Yazidi list (small Kurdish, heterodox religious minority in northern Iraq)	—	1

Notes: Number of polling places: January: 5,200; December: 6,200; Eligible voters: 14 million in January election; 15 million in October referendum and December; Turnout: January: 58% (8.5 million votes)/ October: 66% (10 million)/ December: 75% (12 million).

Table 2. Assessments of the Benchmarks

Benchmark	July 12, 2007 Admin. Report	GAO (Sept. 07)	Sept. 14, 2007 Admin. Report	Subsequent Actions and Assessments - May 2008 Administration report, June 2008 GAO report, International Compact with Iraq Review in June 2008, and U.S. Embassy Weekly Status Reports (and various press sources)
1. Forming Constitutional Review Committee (CRC) and completing review	(S) satisfactory	unmet	S	CRC continues debating 50 amendments regarding federal vs. regional powers and presidential powers; Kurds want Kirkuk issue settled before finalizing amendments. Sunnis want presidential council to have enhanced powers relative to prime minister. Some progress on technical, judicial issues. Deadlines for final recommendations repeatedly extended.
2. Enacting and implementing laws on De-Baathification	(U) unsatisfact.	unmet	S	"Justice and Accountability Law" passed Jan. 12, 2008. Allows about 30,000 fourth ranking Baathists to regain their jobs, and 3,500 Baathists in top three party ranks would receive pensions. But, could allow for judicial prosecution of all ex-Baathists and to firing of about 7,000 ex-Baathists in post-Saddam security services, and bars ex-Saddam security personnel from regaining jobs. Some reports suggest some De-Baathification officials using the new law to purge political enemies or settle scores.
3. Enacting and implementing oil laws that ensure equitable distribution of resources	U	unmet	U	Framework and three implementing laws stalled over KRG-central government disputes; only framework law has reached COR to date. Revenue being distributed equitably, and 2008 budget adopted February 13, 2008 maintains 17% revenue for KRG. Some reports in December 2008 suggested KRG-Baghdad compromise is close on framework and revenue sharing implementing law.
4. Enacting and implementing laws to form semi-autonomous regions	S	partly met	S	Regions law passed October 2006, with relatively low threshold (petition by 33% of provincial council members) to start process to form new regions, but main blocs agreed that law would take effect April 2008. November 2008: petition by 2% of Basra residents submitted to IHEC (another way to start forming a region) to convert Basra province into a single province "region. Signatures of 8% more required by mid-January 2009 to trigger referendum.

Benchmark	July 12, 2007 Admin. Report	GAO (Sept. 07)	Sept. 14, 2007 Admin. Report	Subsequent Actions and Assessments - May 2008 Administration report, June 2008 GAO report, International Compact with Iraq Review in June 2008, and U.S. Embassy Weekly Status Reports (and various press sources)
5. Enacting and implementing: (a) a law to establish a higher electoral commission, (b) provincial elections law; (c) a law to specify authorities of provincial bodies, and (d) set a date for provincial elections	S on (a) and U on the others	overall unmet; (a) met	S on (a) and (c)	Draft law stipulating powers of provincial governments adopted February 13, 2008, took effect April 2008. Required implementing election law adopted September 24, 2008: (1) Provides for provincial elections by January 31, 2009; (2) postpones elections in Kirkuk and the three KRG provinces; (3) shunts broader issue of status of Kirkuk and disputed territories to a parliamentary committee to report by March 31, 2009; (4) provides open list/proportional representation voting, which allows voting for individual candidates; (5) stipulates 25% quota for women; (6) bans religious symbols on ballots. Under amending law, some seats now set aside for Christian, Yazidi, Shabak, and Sabeen minorities.
6. Enacting and implementing legislation addressing amnesty for former insurgents	no rating	unmet	Same as July	Law to amnesty "non-terrorists" among 25,000 Iraq-held detainees passed February 13, 2008. Of 17,000 approved for release (mostly Sunnis and Sadrist Shiites), only a few hundred released to date. 19,000 detainees held by U.S. not affected, but will be transferred to Iraqi control under SOFA which took effect January 1, 2009.
7. Enacting and implementing laws on militia disarmament	no rating	unmet	Same as July	Basra operation, discussed above, viewed by Bush Administration as move against militias. On April 9, 2008, Maliki demanded all militias disband as condition for their parties to participate in provincial elections. Law on militia demobilization stalled.
8. Establishing political, media, economic, and services committee to support U.S. "surge"	S	met	met	No change. "Executive Steering Committee" works with U.S.-led forces.
9. Providing three trained and ready brigades to support U.S. surge	S	partly met	S	No change. Eight brigades assigned to assist the surge. Surge now ended.
10. Providing Iraqi commanders with authorities to make decisions, without political intervention, to pursue all extremists, including Sunni insurgents and Shiite militias	U	unmet	S to pursue extremists U on political interference	No significant change. Still some U.S. concern over the Office of the Commander in Chief (part of Maliki's office) control over appointments to the ISF - favoring Shiites. Still, some politically-motivated leaders remain in ISF. But, National Police said to include more Sunnis in command jobs and rank and file than one year ago.
11. Ensuring Iraqi Security Forces (ISF) providing even-handed enforcement of law	U	unmet	S on military, U on police	Administration interpreted Basra operation as effort by Maliki to enforce law even-handedly, but acknowledges continued militia influence and infiltration in some units.

Benchmark	July 12, 2007 Admin. Report	GAO (Sept. 07)	Sept. 14, 2007 Admin. Report	Subsequent Actions and Assessments - May 2008 Administration report, June 2008 GAO report, International Compact with Iraq Review in June 2008, and U.S. Embassy Weekly Status Reports (and various press sources)
12. Ensuring that the surge plan in Baghdad will not provide a safe haven for any outlaw, no matter the sect	S	partly met	S	No change. Ethno-sectarian violence has fallen sharply in Baghdad.
13. (a) Reducing sectarian violence and (b) eliminating militia control of local security	Mixed. S on (a); U on (b)	unmet	same as July 12	Sectarian violence continues to drop, but Shiite militias still hold arms. 100,000 Sunni "Sons of Iraq," still distrusted as potential Sunni militiamen. Iraq government assumed payment of 54,000 Sons as of November 10, but opposes integrating more than about 20% into the ISF.
14. Establishing Baghdad joint security stations	S	met	S	Over 50 joint security stations operating at the height of U.S. troop surge.
15. Increasing ISF units capable of operating independently	U	unmet	U	Continuing but slow progress training ISF. U.S. officials say ISF likely unable to secure Iraq internally until 2009-2012; and against external threats not for several years thereafter. Basra operation initially exposed factionalism and poor leadership in ISF, but also ability to rapidly deploy.
16. Ensuring protection of minority parties in COR	S	met	S	No change. Rights of minority parties protected by Article 37 of constitution.
17. Allocating and spending \$10 billion in 2007 capital budget for reconstruction.	S	partly met	S	About 63% of the \$10 billion 2007 allocation for capital projects was spent.
18. Ensuring that Iraqi authorities not making false accusations against ISF members	U	unmet	U	Some governmental recriminations against some ISF officers still observed.

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