

IRAQ'S PARLIAMENTARY ELECTION

INTRODUCTION

With parliamentary elections currently slated for January 16, 2010, Iraqi politicians and parties are maneuvering in advance of the vote. New alliances are being forged and unpopular incumbents are trying to hold onto their seats at all costs as the parties that have dominated the Iraqi government for the past five years are now being challenged by political newcomers. The last few months leading up to the vote have proved especially dynamic.

This backgrounder provides an assessment of the shifting political environment in Iraq as elections draw near. The first section examines Iraq's new political realities and the negotiations between parties and candidates that have occurred in the last six months. Not only have parties sought to form alliances that will best position them ahead of the vote, but they have also sought to shape the process of the vote by seeking an elections law with the most advantageous terms. The second section of the paper examines the disputes that have emerged as the Council of Representatives (CoR) debated a new elections law. The paper concludes with a consideration of the likely effects of the election and post-election landscape.

CURRENT POLITICAL TRENDS AND EMERGING ALLIANCES

Provincial elections, held on January 31, 2009, were widely seen as a bellwether for the 2010 parliamentary election. The dramatic election results confirmed new political realities in Iraq. Incumbents lost in every province, as voters sought political leaders who would be able to maintain security gains, provide essential services, and reduce corruption. Strong sentiments of secular nationalism also emerged within the electorate, as the sectarian parties that had dominated the previous provin-

cial governments were voted out of office. In the months that followed the provincial election, Iraqi politicians sought to adapt to these realities and began negotiating advantageous alliances ahead of the next election.

As the 2010 parliamentary election approaches, all functions of government in Iraq are being conducted with a view towards the vote. Prime Minister Maliki has spent the last two years shoring up power by various means (legal and otherwise), an aggregation of authority that has driven the development of a strong and varied opposition. Over the last year, Maliki's opposition has sought to limit his power, and they have strengthened the CoR as a check on the executive. Not only has there been political maneuvering amongst politicians within the Government of Iraq (GoI), but also among the political parties, who are feverishly positioning themselves to best advantage for the upcoming national election. These negotiations began in the late spring of 2009 and have continued to the present. Several coalitions were announced in the early fall, though political negotiations remain dynamic.

In the summer of 2009, there was a serious push by the main Shi'a parties to rebuild the United Iraqi Alliance, the main Shi'a alliance which won the majority of seats during the previous election

but was rendered moribund over the last year as a result of political defections and tensions between its main participants (the ISCI and Dawa parties). While Maliki and Dawa participated in these discussions, it became clear that their entry into an alliance was predicated on several major concessions—that Maliki would be guaranteed the post of Prime Minister, and that Dawa would receive the largest share of seats. ISCI, the Sadrist, and others were unwilling to concede to such demands. After several delays, the new alliance, the Iraqi National Alliance was announced on August 24, 2009. Currently, the INA is composed of ISCI (now led by Ammar al-Hakim following the death of his father Abd al-Aziz al-Hakim in late August); the Sadrist Trend; the National Reform Trend (led by former Prime Minister Ibrahim al-Jaafari); the Iraqi National Congress (led by Ahmad Chalabi); the al-Wasat Movement (led by Mowaffak al-Rubaie), and several other small blocs (including two Sunni groups).¹ Though the INA has some Turkmen and Sunni representation and thus claims cross-sectarian membership, it is overwhelmingly Shi'a.

Prime Minister Maliki chose not to join the INA, aiming instead to form his own electoral list. Throughout the summer, even as he participated in negotiations to revise the Shi'a alliance, Maliki was reaching out to tribal leaders in central and southern Iraq for support, a tactic he used in the lead-up to provincial elections (in which he himself did not stand, but campaigned heavily for the State of Law list on which Dawa ran).² In addition to this tribal outreach, Prime Minister Maliki also courted Sunni politicians who had grown disenchanted with the main Sunni alliance, the Iraqi Accord Front (IAF). The IAF, which is dominated by the Iraqi Islamic Party (IIP), suffered several blows in early 2009 when many of its members pulled out in a dispute over who would be named the new CoR speaker and when the party performed poorly in provincial elections. Maliki pursued alliances with former CoR speaker Mahmoud al-Mashadani, head of the Nationalist Independent Trend party, and Ahmed Abu-Risha, a prominent tribal leader and head of the Sahwat al-Iraq party in Anbar.

Prime Minister Maliki announced the creation of the State of Law list on October 1, 2009. When the list was announced, the coalition contained forty political entities, many of which were small, tribally-based groups.³ Prime Minister Maliki did receive the backing of Ali Hatem, the head of the powerful Sunni Dulaim tribe, though he lost the support of Mashadani, who withdrew from the alliance only days before its announcement.⁴ The State of Law list did garner the backing of Oil Minister Shahrastani and some supporters of Ayad Allawi.⁵ While the coalition does have cross-sectarian membership, it remains predominantly Shi'a. In his announcement speech, Prime Minister Maliki laid out the platform of the list, which emphasizes nationalism, unity, non-sectarianism, a strong central government with control over security, natural resources, and foreign policy, the maintenance of security improvements, and the importance of reconstruction.⁶

Prime Minister Maliki has also explored an alliance with Asaib Ahl al-Haq (AAH), the League of the Righteous.⁷ AAH is a breakaway faction of the Sadrist Trend that was founded in 2006 by Qais Khazali, formerly a close associate of Muqtada al-Sadr.⁸ AAH is an Iranian-backed militia group that was responsible for a countless attacks in Iraq, including the January 2007 raid on the Karbala Provincial Joint Coordination Center (PJCC) and the May 2007 raid on the Ministry of Finance.⁹ Qais Khazali was arrested in March 2007 for his role in the PJCC attack.¹⁰ He has remained in U.S. custody since that time but will eventually be released under the terms of the Security Agreement, which state that the U.S. must turn over all detainees by the end of 2011, if not before.¹¹ Since early 2009, AAH has been involved in negotiations with the Government of Iraq to join the political process and renounce violence against the government in exchange for the release of Sadrist and AAH detainees.¹² AAH has garnered popular support amongst the Sadrist constituency as a result of the group's role in detainee releases.¹³

There are conflicting reports as to whether AAH will participate in upcoming elections. In late September, AAH announced its intention to run under the Covenant (or Testament) party, led by

Salam al-Maliki, who heads AAH's Dialogue Committee and was the group's primary liaison with the Government of Iraq.¹⁴ AAH also announced that it was unwilling to reintegrate into the Sadrist Trend, despite attempts by Muqtada al-Sadr to reconcile with them, and that it was instead considering an alliance with the State of Law list. Yet, only days later, Salam al-Maliki announced that AAH would not participate in parliamentary election, but instead focus on other areas such as the release of remaining detainees.¹⁵

The announcement of the Iraqi National Alliance and the State of Law list has effectively divided the Shi'a political sphere, unlike 2005 elections in which the Shi'a contested the election on a united list. Though the Shi'a are divided, so too are the Sunni. In the hopes of appearing non-sectarian, Shi'a parties and Shi'a-dominated coalitions have sought to garner Sunni support and have brought small numbers of Sunni supporters into their parties. The result has been a divided Sunni electorate with no clear vehicle for Sunni political expression. Divisions among the Sunni have been further aggravated by jockeying amongst parties over political alliances. The Independent Arab Bloc, for example, is itself divided; party leader Abdel Mutlaq al-Juburi and two other MPs have allied with Maliki's State of Law Coalition, while the remainder of the bloc has not announced its intentions.¹⁶

The IAF announced its electoral coalition, the Iraqi Accord List (IAL), on October 17, 2009, declaring that Osama al-Tikriti, the head of the IIP, would lead the list.¹⁷ The coalition is dominated by the Iraqi Islamic Party, whose members form more than half of the list of candidates.¹⁸ Aside from al-Tikriti, the other prominent members of the list are Ayad al-Samaraie, the current speaker of the Council of Representatives and deputy head of the IIP, and Adnan al-Dulaymi, the controversial head of the People of Iraq party who has been implicated in sectarian violence in Baghdad.¹⁹ The IAL failed to garner the support of the parties that had left the alliance in early 2009, including the National Dialogue Council, which is considering running independently.²⁰ Prominent Sunni politicians chose not to ally with the IAL list, including Saleh Mutlaq, Mahmoud al-Mashadani, and former IIP

leader and Iraqi Vice President, Tareq al-Hashemi.

A number of Sunni and Shi'a political leaders have yet to officially form or join an electoral coalition, though a preliminary agreement for an alliance has been reached between the parties led by Saleh Mutlaq (a Sunni who heads the National Dialogue Front), Osama al-Nujaifi (a Sunni who heads the Iraqi National List), Tareq al-Hashemi (a Sunni who has formed the Renewal party since his split from the IIP), Deputy Prime Minister Rafa al-Issawi (a Sunni who belongs to the Iraq National Future List), and Iyad Allawi (a secular Shi'a who heads the Iraqi List).²¹ If this alliance is solidified, it could present a viable and attractive option for Sunni voters. Minister of Interior Jawad al-Bolani, a leading figure in the Constitutional Party, has formed an alliance with Ahmad Abu-Risha.²² This coalition was officially announced as the Unity of Iraq alliance on October 21, 2009.²³ Abd al-Ghafur al-Samarraie, who who heads the Sunni waqf, has reportedly joined this list.²⁴ These alliances are likely to evolve further as elections approach.

The two main Kurdish parties that form the Kurdish Alliance in the CoR—the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK)—will maintain a single coalition for the parliamentary elections.²⁵ Yet, it remains unclear how the Change List and other smaller Kurdish parties, including the Kurdistan Islamic Union (KIU) and Kurdistan Islamic Group (KIG), will contest the vote. The Change List, the main challenger to the KDP and PUK, performed well in the Kurdistan Regional Government elections in July 2009 and has announced its intention to participate in the January 2010 national elections.²⁶ Several scenarios have been discussed as possible courses of action. In the first scenario, the Change List would contest the election separately from the Kurdish Alliance, although it is likely they will pool their votes after elections by taking a unified stance on issues.²⁷ In another scenario—one preferred by the KDP and the PUK—the Change List joins the Kurdish Alliance prior to the election to form a unified Kurdish list.²⁸ In a final scenario, the Change List joins with another existing alliance, such as the State of Law coalition. Prime Minister Maliki reportedly reached out to the Change List

to discuss an alliance in August 2009, although the likelihood of such an alliance has diminished in recent weeks.²⁹ Such an alliance could split the Kurdish voice on the national level and thereby diminish Kurdish leverage over issues such as the status of Kirkuk and the hydrocarbons law. For this reason, the latter scenario appears least likely.

THE ELECTIONS LAW DEBATE

On September 12, 2009, the Council of Ministers approved a draft elections law and submitted the legislation to the Council of Representatives (CoR) for debate, amendment, and approval.³⁰ Since that time, the CoR has undertaken the first and second readings of the draft and is debating amendments to the legislation.³¹ The parliamentary debate has centered on several key issues: stipulations for expatriate voters; the conduct of elections based on a single constituency or multiple constituencies; an increase in the number of seats in the next parliament; the conduct of elections in the disputed province of Kirkuk; and the conduct of elections based on an open-list or closed-list system.³² Of these issues, the last two have proved most controversial.

A new elections law is required in order to establish qualifications and mechanisms to poll the votes of the estimated four million Iraqi expatriate voters.³³ Expatriate voting faces several hurdles—the lack of accurate statistics on the number of Iraqis living abroad; the time required to establish voter registry centers abroad for expatriate voters; and the supplemental budget required to fund the expatriate voting process.³⁴ In the absence of legislation, the Iraqi High Electoral Commission (IHEC), the electoral authority in Iraq, formed a committee to oversee expatriate voting in early October 2009. The committee has since “contacted the Foreign Ministry, gathered information from Iraqi diplomatic missions on the number of Iraqi expatriates, and officially informed [twenty-three] countries hosting large numbers of Iraqis of its decision [to hold expatriate voting there].”³⁵ The commission also requested an additional thirty six

* There are conflicting numbers for the increase. Some sources indicate an increase of 36 seats to 311; others report an increase in 35 seats to 310.

million dollars to fund expatriate voting, though this proposed budget is pending the passage of the elections law.³⁶

Another facet of the elections law debate involves whether to hold elections based upon a single constituency, as was the case in previous parliamentary elections, or multiple constituencies. In a single constituency system, the entire country is considered one electoral district and candidates compete across Iraq for a share of the CoR's 275 seats. Under the multiple constituency system, the country is divided into provincial-level electoral districts and each constituency is allotted a certain number of seats in the parliament for which candidates compete. The Kurdish parties are advocating the single constituency system in order to have their votes from across the country aggregated for maximum representation at the national level.³⁷ There is broad agreement in the CoR for multiple provincial-level constituencies.³⁸

According to the Iraqi constitution, the number of seats in the CoR is to be determined according to the population census. Although a census was scheduled to be held in October 2009, it was postponed until October 2010.³⁹ Yet, one amendment to the elections law draft submitted to the CoR includes a proposed increase from 275 seats to 310,* as a result of estimates indicating an increase in the Iraqi population.⁴⁰ This has prompted a political dispute over how to distribute these new seats.⁴¹ The Kurdish bloc does not want an increase in the number of seats if it were to happen under a multiple constituency system, as the additional seats would likely be allocated to predominantly-Arab provinces, such as Ninewah.⁴² In an effort to resolve the issue, the CoR's legal committee announced that the decision over the increase in seats would be put to a separate vote in the parliament.⁴³ At the time of writing, this vote has not taken place.

One of the most important amendments currently being debated in the CoR would revise the 2005 elections law, which established a closed-list system, with provisions for an open-list ballot. In a closed-list system, only the names of the electoral lists appear on the ballot. Iraqis vote only for an

electoral list, and the parties on the list then select candidates to fill the posts after the vote. In an open-list system, candidates' names appear on the ballot, and they are elected by the voters directly. Currently, there is broad public support for the open-list system.⁴⁴

Though most politicians and political blocs have publically advocated the adoption of an open-list system, there have been efforts within the CoR to retain the closed-list voting system, which would help the largely unpopular incumbents to maintain their parliamentary seats.⁴⁵ According to a senior Sadrist official, the INA was privately pushing for the closed-list system because they believed it would better limit Maliki's success.⁴⁶ Few MPs, aside from several members of the Kurdish Alliance, have spoken publically in favor of the closed-list system. One MP from the Kurdish Alliance voiced doubts about the open-list system, saying that it would not protect the representation of minorities and women.⁴⁷ Several other Kurdish MPs also confirmed that the Kurdish Alliance bloc favored a closed-list, single constituency system.⁴⁸

The behind-the-scenes pressure for the closed-list system prompted Grand Ayatollah Ali al-Sistani's spokesman to issue a statement on October 6, 2009, on the need to have open-list elections, saying that a closed-list vote would reduce public participation.⁴⁹ Grand Ayatollah Sistani, the most revered Shi'a cleric in Iraq, is extremely influential and, though a quietest, he has intervened previously in political matters when necessary.⁵⁰ Since his statement, more political parties and politicians have publically backed the open list system, including Prime Minister Maliki, Ammar al-Hakim, Bolani's Constitutional Party, and members of the Sadrist Trend and the Change List.⁵¹

In an effort to circumvent the debate over an open or closed-list ballot while garnering public support, the Sadrist Trend announced on October 3, 2009 that it would hold a primary election ahead of the January 2010 vote, so that Sadrist supporters could select the names of the candidates that would fill their national election slate.⁵² The date set for the primary was October 16, 2009. Within a week of the announcement, more than 850 candidates

registered to run in the Sadrist primary.⁵³ On October 11, 2009, the Sadrist High Media Commission Office in Najaf announced that the number of candidates for the primary vote was 690, due to the disqualification of members who did not meet the criteria (which was more stringent than that required for the general election).⁵⁴ Candidates were required to be at least thirty-five years old, to have a college degree, and to have never worked with the United States.⁵⁵ To vote in the primary, one had to be at least fifteen years old, three years younger than the age requirement for the parliamentary election.⁵⁶ The primary was open to all Iraqis, not just members of the Sadrist Trend.⁵⁷

On the day of the vote, more than 350 polling stations opened across central and southern Iraq.⁵⁸ IHEC representatives helped supervise the vote, according to Sadrist officials.⁵⁹ To prevent fraud, voters were required to dip their index finger in ink before they could cast a ballot and independent monitors were even present at some polling stations.⁶⁰ The absence of a voter registry, however, undermined the anti-fraud measures.⁶¹ Though Sadrist officials claimed that roughly 1.5 million voters turned out for the primary, those numbers cannot be verified and appear rather high. In fact, according to senior Sadrist cleric, Salah al-Obeidi, the number of registered voters on the day before the vote tallied only 250,000.⁶²

Although the debate over open or closed-list ballots has complicated the legislative process, it appears to be nearing resolution. Currently, the conduct of elections in Kirkuk is the most contentious issue hindering the passage of the bill. Several proposals have been put forth to resolve this issue. Arab and Turkomen representatives from Kirkuk are pressing for elections in Kirkuk to be delayed until new power-sharing mechanisms are in place. The Kurdish bloc, however, would like to see elections held in Kirkuk as soon as possible, as it would give them greater representation as a result of the large migration of Kurds into the province since 2001.⁶³ Another proposal calls for the division of Kirkuk province into four electoral constituencies, an arrangement strongly resisted by the Kurds.⁶⁴ One hundred MPs in the parliament have signed onto a proposal to grant Kirkuk special

electoral provisions for the 2010 vote, though it is not immediately clear what these provisions would be.⁶⁵ Eleven Arab and Turkoman members of the Kirkuk provincial council have also weighed in on the issue, asking to have the 2004 voter registry, while the Kurds have insisted on using the most recent registry.⁶⁶ The Kurdish bloc has thus far rejected these options.

The CoR has yet to pass an amended elections law, despite weeks of debate and growing public pressure. On October 7, 2009, the IHEC spokesman urged the parliament to pass an elections law as quickly as possible to ensure adequate preparation time for the vote in January.⁶⁷ He warned that if an elections law was not passed by October 15, 2009, the organization would have to proceed with the 2005 electoral law and implement a closed-list system.⁶⁸ Despite IHEC's caution, the October 15th deadline passed without the law. The following day, Iraqi MP Abbas al-Bayati indicated that the CoR would vote for the elections law by October 19, 2009, which would still provide sufficient time for the election to be organized by January 2010.⁶⁹ Yet that deadline also elapsed without an elections law.

An election law could be passed within days, as Iraqi parliamentarians urgently work to resolve these issues. Yet, a failure to reach an elections law soon may leave only two options—to proceed with elections in January under the 2005 elections law, which stipulates a closed-list vote, or to delay the elections, which would violate the constitutional requirement to hold the vote by the end of January. Many voters, and even some parties, have indicated their intention to boycott the vote if the election goes forward under the 2005 law.⁷⁰

AFTER THE ELECTION

Political maneuvering will not end on election day. The electoral alliances made prior to the vote are by no means assured after the vote, when the political jockeying and alliance-making will begin again in earnest as a government is seated and key posts are filled. According to the Iraqi Constitution, the President, Vice Presidents, and the CoR Speaker are elected by the parliament.⁷¹ The Prime

Minister is nominated by the largest bloc in the CoR.⁷² The Prime Minister names the members of his cabinet, the Council of Ministers, who are then confirmed by the parliament.⁷³ The selection processes for these key posts will likely generate fierce competition between parties. Prime Minister Maliki's ability to retain his post (as he strongly desires to do) will depend more on his ability to build alliance large enough to nominate him to the post after the election than on his ability to garner votes during the election. He will no doubt have challengers.

If previous experience is any guide, the seating of the government may take months and have potentially destabilizing consequences. Such delays could also affect the accelerated withdrawal of U.S. combat forces, scheduled to proceed after the seating of the government. Under terms set forth by President Obama, all U.S. combat forces must leave Iraq by August 31, 2010 and no more than 50,000 residual forces may remain to conduct training and advising missions.⁷⁴ According to Brigadier General Stephen Lanza, the spokesman for Multi-National Force-Iraq, "the elections will be the point of departure by which we then look at [an] assessment for a true drawdown."⁷⁵

Political wrangling in the lead-up to the election has prevented the CoR from taking up key pieces of legislation. The hydrocarbons law has been delayed until after the election and it is unlikely that the CoR will pass the 2010 budget before the January vote.⁷⁶ This means that after the new Iraqi government is seated, the Council of Representatives will take up critical and controversial legislation. The trajectory of the legislative process will depend largely on how the election and the seating of the government affect the character of the legislature. Tension between perceived political winners and losers could also prolong and intensify the political wrangling and instability.

While it is not possible to predict the character of the next government and its implications for outstanding legislation or the withdrawal of U.S. combat forces, what is certain is that the next six months in Iraq may prove the most important yet.

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