



CRS Report for Congress

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. The Administration is optimistic that the passage of key laws in 2008, including a law to govern provincial elections to be held in early 2009, will sustain recent reductions in violence. See CRS Report RL31339, *Iraq: Post-Saddam Governance and Security*, by Kenneth Katzman.

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 (41 seats per council; 51 for Baghdad), 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, 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

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

(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 of October 2008, 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 asserts that political reconciliation is well under way. However, U.S. officials say 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.

The Administration is placing significant weight on new provincial elections to continue the reconciliation progress. Provincial councils in Iraq (each has 41 seats, except Baghdad which has 51) choose the governor and provincial governing administrations in each province, making them powerful bodies. The elections were planned for October 1, 2008, but are delayed because Kurdish restiveness over integrating Kirkuk and other disputed territories into their region 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. The Administration believes that the elections will bring into the political structure the tribal leaders ("Awakening Councils") who, along with their 100,000 "Sons of Iraq" fighters, cooperate with U.S. forces against Al Qaeda in Iraq. These Sunnis are likely to show strength at the expense of the established Sunni parties. However, the revised law stripped out provisions in the vetoed version to allot 13 total reserved seats (spanning six provinces) to the Christian, Yazidi, and Shabek minorities. Attacks on Christians in the area of Mosul, possibly motivated by the revision of the law, contributed to an exodus of Christians from northern Iraq and to assessments of continued fragility in Iraq's political and security situation.

It is also hoped that new provincial elections will move Moqtada al-Sadr's faction firmly away from armed conflict against the mainstream Shiite parties. That conflict surged in late March 2008, when Maliki sent about 30,000 Iraqi Security Forces (ISF) to

Basra to defeat Sadr's Jaysh al-Mahdi, or JAM, militia in that oil export hub. Basra fighting ended with a ceasefire on March 30, 2008, and the city has now quieted. Critics viewed the action as Maliki's attempts to weaken Sadr in advance of the provincial elections. Sadr has announced he would not field a separate list in the provincial elections but support Sadrists on other lists.

Maliki's growing perceived strength has helped him rebuild his government, but has caused some adverse consequences. 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. The return of the Accord Front to the cabinet and the simultaneous filling of former Sadrist cabinet seats with independent Shiites in July 2008, leaves the cabinet with only one vacancy (ministry of Justice). At the same time, Administration officials are concerned that Maliki's growing independence from the United States could lead to reversals, for example by creating restiveness among the Sons of Iraq fighters in his refusal to integrate them into the Iraqi Security Forces. Maliki also has demanded substantial U.S. concessions in a U.S.-Iraq "status of forces agreement" (SOFA) that has been negotiated and is now under consideration in the Iraqi cabinet.

Table 1. 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

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 Admin. Report	GAO (Sept. 07)	Sept. 14 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, now beyond latest May 2008 deadline.
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 old scores.
3. Enacting and implementing oil laws that ensure equitable distribution of resources	U	unmet	U	Framework and three implementing laws stalled over Kurd-Arab 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. Kurds and central government set up commission to resolve remaining disputes; U.S. Embassy says it expects near-term progress on revenue sharing law (an 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. August 2008: petition being circulated among some Basra residents (another way to start forming a region) to begin process of converting Basra province into a single province “region.
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 on the issue 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; (7) does not set aside seats for Christian, Yazidi, and Shabek minorities. About 4 months preparation (registration, candidate vetting, ballot distribution) needed to implement election; registration updating begun.
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.

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Benchmark	July 12 Admin. Report	GAO (Sept. 07)	Sept. 14 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)
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.
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. Administration sees ISF acting against JAM in Sadr City, and 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. 103,000 Sunni "Sons of Iraq," still distrusted as potential Sunni militiamen. Iraq government assumed payment of 54,000 Sons as of October 1, but opposes integrating more than about 20% into the ISF.
14. Establishing Baghdad joint security stations	S	met	S	No change. Over 50 joint security stations operating, more than the 33 planned.
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. Another \$22 billion is in 2008 Iraqi budget, including August 2008 supplemental portion.
18. Ensuring that Iraqi authorities not making false accusations against ISF members	U	unmet	U	Some governmental recriminations against some ISF officers still observed.