

## International Mission for Iraqi Elections (IMIE)

### Final Report on the December 15, 2005, Iraqi Council of Representatives Elections

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#### Executive summary

With the support of the United Nations (UN) and the Independent Electoral Commission of Iraq (IECI), the International Mission for Iraqi Elections (IMIE) was formed in December 2004 to assess Iraq's electoral preparations, offer expertise and informed judgments, and contribute to electoral capacity in the course of Iraq's 2005 election cycle.

Overall, the IMIE finds that the IECI continues to refine and improve the administration of the electoral process in Iraq, building on the experience and successes of the January 2005 election and the October 2005 referendum. The IMIE congratulates the IECI for its ability to perform under demanding time frames, difficult security conditions, a complex electoral system and close scrutiny by the international community. While this report details numerous areas for improvement in the implementation of elections in Iraq, the conclusion of the assessors is that the December election generally conformed to internationally recognized electoral standards in legal framework, planning, procedures and logistics. Furthermore, the results of the elections reflected the will of the voters.

With the expiry of the mandate of the current IECI, the IMIE strongly recommends that the Council of Representatives legislate the continuance of the IECI as an institution. In this legislation, it would be appropriate to consider changes to the structure, composition and functioning of the IECI. In order to ensure the responsiveness, impartiality and integrity of the IECI, it is recommended that the delineation of the roles of policy making and implementation between the Board of Commissioners

and the Chief Electoral Officer is clarified; that rules of governance and decision making are established; that the membership, term lengths and composition of the IECI are reviewed; and that financial accountability is introduced.

The legal framework for the December elections guaranteed all relevant political rights and freedoms and is generally in line with recognized democratic standards. The formula of representation was based on proportional representation (PR) in 18 governorates through closed lists. Of the 275 seats of the Council of Representatives, 230 were allocated to governorates through formulas based on the voter register created for the January 2005 elections. The remaining 45 seats were allocated on a national basis and were intended to reduce disparities created by the governorate-based, closed-list PR system. Votes cast by special voting or Out-of-Country Voting were counted towards the national seats. It is recommended that the IECI take measures to improve the complaints process, increase accessibility of polling station results and reduce age and education requirements for candidates. In addition, it is recommended that electoral regulations be consolidated over the long term into a single normative body.

The voter registration update, conducted during August 2005, increased the voter registry by more than 8 percent to 15,568,702 voters. Problems with the voter registry encountered during the October referendum, such as the order of names and the inclusion of fraudulently registered names, were addressed by the IECI with limited success. Continued work is needed to improve the existing register, and a further updating process will be required prior to the next election. Additional steps should be taken to extend and publicize the challenges period, including providing political entities with greater access to voter lists.

A total of 19 political coalitions and 307 political entities were registered and 7,655 candidates certified. The requirements for certification were reasonable and egalitarian. No excessive, arbitrary, discriminatory or exceptional implementation was noticed. However, issues arose over attempts to decertify candidates using the provisions of the de-Ba'athification law, and it is recommended that the Council of Representatives review the appropriateness and efficacy of this law and that the IECI clarify its impact on candidate certification. It is also important to ensure conditions of equity in the campaign by developing legislation to regulate campaign financing and expenditures for political entities, coalitions and candidates.

The IECI continued to make progress in voter education and information. Its focus on simple and useful messages, was effective and increased electoral participation indicated that there is a greater confidence and understanding of the electoral process among voters and political entities. The IECI ran a diversified voter information and education campaign, and it should be commended for the number of tools it used. The increased contact with non-governmental organizations (NGOs) and political entities enhanced dissemination of voter education materials, and it is recommended that the relationship between the IECI and civil society is strengthened further.

The pre-election preparations were professionally organized and competently executed, given the unique set of security, political and logistical conditions prevailing in Iraq. Clearly, the IECI built on earlier experience gained during the January elections and the October referendum. More than 220,000 polling staff were recruited and trained prior to election day. The IECI accredited 2,500 media representatives in all governorates, and the accreditation of 399,750 observers helped to ensure the transparency and integrity of the electoral process. By December 7, all election materials were pre-positioned in Sharjah, United Arab Emirates (UAE), for delivery to the 6,219 polling centres and 31,500 polling stations. However, there were still shortcomings, such as the limited number of staff dealing with complaints and the numerous quality problems associated with the voter lists.

The media played a positive role during the election campaign, despite the pressure on media outlets and the general lack of democratic traditions and accountability in Iraq. However, some media did not abide by the Code for Media during Elections, established by the Iraqi National Communications and Media Commission (NMC), especially with regard to their obligation to provide impartial coverage of all candidates. The political control over (and often outright ownership of) many media outlets further aggravated this problem. It is recommended that the Code be revised and strengthened and that the roles of the NMC and the IEI be further clarified. Also, it is recommended that an independent media monitoring organization be established.

On election day, 97 percent of polling stations opened, and 76.4 percent of the registered voters cast ballots (excluding OCV and special voting). Provisions in prisons, hospitals, and police and military centres resulted in 68 percent of the registered special voters casting ballots on December 12. Overall security on election day was good, and there was a decline in violence on election day, as compared to the previous two electoral events. There was also an impressive increase in Sunni voter turnout, particularly in Anbar (86.4 percent) and Salahaddin (98.4 percent) governorates. A wide range of irregularities and problems were reported, but these were localized and did not affect the overall results.

The counting of ballots and compilation of results was conducted professionally and competently, and produced credible final results, although the lopsided results in many governorates (where the largest entity received up to 90 percent of the vote) may be partly due to localized fraud and voter intimidation. The PR system used resulted in seats being allocated to 11 entities, with only 4.83 percent of the vote going to one of the many entities that failed to win a seat. The investigation and resolution of complaints by the IEI delayed the release of final results until January 20, 2006.

A total of 1,985 complaints were submitted to the IEI, with 58 classified as potentially serious enough to affect the outcome of the results. However, the subsequent investigation resulted in the cancellation of results from 227 polling stations; this represented less than 1 percent of the total and had little or no impact on the final results announced January 20, 2006. The IEI is to be commended for dealing firmly with the serious complaints received; however, the delay in certification caused by the complaints investigation undermined the credibility of the IEI and added to the post-election tensions. It is recommended that the barriers to submitting complaints be lowered in the short term and the capacity of the IEI Complaints Office be increased. However, it is also recommended that the Council of Representatives institute a law on electoral offences and considers the formation of a separate body legally empowered to investigate electoral offences and to take punitive measures against people or organizations breaching this law.

## **Introduction**

The International Mission for Iraqi Elections (IMIE) was formed in December 2004 to assess Iraq's electoral preparations, offer expertise and informed judgments, and add to the capacity of Iraq's electoral management body as it prepared for the multiple electoral activities of 2005–2006. Composed of electoral management bodies from a number of nations, the IMIE is providing peer-level reviews and advice to the Independent Electoral Commission of Iraq (IEI). Additional information about the IMIE can be found on its Web site at [www.imie.ca](http://www.imie.ca).

This report is based on the work and discussions of international electoral experts, the IMIE Steering Committee and the IMIE secretariat. As with the October 2005 constitutional referendum and the January 2005 Transitional National Assembly election, international experts assessed predetermined aspects of the election process. These assessments were based on criteria and questions established by the IMIE and relied on a range of sources, including legal and regulatory documents, interviews

with key participants inside and outside Iraq as well as information provided through the IMIE offices in Amman and Baghdad. The aspects of the election process assessed include:

- Legal framework
- Voter registration
- Certification of political entities, coalitions and candidates
- Voter education and information
- Electoral preparations
- Access to media
- Polling
- Vote Counting and results compilation
- Election complaint process

This report highlights the strengths of the December 15 election process and makes clear recommendations, to both the IECI and the Council of Representatives, for improving future electoral events and for the future structure and governance of the IECI. An additional assessment of the Out-of-Country Voting (OCV) Program is covered in a separate report entitled *Evaluation of the Out-of-Country Voting Program for the December 15 Iraqi Council of Representatives Elections*.

The ultimate goal of the IMIE is to build the institutional capacity of the IECI by sharing information and expertise. In this way, the IMIE aims to assist and support the IECI over the longer term while maintaining sufficient distance to evaluate and assess Iraq's electoral process.

### **Composition and functioning of the IECI**

The IECI was formed in 2004 in accordance with United Nations (UN) Security Council Resolutions 1483 and 1511, which stressed the right of the Iraqi people to choose its political future; the Law of Administration for the State of Iraq for the Transitional Period, also known as the Transitional Administrative Law (TAL), which stipulated that the Iraqi people should choose its government by way of free and trustworthy elections; and Constitutional Provisional Authority Order Number 92, which was the legal instrument establishing the Commission. The IECI is fully independent of the legislative, legal and executive branches of the state and is the sole electoral authority in Iraq.

The IECI is composed of eight Iraqi members, including a non-voting Chief Electoral Officer, and a non-voting international member designated by the UN; all members were selected by a committee of international judges and legal experts attached to the UN. However, with the ratification of the Iraqi constitution and the formation of the new Government of Iraq as a result of the successful completion of the Council of Representatives elections, the term of operation of the IECI has come to an end, and the body will need to be replaced by one operating under the constitution and new legal provisions.

Although it would be possible for the IECI to continue unchanged, albeit under a new legal framework, the Council of Representatives now has a unique opportunity to reconsider and develop the structure, composition and functioning of a new IECI. The IMIE strongly recommends that, together with the current members of the IECI Board of Commissioners, the Council of Representatives consider the following parameters and suggestions:

1. Develop a legal framework for appointment (and removal) of members. This will ensure the independence, impartiality and competence of the commissioners and instill confidence among voters, political entities and candidates.

2. Reconsider the number of electoral commissioners. Could the size of the IECI be reduced in the interests of efficiency?
3. Consider whether all of the appointments of commissioners should be full-time or whether some should be part-time, operating principally during the electoral process, should the number of commissioners exceed three.
4. Establish a term of appointment of commissioners and decide whether appointments of commissioners should overlap in order to ensure continuity of knowledge and experience.
5. Establish in legislation rules for governance and decision making, including the delineation of roles and powers between a Board of Commissioners (which sets policy) and a Chief Electoral Officer (who recommends and implements policy).
6. Determine the degree of delegated authority necessary, during election periods, for the Chief Electoral Officer to deal directly with critical, unforeseen operational issues, reporting back to the Board and Parliament at a later stage. This would make the Commission more immediately responsive and to facilitate the electoral process.
7. Ensure that the IECI is adequately funded and accountable, on a regular basis, to Parliament (but not to the government) for electoral spending and for the conduct of all its electoral activities.

The IMIE also recommends that the Council introduce a law on electoral offences, including punitive measures against people or organizations breaching this law, together with the formation of an independent body legally empowered to investigate and prosecute potential electoral offences. The body empowered to investigate should be authorized to take action on its own initiative; in addition, the IECI would refer to this body any breaches discovered through the complaints process. Additionally, although this is not essential, the Council may wish to consider establishing a specialized court to decide electoral cases.

### **Legal framework**

The legal framework for the December 2005 Iraqi Council of Representatives elections was assessed against international democratic standards, as defined by international law and organizations, and widely shared among democracy advocates, election analysts and practitioners. A total of 28 normative pieces were examined, six of which were enacted after the October referendum: a new constitution and a short Elections Law; two new regulations on seat allocation and OCV; and two procedural manuals on general polling and counting, and on special voting of detainees, hospital patients and security forces personnel.

#### *Political rights and electoral formula*

The legal framework for the elections was generally in line with democratic standards. Fundamental political rights and freedoms were guaranteed amidst a difficult security environment and the uncertainties of political change.

The formula of representation for a 275-seat Council of Representatives was based mainly on proportional representation in 18 governorates through closed lists. For the 230 seats allocated to governorates according to the number of registered voters, simple Hare quotas were calculated for seat distribution between political parties and coalitions, with the rule of the largest remainders being

applied. The remaining 45 seats fell into two categories: a) **compensatory seats**, which were guaranteed for political entities that did not win any governorate seats, but who reached a national threshold of votes; and b) **national seats**, which were distributed by Hare quota as per the governorate seats. The formula used was an example of good democratic practice and included safeguards for some sensitive elements, such as increased opportunities for minority representation.

A gender quota ensured that women received 25 percent of the seats on the Council of Representatives by requiring that at least one of every three candidates be a woman. The fact that gender and minority representation is enshrined in the Constitution and regulated by the Elections Law makes this legislation among the most progressive; generally, principles of positive discrimination for women and minorities are more frequently enunciated in legal texts than specifically regulated and guaranteed in practice.

Allowing special voting for Iraqis living abroad, detainees, hospital patients and security forces should also be considered a sensitive and imaginative measure for enhancing democratic representation.

#### *Electoral authority*

The electoral authority running these elections, the IECI, was the same as for the January elections and the October referendum. For the December elections, the IECI seems to have been more efficient at issuing the necessary regulations than at publicizing them through its Web site, unlike in the past, when each new regulation and instruction was posted on the Web in a timely manner.

#### *Voter registration*

Voter lists for the elections were essentially the same as those resulting from the registration update of August 2005. The rules for that registration update were assessed very positively in the IMIE's referendum report. They were deemed to clearly enhance enfranchisement by facilitating voter registration and ensuring transparency and efficacy of the registration process. Registration during the OCV and special voting programs were regulated appropriately.

#### *Political Entities and Entity Agents*

Political entity agents and electoral observers were bound by IECI code of conduct. During polling and counting, one agent per political entity was allowed into the polling station. Agents could witness all procedures in the polling station and could sign any polling station forms as witnesses. Nevertheless, and international standards notwithstanding, there was no provision allowing political entity agents to obtain a copy of the polling station tallies.

#### *Electoral Observers*

Provisions for electoral observers did not substantially vary from those used in the past election and referendum.

#### *Campaign and media*

All relevant freedoms for campaigning and the use of media were legally guaranteed by the following:

- Iraq Elections Law
- IECI Regulation 8-2005 – Electoral and Referendum Campaigns
- IECI Regulation 10-2005 – Media
- INational Communications and Media Commission (NCOM) Code for Media During Elections

- Timely Statements by the IECI

#### *Voting and counting*

Voting and counting procedures met accepted democratic standards, with the exception, as mentioned, that political entity agents were not entitled to copies of results tallies from polling stations. Voting was permitted outside the country as well as in detention centres, hospitals, and military and security camps.

Voting and counting manuals, for both normal and special voting, had a user-friendly inner structure, wording and format. Among other advances, a minor flaw from procedures for previous elections has been corrected, with the clarification that the voter's right index finger should be marked in the cuticle with indelible ink.

A major problem remains regarding the obligation to announce results. Although preliminary results were announced by the presiding officer to those present at the counting station, and then transmitted to a central location for final aggregation, there was no obligation to announce total preliminary results, nor was there a deadline for announcing the final official results by the IECI.

The Elections Law and IECI Regulation 13-2005 on seat allocation are in conflict with regard to the replacement of female candidates on entity candidate lists. The Law states that replacement of a representative shall be by the next candidate on the list; but if the vacant seat belongs to a woman, it is *not necessary* to replace her with another woman candidate, unless not doing so would affect the percentage of women's representation. However, IECI Regulation 13-2005 mandates that a vacancy left by a woman be filled by the next woman on the list.

#### *Complaints adjudication*

On the positive side, unlike in the previous January election, the possibility existed for filing complaints by e-mail. Further, complaints about voter lists could be resolved locally by the polling centre manager, rather than at the governorate electoral office. Finally, complaints about the count at the polling station were also addressed in an expedient manner. Nevertheless, a shortcoming remained in that there were no deadlines for resolving complaints by the Board of Commissioners, nor was any deadline set for a complainant to respond.

#### *General comment*

As was the case in the January elections and the October referendum, the security situation and political environment prevented the attainment of a fully neutral political environment and level playing field, which are ideally prescribed for genuinely democratic elections in post-conflict scenarios. Elections have been held in several countries before the armed conflict finally came to an end, and invariably, some of the political forces did not participate in the electoral process. In Iraq, however, recent electoral experience has shown that the boycotting of the polls by certain sectors of the community did not prevent a massive electoral turnout, and new contenders have abandoned the boycott in successive electoral events. This can be taken both as a measure of political integration and as a promising sign for the future of democracy in Iraq.

#### *Main recommendations to the IECI*

1. Establish deadlines for:
  - a. Resolving complaints.
  - b. Communicating the decisions to complainants.

- c. Allowing complainants to respond to the decisions.
2. Establish reasonable deadlines for announcing preliminary and final results, after the satisfactory resolution of complaints that would affect the outcome of the electoral event.
3. Display a copy of official polling station results immediately after the completion of the count so that political entity agents and observers can copy the final results. Where infrastructure allows, the polling station chair should photocopy the results (tally) sheet for any political entity agent or observer who requests it.
4. In the long term, when the new electoral legislation is complete and the regulations have been tested in the next electoral event, compile the electoral regulations into a single normative body to be used for the regulatory framework of further electoral events in Iraq.

### **Voter registration<sup>1</sup>**

The franchise of all eligible citizens is guaranteed through an accessible, accurate voter register. Despite certain deficiencies, the voter register created for the recent electoral cycle and culminating in the December Council of Representatives elections in Iraq satisfactorily met international standards.

The voter register created for the January elections was based on the Public Distribution System (PDS) database for food rations and was grouped by family. Iraqi citizens were able to register or correct their voter information at registration centres throughout the country – except in the governorates of Anbar and Ninewa, where registration was conducted on polling day due to security problems. Despite a number of irregularities during this initial registration period, 14.3 million voters were registered out of a total estimated population of 27 million.

An update of the voter register was conducted throughout Iraq over a four-week period in August 2005 (extended by a week in Anbar governorate). Eligible voters could add their names to the voter register, amend their personal data, change their polling centre and, with supporting documentation, delete names of the deceased. In addition, there was a one-week challenges period, during which people could challenge the inclusion of any person on the registry whom they considered ineligible due to age, place of residence (governorate), nationality or death. In order to protect voters and avoid arbitrary exclusions, the person submitting the challenge had the obligation to present documentary proof. As a result of this successful update, the voter register used in the referendum contained 15,568,702 voters, an increase of 8.2 percent over the January registry. However, irregular registration patterns were again reported in some areas, such as Tameem/Kirkuk; these were investigated and resolved prior to the referendum.

More than half of the complaints made during the referendum were related to confusion created by the reordering of names on the voter lists generated from the registry. The registration of voters on the day of the referendum also provoked complaints, even though the IECE had announced that this would be permitted in exceptional cases upon presentation of required documents. The atmosphere of mistrust created by the suspicious turnout and voting patterns for the referendum made it a priority to resolve the problems related to the electoral registry before the December elections.

#### *The December elections*

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<sup>1</sup> This report refers exclusively to the registration for purposes of ordinary voting in Iraq, and does not include the electoral registry for out-of-country voting or for special voting in Iraq.

An investigation into anomalous registration patterns in Tameem/Kirkuk led to the conclusion that 81,297 voter registration forms contained serious defects. The IECI initially excluded these names from the voter list for the December elections, but later reversed its decision and included the deleted names in a complementary list. Eligible voters who were able to prove that they had been unfairly excluded from the list were permitted to vote. However, while it sought to protect voters against unjustified exclusions, this reversal raised doubts about the rigour of the investigation and the grounds of the original decision. Furthermore, data from the January registry and from the August update were mixed in a confused manner, raising doubts about the accuracy of the voter register.

In order to improve the ease of use of the voter lists on polling day, the IECI ensured that names were listed alphabetically and used a larger font size. Unfortunately, it was later noticed that due to a printing error, an additional 600,000 entries (nearly 4 percent of the total) were missing from the voter lists. The missing names did not follow any particular pattern, however, and it was possible to print and distribute complementary lists, mitigating any adverse effects.

The problems associated with the production and distribution of the voter lists recurred throughout the electoral cycle, and the corrective measures adopted by the IECI often proved ineffective. Although voter lists did not feature among the main complaints for the December 15 elections, problems with the voter lists remained the root cause of some reported irregularities and official complaints.

#### *Comments*

Given the difficult conditions, it is important to emphasize that the rules established and the operations conducted to update the registry and voter lists throughout the 2005 electoral cycle met their fundamental goal: to guarantee citizens the right to vote on an equal and non-discriminatory basis. Additionally, voters were able to request changes or modifications to their personal details and to challenge improper registrations. From this perspective, voter registration in Iraq met international standards.

Recommendations take into account two important constraints. First, the current registry is based on the public food distribution system, which was not conceived and developed for electoral purposes. Consequently, its specific characteristics will always make it difficult to adapt it for electoral purposes. Second, the lack of accurate social and demographic data impedes a proper assessment of the accuracy of the voter register.

Therefore, once conditions allow, it should be a priority to produce a totally new voter register. This would resolve some of the technical and operational problems encountered when updating the current register and producing and distributing the voter lists. However, as production of a new register is unlikely to be feasible in the short term (especially if there are additional elections in 2006), the following recommendations assume that the existing register will remain in use for the immediate future.

#### *Main recommendations to the IECI*

1. Develop clear and precise rules for same-day registration and voting.
2. Maintain and clean the voter register on an ongoing basis and conduct updating exercises, incorporating all additions, corrections and deletions, and printing new voter lists prior to each electoral event.

3. Extend the challenges period, and publicize the applicable criteria and procedures, in order to guarantee the integrity and transparency of the updating process.
4. Upon request, provide political entities with access to voter lists during the challenges period.

### **Certification of political entities, coalitions and candidates**

The rules and procedures applied to the certification process for the December elections were derived from the following legislation:

- Coalition Provisional Authority Order Number 97 – Political Parties and Entities Law, issued by the CPA in June 2004
- Electoral Law, issued by the Transitional National Assembly in September 2005
- Regulations 6-2005 – Certification of Political Entities, 08-2005 – Electoral and Referendum Campaigns and 09-2005 – Certification of Candidate Lists), issued by the IECI between August 27 and September 20, 2005

Because of time imperatives, the IECI had to adopt the main regulations that ruled the process of certification before the National Assembly approved the new Electoral Law; consequently, certification started amid the final preparations of the referendum. Despite this, the legal framework did not have any significant inconsistencies, and the process of certification was properly structured and efficiently managed by the IECI.

The certification process involved organized political groups, coalitions and individuals – all referred to as “political entities”. Political entities had to first register and then certify their candidate lists for each governorate. Applications could be submitted at the national, regional or governorate offices of the IECI, with deadlines in the last week of September. Political entities were then allowed an additional month to form coalitions, if they wished. Any rejected applications could be appealed to the Board of the IECI, and the Board’s decision could be appealed to the Transitional Electoral Panel.

The requirements for certification were reasonable and egalitarian, and appeared to be implemented fairly; no political entity registered any dissatisfaction with the certification process. However, it is not known how many applications for certification were rejected or whether the IECI had to apply any sanctions for transgressions of certification regulations.

IECI Regulation 09-2005 – Certification of Candidate Lists was issued at the end of September – before the referendum but after the Transitional National Assembly had approved the new Electoral Law. Each certified political entity or coalition had to present a list of candidates for each governorate that it wished to contest.

IECI Regulation 5-2005 – Adjudication of Election and Referendum Complaints and Disputes stated that in order to be eligible for the election, prospective candidates had to be an Iraqi citizen, included on the voter list and:

- Be no less than thirty years old of age.
- Not be covered by the de-Ba’athification Law.
- Not have enriched themselves illegally.
- Not have been convicted of a crime that violates honour.
- Have at least a high school certificate or its equivalent.
- Not be a member of the armed forces upon nomination.

The applicable regulations again required that candidate lists rank the candidates and comply with a gender quota of one woman in every three candidates. In addition, and that a list presented for a governorate had to contain a minimum of three candidates and a maximum equal to the number of seats available.

The one-month period for the certification of the candidate lists ended on October 28, by which time 307 political entities and 19 coalitions were certified, together with 996 lists containing a total of 7,655 candidates across the governorates. The 25 percent increase in certified entities and coalitions over the January election was due in part to the participation of the Sunni community and was evidence of both the interest in and opportunities for democratic participation.

There are nonetheless some problems with the conditions for candidate eligibility. The requirements of age and level of education are not in accordance with international standards, and they should be changed in line with the recommendations below. The de-Ba'athification requirements also caused some difficulties. The de-Ba'athification Committee formally requested the decertification of 185 candidates, and as a result, some entities voluntarily removed or replaced candidates. The Board of the IECI, however, decided not to decertify any candidates prior to the elections due to lack of evidence, but it left open the possibility that elected members of the Council of Representatives could lose their seats if it was subsequently proved that they had not met the requirements for their certification.

On September 20, the IECI issued Regulation 8-2005 on campaigns, which complemented and expanded upon provisions contained in the Code of Conduct. The Code was unchanged from the January election and effectively remained the principle reference for campaign activities.

Campaigning was permitted from the beginning of the candidate certification period until the day before the election. Although the twelve weeks permitted for campaigning seemed generous, in reality little campaigning was conducted until late October or early November (after the referendum).

Despite the relative freedom within the legal framework to develop campaign activities, campaigning was seriously limited by two fundamental factors: 1) the atmosphere of violence, fear and insecurity in the country; and 2) the regular violation of the Code of Conduct by political entities, including the practice of vote buying, acts of intimidation, the destruction of electoral advertising, and the use of religious symbols and messages. In fact, complaints of illegal advertising, intimidation or destruction of materials intensified on polling day. No sanctions were applied by the IECI on these matters.

Undoubtedly, the biggest shortcoming of the legal framework was the absence of minimum conditions of equity. Given the lack of security and the regular violations of the Code of Conduct, the advantages of richer political entities were even greater during the campaign period. Moreover, once again no regulations were established to control the origin and destination of private funding; no limit was imposed on campaign spending, and the IECI did not impose any requirement of accountability or disclosure that could guarantee a minimum of transparency in campaign financing and spending.

#### *Main recommendations to the IECI*

1. Adopt procedures to report on the number of received certification applications, the number rejected and the reasons for their rejection.
2. Define more precisely the duration and sequence of the periods of certification to avoid having to grant extensions and to provide more certainty to the process.

#### *Recommendations to the Iraqi Council of Representatives*

1. Assess the efficacy of using the de-Ba'athification law to limit the certification of candidacies.

Develop legislation to regulate campaign financing and expenditures for political entities, coalitions and candidates to ensure minimum conditions of equity are met, and establish the independent capacity to monitor and enforce the legislation.

2. Lower the minimum age of candidates to 25 and remove education restrictions.

### **Voter education and information**

The rising level of participation in the 2005 electoral events in Iraq was a very positive sign of increased understanding and acceptance of democratic principles and values among voters and lawmakers. This educational aspect is vital to the sustainability of the electoral process in Iraq.

#### *The legal framework*

There was no legal provision defining the duties and responsibilities of the IECI with respect to voter information and education. CPA Order 92 makes a general reference to the IECI's relations with civil society, stating that one of the functions of the IECI is to "help build societal support for and confidence in the electoral process throughout Iraq"<sup>2</sup>.

IECI Regulation 10-2005, Section 4 gave some responsibility for voter information and education to the media, who were asked to base their information on IECI documents, and to give unbiased coverage of the political campaign.

Despite the absence of a clear legal framework, the IECI acted as the lead body empowered to inform and educate voters. The IECI Public Outreach Department had four units (media, public information, external relations and contestants), while in the field each of the 542 district electoral offices had a public information officer.

#### *Voter information and education strategy*

The strategy of the IECI contained motivational, informative and awareness-raising elements. Two significant developments resulted in a shift in priorities in the IECI's voter information and education strategy. First, the announcement of participation by the Sunni communities, after their boycott of the January elections, led to a decreased emphasis on motivational messages. Second, the late adoption of the Elections Law on September 12, 2005 left little time for political entities, candidates, observers and voters to become familiar with its provisions and led the IECI to focus instead on simple, yet practical messages, such as how to mark the ballot and where to vote. The final element in the IECI's strategy was the effort to increase awareness about the electoral process among all the stakeholders, targeting in particular civil society and the political entities.

#### *Voter education and information activities*

With the Referendum taking place on October 15, 2005, there was no more than a month and a half to fully prepare voter information and education materials, campaigns and activities for the December 15 elections. Nonetheless, the IECI were able to use diverse media, such as newspaper, radio and

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<sup>2</sup>CPA Order 92 section 3, para 3.b.

television, printed materials, Web sites, press conferences and voter education sessions to provide all stakeholders with relevant information.

Television was the main medium, followed by radio and newspapers. The IECI outsourced the production and distribution of public service announcements, after providing general guidelines on their content to the bidders. In addition, news media gave space to political messages and debates. The IECI also published information in newspapers to explain the ballot and steps for voting.

Millions of posters and pamphlets were produced in a variety of languages in order to publicize polling locations and the method of marking the ballot<sup>3</sup>. Messages were clear and printed materials were disseminated without any major delays. The National Democratic Institute (NDI) also provided useful training to political entities on how to develop campaign messages and materials with a focus on political platforms and programs.

Updates of the IECI Web site occurred more frequently as the election neared, and there were particularly useful Frequently Asked Questions (FAQs), listed by topic, as well as links to specific information for OCV. The IECI held daily press conferences from December 7 and twice daily from December 15-17, 2005.

The design and the text of the ballot paper clearly explained the ballot marking procedure. In addition, each polling station was provided with a poster, explaining how to mark a ballot and ballot paper issuers explained the procedure in person. Candidate lists were posted in all IECI offices no later than seven days prior to the election, as prescribed by law.<sup>4</sup>

The IECI also engaged in a number of voter education sessions with NGOs and political entities. In early December, the IECI held a conference with domestic observer groups to provide an update on electoral preparations and discuss progress in addressing issues identified by observers in previous electoral events. The IECI used the opportunity to encourage NGOs to develop voter education and voter information programs to complement the IECI efforts.

A few days later, a similar conference was held with the political entities, where special focus was given to the complaints process. Information about complaints was, however, late and not accessible to the general public. Only after election day did the IECI clarify the procedures and deadlines for submitting a complaint, and confirm that official results would not be released until all complaints had been processed.

With the assistance of NDI, public information officers in the governorate and district electoral offices also held meetings with NGOs and political entities. Cascade methods of public outreach were initiated by NGOs, using a combination of modern tools such as SMS, and traditional methods such as door-to-door visits. The Election Information Network (EIN) stood out among local NGOs for its coordination of activities and information dissemination to NGOs interested in election observation<sup>5</sup>.

Specific target groups such as women, minorities, youth, the disabled, detainees and hospitalized persons, as well as areas with previously low turnout (such as Kirkuk and Anbar) received special attention in public outreach and voter education campaigns.

On Election Day, following several cases of voters not being found on voter lists, procedures for dealing with this issue were quickly disseminated through the news media.

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<sup>3</sup>Samples of posters in different languages can be viewed on the IECI Web site.

<sup>4</sup>However, in the case of the 45 compensatory and national seats, political entities were only required to publicize their lists of candidates after the election.

<sup>5</sup>EIN had 15,000 observers throughout Iraq on election day.

### *General comments*

The IECI's progress throughout 2005 should be recognized; it has made huge steps forward in a very short time. It has run a diversified voter information and education campaign, and should be commended for the number of tools it utilized. The increased contact with NGOs and political entities to enhance dissemination of voter education materials is to be encouraged.

Available reports indicate that the IECI's voter education program was largely successful and that the majority of IECI offices were well organized.<sup>6</sup> However, IECI officials on the ground expressed the need for improved communication and coordination between the IECI HQ and the field.

The IECI's focus on simple and useful messages was the right approach. Political entities could be encouraged to assist voters by providing more complex information on the electoral system, with specific attention given to the allocation of seats.

At the same time, the IECI has become more receptive to suggestions from civil society, whereas in the past they were primarily influenced by international NGOs. This relationship between the IECI and civil society needs to be strengthened further, as the active engagement of civil society is key to the democratic process.

### *Main recommendations to the IECI*

1. Create a voter education unit with the IECI Public Outreach Department.
2. Use different focus groups (age, ethnicity, education levels, gender, etc.) to ensure that voter education and information messages are appropriate and effective.
3. Debrief public information officers, in order to get feedback from the field, to assess the impact of their voter information and education campaigns and to aid in the development of further public outreach strategies during non-election periods.
4. Strengthen collaboration with political entities, which will in turn encourage the political entities to foster democratic principles among their supporters.
5. Strengthen collaboration with civil society groups to develop and disseminate materials, particularly at the regional level.

### **Electoral preparations**

The assessment of electoral preparations was researched and written from the perspective of international democratic standards. In practical terms, democratic standards translate into the overarching principle that good electoral practice implies no exclusion of any significant sector of the electorate and potential contenders, and no tampering with electoral procedures. Fair legal provisions are required, and electoral management bodies in charge of elections need to perform in a neutral, professional and transparent manner.

In Iraq, there is an almost unanimous opinion among both local and external observers and media analysts that the December elections have brought the inclusion of political sectors and former

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<sup>6</sup>The IECI showed a degree of flexibility in allowing small local budgets for voter information and education.

insurgents who did not participate in the January elections and the October referendum. The referendum, in turn, was more inclusive than the January elections.

#### *Independent electoral commission*

The December elections were managed by the IECI, the same electoral body that was in charge of the two previous electoral events in 2005. The effort mobilized a polling staff of over 220,000. Moreover, there was voting in 15 countries for Iraqis eligible to cast their ballots in the Out-of-Country Voting program.

Under UN leadership, the International Electoral Assistance Team (IEAT), comprising more than 50 experts from the UN, EU, and IFES, provided technical assistance to the IECI. Assistance to political parties as well as domestic observer groups came from different organizations, most notably NDI. While one may debate the amount, quality and timing of international assistance required, it is apparent that the provision fell short of that provided in other recent conflict scenarios.

Recruitment of polling workers benefited from previous experience, as the staff who had worked for the Referendum were again hired to work at the polling centres during the Council of Representatives elections. Staff were trained in the voting procedures through a four-level cascade, starting at the Dead Sea, Jordan, and falling through Baghdad to the governorate and district electoral offices. A couple of days before the elections, a total of 180,000 polling staff had been trained and were ready for work.

#### *Candidates, political entity agents and electoral observers*

Legal provisions on electoral observers for the December elections did not substantially vary from those established for the two previous electoral events. By December 11, the IECI had accredited an impressive total of 399,369 election observers, which included 126,125 domestic observers from more than 20 registered Iraqi Observer Groups (most of them federated groups of NGOs), 272,295 political entity agents in 18 governorates and 949 international observers, which included a contingent from European Union embassies in Iraq organized under the umbrella of IMIE. These figures represent a substantial increase in observers who monitored the January election and the October referendum.

The IECI conducted information sessions with political entities and entity agents during the weeks prior to the elections in order to inform them about the complaints process, the publication of candidate lists and the de-Ba'athification process, the operation of the Tally Centre, the application of the electoral formula, and the registration of political entity agents and of national and international observers. A Code of Conduct for Political Entities and an Observer Guide were distributed. Training in polling and counting procedures for political entity agents of over 100 organizations was provided by NDI.

#### *Fraud detection mechanisms and electoral complaints*

The IECI put in place a number of mechanisms to detect and deter fraud and manipulation. Among those mechanisms were pre- and post-election field audits, field inspections, computerized tally audits, Tally Centre data entry safeguards, and the selection of poll workers by lottery.

The IECI set up a system for complaints filing and resolution, and in December started distributing complaints forms to polling centres. Around 100 complaints were filed during the campaign period, with the greatest concentration in Najaf and Baghdad; many of these complaints dealt with the destruction of posters and other campaign materials.

The capacity of the IECI Complaints Unit was very limited, as demonstrated by the fact that resolution of the more than 100 complaints received for the referendum was only finalized by December 10. The three extra lawyers hired for the December election by the complaints office were not sufficient for the large number of complaints lodged about voting and counting.

#### *Campaign, media and public outreach*

The main threat to the electoral process remained the massively high level of politically motivated and orchestrated violence during the campaign, with some campaign activists being injured or murdered. Some security incidents affected the electoral administration itself, including several field officers being killed. On a less serious level, there were many incidents of campaign posters being torn down.

The IECI defined procedures to facilitate the work of the media, and issued identification cards; around 2,500 media representatives were accredited in all governorates to cover the elections. Media teams were allowed to take photos at some specified polling centres, after coordinating with the polling centre manager, although photos of voters were not allowed without the explicit approval of each voter.

The public outreach activities of the IECI included, among other things, the printing and distribution throughout Iraq of 5 million posters and 2 million pamphlets in 5 languages, TV and newspaper advertisements, and the updating of the IECI Web site.

#### *Logistical preparations for voting and counting*

By December 7 all polling materials for 6,219 polling centres and 31,500 polling stations were pre-positioned in Sharjah, UAE for transport to Iraq, and warehouses in all 18 governorates were ready to receive the materials.

In cooperation with the Ministries of Defence and the Interior, the security structure comprising three concentric perimeters surrounding the polling centres, first introduced for the referendum, was replicated for the December elections. The first perimeter consisted of Iraqi police; the second of the Iraqi National Guard (army); and the third was in the hands of international forces. Special staffing and security measures were prepared to ensure security in difficult governorates such as Anbar and Ninewa.

Each governorate had a different ballot paper, and there was also a national ballot paper, which included all of the political entities, which was given to OCV voters, detainees, patients in hospitals and military personnel as part of the programme of special voting.

The planning and organization of the OCV, which took place between December 13–15 in 15 countries, was conducted from Amman, Jordan by a secretariat of 60 staff led by an IECI Commissioner with assistance from six international advisors. A separate detailed report has been issued on the OCV operation.

#### *Concluding remarks*

The ongoing lack of security was a major and negative factor affecting the preparations for the elections. It would be extremely unfair to evaluate the performance by the electoral administration without taking the very dangerous and limiting circumstances into consideration. The very fact that the IECI was able to conduct elections in every governorate of Iraq is in itself an enormous accomplishment. However, there were shortcomings in the planning and preparation which could have been avoided or overcome, such as the limited staff dealing with complaints processing and

resolution, or the loopholes in procedures designed for the special vote of security forces, which invited double voting.

#### *Main recommendations to the IECI*

1. Organize voter lists by polling station rather than by polling centre in order to facilitate access by the voters and to deter multiple voting.
2. Ensure that polling and counting procedures are fully comprehensive and are published well in advance of the training of staff.

#### **Access to media**

The role played by the media in the election campaign was positive, considering the complex security conditions, the pressure on media outlets and the general lack of democratic traditions and accountability in Iraq. However, some media did not abide by the Code for Media during Elections, established by the Iraqi NCMC. Extensive irregularities were noted with regard to the obligation to provide impartial and even-handed treatment of all candidates. The political control over (and often outright ownership of) many media outlets, further aggravated this problem.

The Code for Media during Elections came into effect on December 14, 2004. The Code was drafted to cover political advertisements aired by the state owned media, the Iraqi Media Network (IMN) and it states,

*All Broadcast Media shall provide equitable access, equitable presentation, and equitable coverage of Political Entities and Coalitions, and any of their candidates [...] with respect to [...] election activities in which they are involved.*

The Code also includes provisions compelling private broadcasters to air free educational spots filmed by the IMN. However, media that are not part of the IMN may air paid political advertisements, so long as the advertisements are published equitably and they are clearly identified as paid advertisements with their sponsors identified.

The IECI issued media guidelines similar to the NCMC's Code for Media during Elections. IECI Regulation 11-2005 states:

- Iraqi media have a duty to inform readers, listeners and viewers accurately and in a timely manner about the electoral process.
- All media shall provide unbiased information about the policies of the various political entities and coalitions.
- There shall be a media silence period between the end of the campaign period and the closing of the polling stations at the end of polling.

This regulation led to confusion with NCMC's Code. The IECI later stated that Regulation 11-2005 was only intended for media monitoring, as the NCMC had sole authority to regulate media during the election campaign. It is notable that the second requirement of IECI Regulation 11-2005 is in conflict with the NCMC Code as it calls for impartiality for *all media* and not just broadcast media and the IMN.

The confusion over media regulations meant that accountability and fairness were difficult to enforce. The IECI itself registered only a small number of complaints, ranging from reports of campaigning on Election Day, to media being prevented access to polling stations. Generally, observers were more

concerned with the absence of stricter rules governing paid political advertising, with a very small number of parties clearly enjoying a financial advantage which allowed greater access to international consultants and the ability to purchase temporary media allegiances.

Broadcasters were generally required, more so than print media, to show equitable access, presentation and coverage of the elections. As the public broadcasters for Iraq, the Iraqi Media Network (IMN) was essentially the main network required to abide by the equitable access guidelines specified in the Code for Media. IMN includes the Al-Iraqiya TV, Republic of Iraq Radio, Qoran Radio and the Al-Sabah daily newspaper.

In the run-up to the Elections, Al-Iraqiya continuously aired three-minute promotional spots for candidates, free of charge. The same candidates were also invited to visit Al-Sabah newspaper and *Republic of Iraq* Radio to benefit from the same equitable access.

Many TV stations aired marathon-broadcasting sessions of political platforms, which proved an ineffective model of public information programming that also reduced the airtime available for political analysis. The Pan Arab satellite TV channels, like Al-Sharqya, Al-Fayhaa, Al-Jazeera, Al-Hurra, Al-Alam and Al-Arabia aired useful alternatives by offering discussion shows and news coverage.

The Mirat survey<sup>7</sup> indicated that the Al-Iraqiya editorial was biased in favour of Prime Minister Ibrahim Al-Jaafari and his electoral list, albeit not as blatantly as in the previous election. The Mirat survey also reported that United Iraqi Coalition list 555 received favourable coverage 56 percent of the time and favourable photo coverage 36 percent of the time. The second most favourable coverage was given to the Kurdistan Union, (not a direct competitor to UIA) with 22 percent and 23 percent respectively. Ayad Allawi's list, the National Iraqi List 569, received only 9 percent and 27 percent respectively.

The principal Kurdish broadcasters, Kurdsat TV, Al Hurriya, and Kurdistan TV, whose reach also covers Baghdad, were all openly biased in favour of the Kurdistan Alliance, serving as little more than promotional tools for the two regional Kurdish governments. The Mirat survey showed that Kurdsat used 70 percent of its broadcasting (70 percent of which was positive nature and 30 percent neutral) in covering Jalal Talibani. The remaining 30 percent of its coverage went to Masood Barazani who enjoyed 60 percent positive coverage against 40 percent neutral coverage.

A similar pattern of biased coverage was noted with radio broadcasting. *Republic of Iraq* radio was criticized in the NCMC for a lack of political content in their programming, although it offered three-minute promotional spots to all candidates. In the same NCMC report, Al-Huryia radio, run by the Kurdish coalition and broadcasting in both Arabic and Kurdish languages, "limited its news bulletins to the Kurdish coalition only." The Mirat survey reported that Al-Huryia radio coverage was unevenly split between Barazani (60 percent) and Talibani (40 percent).

The print media provided more balanced coverage of political views, and was generally a more reliable source of information, albeit a less influential one. Newspapers also provided information about the smaller parties and candidates, although the major four or five lists dominated coverage, as shown in Mirat survey.

Due to the security situation, most candidates refrained from conventional campaigning, which narrowed the electorate's ability to assess the candidates and make informed judgments, further highlighting the value of the media and the name recognition that comes with continued exposure and

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<sup>7</sup> Mirat was the first Iraqi media monitoring organization to issue a report covering the four-week run-up to the Elections (available at: [www.iraqimirat.org/final/](http://www.iraqimirat.org/final/))

coverage. Financial disparity was also evident in the use of pan-Arab satellite news channels, which, while influential and popular in Iraq, were not subject to the regulations of the country.

Only a few coalition lists purchased airtime, most notably the Iraqi List of former Prime Minister Allawi. The Iraqi List invested noticeably more resources in paid programmes than its two main rivals, the UIA and the Kurdistan Alliance. Smaller parties ran modest campaigns, both in terms of ad quality and the amount of airtime purchased. The playing field of paid advertising was not level. Most parties could not afford the production costs of professional ads, let alone the costs of advertising space. Disparities in the finances of the various entities were obvious, and clearly impacted their ability to compete.

Equitable access to the media was also limited by media ownership by political parties. The findings of the NCMC report of March 5, 2005, remain unchanged.

*Most political parties own newspapers, and many also possess or control local radio and television stations, which are openly used to promote their platforms. The interim government has also sought to exert its influence over the [...] IMN, with varying degrees of success. In the Kurdish north, almost all major media, both print and electronic, are politically directed and controlled.*

Foreign interference was also an obvious feature of the media campaign, with the USA, Turkey, Iran and other Arab countries offering support and money to the parties of their choice. State-owned media remains in the minority in Iraq.

On a positive note, the media overwhelmingly supported the electoral process, repeatedly reminding Iraqis of their duty to participate in the election. Most broadcasters gave extensive coverage to voter education advertisements produced by the IECI and several NGOs, conducted numerous interviews with IECI staff and covered all press conferences.

#### *Main recommendations to the Iraqi Council of Representatives*

1. Enable the NCMC to revise the Media Code together with the media, the IECI and the parties, and widely publicize the revised Code.
2. Clarify the roles of the NCMC and the IECI with respect to the Code of Conduct for Media during the Elections, particularly in terms of its enforcement.
3. Establish a completely independent media monitoring organization to work in conjunction with the NCMC.

#### **Polling**

An assessment of the election in Iraq must recognize that this was the third successful national electoral event in Iraq that the IECI was asked to manage in a year: a daunting task under the best of circumstances, but even more impressive in a fledgling democracy beset with insurgent violence and a highly charged political atmosphere. Successful implementation by the IECI resulted in increased Sunni participation. Approximately 11.9 million Iraqis (76.4 percent of registered voters) went to the polls on December 15, 2005 to elect the Council of Representatives that will govern Iraq for the next four years.

For the general elections, the IECI opened 6,084 polling centres (97 percent of the planned 6,264), which included 30,879 polling stations (97 percent of the planned 31,837). As with previous elections, there were on average 5 polling stations in each polling centre and 500 voters in each polling station. Most of the polling stations were located in schools. Those stations that did not open were closed due to security reasons – primarily in the Anbar governorate. The majority of the remaining stations opened on time.

Advance special voting took place in hospitals, detention centres and police and army centres across Iraq in each governorate on December 12, 2005. A total of 255 of the planned 261 polling centres, and 639 of the planned 651 polling stations opened for special voting. Of 299,388 voters registered for special voting, 204,716 (68 percent) cast ballots. Special voting and OCV ballots counted toward the calculation of national seats.

Special voting was largely successful. No major security breaches or incidents of fraud or irregularities that could have substantially impacted the results were observed or reported. Special voting, however, was marred by numerous administrative problems and minor procedural violations, including late openings in 36 percent of polling centres<sup>8</sup> and a lack of supplies such as ballot papers and indelible ink (reported in several polling centres across the country). There were problems with voter lists, and cases of double voting, especially by military and police personnel, were the subject of several serious complaints. There were reports of widespread campaigning near polling centres. Observers also reported cases of hospital and prison staff attempting to influence the voters' choice.

In the context of continued insurgency and terrorist activity, the overall security conditions were good in most of Iraq on election day. This was in large part due to the effectiveness of the three-ring security perimeter established around the polling centres. There were also reliable reports that many Sunni leaders negotiated agreements with Sunni insurgents not to launch any attacks during the election. Anecdotal reports indicate that some insurgent groups may have even provided security in polling centres in parts of Anbar. The relative peace surrounding the election reflects a steady decline in election day violence since elections in January and the constitutional referendum in October.

This election, however, was not completely free of violence. Mortars and sporadic attacks were reported in the International Zone. Other incidents were also recorded by the IECI/IEAT field operations, but none disrupted voting. According to the IFES/EVER Project,<sup>9</sup> the nature of the violence itself has changed since January, with a steady decline in terrorist bombings and insurgent attacks around the time of elections, and a rise in politically-motivated assassinations, kidnappings, intimidations and vandalism. The central region led by Baghdad remained the most violence-prone, followed by Anbar, Diyala, Erbil, Karbala and Nineveh. The south remained relatively calm.

One effect of reduced levels of violence on Election Day was the impressive voter turnout of 76.4 percent (excluding OCV and special voting), an increase over the January election (58 percent) and the October referendum (63 percent). Appendix 2 shows turnout by governorate.

The high turnout can also be attributed to the generally effective administration of the election by the IECI. One indicator of this success was the dramatic increase in Sunni voter turnout in Anbar. A concerted strategy to address the security situation in Anbar (e.g. shifting election security responsibilities to Iraqi police and local tribal communities, and recruitment of Sunni IECI staff) increased Sunni ownership of the electoral process resulting in a turnout of 86 percent.

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<sup>8</sup>Based on observation reports by the Iraqi Election Information Network (EIN).

<sup>9</sup>The Election Violence Education and Resolution Project is administered by IFES with the mandate to monitor and mitigate election related violence among all electoral participants in Iraq.

Overall, IECI staff displayed considerable professionalism, competence and dedication in performing their tasks. Most had participated in the January elections and the October referendum and were thus able to build on that experience. This positive assessment of IECI polling staff was supported by direct observation of several polling centres by the IMIE as well as the findings of several domestic observer reports.

Nevertheless, a range of problems affected virtually every stage of voting throughout Iraq, as recorded in detailed domestic observer reports, whose quality improved substantially over reports filed for the January election and October referendum. The problems included ballot box stuffing and theft; tally sheet tampering; voter intimidation; violence; incomplete or inadequately displayed voter lists; ballot shortages (e.g. in Anbar, Mosul, Salahaddin and Kirkuk); multiple voting by security forces who had also voted in the special voting program on December 12; family voting; voting by unauthorized persons; improper conduct by Iraqi police and the Iraqi National Guard; campaigning within polling centres; and violations of the campaign blackout period.

The Iraqi Election Information Network (EIN) noted campaigning near polling stations (15 percent of reports), shortages of election materials such as ballot papers, boxes, ink, and seals (14 percent of reports), observers being turned away (8 percent of reports at opening time, although this drops to 4 percent during polling), ballot boxes not always being visible (8 percent of reports), and materials not always being properly packed and sealed (7 percent of reports). Similar problems had been noted in January and October.

Less frequent but more worrisome were reports of voter intimidation (4 percent of reports) and multiple voting (3 percent of reports). There was also the issue that in most polling stations voters were added to the voting list with varying degrees of scrutiny and fairness.

On the positive side, EIN observers noted few problems with voters being properly checked for indelible ink (2 percent of reports), proper identity, being able to vote privately (in secret), and the various aspects of the counting process (including access for observers and political entity agents).

Political entity agents and polling staff were involved in most of the observed irregularities and violations, which seemed to have been both widely distributed and highly localized. While certainly serious in that they undermined the legitimacy of the electoral process, in all probability most of them did not have a substantial impact on the results. Virtually all of them were reported through the complaints process, and the IECI investigated the more serious ones, launched criminal investigations where appropriate, and sanctioned the guilty through fines and dismissal.

The IECI and IEAT targeted 111 polling centres and 236 polling stations for audits. In Erbil, auditors reported patterns of family voting and systematic check-offs for political entity 730, as well as some additions to the voters list. In Nineveh, problems included pre-marked ballots, unfolded ballots, problems with the voters list, and the alteration or removal of electoral records and logs. The voter list problems included the appearance of systematic add-ons and strike-offs of names from the list. In Tameem, the audit described family voting, and additions to the voters list. In Diyala, the audit was cut short because of security considerations and nothing significant was reported. In Hilla, the audit noted suspect patterns of voting in one polling station. More extensive problems were found in Baghdad where eight District Electoral Offices (DEOs) were audited because of complaints received.

Despite these problems, like the IECI itself, the performance of the polling staff dramatically improved from the January elections and the October referendum. As a result, their commendable performance contributed to the integrity and increased transparency of polling in the Council of Representatives elections.

Critical to sustaining the success and integrity of elections in Iraq is a program of monitoring and evaluation of staff throughout the polling process. The results of these monitoring and evaluation exercises should then be incorporated into the training program of IECI staff. This synergy between monitoring, evaluation and training should contribute to progressive improvements in the quality of future election events.

*Main recommendations to the IECI for the future*

1. Strengthen the internal monitoring and sanctioning mechanisms in place to reduce systemic irregularities noted by election observers and detected by the IECI audit.
2. Revise procedures for voting by security forces to remove the possibility of double voting.
3. Continue to improve communication between national headquarters and field staff, especially with respect to the rapid movement of voting materials on Election Day.
4. Undertake strategic planning exercises to: (a) review and evaluate the lessons learned from the January 30 elections, the October referendum and the December elections; and (b) develop strategies to reinforce strengths and rectify weaknesses.

**Vote counting and results compilation**

The Council of Representatives elections, although imperfect in their execution, produced credible final results. The electoral system was complicated, but was applied fairly and accurately.

*Initial counting of ballots*

The counting of ballots took place in the polling stations where ballots were cast. Counting commenced immediately after the close of polling and was conducted by the polling staff under the direction and management of the polling station presiding officer.

All count information (total ballots in the ballot box, valid ballots for each political entity, invalid and blank ballots) was entered onto the Draft Counting Form (Form 122). Ballots were then “reconciled” with the number of ballots received or transferred from other polling stations. This information was recorded separately on the Draft Presiding Officer’s Form (Form 121). The presiding officer then signed both forms and announced the final results for the polling station to all those present. Ballots and other materials were then sealed and transported to the Governorate Electoral Office (GEO) and from there to IECI Headquarters. A copy of forms 121 and 122 remained with each presiding officer.

The process of vote counting at the level of individual polling stations and centres worked well overall. Nevertheless, a total of 1,985 complaints were submitted to the IECI, with 58 classified as serious enough to affect the outcome of the result. The subsequent investigation resulted in the cancellation of results from 227 polling stations, which represented less than 1 percent of the total and thus has little impact on the final results (announced January 20, 2006).

*Aggregating and releasing the governorate and national results*

The aggregation of results was done at the national Tally Centre in the IECI Headquarters in Baghdad, where results from forms 121 and 122 were entered into a database, along with the data from the Out-of-Country Voting and other special ballots. The operation of the national Tally Centre was highly professional and its staff very competent.

On 20 December 2005, partial uncertified results were released for all governorates and for the special ballots. These results were an improvement over previous electoral events, since results were given for all governorates (after the October Referendum, results were given only for 13 governorates) and results for blank and invalid votes were provided for the first time.

The release of the final results was put on hold pending the outcome of the investigation of complaints. The post-election complaints investigation did not significantly affect the results, yet somewhat controversially it delayed the final results by 36 days – much longer than the two weeks required for the previous election in January 2005.

#### *Individual ballot assessments and total invalid ballots*

IECI Polling and Counting Procedures for the Council of Representatives elections contained clear definitions of spoiled, discarded, unused, blank, unstamped and invalid ballots. The examples given of both invalid and valid ballots were all clear and logical.

Overall, the number of invalid ballots was 1.14 percent, an impressively low figure and the same as occurred in January 2005. A further 0.52 percent of the ballots cast were blank. These figures parallel those found in mature democracies, and certainly the level of invalid ballots is much lower than in many new democracies, something for which the Iraqis and the IECI should be congratulated.

#### *The electoral system*

The PR system used for the December election was approved by the Transitional National Assembly in September, and detailed in IECI Regulation 13/2005. There were several differences from the proportional representation system used in the previous election.

In January there was a single (national) district or constituency and consequently only one seat allocation. For the December election there were two tiers – governorate and countrywide (the term *countrywide* is used here to describe both the compensatory and national seats). Most of the seats (230) were allocated at the governorate level using the Hare quota and largest remainders, with seat numbers ranging from 59 in Baghdad down to 5 in Muthana (full results listed in Appendix 3). The number of seats assigned to each of the 18 governorates was based on their number of registered voters, as shown in the voter register established for the January 2005 election. Thus some bias probably occurred simply because these figures were almost a year old and did not reflect the changes in the August 2005 voter registry update.

The remaining seats (45) were allocated countrywide in a separate calculation, with the aim of improving overall proportionality by mitigating differences in turnout, although this was only partly successful. There were two types of countrywide seats, compensatory and national. Essentially, the compensatory seats were designed for political entities that polled a reasonable share of the countrywide vote, but were not strong enough in any governorate to win a governorate seat. In contrast, the national seats were designed to improve the proportionality of overall seats and votes of those entities that did win governorate seats.

The threshold for compensatory seats was the overall vote total divided by the overall number of seats (0.36 percent of the overall vote). In fact, only a single seat was awarded this way, going to the Al Rafedeen List, which won 0.39 percent of the overall vote.

The remaining 44 countrywide seats were allocated as national seats to the 11 entities that won governorate seats using the Hare quota and the system of largest remainders as per the governorate

seats themselves. Not surprisingly, then, the 5 smallest of these 11 entities failed to qualify for any national seats.

In total, 4.83 percent of votes went to the 201 political entities that failed to win any seat. This was a slight improvement on the January elections in which 5.26 percent of the vote went to political parties that did not win seats.

#### *Credibility of the results*

The credibility of this election was challenged from the start by various entities, many of which were grouped into the Maram (Goal) alliance, MARAM being the Arabic acronym for the Conference Rejecting Rigged Elections (Mutamar Rafadi al-Intikhabat al-Muzawwara). The core of the Maram alliance consists of the Iraqi Accord Front, the Iraqi Front (Council) for National Dialogue, and the Iraqi National List of former Prime Minister Iyad Allawi. None of these parties did as well as they had hoped. MARAM has most controversially charged the IECI with being complicit in and ultimately responsible for rigging the election.

There is no evidence whatsoever to imply that the IECI as an institution was involved in any systemic fraud. Certainly some individual polling station employees and supervisors did exert pressure and/or show bias, but this was not done with the IECI's permission and when caught, such individuals were punished. Indeed, the IECI has noted that such complaints of systemic fraud began before Election Day, perhaps as a pre-emptive excuse for poor results.

However, there are two worrying overall aspects to this election in terms of its fairness. The first is that such bias by officials was not random; instead, it invariably occurred to the benefit of the dominant entity in the governorate. If one looks at the Tammuz Organization Report on the election, they note that most polling centres had employees who were loyal to one electoral list, often list 555 or list 618. Their various anecdotal reports of fraud and intimidation (filling in of unmarked ballots, multiple voting, denying of ballots to voters, and pressuring voters), plus their reports of illegal campaigning outside and even inside polling stations invariably noted that these were done in favour of lists 555 or 618 (most often the former).

There were similar issues of fraud or intimidation in the North, where Kurdistan Alliance (Gathering) officials reportedly described those who did not plan to vote for them as "traitors". In the run-up to the election, offices of the breakaway Kurdistan Islamic Union were burned and looted, and party members (including a senior leader) were killed or injured.

The second and consequent worry is the lopsided nature of the results. In half of governorates the largest entity won 80 or even 90 percent of the vote (the median value was 79.1 percent). When a party wins such numbers, one is normally suspicious. The very high turnout reported in some governorates was also questionable; however, as previously noted, the allocation of seats at the governorate level served to compensate for such high turnout figures.

In a global context, the election in Iraq could be described as imperfect, but very good and generally reflective of the voters' wishes, although many improvements are still needed.

#### *Main recommendations to the IECI*

1. Explore the possibility of allowing detainees, hospital patients, and security forces to use the governorate ballot where they officially reside. The national ballot should be restricted to OCV.

2. Produce an updated voter register for any future allocation of seats to governorates
3. Produce an official statutory written report of the results for the Council of Representatives. This would aid transparency and be a valuable resource for subsequent enquiries and future elections.

### **Election complaint process**

There were significant improvements to some parts of the complaints process in the December elections. Most importantly, the unprecedented degree of transparency within the IECI increased the legitimacy of both the complaints process and the larger electoral system.

#### *Jurisdiction*

Regulations generally delineated clear lines of jurisdiction. However, in the case of complaints against the electoral administration, conflicting regulations (IECI Regulations 01-2004 and 15-2005) created some ambiguity.

#### *Procedures for the submission of complaints*

The number of complaints submitted during the January election and October referendum was low (430 in January, 158 in October). Nevertheless, the IECI kept in place, and in some respects raised, barriers to complaint submission for the December elections. Among the restrictive measures were:

- The requirement that complaints be signed by a witness and include the witness's address and contact information. In the insecure environment of Iraq, these requirements discouraged people from submitting complaints.
- The requirement that complaint forms be signed by the polling station presiding officer or polling centre coordinator resulted in many complaints not being filed (especially those against polling officials).
- Publication of inaccurate complaint guidelines, which gave the impression that complaints would be rejected if they did not contain the alleged violator's name and contact information.
- Failure to accurately inform the public of safeguards in place to protect the identity of complainants.
- Short deadlines for complaint submission, providing witnesses to a violation only three days after the alleged violation took place to submit the complaint.

Despite these barriers, a total of 1,985 complaints were registered by the IECI. To the extent that an unrestricted complaints process constitutes an essential mechanism for adjudicating electoral grievances, detecting fraud, and building legitimacy in the electoral process, these barriers are regrettable.

Of the complaints, only 58 were classified as "red," i.e. serious enough to affect the outcome of the result. These "red" reports were properly investigated and resolved, often resulting in the cancellation of polling station results and/or the punishment of election officials. Moreover, it was standard procedure for the IECI to investigate any ballot box with more than 600 ballots, implying a turnout of over 100 percent (polling stations generally had approximately 500 registered voters). In total, the

IECI annulled results from 33 polling centres and 227 polling stations – the majority in Baghdad. Unfortunately, there was no procedure for re-voting in the affected stations, so a number of presumably valid votes were also annulled since they were cast in these affected stations.

#### *Procedures for the handling and investigation of polling complaints*

The written procedures were adequate, with the exception of those relating to notification (where there was no requirement to notify complainants and the accused of the possibility, deadlines or procedures for filing an appeal) and right to information (where there is a need for clarification of the procedures for making public the contents of complaint files). There was one noteworthy improvement to transmission and storage procedures over previous elections: complaints submitted in a polling station were placed in a tamper-evident bag, whereas previously they were placed in an envelope. In “special voting” polling centres, complaints were instead placed in the ballot box.

However, there were significant shortcomings in the application of the procedures for handling and investigating complaints, the most serious of which were the use of questionable criteria for prioritizing complaint investigations and adjudications, inconsistent application of these criteria, poor documentation, and weak integration of the complaints process with other anti-fraud mechanisms. For the most part, these shortcomings resulted from or were made worse by severe understaffing in the Complaints Office.

#### *Dispute resolution and enforcement powers*

Regulations provided electoral authorities with adequate powers, although there was ambiguity about whether political entities could be sanctioned for violations committed by junior members, and a lack of specificity regarding the circumstances under which new elections should be called in polling stations affected by fraud or intimidation.

In practice, the IECI Board of Commissioners applied a range of sanctions and remedial actions, including the cancellation of results from 227 polling stations. However, due to a lack of investigative capacity within the IECI, election law violators often went unidentified and unpunished. Relative to the number of valid complaints (as determined by the Board), the number of sanctions applied to individuals and entities was small, particularly in the case of campaign violations.

The adjudication of complaints was a more public and transparent process in the December elections than it was for the January elections or October referendum. After several political entities rejected the partial results announced by the IECI on 20 December 2005, a team of IMIE election experts was invited by the IECI to assess the post-electoral period, with a focus on the complaints process, and received full cooperation from the IECI.

#### *Appeal procedure*

Appeal procedures were adequate but untested, as only three coalitions had filed appeals at the time of writing. While it is encouraging to see political entities using constitutional means to seek redress for their grievances, it remains to be seen whether the appeals process works.

#### *Impartiality*

The Board evidenced no bias or partiality in the adjudication of complaints it deemed most serious. However, the Board did not have the capacity to handle efficiently or adjudicate fairly the volume of complaints received and too often was forced to make decisions with insufficient evidence. This lack of capacity was most acute in the Complaints Office, which was severely understaffed and under-

trained. Consequently, there were significant problems in how complaints were prioritized, how investigations were conducted and documented, and how the complaints process was integrated with other anti-fraud mechanisms.

#### *Timeliness*

The 58 “red” complaints were dealt with in a timely manner. However, due to inadequate staffing in the Complaints Office, the prioritization of complaints was somewhat haphazard, and at the time of writing, notification letters for many complaints had not yet been sent, and many complaints had not yet been adjudicated.

#### *Main recommendations to the IECI*

1. Widely publicize clear, consistent, and accurate information about complaint procedures, required information for subsequent investigation, deadlines for filing complaints, and the measures in place to protect the identity of complainants.
2. Reduce barriers to submitting complaints by:
  - a) Dropping the requirement that complaints must include the name, address and contact information of the alleged violator.
  - b) Extending the length of the complaint submission period.
  - c) Redesigning the complaint form so that it states explicitly that a complaint need not be submitted on that form, need not bear the signature of the presiding officer and need not be submitted at a polling station or center.
  - d) Including civil society groups in the facilitation of the complaints process.
3. Increase the Complaints Unit’s ability and capacity to handle complaints efficiently, investigate them adequately, and adjudicate them fairly by:
  - a) Increasing the number of qualified staff to investigate complaints.
  - b) Intensifying training of staff, beginning well before Election Day.
  - c) Revising the criteria used for prioritizing complaints, and establishing rigorous procedures so that these criteria are applied consistently
  - d) Increasing the flow and integration of information needed for the adjudication of complaints from all available sources, including post-election audits, field inspection reports and observer group reports.
4. Enhance the transparency and legitimacy of the complaints process by:
  - a) Making non-personal information within complaints accessible to observers and other stakeholders.
  - b) Rigorously documenting investigations, deliberations and adjudications.
  - c) Clarifying regulations for handling complaints against the electoral administration.
  - d) Including information about the appeals process in all notification letters.

#### *Main recommendation to the Iraqi Council of Representatives*

1. Draft legislation that explicitly authorizes, and specifies the conditions under which re-voting should be used as a remedial action for particular polling stations in which fraud, irregularities, or other circumstances significantly distort election results.

#### **Conclusion**

Assessments of the December 15, 2005, elections emphasize the increasing professionalism and administrative capacity of the IECI and its staff, the impressive increases in voter participation and the greater inclusiveness of these elections, despite the enormous logistical and security challenges. The IECI has remained an independent and effective electoral management body despite personal risk and political pressures on its members. The extent and quality of the IECI's election planning and organization skills continued to develop, while the legal framework under which the elections were held was generally in line with international democratic standards.

Areas for improvement for future electoral events that could be addressed in the short term include: reviewing the structure and governance of the IECI; increasing the accessibility of the complaints process; reviewing and improving the voter register; enhancing civil society's role in voter education and information; ensuring independent media monitoring capacity is in place; reviewing candidate eligibility requirements; and improving communication between IECI headquarters and the field. In the medium term, areas for improvement include: consolidating IECI regulations; introducing campaign finance and expenditure legislation consistent with international standards; and introducing a law on electoral offences, together with the formation of a separate body legally empowered to investigate and sanction entities and candidates.

The IMIE finds that the IECI has prepared and conducted elections that generally met recognized standards of election law, planning and preparations. The December elections have built upon the experience gained from the two previous electoral events and offer many areas for further improvement of electoral administration and strengthening of the associated democratic institutions. The recommendations in this report are made with a view to strengthening the capacity of the IECI and assisting it as it prepares for the next electoral event in Iraq.

## **Appendix 1: Codes, Laws, Rules and Regulations for the Referendum and Council of Representatives Election**

IECI Regulation. 1 – 2005 Voter Registration  
IECI Regulation. 2 - 2005 Referendum and Electoral Observers  
IECI Regulation. 3 – 2005 Political Entity Agents  
IECI Regulation. 4 - 2005 Exhibition and Challenges Period  
IECI Regulation. 5 – 2005 Adjudication of Election and Referendum Complaints And Disputes  
IECI Regulation. 6 - 2005 Certification Political Entities  
IECI Regulation. 7 – 2005 Polling and Counting  
IECI Regulation. 8 - 2005 Electoral and Referendum Campaigns  
IECI Regulation. 9 – 2005 Certification of Candidate Lists  
IECI Regulation. 10 – Media  
IECI Regulation. 11 - 2005 Election and Referendum Offences  
IECI Regulation. 12 – 2005 Referendum Results  
IECI Regulation. 13 - 2005 Allocation of Seats  
IECI Regulation. 14 – 2005 Registration and Voting Out of Country  
Elections Law  
Electoral Law Presentation  
Constitution  
Constitution Amendments  
Code for Media during Elections  
Code of Conduct for Referendum and Election Observers  
Code of Conduct for Political Entity Agents  
Code of Conduct for Political Entities and Coalitions

## Appendix 2: Voter Turnout by Governorate

Governorate	Registered voters	Turnout	Turnout %
Anbar	677,821	585,429	86.4
Babil	747,588	593,828	79.4
Baghdad	3,857,499	2,702,541	70.1
Basrah	1,096,749	813,758	74.2
Diyala	707,598	529,755	74.9
Dhouk	458,924	422,218	92.0
Erbil	870,026	828,810	95.3
Karbala	439,764	309,771	70.4
Misan	441,168	323,250	73.3
Muthana	315,842	208,662	66.1
Najaf	529,890	385,533	72.8
Ninewa	1,343,381	942,514	70.2
Qadissiya	524,073	338,925	64.7
Salahaddeen	564,607	555,755	98.4
Sulaymania	961,786	809,759	84.2
Tameem	691,581	595,425	86.1
Theqar	818,939	588,415	71.9
Wasit	521,466	354,563	68.0
<b>Totals</b>	<b>15,568,702</b>	<b>11,888,911</b>	<b>76.4</b>

## Appendix 3: Iraqi Council of Representatives Elections, Electoral System Effects by Governorate

Governorate	Total seats	Registered voters per seat	Valid votes per seat	Entities elected
Anbar	9	75,313	64,408	2
Babil	11	67,963	53,067	3
Baghdad	59	65,381	44,778	7
Basrah	16	68,547	50,170	3
Dhouk	7	65,561	59,707	2
Diyala	10	70,760	51,961	5
Erbil	13	66,925	62,797	2
Karbala	6	73,294	50,882	2
Kirkuk	9	76,842	65,070	5
Misan	7	63,024	45,825	2
Muthana	5	63,168	41,158	1
Najaf	8	66,236	47,460	2
Ninewa	19	70,704	48,555	7
Qadissiya	8	65,509	41,874	2
Salahaddeen	8	70,576	67,810	5
Sulaymania	15	64,119	53,302	2
Theqar	12	68,245	48,552	2
Wasit	8	65,183	43,831	2
<b>Iraq as a whole</b>	<b>230</b>	<b>67,690</b>	<b>50,834</b>	<b>11</b>

#### Appendix 4: Iraqi Council of Representatives Elections, Votes and Seats Summary

<i>Political entities winning seats</i>	Overall vote %	Gov seats	Gov seat %	Comp seats	Nation seats	Total seats	Total seat %
Unified Iraqi Coalition (555)	41.19	109	47.39	0	19	128	46.55
Kurdistani Gathering (730)	21.67	43	18.70	0	10	53	19.27
Tawafoq Iraqi Front (618)	15.09	37	16.09	0	7	44	16.00
National Iraqi List (731)	8.02	21	9.13	0	4	25	9.09
Hewar National Iraqi Front (667)	4.10	9	3.91	0	2	11	4.00
Islamic Union of Kurdistan (561)	1.29	4	1.74	0	1	5	1.82
Progressives (631)	1.19	1	0.43	0	1	2	0.73
Liberation/Reconciliation Gathering (516)	1.07	3	1.30	0	0	3	1.09
Iraqi Turkman Front (630)	0.72	1	0.43	0	0	1	0.36
Al Rafedeen List (740)	0.39	0	0.00	1	0	1	0.36
Mithal Al Aloosi List for Iraqi Nation (620)	0.26	1	0.43	0	0	1	0.36
Al Ezediah Movement (668)	0.18	1	0.43	0	0	1	0.36
<b>Totals</b>	<b>95.17</b>	<b>230</b>		<b>1</b>	<b>44</b>	<b>275</b>	
<i>Largest political entities not winning seats</i>							
Iraqi National Congress (569)	0.28						
The Islamic Al Wala'a Party (758)	0.23						
Lana Al Ghadd Advertising (788)	0.22						
Islamic Coalition (549)	0.19						