

International Mission for Iraqi Elections
Interim Report on the December 15 2005 Council of Representatives Elections

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 electoral capacity as Iraq's three-stage process advanced through 2005. Comprised 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 (IECI).

The IMIE has produced reports on the January elections and a statement on the October referendum, which are available on its website at: www.imie.ca.

This interim report addresses six target assessment areas: legal framework, electoral preparations, voter information and education, pre-electoral complaints procedures, voter registration and certification of political entities. Additional assessments will be conducted on equitable access to media, polling, vote counting and compilation of results, post-election complaints and Out-of-Country voting. The IMIE will include these in its final report.

Legal Framework

In general, the legal framework for the Iraqi elections complies with international standards of democratic governance. All relevant political rights and freedoms are guaranteed, including the right to cast a secret ballot and the right to participate in open and competitive elections.

The Elections Law provides for the election of a Council of Representatives composed of 275 seats, 230 of which are apportioned across 18 governorates, proportional to the number of registered voters in each. The 45 national compensatory seats will be allocated first to political entities which did not win a seat in any of the 18 governorates. Any remaining seats will be allocated according to the proportion of the national vote achieved by any political entity.

The electoral system strives to achieve a balance between majority and minority interests. However, its complexity also imposes an additional burden on electoral authorities to ensure the system is well understood by stakeholders, notably political entities and voters.

The IMIE notes that the legal framework includes important provisions for gender equity by requiring that 25% of the seats in the Council of Representatives be allocated to women. This is a positive step that is not evident in the majority of democratic electoral systems in operation today.

At the same time, the IMIE notes that the Elections Law continues to impose age and education requirements for candidacy that are more restrictive than internationally recognized standards. In general, the criteria applying to candidates should be equivalent to those for voter eligibility.

Other elements noted by the IMIE in its report on the January elections continue to merit attention. These include the need to establish clear deadlines for the announcement of total preliminary results and for the publication of final results by the IECI. As well, the electoral law does not include provisions to ensure transparency and accountability in election financing.

Finally, as noted previously, the legal framework comprises a large number of laws, regulations and procedures, which were adopted in piecemeal fashion. Consolidation of the regulations and procedures would eliminate duplications and inconsistencies, and facilitate use by electoral officials, political entities and voters.

Recommendations:

- Consolidate IECI regulations into a single regulatory body.
- Bring the qualifications for political candidacy into line with the qualifications for voting.
- In the longer term, introduce political finance regulations with complementary enforcement powers.

Preparations for the electoral process

Overall the planning for the election appears to have been well exercised and professionally executed.

The IECI planned to open approximately 6,400 polling centres and 32,000 polling stations with an average of 5 polling stations in each polling centre. Each polling station serves an average of 500 voters.

The IECI appointed 200,000 polling staff by lottery and supplemented this with a further 4000 polling staff recruited for Anbar because of the security situation there.

It would be useful to identify and evaluate the standard criteria by which training was conducted in order to measure the effectiveness of that training.

The national tally centre appears to be very well organized. The IECI has planned for a staff of 200 employees to work around the clock in several shifts.

In general, the polling procedures issued by the IECI provide the necessary requirements for the effective conduct of the election.

Importantly, polling procedures provide step-by-step instructions for polling staff to follow. However, the procedures do not allow for political entities to be provided with detailed tally sheets and thus do not provide an important mechanism for transparency and control for all interested participants.

The IMIE notes that it recommended in its final report on the January elections that the IECI consider providing political entity agents or credible outside organizations with a copy of the tallies. The IMIE notes that this recommendation has not been adopted and reiterates the view that tally sheets should be provided to political entities or credible outside organizations (or both). Furthermore, providing on-going tally sheets to political entities also has the capacity to remove any suspicion as to the conduct of the count.

Recognizing issues that have arisen in the last year, the IECI has undertaken a two-phase Election Audit. Phase 1 includes raising awareness of anti-fraud measures and reinforcing the shared responsibility for a transparent and credible democratic election. The IECI will also conduct fact finding and briefing sessions with IECI field staff and introduce field monitors.

Phase 2 of the audit will involve the physical stock-take of election materials and the number of polling stations open during election day and checking IECI materials for any signs of tampering. The IECI will be reviewing the number of counting forms and checking these against reported figures and conducting a visual inspection of ballots cast in order to detect any suspect patterns of voting.

The IECI plans to target these measures in those governorates which receive a large number of electoral complaints and/or where results appear to require further clarification or validation.

The IMIE notes that the IECI undertook specific measures in Anbar in relation to the security situation in order to facilitate the participation of the Sunni community.

Recommendation:

- Consistent with IMIE recommendations following the January elections, the IECI should consider making detailed tally sheets publicly available to credible outside organizations and political entities.

Voter information and education

The IECI has, in a very short time, effectively planned and coordinated a diversified voter information and education campaign despite the fact that there is no specific authority in the Elections Law detailing the IECI's role in providing voter information and education.

The IECI fulfills its information function via a Public Outreach Department and each of the 542 electoral offices throughout the country is staffed with a Public Information officer.

The IECI has utilized a diverse set of media including printed materials, web site, press conferences and voter education sessions. The primary instrument of information has been television, followed by radio and print media. Iraqi and international television channels are broadcasting election segments daily. Radio segments are being broadcast throughout Iraq on several stations daily. The media are also providing space (or time as the case may be) for the dissemination of political messages and debates.

The IECI has produced a series of generic posters and pamphlets which have been distributed in different languages throughout the country.

The IECI's website has been improved recently with additional information on Out of Country Voting (OCV) and frequently asked question (FAQs) sections on the website.

The IMIE notes that its recommendation to the IECI following the January elections to more effectively interact with Iraqi civil society groups has been adopted. Specifically, the IECI has extended its dealings with local NGOs in an effort to disseminate voter information.

The information actively targeted women, ethnic groups, youth, disabled, detainees and hospitalized persons. Further, regions with low turnout areas from the January election also received a targeted information campaign. These developments highlight a positive change to the voter education and information program adopted by the IECI following the January elections.

The IMIE notes that the information campaign undertaken by the IECI has concentrated on the process and procedures relating to casting a vote. However, the IMIE also notes that there has been little public education on the complex issue of seat allocation.

Further, the IECI has not adequately publicized complaints procedures that may be utilized by voters who believe irregularities or violations of the law have occurred.

Recommendations:

- Consideration should be given for legal regulations to prescribe a clear role for the IECI to provide voter information and education services.
- The Public Outreach Departments within the IECI should consider giving explicit recognition within its activities for voter information and education
- Extend collaboration with NGOs.
- Political entities should be encouraged to assist voters by providing information on the electoral system with specific attention given to the allocation of seats.
- The IECI should provide more information concerning the complaints process.

Pre-polling complaint procedures

Generally, the complaints procedures set down in the IECI Regulations appear to provide the necessary jurisdiction for the IECI to investigate and rule on the validity of election complaints.

While the regulations and procedures in place for the Council of Representative elections are, for the most part, the same as those that applied to the October referendum, there are some notable changes.

First, complaints may be lodged directly at the polling station or polling centre. This is an improvement that strengthens the process for submitting complaints.

Secondly, all complaints lodged at polling stations will be placed in bags with tamper-evident seals. This provides an extra mechanism of transparency with respect to the transmission of complaints to the IECI Board of Commissioners.

At the same time, however, the IECI has, without clear justification, imposed additional conditions for the submission of complaints.

The time allowed for lodging complaints has been reduced from seven days (as it was for the January elections) to three days. In addition, the complaint form provided at polling stations on election day has been revised and now requires the complainant to include the name, signature, and remarks of the presiding officer, unless the complaint is against the presiding officer, in which case the form must carry the remarks and signature of the polling centre coordinator. There is no legal authority in the Elections Law or Regulation 5 that requires the signature or comments of polling officials.

Evidence collected to date indicates that the IECI does not have the staff and other resources necessary to adequately investigate large numbers of complaints.

Finally, the IMIE is not aware that the IECI has initiated any prosecutions for violations of electoral law in the January election and October referendum.

Recommendations:

As was recommended in the IMIE Report following the January elections, the IECI should:

- Clarify and publicize procedures for the submission of complaints, including eligibility criteria and deadlines.
- Strengthen and publicize guarantees of confidentiality. The IMIE notes that the IECI's decision to require witness details and signatures on complaint forms as well as the signature and remarks of polling station staff requires further explanation.

Additionally, the IMIE recommends

- Complaint procedures should be consistent with the legal authority supporting them. Procedures should, therefore, be reviewed to bring them into harmony with Regulation 5.
- IECI should report publicly on the outcomes of complaints lodged within a timely manner. At the very least, the IECI should endeavour to report on complaints lodged with respect to the January election and October referendum prior to the first sitting of the Council of Representatives.
- Section 4(1) of Regulation 5 should be reviewed with a view to extending the time frame for submitting complaints to seven days.

Voter registration

In order to provide all eligible Iraqis with the opportunity to vote in the October referendum and the December elections, the IECI undertook in August a review of the voter lists prepared for the January elections.

The voter registration carried out in August resulted in an increase in the voter list from approximately 14.3 million voters in January to approximately 15.4 million voters.

Iraqi citizens outside of Iraq could simultaneously register and vote at an Out of Country Voting polling centre between 13 and 15 December 2005.

Some concern has been expressed about the review of the voter list carried out in Tameen/Kirkuk. It has been reported that of some 87,000 new voter registrations reviewed, approximately 81,000 were deemed to have serious defects. To prevent any unwarranted disenfranchisement of voters affected by the review, the IECI has provided a new set of procedures applying only to the six polling stations in Tameen/Kirkuk affected by the review. The new procedures have provided for the production of supplemental voter lists containing the names of voters removed from the list. If voters attend a polling station to vote and their names do not appear on either list, they will be able to provide a copy of their voter registration form they had received previously and one official identity document. If they do not have a copy of their previous registration form, they will be permitted to vote if they provide two official identity documents to polling station staff.

The IMIE will provide further assessment of voter registration in its final report.

Certification of political entities

In general terms, the regulations that governed the process of certification of the political entities, coalitions and lists of candidates for the parliamentary elections were similar to those that were applied to the elections of last January.

There has been an increase in both the number and the nature of the political entities registered. The procedures enacted by the IECI appear to have facilitated the increase in certifications. The IECI certified 307 political entities and 19 coalitions for this election. Importantly, the interest in the elections shown by different Sunni groups deserves special mention. Accordingly, the broad-based support amongst all social, religious and cultural groups in Iraq is a positive development.

Overall the requirements of certification were reasonable and the deposit was, generally, affordable. There was no evidence of any complaints concerning the requirements of certification in the January elections. This would explain why the certification process has not been altered.

While there is some room left for discretionary decision-making by the IECI with respect to applications for certification, there is no evidence of any complaints about any decisions made by the IECI. Further, the Regulations provide the capacity for entities to challenge decisions made by the IECI.

The IMIE will provide further assessment of the certification process in its final report.