

# **International Mission for Iraqi Elections (IMIE)**

## ***First Report: Preliminary Assessments of January 30 Election Process***

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### **Executive summary**

The International Mission for Iraqi Elections was created in December 2004 to assist in planning, conducting and assessing Iraq's three elections this year. Comprised of electoral management bodies from multiple nations, the IMIE is providing peer-level reviews and advice to the Independent Electoral Commission of Iraq.

The IMIE's first preliminary assessments of the Iraqi elections draw on a range of information sources in and around Iraq and expert reports commissioned by the IMIE. The report addresses eleven target assessment areas, which were identified by the IMIE Steering Committee at its January 4–5, 2005 meeting in London. They are:

- legal framework
- voter registration
- electoral preparations
- voter information and education
- equitable access to media
- out-of-country registration and voting
- pre-polling complaint procedures
- certification of political parties, coalitions and candidates
- polling
- vote counting and compilation of results
- post-election complaints

In this report preliminary assessments are provided for the first six of these elements. These will be updated as further data and analyses become available after the January 30 election. Expert assessments are underway in the remaining areas and the results of these will also be made known as they become available. The IMIE will share all of its assessments with the IECI at the same time as it makes them public.

The report identifies strong points regarding today's election, including the extent and quality of IECI's election planning and organization, and its independence. Areas recommended for further development include transparency regarding financial contributions and expenditures, improvements to the voter registration process, and reviewing the criteria for candidate eligibility.

The IMIE finds that the Independent Electoral Commission of Iraq has prepared and conducted an election that generally meets recognized standards in terms of election law, planning and preparations.

## **Legal framework**

The IMIE finds that the present legal framework governing the Iraqi electoral process is generally attuned with recognized democratic standards. All relevant freedoms are legally guaranteed. Significant representational guarantees are provided for women and ethnic minorities. On the whole, the legal framework encourages fair play and open competition between potential contenders.

At the same time, this preliminary assessment of the legal framework has identified a number of matters that the IMIE will wish to raise with the IECI for further clarification and review.

The absence of deadlines for resolutions on claims and complaints by the electoral authorities, notification to political entities and candidates of decisions on certification, announcement of preliminary electoral results and publication of official results is a matter that the IMIE will wish to discuss with the IECI, as is the question of regulating political financing and transparency in this respect.

The IMIE noted the requirement that candidates be at least 30 years of age and have a secondary school diploma and the disqualification criteria. This will be an additional matter for review and discussion.

Finally, while the body of regulations produced by the IECI in recent months is impressive, their incremental enactment may have resulted in duplication and redundancy. Compilation into a single body of law prior to the other electoral events scheduled for 2005 may be an avenue that the IECI will wish to pursue.

## **Voter registration**

Voter registration is a key element of the electoral process, one that poses important challenges to election administrators, even under ideal conditions. In this light, the IMIE wishes to commend the IECI for the general approach it has adopted to create a register of Iraqi electors. The decision to base the preliminary voters register on Public Distribution System (PDS) data was an intelligent approach under the circumstances and may be seen as a factor conducive to inclusiveness.

The relevant laws and the IECI's regulations relating to voter registration are, on the whole, commendably simple in structure. Presenting a simple and general outline in the regulations has allowed flexibility to meet changing circumstances.

That a register of electors has been constructed through using at least some public participation has been a significant achievement in the prevailing security conditions. The registration framework provides a broadly inclusive description of who is entitled to register as a voter, and provides for data to be actively made available to each family unit to scrutinize that each person has been recorded correctly on the preliminary voters register. The framework also provides opportunity for persons to apply for addition to or deletion from the register or to correct existing details on the register. Accredited observers and political party agents may be present in registration centres.

The IMIE's preliminary assessment has, at the same time, identified a number of matters for which it will seek additional information from the IECI. Much of the procedural and some of the regulatory framework was not yet available for review, including for areas such as the processing of registration data, register production/distribution, and polling day registration. Likewise, additional data is required on the revision process – including the final number of persons added to the register, the number and location of rejected applications and reasons for rejection. Finally, it will be important to obtain additional data that will enable an estimation of the completeness of the final voters list. While it is understandable that the IECI would not be in a position to provide all relevant data during the electoral period itself, the provision of such information as it becomes available will increase transparency and enable a more thorough assessment of the registration process.

## **Electoral preparations**

The IMIE's preliminary assessment of the electoral preparations for the January 30, 2005 elections is based primarily on a review of the relevant legislation and IECI regulations as well as the IECI Operational Plan. Tentative assessments can be provided for a number of key areas, including:

### ***Electoral period***

Article 2.1 of IECI Regulation 09/2004 – Electoral Campaign established the official election campaign period as 15 December 2004 through 27 January 2005. In comparison to campaign periods for other national jurisdictions with parliamentary elections, six weeks is a reasonable campaign period.

### ***Electoral calendar***

The IECI has prepared a wide-ranging Operational Plan for the conduct of the election that addresses preparations and procedures for polling and counting, and the retrieval of election materials. Timelines have been established for numerous activities, including the receiving and forwarding of election supplies, the recruitment and training of polling officials, the establishment of security zones around polling centres, the certification of political entities and candidate lists, the registration of entity agents and election observers, and the production of ballot papers. The Operational Plan is well laid out and deals with the major operational components necessary for a successful electoral event.

### ***Selection and training of election officers***

It is estimated that some 200,000 polling officials will be required to conduct the election. The Operational Plan anticipates that the majority of poll officials will be teachers. The Ministry of Education has agreed to release teachers to act as polling officials and to take time to attend training. The staffing plan provided for polling centres and stations is consistent with international standards and should provide an efficient polling process on election day.

The outlined training plan is a comprehensive one detailing the staffing components, the scheduling of training, and the locations and duration of training. If fully implemented, the training should result in polling officials having a thorough command of their duties on election day.

### ***Producing and distributing election supplies***

Detailed materials distribution plans were compiled and provided to the freight forwarding agent and regional and local IECI staff. Timetables were drafted to establish an orderly and timely delivery of materials from forwarding locations to

the polling centres. The distribution plan for election materials is well thought out in terms of forwarding centres and security.

### ***Establishing accessible polling stations***

There are 5,800 polling centres comprising some 29,000 polling stations throughout the country. It is planned to have a maximum of 3,000 voters assigned to a polling centre and a maximum of 500 voters at a polling station, meaning a maximum of six polling stations at a polling centre. Establishing the maximum figure of 500 voters per polling station is in line with acceptable standards.

Schools will be used for the majority of polling centres – a good decision in light of restrictions on vehicle traffic on election day. Schools are usually centrally located, based on neighbourhoods, and the locations well known to the public. In addition, they usually have the basic infrastructure, which can be utilized by the polling staff for the basic set up of a polling station.

### ***Ensuring security of voters***

Security planning is a major element for the successful conduct of these elections. The plans for the deployment of security personnel are thorough and will hopefully be effective in promoting a safe environment for voting.

Overall, the operational planning and preparations for the election have been extremely well developed in view of the circumstances noted earlier. In preparation for its final report on electoral preparations, the IMIE will examine the implementation of these plans and procedures.

## **Voter information and education**

This preliminary assessment of voter education and information for the January 30, 2005 elections is based on a review of the legislative framework and on public information sources.

Among its many functions, the IECI has been charged with helping to “build societal support for and confidence in the electoral process throughout Iraq”.<sup>1</sup> This suggests an important education and information role for the Commission. An analysis of the IECI Web site indicates a two-fold strategy for voter education and information: the use of mass media and the proximity approach. The latter is a well-known methodology that facilitates the free expression of opinions and allows voters to ask questions and get immediate answers. It is particularly useful for public outreach to communities who may be out of reach of the mass media, including minority or marginalized groups.

The IMIE looks forward to obtaining additional information about the ways in which the IECI implemented its voter education and information plan. Among the topics for which we will be seeking additional information are: types and examples of civic education materials developed by the IECI, implementation of the plan, and indicators of success in educating and informing voters about their democratic rights.

The IMIE expects that a full complement of outstanding information can be obtained after January 30 in order to complete the assessment with first-hand reports, specimens of outreach materials and texts of radio and TV advertisements. These will help to measure the extent to which the initial plan has been implemented, and identify both successes and areas where difficulties may have been encountered.

The IMIE will be seeking additional information about the following areas:

- Responsibility within the IECI for the mass media campaign and for the selection and elaboration of messages
- Public Information Officers relationship to the IECI headquarters, and their functions and responsibilities in the governorate electoral offices
- Collaboration between the IECI and civil society organizations
- Role of non-governmental organizations in the process
- Availability of materials in more than one language
- Major problems that may have been identified.

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<sup>1</sup> CPA Order Number 92 – *The Independent Electoral Commission of Iraq*, section 3.3(a).

## **Equitable access to media**

In preparing this assessment of access to media, the IMIE has had access to the relevant legal framework only. It is therefore not possible at this time to comment on the degree to which access has been provided in practice. This is a matter to which the IMIE will turn in a follow-up analysis, and about which it will be seeking fuller information from sources and resources inside Iraq.

The National Communications Media Commission (NCCMC) is the body established to regulate the media. It has issued the Interim Broadcasting Programme Code and subsequently the Code for Media during Elections. The latter came into effect at the start of the official campaign period and contains the elements one would expect to see, based on international comparisons.

Since the inception of the NCCMC, a Higher Media Council has been established by the government. It is not clear at this time what the relationship is between these two bodies, or which may be considered the higher media authority for the purpose of assessing and acting on complaints of media bias. The IMIE will be clarifying and reviewing lines of responsibility and accountability with the IECI.

The IMIE's preliminary assessment has revealed an apparent absence of independent monitoring of media inside Iraq for these elections. This is an important question that the IMIE will be pursuing in its discussions with the IECI. It will be particularly important to ensure that independent media monitoring is in place for forthcoming electoral events in 2005.

## **Out-of-country registration and voting**

Out-of-country registration and voting for the January 30, 2005 election are being carried out by the International Organization for Migration, as mandated by the IECl. This is a commendable effort on the part of both organizations. Out-of-country voting is not a required practice, even in long-established democracies. That the Iraq OCV program has been established in 36 cities in 14 countries, within a very short period of time is a significant achievement.

The IMIE sought and obtained accreditation from the IECl to monitor the out-of-country registration and voting for this election. The IMIE has recruited out-of-country monitors for 13 of the 14 countries where OCV is taking place.<sup>2</sup> These monitors have been provided detailed monitoring forms, which they will return to the IMIE no later than February 4. The data provided will form the basis for the IMIE's final assessment, which it will provide to the IECl and the IOM by the end of February 2005. This information will also be published on the IMIE's Web site.

No international standards for the conduct of out-of-country voting (OCV) exist. However, a number of recent experiences from post-conflict situations can be used as grounds for comparison with respect to the Iraqi case. The IMIE's preliminary assessment is primarily based on an analysis of the regulatory framework with respect to OCV.

Based on its preliminary assessment of the OCV program, the IMIE intends to raise the following matters with the IECl:

- Citizenship criteria and voter eligibility requirements;
- Procedures for the counting of OCV votes in the 14 host countries and the transmission of the tallies to the national tally room in Baghdad;
- Requirement that in-person registration and voting take place on two separate days. While the IMIE recognizes that this was the only way to proceed under the current circumstances, the IECl may wish to re-examine this for the future.

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<sup>2</sup> The Netherlands is the only country where the IMIE was unable to recruit monitors.

## **Pre-polling complaint procedures**

An expert assessment of pre-polling complaint procedures is under way, and the IMIE will make the results known when they become available. The assessment will focus on the following elements:

- Authority dealing with complaints
- Procedures for submitting and handling complaints
- Investigation, prosecution and appeal processes
- Offences and penalties

The IMIE has prepared a summary of the relevant legal framework for pre-polling complaint procedures, which is attached as Appendix A.

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

An expert assessment of certification of political parties, coalitions and candidates is under way, and the IMIE will make the results known when they become available. The assessment will focus on the following elements:

- Certification procedures
- Ability for qualified parties and candidates to certify
- Mechanisms to prevent fraud and corruption
- Mechanisms to ensure level playing field
- Reporting obligations
- Party stands on holding elections
- Popular / electoral support

## **Polling**

The IMIE will provide a post-election assessment of this target area, focusing on the following elements:

- Secrecy of the vote
- Assistance to voters
- Mechanisms to prevent fraud
- Security at polls

## **Vote counting and compilation of results**

The IMIE will provide a post-election assessment of this target area, focusing on the following elements:

- Procedures for counting the votes
- Procedures for reporting election results
- Security measures for compiling and reporting results
- Representation of parties – right to make objections
- Conditions for recounts
- Allocation of seats

## **Post-election complaints**

The IMIE will provide a post-election assessment of this target area, focusing on the following elements:

- Authority dealing with complaints
- Procedures for submitting and handling complaints
- Investigation, prosecution and appeal processes
- Offences and penalties

## **Appendix A: Legal framework for pre-polling complaints procedures**

*The Coalition Provisional Authority Order Number 92: The Independent Electoral Commission of Iraq* gives exclusive jurisdiction to the IECI with respect to the civil enforcement of its own procedures and regulations. Decisions of the Board can only be appealed to a Transitional Electoral Panel composed of three judges appointed by the Higher Juridical Council. Decisions of the Panel are final.

*Regulation 12* details the electoral offences. Offences include possession of weapons inside or around a registration centre, polling centre or counting centre; disturbance and obstruction of the electoral process; bribery; impersonation and fraud; infringement of secrecy; misleading or deceptive announcements; and certain activities of political entities re: campaigning. The Regulation outlines penalties that can be imposed on its staff, political entities, observers and agents or other persons within its jurisdiction. The range of penalties available includes remedial action, fines, decertification, prohibition from participating in the elections, disqualification of a candidate, and revocation of an observer's or observer organization's accreditation.

*Regulation 15* covers the adjudication of election-related complaints and disputes. The procedure is outlined for submitting complaints. They must be submitted within seven days after the occurrence of the alleged violation or within three days after the alleged violation became known to the complainant. The complaint must be in writing and be submitted to the IECI's national headquarters, but a governorate or regional electoral office can forward it. It must include the name and contact of the complainant and the alleged violator (if available) and a description of the alleged violation as well as names of witnesses and documents that support the complaint.

The IECI may call witnesses, conduct hearings and receive evidence. The Board may also dismiss a complaint that does not establish a *prima facie* case or where it is clearly ill-founded and it may refer the complaint if it lies outside its jurisdiction. The Regulation does not specify time limits on decisions but states that it must examine the evidence in a timely and impartial manner.

Complaints may also be submitted to an out-of-country electoral office to be forwarded to the IECI. The out-of-country offices can make recommendations on how the matter should be determined.

*The Procedures for Complaints and Disputes* outline the matters mentioned in the Regulation. It also establishes a Complaints Office with staff and resources to carry out its function. The Complaints Office reports to the Board. The procedures have a detailed set of instructions for receiving and assessing complaints and for notifying the persons involved. The complaints are generally handled in the order received and are dealt with "as soon as practicable". The

procedures conclude with a statement on the right to information for the complainant, the person or organization accused and accredited observers.

## **Glossary of key organizations involved in Iraqi elections**

IECI - Independent Electoral Commission of Iraq

<http://www.ieciraq.org>

*Independent body formed in 2004 under Iraq's Transitional Law of Administration to organize and conduct Iraq's first free elections in half a century.*

EIN - Iraqi Election Information Network

<http://www.iraqiein.org/>

*Non-governmental organization formed to promote democratic processes and free and fair elections, which has facilitated the training and development of Iraq's largest network (some 10,000 individuals) of non-partisan election observers.*

EU – European Union

<http://europa.eu.int/comm/world/iraqsit/>

*The European Union supports the political and economic transition in Iraq. The support of the political process, the development of civil society and human rights is assured under the European Initiative for Democracy and Human Rights.*

IFES - International Foundation for Electoral Systems

<http://www.ifes.org/>

*A governance and democracy assistance organization, involved in nonprofit non-partisan activities in over 100 countries. IFES has provided technical advice to the United Nations, the Iraqi Governing Council and the Coalition Provisional Authority regarding the regulatory, operational and institutional framework needed for the elections described in Iraq's Transitional Law of Administration.*

IMIE - International Mission for Iraqi Elections

<http://www.imie.ca>

*Multinational mission formed in December 2004, assembling expertise from leading electoral agencies around the world to independently assess Iraq's election preparations, offer expertise and informed judgements, and add to electoral capacity as Iraq's three-step electoral process advances through 2005.*

IOM - International Organization for Migration

<http://www.iom.int/>

*Intergovernmental organization which is the world's leading organization working with migrants and governments to meet migration challenges. Responsible for organizing out-of-country voting for Iraqis living abroad.*

IRI – International Republican Institute

<http://www.iri.org/>

*The International Republican Institute supports the growth of political and economic freedom, good governance and human rights around the world by educating people, parties and governments on the values and practices of democracy.*

NDI - National Democratic Institute for International Affairs

<http://www.ndi.org/>

*A Washington-based nonprofit organization working to strengthen and expand democracy worldwide, and actively involved in developed civil society and political parties in Iraq.*

UNAMI - United Nations Assistance Mission for Iraq

<http://www.uniraq.org/elections>

*The United Nations has been deeply involved in advising and supporting the Independent Electoral Commission of Iraq to deliver credible and inclusive elections. The UN's 36-person team provides international technical assistance, operational support, capacity development and training, and voter information programs.*