



CRS Report for Congress

Iraq: Government Formation and Benchmarks

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Summary

Elections in 2005 produced a permanent constitution and a broad-based but Shiite-led government that has been unwilling or unable to reduce Sunni popular resentment and is showing signs of fragmentation. The lack of progress on national reconciliation is assessed in Administration and GAO reports required by an FY2007 supplemental appropriation (P.L. 110-28), but Administration officials maintain there is emerging “bottom-up” reconciliation among local leaders and groups. See CRS Report RL31339, *Iraq: Post-Saddam Governance and Security*, by Kenneth Katzman.

The current government is the product of a U.S.-supported election process designed to produce a democracy, although many now believe it produced a sectarian government incapable of reconciling Iraq’s communities. This sentiment has grown to the point where there appears to be increasing support in the United States for ideas to create a decentralized Iraq with substantial autonomy for each community.

Elections and Constitutional Referendum in 2005

After about one year of formal occupation, the United States handed sovereignty to an appointed Iraqi government on June 28, 2004. A government and a constitution were voted on thereafter, in line with a March 8, 2004, Transitional Administrative Law (TAL). The first election (January 30, 2005) was for a 275-seat transitional National Assembly, provincial assemblies in each of Iraq’s 18 provinces (41 seats each; 51 for Baghdad), and a Kurdistan regional assembly (111 seats). The election system was proportional representation (closed list) — voters chose among “political entities” (a party, a coalition of parties, or individuals). A female candidate occupied every third position on electoral lists in order to ensure 25% female membership. A total of 111 entities were on the national ballot, of which nine were multi-party coalitions. The cost was about \$250 million — \$130 million, funded by international donors including the United States, which paid \$40 million to improve Iraqi election capacity; \$42.5 million for monitoring by Iraqis (international monitoring was limited in all the elections in 2005); and \$40 million for political party development. In this and the December election, Iraqis abroad were eligible to vote. The International Organization for Migration (IOM) ran “out-of-

country voting” (OCV) in Australia, Canada, Denmark, France, Germany, Iran, Jordan, Sweden, Syria, Turkey, UAE, Britain, Netherlands, and the United States. About 275,000 Iraqi expatriates (Iraqi father) registered, and about 90% voted. OCV cost \$92 million (\$11 million for U.S.-based voting), of which none was U.S. funds.

In all 2005 votes, vehicle traffic was banned, Iraq’s borders were closed, and polling centers were guarded primarily by Iraq’s security forces (ISF), with U.S. forces as backup. Violence did not disrupt voting. The January election was dominated by the Shiite Islamist “United Iraqi Alliance” (UIA), consisting mainly of the Supreme Council for the Islamic Revolution in Iraq (SCIRI), which in May 2007 changed its name to the Islamic Supreme Council of Iraq (ISCI), and the Da’wa Party, as well as the Kurds, and a few secular parties. The two main Kurdish parties, the Patriotic Union of Kurdistan (PUK) and the Kurdistan Democratic Party (KDP) offered a joint list. Interim Prime Minister Iyad al-Allawi filed a six-party “Iraqis List” led by his secular Iraqi National Accord (INA) party. Sunni Arabs (20% of the overall population), perceiving electoral defeat, mostly boycotted and won only 17 seats spread over several lists and very few seats on the provincial councils, even in provinces they dominate demographically. Sunnis won only one seat on Baghdad province’s 51-seat council. The Sadr faction participated informally in national elections but mostly stayed out of the provincial elections, leading to domination of the provincial councils by its Shiite rivals. The factions formed an interim national government that U.S. officials said was not sufficiently inclusive of Sunnis, although it had Sunnis as Assembly speaker, deputy president, deputy prime minister, defense minister, and five other ministers. The presidency went to PUK leader Jalal Talabani and Da’wa leader Ibrahim al-Jafari became Prime Minister.

Permanent Constitution and Referendum. The elected Assembly was to draft a constitution by August 15, 2005, to be put to a referendum by October 15, 2005, subject to veto by a two-thirds majority of voters in any three provinces. On May 10, 2005, the Assembly appointed a 55-member drafting committee which included only two Sunni Arabs, prompting Sunni resentment, although 15 Sunnis were later added as committee members (and 10 more as advisors). On August 28, the talks produced a draft that set a December 31, 2007, deadline to hold a referendum on whether Kirkuk will join the Kurdish region (Article 140); designated Islam “a main source” of legislation and said no law can contradict the “established” provisions of Islam (Article 2);¹ set a 25% electoral goal for women (Article 47); allowed families to choose which courts to use for family issues such as divorce and inheritance (Article 41); made only primary education mandatory (Article 34); and said that the federal supreme court would include Islamic law experts and civil law judges and experts (Article 89). These provisions concerned many women who fear that too much discretion was given to males of their families, and many women say the provision is being misused by Islamic extremists in southern Iraq and elsewhere to impose, including through killings, restrictions against women.

The major disputes were and are centered on the draft’s allowing two or more provinces together to form new autonomous “regions” and to allocate oil revenues. Article 117 allowed each “region” to organize internal security forces, which would legitimize the fielding of militias, including the Kurds’ *peshmerga* (allowed by the TAL). Article 109 required the central government to distribute oil and gas revenues from

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

“current fields” in proportion to population, and gave “regions” a role in allocating revenues from new energy discoveries. Sunnis opposed the draft on these grounds; Sunni-dominated areas of Iraq have few oil or gas deposits, although some oil fields might lie in Anbar Province. (U.S. officials say that Baghdad is distributing oil revenues equitably.) Article 62 established a “Federation Council,” a second chamber with its size and powers to be determined by subsequent law (not passed to date).

With contentious provisions unresolved, Sunnis registered in large numbers (70%-85%) to try to defeat it, prompting a U.S.-mediated agreement (October 11) providing for a panel to propose amendments within four months after a post-December 15 election government took office (Article 137). The amendments would require a majority Assembly vote of approval and, within another two months, would be put to a referendum under the same rules as the October 15 referendum. However, in the referendum, the Sunni provinces of Anbar and Salahuddin had a 97% and 82% “no” vote, respectively. Mostly Sunni Nineveh province voted 55% “no,” which meant that the constitution was adopted (only two provinces, not three, voted “no” by a two-thirds majority).

December 15, 2005 Elections. In the December 15, 2005, elections for a four year government, a formula was adopted to attract Sunni participation; each province contributed a predetermined number of seats to a “Council of Representatives” (COR). Of the 275-seat body, 230 seats were allocated this way, with 45 “compensatory” seats for entities that would have won additional seats had the constituency been the whole nation. 361 political “entities” registered, of which 19 were multi-party coalition slates. The UIA slate formally included Sadr’s faction as well as other hard line Shiite parties including *Fadilah* (Virtue). Former Prime Minister Allawi’s “Iraqis List” was broader than his January 2005 list, adding several smaller secular parties such as the Communist Party. The Kurdish alliance remained roughly intact.

The major Sunni slate was a three-party “Iraq Consensus Front” led by the Iraq Islamic Party (IIP), which had entered but then withdrew from the January elections. Another major Sunni faction (Saleh al-Mutlak’s National Iraqi Dialogue Front) ran separately. The hardline Muslim Scholars Association (MSA) did not participate, although it did not, as it had in January, call for a Sunni boycott. Violence was minor because Sunni insurgents, supporting greater Sunni representation, facilitated voting. Still, voters chose lists representing their sects and regions, not ideological platforms, and the UIA and the Kurds dominated the new COR, with nearly two-thirds of seats.

The COR was inaugurated on March 16, and was quickly engulfed in wrangling over positions. Kurdish and other opposition caused the UIA to agree to Jafari’s Da’wa deputy, Nuri Kamal al-Maliki, as Prime Minister. On April 22, the COR approved Talabani to continue as president, and selected his two deputies — ISCI’s Adel Abd al-Mahdi (incumbent) and Consensus Front/IIP leader Tariq al-Hashimi. Another Front figure, the hardline Mahmoud Mashhadani (National Dialogue Council party), was chosen COR speaker. Maliki won COR majority vote approval of a 37 member cabinet (including himself and two deputy prime ministers) on May 20, 2006. Three key slots (Defense, Interior, and National Security) were not filled permanently until June 8 because of infighting. Of the 37 posts, there were nine Sunnis; eight Kurds; nineteen Shiites; and one Christian. Four are women.

Iraqi Performance on Benchmarks

In August 2006, the Administration and the Iraqi government agreed on a series of “benchmarks” that, if adopted and implemented, would presumably achieve reconciliation among the major communities. Under Section 1314 of the FY2007 supplemental appropriation (P.L. 110-28), “progress” on eighteen political and security-related benchmarks — as assessed in Administration reports due by July 15 and September 15 — is required for the United States to provide \$1.5 billion in Economic Support Funds (ESF) to the Iraqi government. The president may provide the aid, even if no progress is reported, if he provides written justification; he has exercised that option. The law mandated a separate assessment of Iraqi progress by the Comptroller General (GAO), by September 1, 2007, of the degree to which the benchmarks have been actually achieved (rather than progress toward achievement), as well as an assessment of the Iraqi security forces (ISF) by an outside commission (headed by ret. Gen James Jones). As shown in the chart below, the three assessments agreed that there has not been substantial movement on the most significant reconciliation benchmarks. (*More extensive analysis of the status of Iraqi reconciliation efforts and performance is in CRS Report RL31339.*)

Table 1. Assessments of the Benchmarks

Benchmark	July 12 Administration Report	GAO Report	September 14 Administration Report
1. Forming Constitutional Review Committee and completing review	satisfactory	unmet	satisfactory
2. Enacting and implementing laws on De-Baathification	unsatisfactory	unmet	satisfactory
3. Enacting and implementing oil laws that ensure equitable distribution of resources	unsatisfactory	unmet	unsatisfactory
4. Enacting and implementing laws to form semi-autonomous regions	satisfactory	partially met	satisfactory
5. Enacting and implementing: (a) a law to establish a higher electoral commission, (b) provincial elections law; (c) a law to specify authorities of provincial bodies, and (d) set a date for provincial elections	satisfactory on (a) and unsatisfactory on the others	overall unmet; (a) has been met	satisfactory on (a) and (c).
6. Enacting and implementing legislation addressing amnesty for former insurgents	conditions do not allow a rating	unmet	conditions do not allow a rating
7. Enacting and implementing laws on militia disarmament	conditions do not allow rating	unmet	conditions do not allow rating
8. Establishing political, media, economic, and services committee to support U.S. Baghdad “surge”	satisfactory	met	met
9. Providing three trained and ready brigades to support U.S. surge	satisfactory	partially met	satisfactory

Benchmark	July 12 Administration Report	GAO Report	September 14 Administration Report
10. Providing Iraqi commanders with authorities to make decisions, without political intervention, to pursue all extremists, including Sunni insurgents and Shiite militias	unsatisfactory	unmet	overall mixed. Satisfactory to pursue all extremists, but unsatisfactory on eliminating political intervention
11. Ensuring Iraqi Security Forces (ISF) providing even-handed enforcement of law	unsatisfactory	unmet	overall mixed. Satisfactory on Iraqi military, unsatisfactory on Iraqi police
12. Ensuring that the surge plan in Baghdad will not provide a safe haven for any outlaw, regardless of sectarian affiliation	satisfactory	partially met	satisfactory
13. (a) Reducing sectarian violence and (b) eliminating militia control of local security	Overall mixed. Satisfactory on (a) but unsatisfactory on (b)	unmet	same as July 12
14. Establishing all joint security stations in Baghdad	satisfactory	met	satisfactory
15. Increasing ISF units capable of operating independently	unsatisfactory	unmet	unsatisfactory
16. Ensuring protection of rights of minority parties in Iraqi parliament	satisfactory	met	satisfactory
17. Allocating and spending \$10 billion for reconstruction projects, on an equitable basis	satisfactory	partially met	satisfactory
18. Ensuring that Iraqi authorities are not undermining or making false accusations against ISF members	unsatisfactory	unmet	unsatisfactory

Further Reconciliation Efforts. Amid increasing U.S. criticism of Maliki's failure to achieve reconciliation – expressed again by President Bush in a November 2, 2007 speech in South Carolina, some splits within the power structure have widened to the point where some question whether the United States could ever stabilize a strong, cohesive central government. Although U.S. support for decentralizing Iraq into autonomous regions, expressed in adoption of a Senate amendment to H.R. 1585 in September 2007, appears to be increasing, Maliki is now widely assessed as having stabilized politically, perhaps helped by a decrease in violence attributed to the U.S. "troop surge." Still, the number of vacant cabinet posts is at least 13 out of 37 positions, reflecting the April 2007 withdrawal of the Sadr faction's five members, the August withdrawal of the six seats held by the Consensus Front, and the withdrawal by Allawi of four of his ministers (one refused his order to resign). Maliki filled two vacancies

(agriculture and health ministers) in October 2007 with independent Shiites, replacing resigned Sadrists. Deputy President Hashimi did not resign, and he has been active on reconciliation, signing on to an August 26, 2007, “Unity Accord” — along with Maliki, Talabani, deputy President Adel Abd al-Mahdi (ISCI) and Kurdish regional president Masoud Barzani — to try to pass the de-Baathification law, hold early provincial council elections, and release (mostly Sunni) detainees. In September 2007, Tariq al-Hashimi met with Grand Ayatollah Ali al-Sistani, the undisputed Shiite religious leader and gained his support for a reconciliation and reform plan. All blocs, including the Consensus Front, have ended their 2007 boycotts of the COR, in part to challenge Maliki from the COR. In part to try to fulfill the Unity Accord, the de-Baathification law has been re-submitted to the COR in November 2007. On November 11, 2007, Maliki outlined a new plan to offer amnesty to insurgent collaborators, although an amnesty law has not been passed. Administration officials say that progress is occurring in reconciliation at the local level and with informal mechanisms that accomplish as much or more than progress on the stated benchmarks.² Oil revenue is being shared relatively equitably even without a formal law, according to U.S. officials. In October 2007, a senior ISCI leader Ammar al-Hakim met with Sunni tribal leaders in Anbar Province. Also that month, Sadr and ISCI agreed to try to end internecine fighting in southern Iraq between their factions. On the other hand, the exit from the UIA bloc of the Fadilah Party (March 2007) and Sadr faction (September 2007) has shrunk Maliki’s support base there.

Table 2. Election Results (January and December 2005)

Slate/Party	Seats (Jan. 05)	Seats (Dec. 05)
UIA (Shiite Islamist). Now 84 seats. ISCI- 29; Da’wa (two factions) - 25; independents - 30. Sadr (29 seats) and Fadilah (15 seats) left bloc in 2007.	140	128
Kurdistan Alliance (PUK and KDP)	75	53
Iraqis List (secular, Allawi); added some mostly Sunni parties for Dec. vote (2 members left the bloc in September 2007, leaving it with 23 seats)	40	25
Iraq Consensus Front (Sunni). Main Sunni bloc; not in Jan. vote	—	44
National Iraqi Dialogue Front (Sunni, Saleh al-Mutlak) Not in Jan. vote	—	11
Kurdistan Islamic Group (Islamist Kurd) (votes with Kurdistan Alliance)	2	5
Iraqi National Congress (Chalabi). Was part of UIA list in Jan. 05 vote	—	0
Iraqis Party (Yawar, Sunni); Part of Allawi list in Dec. vote	5	—
Iraqi Turkomen Front (Turkomen, Kirkuk-based, pro-Turkey)	3	1
National Independent and Elites (Jan)/Risalyun (Message, Dec) pro-Sadr	3	2
People’s Union (Communist, non-sectarian); on Allawi list in Dec. vote	2	—
Islamic Action (Shiite Islamist, Karbala)	2	0
National Democratic Alliance (non-sectarian, secular)	1	—
Rafidain National List (Assyrian Christian)	1	1
Liberation and Reconciliation Gathering (Sunni, secular)	1	3
Ummah (Nation) Party. (Secular, Mithal al-Alusi, former INC activist)	0	1
Yazidi list (small Kurdish, heterodox religious minority in northern Iraq)	—	1

Number of polling places: January: 5,200; December: 6,200; Eligible voters: 14 million in January election; 15 million in October referendum and December; Turnout: January: 58% (8.5 million votes)/ October: 66% (10 million)/ December: 75% (12 million).

² July 12 report [<http://www.whitehouse.gov/nsc/iraq/2007/FinalBenchmarkReport.pdf>]. September 14 report [<http://www.whitehouse.gov/news/releases/2007/09/20070914.pdf>]. GAO report [<http://www.gao.gov/new.items/d071230t.pdf>].