

INTRODUCTION

Since the overthrow of Saddam Hussein in 2003, Iraq has had a relatively robust history of elections at multiple levels. Three national parliamentary elections have been held since then: one in 2005, a second in 2010 and the most recent in 2014. The latter two were managed by Iraq's independent election management body, called the Independent High Electoral Commission (IHEC). The election in 2005 was conducted by the Independent Electoral Commission of Iraq (IECI), the body set up by the Coalition Provisional Authority (CPA) before the transfer of power back to the Iraqis in 2004, with significant assistance from the United Nations, the United States and many other countries.³⁵

To its advantage, Iraq opted to utilize a "passive" voter registration system whereby the authorities are responsible for using existing government-held information to populate the registration list, requiring the citizen only to verify that he or she has been included accurately on the list. Since 2005, the government has used the food ration card list—the Public Distribution System (PDS) database—as the basis for the voters list. The list is maintained by the Ministry of Trade. A citizen does not have to take any independent action to register to vote, but is requested to check the accuracy of his or her inclusion on the list during designated periods at voter registration centers run by the IHEC. The Ministry of Trade also receives updates on deaths and changes in eligibility status from the Ministry of Health and other departments within the Ministry of Trade. While the databases are not always completely upto-date and accurate, by all available accounts this system has been mostly effective and inclusive. The entire population is included in the PDS system.³⁶

INTERNATIONAL AND REGIONAL AGREEMENTS

Iraq has ratified the major international conventions that reference elections, voting and the right to equal participation, including the International Covenant for Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

LEGAL FRAMEWORK

The country also has several provisions in its constitution and electoral law that bear on the voter registration process, rights that must be respected in the process, and the duties that must be carried

³⁵ Rebuilding Iraq: US Assistance for the January 2005 Elections, Government Accountability Office, 2005, 1. Iraq also held a constitutional referendum in 2005. At other times, it has held parliamentary elections for the Kurdish region and local elections. Provincial elections, originally planned for 2008, were held in early 2009, except for in the Kurdish region. Local elections were held throughout the country, except for in Kirkuk, in 2013. See Kenneth Katzman, Iraq: Politics, Elections, and Benchmarks, Congressional Research Service, 2011, 1, 4.

³⁶ Author interview with UN election assistance mission representative, December 9, 2013.

out. For example, Article 14 of the constitution states that "Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status." Moreover, Article 20 proclaims that "Iraqi citizens, men and women, shall have the right to participate in public affairs and to enjoy political rights including the right to vote, elect, and run for office."

The Iraqi government passed an election law in 2005 that was then amended in 2009, both actions undertaken amidst great controversy. Of note in the 2009 amendments is Article 4, which provides for special voting for military and staff of security institutions based on special registration lists submitted by the relevant ministries and institutions within 60 days of the election. The names on these lists will be deleted from the regular voters registry. Similarly, for inmates, detainees and prisoners, voting is based on registration lists provided by the Ministries of Justice and Interior within 30 days of the election. Patients in hospitals and other health institutions are also put on special registration lists outside of their normal voting place.

Registration and voting for internally displaced persons (IDPs) and for voters abroad are both provided for in the law.

In a political compromise rendered necessary by disputes around the voters lists and how they should be comprised in the Kurdish areas, Articles 6 and 7 of the 2009 law provide for the elections there to be held on a separate date and establish that, where the voter registration records are in dispute, there will be a special challenge and review process by a committee of members of the governorate, the ministries of planning, interior and trade, and the IHEC, with the assistance of the United Nations. Furthermore, the results of the election shall not be used as a precedent for any future election in the region.

2013-2014 VOTER REGISTRATION

Requirements to register are very basic: one must be 18 years of age and a citizen. In October 2013, the IHEC reported that it was again using the database for food ration cards (PDS) from the Iraqi Ministry of Trade to update the registration list.³⁷ IDPs—approximately 40,000 citizens—are identified and added to the voters registry by the Ministry of Internally Displaced Persons. Adjustments are also made through the transmittal of data from the Ministry of Health concerning deaths and the Ministry of Defense regarding the location of members of the military. There is some concern among observers about the accuracy and timely updating of these databases, but they are considered to be largely reliable, and gaps are addressed through the public review period and meetings among the ministries. For voters living abroad, voting centers were established in certain locations, and Iraqi citizens were able to register and vote at these sites at the same time.³⁸

Under the structure of the IHEC, there are 19 Governorate Electoral Offices (GEOs) overseen by the Electoral Administration, the implementing body of the IHEC. The GEOs oversee Voter Registration

^{37 &}quot;IHEC Analyzes the Database of Ministry of Trade with the Voter Register," Independent High Electoral Commission, October 27, 2013, http://www.ihec.iq/en/index.php/news/3960.html.

³⁸ Author interview with UN election assistance mission representative.

Centers (VRCs) where registration is conducted and lists completed.³⁹

In 2013, the IHEC conducted an update of the voter registration list based on the 2010 list. VRCs were open from November 10 to December 5, 2013, in all governorates from 8:00 am to 4:00 pm daily for citizens to check their registrations. This period was later extended to December 9. Voter registration for the Kurdistan Region parliamentary elections was held from June 17 to July 7, 2013, at 190 VRCs in addition to the November/December period. The IHEC sent mobile registration units to certain remote areas of the country. The IHEC also held a media campaign—including billboards, radio, television, newspaper and online ads—around the voter registration process.

All citizens who come to the VRC need to bring identification in case there is a problem with their registration status. Although it depends on the type of transaction, most are required to have a civil status ID, an Iraqi citizenship card, a passport or, for a head of family, an information card that demonstrates residency and is obtained from the police every time a family moves. Depending on the addition or change that is being made, the voter may also have to provide his or her ration PDS card, retirement ID, information card, or, where applicable when removing a voter, a death certificate.⁴⁴ (See Appendix A, table of identification requirements from the IHEC). Iraqis almost universally have the necessary documentation.

If a person is not on the list and wishes to be, he or she must also fill out a form with several data points including information such as the father's name, the grandfather's name, the family PDS number, the name of the head of family, the name of the head of the family's father, and the name of the head of the family's grandfather.⁴⁵

A voter determines where he or she will vote, which determines to which polling center he or she will be assigned. In a unique feature, a person may make changes for a family member by proxy by submitting a document that proves the relationship along with two other documents (an ID and another document noted above) for the person whose data is to be changed or corrected.⁴⁶

At the end of voter registration update period in 2014, over 4 million voters out of the 21.5 million voters on the voters list had visited VRCs and checked their data. Among them, over 1.2 million voters had updated or changed their information.

^{39 &}quot;Electoral Administration," Independent High Electoral Commission, http://www.ihec.iq/en/index.php/electoral_administration.html.

⁴⁰ Operations Division Letter 1571, Independent High Electoral Commission, May 14, 2013.

⁴¹ Karwan Salhi, "People Do Not Check Their Voter Registration," *Kirkuk Now*, November 18, 2013, http://kirkuknow.com/english/index.php/2013/11/people-do-not-check-their-voter-registration/#ixzz2lB3j6lC3.

⁴² Elections in Iraq: September 21 Iraqi Kurdistan Region Parliamentary Elections – Frequently Asked Questions, International Foundation for Electoral Systems, September 20, 2013, http://www.ifes.org/Content/Publications/FAQ/2013/~/media/Files/Publications/White%20PaperReport/2013/FAQ_IKR%20Parliamentary%20Elections_FINAL.pdf.

^{43 &}quot;IHEC Launches its Media Campaign for Voter Registration Update Phase for the Upcoming Iraqi Council of Representatives Elections," Independent High Electoral Commission, November 3, 2013, http://www.ihec.iq/en/index.php/news/3974.html.

⁴⁴ Independent High Electoral Commission, Letter 1571.

⁴⁵ Independent High Electoral Commission, Letter 1571.

⁴⁶ Independent High Electoral Commission, Letter 1571.

During the display period, it is also possible to challenge the eligibility of a voter to be on the registration list. Voters and party representatives may make such challenges. According to IHEC regulations, a challenge must be submitted to the VRC manager in writing and supported with documentary evidence. The VRC manager will transmit the challenge to the GEO manager who must make a decision about the challenge within two days. Challenges may be made on the basis that the registrant is not an Iraqi citizen, is deceased, or is not 18 years of age. Appeals may be made to the Board of Commissioners of the IHEC within three days "as of the next day of publication," and the decision of the Board can be appealed within three days "as of the next day of the last publication" to the Electoral Judicial Panel, a special body of judges appointed by the Court of Cassation with exclusive jurisdiction over appeals of Board of Commissioners decisions. Anyone not included in the final voter registration list is not allowed to vote.

In 2010, voter cards were purely informational, providing voters with their polling place location and other information. According to UN documents, dissemination of the cards in the run-up to the 2010 election was effective.⁵⁰ In 2014, the IHEC distributed electronic voter cards. According to IFES,

These cards were used to locate the voter's record in the polling station verification device. Only voters who had an electronic card were able to vote, with the exception of internally displaced persons from Anbar and voters who were not able to collect an electronic card due to the security situation in Anbar. The electronic cards were active only on Election Day during voting hours (from 7:00 a.m. to 6:00 p.m.) and they could not be used to vote twice.⁵¹

Distribution took place at the governorates, specifically the VRCs. The first centers started distributing cards on February 21. On February 23, Premier Nouri al-Maliki received his voting e-card from one of the distribution centers in Baghdad. On February 27, the Secretariat General of the Council of Ministers announced adoption of the electronic voter card as a formal identification document. Distribution was stopped on April 22, after a week extension.⁵²

A number of public appeals were made by both parliamentarians and religious authorities to encourage citizens to collect their voter cards and participate in the elections, along with other appeals against the

^{47 &}quot;Voter Registration Complaints and Challenges Procedures for the Iraqi Council of Representatives Elections 2014," Independent High Electoral Commission. According to the IHEC website, "The Board of Commissioners [BoC] represents the legislative body of the commission. It consists of nine commissioners including the CEO selected by the CoR on the bases of nationality, efficiency, education, electoral experience, specialization, integrity and independence. Woman representation was ensured as well. The IHEC law stipulated that the BoC should have at least two legal members. In its first session, the BoC, with a five out of eight member's majority vote, elects its chairman, deputy chairman, reporter and the non-voting CEO." http://www.ihec.iq/en/index.php/aboutihec.html.

⁴⁸ Created by CPA Order No. 92: Elections in Iraq: April 20 Governorate Council Elections – Frequently Asked Questions, International Foundation for Electoral Systems, April 15, 2013, 12; Independent High Electoral Commission, "Voter Registration Complaints and Challenges Procedures."

^{49 &}quot;Exhibition and Challenge, and Voter List Update Regulation No. (7)," International High Electoral Commission, 2012, http://www.ihec.iq/ihecftp/English/regulations/regulation%20no.%20_7_2012%20.pdf.

^{50 &}quot;Report of the Secretary-General Pursuant to Paragraph 6 of Resolution 1883," United Nations Security Council, November 11, 2009, 6, http://unami.unmissions.org/Default.aspx?tabid=4316&language=en-US.

⁵¹ Post-Election Q&A: Iraq's 2014 Council of Representatives Elections, International Foundation for Electoral Systems, May 14, 2014, http://www.ifes.org/Content/Publications/Interviews/2014/Post-election-QA-Iraqs-2014-Council-of-Representatives-elections.aspx.

⁵² Information provided by Roger S. Thord-Gray, Automated Voter Registration Consultant for the International Foundation for Electoral Systems in Iraq, May 2014.

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sale of voter cards. According to final distribution figures, 17.1 million electronic cards were distributed prior to the election, reaching approximately 84 percent of the general population, and 900,000 electronic cards were distributed to special needs voters, approximately 92 percent of that population.

According to Iraqi interlocutors, to receive the new electronic voter card one had to present a personal identity card (*jinsiyah*), residency card and food ration card. Regardless of their status, voters—including refugees, IDPs, or those with a temporary address outside their hometowns—had to collect their voter cards at the place where they registered to vote for past elections. This might have been problematic for internally displaced Iraqis.

The IHEC opened a complaint office where IDPs or anyone else who has a reason to complain about issuing voter identification cards can file a complaint. According to current regulations, however, IDPs have to go back to their original place of residence to obtain voter identification cards.

Biometric Identification

At the end of October 2013, the IHEC and the press reported that the IHEC entered into a contract with a company based in Spain for a biometric identification system that would be used in the 2014 election. According to reports, the company, Indra, will "implement electronic and biometric systems to register voters. This will consist of the issue of 22 million ID chips with voter details recorded on them." According to IFES, "Due to the lack of sufficient time, it was not feasible to register 21.5 million voters using biometric information prior to these elections. Therefore, the process will re-start in June 2014 and will continue until all Iraqi voters are registered using this method. The IHEC's objective is to have this completed by the 2018 parliamentary elections." ⁵⁴

While little is known about the details of this undertaking, implementing a biometric voter registration and identification system has proven highly problematic in many countries in recent years, especially when done within a short time frame.

2010 REGISTRATION PROCESS

The procedures in advance of the 2010 elections were not very different than the current ones, save the Kirkuk controversy. The voter registration list was updated on the basis of the voters list for 2008 and citizens were asked to go to VRCs to check that they were on the list accurately. Over 1, 000 VRCs were opened across all governorates in the country. The IHEC also used mobile teams to distribute voter information cards, which contained information about the voter and voting instructions. The cards allowed voters to review the information ahead of time and make any necessary changes. Similar to current procedures, identification documents were required for someone to be added to the list or make changes. ⁵⁵

Ramon Munoz, "Technology Firm Indra Wins Contract for Iraq Elections," *El Pais*, November 11, 2013, http://elpais.com/elpais/2013/11/11/inenglish/1384176420_583701.html; "IHEC Signs a Contract on Biometric and Authentication Electronic Registration in Spain," Independent High Electoral Commission, October 30, 2013, http://www.ihec.iq/en/index.php/news/3971.html.

⁵⁴ International Foundation for Electoral Systems, Post-Election Q&A.

^{55 &}quot;Voter Registration Update Procedures," Independent High Electoral Commission, http://www.ihec.iq/en/index.php/procedures.html.

Kirkuk

Among several disputes around the 2009 election law passed in anticipation of the 2010 elections, one centered on voter registration. There was disagreement over how to implement the election in the Kirkuk province given Kurdish concerns about being adequately represented. At the urging of the Kurds, the version of the election law passed in November 2009 called for using 2009 food ration lists for the voter registration list. Sunni Arabs in this region vehemently disagreed, preferring to use the 2005 voters list, which would likely have fewer Kurds. A compromise was reached, as described above, allowing for a review of complaints of fraudulent registrations.⁵⁶ In the end, there were no contests brought.

DOCUMENTATION

Technically, parents are supposed to obtain civil status ID cards for their children at birth. This requires the parent to register his or her marriage with the Civil Status Department and notify the Civil Status Department of the birth to receive a birth certificate. Even later in life, obtaining a birth certificate again requires presentation of the marriage certificate, which can be problematic for some Iraqis who have lost their documentation due to displacement.⁵⁷

To receive a nationality certificate, one must submit an application form with a thumbprint and photos, along with copies of the applicant's, father's and mother's passport. It costs the equivalent of two U.S. dollars. According to the Institute for International Law and Human Rights (IILHR), the process "may be cumbersome for applicants denaturalized under the Ba'ath regime, or who changed names when fleeing Iraq, or whose extended family has since left Iraq or passed away, or who fled without copies of identity documents." ⁵⁹

Neither Palestinians residing in Iraq nor Jews are allowed to be naturalized, hence they are unable to obtain citizenship documentation. According to the study by IILHR, regaining citizenship after having lost it for political reasons under the Hussein regime can be cumbersome and requires documented proof of Iraqi origins, which may be difficult for some to produce.⁶⁰

In general,

IILHR interviews with members of minority components and discussions with UNHCR [(United Nations High Commissioner for Refugees)], IOM [(International Organization for Migration)], and international NGOs working with minority components reveal a mixed picture for access to documentation. Anecdotal evidence suggests that ease of access varies significantly

⁵⁶ Katzman, Iraq: Politics, Elections and Benchmarks, 9.

 $^{57\ \}textit{Iraq's Minorities and Other Vulnerable Groups: Legal Framework, Documentation and Human Rights, Institute for International Law and Human Rights, 2013, http://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/702_iraqsminorities_en.pdf , 41.}$

^{58 &}quot;Nationality Certificate," Republic of Iraq, Ministry of Foreign Affairs, accessed May 8, 2015, http://www.mofa.gov.iq/en/consular-services/nationality-cert.

⁵⁹ Institute for International Law and Human Rights, Iraq's Minorities, 45.

⁶⁰ Institute for International Law and Human Rights, Iraq's Minorities, 39.

from governorate to governorate, often depending on local policies or personalities within the local personal status and nationality offices.⁶¹

ISSUES UNDER INTERNATIONAL LAW

Iraq fares better than most other countries in the region under international commitments in large part because it has a passive registration system in which the major onus is on the government to enroll the eligible population. For the moment, the PDS database appears to be a fairly reliable and inclusive basis for the list, supplemented by other government-held databases and the ability of citizens to check on their registration status at accessible locations during a public display and review period.

In earlier years, there were over a million IDPs, most of whom were unable to or did not register or vote. That situation has been ameliorated, but there are still likely several thousand IDPs who have not been registered by the IHEC. Given the continuing violence, the plight of IDPs and their ability to obtain and maintain necessary documentation and participate politically should be monitored; in accordance with international obligations, all efforts should be made to facilitate this process. The ICCPR requires states to include all citizens in the process, and the United Nations' Guiding Principles on Internal Displacement Art. 22(d) specifically provides that "Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights: (d) The right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right."

For all of the population, documentation is required to make any updates to registration status, and now the new electronic identification card is also necessary. This can be a problem in any country as there is always some segment of the population lacking some documents, and reports do indicate that a small number of Iraqis face challenges in the process, especially the internally displaced. From the available information, however, it does not seem to be a major obstacle or systemic problem in Iraq. Further inquiry and monitoring of this matter is nevertheless necessary to ensure no part of the population is disenfranchised for lack of the proper identifying documents. The fact that there is a fee for some documents is also notable, as this is considered potentially discriminatory under the ICCPR, which prohibits discrimination on the basis of poverty. Indeed, the UN Human Rights Commission in General Comment 25 has stated that the government must take positive measures to ensure there are not discriminatory obstacles to voter registration.

It will also be useful for the government of Iraq to tread carefully with the implementation of a biometric voter registration and identification system. A number of countries have attempted to implement such a system, but—lacking adequate capacity, resources, long-term planning and other facilities—they have struggled to carry it out effectively and without great disenfranchisement.⁶³

A more troubling area that is indirectly but nonetheless closely related to the inclusivity of the voter

⁶¹ Institute for International Law and Human Rights, Iraq's Minorities, 39.

⁶² Zainab Naji, "Voter Apathy among Iraq Displaced," Institute for War and Peace Reporting, September 26, 2008, http://isn.ethz.ch/Digital-Library/Articles/Detail/?lng=en&id=92044.

⁶³ See Tova Wang, "Focus on Voter Identification," The ACE Project, accessed May 8, 2015, http://aceproject.org/ace-en/focus/voter-identification.

registration process is the discriminatory nature of the citizenship law in Iraq. Neither Palestinians residing in Iraq nor Jews are allowed to naturalize, hence they are unable to obtain citizenship documentation and therefore cannot, of course, register to vote. This provision is in clear violation of the ICCPR's prohibition on discrimination on the basis of national origin or religion. ICCPR Article 26 states that, "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

It is unclear whether women are disadvantaged in the registration system in any way, as there does not appear to be disaggregated data. Even in passive systems women can be excluded, for example, when their name or residence changes due to marriage and the change is not recorded. It is clear that while still low, turnout of women voters has been rising over the last eight years.⁶⁴ One issue that indirectly impacts the registration process is that there are no women on the IHEC.⁶⁵ This runs contrary to Iraq's own constitution and international commitments under the ICCPR and CEDAW.

The Iraqi system is to be commended for allowing registration for members of the military and other categories of citizens who are often not deemed eligible to participate in other countries in the region. There is also what appears on paper to be an effective right to appeal and remedy complaints, another important component of international law.

⁶⁴ See "Women in Iraq Factsheet," United Nations Assistance Mission for Iraq, March 2013, accessed May 8, 2015, http://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3_a0648978643576b1765216c6562b256b&lang=en. While participation has increased, about 15 percent of women still do not believe women should vote.

^{65 &}quot;Iraqi Lawmakers Promise Boycott over Women's Government Role," Al Monitor, September 19, 2012, http://www.al-monitor.com/pulse/politics/2012/09/iraq-parliament-boycott-women-participation.html#ixzz2ndIPHtoD.

Appendix: Voters Register Update Procedures for the 2014 Election of the Iraqi Parliament

• Identity documents (necessary)

To prove the identity of the voter who shall present at least one of the following documents:

- 1. Identity card (civil status identity).
- 2. Iraqi nationality certificate.
- 3. Applicable Iraqi passports.
- 4. Information card (for the heads of families).
- 5. Applicable Iraqi market certificate (shall not be used in Kurdistan Province as it does not contain the date of birth).

• Iraqi official supporting documents (original documents)

- 1. Retirement card (shall not be used in Kurdistan province as it does not contain the date of birth).
- 2. Ration card (issued in 2012-2013).
- 3. Information card.
- 4. Document for proving death.

Supporting foreign or international documents (original documents)

1. Foreign passports or foreign identity cards.

Table of the cases with which the form number 222 deals, the required documents for each case and the cases in which proxy is authorized:

0	Cases	Applicant	Case to Be Proven	Required Documents (official documents accepted by the Commission)	Notes
1-A	Addition (voter in Iraq)	Exclusively for himself/herself	Identity, eligibi- lity and residence	Ration card + one of the identity documents	Ration card issued in 2012-2013 by the governorate and the ration center where the registration center is
1-B	Addition (voters coming from outside Iraq)	Exclusively for himself/herself	Identity, eligibility and residence	Passport with the entrance visa that dates back to 3 months before the registration period and the information card (if voter is the head of the family) or the support of the municipal council to prove residency in the governorate	

	1	T	T		
2-A	Change the polling center inside the same center	for himself/her- self or by proxy	Identity	One of the identity documents + one of the other required documents	In case of proxy, the applicant shall provide a document that proves kinship as in the register
2-B	Change the polling center from a registration center to another registration center in the governorate	for himself/her- self or by proxy	Identity	One of the identity documents + one of the other required documents	In case of proxy, the applicant shall provide a document that proves kinship
2-C	Change from one governorate to another one	for himself/her- self or by proxy	Identity, residence	One of the identity documents + ration card of 2012-2013	In case of proxy, the applicant shall provide a document that proves kinship
3	Data correction	for himself/her- self or by proxy	Identity, evidence of correction	One of the identity documents + one of the other required documents	In case of proxy, the applicant shall provide a document that proves kinship as in the register
4	Deletion	A member of the family	Identity docu- ment that proves kinship + death certificate (for deceased persons)	Identity docu- ment of the ap- plicant + death certificate (for deceased persons)	In case of proxy, the applicant shall provide a document that proves kinship as in the register
5-A	Absentee voting for the internally displaced persons. A displaced person with an identity document issued by the Ministry of Displacement and Migration	for himself/her- self or by proxy	Evidence of displacement + identity	One of the identity documents + identity document issued by the Ministry of Displacement and Migration + one of the other required documents	In case of proxy, the applicant shall provide a document that proves kinship
5-B	Absentee voting for the internally displaced persons. A displaced person that does not have an identity document issued by the Ministry of Displacement and Migration	for himself/her- self or by proxy	Identity, eligibility, evidence of displacement	One of the identity documents + one of the other required documents + a letter of support from the department of displacement and migration	In case of proxy, the applicant shall provide a document that proves kinship

Source: Independent High Electoral Commission of Iraq.