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Middle East Brief

The Iraqi Elections of 2010—and 2005

Prof. Kanan Makiya

With revelations coming out of Baghdad that the office of the Iraqi prime minister has been running secret prisons and torturing opponents, it is a little disconcerting to be writing about the progress of democracy in Iraq as judged by the March 7 parliamentary elections, especially since those elections have not yet produced a government and are unlikely to do so before the end of the summer. For twelve weeks after the elections, the Special Elections Court considered disqualifying twenty candidates from the winning list on the grounds that they were Ba'ath party members (even though one of those twenty had already been declared a winner by the Independent High Election Commission, the only body in Iraq officially empowered to declare the outcome of the March election). Fortunately those deliberations of the Court were put aside following some very murky goings-on on the part of top Iraqi politicians during the second week of May.¹

Meanwhile, al-Iraqiyya, the name of the winning list headed by Ayad Allawi, is threatening to call for outside intervention by the UN, the EU, and the Islamic League on the grounds that Iraq is still under Chapter 7 sanctions and the international community is under an obligation to intervene. In a new twist emanating from Baghdad's rumor mill, Turkey is reportedly offering to help Iraqi politicians find a way out of their quagmire via the novel concept of a rotating premiership between Ayad Allawi and Nouri al-Maliki, the head of the State of Law list and the runner-up in the March elections, with 89 parliamentary seats to Allawi's 91.

So what does it all mean? Is it possible to make sense of the most recent round of elections in Iraq despite the uncertainty over the results more

than three months after they were held? This Brief examines the March 7 Iraqi elections by way of a series of comparisons between the only two national Iraqi elections in recent memory: those of December 2005 and March 2010.

Two Legitimate Elections

Both the 2010 and 2005 elections were unquestionably genuine (notwithstanding allegations to the contrary from many interested parties inside Iraq): popular and raucous affairs, with hundreds of parties, thousands of candidates (more than seven thousand in 2005 and just over six thousand in 2010), myriads of party manifestos, and ever more colorful and interesting posters—along with, of course, the backstabbing and ad hominem attacks on one another by would-be politicians, all of which is what one would expect from a real competitive contest in a country still rather new to that experience.

Participation did decline between elections, though not significantly: from a 76.4% turnout (from among 15,568,702 eligible voters) in 2005 to a 62.4% turnout (from among 18,902,073 eligible voters) in 2010. It is worth bearing in mind that the Sunni Arab community, which had boycotted the 2005 elections, came out in force in 2010, which had a very important impact on the numbers and the outcome.²

More importantly, perhaps, in terms of participation, during the run-up to the December 2005 elections, Abu Musab al-Zarqawi, the chief of the al-Qaeda-led section of the insurgency, was waging what looked like a credible war against democracy and against any Iraqi who dared to go out and vote. By 2010, however, al-Zarqawi was dead and his war effectively over, his organization having shrunk to a pale shadow of its former self. The violence, to be sure, continued in 2010; and as in 2005, it sought, by means of a city-wide bombing campaign, to sabotage the elections. Important as the current wave of violence is, however (up to 300 Iraqis a month were killed in the run-up to March 2010), it is worth keeping in mind that the violence is considerably below the 2005–7 levels.³

This drop in the level of violence is not a long-term side effect of the surge, as some commentators would have it; it has come about because there are perhaps up to a million Iraqi men under arms⁴—a level of institutionalized capacity for violence that we have not seen since the heyday of the Iraq-Iran War. But if that is the cause of al-Qaeda's retreat in Iraq, it also explains why there are secret prisons in Iraq and why the practice of torture is making a comeback. The successes of the various repressive agencies of the state in the security domain, however, have to be contrasted with the abysmal failure of all other state institutions to deliver services of any other kind to the Iraqi public, a failure that has been ongoing since the days of the American occupation that started in 2003. Electricity blackouts, filthy cities, incompetent health and education administrations, and bridges to nowhere were major gripes of the electorate during the campaign, until they got derailed by the de-Ba'athification Commission's attempts to blacklist several hundred candidates in the run-up to the elections. One could conclude, therefore, that between 2005 and 2010, Iraq's main problem shifted from its violence to its politics—a point to which I will return later in this Brief.

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Identity Politics in Iraq: 2010 and 2005

A central feature of the 2005 election was that it followed a national referendum that ratified a permanent constitution for Iraq—and the preceding debate over the constitution had revealed deep fissures within the Shiite coalition. The first test of Shiite unity had come in March of 2004, during the debate over the interim constitution. A conflict erupted inside the then Governing Council over how the final permanent constitution should be ratified. At issue was the all-important question of minority rights and federalism. Specifically, the most contentious provision in the interim constitution was Article 61(c), which held that no future permanent constitution could be considered ratified if two-thirds of the voters in any three governorates rejected it. This ensured a kind of veto power to the Kurds and the Sunni Arabs, each of whom had at least three governorates in which they could count themselves a majority.

Article 61(c) embodied a principle previously accepted by the Iraqi opposition in exile: namely, that an Iraqi democracy had to principally protect minority rights, and only afterwards ensure majority rule. But some Shiite leaders, especially those from what was then called the Supreme Council for Islamic Revolution in Iraq (SCIRI)—the Hakim-led and originally Iran-based organization, which, as it happens, did very poorly in the 2010 elections—had never really believed in minority rights and wanted their imagined preponderant numerical strength to give them the right to essentially determine the shape of the new country. In a foreshadowing of the inability of Iraq's Shiites to hold together as a political bloc in the run-up to the 2010 elections, the Shiite majority bloc in the twenty-five-person Governing Council installed by the Coalition Provisional Authority (CPA) fell apart as a voting bloc in 2004. Article 61(c) passed only because five of the thirteen Shiite members of the Governing Council voted with the Kurds, the liberals, and the Sunni members, refusing to fall in line with the other eight Shiite members.

The voting on Article 61(c) essentially showed that the idea of Iraq as a pluralist enterprise might very well turn out to be at odds with the Shiites' belief in their political entitlement arising from their sense of victimhood—but it also showed that it was always going to be very difficult to hold that Shiite majority bloc together. The insurgency, the Sunni boycott of the 2005 elections, and this Shiite sense of victimhood combined to obscure these early warning signs of potential Shiite disunity and

to establish what we might call identity politics as the defining issue of the December 2005 elections.

Everyone voted in 2005 according to whether they were a Kurd or a Shiite, while Sunni Arabs by and large did not vote at all. People become sectarian when they are afraid—when the only answer to the question “Who will protect me now?” becomes “My own kind.” Fears about the future and suspicions of the “other's” intentions had created, almost overnight after 2003, communities held together by the conviction that their security depended on sticking together.

The interesting thing, however, is that this pattern did not hold in 2010. In 2010, Shiite unity fell apart in the run-up to the elections, and two major Shiite blocs or lists were formed—neither of them endorsed by the most senior *marj'i* in the land, Ayatollah Sistani, based in Najaf—instead of one. In the end, neither of these two blocs or lists was able to muster a majority of seats. The State of Law Alliance, headed by Nouri al-Maliki, the current prime minister, got 89 out of a total of 325 seats; the Iraqi National Alliance—the rump of the old Shiite Alliance, headed by the Hakim family, which had won the 2005 elections—got a mere 65 seats (40 of which, surprisingly and unexpectedly, went to the unpredictable Sadrists, whose allegiance is to the radical firebrand and anti-American cleric Muqtada al-Sadr, and only 17 of the remaining 25 seats went to the Hakim-led Supreme Council, with a handful going to individuals like Ahmed Chalabi, who joined this bloc along with other minor coalition partners.⁵)

The dubious status of winner of the 2010 elections unexpectedly went to Ayad Allawi's al-Iraqiyya list, which got 91 seats (two seats more than al-Maliki's list). Allawi's performance was the big surprise of these elections. Although nominally a Shiite and formerly a Ba'athist (he left the party in the early 1970s and was the target of a vicious assassination attempt, by agents of the former Ba'th regime, in London in 1972), Allawi got the bulk of the Arab Sunni and secular Shiite vote. He actually improved his standing in the south of the country compared with 2005, if only by a handful of seats. You could also say he received the entire non-Kurdish anti-Iranian vote, as many of those who supported him did so because of their fears of Iranian influence in Iraq. He most certainly did not come out on top because he was a former Ba'athist; he did so, it is important to note, because he was perceived as being genuinely nonsectarian, and that seems to have counted for something in the March 2010 elections.

The Role of the Kurds

In 2010, the Kurdish Alliance included a breakaway Kurdish group called Goran (meaning “change”). Goran won 8 out of the 57 seats won by the Kurdish Alliance as a whole, these 8 seats coming out of the Patriotic Union of Kurdistan’s 2005 electoral share. Between them, the two traditional Kurdish parties, the Kurdistan Democratic Party (KDP) and the PUK, got 43 seats in 2010, the balance going to a number of small Kurdish Islamic groups. The total of 57 seats in 2010 compares with 58 seats in 2005; but if you consider that the overall number of parliamentary seats increased from 275 to 325, the outcome clearly translates into a relative weakening of the Kurdish bargaining position in the incoming Parliament.

The Kurds are, therefore, less likely to be the kingmakers that they have been over the last seven years, and that is certainly a complicating consequence of the 2010 election. Add to this the terrible performance of President Jalal Talabani’s PUK party, and you have a volatile situation within Kurdish politics, which will surely result in some major changes over the next few months, including a change in the pact between the PUK and the KDP. That agreement was based on the presumption that both parties wielded roughly equal influence among Kurds, which is no longer the case on the ground. The KDP, headed by Masoud Barzani, is much stronger than the PUK. Sooner or later, this will surface as a major issue.

The Issue of Kirkuk

This change in the Kurdish bargaining position raises another point of comparison between the two elections concerning the long postponed issue of Kirkuk, a city that lies at the heart of an important stretch of oil-rich borderland that is the fault line between largely Arab populated territories in the South and Kurdish ones in the North. This area is claimed by the Kurds, who consider it to be part of Kurdistan. It crosses five governorates, from Syria in the West to the Iranian border in the East, and is home to a mixed population of Kurds, Turkomans, Arabs, Yezidis, Chaldeans, and Assyrians. The oil reserves in this area constitute perhaps as much as 13 percent of Iraq’s proven reserves.

The presence of oil has complicated efforts to resolve Kirkuk’s status. Since pushing their militia forces into this territory before the U.S. in 2003, and establishing de facto control by April of that year, the Kurdish

parties’ chief strategy for formally incorporating it into the Kurdistan region has been based on the constitution, which was approved by referendum in October 2005.⁶ The issue of Kirkuk was therefore not an issue during the 2005 elections, which came on the heels of the ratification of the constitution setting out the procedures that would be followed to resolve it. But it became an issue in 2010 precisely because those procedures were not followed up between 2005 and 2010.

Article 140 of that constitution provides for a number of steps intended to collectively resolve the issue of the disputed area—including a census, along with a referendum to be held no later than December 31, 2007. The full implementation of these steps, the Kurds believed, would settle the matter in their favor. But the constitutionally mandated steps have not been taken, and the December 2007 deadline passed without a referendum.

Following mediation by the UN Mission for Iraq (UNAMI), headed by the Secretary-General’s special representative for Iraq, five top Iraqi leaders agreed in 2007 to delay Article 140 and accepted UNAMI’s offer to facilitate its implementation during the following six months. No progress was made between 2007 and the present, however, and an extension of the agreed-upon deadline to June 2008 also passed without any result. The constitutionally mandated process has essentially died from the point of view of Arab politicians and remains alive only in the eyes of the Kurds, who are still demanding that it be implemented. The Kirkuk question is therefore in a state of limbo, and this stalemate is unlikely to continue. The Kurdish price for supporting anybody who is trying to put together the necessary 163 seats to form a government in 2010 is likely to be concessions on the issue of Kirkuk—something that is increasingly unpopular among Iraqi Arab politicians.

Changes for the Better—and for the Worse

There were some new, appealing features of the 2010 elections. Representation of women and minorities (including Christians) was greatly improved, in accordance with a complex formula worked out beforehand in the outgoing parliament. Moreover, the quality of the women candidates appears to be much higher than in 2005, in part because women campaigned individually and on women’s issues and were this time voted for in person; they were not just stuck on a party list by male party hacks, as happened in 2005. Women

and minority groups in society are therefore likely to be better represented in the 2010 parliament, even if the state is unable, or has not always been willing, to protect them from persecution in society at large.

Underlying these changes for the better—this weakening of the stranglehold that identity politics had come to have on Iraqi politics—is the very important fact that in 2010 an open list system was employed, in which voters ended up choosing both a list and the individuals within that list. This means that we can for the first time in Iraqi political history, assess the popularity of individual candidates, and that is a great step forward from both an accountability and a voter point of view—though it does introduce another level of unpredictability that has to be contended with.

So, for instance, we know that al-Maliki got something like 622,000 individual votes in Baghdad (and no votes north of Baghdad) even though his list did not do as well as he had expected in the capital, while Allawi, head of the winning list, got 400,000 or so votes there. These were the two highest vote getters in the country (out of some six thousand candidates, as we mentioned). The ability of the electorate to choose individuals and not just lists is also what made for a much better quality of female candidate, because these women were out canvassing in neighborhoods and districts and making promises to their constituencies that they will now have to live up to—something that did not happen in 2005.

On the other side of the ledger, it has to be noted that the Sadrists candidates won around 40 seats—wielding, in other words, a bloc the size of the Kurds—because they alone among the major parties seem to have thought through the pros and cons of this new system of voting for individuals. They therefore carefully broke down their main stronghold—Thawra City, now named Sadr City—precinct by precinct, picking local candidates in each sector whom they knew would come close to the required threshold for a seat in Parliament. Al-Maliki and Hakim, by contrast, worked the old party boss method of appointing people to their lists based on the kind of backroom deals they could strike with them. The voters, who had seen how shamelessly these people had behaved in the last parliament, kicked them out.

The result of voters being able to choose individual politicians—and not only blocs or lists of people—has been a decimation of the old political class that worked in Parliament and government as advisors or ministers or chiefs of staff, who were the kinds of people who had toadied up to al-Maliki or Hakim or Allawi in the run-

up to the elections in order to get a seat in Parliament. The new parliament will now be made up of many new faces, the voters having deemed both the old parliament and the functionaries of al-Maliki's government corrupt and unfit to return to office. Several ministers and former speakers of Parliament, and even Ali al-Lami, the head of the de-Ba'athification Commission—the man behind the April 27 attempt to get twenty members of Allawi's list disqualified for supposedly being Ba'athists—got barely a few hundred votes and were thus eliminated, to many people's surprise.

On the other hand, a Sadrist candidate, Hakim al-Zamili, a former deputy minister of health, who ran death squads during the 2006–7 civil war, was able to work the new electoral system as if he had been doing so all his life. This Mafia-style killer ended up with 30,080 votes, the seventh-largest number of votes in Baghdad.

The Status of the Presidency

A final observation worth making about the 2010 election involves an issue that the 2005 constitution addressed with only temporary effect. It concerns the three-man Presidential Council, or Office of the Presidency, which was negotiated into place back in 2004 to appease a number of big egos among Iraqi politicians, but which was a temporary arrangement that constitutionally must now come to an end. There will in the next political phase be only one President, not a triumvirate of three, and the only thing we can say for sure about this office, whose powers are rather vaguely defined in the constitution, is that the new President's powers will be less than the powers that Jalal Talabani has been able to wield so far, in part because of the wording of the constitution and in part because of Talabani's great personal charisma and his status among Iraqis—attributes that are not likely to be found in the next President. The presidential power to veto a bill, for instance, which existed during the 2005–2010 period, will be done away with in the new government. Among the many problems that Allawi's electoral bloc, al-Iraqiyya, faces in spite of its unexpectedly good performance in the elections is that a key Sunni politician in Allawi's bloc, Tareq al-Hashimi, wants to be President. And this is not a post that the Kurds are likely to let go of, since their relative position in the new parliament is, as we have seen, weaker than it was between 2005 and 2010.

Concluding Reflections: The Diminishment of Public Service

Iraqi voters have come out well in this election. But they now have to contend with a political class that has proven itself to be both profoundly corrupt and capable of whipping up sectarian impulses whenever that seems to serve its interest. This class, which has been in formation since 2003, is still calling into question the outcome of the March elections, and it is not even close to forming a government, which according to the constitution must be in place by the end of July. Moreover, as it questions seat numbers and demands recounts, it remains the case that no matter what tiny adjustments are finally made, no single alliance will come remotely close to winning an outright majority. Both al-Maliki and Allawi face an uphill battle to form a winning coalition, and recounts and court challenges are not going to change that reality.

The irony is that none of this was necessary. The prime minister, Nouri al-Maliki, who has proven to be the most resistant to the results, received more votes individually than anyone else in Iraq; he has a far better chance of cobbling together the necessary 163 votes to form the next government. But as the wheeling and dealing and the parceling out of offices and ministries that is now underway drags on, the danger is that the credibility of the whole process will be damaged. There is no greater contrast imaginable than that between the openness and transparency of the election campaign, on the one hand, and the secrecy of the talks and negotiations in which real power is being divided up, on the other. The Iraqi electorate is aware of this contrast, and daily loses trust in its politicians.

It should be noted that if al-Maliki ends up allying himself with the Iraqi National Alliance and its 65 seats—the most logical list for him to ally with—he still has to contend with the Sadrists, who hate him with a passion for having led the crackdown on them around the time of the surge. Meanwhile Allawi, if he wants to join up with the Kurds, has to contend with the fact that some of his Sunni partners in the al-Iraqiyya Alliance are deeply resentful of what they see as undue Kurdish influence in Baghdad and the northern region. But even if al-Maliki and Allawi were able to overcome their respective problems, they still would not have the 163 members of Parliament they need to constitutionally form a government. Both men would have to reach out to other allies, greatly complicating the negotiating process that is currently underway.

Ironically, Allawi and al-Maliki have far more in common with each another, ideologically speaking, than they do with some of the members of their own lists or with their most likely allies in Parliament. If they were able to work together, Iraq just might have a real national unity government up to the task of dealing with the huge questions that lie ahead. But that is unlikely to happen, as the two men have equally autocratic and arrogant temperaments and would find it very difficult to work with one another. The dictatorial Egyptian president, Mubarak, is, sadly, probably both al-Maliki and Allawi's model of what a good President should be like.

Iraqi voters seem to have chosen to put identity politics on the back burner, but they are almost certainly going to reassert themselves in the shadowy world of backdoor bargaining that Iraq's political elite is engaged in at the moment—and out of this parceling out of ministries and positions in government to various bidders among the parties and sects, in return for the votes needed to make up the magic number of 163 demanded by the constitution, a new government of Iraq will be formed. But the dynamics of the political process in Iraq have evolved since 2003 in such a way as to put a very low premium on the idea of government service as a career or profession based on a disinterested view of the public good. True, this devaluation of the idea of public service—and, with it, of citizenship—had begun in the Saddam era. But never did it reach the depths it has sunk to in the new Iraq, where the state and its institutions are increasingly run as fiefdoms to serve private interests and a local clientele of beneficiaries.

The danger in the long term is something Charles Tripp alluded to in a recent interview: namely, that state institutions are being emptied of any real authority, in favor of the connections and patronage networks that underlie them and that run them behind the scenes. The end result could be that Iraq's elections would no longer serve the purposes they should in a truly democratic society, but would rather function merely as a legitimating mechanism for these new forms of patronage.⁷

Endnotes

1 See Anthony Shadid's report from Baghdad, "Iraqi Deal to End De-Ba'athification," *New York Times*, May 11, 2010.

2 All figures regarding seats, votes, and the size of the electorate are from the website of the Iraqi Independent High Election Commission: <http://www.ihec.iq/Arabic/index.aspx> (in Arabic).

3 The figure of 300 Iraqi dead per month, on average, in 2010 is according to the calculations of *The Economist*, *No promised land at the end of all this*, Vol. 394, Iss. 8672, March 6, 2010 and should be contrasted with approximately 3,000 civilian dead per month in 2006.

4 *The Economist*, March 6, 2010.

5 The figures are from the Iraqi Independent High Election Commission.

6 On the history of this contentious issue, see the comprehensive report published by the International Crisis Group, *Iraq and the Kurds: Trouble along the Trigger Line*, Middle East Report No. 88, July 8, 2009.

7 See Tripp's remarks in an interview in the *Al-Ahram* weekly, April 15–21, 2010.

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