

# IMIE

## International Mission for Iraqi Elections

Jan 19, 2006

### IMIE ASSESSMENT TEAM

### FINAL REPORT

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This report describes the mandate and work of the International Mission for Iraqi Elections (IMIE) Assessment Team, and presents its observations and recommendations.

#### I. Introduction

The December 15 elections widened the scope of participation to virtually all communities of Iraq. The IMIE Assessment Team pays tribute to the people of Iraq who have so convincingly demonstrated their determination to participate in the shaping of the future of their country. The ongoing armed violence has meant that there are vast areas of the country in which security of the person cannot be guaranteed. Despite these conditions, the people of Iraq have voted in numbers that would do credit to democracies in more settled parts of the world.

On December 29, 2005 as a result of consultations with officials of the United Nations, the Independent Electoral Commission of Iraq (IECI), and the government of Iraq, IMIE decided to provide an international team of election experts to assess critical aspects of the December 15, 2005 electoral process. The initiative was well received by a significant number of Iraqi political entities.

This action had the full support of Mr. Kofi A. Annan, Secretary-General of the United Nations, and

Mr. Amre M. Moussa, Secretary-General of the League of Arab States. Consultations between the two, as well as requests from a large number of Iraqi political entities and the government of Iraq, led Mr. Moussa to authorize a high level delegation of the League of Arab States to join Assessment Team members from Europe and North America. The Assessment Team began arriving in Baghdad on January 1, 2006. Brief biographies of Team members are found in Annex A.

The International Mission for Iraqi Elections ([www.imie.ca](http://www.imie.ca)) is an international non-governmental body. It was established on December 20, 2004, as a result of the Iraq Election Monitoring Forum (Ottawa, December 18–20, 2004). Comprised of independent electoral management bodies from ten nations around the world, as well as the League of Arab States as an observer, the IMIE is mandated to provide expert assessment of the electoral process in Iraq. Elections Canada established the secretariat for this mission, which is currently based in Amman, Jordan. It also has an office in Baghdad, Iraq. IMIE is chaired by Mr. Jean-Pierre Kingsley, Chief Electoral Officer of Canada.

The Team is grateful to the IECI for its cooperation, transparency, and responsiveness. The Team is aware that its requests for information and need for time to complete this report altered the IECI's schedule for announcing the election results. The Team thanks the Iraqi people for its patience. The

Team also deeply appreciates the willingness of political entity representatives and civil society organizations to make their views known to it.

## II. Mandate

The mandate of the Team is to assess the post-electoral process, including the adjudication of electoral complaints, from the perspective of international democratic standards. The mandate is also to provide findings and recommendations, to the IECI, the Iraqi government, and the international community.

## III. Methodology

The Assessment Team methodology consisted of the following: 1) review of the legal framework for the elections; 2) discussions with the IECI Board of Commissioners; 3) observation of the Board's deliberations on electoral complaints; 4) discussions with IECI headquarters staff and their international assistance advisors; 5) review of relevant internal IECI documents and reports; 6) review of all complaints registered in the IECI system, with in-depth examination of those complaints given high priority by the IECI and adjudicated by the Board; 7) meeting with political entities to hear their views and to receive their impressions of the conduct of the election; 8) meetings with domestic and international observer groups; 9) meetings with UN personnel and other representatives of the international community; and 10) review of previous IMIE reports as well as the IMIE preliminary assessment of the December 15 elections. A list of individuals and organizations met is found in Annex B.

## IV. The Legal Framework

The legal framework for the Council of Representative elections is consistent with democratic standards as they have been defined by international law and organizations (see Annex C). The elections were held under a new constitution and election law. Provisions were made for the exercise of political rights and freedoms, and include innovative provisions for the representation of women.

Voting and counting procedures in the law meet with democratic standards except that, as in previous elections, the law did not entitle political entity agents to receive copies of polling station tally sheets that recorded the vote count.

To expand democratic participation, voting is permitted for out-of-country Iraqis. A special polling day is also established for detainees, hospital patients, and security forces.

All relevant freedoms are established in law for campaigning and the use of media. A detailed code provided clear guidelines for the conduct of media representatives. The IECI also made arrangements to facilitate the media's coverage of elections day events.

Since the first election in January, there have been some positive changes to the rules governing the electoral complaint process. Among the most notable improvements was a provision to allow complaints to be submitted by email or at polling stations on elections day, which increased

dramatically the number of venues for complaint submission. Some shortcomings nevertheless remain. Most importantly, no deadline is established for the resolution of complaints by the Board of Commissioners. A related concern is that no legal deadlines have been set for the announcement of preliminary or final results.

A list of legal texts is found in Annex D.

## V. Political Entities

It is encouraging that the political entities which participated in the elections were more broadly representative of the Iraqi nation than in previous elections. They were able to assemble lists of candidates and campaign in the face of serious violence, including the murder of some of these candidates and their supporters. They were also successful in recruiting more than 230,000 accredited agents. Furthermore, the relative calm of elections day was due in no small part to the efforts of these political entities. However, some political entities bear much responsibility for the numerous irregularities and violations that have cast a shadow on the electoral process. It should be remembered that one of the requirements for certification as a political entity was the signing of a code of conduct. In many instances the code was violated.

## VI. The Structure and Operation of the IECI

The December elections were administered by the same electoral authority that was in charge of the January and October electoral events. This authority, the IECI, is a structure with a national office in Baghdad, 18 governorate electoral offices, a regional electoral office for the Kurdistan region, and local district electoral offices.

The IECI is directed by a nine-member Board of Commissioners. The seven members who have voting rights reflect the diversity of Iraqi society. The two non-voting members are an international electoral expert appointed by the United Nations Secretary-General, and a Chief Electoral Officer (CEO) appointed by the government of Iraq. The Board's tenure ends at the conclusion of the transitional period when the Council of Representatives appoints a new government.

The IECI used a lottery system to recruit a polling staff of 220,000 from an applicant pool of 400,000 in preparation for the referendum. An additional staff of 800 was recruited for the governorate of Anbar because of the security situation there. Most of this staff also served in the election of December 2005.

International assistance to the IECI was provided by more than 50 experts from the United Nations, the European Union, and the International Foundation for Elections Systems.

In evaluating the performance of the IECI, it is important to note that it was an extraordinary achievement to run three electoral events in one year. The Team is impressed by the intense efforts that the Board of Commissioners devoted to discharging its duties. The Board's efforts are all the more commendable because of the highly charged circumstances in which its members have to work. The Team is aware that in accepting these responsibilities, members of

the Board have placed their personal and professional lives, as well as the lives of their families, at risk. Unfortunately, a certain number of IECI field staff did not maintain their professional integrity. The record shows that an undetermined number of the IECI's 220,000 election workers engaged in questionable and illegal practices.

In keeping with democratic practice, the IECI has made provisions for the accreditation and facilitation of the work of domestic and international observers, political party agents, and media representatives. The IECI has established a system for receiving, investigating, and adjudicating electoral complaints. The IECI has also put in place mechanisms to detect and deter electoral fraud and manipulation. Among those mechanisms are post-election field audits, field inspections, computerized tally audits, Tally Center data entry safeguards, and selection of poll workers by lottery. These mechanisms, while valuable, did not always work as designed, in part because of some weaknesses in the organizational and technical capacity of the IECI.

## VII. Complaints

Some 2000 complaints were submitted, alleging a wide range of electoral violations and irregularities that include ballot box stuffing and theft; tally sheet tampering; intimidation; violence; voter list deficiencies; shortages of ballots; multiple voting; improper conduct of the police and Iraqi National Guard; voting by security forces who had previously voted on the special voting day; campaigning within polling centers; and non-observance of the silent day. Many of the complaints deemed most serious by the IECI were properly investigated and judiciously resolved. Where IECI staff were found to have violated elections law, the Board applied sanctions to its staff, including fines and dismissal. It voided the results from many polling stations. It has initiated criminal prosecutions.

Nevertheless, the IECI did not have at its disposal the technical and human resources to adequately and expeditiously investigate and resolve the volume of complaints it received. As a result, a large number of complaints could not be treated with requisite rigor. It is important to note in this regard that the law provides for an appeal process against a final decision of the Board, which can be filed before a Transitional Electoral Panel of three judges within two days of the publication of the decision.

Many complaints related either directly or indirectly to the quality of the voters' lists. These lists were based upon the Food Ration list, which was the best possible source of data available at the time. Nevertheless, this data has its limitations. While the lack of definitive population statistics in Iraq today is well known, and the security and logistic difficulties for the production of entirely new voter lists are apparent, a serious effort should be made, as circumstances permit, to develop more accurate voter lists.

Violations of the law led the IECI to cancel the vote in 227 out of some 30,000 polling stations. This has left void a great number of fraudulent ballots, but has simultaneously annulled the ballots of many Iraqis who had cast their ballots in a proper manner. Cancelling ballot boxes without a new election being called in the affected area is particularly regrettable in an electoral system of list proportional representation where the number of votes required to win or lose a seat may vary from governorate to governorate as well as from a given seat to another seat.

Future legislation to establish a permanent independent electoral commission should explicitly authorize, and specify the conditions under which, re-voting should be used as a remedial action for particular polling centers in which fraud, irregularities or other circumstances have been determined to have significantly distorted the election results.

## VIII. Observers

That more than 20 Iraqi NGOs registered as observer groups and arranged for the accreditation of over 120,000 domestic observers in all 18 governorates is a significant achievement. These observers enhanced the transparency of the elections. There were also 800 international observers recruited mainly from in-country international organizations and embassies. The absence of a more extensive international observer presence put a special burden on these domestic monitors who had hoped for international support. The small scale of international observation was also a disappointment to a number of political entities as well as the IECI. The team regrets that the security situation did not permit a larger international presence.

## IX. Recommendations for Future Elections

In view of these observations the Team offers several recommendations for the administration of future elections:

Generate entirely new voters lists as soon as circumstances permit before the next election, and organize these voters lists by polling station.

Revise the arrangements for voting by members of the security forces so as to remove the possibility of double voting.

Revise the complaint form available in polling stations on Election Day so that it no longer requests or requires the signature of polling station or polling center officials.

Entitle political entity agents to receive photocopies or carbon copies of polling station tally sheets or some other certifiable document that records the vote count.

Bolster the capacity of the IECI to process and investigate complaints in an efficient and judicious manner.

Set more rigorous standards for documenting complaint investigations, deliberations, and adjudications.

Increase the transparency of the complaints process by making complaint files accessible to complainants, the accused, and monitors within a reasonable timeframe.

Establish deadlines for resolving complaints, notifying complainants, and announcing preliminary and final election results.

Craft legislation that specifies the penalties and sanctions for each electoral violation defined in the law.

## X. Concluding Remarks

Iraq is undergoing a difficult period in its history. It is remarkable that in the midst of widespread violence, three electoral events have taken place within a single year. The legal framework, institutions, and procedures governing the December 15 elections have been designed to meet international standards. Furthermore, political entities participating in the elections were more broadly representative of the Iraqi nation than in previous elections. The December elections widened the scope of participation, and voter turnout was high.

In assessing the machinery and management of the elections, it is of paramount importance to remember the circumstances in which they occurred. Armed Violence is ongoing. The personal security of individual citizens is under constant threat. Intimidation is the stock-in-trade of many factions.

Despite these conditions, the electoral machinery made it possible for voting and counting to take place nationwide on a single day. In a country where at the moment few, if any, governmental institutions can operate with consistent efficiency and effectiveness in all areas of the country, the IECE succeeded in giving the vast majority of Iraqis an opportunity to vote. That, in itself, is an accomplishment.

The IECE put in place measures to deter and detect violations of the electoral law. It made legal provisions for political entity agents and civil society observers to be present in polling centers around the country. It established an electoral complaints system to provide an external check on the integrity of the vote, and this check led to the cancellation of results from several dozen polling stations where significant offenses occurred. The IECE also had in place a system of internal safeguards to detect fraud, and the Team saw evidence of instances in which these safeguards worked. As a result of these internal checks, the IECE voided roughly as many ballot boxes as it did as a result of the complaints process.

There were, nonetheless, shortcomings in the management of the elections. Security concerns led to the provision of inadequate numbers of polling centers and a less than optimal distribution of voting sites in some areas of the country. Some centers experienced a shortage of ballots. There were some problems with the voters' lists. Fraud and other violations did take place. They have been documented in the complaints system and identified by the IECE's internal checks. Some additional fraud in all probability went undetected, although its exact extent is impossible to determine under current circumstances.

Beyond the problems already discussed, the Team did not receive definitive evidence of other significant shortcomings in the conduct of the elections.

The result of this elections confirmed to the Team that there is an urgent need, at this period in the

history of Iraq, for a formation of a government of true national unity. This government should represent all segments of the Iraqi people, without exception or marginalization, and ensure they all are given an opportunity for an effective participation in the decision-making processes especially in those decisions affecting the present and future of Iraq.

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#### Annex A: IMIE Assessment Team Members

Rafael López-Pintor (Spain 1942) is International Political Consultant; Ph.D. in Political Science by the University of North Carolina in Chapel Hill, and Doctor of Law by the Universidad Complutense of Madrid, Spain. Former tenured professor at the Universidad Autónoma of Madrid. Has been UN Director of Elections in El Salvador and Mozambique, and Deputy Chief Observer in EU observation missions in number of countries including Guatemala and Ethiopia. elections organization and monitoring consultant to the UN, EU, OSCE, USAID, IFES, IDEA among other organizations in many countries of all regions of the world. Among his recent publications, Electoral Management Bodies as Institutions of Governance (New York, UNDP, 2000).

Douglas Rowland (Canada 1940) is a former member of the Parliament of Canada. He is currently President of the Canadian Association of Former Parliamentarians. He has been a political organizer and served as chief of staff to party leaders at the provincial and federal levels and to a provincial premier. He has held senior posts in the cabinet secretariat of the Canadian Government and the government of Manitoba. Mr. Rowland has been active in democracy work and election observation internationally. His experience includes a nine month assignment in Morocco to assist in creating a domestic monitoring organization for the country's 2002 elections.

Frederic Charles Schaffer (USA 1961) is a Lecturer on Social Studies at Harvard University and a Research Associate at the Center for International Studies at the Massachusetts Institute of Technology (MIT). He received his Ph.D. from the University of California at Berkeley in 1994. He has taught in the Political Science Department at MIT, and was a member of the Institute for Advanced Study in Princeton. He specializes in the study of electoral administration and election fraud, and was a member of the International Mission for Iraqi Elections team that assessed the January elections and October referendum.

Ali Al Jaroushe (Lebanon 1946) the Director of the Department of Arab Affairs at the League of Arab States (LAS) since 2001. Mr. El-Jarouche is responsible for the Iraqi file at the LAS. He has been involved and a coordinator for issues related to the conduct of elections in Arab countries. He has a B.A in psychology from the University of Ein-Shams in Cairo, and completed his higher education in Islamic Studies and Statistics at the University of Cairo. Mr El-Jarouche is a specialist in Arab world affairs and has been working at the LAS since 1976. He prepared a large volume of reports and papers on a number of social and political affairs in the Arab world.

Dussouki Tharwat Abaza (Egypt 1960) Graduated from the Faculty of Law in the University of Cairo in 1981 and was appointed in the Public Prosecution in 1982. He joined the National Center of Judicial Studies in 1982 and graduated from it top of his class in 1983 with an average of 94% (274 prosecution attorneys). He acquired afterwards a scholarship to the Judicial School in

Bordeaux – France for six months and upon his return he worked in the Public Prosecution in different departments from 1983 until October 1988. He was also delegated to work for a period of time in the Commercial Arbitration International Center in Cairo in 1988. Afterwards he worked in the Judiciary from October 1988 until October 1993. Abaza was appointed in the Arab League in November, 1993 in the General Administration of Legal Affairs and as a member in the Technical Secretariat for the Arab Ministers of Justice Council and then in the League’s Mission to Switzerland – Geneva from 1994 – 1996. In 2004 he was promoted to the level of councilor and became the head of the “Arab Work Development” department until this date. He participated in monitoring several electoral processes that took place in the Arab countries as an expert and legal consultant.

Mazen Chouaib The director of operations for the International Mission for Iraqi Elections (IMIE). He is on leave from his position of the executive director of the National Council on Canada Arab Relations (NCCAR). His analysis, views and opinions have been widely quoted and published in Canadian and international media. Mr. Chouaib is frequent lecturer on Arab world issues and Canadian foreign policy. He is also a consultant to the Parliamentary Centre of Canada where he develops, manages, and coordinates programmes in partnership with international and regional organizations and parliaments in the Middle East and North Africa. Mr. Chouaib serves on several national and international forums such as the G8 Civil Society Dialogue of the Forum for the Future which was launched in NY in 2004. Mr. Chouaib is an advisor to several ministers, parliamentarians, and Arab and Canadian NGOs. He recently took part in the Canadian Independent Election Monitoring Mission to Lebanon.

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Annex B: Individuals and Organizations Met

Political Entities		
PE #	Political Entity	Political Entity Representatives
619	Iraqi Accordance Front	Adnan Al Dulaimi Dr. Naseer Al-Ani Ma'moon Al-Doori Bahaa El-Deen Al-Naqshabandi Hassan Al Bazaz
667	The National Iraqi Front	Saleh Al Mutlaq Mohamed Al-Dayni
731	Iraqi National Accord / Alwai	Dr. Mahdi Al-Hafid Jassim Al-Halfi Safiya Al-Sihail Lu'ay Al-Se'aidi Mohammed Al-Janabi
555	United Iraqi Alliance	Dr. Hussein Al Shahrestani Nori Al Malki Riad Ghreyb

		Sabah Al Mosawi
541	Future Iraq Grouping	Montaser Al Emara
569	National Congress Coalition	Sadiq Al Mousawi Salameh Al Khafaji Safa Al Din Al Ubaidi Jawad Bolani Tamara Chalabi
730	Kurdistani Gathering	Mr. Hoshyar Zebari Fawzi Hariri
630	Iraqi Turcoman Front	Sa'ad El-Deen Mohammed Amin Arkeig Ibrahm Ushi Dr. Hijran Mahmoud Jawdat Zulal
740	Al-Rafedain List	Yonadim Qannah William Werdan
673	Adel Coalition	Sheikh Usama Jadaan
822	Iraqi Hizbullah	Salem Muhsen Al Khafaji Ahmad Qasem Fadel Qazem
711	National Democratic Movement	Hamid Turki Al Shukad
	MARAM Legal Group	
<b>International and National Civil Society Organizations</b>		
I. Iraqi Election Information Network - IEIN		
II. Tammuz Organization for Social Development - TAMMUZ		
III. National Democratic Institute – NDI		
VI. Institute for Peace		
<b>IECI - IEAT</b>		
I. IECI Board of Commissioners		
A'idah Al-Salihi		
Adil Al-Lami / CEO		
Hamdeih Husseni		
Dr. Hussein Al-Hindawi		
Sua'ad Al-Jaburi		
Safwat Rasheed Sidqi		
Craig Jenness		
II. International Electoral Assistance Team and IECI Team working in;		
Legal Department Staff		
Complaints Office Staff		
Operations Department Staff		
Audit Teams Staff		
Procedures Department Staff		
Public Outreach Department Staff		

## **Annex C: International Democratic Standards**

Democracy standards stem from international conventions as well as from widely shared guidelines by international associations of practitioners and organizations engaging in electoral observation; among the latter the United Nations, European Union, Organization for Security and Cooperation in Europe, International IDEA, and Inter-Parliamentary Union. Main international relevant legal instruments are the following. *The Universal Declaration of Human Rights* of 1948, where Article 21 reads: “1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. 2. Everyone has the right to equal access to public service in his country. 3. The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be held by universal and equal suffrage and shall be held by secret ballot or by the equivalent free voting procedures”. *The International Covenant on Civil and Political Rights* (CCPR) of 1966 enshrines the right to suffrage in Article 25: “Every citizen shall have the right and the opportunity without any of the distinctions mentioned in article 2 and without unreasonable restrictions: a) to take part in the conduct of public affairs, directly or through freely chosen representatives; b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; c) to have access, on general terms of equality, to public service in his country”. Still within the UN system, there are, *inter alia*, the Convention on the Political Rights of Women of 1952; the Convention on the Elimination of All Forms of Discrimination against Women; of 1979; and the General Assembly Resolution of December 17, 1991 on Enhancing the Effectiveness of the Principle of Periodic and Genuine Elections. Regarding electoral observation, Article 25 of the CCPR is considered to offer a justification and a standard for election observation. At a regional level, there is the 1950 European Convention on Human Rights; the 1990 Copenhagen Document of the Organisation for Security and Cooperation in Europe, OSCE; the 1948 *American Declaration of the Rights and Duties of Man*, and the 1969 *American Convention of Human Rights*; the 1981 African Charter on Human and Peoples’ Rights; the 1994 *Inter-Parliamentary Union Declaration on Criteria for Free and Fair Elections*; and the British Commonwealth 1991 *Harare Declaration*. Besides international legal instruments, detailed guidelines for good electoral practice have been developed by international organisations such as UN, OSCE, IDEA, and the Inter-Parliamentary Union.

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## **Annex D: Legal Texts**

The relevant legal body governing the December elections includes the following pieces of legislation:

## *Laws*

- Law of Administration for the State of Iraq for the Transitional Period (8 March 2004)
- Constitution (October 15, 2005)
- Coalition Provisional Authority Order Number 92 –The Independent Electoral Commission of Iraq, Section 7 (31 May 2004)
- Elections Law (12 September, 2005)
- Coalition Provisional Authority Order Number 97 – Political Parties and Entities Law (7 June 2004).

## *Regulations*

- IECI Regulation 01 / 2004 – Rules of Procedure of the Board of Commissioners- Section 8
- IECI Regulation 09 / 2004 – Electoral Campaign
- IECI Regulation 11 / 2004 – Media
- IECI Regulation 12 / 2004 – Electoral Offences
- IECI Regulation 1 / 2005 – Voter Registration
- IECI Regulation 2 / 2005 – Referendum and Electoral Observers
- IECI Regulation 3 / 2005 - Political Entity Agents
- IECI Regulation 4 / 2005 – Exhibition and Challenges Period
- IECI Regulation 5 / 2005 – Adjudication of Election and Referendum Complaints and Disputes
- IECI Regulation 6 / 2005 – Certification of Political Entities
- IECI Regulation 7 / 2005 – Polling and Counting
- IECI Regulation 8 / 2005 – Electoral and Referendum Campaigns
- IECI Regulation 13 / 2005 – Allocation of Seats
- IECI Regulation 14 / 2005 – Registration and Voting out of Country
- IECI Observers’ Guide
- IECI Guidelines and Rules for Visitors to the IECI Tally Center
- IECI Rules of Ethics

## *Procedures*

- Exhibition and Challenges Procedures (8 August 2005)
- Political Entity Certification Procedures (28 August 2005)
- Polling and Counting Procedures for the Council of Representatives Election (12 November 2005)
- Special Voting Procedures for Detainees, Hospital Patients and Security Forces (16 November 2005).

## *Codes of Conduct*

- Code of Conduct for Electoral Observers
- Code of Conduct for Political Entities and Coalitions/ 2005
- The National Communication and Media Commission- Code for Media during Elections