

Iraq's Elections in Peril?

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Articles & Testimony

The Obama administration has finally woken up to the fact that Iraqi parliamentary elections scheduled for January 16 are in real danger of not taking place as scheduled. The realization has been lamentably slow in coming and, with just two days to go before an Iraqi government-imposed deadline expires, may have come too late.

Just over a month ago, on September 16, during his second trip to Iraq, Vice President Biden gently urged Iraqi lawmakers to act "as quickly as possible" on the draft law that would create the legal framework to allow the elections to take place on time. Last week, perhaps beginning to sense greater urgency, President Obama reportedly urged Iraqi President Jalal Talabani "to adopt an election law soon." Yesterday, the U.S. embassy in Baghdad along with MNF-I ratcheted up the rhetoric a notch issuing a joint statement urging the Iraqi parliament to "act expeditiously" on the draft bill which has been languishing in committee for months. The UN Special Representative in Iraq, Ad Melkert, had expressed similar views the day before.

At stake is Iraq's nascent democracy and the prospects of a smooth American withdrawal from Iraq. If elections are postponed for any reason beyond January, Iraq will be operating in a constitutional vacuum that could very well contribute to broad-based political instability. Iraq's Independent High Election Commission has stated that unless the bill is passed within a few days of the October 15 deadline, it will be forced for technical reasons to carry out the elections under the previous law that governed the 2005 elections. This is not a solution, however. The 2005 law was profoundly flawed as it included a blind, closed-list system that limited voters to a choice between party names. Only after the election results were known did the party leadership determine who would actually fill the seats. Grand Ayatollah Ali Sistani has reportedly indicated that he would urge a boycott of the elections if they were held under this law.

Since Sistani's admonition, most political party leaders, including the Islamic Supreme Council of Iraq's (ISCI) new leader Amar al-Hakim, have dutifully come out in favor of an open list. But their claim of support rings hollow. An open list system makes it much easier for broad coalitions, such as the coalition being put together by Prime Minister Maliki, to form and flourish. It also allows such coalitions to squeeze as many votes out of individual communities as possible since people are much more likely to vote for individuals they know and respect from within their communities. Deeply unpopular parties like ISCI prefer the archaic provisions of the 2005 law so that they can hide behind a popular "brand"—e.g. United Iraqi Alliance—that will hopefully allow them to retain more seats in the subsequent parliament than they could have possibly achieved if voters actually knew for whom they were voting.

The Kurds are also a challenge, however. They risk holding up the entire election process over the question of how elections are conducted in Tamim province, the capital of which is Kirkuk. In the past, the United States, Iraqi politicians and the international community as represented in the UN have all "kicked the can down the road" on Kirkuk, hoping for more propitious circumstances to settle the problem later. In January, for instance, provincial elections were not held in Kirkuk. It would be a shame not to hold parliamentary elections in Kirkuk as well, but vastly preferable to the alternative proposed by various nationalist groups that would introduce a Lebanese-like ethno-religious quota for the province.

But among some there is a sense that the Kurdish leadership may be raising the Tamim problem to take care of both Tamim province and the open list system question. For the KDP and the PUK, open lists pose a problem. Both successfully avoided having open lists during their provincial elections held this past July and do not want to be forced to include them at the national level. Open lists always weaken party leaders since people who get elected directly are less dependent on their party bosses for their individual victories. If the Kurds are hoping for such an outcome, they may well get it if Iraq is forced to revert back to the 2005 law. In 2005, Tamim was treated like any other governorate as well.

With time so short, it is difficult to envision what the Obama administration can do, except cross its collective fingers and hope for the best. Iraqis have demonstrated in the past their ability to pull rabbits out of the hat and may well do so again. Ambassador Chris Hill should have been more directly engaged on this issue much earlier, instead of seeing it as "by and large an Iraqi issue of Iraqis talking to Iraqis, rather than Americans talking to Iraqis." He should also have moved to replace departing Ambassador Tom Krajeski, who served as the senior advisor to Ambassador Crocker for Northern Iraq affairs, with someone of similar stature instead of leaving the critical post empty.

Still, as the rueful experience in Afghanistan teaches, it is important to get the process right. If the choice is between a constitutional crisis and taking the time necessary to establish a transparent electoral law framework so that the elections can be conducted in a manner likely

to be seen as legitimate by the people, the latter is clearly preferable. The United States should lean heavily on Maliki and the Kurds to agree a compromise on Tamim and get an amended law through the parliament. If the Kurds and Maliki agree, ISCI will be isolated and the Iraqi people—and Ayatollah Sistani, it seems—will take care of the rest.

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