



Reforming the Electoral System in Iraq

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About

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Al-Bayan Center pursues its vision by conducting independent analysis, as well as proposing workable solutions for complex issues that concern policymakers and academics.

Reforming the Electoral System in Iraq: A Detailed Assessment

Hashim Al-Rikabi *

The electoral system in Iraq has become a controversial issue that has driven demonstrators to call for major reforms to the electoral commission and the electoral law. Last month, parliament approved the new commissioners of the Independent High Electoral Commission (IHEC)¹ but the current debates center on whether to revert to the election law of 2010 or amend the existing law; whether to have Iraq a single electorate district or 18 electorate districts, and what is the most appropriate seat allocation mechanism.² Therefore, it is necessary to investigate the nature of the electoral system in Iraq and how it evolved over time. How does it work in practice, and on what grounds is it currently criticized? Providing answers to these essential questions explain the tradeoff between the advantages and disadvantages of the existing electoral system before evaluating the alternatives, as well as their desirability and feasibility.

The Iraqi Constitution meets the “international standards” of having fundamental guarantees to suffrage rights, such as the right of all Iraqis to elect and be elected, as stated in Article 20. It has also necessitated the representation of all social groups in Iraq, as mentioned in Article 47. Furthermore, the constitution set a 25% quota for female representation at the Council of Representatives in Article 47(3). On the other hand, it has provided the necessary flexibility by delegating the responsibility of issuing a “law that regulates the requirements for the candidate, the voter and all that relates to the election” to the Council of Representatives, as stated in Article 47(4). Such flexibility allows lawmakers to make several changes to the electoral system ahead of each election, such as electoral

1. Council of Representatives, 23 October 2017. <https://goo.gl/m1whcd>

2. Mushreq Abbas, “Iraqi Political Factions Divided Over New Electoral Law,” Al-Monitor, October 13, 2013. <https://www.al-monitor.com/pulse/originals/2013/10/iraq-election-law-dispute-kurdistan-region.html>

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districts, candidate lists, and seat allocations, as shown in Table 1.

| Variables | National Assembly Elections 30/1/2005 | Parliamentary Elections of 15/12/2005 | Parliamentary Elections of 7/3/2010 | Parliamentary Elections of 30/4/2014 |
|----------------------------------|---------------------------------------|--|--|--|
| Number of Seats | 275 | 275 | 325 | 328 |
| Electoral System | Proportional Representation (PR) | PR | PR | PR |
| Electoral District | Iraq as one electoral district | Each province is an electoral district | Each province is an electoral district | Each province is an electoral district |
| Candidate List | Closed List | Closed List | Semi-Open List | Semi-Open List |
| Seat Distribution Formula | Largest Remainder | Largest Remainder (modified) | Highest Average | Sainte-Laguë (modified) |
| Number of Candidates in the list | No less than three, no more than 275 | ... | No less than three, no more than double the number of district seats | |

Nature of the Electoral System in Iraq

Electoral systems are generally based on four essential components: the type of the electoral system (whether a plurality/majority, proportional, mixed); the seat allocation mechanism (the mathematical formula that is used to calculate the seat allocation); district magnitude (how many

representatives to the legislature that district elects); and the ballot structure (whether voters vote for a candidate or a party and whether the voter makes a single choice or expresses a series of preferences)³. These four elements should be identified to understand the process of translating the votes casts in a general election into seats won by parties and candidates. This section will describe the existing electoral system in Iraq in light of these four components.

Type of Electoral System in Iraq

Iraq's electoral system is based on Proportional Representation (PR), which is defined as "the conscious translation of a party's share of the votes into a corresponding proportion of seats in the legislature."⁴ This system was adopted for its inclusiveness and practicality, as well as avoiding delays.⁵ This system remained intact since its inception in Iraq politics following 2003. This may be attributed mainly to political realities, where all ethnic and sectarian groups seek representation not only in the legislature, but also in the executive branch. Therefore, proportional representation was desired, given its high likelihood to lead to a coalition government, which ensures representation of all social groups.

District Magnitude

The empirical experiences highlight the importance of district magnitude in determining how the system will operate in practice, the strength of links between voters and elected members, and the overall proportionality of election results.⁶ The 2005 election of the National Assembly was based on Iraq as one electorate district in contrast to the subsequent elections of 2005, 2010, and 2014, which are based on 18 electoral districts, where each governorate is one electoral district.⁷ Therefore, it was the first reform to be made on the electoral system in Iraq.

3. Andrew Reynolds et al., "Electoral System Design: The New International IDEA Handbook," 2008.

4. Ibid.

5. "Iraq Electoral Fact Sheet," United Nations, <http://www.un.org/News/dh/infocus/iraq/election-fact-sht.htm>.

6 Andrew Reyonlds et al., "Electoral System Design: The New International IDEA Handbook,"

7 Fadhel H. Al-Amari, "Historical Evolution for Iraqi Elections (1920 – 2014),"

This reform was crucial to ensure that each vote has the same value because some regions have higher turnouts, which depreciate the representation of groups in regions with low turnout. The rationale behind proportionality is to ensure representation of all social groups. In the case of Iraq, these groups reside in separate districts, provinces, and regions, except for a few mixed areas. Therefore, proportionality was enhanced by specifying the number of seats for each province.

Candidate Lists (Ballot Structure)

Both 2005 elections were based on closed lists, in contrast to the elections of 2010 and 2014, as shown in Table 1. Given that political parties rank candidates within their lists and voters are not able to express a preference for a candidate, it is claimed that elected candidates will be loyal to their political parties, more than their constituents. Therefore, semi-open lists were adopted, allowing voters the option to indicate their preferred candidate.⁸ The rationale behind this reform was to allow voters to throw a candidate out of power for not delivering.

Seats Allocation Mechanism

This seems to be the most controversial element of the electoral system, given that Iraqi lawmakers adopt a new mathematical equation each election, as shown in Table 1. The earlier versions were criticized for not being fair, either favoring large political blocs over small ones or the opposite.⁹ Therefore, the 2014 election was based on the modified version of Sainte-Laguë, where electoral contestants are ranked in descending order based on their vote share (the total vote that an electoral contestant obtained in an electoral district). Then, it divides all electoral contestants' vote share by 1.6 first, followed by a series (3, 5, 7, 9). Finally, seats are allocated based on the quotient of previous divisions. Dr. Sa'ad Al- Abdali provided a hypothetical example of a district with 4 political contestants with five seats to illustrate how this mechanism works in practice, as shown in Table 2.

⁸ Andrew Reynolds et al., "Electoral System Design: The New International IDEA Handbook,"

⁹ Sa'ad Al-Abdali, "Legislative Encyclopedia of Iraqi Election Post 2003," 2016.

The reform of the seat allocation mechanism could be assessed by fairness among small and large political contestants. A comparison between the 2010 and 2014 election results in Baghdad, which can be found in Appendix A, shows that the seat value for a large political bloc, such as the State of Law Coalition, rose from 32,135 to 35,820 votes, while the seat value of small political contestants fell from 52,993 votes, as with the case of Al-Tawafuq, to 36,026 votes, as with the case of Sadiqoun Coalition.

Table 2. The Implementation of the Modified Version of Sainte-Laguë

| Party Name | Vote Share | Divide by 1.6 | Divide by 3 | Divide by 5 | Divide by 7 | Divide by 9 | Party's seats |
|-----------------------|------------|---------------|-------------|-------------|-----------------------|-------------|---------------|
| A | 35,000 | 21,875 | 11,666 | 7,000 | 5,000 | 3,888 | 2 or 3 |
| B | 21,000 | 13,125 | 7,000 | 4,200 | 3,000 | 2,333 | 1 or 2 |
| C | 11,000 | 6,875 | 3,666 | 2,200 | 1,571 | 1,222 | 1 |
| D | 8,000 | 5,000 | 2,666 | 1,600 | 1,142 | 888 | 0 |
| Total Number of votes | 75,000 | | | | Total Number of Seats | 5 | |

However, critics might argue that this comparison does not account for other important factors, therefore, it might be better to compare all the seat allocations on a single election to figure out its real influence. Al-Abdali did apply all these mathematical equations to a hypothetical example, where there are four political contestants (A, B, C, D) competing over five seats and the total number of valid votes is 75,000, as appears in Table 3. Therefore, it seems that the largest remainder favors small parties at the cost of large parties, where the seat value for party A is 17500, while it is only 8000 for party D. However, Highest Average Equation addresses this problem, where the value of a seat for both parties (A, C) is close. Also, the modified version of Sainte-Laguë seems to maintain this level of fairness.

Table 3. The Effects of Different Seat Allocation Mechanisms

| Political Contestant | # of Votes | Largest Remainder Equation | Highest Average Equation | Modified Sainte-Laguë |
|----------------------|------------|----------------------------|--------------------------|-----------------------|
| A | 35,000 | 2 | 3 | 2 or 3 |
| B | 21,000 | 1 | 1 | 1 or 2 |
| C | 11,000 | 1 | 1 | 1 |
| D | 8,000 | 1 | 0 | 0 |
| Total | 75,000 | 5 | 5 | 5 |

The Electoral System in Practice

The electoral system affects the electoral behavior of political actors. The previous reforms, which are highlighted in Table 1, clearly enhanced the quality of elections in terms of many crucial aspects, such as **proportionality and fairness**, as discussed earlier. However, it led to several challenges, such as weak accountability and fragmentation of political parties. Therefore, there seems to be a tradeoff between proportionality and accountability. This tradeoff is well studied by scholars, who have suggested three mechanisms¹⁰ to reduce it, which are having a formal threshold;¹¹ minimizing district magnitude; and adopting mixed systems.¹²

One of the main principles in every electoral system is to ensure a reasonable relationship between constituents and candidates, where voters are able to remove representatives for failing to deliver.¹³ Therefore, the electoral system in Iraq adopted a semi-open list to ensure that. However, having each province as an electoral district halted the possibility of having

10. John M. Carey & Simon Hix, “The Electoral Sweet Spot: Low-Magnitude Proportional Electoral Systems,” *American Journal of Political Science* 55, no. 2 (2011).

11. Threshold is defined as the minimum level of support which a party needs to gain representation. Threshold can be legally imposed (formal threshold) or exist as a mathematical property of the electoral system (effective or natural thresholds), see Andrew Reynolds et al., “Electoral System Design: The New International IDEA Handbook,” 2008, 83.

12. Mixed System is defined as having the “two electoral system [majoritarian and proportional] using different formulae running alongside each other,” for further information see IDEA Handbook, *ibid*, 90.

13. “Guidelines for Reviewing a Legal Framework for Elections,” 2nd edition, OSCE Office for Democratic Institutions and Human Rights, 2013.

effective contact between constituents and their elected candidates. Thus, most candidates rely on certain social groups without the need to appeal to others. For example, some candidates are elected because they either have the support of large a tribe, partisan voters, or wealthy businessmen. Such bases hardly change their loyalty and thus do not pressure candidates to appeal to other groups.

On the other hand, open lists are criticized for motivating intra-party competition, given that a candidate with most votes, is more likely to get a seat. Also, it encourages candidates to seek personal votes, which necessitate running an expensive campaign, making candidates more susceptible to illegal funding, especially newcomers and those who win the previous election with marginal victory because uncertainty of winning elections is higher. Therefore, it increases candidates' susceptibility to illicit funds.¹⁴

Intra-party competition always leads to the fragmentation of political parties or coalitions. This is exemplified in the context of Iraq. For example, the fragmentation of the National Iraqi Alliance of 2010 into several contestants, such as the National Reform Coalition, National Partnership Gathering, Citizen Coalition ...etc. But even the Sadrists intentionally competed the 2014 election with three different lists apparently to reduce competition and take advantage of the seat allocation mechanism, which reduced the gap of seat value between large and small parties, as explained previously.

An expert assessment conducted by the IHEC to survey the opinions of local experts (n = 70), from Baghdad University and Nahrain University, on the weaknesses and strengths of the existing electoral system, indicated these consequences of the current electoral system, as shown in the Chart 1.¹⁵ Most participants questioned the ability of the existing system to meet electorate aspirations, achieve political stability, create effective opposition, increase turnout, consolidate accountability, and motivate cross-sectarian coalitions. Therefore, the majority (68.9%) demanded changing the electoral

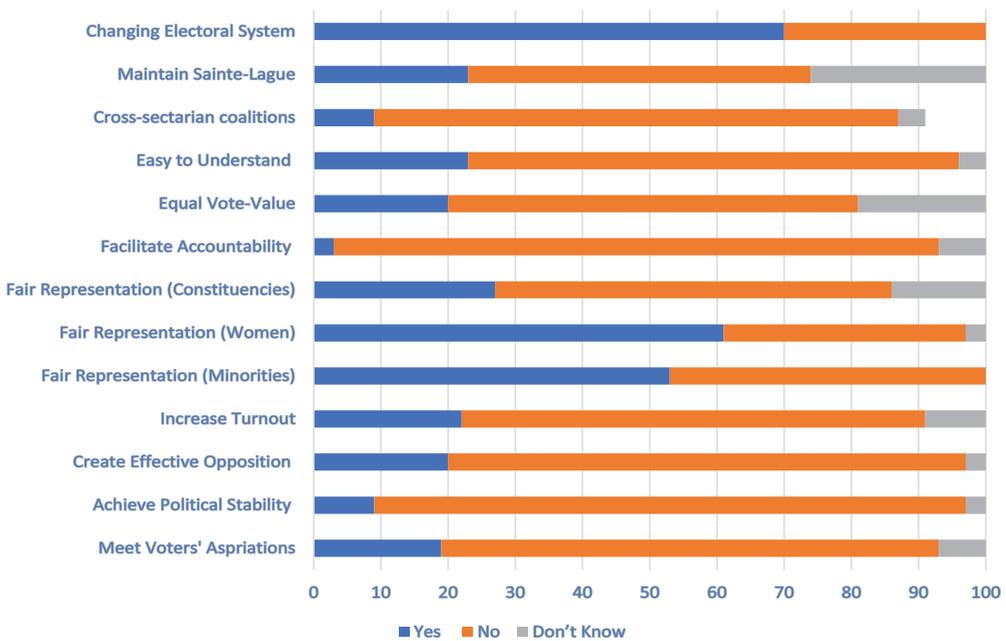
14. Eric C. Change, "Electoral Incentives for Political Corruption under Open-List Proportional Representation," *The Journal of Politics*, November 2004.

15. Mazan Abd Reda et al. "Assessing the Electoral System in Iraq," Electoral Education Institute, January 2016.

system in Iraq. On the other hand, several demonstrations erupted in 2016 to protest the electoral system, which is accused of being the vehicle to facilitate the continuity of corrupted-networks in power.

However, it is not fair to attribute all the challenges of Iraq post-2003 to the electoral system because it should not be understood as a panacea for all ills. However, the empirical experiences highlighted the influence of the electoral system in motivating factionalism versus suppressing dissent inside parties, nature of alliances (accommodation vs. sub-identities), and determining politicians’ behaviors.¹⁶

Chart I. Assessment of The Existing Electoral System.



16. Andrew Reynolds et al., “Electoral System Design: The New International IDEA Handbook,”

Assessing Alternatives

The proportional representation system is criticized for encouraging the formation of coalition governments, leading to legislative gridlock; fragmentation of parties, given that small parties getting a disproportionately large amount of power; inability of voters to enforce accountability by getting rid of those who do not deliver.¹⁷ This does not mean that alternatives do not have disadvantages, such as majoritarian systems and mixed systems. Therefore, it is important to assess the tradeoff between advantages and disadvantages, taking into account the context of the Iraqi case.

The majoritarian system in general is perceived as unfair as it favors large parties.¹⁸ Given that Iraq is in transitioning period, having all the main social groups represented is a necessity for the continuity of the system. The latter is difficult to achieve under a plurality system with all its various variations, given its characteristic of exaggerating regional fiefdoms, where one party takes all seats. This inhibits the possibility of having inclusive legislature, which is cited as a “near essential condition for democratic consolidation.”¹⁹

The latter problem is addressed with mixed systems where they attempt to combine the advantage of accountability and proportionality by having the two systems combined. However, it is possible to achieve that under a proportional representation system by minimizing the district magnitude. Besides avoiding the complexity of mixed systems, it helps maintain the cohesiveness of political parties, given that mixed systems divide the legislature between those tied to electoral districts and those tied to political parties. The latter fact might encourage intra-party competition, escalating their fragmentation. Thus, it is important to assess the desirability and feasibility of minimizing district magnitude.

17. Ibid.

18 Majoritarian system is always based on “single-member districts. ... [and] ensure that the winning candidate receives an absolute majority, for further information see IDEA Handbook, Ibid, 28.

19. Ibid.

Desirability

Minimizing district magnitude is a suggested mechanism to address some of the disadvantages of the proportional representation system, while enjoying its advantage of proportionality. By using data from 609 elections in 81 countries between 1945 and 2006, John M. Carey and Simon Hix found that low to moderate district magnitude (3 – 8 seats) is as effective as high-magnitude PR in maintaining proportionality, but it increases the prospect of accountable government, reduces the potential of party system fragmentation, and encourage candidates' appeal to various social groups.²⁰ All these positive consequences could be attributed to a less expensive campaign, less intra-party competition, and the necessity to appeal to various groups as a result of the increase of the effective threshold and decrease of the geographic zone.

Feasibility

One of the biggest challenges to minimizing district magnitude is the absence of a census, where the last one was conducted in 1997. The Iraqi government frequently postponed the conducting of a census to avoid the political ramifications, especially around so-called “disputed territories” and the distribution of resources. Therefore, it is difficult to determine the exact number of residents in each sub-district. However, there is the alternative of relying on the number of registered voters and proportionally allocate seats for each sub-district. There are 120 sub-district in Iraq, as shown in Table 3. Therefore, it is possible to achieve the desired outcome of having 3 to 8 seats for each sub-district (Qadha) by distributing the seats allocated for each province to its sub-districts based on the total number of registered voters in each one. The 2005 election law did rely on the number of registered voters. Thus, it should be regarded as an acceptable practice. The other alternative will be to rely on the database of the Ministry of Trade to determine the number of seat for each sub-district by identifying the number of ration centers in each sub-district and number of eligible

20. John M. Carey & Simon Hix, “The Electoral Sweet Spot: Low-Magnitude Proportional Electoral Systems,” *American Journal of Political Science* 55, no. 2 (2011).

voters in each one. These two alternatives are not ideal, but it should be regarded acceptable until the conducting of a census in Iraq.

.Table 3. Sub-districts distribution in Iraq

| Governorate | # District (Qadha) | # seats |
|--------------|--------------------|---------|
| Baghdad | 10 | 69 |
| Ninawa | 10 | 31 |
| Basrah | 7 | 25 |
| Thi Qar | 5 | 19 |
| Sulaimaniya | 16 | 18 |
| Babylon | 4 | 17 |
| Erbil | 9 | 15 |
| Anbar | 8 | 15 |
| Diyala | 6 | 14 |
| Kirkuk | 4 | 12 |
| Salah Al-Din | 8 | 12 |
| Najaf | 3 | 12 |
| Duhok | 7 | 11 |
| Karbala | 3 | 11 |
| Wasit | 6 | 11 |
| Qadisiya | 4 | 11 |
| Muthana | 4 | 10 |
| Maysan | 6 | 10 |
| Total | 120 | 320 |

Conclusion

The strength of the Iraqi electoral system lies in its proportionality and fairness. However, it has led to several challenges, such as weak accountability and fragmentation of political parties. This is considered acceptable according to international standards, given the fact that each electoral system has its own advantages and disadvantages. Recent literature addressed the disadvantages of an open list with proportional representation

by advocating three mechanisms: minimizing district magnitude; raising the threshold; and adopting a mixed system.

Minimizing district magnitude seems to be the most desired option, especially in terms of increasing the prospect of accountability by reducing campaign spending; pressuring candidates into appealing to a variety of groups, as effective threshold rise; and decreasing the fragmentation of parties by lessening intra-party competition. But it is challenged by the absence of a census in the context of Iraq. However, it is possible to rely on registered voters or the database of the Ministry of Trade, which seems to be acceptable based on previous Iraqi laws. Relying on pre-existing sub-districts will ensure impartial districting and the avoidance of gerrymandering.

Thus, the current controversies over the electoral system are not based on the findings of scholarly studies. Iraqi lawmakers frequently debate the seat allocation mechanisms, but the solution seems to lie in the district magnitude. Therefore, it is necessary to mobilize the support of academics and political factions, who are dissatisfied with the current electoral system to support and eventually incorporate this reform in future elections.

Appendix A

| Electoral Contestant | Vote Share | Seats | Seat value |
|-------------------------|------------|-------|------------|
| State Law Coalition | 899,774 | 28 | 32,135 |
| Iraqi National Alliance | 558,988 | 17 | 32,882 |
| Iraqia List | 839,735 | 24 | 34,989 |
| Al-Tawafuq | 52,993 | 1 | 52,993 |

| Table 2. 2014 Election Results for Baghdad | | | |
|--|------------|-------|------------|
| Electoral Contestant | Vote Share | Seats | Seat value |
| State Law Coalition | 1,074,609 | 30 | 35820 |
| National Coalition | 348,205 | 10 | 34821 |
| Liberated Coalition | 236,547 | 6 | 39425 |
| Citizen Coalition | 192,691 | 5 | 38538 |
| United for Reform | 155,719 | 4 | 38930 |
| Elites Trend | 116,268 | 3 | 38756 |
| Civil Democratic Coalition | 112,563 | 3 | 37521 |
| National Partnership Gathering | 73,842 | 2 | 36921 |
| Iraq Coalition | 57,333 | 2 | 28667 |
| Arab Coalition | 53,719 | 1 | 53719 |
| Virtue Coalition | 51,290 | 1 | 51290 |
| National Reform Coalition | 47,617 | 1 | 47617 |
| Sadiqoun Coalition | 36,026 | 1 | 36026 |

Appendix B

| No | Question | Yes | No | Don't Know |
|----|---|-----|----|------------|
| 1 | Did the 2014 electoral system reflect electorate aspirations? | 19 | 74 | 7 |
| 2 | Did the existing electoral system achieve political stability? | 9 | 88 | 3 |
| 3 | Did the existing electoral system create an effective opposition? | 20 | 77 | 3 |
| 4 | Did the existing electoral system increase turnout? | 22 | 69 | 9 |
| 5 | Was the representation of minorities fair? | 53 | 47 | |
| 6 | Was the representation of women fair? | 61 | 36 | 3 |
| 7 | Was the distribution of constituencies fair? | 27 | 59 | 14 |
| 8 | Did the existing electoral system motivate accountability of elected representatives? | 3 | 90 | 7 |
| 9 | Was the value of vote the same across electoral districts in Iraq? | 20 | 61 | 19 |
| 10 | Was the existing electoral system easy to comprehend? | 23 | 73 | 4 |
| 11 | Did the existing electoral system led to the rise of cross-sectarian coalitions? | 9 | 78 | 4 |
| 12 | Do you support Sainte-Laguë as a mechanism for allocating seats? | 23 | 51 | 26 |
| 13 | Do you support changing the existing electoral system | 70 | 30 | |

(Footnotes)

1. Fadhel H. Al-Amari, "Historical Evolution for Iraqi Elections (1920 – 2014)," *Electoral Studies*, No. 1, January 2015.