

The Impact of New Iraqi Election Law

28-12-2019

Authors

Rudaw RC

Prepared by: Ziryan Rojhelati

Participants: Rebwar Hadi, Dr.Halimat Gharib, Ali Qader, Dr.Aram Najmadin, Shoresh Hassan, Dr. Yahya Sunbl, Khalid al-dbuni, Dr.Mohammed Younish al-Obeidi

Introduction:

After escalating anti-government protests since October, the election law has become one of the most important political and legal Iraqi issues. And some believes that " the issue of election law has been used to cover main demands of people which is fighting corruption and shorten foreign hands in Iraq."[\[1\]](#)

So far at least 27 articles[\[2\]](#) of election law No (45) of 2013 has been approved, and these approved articles neither changed or partially changed this means the new election law is more like amending the old version. " they rushed to pass the law and also is more like amending the old version."[\[3\]](#) By reading the current political situation and protests, calling this as new election law is more to calm down the angry street.

Despite the protests," in all Iraqi elections post -Saddam, either the election law has changed or amended."[\[4\]](#) And this might be the intention of some of the main Iraqi parties to create suitable environment to win the election.

Although the project law will create important opportunity for the individuals to participate out of political parties domination, but its political implications won't be limited to that, as will have negative impact too such in some areas people will lose their votes, won't be fair for all districts and will revive tribalism.

The proposed elections law problems

Finally the Iraqi parliament after long discussions has passed those provisions in the elections law to divide 18 provinces to multiple districts. The project law first was proposed by Iraqi president Barham Salih and Parliamentarian bloc Saeroon has played important role in bringing it to parliament and UN supported the draft especially those provisions are related to individual lists and multiple constituencies. And then Iraqi government in its proposed project made some changes and Iraqi parliament legal committee also have made some suggestions. [\[5\]](#) Later parliament with majority votes not based on consensus has ratified multiple districts and individual list for the upcoming elections. The individual list can have positive role in developing democracy in Iraq, because through this people out of political parties intention can get to parliament, but this is only one side of the medal and other side is not the same.

Here below is the general analysis of the proposed law:

First: In the short term some of the big political parties that got power and money can support their loyal individual candidates by providing financial and media support to them and this will give them better chance to win in elections than other normal individual candidates. But this is mainly true to the big political parties rather than the small one or those are newly formed. And one of the consequences of this is that smaller parties have to make deal with big one otherwise they will become weaker. In the meantime most of the big parties in Iraq have strong relations with tribal and religious institutions which this also can help them to make their individual candidates to win. Therefore we can easily

understand Sadr and others insistence to pass the law.

Second: In the long term the law will make political parties to care more about public and people. And this has positive side for Kurdistan region as well which will make the political parties to support good candidates and strengthen parliament role in Kurdistan region's political system. But the implication of %100 individual list won't be just limited to that. Especially not necessarily in other parts of Iraq will have the same conclusion, despite the role of current Iraqi parties, having different and modern groups and parties are important to develop democracy. But " Complete rely on the individual list will empower tribal and religious institutions"[\[6\]](#) which such institutions can prevent democracy. Also this will push political parties to reproduce tribal and religious culture in order to get loyalty of religious and tribal individuals. Currently there are about 130-150 prominent and small tribes in Iraq[\[7\]](#) and Kurdistan region which got potential to become stronger again. Therefore insisting on that all the lists to be individual could have another result which not necessarily will serve democracy. And UN insistence on that might be comes from their priority on stability not future of democracy in Iraq! Making reform in election law should be gradual and reflect the reality of Iraqi society. Stability without democracy won't be valid.

Third: In the amended electoral law 18 Iraqi governorates will be divided to multiple districts. This model of election in united society may not create any problems, but in the case of Iraq may lead to create problems in some parts of Iraq between different entities. And as for Kurdistan region this model will have positive impact and can oblige the Kurdish political parties to make coalitions which can reduce extreme tensions between Kurdish parties that happening for years in Kurdistan. According to the electoral law those districts population is not enough to elect an MP then have to join neighboring district in this case those districts have mixed ethnic and sectarian entities may lead to tensions at the local level, however idealistically may lead to create joint list between different entities in those areas.

Fourth: Another problem of the election law is related to distribution of parliament seats. In article 13 number of parliament seats are 242 plus 9 quota seats which according to the law the parliament seats should be divided according to number of Iraqi population. But as there is no census held yet because of different reasons, therefore Iraqi government is relying on the Ministry of Planning data. According to unpublished document from the ministry number of Iraqi population is more than 39 million.[\[8\]](#) If we divide this number over all parliament seats nearly each MP represents 155,378 persons, this is at time that according to Iraqi constitution each MP should represent 100,000 persons. And the seats were not divided fairly in all governorates. For example according to the Ministry of Planning data for 2018, a governorate like Kirkuk consists 1,595,235 population and without counting quota seats, Kirkuk's share of parliament seats were 12 this means each MP represent 133,156 persons out of Kirkuk population. But for a place like Baghdad with 8,126,755 populations with quota seats less number required per seat as each MP from Baghdad represent 117,779 persons. Same number for Nineveh with quota seats each MP represent 120,322 persons. If we divide number of population according to 2018 data from Ministry of Planning over parliament seats of each governorate in most of the southern governorates around 115,000 persons required per seat: like for Karbala 110,793, Basra 116,339, Dhi qar 110,272, Qadisiyah 117,368, Muthanna 116,388, Najaf 122,632, and Maysan 101,152. In Babil governorate which is more mixed between Sunnis and Shias each MP represent 137,669 persons and in Wasit which is contain Faili Kurds the rate is 125,247 persons for an MP. And in disputed area like Saladin governorate is 132,936 means get one seat.

When we consider these numbers" number of these seats are questionable that in 2018 were allocated for Maysan, Dhi qar, Karbala, Basra and even Baghdad it's clear that at least took some seats from other places such Kirkuk and Saladin."[\[9\]](#)

Fifth: In article 5th of election law there is a problem in this article identified those are refugees and IDPs. After discussions MPs have ratified that IDPs also can vote. According to provision 4 of article 5 those IDPs can vote that registered with Iraqi ministry of migration. " There are thousands of Kurds from Kirkuk and Toozkhurmatu which after 16 October events in 2017 left their home and moved to Kurdistan region cities, but former Iraqi PM Haider al-Abadi had prevented these

people to be registered with migration ministry as IDPs, because he did not want return of Iraqi army to Kirkuk and other Kurdistan areas out of KRI administration to be seen as military action as Iraqi constitution banned using military in internal issues, and if these people were registered with the ministry as IDPs that would mean that had left home due to political and security instability as the consequence of Iraqi army return to those areas ."[10] At that time the political situation was suitable for Abadi to prevent these families not to be registered with the ministry of migration. Now there is possibility these people left home due to 16 October events lose their right to vote, Therefore there should be urgent solution to register their names that because of political and security situation could not return home.

Conclusion:

The new election law is more like amending the old version, and those amendments related to the individual list and multiple districts is more in the interest of big parties and likely to empower religious and tribal traditions. And might be one of the political goals in making multiple districts out of governorates is to weaken Kurdish position in the areas of article 140, by looking back at the joint international and internal stand against Kurdish referendum and now international push for multiple districts model in the upcoming election ,this could be another puzzle to shorten Kurdish hand for any other intention of independence.

At this moment the Kurdish parties should have intense talks to design national strategy on the Kurdish votes in the areas of article 140. And should take immediate legal and political procedures to register IDPs that in post -October events moved to Kurdistan region.

[1] Dr. Shaikh Yahya Ismael al-Sunbl, general secretary of Iraqi tribes council, Rudaw Research Center Meeting (24/12/2019)

[2] Such articles (3, 4, 7,17, 18,19,20,21,22, 24, 25, 27,28, 30,31, 32,34,35, 36, 40,41,42 , 43, 45)

[3] Rebwar Hadi-Iraqi parliament legal committee, Rudaw Research Center Meeting (22/12/2019)

[4] Dr.Aram Najmadin-Head of KRG's electoral commission-Erbil office, Rudaw Research Center meeting (22/12/2019)

[5] According to Iraqi constitution Iraqi president and PM can propose project laws to parliament.

[6] Ali Qader-Former high member of IHEC, Rudaw Research Center meeting (22/12/2019)

[7] Dr. Shaikh Yahya Ismael al-Sunbl, general secretary of Iraqi tribes council, Rudaw Research Center Meeting (24/12/2019)

[8] Rebwar Hadi-Iraqi parliament legal committee, Rudaw Research Center Meeting (22/12/2019)

[9] Rebwar Hadi-Iraqi parliament legal committee, Rudaw Research Center Meeting (22/12/2019)

[10] Dr.Halimat Gharib-legal expert and Professor, Rudaw Research Center Meeting (22/12/2019)