

UPDATE: GOVERNMENT FORMATION IN IRAQ

ALLIANCE BETWEEN THE STATE OF LAW AND IRAQI NATIONAL ALLIANCE

- On May 5, 2010, representatives from the State of Law (SoL) coalition and the Iraqi National Alliance (INA) announced an alliance between the two blocs.
- The main purpose for the alliance is to deny Iyad Allawi's Iiraqiyah list the ability to select the Prime Minister and form the government by claiming they are the "largest bloc."
 - Article 76 of the Iraqi Constitution states that "the President of the Republic shall charge the nominee of the largest Council of Representatives bloc with the formation of the Council of Ministers."¹
 - Iiraqiyah maintains that the "largest bloc" refers to the electoral bloc that won the most seats in the parliament, based upon the precedent set during the 2005 parliamentary election.
 - Yet, in response to a request from Prime Minister Maliki for a ruling on Article 76, Iraqi Chief Justice Medhat issued a ruling on March 26, 2010 that the "largest bloc" meant the alliance formed after the election with the most seats in the parliament.²
- According to the terms of the alliance agreement, the SoL and the INA will each nominate seven members³ to form a committee that will select the Prime Minister⁴.
 - The fourteen member committee will select the Prime Minister from a list of nominees. The winning nominee must earn the support of eighty percent of committee members, or eleven votes.⁵
 - The list of Prime Ministerial nominees has not been finalized. This matter was to be discussed at a committee meeting that was expected to be held on May 14, 2010.⁶ The meeting was postponed to an undetermined date when both blocs failed to reach an agreement as to the committee members.⁷
- Sadrist resistance to a second term for Prime Minister Maliki has been a major stumbling block in the negotiations.
 - Salah al-Obeidi, the official Sadrist spokesman, recently stated the Movement's concern over Maliki's concentration of power, his use of the security forces for political aims, and his targeting of their movement in recent years.⁸
 - Obeidi also indicated that the SoL was not committing to the agreed-upon program for the next government.⁹
- The Kurdistan Alliance and Tawafuq, a small Sunni bloc, responded positively to the announcement of the alliance, indicating that they would be open to joining the coalition.¹⁰

INA-SOL OUTREACH TO IRAQIYAH

- Members of the SoL and the INA have subsequently reached out to the Iraqiya list to negotiate the latter's participation in a "national partnership government."
 - Maliki met with Rafa al-Issawi, the lead negotiator for Iraqiya, on May 9, 2010, during which he requested a meeting with Allawi.¹¹
 - The following day, Maliki stated that his anticipated meeting with Iyad Allawi would be the second step in the efforts to form a "national partnership" government, following the formation of the INA-SoL alliance.¹²
 - Members of Iraqiya, including Osama al-Nujaifi and the spokesman for Tareq al-Hashemi, confirmed that efforts were underway to arrange a meeting between the Maliki and Allawi.¹³
- The meeting between Allawi and Maliki has not yet occurred, with each side blaming the other for the failure to meet.¹⁴
 - Ammar al-Hakim and Ibrahim al-Jaafari have both said they would work to resolve the disagreements hindering the meeting between Maliki and Allawi.¹⁵
- Iraqiya has continued to insist on its right to first attempt to form the government and it is unclear whether the list will join the SoL-INA alliance in any meaningful way.

THE BAGHDAD RECOUNT

- Maliki pushed for a recount of the votes in Baghdad, arguing fraud deprived him of additional seats.¹⁶ The move was widely seen as an effort to overturn Iraqiya's two-vote lead.
- The Iraqi High Electoral Commission (IHEC) began the manual recount on May 3, 2010, under international supervision from the United Nations.
 - That same day, members of the SoL, including Oil Minister Hussein al-Shahristani, gave a press conference objecting to the conduct of the recount, and urging for a review of all voter registries.¹⁷
 - IHEC dismissed the SoL's complaint.¹⁸
- The recount concluded on May 16, 2010. Only 3,000 of the roughly 2.5 million votes cast in Baghdad province were changed on account of the recount, but not on grounds of fraud.¹⁹ Overall, the recount produced no changes in the allocation of seats in Baghdad.
- The results will now be sent to the Federal Supreme Court for certification.
- Maliki may have miscalculated in his push for the recount, as it did not produce any changes to the result. Still, he was able to use the resulting delay in the certification of the votes to negotiate the SoL-INA alliance.

THE DE-BAATHIFICATION CONTROVERSY

- The Accountability and Justice Commission (AJC) announced the disqualification of eight seat-winning candidates on April 29 2010, in a move aimed at undercutting the Iraqiya list.
- Only three days earlier and in response to an appeal submitted by the SoL, the three-judge election panel nullified the candidacies of 52 individuals (including one seat-winner) that had been named by the AJC prior to the election, but whose disqualification was denied by IHEC for having been named too late in the election process.²⁰
- The disqualification of the seat-winning candidates (eight of whom were from the Iraqiya list) and the AJC recommendation that their votes be canceled rather than returned to the list prompted another political crisis.
- Iraqiya called upon the international community to intervene in the dispute and, if the decisions were upheld, to establish a caretaker government and hold new elections.²¹
- A flurry of meetings to diffuse the brewing crisis ensued in the week following the announcement. The Presidency Council met on May 4, 2010 to discuss the crisis and issued a statement urging that the will of the voters be respected.²²
- Ultimately, the de-Baathification controversy was resolved with an agreement to drop the disqualification of the candidates that was reached by Iraqi politicians in mid-May.²³ The grounds for the move are unclear, suggesting the arrangement was a product of backroom dealing.
- Despite the outcome, the AJC controversy undercut the negotiating position of the Iraqiya list and polarized the atmosphere surrounding the election.

ENDNOTES

¹ Article 76 of the Iraqi Constitution.

² "Supreme Court: Parliament's largest bloc to be asked to form government," *National Iraq News Agency*, March 26, 2010.

³ There is a discrepancy in the reporting on the total number of committee members. Some sources say that the committee will have ten members, with five representatives each from State of Law and the Iraqi National Alliance. Other reports say that the committee will total fourteen members, with seven from each side.

⁴ "Al-Iraqiyah List warns of 'sectarian alignments', Iranian role - Iraq TV update," *Al-Sharqiyah TV*, Dubai, May 6, 2010, translated from Arabic by BBC Monitoring Middle East - Political, May 7, 2010; "Iraq's Al-Hakim hails 'strong' alliance with Al-Maliki's bloc - TV roundup," *Al-Iraqiyah TV*, Baghdad, May 11, 2010, translated from Arabic by BBC Monitoring Middle East - Political, May 11, 2010.

⁵ Abd-al-Wahid Tu'mah: "The Agreement Between the Two Shi'i Coalitions Laid Down Mechanisms to Deal With All Issues," *Al-Hayat*, May 8, 2010, translated from Arabic by BBC Monitoring Middle East - Political, May 8, 2010.

⁶ "Al-Samarra'i says Kuwait 'anxiously waiting' for new cabinet - Iraq TV roundup," Baghdad Al-Iraqiyah Television May 12, 2010, translated from Arabic by BBC Monitoring Middle East - Political, May 12, 2010; Umar Sattar: "The Shi'i Coalition Has Not Resolved the Issue of the Post of Prime Minister," *Al-Hayat*, May 9, 2010, Translated from Arabic by BBC Monitoring Middle East - Political, May 10, 2010.

⁷ "Conflicting Statements about the Postponement of the Meeting of the Prime Minister Selection Committee," *Al-Baghdadia*, May 14, 2010. Translated from Arabic.

⁸ "Iraqi Al-Sadr Trend official discusses qualms about Al-Maliki as PM," *Al-Arabiya TV*, Dubai, May 15, 2011, translated from Arabic by BBC Monitoring Middle East - Political, May 15, 2010; "Sadrists do not want Maliki to remain in office," *Aswat al-Iraq*, May 16, 2010.

⁹ "Sadrists do not want Maliki to remain in office," *Aswat al-Iraq*, May 16, 2010.

¹⁰ "Al-Iraqiyah List warns of 'sectarian alignments', Iranian role - Iraq TV update," *Al-Sharqiyah TV*, Dubai, May 6, 2010, Translated from Arabic by BBC Monitoring Middle East - Political, May 7, 2010.

¹¹ "Sources say 60 killed, 150 wounded in series of attacks on 10 May; Iraq update," *Al-Sharqiyah TV*, Dubai, May 10, 2010, Translated from Arabic by BBC Monitoring Middle East - Political, May 10, 2010.

¹² "Iraqi PM, Al-Iraqiyah List head to meet; more Baghdad blasts; update 10 May," *Al-Sharqiyah TV*, Dubai, May 10, 2010, Translated from Arabic by BBC Monitoring Middle East - Political, May 11, 2010.

¹³ "Demand to exclude Sadrists delays Al-Iraqiyah, State of Law Coalition talks," *Al-Sharq al-Awsat*, May 13, 2010, translated by BBC Monitoring Middle East - Political, May 14, 2010; "Sources say 60 killed, 150 wounded in series of attacks on 10 May; Iraq update," *Al-Sharqiyah TV*, Dubai, May 10, 2010, Translated from Arabic by BBC Monitoring Middle East - Political, May 10, 2010.

¹⁴ (Al-Sharqiyah TV, Dubai, in Arabic 1300 gmt 13 May 10; *Al-Sharq al-Awsat* website, London, in Arabic 13 May 10)

¹⁵ "Jaafari meets Hakim, ready to ease difficulties facing Maliki-Allawi meeting," *Aswat al-Iraq*, May 14, 2010.

¹⁶ Steven Lee Myers and Tim Arango, "Iraqi Court Sets Partial Recount in Tight Election," *The New York Times*, April 19, 2010.

¹⁷ Steven Lee Myers, "Iraq Recount Mired in a New Dispute," *The New York Times*, May 4, 2010; Jane Arraf, "Iraq Election: Baghdad Recount Begins with a Hitch," *The Christian Science Monitor*, May 3, 2010.

¹⁸ Jane Arraf, "Iraq Election: Baghdad Recount Begins with a Hitch," *The Christian Science Monitor*, May 3, 2010.

¹⁹ Salam Faraj, "Iraqi PM fails to gain seats but on track for power," *Agence France Presse*, May 16, 2010; Liz Sly and Raheem Salman, "Iraq recount finds no fraud; Iyad Allawi's bloc holds on to its lead in parliament after the laborious retallying," *Los Angeles Times* May 15, 2010.

²⁰ James Danly and Marisa Cochrane Sullivan, "Iraqi Candidate Disqualification Update," *Backgrounder*, Institute for the Study of War, April 29, 2010.

²¹ Ned Parker, "Iraq's ex-premier calls for caretaker government, new elections," *Los Angeles Times*, April 28, 2010.

²² "Iraq's presidency urges quick government formation," *Reuters*, May 4, 2010.

²³ Anthony Shadid, "Iraqi Deal to End De-Baathification," *The New York Times*, May 11, 2010.