

DRAFT

**Voter Registration Disputes Resolution
Kirkuk
Adjudication Assistance Program
Global Justice Project - Iraq**

Rationale

Although there are still many variables, the voter registration update in Kirkuk scheduled to begin in mid-August. It will inevitably involve adjudication over the eligibility of voters and the validity of voter registrations. Many of these voter registration disputes will take the form of official complaints filed with the Independent High Electoral Commission of Iraq (IHEC) to add or remove voters' names from the Kirkuk voter registry. As these complaints must be processed accordingly to legal procedure and due process, this initiative proposes to provide temporary legal capacity for the IHEC to assist the adjudication of these disputes so that there will be no delay in the publication of the Final Voters List (FVL) as the direct result of a backlog of undecided cases.

Program Activities

In support of this objective, the Global Justice Project – Iraq (GJPI) proposes to deploy three election dispute experts to assist the IHEC and the Kirkuk Governorate Electoral Office (GEO) with the adjudication of complaints concerning voter registration. The IHEC maintains statutory authority to adjudicate such disputes. Although the law provides for appeals of IHEC decision to a special three-judge Electoral Judicial Panel formed by the Court of Cassation, it is unlikely that individual voter registration cases will receive such a judicial hearing. Therefore, it is critical that the IHEC have the capacity to process these disputes in a timely way. Moreover, Kirkuk voters must also trust that the complaints are being adjudicated fairly and lawfully. Providing an international dimension to such assistance can reap the additional benefit of building confidence in the eventual FVL.

The GJPI proposes to deploy three election dispute resolution experts to assist the IHEC with complaints adjudication. These attorneys could be co-located with election officials at the IHEC and GEO. The initiative will involve the following three fundamental activities:

- Support the IHEC and GEO in prioritizing and organizing voter registration claims and objections for review and decision;
- Support the IHEC and GEO in organizing responses to appeals of claim and objection decisions; and
- Assist with the compilation an electronic archive of voter registration cases so that there is a permanent record of claims, objections, decisions, and appeals in Arabic.

At the IHEC, the attorneys would likely work with the Legal Advisory and Electoral Complaints Department. The Electoral Complaints Department experienced difficulties in managing the caseload and classifying some complaints as “red,” that is, potentially affecting the election outcomes, or “green” of a less critical nature.

Another concern about the approach in 2005 is that it was over-centralized and the utility of the GEOs were not sufficiently utilized. Although this was eventually realized and GEO Complaints Committees were formed late in the dispute cycle in some, but not all, GEOs, such an over-centralized approach diminished the IHEC capacity to conduct investigations, much of which should occur at the local level.

In 2005, data management was also identified as a dispute adjudication impediment. Data entry clerks were not trained in the classification of cases for electronic filing purposes. With respect to some registration-related cases, decisions were not entered into the caseload database until after the election, effectively disenfranchising otherwise eligible voters.

Although other lessons learned from 2005 can be cited, the issues above are pertinent to voter registration in Kirkuk and, thus, the target for the GJPI attorneys to address. While these issues involved general complaints on a national scale, they remain relevant concerns for the Kirkuk registration process and would be addressed by the GJPI assistance efforts.

Timeline

In order to be responsive to the complaints as they occur, the IHEC may consider adjudicating disputes on a weekly basis and not waiting until the conclusion of voter registration. Such an approach will have the benefit of maintaining a pace consistent with the rationale, identify emerging patterns of complaints or abuse, and provide greater transparency in the adjudication process. The GJPI attorneys will be deployed to Kirkuk and Baghdad during the registration period and would remain until the adjudication process is completed.

Post-Registration Activities

With the positioning that this initiative can provide for the GJPI in election dispute resolution, further electoral justice assistance for the election may be pursued.