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ELECTION LAW REFORM IN YEMEN: SUPPLEMENTARY REPORT

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1. EXECUTIVE SUMMARY

Following the publication of IFES' report recommending amendments to Yemen's election law and submission of the report to the Supreme Commission for Elections and Referendum (SCER), IFES held further consultations with parliamentary parties regarding two specific recommendations in the report:

- (1) that the place of work should not be a voting domicile (Recommendation 7);
- (2) that an *amin/akel* or a judge should not be required to verify the endorsements from voters obtained by an applicant to be an independent candidate (Recommendation 39).

The consultations took place on May 3, June 7, and June 25, 2005. The parties did not agree on the removal of the place of work as a voting domicile. They did, however, agree that, under certain conditions, an *amin/akel* or a judge should not have to verify the endorsements from voters obtained by an applicant to be an independent candidate. These matters are discussed in Section 3 of this Supplementary Report.

IFES also consulted parliamentary parties on whether they support or oppose each of the recommendations in the IFES report. Parties' responses are analyzed in Section 4 of this report.

Section 5 covers three issues raised by participants during these roundtable discussions: membership of the SCER, parties' use of government resources during election campaigns, and the voting system used for parliamentary elections.

2. INTRODUCTION

In March 2005, IFES issued a report containing 56 recommendations for amendments to Yemen's election law and for action by the Supreme Commission for Elections and Referendum (SCER). The report addresses the composition of election committees, voter registration, boundary delimitation, candidate nominations, voting and counting processes, election campaigns and finance, local council elections, and other matters. This report was the result of a consultative process with a broad range of stakeholders including the SCER, government officials, political parties, civil society organizations, and international NGOs working in Yemen.

After the SCER had studied the IFES report and other proposals submitted to it by political parties, IFES held further consultations with the parties represented in Parliament regarding two of the recommendations in IFES' report:

- (1) that the place of work should not be a voting domicile (Recommendation 7);
- (2) that an *amin/akel* or a judge should not be required to verify the endorsements from voters obtained by an applicant to be an independent candidate (Recommendation 39).

On May 3, 2005, IFES held a roundtable discussion with political and legal officers from the General People's Congress (GPC), Yemen Congregation for Reform (Islah), Yemen Socialist Party (YSP) and Nasserite Unionist Political Party (NUPP). A second roundtable discussion was held on June 7, and a third roundtable was held on June 25, 2005. A list of those who participated in one or more of the roundtable discussions is attached as Annex 1. A further report on voting domiciles is attached as Annex 2.

IFES is grateful to all the party representatives for their participation and for the constructive way in which they contributed to the discussions.

In June 2005, IFES asked parliamentary parties to indicate whether they support or oppose each of the recommendations in the IFES report. IFES invited the GPC, Joint Meeting parties, and the Ba'ath Socialist party to provide written responses indicating their support or opposition for each recommendation, together with any comments they may have. The responses received are summarized in Annex 3 and are analyzed in Section 4 of this report.

Unless otherwise stated, article references in this report are to the General Elections and Referendum Law No. 13 (2001).

3. TWO ISSUES

A. SHOULD A PLACE OF WORK BE A VOTING DOMICILE?

IFES' final report on election law reform states this issue as follows (pages 12, 13):

By Articles 3 and 4(a) of the General Elections and Referendum Law, a Yemeni citizen aged 18 and over is eligible to vote in the constituency of his or her 'voting domicile', which Article 2(d) states as 'the usual place of residence of a person, or where this person has his main place of work, or the residence of his family even if he does not reside in it'. A person may only register as a voter at one electoral center and may only vote at that center (Article 4(a)). Eligible voters themselves take the initiative to be registered, and are not required to do so by law....

The matter of three different voting domicile addresses was discussed in Phase One [of the project]. Stakeholder opinions were divided. Some supported the current provisions as promoting a high level of voter registrations and as recognizing Yemeni culture through allowing voters to register and vote at their villages. Others argued, however, that registration at the main work address allowed government employees to be located for partisan reasons.

Yemen is unusual in allowing a place of work to be a voting domicile. Of the six countries listed in response to a search on 'Registration of Electors' in the English version of IFES' Arab Election Law Compendium (www.arabelectionlaw.net), Lebanon, Palestine and Sudan limit registration to the voter's residence. In addition to registration at the place of residence, Jordan and Egypt are like Yemen in allowing a voter to register in a constituency where he or she 'belongs' (Jordan) or where his or her family resides. Only Egypt and Yemen permit a voter to register at a place of work.

In IFES' view, a place of work should not be a voting domicile. Constituency boundaries are drawn on the basis of resident populations, within a strict $\pm 5\%$ tolerance. Permitting voters to register on the basis of several domicile addresses contributes to significant differences in the numbers of voters registered in different constituencies, thus undermining the principle of 'one vote, one value'. It creates administrative complexities, allows undetected multiple registrations, and encourages perceptions of partisan influences on voters' choices of their voting domicile. Voters should have to be registered at their usual residential address or at their family address.

IFES recommended that a place of work should not be a voting domicile (Recommendation 7).

After discussing this issue at the first roundtable meeting, the participants asked IFES to provide further information on other democracies' laws on voter registration domiciles and the registration entitlements of military personnel for discussion at a second meeting. IFES' report is attached as Annex 2.

At the second meeting on this issue held on June 7, 2005 the participants said they needed more time to consider this issue, and agreed to meet again. The parties stated their positions at the third workshop on this topic held on June 25, 2005. Opinions were divided between those who wanted to keep the three current voting domiciles, those who wanted to retain the place of residence and either the family residence or the place of work, and those who proposed that a voter's residence should be the only permitted voting domicile.

In the light of the firmness of the parties' positions, it was agreed that little purpose would be served by discussing these matters further at this point. In order to reduce perceptions of the misuse of the place of work as a voting domicile, IFES recommends that the SCER (a) instruct voter registration committees to enforce strictly the requirement in Article 4(b) of the election law that a voter must have worked in the new domicile for six months before being entitled to apply for a change of domicile on employment relocation grounds, and (b) ensure that the voters lists that are publicly displayed after the 30-day voter registration update period identify the names of voters who have registered in the constituency on employment relocation grounds.

Recommendation:

1. That the SCER –
 - (a) instruct voter registration committees to enforce strictly the requirement in Article 4(b) of the election law that a voter must have worked in the new domicile for six months before being entitled to apply for a change of domicile on employment relocation grounds; and
 - (b) ensure that the voters lists that are publicly displayed after the 30-day voter registration update period identify the names of voters who have registered in the constituency on employment relocation grounds.

B. SHOULD ENDORSEMENT SIGNATURES FOR INDEPENDENT CANDIDATES HAVE TO BE VALIDATED BY AN AMIN/AKEL AND A JUDGE?

IFES' final report on election law reform said (pages 31-2):

The SCER requires endorsement signatures gathered by an applicant to be an Independent candidate to be verified by an *amin* or *akel* (a local official appointed by the government) and by a judge. Difficulties in finding these persons created some problems for applicants in 2003, and there were suspicions that partisan considerations may have influenced the willingness of some *amin/akel* and judges to cooperate with the applicants.

The report notes that stakeholder opinions were divided, with most stakeholders supporting the removal of this provision. Others argued, however, that the participation of the *amin/akel* and judge was necessary to ensure that the registered voter personally signed the endorsement.

IFES' recommendation was to make the applicant to be an Independent candidate responsible for declaring that voters have personally endorsed his or her candidacy, and to give applicants the right to obtain copies of the Voters Lists (page 32):

39. That –
 - (a) there be no requirement for an *amin/akel* or a judge to verify the endorsements from voters obtained by an applicant to be an Independent candidate;
 - (b) an applicant to be an Independent candidate must ensure and declare that each voter endorsing his or her candidacy has personally signed the form provided by the SCER, with a false declaration resulting in refusal of his or her application and liability to prosecution;
 - (c) all multiple endorsements of applicants to be Independent candidates be treated as void;
 - (d) an applicant to be an Independent candidate be entitled to inspect the final Voters Lists held by the Main Committee. [Articles 58(b), 133]

The participants at the first roundtable meeting noted that Article 57(c) of the election law provides that a voter has the right to examine the nomination application submitted by a candidate, and that Recommendation 18 in IFES' final report proposed that there should be a period in which a voter in a constituency should be able to challenge a committee's decision to refuse or accept a nomination application.

The participants agreed unanimously that an *amin/akel* or a judge should not verify the endorsements from voters obtained by an applicant to be an Independent candidate, provided all of the following conditions are met:

- (a) the election law is amended in accordance with IFES' Recommendation 39 (stated above); and
- (b) a voter is entitled to examine the endorsement forms submitted by an applicant to be an Independent candidate, including after the committee posts the list of candidates; and
- (c) the challenge process proposed in IFES' Recommendation 18 is implemented.

Since those consultations took place, a party that was not represented at the workshop has advised IFES that it supports the proposal provided the nomination committee publicly displays the endorsement forms with the list of nominated candidates.

In addition, a party that was represented at the workshop has withdrawn its support for the proposal, which it now believes is inconsistent with the Notorization and Authentication Law No. 34 (1997). However IFES does not interpret this law as making it mandatory for the endorsement signatures for an Independent candidate to be verified by an *amin/akel* and a judge.

Recommendation:

2. That an *amin/akel* or a judge should not verify the endorsements from voters obtained by an applicant to be an Independent candidate, provided all of the following conditions are met:
 - (a) the election law is amended in accordance with IFES' Recommendation 39 (stated above); and
 - (b) either (i) the endorsement forms submitted by an applicant to be an Independent candidate are posted with the list of candidates, or (ii) a voter is entitled to examine the endorsement forms submitted by an applicant to be an Independent candidate, including after the committee posts the list of candidates; and
 - (c) a voter in a constituency may challenge a committee's decision to refuse or accept a nomination application for that constituency.

4. PARLIAMENTARY PARTIES' RESPONSES TO THE RECOMMENDATIONS IN THE IFES REPORT

In June 2005, IFES sent each parliamentary party a list of the recommendations in IFES' final report proposing amendments to the election law and actions by the SCER, and asked the parties to indicate whether they agreed or disagreed with each recommendation. If a party disagreed with a recommendation, it was asked to add any comments it wished to make.

Responses were received from the GPC, the Joint Meeting parties, and the Ba'ath Socialist Party. IFES sought further clarification of the parties' responses as necessary.

Annex 3 shows each IFES recommendation and the result of the consultation process according to whether there is unanimous agreement or unanimous disagreement among the parliamentary parties, near-unanimous agreement or disagreement based on parliamentary representation, or whether opinions are divided. In accordance with the undertakings given to stakeholders throughout consultation processes since the Rule of Law project began in January 2004, IFES does not publicly disclose the opinions of particular political parties.

In some cases, parties indicated that their agreement to a recommendation is conditional on the adoption of other recommendations, or is subject to minor changes in wording. These issues should be discussed during the implementation process.

The overall results of the consultations with parliamentary parties on their responses to IFES' recommendations are shown in the following table:

Result	Recommendations
unanimous agreement	1, 5(b), 5(c), 5(e), 15, 17, 18, 22, 24, 25, 26, 27, 29, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 44, 48, 50, 53, 55(b), 55(c), 56
near unanimous agreement	5(a), 43, 55(a)
unanimous disagreement	3, 8, 9, 20
near unanimous disagreement	4(b)
opinions divided	2, 4(a), 5(d), 6, 7, 10, 11, 12, 13, 14, 16, 19, 21, 23, 28, 30, 31, 39, 45, 46, 47, 49, 51, 52, 54

Method of implementation

Most of the recommendations in the IFES report are for changes to the election law, although some are for action by the SCER. Some parties pointed out that the objectives of some of IFES' recommendations for legislative change could be achieved through amendments to the election by-law, or through the SCER's regulations, or through the SCER's administrative procedures.

In IFES' view, the parliamentary process is the most appropriate way to implement major changes to the election law, since it allows for participation by a range of parties representing the government and the opposition. For the same reason, it is also important for perceptions of the integrity of Yemen's electoral process that the fundamentals of the electoral process are contained in the Constitution and the election law rather than being established by the executive or the SCER without the involvement of the legislature.

Nevertheless, it is also true that the legislative process can take a long time. The 2006 Voter Registration Update is scheduled to begin in January 2006 and the presidential and local council elections are only a year away. Hence Annex 3 also shows IFES' assessment of whether each recommendation can be achieved through a change to the law, or could be substantially achieved through amending the election by-law or through changes to the SCER's regulations or procedures.

Implementation deadline

A number of IFES recommendations relate to voter registration, to the structure and functions of the committees that the SCER will establish to conduct the next Voter Registration Update, to the rights of parties and voters during the Update, and to the powers of the SCER to ensure the voters lists are as comprehensive and accurate as possible. In IFES' view, any changes to the law, by-law and regulations relating to these and similar matters need to be made by the end of September 2005 so that the SCER has the time to make the appropriate amendments to manuals, procedures and training programs. For the same reasons, any changes to the law, by-law, and regulations relating to the electoral process for presidential and local council elections need to be made before the end of May 2006, whereas those relating to parliamentary elections need to be made before the next parliamentary elections in 2009. Hence Annex 3 also shows IFES' assessment of the deadline by which each recommendation should be implemented.

IFES' conclusions

The Constitution of the Republic of Yemen establishes the fundamental principles and standards that apply to the electoral process in Yemen. For example, Article 63 says that the members of the House of Representatives 'shall be elected in a secret, free and equal vote directly by the people'. Article 146 says that local councils 'must be freely and fairly elected, both at the local and governorate level'. Article 159 establishes the SCER as a 'supreme, independent and neutral committee [to] administer, supervise and monitor the general elections and general referenda'.

The election law implements and elaborates these standards. For example, Article 24 says the SCER is in charge of 'administering, preparing, supervising and overseeing the process of general elections and referendum', and specifies the SCER's specific powers in addition to those it has under other articles of the law. Articles 21, 22, and 23 reinforce the SCER's independence and impartiality.

As the only independent, impartial and expert body responsible for elections in Yemen, the SCER is one of the guardians of Yemen's democracy and electoral processes. It is in the best position to know what improvements need to be made to the law and the by-law, and to its internal regulations and procedures.

Thus if the SCER considers that the provisions of the law or the by-law prevent it from carrying out its constitutional and statutory mandate, or are incomplete or inadequate, it has a responsibility to draw those matters to the attention of the appropriate authorities. If the SCER considers that its own procedures can be improved, then it should do so. In all cases, the SCER must make its decisions guided by its own independent and impartial judgment concerning the changes to law and practice that need to be made to ensure the continuing development of Yemen's democracy. Doing so in an open and transparent way will promote political and public confidence in the integrity of the process.

The SCER has previously acted to improve election law and procedures. It successfully recommended amendments to the local authority law in 2002 and to the election law in 2004 to deal with problems it faced. Its decision to increase the number of electoral centers in 2002 resulted in a significant increase in rates of voter registration, particularly among women. It adopted some innovative measures for the 2003 parliamentary elections, most notably the photographic voter registers and the inclusion of candidates' photographs on the ballot paper.

It is crucial to perceptions of the integrity of Yemen's election process that the SCER is seen to make its own assessment of the changes that need to be made to the election law, the election by-law, and to SCER regulations, procedures, and actions, according to its responsibility to promote free and fair elections in Yemen. IFES therefore urges the SCER to, without delay, prepare its own proposals for change, giving priority to those that need to be completed before the Voter Registration Update. In doing so, it should consider the proposals submitted by political parties and the recommendations in IFES' various reports, and the proposals of other domestic and international NGOs, and should consider the various proposals on their merits, irrespective of their origins. It should then announce its decisions and the reasons for them, and implement the changes that are within its control. The SCER should do everything in its power to ensure that any changes it recommends to the election law and the by-law relating to the 2006 Voter

Registration Update and to the 2006 presidential and local council elections are adopted in time to be implemented beforehand.

Recommendation:

3. That the SCER, without delay, –
 - (a) announce its proposals for changes to the election law, the election by-law, and to SCER regulations, procedures, and actions, giving priority to those that need to be implemented before the 2006 Voter Registration Update;
 - (b) do everything in its power to ensure that any changes it recommends to the election law and by-law are passed before the 2006 Voter Registration Update and before the 2006 presidential and local council elections.

5. OTHER ISSUES RAISED IN THE ROUNDTABLE DISCUSSIONS

Participants in the roundtables held in May and June 2005 said that three other issues should have been covered in IFES' final report on amendments to the election law. These issues are outlined below, with IFES' responses.

(a) Membership of the Supreme Commission for Elections and Referendum

Some party representatives asked why the IFES report does not discuss the fact that not all parliamentary parties are represented in the membership of the SCER, and does not mention the fact that the SCER does not have a woman member.

Article 19 of the election law sets the method of appointment of the members of the SCER as follows:

- (a) The Supreme Commission for Elections and Referendum is composed of (7) members to be appointed by a Presidential Decree from a list of (15) names nominated by the House of Representatives from among those who meet the conditions stipulated by this Law.
- (b) The list of nominees for the Supreme Commission shall be passed by a majority of two-thirds of the members of the House of Representatives.

The term of office of the members of the SCER is six years (Article 20(a)). Article 22(c) says that a member of the SCER may not be removed from office except by a Presidential Decree and following a final verdict that the member is in breach of one of the conditions of Article 21. In the case of a vacancy, a replacement is appointed by Presidential Decree from the original list of 15 names nominated by the House (Article 22(c)). The current members of the SCER were appointed in November 2001.

The Constitution and the election law both emphasize the independence and impartiality of the SCER. Article 159 of the Constitution says that 'A supreme, independent and neutral committee shall administer, supervise and monitor the general elections and general referenda.' The oath of office taken by each member of the SCER includes a commitment 'to execute my duties within the Supreme Commission with professional integrity, impartiality and honesty and without fear or bias' (Article 23). Article 21(f) says that a SCER member who is a member of a political party must 'suspend his party

activities during his membership of the Commission'. Article 21(g) says that a member of the SCER must 'refrain from nominating himself in any general elections or take part in election campaigns of parties or candidates during his membership of the Commission'. Article 125(b) allows any person to file a case with the Office of Public Prosecutor or a court against a member of the SCER who has 'committed an election offence as stipulated in this Law, neglected or failed to carry his obligations under the Election Law, or breached this Law'.

It is clear, therefore, that the Constitution and the election law do not intend the members of the SCER to hold that office as representatives of political parties. Instead they must set aside any partisan considerations they may have and they must act at all times in an independent and non-partisan manner, according to their judgment of the best way to maintain and enhance the integrity of the democratic and electoral processes in Yemen.

Any perceptions that the SCER has not always met these high standards can damage the integrity of the electoral process. Such perceptions can be lessened by an open and transparent process of election administration, which could be achieved without detracting from the SCER's ultimate responsibilities under the Constitution and the election law. The SCER should also consider introducing a Code of Conduct for its members and staff to demonstrate its commitment to the highest standards of professional and non-partisan election administration. IFES is prepared to work with the SCER to develop such a Code.

The lack of any woman members of the SCER is regrettable. IFES understands, however, that no women were included in the list of 15 names nominated by the House of Representatives in 2001. Unless the election law is changed beforehand, the House will not be able to correct this matter until 2007 when it next nominates a list of 15 candidates for the President to appoint seven of those persons as members of the SCER.

Recommendation:

4. That the SCER introduce a Code of Conduct for its members and staff to demonstrate its commitment to the highest standards of professional and non-partisan election administration.

(b) The use of government resources for electoral purposes

There are frequent allegations that some political parties use government resources for electoral purposes, contrary to the provisions of the Constitution of the Republic of Yemen and the law.

Article 5 of the Constitution provides that 'Misuse of Governmental posts and public funds for the special interest of a specific party or organization is not permitted.'

Article 33(4) of Law No. 66 (1991) Governing Parties and Political Organizations says that parties may not 'use any public service positions or public funds for direct or indirect political gain. Such violations shall be punished by the laws in force.' If a party violates that provision, the Committee for the Affairs of Parties and Political Organizations may apply to the court for an order dissolving the party.

Use of government resources for electoral purposes is prohibited by Articles 40 and 143 of the General Elections and Referendum Law No. 13 (2001). Article 40 states –

Financing election campaign from public funds or from the budgets of Ministries, public institutions, public organizations and public corporations, or by foreign support is prohibited. Also, the use of public organizations and public facilities for election campaign is prohibited.

Article 143 states –

State capabilities, resources, bodies, mechanisms and equipment may not be used directly or indirectly in favor of any political party, organization or candidate. Such acts are punishable in accordance with the provisions of Article (133) of this Law.

Article 133 provides that ‘subject to stricter penalties’, an offender is punished by a maximum of 1 year’s imprisonment.

The improper use of government resources for electoral purposes thus concerns the enforcement of the law rather than the provisions of the law itself. Recommendation 53 in IFES’ final report is that the SCER should ‘make it clear before each election and referendum that it will refer any person who violates the election law to the Office of the Public Prosecutor’. IFES also notes that Article 125(b) of the election law entitles any person who believes that government resources have been used improperly for electoral purposes to file a complaint with the Office of the Public Prosecutor or directly with the courts:

A voter, the Supervisory Committees, Main Committees and the Supreme Commission shall have the right to file a criminal case with the Office of the Public Prosecutor or the courts of jurisdiction against any individual, who committed an election offence as stipulated in this Law, neglected or failed to carry his obligations under the Election Law, or breached this Law. The aggrieved voter or body shall have the right to claim compensation for emotional and material damages. Such cases shall be reviewed in a timely manner.

(c) The electoral system for parliamentary elections

Some party representatives asked why the IFES report does not discuss alternatives to the First-Past-the-Post (FPP) election system used to elect the members of Yemen’s House of Representatives, specifically the various forms of proportional representation.

Article 63 of the Constitution provides that –

The House of Representatives consists of 301 members, who shall be elected in a secret, free and equal vote directly by the people. The Republic shall be divided into constituencies equal in number of population with a variation of not more than 5% plus or minus. Each constituency shall elect a member to the House of Representatives.

Article 63 of the Constitution can only be amended by a public referendum following a vote by 75% of the members of the House of Representatives (Article 158).

Article 105(b) of the election law requires the members of Parliament to be elected using the FPP system –

The winning candidate [in a constituency] shall be the one who obtains a relative majority of valid votes cast during the election.

Issues about whether proportional representation should be used for parliamentary elections in Yemen were outside the terms of reference of the IFES project on changes to the election law. IFES' final report notes on page 4 that –

it was agreed that provisions mandated and/or protected by Yemen's constitution were beyond the scope of the project and, therefore, would not be addressed as part of the public policy dialogue.

As a separate matter, however, IFES can provide information on election systems to any party that wishes to begin discussing these matters. Parties should also be aware that *The International IDEA Handbook on Election System Design* has recently been translated into Arabic and is available on the IDEA website at www.idea.int/publications/esd/ar.cfm

Annex 1: List of those who participated in one or more of the roundtable discussions

IFES is grateful to the following representatives of parliamentary parties for their participation in the roundtable discussions from May to August 2005:

Representatives of the General People's Congress (GPC)

Mr. Younis Haza'a, Political Officer
Mr. Naser Mohammed Al-Attar, Head of the Legal Sector
Dr. Amat-Al-Razaq Ali Humad, Head of the Women's Sector
Ms. Khadija Radman, Head of the External Affairs Sector

Representatives of the Yemen Congregation for Reform (ISLAH)

Mr. Mohammed Mohammed Qahtan, Political Officer
Mr. Ibrahim Musleh Al-Ha'er, Head of the General Elections Office
Mr. Mohammed Naji Allaw, Head of the Legal Sector

Representatives of the Yemen Socialist Party (YSP)

Dr. Aidaroos Nasr Naser, Head of the Caucus
Mr. Abdul-Ghani Abdul-Qader, Political Officer
Dr. Mohammed Ahmed Al-Mikhlaflafi, Head of the Legal Sector
Mr. Salem Omar, Head of the Electoral Sector

Representatives of the Nasserite Unionists Political Party (NUPP)

Mr. Mohammed Al-Sabri, Political Officer
Mr. Saeed Abdullah Ahmed, Secretary of the Technical Committee

Representatives of the Ba'ath Socialist Party

Mr. Hussein Ahmed Al-Sofi, Political Officer
Dr. Mohammed Al-Azani, Secretary of the Parliamentary Board

Annex 2



ELECTORAL LAW REFORM IN YEMEN

Should a place of work be a voting domicile?

1. Introduction

In March 2005 IFES issued a report containing 56 recommendations for amendments to Yemen's election law and for action by the Supreme Commission for Elections and Referendum (SCER). The report addresses the composition of election committees, voter registration, boundary delimitation, candidate nominations, voting and counting processes, election campaigns and finance, local council elections, and other matters. This report was the result of a consultative process with a broad range of stakeholders including the SCER, government officials, political parties, civil society organizations and international NGOs working in Yemen.

After studying the IFES report and other proposals submitted to it by political parties, the SCER asked IFES to hold further consultations with the parties represented in Parliament on two of the recommendations in IFES' report:

- (3) that the place of work should not be a voting domicile (Recommendation 7);
- (4) that an *amin/akel* or a judge should not be required to verify the endorsements from voters obtained by an applicant to be an independent candidate (Recommendation 39).

On May 3, 2005 IFES held a roundtable discussion with political and legal officers from the General People's Congress (GPC), Yemen Congregation for Reform (Islah), Yemen Socialist Party (YSP) and Nasserite Unionist Political Party (NUPP). While the participants agreed that, under certain conditions, an *amin/akel* or a judge should not have to verify the endorsements from voters obtained by an applicant to be an independent candidate, no consensus was reached on whether a place of work should continue to be a voting domicile. The participants asked IFES to provide further information about other democracies' laws on voter registration domiciles and the registration entitlements of military personnel, for discussion at another roundtable.

This report responds to that request; unless stated otherwise, article references are to the General Elections and Referendum Law (No. 13) 2001. Once the consultations have been completed, IFES will prepare a full report for submission to stakeholders.

2. Yemen's current law on voting domiciles

Except for naturalized citizens who have not completed the period specified in the Law since acquiring Yemeni citizenship (Article 3), those convicted of registering as a voter in more than one voting domicile (Article 135), and those denied voting rights under Article 101(2) of the Penal Code, every Yemeni citizen who is at least 18 years old is entitled to register as a voter.

A voter must register at his ‘voting domicile’, which Article 2(d) defines as ‘the usual place of residence of a person, or where he has his main place of work, or the residence of his family even if he does not reside in it’. If he has more than one domicile, he is required to choose the voting domicile where he wishes to exercise his electoral rights (Article 4(a)). No eligible citizen is allowed to register his name for more than one voting domicile.

The Voters List for each constituency includes all those who were, on January 1 of that year, qualified to exercise their voting rights within that constituency (Article 10).

Reviewing and updating of Voters Lists is carried out every two years and at least 6 months prior to the call for a general election (Article 12(a)). A voter may change his voting domicile for another legal domicile during a review or update period by submitting a written application to the election committee within the new voting domicile (Article 4(b)). Article 4(b) states, however, that ‘No committee shall have the right to register any voter on employment relocation grounds unless the voter has worked in the new domicile for at least 6 months from the date of submission of the application.’ Article 4(d) of the Election By-law requires an applicant to include evidence from the employer that the voter has been working in the new location for at least 6 months. It seems this requirement was included in the law to prevent relocations of government employees (including military and security forces) for partisan political reasons immediately prior to voter registration reviews and updates.

After the end of the registration process, committees notify the SCER of the names of voters registered following a change of domicile, and the SCER notifies the committees in the voters’ former constituencies so their names can be deleted from the Lists (Article 4(c)).

Except for presidential elections and public referenda (Article 5), Yemen’s election law requires a voter to ‘personally exercise his voting rights in the electoral constituency that is his voting domicile’ (Article 4(a)). This may require voters to travel to vote if they are absent from their constituencies on election day. In the case of parliamentary and local council elections, there are no provisions for advance voting or for absentee voting. In the case of presidential elections and referenda, however, Yemen’s election law provides (a) that a voter has the right to vote at any center on presentation of a photographic ID (Article 5);¹ and (b) for out-of-country voting at an embassy or consulate where there are at least 500 voters registered in the Voters Lists who hold Voter Cards (Article 6).

The SCER has advised that the numbers of voters currently registered for each type of voting domicile are as follows:

voting domicile	number of registered voters	%
place of residence	6,615,222	81.7
family address	1,028,528	12.7
place of work	453,770	5.6
Total	8,097,520	100.0

¹ IFES’ report on election law recommends that this provision should not be available when a presidential election or a referendum is combined with a parliamentary election or with local council elections (Recommendation 32).

3. Voting entitlements of members of Yemen’s military and security forces

Although members of Yemen’s military and police forces are banned from being members of any political party or organization,² they may register as voters and exercise their right to vote in any election or referendum.

Some countries disqualify military personal from voting, for example Spain, Turkey, Brazil, Colombia, Dominican Republic, Ecuador, Honduras, Paraguay, Peru, Uruguay, Venezuela, Senegal, Chad, Tunisia, Morocco, Egypt, Lebanon, Jordan, Oman and Kuwait. The table in the next section shows some countries’ provisions concerning the voting entitlements of their military and security forces.

4. Voting domiciles and the voting entitlements of military and security forces in some other countries

The following table shows residency requirements for voting and for military and security forces in some other countries:

Country	Voting domicile/s	Are members of the military and security forces entitled to vote?
Algeria	A citizen can be registered only at his or her place of residence. ‘Residence’ is not defined.	Yes. Military and security forces personnel can request to be registered either at their place of birth, or at their parents’ place of residence
Australia	An eligible citizen registers at his ‘real place of living’, i.e. the place of living to which a person, when temporarily living elsewhere, has a fixed intention of returning for the purpose of continuing to live at that place’. There is a 1 month qualifying period. A person with no fixed address registers for his previous address, or where his or her next of kin are registered, or his or her birthplace in Australia, or for the constituency with which he or she has the closest connection.	Yes.
Canada	As a rule, electors must either be ordinarily resident (in Canada, Newfoundland, Labrador, and Ontario), or be a resident of their province or territory for a period of 6-12 months before polling day, or before the issuance of the writ. The place of ordinary residence of a person is the place that has always been, or that has been adopted as, his or her dwelling place, and to which the person intends to return when away from it.	Yes. They can vote at their unit’s polling station only for a candidate running in his or her own ‘riding’ (constituency) which is determined by the address given on the statement of Ordinary Residence form.
Egypt	The law defines a voter’s ‘voting domicile’ as his or her usual place of residence. However a voter may elect to register at his main place of work, or where he has a ‘vested interest’ or the residence of his family even if he does not reside there.	No. The law excludes all members of the military and police forces from exercising the right to vote while in service

² See Article (10) of the Parties and Political Organizations Law No. 66 for 1991 and Article (8) of the By-law. The same provisions apply to members of the judiciary, diplomatic and consular personnel serving abroad, the head and members of the SCER, and the appointed members of the Committee for the Affairs of Parties and Political Organizations.

Great Britain	An eligible voter registers at his or her residential address. Although 'residence' is not defined in law, the courts have held that it involves a 'considerable degree of permanence'. There is no qualifying period. The homeless, remand prisoners, and those in mental institutions register at an address provided in a 'declaration of local connection'.	Yes. Service personnel and their spouses in the UK register to vote in the normal way; those overseas register annually as 'service voters'.
Indonesia	An eligible voter is registered at his or her domicile address. A voter who has more than one domicile must decide which domicile will be listed in the voters register.	Yes.
Jordan	A resident is defined in Article 2 of the amended Elections Law for 2001 as any Jordanian who is an ordinary resident in the electoral constituency. Temporary absence from a place of ordinary residence does not cause a loss or change of place of ordinary residence, as long as the person has the right to return at any time (including Jordanians living abroad). The election law allows any voter to submit a written request to the Civil Affairs Department to be registered in an electoral district other than that where he resides, along with supporting documents. This allows Jordanians to register where their tribes are located.	No. Members of the Jordanian armed forces, public security, and civil defense and intelligence services are not eligible to vote while in service.
Lebanon	The voters list for a constituency includes the names of those who have been ordinarily or actually residents of the constituency for at least 6 months before the beginning of the voter registration update.	No. Military and police forces, security forces and customs offices are not eligible to vote while in service.
Morocco	The 1997 law provides that a person must be a resident of the district for at least 3 months before applying to be registered as a voter. If public officials, local council officials, personnel of public/government corporations do not meet that condition, they and members of their families (and family members of the armed forces and public security personnel) can apply to be registered at the main place of work of the head of the household.	No. Members of the armed forces and public security personnel are not eligible to vote while in service.
New Zealand	An eligible person registers at the address at which he or she last resided for one month or more. The law says 'a person resides at the place where that person chooses to make his or her home by reason of family or personal relations, or for other domestic or personal reasons'. A person's residence does not change by reason only of occasional or temporary absences, e.g. for work or study.	Yes.
Oman	To be registered in the electoral rolls for any administrative district (<i>wilaya</i>), a person has either to be originally from the district or to reside in the district.	No. Members of the military or security forces are not allowed to exercise the right to vote until one year after their actual release from that force.

Tunisia	The law allows a citizen to be registered to vote at any of the following: place of birth; place of residence; place of work; place where a spouse resides. 'Residency' is not defined.	No.
United States	In most States, a person's residence or domicile for voting purposes is his or her 'true, fixed, permanent home'. Ordinarily, this is where the person actually resides. Where a person spends time in several different dwellings, other factors are considered in determining the person's true intent.	Yes. For voting purposes a service member's 'legal voting residence' can be the state or territory where he last resided prior to entering the military service, or the state or territory that he has since made his legal residence. A service member's legal residence does not change until the member acts to establish a new residence in the state or territory to which he is assigned, e.g. buying a home. Votes are cast using absentee ballots.

5. How should residency be determined?

A person's ordinary place of residence has been determined in most jurisdictions as the place where a person has his or her true, fixed, permanent place of abode and to which he or she intends to return despite temporary absences or temporary residences elsewhere. Fundamentally, however, residence is a matter of intent, and where the intent is not clear other factors such as ownership of property, banking arrangements, payment of taxes or the address given for receiving mail, may be considered to determine the person's true intent. Special provisions may apply to those who do not have a permanent address, as in Australia and Great Britain (see the table in the previous Section).

Once established, a person's legal residence for voting purposes remains the same until he or she establishes a new legal residence. Hence a person's legal residence does not change just because the person lives abroad, or moves to another area (e.g. for study or employment), or enters the armed forces and lives in another constituency pursuant to military orders.

Yemen's election law does not define 'usual place of residence', 'residence of his family', or 'main place of work', although all are key terms in the definition of 'voting domicile'. The following draft definition is provided for the purposes of discussion, although of course, a change to the election law would need to be drafted by professional law drafters:³

Voting domicile: either (a) a person's fixed, permanent place of residence in Yemen to which he intends to return despite temporary absences or temporary residences elsewhere (including those resulting from that person's employment), or (b) the fixed, permanent place of residence in Yemen of members of a person's family even if he does not reside there. If a person does not have a voting domicile under (a) or (b), that person's voting domicile shall be his place of residence on the day he applies for registration as a voter or applies for a change of voting domicile.

³ Although the table in Section 4 shows that many jurisdictions register voters only for their residential addresses, the draft definition retains the family residence as a voting domicile because it seems many Yemenis want to be able to vote for a candidate from their village or tribe. If 'main place of work' is retained as a voting domicile, it will also need to be covered in the definition of 'voting domicile', e.g. 'or (c) the main place in Yemen where a person works. If a person does not have a voting domicile under (a) or (b) or (c),...'

6. Should there be voting facilities for voters who cannot go to their electoral centers?

Many countries provide voting facilities for voters who cannot attend a polling place on election day and for those who are away from their electoral districts during an election (e.g. persons in hospitals, educational institutions and registered voters living abroad). These may include permitting voting before election day (e.g. at designated locations, by mail, or by using mobile voting stations), or allowing a voter to cast a vote on election day at a polling station outside his own district.

It would be difficult to provide general absentee voting facilities at Yemen's parliamentary or local council elections. Complex and costly administrative procedures would be needed to ensure that the facilities were provided only to those with a genuine need, to make the correct ballot papers available in different constituencies, and to send votes under secure conditions to the correct constituency for counting. They could also create risks to the integrity of the election, since it would be difficult to ensure monitoring by representatives of candidates and parties, to take effective measures to prevent multiple voting, and to enforce the law against those who abused the system.

As noted in Section 2, however, when a presidential election or referendum is held in Yemen, the law requires some out-of-country voting, and allows any voter to vote in the presidential election or referendum at any electoral center on election day. Where a referendum or presidential election is combined with parliamentary or local council elections, voters who cannot attend the electoral centers where they are registered to vote could be allowed to vote in the presidential election or referendum but not in the parliamentary or local council elections. Some of the logistical problems that would accompany allowing such voting at *any* electoral center would be lessened if it were allowed only at designated or special electoral centers which were publicized in advance, were equipped for the purpose, and had specially trained committees.

7. Options for Yemen concerning the workplace as a voting domicile

The following options assume that the law will be amended to define the key terms concerning voting domiciles.

Option 1: retain the main place of work as a voting domicile and ensure that the 6 month qualifying period is enforced

Advantages:

- no need to amend the election law
- promotes a higher level of voter registrations and participation in the election

Disadvantages:

- allowing voters to choose between three different voting domicile addresses increases the risk of multiple registrations, which are difficult to detect
- allows suspicions that government employees or military personnel are relocated for partisan reasons
- it is not clear whether the requirement that a voter work in the new domicile for 6 months before applying for a change of registration following

relocation for work reasons will be adhered to and applied consistently by election committees

- since constituency boundaries are drawn on the basis of resident populations, within a strict $\pm 5\%$ tolerance, permitting voters to register on the basis of several domicile addresses contributes to significant differences in the numbers of voters registered in different constituencies, thus undermining the principle of 'one vote, one value'

Option 2: remove the main place of work as a voting domicile, and allow voters who are unable to go to the center where they are registered to vote for presidential elections and referendums at designated or special electoral centers, even when they are combined with parliamentary or local council elections

Advantages:

- simplifies the law
- reduces ability to relocate voters for partisan reasons
- allows voters unable to attend their electoral center to participate in presidential elections and referendums

Disadvantages:

- need to re-register those who are currently registered at a job domicile
- reduces participation in parliamentary and local council elections by voters unable to attend their electoral center
- there will be cost, training and logistical issues in allowing voters to vote at designated centers if they are unable to attend their electoral center

Annex 3 Results of consultations with parliamentary parties on the recommendations in the IFES report

IFES recommendation	result of consultations	IFES' comments			
		implement through			deadline
		change to law	change to by-law	SCER regulations, actions	
A. Composition of Election Committees					
1. That, pursuant to Article 24(e), the SCER determine and announce the selection criteria for chairs and members of voter registration and election committees for the 2006 elections as soon as practicable.	unanimous agreement			✓	Sept 30, 2005
2. That the SCER have flexibility to determine the number and functions of the election committees when local council elections are held simultaneously with presidential or parliamentary elections. [Article 78(b)]	opinions divided	✓			May 31, 2006
3. That all chairs and all members of Supervisory Committees be non-partisan. [Article 27(b)]	unanimous disagreement	✓	✓	✓	Sept 30, 2005
4. That no Main Committee or Sub-committee have – (a) a majority of members from one party; or (b) a majority of members from parties that are, in the opinion of the SCER, allied or aligned. [Article 24(d)]	(a) opinions divided (b) near unanimous disagreement	✓	✓	✓	Sept 30, 2005
5. That – (a) each Supervisory Committee consist of a Chairman and four members, including at least two women from the governorate concerned; (b) a Supervisory Committee be able to carry out its duties if one of its five members is absent; (c) in the absence of the Chairman of a Supervisory Committee and in the event that he has not designated a deputy, the oldest member of the Committee shall replace him until a substitute is appointed; (d) a Supervisory Committee designate from among its members a secretary to record the minutes, to be signed by the Chairman and members of the committee and then to be stamped by the numbered seal allotted to the Committee by the Supreme Commission; (e) a member of a Supervisory Committee have the right to refuse to sign the Committee's minutes provided he or she enters a written statement of the specific reasons for refusal in the Committee's records.[Articles 26(b), 26(d), 27(b), 27(c)]	(a) near unanimous agreement; (b), (c), (e): unanimous agreement; (d) opinions divided	✓	✓ to appoint women members of Supervisory Committees, (b-d)	✓ to appoint women members of Supervisory Committees	Sept 30, 2005
6. That – (a) the membership of each Main Committee must include at least one woman from the constituency concerned; (b) when a woman member of a Main Committee is carrying out her duties as a member of the Committee, she may be accompanied by another woman or by a family member to act as a companion, provided that the companion must take no part in the proceedings of the Committee, must not influence the member of the Committee, and must not disclose any information he or she may acquire in carrying out the role of a companion. [Articles 24(d), 128(b)]	opinions divided	✓	✓ (except offence)	✓ (except offence)	Sept 30, 2005
B. Voter Registration					
7. That a place of work not be a voting domicile. [Article 2(d)]	opinions divided	✓			Sept 30, 2005

IFES recommendation	result of consultations	IFES' comments				deadline
		implement through			SCER regulations, actions	
		change to law	change to by-law			
8. That where the SCER has reason to believe a person whose name appears in a Voters List is not eligible to be registered under Article 3 of the law or is registered in more than one constituency – (a) the SCER may, during the review and update period and the subsequent addition and deletion period, request the Main Committee to delete the name of that person from the List, provided the SCER has notified the voter concerned (if not deceased); (b) after a Main Committee has dealt with applications for additions and deletions but before the Voters List becomes final, the SCER may apply to a Court of First Instance for the deletion of the name of the voter, provided (i) the SCER has notified the voter concerned (if not deceased) of the reasons for its belief and its intention to apply to the Court, and (ii) the SCER has publicly announced the names of the registered voters that it believes to be ineligible and that it intends to apply to the court for their removal from the List. [Articles 12(d), 13(b), 15(c)]	unanimous disagreement	✓				Sept 30, 2005
9. That before the Voters Lists become final, – (a) the SCER have the power to correct errors in a Voters List; and (b) the SCER have the power to file a challenge in a Court of First Instance against any entry in a Voters List, provided it has previously notified the voter concerned of its intention to do so; the SCER and the voter concerned shall have the right of appeal to a Court of Appeal for a final decision. [Articles 10(b), 15(d)]	unanimous disagreement	✓				Sept 30, 2005
10. That – (a) the Voters Lists in existence at the beginning of the 30-day biennial review and pre-election update periods be posted in public places within the constituency throughout the review and update periods; (b) corrected Voters Lists be posted in public places within the constituency for 7 days after the 30-day biennial review and pre-election update periods. [Articles 12(b), 13(a)]	opinions divided	✓	✓ (a)	✓ (a)		Sept 30, 2005
11. That the final Voters Lists be posted for 7 days in public places within the constituency. [Article 16(a)]	opinions divided	✓	✓	✓		Sept 30, 2005
12. That a political party have the right to obtain from the Main Committee a photocopy of any Voters List that is publicly displayed, at a uniform cost that is set by the SCER. [Article 16A]	opinions divided	✓				Sept 30, 2005
13. That – (a) the headquarters of a political party have the right to obtain from the SCER in electronic form, a copy of any Voters List that is publicly displayed; and (b) the SCER shall set the uniform costs and technical specifications for providing parties with electronic copies of Voters Lists. [Article 16A]	opinions divided	✓				Sept 30, 2005
14. That where a copy of a Voters List is provided to a party – (a) the List and the information in it must be used only for purposes relating to the registration of voters or in connection with an election or referendum; (b) it be an offence to sell the List or the information in it, or to provide it to any unauthorized person, or to use it for commercial purposes. [Articles 134(c), 134A]	opinions divided	✓	✓ (a)	✓ (a)		Sept 30, 2005

IFES recommendation	result of consultations	IFES' comments				deadline
		implement through			SCER regulations, actions	
		change to law	change to by-law			
C. Boundary Delimitation						
15. That the election law state the general procedures for the boundary delimitation process, namely – (a) that the SCER must revise the boundaries of parliamentary constituencies and local electoral constituencies according to the usually-resident populations; (b) that the SCER must not consider political data when deciding constituency boundaries and must not incorporate political data into a delimitation database; (c) that the SCER must (i) make publicly available within each governorate its proposed boundaries for the constituencies within the governorate and the specific reasons for them in terms of the statutory criteria; (ii) give political parties, local councils, and any other person or organization the SCER considers appropriate, a reasonable opportunity to provide the SCER with comments on the manner in which the proposed boundaries comply with the statutory criteria; (iii) consider those comments before deciding the final boundaries; (iv) publish the final boundaries showing their compliance with the statutory criteria; and (v) prepare new Voters Lists according to the new boundaries; and (d) that the new boundaries will come into force at the next general election for the House of Representatives or the local councils. [Articles 10(c), 53(b), 78(c)]	unanimous agreement	✓	✓	✓ except (d)	Sept 30, 2005	
D. Nomination of Candidates						
16. That – (a) the candidate nomination period for parliamentary and local council elections be reduced from 10 days to 7 days; and (b) Independent candidates be required to obtain 200 signatures from at least one-third of centers. [Articles 57(a), 58(b), 81]	opinions divided	✓			(a) May 31, 2006 (b) before 2009 elections	
17. That where a committee refuses an application to be a candidate, it must provide the applicant with a written statement of the specific reasons for its decision. [Articles 57(f), 84(b)]	unanimous agreement	✓	✓	✓	May 31, 2006	
18. That– (a) within 2 days of the committee's announcement of the preliminary list of candidates for a constituency, any registered voter in the constituency may challenge a committee's decision to refuse or accept a nomination application; (b) the committee issue its decision on the challenge within 3 days of the deadline for filing applications; (c) the parties to the case then have 2 days to appeal the committee's decision to the Court of Appeal in the governorate, which must issue its decision within 5 days of the deadline for filing appeals; (d) the decision of the Court of Appeal determine whether the person concerned shall be a candidate at the election. [Articles 57(g)-(j), 84(c)-(f)]	unanimous agreement	✓			May 31, 2006	
19. That the fee to be a candidate for the local council of an administrative district be half the fee to be a candidate at a parliamentary or governorate council election.	opinions divided	✓			May 31, 2006	
20. That the fee to be a candidate at a parliamentary or governorate council election be increased to RY10,000. [Articles 58(c), 83]	unanimous disagreement	✓			May 31, 2006	

IFES recommendation	result of consultations	IFES' comments				deadline
		implement through			SCER regulations, actions	
		change to law	change to by-law			
21. That a woman need not obtain any signatures for nomination as an Independent candidate. [Article 58(b)]	opinions divided	✓				before 2009 elections
22. That the requirement that any public official in an administrative unit must resign 3 months before the opening of nominations in order to be eligible to be a candidate in a constituency in which he or she works be removed. [Article 60(f)]	unanimous agreement	✓				before 2009 elections
23. That the penalty for any public official convicted of an offence against the First, Second and Seventh provisions of Article 133 be a maximum period of imprisonment of 2 years and loss of office. [Article 133(a), 133(b)]	opinions divided	✓				May 31, 2006
E. Voting and Counting Processes						
24. That immediately after the close of the poll, each male and female Sub-committee count the votes it has issued, report the results to the First Sub-committee, and deliver sealed ballot papers and other documents to the First Sub-committee under secure conditions. [Articles 102-106]	unanimous agreement	✓				May 31, 2006
25. That if a candidate fails to appoint a representative to a Main Committee or Sub-committee, or if an appointed representative does not attend, the committee must record that fact in its minutes and must then carry out its duties in his or her absence. [Article 95]	unanimous agreement	✓				May 31, 2006
26. That if one member of a committee is absent, the other two members must record that fact in the minutes and must carry out the committee's duties in his or her absence. [Article 26(c)]	unanimous agreement	✓				May 31, 2006
27. That the law state clearly that a committee member has the right to refuse to sign the committee's minutes provided he or she enters a written statement of the specific reasons for refusal in the committee's records. [Article 26(b)]	unanimous agreement	✓	✓			Sept 30, 2005
28. That copies of the count or aggregation of results and the minutes recording the final results be given to candidates or their representatives by a Main Committee or a Sub-committee and also be publicly displayed for 3 days at the location of the Main Committee or Sub-committee. [Articles 104(b), 106(a), 106(c)]	opinions divided	✓	✓	✓		May 31, 2006
F. Election Campaigns and Finance						
29. That the SCER's instructions to the official media under Article 25(c) include guidelines relating to coverage of the incumbent President's daily activities during the campaign period for a presidential election at which the President is a candidate, which may be perceived as election publicity. [Article 50]	unanimous agreement			✓		May 31, 2006
30. That within 48 hours of being notified of a single donation to a presidential candidate of YR100,000 or more, or of donations to a presidential candidate from a single donor to a presidential candidate that exceed YR200,000 in total, the SCER must publish the name of the donor and the amount donated. [Article 75(d)]	opinions divided	✓				Sept 30, 2005

IFES recommendation	result of consultations	IFES' comments				deadline
		implement through				
		change to law	change to by-law	SCER regulations, actions		
31. That by the end of 2007, and following consultations with political parties and other organizations it considers appropriate, the SCER publish a report recommending whether campaign spending limits should be introduced for presidential, parliamentary or local council elections, and whether disclosure of donations should be introduced for parliamentary and/or local council candidates. If the SCER does recommend the introduction of campaign spending limits or disclosure of donations, the report should state the limits and disclosure levels that should apply and the mechanisms by which they would be enforced.	opinions divided			✓	begin by end of 2006	
G. Other Matters Relating to the Election Law						
32. That Article 5 be amended to provide that a voter does not have the right to vote at any center if a presidential election or a referendum is combined with parliamentary elections or with local council elections.	unanimous agreement	✓			May 31, 2006	
33. That Articles 12, 14 and 15 be amended to require a voter to be notified (unless deceased) before his or her name can be deleted from the Voters List as a result of an application by another person or by the SCER.	unanimous agreement	✓	✓		Sept 30, 2005	
34. That Article 15(a) be amended to limit the right of challenge to the Voters List for a constituency to citizens whose voting domicile is in that constituency.	unanimous agreement	✓			Sept 30, 2005	
35. That Article 15(b) be amended to limit the right of appeal to the objector and the respondent.	unanimous agreement	✓			Sept 30, 2005	
36. That Clauses (a) and (b) of Article 24 be amended to state explicitly that boundaries of parliamentary constituencies and local electoral constituencies must be revised after each population census.	unanimous agreement	✓			Sept 30, 2005	
37. That a new clause be inserted into Article 24 to provide that – (a) the SCER is the principal and independent adviser to the Government and the House of Representatives on electoral matters; (b) within 12 months of each general election and referendum, and following consultations with political parties and with any other organizations it considers appropriate, the SCER must publish a report on the conduct of the election, including any changes to the law recommended by the SCER. [Article 24(i)]	unanimous agreement	✓		✓ (b)	Sept 30, 2005	
38. That before taking up their duties after they are appointed, all Chairmen and members of Supervisory Committees and voter registration and election Main Committees and Sub-committees must, in front of witnesses, read aloud and sign a statement promising to fulfill their duties impartially and in accordance with the policies and directions of the SCER. [Article 25(b)]	unanimous agreement	✓	✓	✓	Sept 30, 2005	
39. That – (a) there be no requirement for an <i>amin/akel</i> or a judge to verify the endorsements from voters obtained by an applicant to be an Independent candidate; (b) an applicant to be an Independent candidate must ensure and declare that each voter endorsing his or her candidacy has personally signed the form provided by the SCER, with a false declaration resulting in refusal of his or her application and liability to prosecution; (c) all multiple endorsements of applicants to be Independent candidates be treated as void; (d) an applicant to be an Independent candidate be entitled to inspect the final Voters Lists held by the Main Committee. [Articles 58(b), 133]	opinions divided (see Report, page 6)	✓	✓ (b-d) except offence	✓ except offence	before 2009 elections	

IFES recommendation	result of consultations	IFES' comments			deadline
		implement through			
		change to law	change to by-law	SCER regulations, actions	
40. That Article 58(c) and Article 83 be amended to – (a) require a local council to provide the relevant Main Committees with the details of the council's bank account into which the candidates' nomination fees must be deposited, and require the Main Committees to provide these details to each candidate; (b) require candidates to deposit the fee in cash in the relevant local council's bank account and include the receipt with their nomination application.	unanimous agreement	✓	✓	✓	May 31, 2006
41. That Article 58(d) be amended to provide that – (a) a political party may withdraw its endorsement of a candidate only during the nomination period, and may then endorse another candidate before the end of the nomination period; (b) a candidate from whom a party withdraws its endorsement may become an Independent candidate if he or she completes such nomination application procedures as the SCER requires in the period remaining before the close of nominations.	unanimous agreement	✓			May 31, 2006
42. That Article 61 be amended so that – (a) the deadline for a person to withdraw his or her application to be a candidate is 2 days after the end of the nomination period; (b) if a person withdraws his or her application to be a candidate, the local council to which the candidate fee was paid must refund the fee in full to the candidate or his or her representative; (c) a candidate who dies before the deadline for withdrawals is deemed to have withdrawn.	unanimous agreement	✓			May 31, 2006
43. That Article 61 be amended to require a supplementary election under Article 108 if a candidate dies after the final list of candidates has been issued and before the close of voting on Election Day.	near unanimous agreement	✓			May 31, 2006
44. That Article 61 be amended so that if a candidate dies after the close of voting but before the final result is officially declared, the official count shall be completed and – (a) if the deceased candidate obtained a relative majority of valid votes, the seat shall be declared vacant and a by-election shall be held according to Article 109; (b) if the deceased candidate would have been included in a lot held under Article 105(b), he or she shall be excluded from the lot.	unanimous agreement	✓			May 31, 2006
45. That – (a) Article 57 be amended to require a supplementary election to be held under Article 108 if the final list of candidates for a constituency contains fewer than two names; (b) Article 62 be amended to extend the nomination period for a constituency by 2 days if the preliminary list of candidates contains fewer than 2 names, with consequential reductions in the periods for filing and deciding challenges.	opinions divided	✓			May 31, 2006
46. That Article 63(d) be amended to require an applicant to be a presidential candidate to appoint a person to be responsible for receiving donations on behalf of the candidate, and for ensuring that proper and accurate records are kept of all donations received by or on behalf of the candidate, including the true name of each donor and the amount donated.	opinions divided	✓			Sept 30, 2005

IFES recommendation	result of consultations	IFES' comments				deadline
		implement through			SCER regulations, actions	
		change to law	change to by-law			
47. That Article 75 be amended to – (a) define a 'donation' to a presidential candidate to include cash and non-cash contributions; (b) require a person making a donation that exceeds YR10,000 to provide the person receiving the donation with the true name of the donor and the reasonable market value of any non-cash donation; (c) once a person is endorsed as a presidential candidate, require the person appointed by the candidate under Article 63(d) to (i) notify the SCER in writing within 48 hours of the true name of any donor who has previously made a single donation to the candidate that exceeds YR100,000 or whose total donations exceed YR200,000, and the amount donated; (ii) during the period between endorsement by the House and the declaration of the final result of the election, notify the SCER in writing within 48 hours of the true name of any donor who makes a single donation to the candidate that exceeds YR100,000 or whose total donations to the candidate exceed YR200,000 since the candidate announced his intention to run for the presidency, and the amount donated.	opinions divided	✓				Sept 30, 2005
48. That Article 80 be amended to prevent a person from being a candidate at the same election for more than one governorate council or for both a governorate council and the local council of an administrative district.	unanimous agreement	✓				May 31, 2006
49. That in the case of equality of votes, (i) the Main Committee must, at a time set by the SCER and under its supervision and in the presence of candidates or their representatives, re-examine the validity of all the votes cast in the constituency and must then recount all the votes; (ii) if votes are equal after the recount, then the winning candidate is decided by lot. [Article 106(b)]	opinions divided	✓	✓	✓		May 31, 2006
50. That – (a) the last sentence of Article 106(c) be amended by replacing 'House of Representatives' by 'the Supreme Court'; (b) Article 107(b) be amended to refer to contesting election results before the Supreme Court.	unanimous agreement	✓				before 2009 elections
51. That Article 133 be amended to include any failure to comply with Article 75.	opinions divided	✓				Sept 30, 2005
52. That Article 135 be amended to cover (i) an application by a person for registration as a voter while knowing that the application violates Article 3; (ii) any action by a person to procure or assist the registration of another person while knowing that the other person was not eligible for registration under Article 3 or Article 4(b).	opinions divided	✓				Sept 30, 2005
53. That the SCER make it clear before each election and referendum that it will refer any person who violates the election law to the Office of the Public Prosecutor.	unanimous agreement			✓		before 2006 voter registration update, and before 2006 elections
H. Other Matters Relating to Local Council Elections						
54. That the SCER's manual for local council elections include the procedures to be used for conducting the elections based on those required for parliamentary elections, with appropriate changes according to the different nature of local elections. [Article 141]	opinions divided			✓		May 31, 2006

IFES recommendation	result of consultations	IFES' comments			
		implement through			deadline
		change to law	change to by-law	SCER regulations, actions	
55. That – (a) the SCER consider decentralizing the printing of local council ballot papers, provided that political parties and NGOs are able to monitor the process; (b) the SCER set the timetable for the different phases of the 2006 election to give it as much time as possible between the finalization of the lists of candidates and Election Day; (c) the SCER discuss with the Ministry of Local Administration the issues surrounding the number of local electoral constituencies required in administrative districts with small populations, including whether there should be an amendment to Article 59 of the Local Authority Law to have fewer than 18 elected members in those administrative districts.	near unanimous agreement on (a); unanimous agreement on (b) and (c)			✓	(a), (b): by March 30, 2006; (c) in conjunction with review of local council districts before 2009 elections
56. That the SCER discuss with the Ministry of Local Administration whether Article 113 of the Local Authority Law should be amended so that a vacancy arising more than 12 months before the end of the council's term is filled by the highest polling unsuccessful candidate at the previous local council elections, with a by-election being held if that person does not accept the position.	unanimous agreement			✓	May 31, 2006