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The Meaning of No

By Noah Feldman

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Casting a yes vote in next Saturday's constitutional referendum in Iraq would be easy to understand. Although the proposed document is too decentralizing for some tastes and too Islamic for others, those who choose to ratify it are clearly embracing democratic politics instead of violence. But what would it mean to vote no, as hundreds of thousands of Iraqis seem poised to do?

If enough no votes are cast in the right places, they will sink the constitution. Should two-thirds of the voters in 3 separate provinces (out of 18 in Iraq) check the no box, Iraqis would be sent back to the drawing board. The legislative elections planned for December would create a new national assembly, which would in turn be charged with redrafting the document. Such an outcome would demonstrate that the current proposal does not reflect the national consensus necessary for a constitution worthy of the name. Iraq's growing fragmentation would be made more visible, and the vexed question of whether the country can survive as a single, unified entity would loom large in the next round of elections and talks.

Many Sunnis will vote against the constitution, but few of them advocate a national breakup. To the contrary, one of their main objections is that the proposed text does too much to empower northern Kurds and southern Shiites at the expense of the largely Sunni center that once governed firmly from Baghdad. Yet rejection of the draft will inevitably be seen as a step toward national dissolution. This is one of the weird anomalies of an up-or-down referendum in a country on the brink of civil war. To vote no means increasing disorder and uncertainty - even if the reason for that vote is that the constitution does not create a government that would be strong or orderly enough.

Opponents of the constitution could always protest by staying home. But when Sunnis boycotted the last set of elections in an attempt to deny the legitimacy of the order imposed by the United States, Kurdish and Shiite politicians simply went ahead and started composing a draft constitution without them. Opting out was shown to be an ineffective strategy. Sunnis understand that the provisions they dislike in the current draft, particularly its inclusion of strong de-Baathification measures, are a direct result of

their boycott blunder. It's no wonder that even though their opposition to the occupation has grown, they've registered for the referendum in large numbers.

So Sunnis will most likely vote this time and hope that despite their minority status, they can still affect the outcome under the ratification ground rules. The law of unintended consequences is at work here. The ratification rules were designed last year by the unelected Governing Council primarily to give the Kurds, not the Sunnis, an effective veto over the eventual pact. Three provinces was the magic number because the Kurds knew they could deliver two-thirds majorities in the three northernmost provinces. Whether Sunnis can do the same in the areas where they predominate has now become the key question. One province, Anbar, seems all but assured to reflect Sunni preferences by a comfortable margin. But no one can say for certain how the numbers will play out elsewhere. In the denominationally diverse Baghdad province, Shiites loyal to Moktada al-Sadr could well make the difference, depending on whether they follow their leader's initial constitutional skepticism or Grand Ayatollah Ali al-Sistani's statement recommending ratification.

Meanwhile, all the politicking of the pre-referendum period is taking place in the shadow of continuing violence, most of it Sunni-driven and much of it against Shiite civilians. In the short term, the referendum will only increase the violence, as international jihadists and local sympathizers strive to disrupt the forward progress of the political process. A defeat of the constitution could deepen the Sunni-Shiite-Kurd divisions, and many observers fear that the odds of Shiite retaliation against Sunni attacks would increase. The fact that Shiites have not retaliated systematically is the only thing now standing between Iraq and a major civil war.

But there are also more hopeful possibilities. If the constitution fails at the polls, Sunnis may realize that participating in electoral politics is a viable option for them despite their minority status. In this instance, the Sunnis would learn the lesson that democracy works, and instead of boycotting legislative elections as they did before, they would return to the polls in December and choose representatives who would then serve as legitimate voices for their collective aspirations. The emergence of a credible elected Sunni leadership would be a major step forward for Iraqi politics, which have so far been hampered by the absence of anyone who can claim to speak for the ordinary Sunni and deliver those insurgent leaders who may be inclined to compromise. For all their limitations, politicians responsible to an electorate try to reflect popular preferences as they see them.

Right now, the entire U.S. strategy for ending the violence turns on convincing the former Baathists and military officers who make up a significant part of the insurgency that they have more to gain by entering politics than by keeping up their attacks on U.S. and Iraqi forces. Once these insurgent leaders are convinced, the theory goes, they have the capacity to squeeze out the jihadists, both international and domestic, who carry out a majority of suicide bombings and who presumably have no interest in ever reaching a negotiated compromise with any Iraqi government so long as the United States remains in the country.

The jihadist insurgents, who despise the idea of a political settlement, want to block Sunni electoral participation so as to foreclose the option of a negotiated settlement between the different groups in the country. The jihadists' plan is to persuade Sunnis, by reason if possible and by force if necessary, not to opt in to the political process. By contrast, the interest of the more pragmatic insurgents is to open a political front parallel to the violent course of the insurgency. Then the elected Sunni politicians could be strengthened by the threat of violence, while the insurgency could gain legitimacy from its association with elected officials - a joint political-military strategy practiced regionally by organizations like the P.L.O. and the Lebanese Hezbollah, and perfected by Sinn Fein and the I.R.A.

The worst outcome for the future of the political process may be if Sunnis vote in large numbers against the constitution yet fall ever so slightly short of successfully blocking it. If two-thirds of the voters in two provinces and three-fifths in several more vote against ratification, then the document will pass even though Sunni opposition is widespread. This may conceivably strengthen the argument for boycotting the next elections, just like the last time - a result that would short-circuit the strategy of developing a legitimate Sunni political leadership.

Whether a further boycott would follow ratification ultimately depends on what Sunnis mean when they vote no on the constitution. After all, a ballot cast against this constitution is still a ballot cast for the further democratic process of redesigning the constitution, this time with a more representative legislative body. It is true that a person need not be committed to the values of democracy to vote in an election. But the act of voting amounts to the recognition that elections matter, and that - whatever the origins of such democratic practices - they are becoming part of the political practice of Islamic Iraq. For Sunnis to acknowledge this reality marks a necessary, if not sufficient, step on the road to bringing democratic institutions into being.

We should not deceive ourselves: those who vote against the constitution will not be casting a ballot in favor of the United States or the invasion of Iraq, or even in favor of peace. Neither, for that matter, will those who vote in favor of the constitution be expressing confidence in American competence or in the justice of our presence. In Iraq, as elsewhere, people are able to distinguish democracy from America's efforts to promote it. To the Iraqis, democracy is not an American value. It is just a mechanism - probably the only mechanism - for getting them out of the desperate fix in which they find themselves. That may be the only reason that democracy still has a chance of succeeding in Iraq, against all the odds.

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