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Iraq's Constitution and America's Exit Strategy

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2005 will be remembered as the year of the freest elections in Iraqi history. Iraqis will have gone to the polls three times by the end of this year. In January, they elected their representatives for an interim parliament, in October they voted on a constitution, and in December they are scheduled to choose a regular parliament. These events stand in sharp contrast to the experience of 35 years under Ba'thist rule, during which there were no elections at all for the first twelve years and then only sham votes for a powerless parliament or a presidential referendum that endorsed Saddam Hussein by margins of more than 99%. In this sense, Iraq has undergone a true political revolution. Nevertheless, the vote on the constitution raised questions about its timing, about the constitution's durability in the face of possible political turmoil, and about its real impact on long-term socio-political process and the implications for the policy of the United States and its allies.

Like all previous Iraqi governments, the current one saw fit to adopt a constitution soon after it came to power, and for the very same reasons: to secure legitimacy and popular backing for policies and state institutions consistent with the government's world-view. But for all of its advantages, this method also has certain drawbacks. The hasty formulation of a new constitution betrays the inherent weaknesses of the new government, for which the constitutional document is meant to compensate. Secondly, the forced pace of the process has not only produced a multiplicity of constitutions – the latest one is the sixth – but also precluded a reasoned and temperate social dialogue that could eventually produce consensus on the principles embedded in the document. True, this constitution, unlike its predecessors, is the product of significant input from the Shiites and Kurds, who had previously been excluded from the process. But the Sunnis, who make up about 20% of the population, not only remain largely outside the process but are bent on sabotaging the new constitution. It is therefore necessary to examine their attitude in more detail.

The Sunnis have been pushed to the margins of Iraqi politics following the American invasion and they have tried by every means possible to prevent

stabilization of the state and government. Their actions involve a combination of violence (which they term "resistance") and a boycott of political processes. Thus, they purposely refrained from participating in the January 2005 elections, and they are therefore virtually unrepresented in the interim parliament. That step backfired, however, because they were unable to make their voices heard in legislative committees. And when non-parliamentary Sunni representatives were added to those committees, their influence was minimal, resulting in a draft constitution that appeared to jeopardize their political, economic and social interests. The elements that seemed more threatening to them have to do with the identity and character of the state, that is, the stipulations that only the Arabs of Iraq – not all Iraqis – are part of the Arab world and that Iraq would be governed by a federal system. These provisions were ultimately meant to institutionalize the upheaval brought about by the American invasion, which stripped the Sunnis of their traditional predominance in Iraq and their ability to define its national character and orientation. For these reasons, the Sunnis were initially inclined to boycott the referendum, as well. At the last minute, however, they decided to participate, partly because of American pressure, partly because of Shiite and Kurdish efforts to conciliate them with a promise that they could reopen debate about specific articles after the December election, and partly because they recognized that a refusal to vote would leave them even more marginalized.

Sunni participation in the referendum has been interpreted by some as progress in Iraq's political evolution. In fact, the Sunnis took part in order to continue their opposition by other means; they hoped to defeat the constitution at the ballot box. And the voting results do testify to the continuing Sunni opposition and the ongoing ethnic fault-lines in Iraqi society. For while the 15 predominantly Shiite or Kurdish provinces approved the constitution, two Sunni provinces – Salah al-din and Anbar – disapproved by massive majorities, and another mixed province – Nineveh – also voted against, though not by the two-thirds majority needed in at least three provinces for the constitution to be formally rejected. That provision was originally introduced in order to reassure the Kurds and encourage them to reach common ground with the Shiites. But while the Kurds ultimately had no need to rely on it because most of their requirements were met in the draft constitution, the Sunnis, with a few thousand more votes in Nineveh, could have taken advantage of it to scuttle the entire document. It is unlikely that the Sunnis will reconcile themselves to the fact that they only came close. Instead, they will probably continue to use both violence and politics in an effort to turn the clock back. The constitutional debate has actually exacerbated ethnic tensions because it encouraged all sides to view an approved document as a kind of argument-stopper, after which no further adjustments or appeals would be possible. Actually, in Iraq's experience, constitutions have neither shaped nor reflected political realities, and the same situation will probably prevail in the future.

But that does not mean that an approved constitution and elections in December cannot be exploited by the United States to begin a gradual drawdown of forces and eventually to leave Iraq. Critics of American policy dispute the assumption that the longer the Americans remain in Iraq, the better chance there is to stabilize and democratize the country. They argue, instead, that a protracted presence will only increase friction with the population and encourage terrorists to challenge American determination and credibility, and that the departure of American forces will enable the Iraqis to find their own internal equilibrium by giving the Sunnis a chance to prove their claim that their fight is only with the Americans and not with other Iraqis. After the December parliamentary elections, this thesis may be put to the test.

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