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Putting Iraq's Security Agreement to the Vote: Risks and Opportunities

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On August 17, Iraq's Council of Ministers approved a draft legislation that would require the ratification of the U.S.-Iraq Security Agreement, also known as the Status of Forces Agreement (SOFA), in a national referendum coinciding with the national elections on January 16, 2010. Out of the 275 Iraqi parliamentarians, a simple majority is needed to authorize the draft law when the National Assembly reconvenes on September 8, 2009. If a referendum takes place, and the Iraqis reject the security agreement, U.S. forces would be required to leave Iraq by January 16, 2011, instead of December 31, 2011. The referendum could also change the nature of the upcoming national elections, focusing attention on nationalistic posturing at the expense of the U.S.-Iraqi relationship, and distracting Iraqi politicians and voters from the many serious issues facing the country.

Background

Article II, Clause 1 of the implementing legislation underpinning the SOFA states that "a general popular referendum for the agreement will be held on a date no later than July 30, 2009." Article III confirms that "the Iraqi government will abide by the results of the referendum." These articles were inserted by Iraqi prime minister Nouri al-Maliki to placate Sunni Arab political movements and other political parties who were at that time the most vocal opponents of U.S. military presence in Iraq.

The July 30 deadline passed for two reasons: the referendum was not provided with funding until the Council of Ministers allocated \$99 million on June 9, and the Independent High Electoral Commission (IHEC) had been fully committed throughout the first half of 2009, first with the January provincial elections in Iraq's fourteen provinces and later with the July presidential and parliamentary elections for the Kurdish Regional Government. Arguably, factions within the Council of Ministers (including al-Maliki and the Kurdish bloc) welcomed these practical limitations, since they did not support any acceleration of a U.S. military drawdown. As a result, no date was set for the referendum until the August 17 announcement.

Cause and Effect

Al-Maliki appears to have initiated the referendum's inclusion with the elections on January 16, 2010. Key advocates of the referendum -- the Sunni Arab Tawafiq bloc and Muqtada al-Sadr's supporters in parliament -- report being "pleasantly surprised" by the development, in the words of a Sadrist legislator.

Practical rationales exist for running the election and referendum in January 2010. All the conditions required to hold the referendum are now in place, including a freed-up IHEC and sufficient funding for voter education on the key issues. There are obvious financial and organizational advantages to holding the referendum at the same time, since it can be added to national election ballots at almost no extra cost or effort.

Intertwining the national elections and the referendum, however, has the potential to politically bind the two

issues -- something that must have been obvious to the prime minister and the factions within his cabinet. Explanations for al-Maliki's new willingness to hold a referendum range widely. Al-Maliki could be simply courting the support of Sunni and Sadrist groups, and the Iranian government, or the prime minister could be exploiting the contentious nature of the referendum to break apart power blocs (Kurds and the Islamic Supreme Council of Iraq) that might oppose al-Maliki's reelection. Perhaps more likely, the prime minister may simply be laying the foundation for a political campaign dominated by nationalist themes to maximize the chance of his own reelection at the head of a cross-sectarian and multiethnic alliance drawn from a highly fragmented parliament.

Potential Implications for U.S. Military Presence

Whatever the specific rationale, it is clear that al-Maliki and almost all other political factions stand to make short-term political gains from nationalist posturing at the expense of the U.S.-Iraqi relationship and the ongoing U.S. military mission in Iraq. Also at risk is the potential for serious discussion on important issues such as corruption, service delivery, economic performance, and security achievements. Now that al-Maliki has put the idea of an intertwined election and referendum on the table, it may be politically costly for individual factions to canvass against a January 2010 referendum.

Considering the apparent increase in mass-casualty bombings since the June 30, 2009, drawdown of U.S. forces in Iraq's cities, Iraqi citizens may support the SOFA. If passed by a popular vote, the security agreement could be considerably strengthened for the remainder of its lifetime, allowing more flexibility for the U.S. and Iraqi security forces to work together.

If the Iraqi public were to reject the agreement -- a distinct possibility if the issue is deliberately politicized for electoral gain -- U.S. forces would then be required to leave Iraq within one year, according to the Article 30 of the SOFA. This would effectively cut eleven months from the maximum period of U.S. military presence envisaged under the current agreement, with U.S. forces leaving by January 16, 2011, instead of December 31, 2011. As U.S. troops are already likely to draw down to a 35,000-50,000 "residual force" by August 2010, the accelerated withdrawal timeline would mainly affect the training, mentoring, and equipping of the Iraqi security forces.

An accelerated timeline could also reduce U.S. military flexibility as Iraq confronts key strategic risks during the next eighteen months. Foremost amongst these risks are local clashes between federal and Kurdish security forces, a challenge that Multinational Force Iraq commander Gen. Ray Odierno considers serious enough to justify a near-term "minisurge" of U.S. combat troops in northern Iraq. U.S. forces would also be less able to hedge against contingencies, including stalled government formation or serious setbacks to political reconciliation caused by al-Qaeda in Iraq's intensified sectarian and ethnic targeting.

A rejection of the SOFA would not only affect available forces but could also further degrade U.S. military freedom of action. The June 2009 withdrawal of U.S. combat forces from Iraqi cities showed that the letter of the law can be less important than the expectations of Iraqi citizens and security personnel. Across Iraq, the local population interpreted the June 30 deadline more strictly than was intended by either the government of Iraq or the multinational forces. Although intensive efforts by the Iraqi government reduced misunderstandings and restored some freedom of movement to the U.S. military, such Iraqi support may not be available next time. It took five months to seat an Iraqi prime minister after the December 31, 2005, elections and may take as long again in early 2010. In all likelihood, a rejection of the SOFA would result in greatly reduced freedom of movement and action for the U.S. military in 2010.

Options for U.S. and Iraqi Policymakers

Iraqi parliamentarians will likely ratify the Council of Ministers' motion to hold the referendum in January 2010. The referendum is a positive step because it shows the Iraqi people that the government kept its promise to put the SOFA to the vote. Even if the confluence of the national elections and the referendum are now

unavoidably intertwined, steps that can be taken to reduce potentially negative effects on the U.S.-Iraqi relationship and U.S. military operations in Iraq.

First, senior U.S. government decisionmakers in Iraq should directly appeal to Iraq's main political leaders to foreswear further politicization of the SOFA referendum in their campaign rhetoric. This would represent an act of good faith and hospitality to Iraq's key ally, the United States.

Second, if the referendum rejects the SOFA, the new Iraqi government in 2010 should be encouraged to act at an early stage to publicly support U.S. military freedom of movement and action until January 16, 2011, and should clearly explain that the rules of the existing agreement continue to apply until that date unless supplanted by a new arrangement.

Finally, both the Iraqi and U.S. governments should be prepared to draft a new security agreement for potential ratification by a new parliament in 2010. As the existing agreement expires on December 4, 2011, there will, in any case, need to be a new pact in 2012 to cover future U.S. military support for the training and equipping of Iraq's security forces. Expediting the development of a new security agreement in partnership with the new parliament could provide a way of refreshing Iraqi consent and refocusing the U.S. military presence on a subset of key areas and missions involving security-force training and specific peace-enforcement activities along the disputed federal-Kurdish boundaries. Since many of the drafters of the original security agreement are no longer working on Iraq policy, the lessons learned by these individuals should be collated at an early stage to prepare the current teams at the State and Defense Departments for a new drafting process.

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