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Why a Yes win in tight indyref fight might be the way to keep Scotland united

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Terse passing handshake between Salmond and Darling over the weekend. Andrew Milligan/PA

The polls in the Scottish independence referendum indicate that the Yes and No votes have narrowed to such an extent that it is now impossible to predict with any certainty what the outcome will be. Indeed, two polls have even predicted a Yes victory.

There is always the remote possibility of a “draw”, although of course this is exceedingly unlikely. If it actually did happen, we would be in uncharted territory. There is nothing to provide for such an outcome in the Edinburgh agreement that was signed by both the UK and Scottish governments. We do know that there is no possibility of a recount, unless there are questions over the integrity of the process in one of the 32 counting areas. One wonders if the two sides would agree to bend this rule in such circumstances to avoid having to hold

another referendum.

If that didn't break the deadlock, I doubt that a second legal referendum in the sense of what we have now would be forthcoming. The expense of it all would become a much bigger issue than it has been. The Scottish government could hold its own referendum but it wouldn't be legally binding. There is the fact that the UK government would still want the matter settled, but that might not justify a rerun. It would be a delicately balanced situation, but Yes probably has more to lose from a tie than No.

What is more plausible than this situation is a painfully narrow result that separates both the Yes and No vote by a few thousand, or even a few hundred, votes. The Edinburgh agreement also states that the result will be respected no matter the margin of victory. Conceivably, therefore, Scotland could vote to leave the UK and become an independent nation-state on the most wafer-thin of majorities. Equally, the Yes campaign could be denied their dream of an independent Scotland by just a handful votes.

What if it's No?

The post-referendum consolidation process is thus all important. This could be easier if Scotland votes No because those advocating independence will not have had anything taken away from them. This seems like an obvious point to make, but the dream of achieving something and not quite making it is different from having something taken away and fundamentally changed. Debates aside about whether or not an independent Scotland would be that different, there will be many in Scotland that would not see it that way. So the scale of recalibration required by particular groups is less acute in the event of a No vote.

No would also mean less fundamental reconciliation, however. Post-No Scotland would enter into a very technocratic debate about the devolution of income tax and some fairly minor aspects of the welfare state, among other things. Although these things are undoubtedly important, it is unlikely that the heightened level of civic engagement that Scotland has enjoyed over the past couple of years will continue. It is difficult to imagine a town hall getting packed out for a discussion about the devolution of stamp duty.

At the same time, the debate over more powers would undoubtedly continue. The proposals on more powers for the Scottish parliament drawn up by the pro-UK parties do not represent the end-point of devolution and therefore the question over Scotland's constitutional status would be far from resolved.

What if it's Yes?

If Scotland marginally votes Yes, on the other hand, expect a reconciliation process that would be hard but possibly more fundamental in the long run. The result would deeply upsetting for some, and the blame game may ensue as to who was responsible for allowing the Yes campaign to win. In the event of any narrow result it is human nature to ponder what could have been done differently.

Yet an independent Scotland would undergo a process of putting together a written constitution. Although the process is still vague, it is broadly understood that some sort of constitutional convention would take place which would aim to draw in political parties, civic society, trade unions and even individuals. This convention would have the dual purpose of showing the wider public that an independent Scotland does not belong to the SNP and giving those groups originally hostile to independence a sense that they have a meaningful and important stake in the construction of this new Scottish state.

As the constitutional expert Eliot Bulmer argued in a recent book on an independent Scotland's written constitution, one of the roles of such a document would be as a covenant that can potentially reflect the values of Scottish society, promote the common good and check against the oligarchic tendencies of political elites. Not only would this help reunite

the country, it would also have to be ratified by another referendum.

Lessons from Wales

Wales provides a useful precedent for a close Scottish vote. In 1997, the referendum on Welsh devolution returned a 50.3% vote in favour of creating a Welsh Assembly. Research carried out by psephologist John Curtice using survey data suggested that if there was a higher turnout on the day, the result would have likely been a No. Fast forward to 2011, when there was a Welsh referendum on transferring primary law-making powers to Cardiff. It was passed with a Yes vote of 63.5%, albeit on a turnout of just 35.2%. This indicates that after a narrow vote in favour of devolution in 1997, Welsh society has come to the point of largely accepting the assembly as a normal feature of public life. Research into public attitudes has reached the same conclusion.

Creating a new independent state is a slightly bigger deal, of course, but the Welsh experience does suggest that in time, Scotland would reach a similar position after a Yes vote. If this were to happen, it would be imperative that the post-Yes consolidation process made plenty of room for those groups and individuals who voted No. Alex Salmond's announcement that the negotiating team responsible for discussions with the UK government after a Yes vote would be cross-party is an important signal that the Scottish government understands this point. This bodes well for what might be to come after Thursday.



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