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## **Q&A: Palestinian Local Elections 2009?**

The schedule of the next Presidential and Palestinian Legislative Council elections is a matter of public debate between Hamas and the President's Office, but local elections do not seem to be on anyone's radar, and it is unclear if there is political will to hold them in the near future.

This Q&A paper seeks to provide some basic information regarding local elections in the Palestinian territories but it does not discuss the current political environment.

### ***What do "local elections" mean in the Palestinian context?***

In the Palestinian territories, there are several levels of local governments, but the elections are organized only for so called "Local Councils." While the Local Elections Law uses somewhat confusing terminology to define what the "council" is<sup>1</sup>, these are in fact equivalent to city and village councils. Other levels of local government include governorates, Joint Services Councils, project committees and similar, but voters do not vote for these institutions.

### ***How are the local elections governed? Does the PLC and Presidential Elections Law apply?***

Local elections are regulated by separate law. The legal basis for local elections is Local Elections Law No. 10 of 2005. This law is based on the 1996 law with 2004 and 2005 amendments. The 1996 law places responsibility for implementation of local elections on the Central Elections Commission.

Previous local elections have been implemented by a different elections commission. In the period between 2004 and the end of 2005, the amendments to the Local Elections Law temporarily assigned the responsibility for the local elections to the Higher Commission for Local Elections (HCLE), a subsidiary of the Ministry of Local Government. In December 2005, this authority was transferred back to the CEC and the HCLE was dismissed.

### ***Does the election law provide a solid ground for elections?***

The existing legal framework for local elections offers a very broad structure for the conduct of elections. Several key areas are not addressed, and some of the provisions are restrictive<sup>2</sup>. The law is inconsistent in a number of procedural areas and definitions. According to international

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<sup>1</sup> "Council: The Local Council which includes the Municipality Council, or the local council, or the village council, or the administrative committee, or the development committee, or any other council formed in accordance with the provisions of the law."

<sup>2</sup> i.e. high threshold for allocation of seats, early cutoff date for voters registration.

elections experts, the legal framework for local elections should be reviewed and synchronized with the elections framework that governs PLC and Presidential elections.

***How are the local elections scheduled and called?***

The responsibility to call for elections lies with the Council of Ministers (Government). The law says that the elections have to be called every four years, but it does not provide details on the electoral calendar or state how far in advance elections have to be called. In addition, the law provides for the possibility of organizing elections earlier (without limit) or later (up to a month) than four years.

***When are the next local elections to be scheduled?***

Contrary to the law, 2005 local elections were held in four (4) stages on six (6) different dates<sup>3</sup>. This means that terms of local councils do not expire at the same time. However, since the law provides the possibility of scheduling elections earlier than the expiration of the four (4) year term, but not later than one (1) month after, it is safe to say that elections should be organized by January 23, 2009. According to the Local Elections Law, all the councils should be elected on the same day.

The deadline to call local elections is provided indirectly, by the elections law that directs the CEC to update the voters list between 60 to 90 days prior to voting. This means that in order to comply with the law, the electoral process should start between October and November 23<sup>rd</sup> 2008.

***Who is voting? Are there Palestinians that are excluded from local elections?***

Voters from both the councils formed in 2005 and from localities that were left out of the 2005 elections are supposed to vote in the next local elections. However, not all of the registered voters are eligible to vote in local elections. For example:

- Jerusalem city is not included in local elections, as the Israeli authorities consider the territory of Jerusalem annexed rather than occupied. PLO&PA activities within Israel are prohibited<sup>4</sup>. Villages in Jerusalem Governorate outside the Israeli Municipality of Jerusalem may take part in local elections<sup>5</sup>.
- Refugee camps are not included in local elections as they are administered by UNRWA<sup>6</sup> and have their own governing mechanisms. In addition, Palestinians consider refugee camps a temporary area of residence with the population maintaining its “Right of Return”. % of registered voters are registered in registration camps.
- Palestinian detainees in Israeli prisons, while registered, will not have opportunity to cast their ballot as the Palestinian electoral system does not include provisions for absentee voting at the moment.

<sup>3</sup> 23 Dec 2004, 27 Jan, 05 May, 9 May, 29 Sep, 15 Dec 2005.

<sup>4</sup> Polling in Jerusalem in Presidential and PLC elections was not considered “polling” by Israeli authority, but “mailing of the ballot”. Hence use of the mail boxes instead of polling boxes in post offices.

<sup>5</sup> In 2005 there were exceptions and parts of Israeli Municipality of Jerusalem that are behind the Wall did vote in local elections (i.e. Al Ram, Kuft Aqab)

<sup>6</sup> United Nations Relief and Works Agency for Palestine Refugees in the Near East

- Security Forces did not vote early and separately in 2005 local elections<sup>7</sup>. While the members of the Security Forces have the right to vote in local elections in their respective districts, at the moment, there are no plans to organize exclusive early voting for security forces due to logistical challenges.

***How many local councils should be elected? How many council members should be elected?***

Previous (2005) local elections were incomplete processes, and large number of localities never held local elections. Many of the complex and challenging localities were simply postponed for the later stages<sup>8</sup> until the process was halted after the fourth (4<sup>th</sup>) stage<sup>9</sup>.

The total number of the local councils was never officially determined<sup>10</sup>. This was in fact one of the major problems in the 2005 local elections - no clear standard applied to the manner in which local election districts are determined and the HCLE faced numerous challenges from the clans and village residents due to the arbitrary determination of districts. Local election districts were identified arbitrarily by the Ministry of Local Government or the HCLE just before the elections and without demarcation of election districts' borders. In many cases, the HCLE simply passed this authority to local elections commissions.

The number of members of the specific local council was also arbitrarily assigned by the Ministry of Local Government and the HCLE and in several instances changed the council size during the electoral process.

***What are the technical implications of poorly determined election districts, and what is being done to improve the districting situation?***

The main challenge for the electoral management is the voters' list and allocation of voters to specific districts. In the past, this sensitive task was left to the local commissions appointed by the HCLE in each of the prospective local council district. Local commissions arbitrarily deleted records from the list, effectively shaping local electoral districts by determining constituents (voters).

With IFES support, the CEC initiated the formation of the Technical Committee for Local Election Districts. The Committee is formed by representatives of the Ministry of Local Government, Palestinian Central Bureau of Statistics, Ministry of Planning and the CEC. Work of the Committee is supported by an IFES Geographical Information Systems expert who serves as coordinator and GIS advisor to the committee. The role of the Committee is to produce a proposal for the definition of electoral districts using the latest GIS data.

***What kind of system of representation is used in local elections?***

The system used is a proportional system utilizing the Sainte-Laguë method for seat allocation and eight percent (8%) threshold<sup>11</sup> to qualify for allocation. In the first two stages, councils were

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<sup>7</sup> Early voting for security forces was organized in PLC elections

<sup>8</sup> Initial plan included three (3) stages.

<sup>9</sup> Political environment after the fourth stage (political crises that followed Hamas' victory in PLC elections) was not allowing continuation of the local elections.

<sup>10</sup> Estimated number is 500

<sup>11</sup> The threshold is unusually high. It was initially set to 10%, joining Turkey as the highest threshold in proportional elections in the world.

elected under the “Block Vote” system. The system includes quotas for women and, in some districts, Christians<sup>12</sup>.

***Where can additional information on previous local elections be found?***

National Democratic Institute (NDI) was the only international organization consistently monitoring and reporting on all of the stages of local elections. NDI’s reports can be found at:

Stage 1: [http://www.accessdemocracy.org/library/1816\\_palestinianelectionreportrd1\\_033105.pdf](http://www.accessdemocracy.org/library/1816_palestinianelectionreportrd1_033105.pdf)

Stage 2: [http://www.accessdemocracy.org/library/1913\\_wegz\\_localcouncil\\_092905.pdf](http://www.accessdemocracy.org/library/1913_wegz_localcouncil_092905.pdf)

Stage 3&4: [http://www.accessdemocracy.org/library/2069\\_ps\\_localelect\\_010106.pdf](http://www.accessdemocracy.org/library/2069_ps_localelect_010106.pdf)

Local Elections Law can be found at:

[http://www.elections.ps/pdf/LOCAL\\_ELECTIONS\\_LAW-EDIT-EN.pdf](http://www.elections.ps/pdf/LOCAL_ELECTIONS_LAW-EDIT-EN.pdf)

Results of the 2005 elections can be found at:

<http://www.elections.ps/template.aspx?id=351>

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<sup>12</sup> In 2005 , allocation of Christian seats was another difficulty caused by inconsistent regulations for allocation of women’s and Christian quotas.