



Palestinian Local Elections 2011

International Foundation for Electoral Systems

1850 K Street, NW | Fifth Floor | Washington, DC 20006 | www.IFES.org

February 2011

Background

On Tuesday, 8 February 2011, the Palestinian Authority issued a renewed call for local elections to be held on 9 July 2011. The call follows last June's Cabinet decision to cancel elections and the subsequent High Court ruling in December that the cancellation was, indeed, illegal.

The issue of local elections extends back to the leadership of Palestinian President Yasser Arafat when, in 2004, the Palestinian Authority's Cabinet called for local elections to occur throughout the following year. Due to operational and political challenges, however, the elections were never finalized and, ultimately, over 100 council elections were indefinitely postponed.

Palestinian local council term limits are four years, and new elections should have been conducted by 23 January 2009. Cognizant of this, the Cabinet changed the status of all of the councils into "caretaker councils"¹ and, subsequently, in February 2010, the Cabinet called for local elections to be held in the West Bank and Gaza on 17 July 2010. However, the elections were ultimately cancelled just before the close of the nomination period, as it became apparent that the largest Palestinian faction, Fatah, encountered difficulties in producing list of candidates.

As in 2010, the most recent call for local elections was met with Hamas' swift refusal, and the group has indicated that it will not participate in any elections until reconciliation with Fatah has been met.

Cancellation of 2010 Elections

On 8 February 2010, the Council of Ministers (the Cabinet) of the Palestinian Authority scheduled the overdue local elections for July 17, 2010. Despite clear indications that Hamas would boycott elections in the West Bank and that Hamas authorities would prevent elections in Gaza, the Central Elections Commission (CEC) opened voter registration centers throughout the West Bank and unsuccessfully attempted to do the same in Gaza. As a result, the CEC postponed Gaza elections pending completion of "*the necessary technical and administrative preparations.*"

In the West Bank, CEC regional offices were prepared to receive hundreds of registration applications from day one of the nomination period. However, by June 10 - the last day of nomination period - the CEC staff had received less than 10% of the expected number of applications. With only a few hours remaining in the nomination period, the CEC received word that the Cabinet had postponed the elections, and that it would not proceed to the next step in the electoral process - publication of the electoral lists.

Although the Cabinet's decision of June 10 postponed elections, for all intents and purposes, the decision *cancelled* the elections. The statement provided no explanation for the decision, other than the elections had been postponed "*for the sake of public interest.*"²

Upon receiving the Cabinet's decision, the Chairman of the CEC summoned all staff for a meeting and instructed them to end all electoral activities. As the decision was announced just an hour before the end of the nomination period, the CEC instructed its field offices to continue to receive applications

¹ February 2009

² The Cabinet's statement <http://www.elections.ps/template.aspx?id=529>

from lists that wished to register³ despite the announced cancellation, in the event elections were to be resumed. The CEC made a neutral statement following the cancellation, without commenting on the legality of the Cabinet's decision.⁴

Following the cancellation, a few protests were organized but, overall, the response was muted.⁵

Judicial Process

In response to the Cabinet's decision, four electoral lists⁶ filed petitions with the High Court challenging the legality of the Cabinet's decision to cancel local elections. The four cases relied on the same argumentation for their petitions, and the Court treated the cases as one. At the core of the appeal was the claim that cancelling elections constituted an unjust interference in the right of Palestinian citizens to practice democracy and participate in political life.

Attorneys representing the Cabinet mounted a broad defense. First, they argued, the Cabinet did not actually cancel elections, but, rather, the Cabinet rescinded its decision to hold elections.⁷ Second, lawyers demonstrated that not only was the CEC prevented from executing elections operations in Gaza, but that security forces were unable to guarantee election security, fairness, and impartiality in the Southern Governorates (Gaza) because of the "fragmentation of the homeland." Therefore, lawyers maintained that cancelling elections was in the public interest to "*maintain security*" and "*prevent clashes on a national level*"⁸, as conditions on the ground were clearly unsuitable for elections. Finally, the reversal of the Cabinet's decision to call for elections was in accordance with administrative regulation as "*the administrative authority which issued the decision has the right to reverse the decision during a period of 60 days from the date of issue.*"

On 13 December, 2010 the High Court handed down the final verdict, ruling that the decision of the Cabinet to cancel local elections is illegal. While the court noted that the CEC was unable to hold elections in Gaza, it discounted this as a rationale to cancel elections entirely. Additionally, the Court rejected the claim that elections would have contributed to instability and found that, conversely, local elections help provide stability and unity. The court found that because the elections were for local councils, who are responsibly primarily for the provision of public services, cancelling elections was indeed interference in the democratic process. Moreover, the Court found that the decision of the Cabinet to rescind its initial call for elections fell outside of the 60-day timeframe in which such a

³ According to some estimates, the CEC received less than 400 lists across the West Bank, but it is unclear how many applications were complete. Over 80 % of the lists submitted their applications on the last day of nominations, many of them in the last hours. Because of the time pressure, many lists failed to submit complete applications. After the elections were cancelled, the CEC decided that it would not publish the lists and candidates that successfully registered.

⁴ CEC's statement on the cancellation of elections can be found here <http://www.elections.ps/template.aspx?id=530>

⁵ In June and early July, political factions (mainly Popular Front for the Liberation of Palestine (PFLP), Democratic Front for the Liberation of Palestine (DFLP), Palestinian People's Party (PPP), Fida and Palestinian National Initiative (PNI)) and NGOs organized demonstrations to protest Cabinet's decision on cancellation of local elections. Demonstrations took place in Hebron, Nablus, Tulkarem, Ramallah, Salfeet but the organizers did not succeed to mobilize significant number of citizens and political activists.

⁶ The four electoral lists are: "Ramallah for All", Tulkarem "Independents' list", "Martyr's of Asira" (Nablus), and "Al Watan for All" (Tulkarem).

⁷ The lawyers argued that the Cabinet rescinded *Cabinet decision No. 02/46/13/LO/PA (issued on April 25, 2010)*, which declares that the Central Elections Commission is unable to conduct elections operations in Gaza and, therefore, local elections will go ahead in the West Bank only.

⁸ See the Cabinet's written responses, dated August 5, November 7 and 8, and signed by Najat Breiky and Khaled Awwad. IFES has in its possession copies of the Cabinet's written responses in Arabic.

decision could legally occur.⁹ Finally, the Court ruled that the Cabinet does not have authority to postpone elections unless the CEC requests a postponement due to technical reasons. After the Cabinet calls for elections, it does not have the authority to postpone elections without a request from the CEC. Such a request was never made.

As a reaction to the verdict of the High Court, the CEC issued a short statement informing the public that the CEC had sent a letter to the Prime Minister “*declaring the readiness of the Commission to implement any decision of the Council of Ministers regarding the call for elections within the timeframe defined in the election laws.*”¹⁰

Call for 2011 Local Elections

The 8 February 2011 announcement to hold elections this summer came with a call by the Palestinian Authority for all factions to participate. Nevertheless, Hamas authorities in Gaza rejected the call and are likely to prevent the conduct of electoral operations in Gaza and opt to boycott elections in the West Bank.

Hamas’ previous refusal to participate prevented the conduct of presidential, legislative and local elections in Gaza. According to the Local Election Law, elections can be postponed in the districts where the conduct of elections is not possible for “*four weeks for technical needs and elections integrity purposes.*”¹¹ The four week postponement can, in practice, lead to elections being postponed indefinitely if the Cabinet chooses. It is, therefore, highly probable that the 2011 local elections will only take place in the West Bank.

Local Elections and Local Governance

There are several levels of local governments in the Palestinian Territories, but elections are conducted only for so-called “local councils.” While the Local Elections Law uses unclear terminology to define what the “local council”¹² is, these are in fact equivalent to city and village councils. Other levels of local government include governorates,¹³ joint services councils,¹⁴ project committees¹⁵ and refugee camps, but voters do not vote for these institutions.

Local governance units in the Palestinian Territories are fragmented and the sizes of the local districts vary from a population of 1,000 to almost 200,000. There are over 200 councils with a population of less than 5,000.

⁹ The Court cited *Cabinet decision No. 01/36/13/LO/PA (issued on 8 February 2010)* which calls for local elections to be held on 17 July 2010 as the initial call for elections and not the April 25 decision to only hold elections in the West Bank, as the defense argued.

¹⁰ CEC’s statement can be found here <http://www.elections.ps/atemplate.aspx?id=875>

¹¹ Article 5, Local Elections Law.

¹² “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.”

¹³ There are sixteen (16) governorates in Palestine, with eleven (11) in West Bank and five (5) in Gaza.

¹⁴ Several councils can form one joint service council.

¹⁵ These are local government units with a population of less than 1000.

Council Population	West Bank	Gaza	total
village population > 5000	16		16
village population > 2001 < 5000	111		111
village population < 2000	68		68
village councils total	195		195
local councils total	12		12
municipal population > 50,000	4	7	11
municipal population > 15,000 < 50,000	18	7	25
municipal population > 5,000 < 15,000	53	7	60
municipal population < 5,000	20	4	24
municipal councils total	95	25	120

(Note: These statistics are from Nov 2010, before the MoLG merged some of the districts. Map of the merged districts available at <http://bit.ly/gKQEqv>)

Over 115 local districts in the West Bank have populations under 1,000 residents. Instead of merging them with the larger districts, the Ministry of Local Government (MoLG) has classified them as “project committees” and excluded them from elections.

Electorate

The electorate in local elections consists of registered voters who are residents in their respective local districts.¹⁶ People cannot vote unless they are registered in their district. Eligibility requirements in local elections are identical to those in presidential and legislative elections: one must be Palestinian¹⁷ and be at least 18 years old.

In March 2010, the Central Elections Commission (CEC) conducted a 10-day voter registration drive followed by the Exhibition and Challenges to the Preliminary Voters List¹⁸ which ended on 30 May 2010. Palestinians who had previously registered in 2004 and 2005 for the presidential and legislative elections did not need to register again unless they wanted to register in another local district. Registration opportunities ended with the publication of the Final List of Voters in May. The Final Voters List for the 2010 local elections included just fewer than 900,000 voters; it did not include voters from districts in Gaza, Jerusalem City,¹⁹ refugee camps, those located in areas deemed to be residing in areas governed by project committees or those in prisons.²⁰

Registration for the 2011 elections will proceed similarly. Voter registration begins on 9 March and will continue through 15 March. The registration window has been shortened from last year because those who registered for the 2010 elections will not be required to re-register unless they are doing so in a different district.

¹⁶ Residents of camps and project committees are excluded.

¹⁷ The definition of “Palestinian” was set in the draft citizenship law (1995) and has been used in election laws since then.

¹⁸ This is the period when voters have the opportunity to view the voters’ list and submit appeals and challenges to it.

¹⁹ Israel does not allow Palestinian local elections in annexed East Jerusalem.

²⁰ This is for prisoners in either Palestinian or Israeli prisons.

Electoral System (System of Representation)

Local elections are conducted under Law Number 5 of the 1996 Election of Local Councils Law (with 2004 and 2005 amendments). The 2005 amendments introduced a proportional system of representation with a closed list system. This means that instead of voting for individual candidates, voters will vote for a list of candidates (electoral list). The ranking of the candidates on the list is set during the list registration period for the candidates, and it is not subject to voters' preferences. Voters can vote only for one list. Only lists that win more than 8% of total votes will be eligible to receive seats in the local council. Distribution of seats will be determined by the Sainte-Laguë formula²¹, taking into consideration women's and Christian's quota.

The women's quota, as defined by the Local Elections Law, ensures that at least two women are elected to councils with up to 13 seats and three women are elected to councils with up to 15 seats. This is done by requiring lists to register women candidates and also basing the quota requirement on the distribution of seats.²²

The quota for Christians is assigned by Presidential decree²³ for nine districts in the West Bank. The Christian quota is based on the distribution of seats.

Electoral Lists (Registration of Candidates)

Registration of electoral lists opens on 25 May, 2011 and will continue through 3 June at the CEC offices in the capitals of 11 governorates. Anyone who wishes to register an electoral list must present more candidates than the majority of the seats in the council. This means that there will be no opportunity for individual candidates to run in elections unless they form a list. All of the candidates on the lists must:

- Be registered voters in their respective districts
- Have attained a minimum of 25 years of age
- Not be employed by the MoLG, a Local Council or security forces
- Obtain a certificate from his/her Local Council that proves that he/she has paid all required fees to the Council, including fees for building permits

Should the list want to register its political affiliation with one of the political factions, the list must obtain a certificate from the representative of the faction accredited at the CEC. Without the certificate, the CEC will not allow registration of the list with the logo or name of the political faction.²⁴ According to the Elections Law, the CEC will not register more than one list per faction in the district, and will register all lists on a first come, first serve basis. Candidates can be registered on only one list.

In councils up to 13 seats, lists must register one female candidate among the first five names and another among the next five names. In councils with 15 seats, a list must register an additional female candidate.

²¹ The Sainte-Laguë formula is the standard method of allocating seats proportionally for representative assemblies chosen through party list voting systems.

²² Article 17 of the Local Elections Law

²³ Issued on 10 May 2010.

²⁴ Political factions are registered by the Palestinian National Council and Ministry of Interior.

During the 2010 registration process, in the nine districts in the West Bank where the Christian quota applies, the CEC asked political factions to register a sufficient number of Christian candidates to fulfill the quota decreed by the President. Although registration of Christian candidates is not required by the law, the President has the authority to set the quota that must be fulfilled based on the distribution of seats and the CEC may cancel elections in any of the nine districts which do not have a sufficient number of registered Christian candidates.

The preliminary list of candidates will be published on 5 June and the CEC will rule on any objections to the list two days later. Appeals can be lodged until 10 June and adjudications are slated to be handed down on 13 June. Additionally, nominees can withdraw until the 24th. The Final List of Voters will be published a day later.

Campaigning

The official campaign period starts after publication of the final candidate lists and lasts for 14 days, until 7 July. During the 24 hours before polling, candidates are not allowed to campaign. While, according to the law, the CEC has the mandate to monitor both campaign spending and breaches in campaign rules, it does not have enforcement powers beyond retaining the 500 Jordanian Dinars (JOD) that each list must deposit.

Campaigning is not allowed in mosques or churches, near hospitals or other governmental premises. Candidates may not use vehicles that belong to government institutions. Incitement is forbidden, as are campaign calls by religious preachers.

The election law requires official media to offer equal opportunities to all electoral lists. In 2010, the CEC, in cooperation with Palestine TV, arranged an electoral program during which each list of candidates had opportunity to broadcast a promotional video.

Polling and Counting

Polling will be conducted on 9 July 2011. Special advance polling (exclusively for security forces) will be conducted on 7 July. Voters will be able to vote only at the polling centers where they have previously registered.

Counting will be conducted at the station by the polling staff in the presence of candidates' agents and domestic observers. Results of the polls will be posted at the station before transferring official forms to the CEC's offices in the governorate.

The announcement of the final poll results is scheduled for 10 July, and appeals are scheduled for three days later. The appeal process will last for a week when, on 20 July, the electoral court will issue its adjudications.

Elections Dispute Resolution

Electoral disputes in local elections are processed in several phases and at several levels. The Election Law provides a framework for challenges and appeals in three stages of the electoral process: registration of voters, registration of candidates and election results. All the disputes are first sent to the CEC. The CEC then reviews challenges and appeals in the short period that follows each of the

three stages. In the case that the CEC rejects the complaint, the plaintiffs can appeal to the Court of First Instances (CFI). The CFI adjudicates all appeals within five days, and its decisions are final.

Electoral Maps

Maps of the electoral districts available at <http://bit.ly/gK0Eqv>

Electoral Calendar

