

# Debating the Palestinian Election Law

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### Brief Analysis

On May 18, the Palestinian Legislative Council (PLC) is scheduled to debate the law governing the legislative elections scheduled for July 17, the first such elections since the inaugural polls of 1996. The issues under contention underscore the larger divisions in Palestinian politics, particularly the dominant Fatah Party's internal factionalism and its fear of an increasingly popular Hamas.

### The Status of the Election Law

The law originally drafted by the PLC Legal Committee proposed a system in which half the council's members would be chosen proportionally through party lists in one national district, while the other half would be chosen from sixteen local districts according to the 1996 election law. The committee also suggested increasing the number of PLC members from 88 to 124 and reserving 20 percent of the seats for women. The first and second readings of the election law modified this mixed system, allocating one-third of the seats to a national list and two-thirds to the district system while increasing the total number of seats to 132.

On May 9, however, the cabinet recommended eliminating the mixed system, requesting that all delegates instead be elected through a proportional system on a national list, and that the council consist of only 121 members. The Palestine Liberation Organization (PLO) Executive Committee greatly influenced the cabinet's position, which was also endorsed by 28 PLC members representing a variety of factions.

The PLC Legal Committee is now charged with deciding whether and how to implement the cabinet's recommendations. It will then submit another draft of the election law to the council for a third reading. Once the PLC approves a new draft, President Mahmoud Abbas can either ratify the law or return it to the council with changes. Overturning such changes would require a two-thirds majority vote in the council.

### Divisions over the Upcoming Elections

The disagreements between Fatah PLC members and Fatah Central Committee members over the election law can best be understood by examining the political self-interest of the relevant parties. Many current Fatah PLC members see little chance for reelection as part of a national list because many of them are not well known beyond their districts and clans. For its part, the Central Committee is unlikely to favor such members for competitive slots on a national list. The old guard committee members also realize that, given their lack of local support, their only chance of preserving their seats is by being placed high on Fatah's national list.

In addition, Abbas and his allies in the Central Committee view a single national district with proportional elections as the best way to limit the number of seats Hamas can gain in the coming elections. According to a poll conducted by Bir Zeit University in late April 2005, if PLC elections were to proceed under such a system, Fatah would win 41 percent of the seats while Hamas would win 23 percent. The poll also showed that 68 percent of Palestinians prefer this sort of national list system. Other polls suggest similar figures for Fatah if Marwan Barghouti were to run at the top of its national list.

Such a strategy would also help Fatah bring small leftist parties into an alliance against Hamas. Abbas has suggested forming one large list that includes all PLO factions as well as various popular independent figures. His apparent willingness to guarantee slots to leftist parties and independents within such a coalition would help them secure far more seats than they would otherwise win. The order in which candidates would appear on this list would be based on their popularity as determined by polling, not on party seniority or loyalty to Fatah.

In Abbas's view, a Fatah list that includes leftists and independents would help him become less dependent on the will of the old guard. All of these smaller groups (with the exception of the Popular Front for the Liberation of Palestine) would support Abbas not only in the PLC, but also in his broader strategy for maintaining calm and resuming negotiations with Israel.

### The Role of Hamas

The number of seats that Hamas won in recent municipal elections does not accurately reflect the group's popularity relative to Fatah. Many of the heavily populated districts in which Hamas scored seemingly resounding victories were governed by individual-based, winner-take-all electoral systems. When measured in terms of total votes for Fatah and Hamas candidates, the elections were actually quite close in many of these districts. In Rafah, for example, Hamas won only two percent more votes than Fatah. In Beit Lahya, Fatah would have won all available seats if it had formed a coalition with leftist parties. These and similar results led Abbas and the Fatah Central Committee to conclude that a national list system would benefit the party.

Yet, the Cairo Agreement that Abbas negotiated among Palestinian factions in March 2005 specified that an evenly divided mixed-list system would be used for PLC elections. Consequently, opposition groups such as Hamas have put pressure on the PA, arguing that changes to the electoral provisions would violate the agreement. Although Hamas is unlikely to use this discrepancy as a pretext for actually voiding the Cairo Agreement, it will undoubtedly use Fatah's inconsistency on this issue as a further mark against the party's credibility during the campaign.

Indeed, much of Hamas's popularity is based not on its ideology or political views, but rather on its seeming ability to offer candidates who are uncorrupted relative to Fatah and who are more likely to deliver social services once elected. According to the aforementioned Bir Zeit poll, 70 percent of Palestinians believe that Fatah is more likely to make progress in the peace process, but 58 percent believe that Hamas is more likely to represent the poor (only 35 percent felt that Fatah would do so).

### A Ticking Clock

Although some PLC members have repeatedly called for postponing the July 17 election date, most delegates still favor maintaining the schedule, at least publicly. Yet, given that the PLC did not assign a deadline when asking the Legal Committee to prepare a new draft of the election law, a delay may be inevitable.

Abbas has also indicated that he prefers the elections to be held on time, despite the potential benefits to Hamas. Integrating Hamas into the Palestinian Authority (PA) is part of his strategy for making the group more likely to adhere to PA decisions, which would help preserve the period of calm. Moreover, he would be better situated to react to the Israeli disengagement from Gaza with a newly elected PLC and a stable government in place. Yet, a delay may be necessary if his national list proposal is to maximize votes for Fatah. Therefore, he must decide whether he

prefers a course aimed at placating Hamas or one that will improve Fatah's electoral prospects.

Another unresolved issue involves the details of the Fatah primaries that, although scheduled to occur on May 27, cannot take place until the election law is passed. Fatah's old and young guard are vigorously debating how these primaries should take place, with both seeking to maximize their respective representation on the party's lists. This debate has given them additional incentive for delaying the PLC elections.

Aside from the various political questions regarding the timing of the elections, the parties may point to certain technical issues as cause for delay. For example, candidates need time to register and campaign, and the elections commission has requested three months to prepare for the technical aspects of the elections themselves. Such factors can be used as a convenient excuse for delay if there is an impasse over the election law.

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