

Observations on the Palestinian Legislative Council Elections

By Larry Garber¹

I returned in late January from 12 days in Israel and Palestine. Half of my time was spent observing the Palestinian Legislative Council elections with the National Democratic Institute (NDI) and the Carter Center delegation.² I would like to share with you several observations on the electoral process. More substantive analysis of where these elections are likely to lead to in terms of Palestinian political development and the future of the peace process will have to wait for developments on the ground during the next few weeks.

Context

These elections were historic, to say the least. For the first time in modern Arab history, an incumbent government has been defeated at the ballot box and quickly accepted the results. Whether or not this development has ramifications throughout the Arab world remains to be seen. Obviously, the outcome of these elections, a victory by an Islamic-oriented militant movement, is likely to make well-entrenched authoritarian rulers wary of opening the electoral processes in their countries.

Electoral Systems

Prior to the elections, my friends at the International Foundation for Election Systems (IFES) predicted that the mixed system being used for this election would magnify Hamas' performance. The reason is that Hamas was well-disciplined in designating the precise number of candidates as there were seats in particular governorates and in orchestrating well the placement of the Hamas candidates on the ballot. Fatah, by contrast, had many more candidates competing than there were seats, resulting in the splitting of the Fatah vote, and the candidates were randomly located throughout the ballot. Thus, a 44.45 to 41.43 percent margin in favor of Hamas on the national list transformed into a 74-45-seat margin in the Palestinian Legislative Council.

Political Party Development

The international community has often decried the weakness of political parties in Palestine. However, observing this election, I could not help but be impressed with the organizational capacity of not only Hamas but also other parties. There were representatives of at least two political parties present inside the polling station during the voting, and several more during the counting process. Outside the polling station, many of the parties set up booths to provide assistance to voters regarding how to mark their ballots. Even the electoral campaign evinced a degree of organization and sophistication that surprised me.

Third Parties

Ultimately, the election became a two-party race between Fatah and Hamas. Third parties, which had hoped to benefit from the anti-Fatah sentiment, did not do as well as they anticipated. Still, one can not ignore the fact that they obtained 14 percent of the valid ballots cast on the national lists, which translates into nine seats in the legislature. However, they now face the challenges of insinuating themselves into the policy debates

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² For the author's daily impressions during his time in the region please see: <<http://www.nif.org/blog>>

within the legislative council (and beyond) and sustaining themselves in a challenging political environment.

Electoral Administration

I was impressed last year by the administration of the presidential election. This year, however, with a more complicated system, the performance was extraordinary. Polling officials were well trained, supervisors were omnipresent and communications with headquarters was readily available for answering questions that arose on election day. The electoral materials were delivered on time and the balloting instructions easy to follow for most officials and voters, with even illiterate voters managing to cast ballots without significant problems. Voter education was also done well. The proof of this successful overall effort lay in the remarkably low number of spoiled or blank ballots, at less than five percent of the total.

Exit Polls

My colleague Glenn Cowan and I published an article 13 years ago in which we warned against the dangers of using exit polls in elections, such as those conducted in Palestine last week.³ The reasons why problems arose in this instance include a lack of electoral history upon which to draw valid comparisons and the fact that voters are more likely not to provide accurate information to those conducting the exit polls. Still, the pressure to obtain early results – and some friendly competition among polling firms – led to projections several hours after the polls closed that were widely off the mark, particularly in terms of the allocation of seats for the legislature. Hopefully, this experience will make others wary of using exit polls in similar circumstances. At the very least, there should be a serious review of the methodology and protocols used by those conducting the exit polls for these elections.

Political Sophistication

The release of the exit poll results could have provided a basis for suspicions of fraud and manipulation in the tabulation process. It is a credit to the Palestinian parties that they neither celebrated nor panicked when the exit polls were released, but instead tabulated the results from their party agents. The party agents' reports indicated a significant victory for Hamas in terms of seat allocation, and these reports, and not the exit polls, were used as the basis for the party's reaction throughout the 24-hour period between the closure of the polls and the release of the preliminary results by the Central Election Commission.

External Assistance

The administration of the election process was well funded by the international community and well performed. However, a question mark hangs over the future sustainability of the system. A more challenging question relates to assistance provided to political parties participating in these elections. The generally-recognized approach, enshrined in Palestinian law, proscribes the provision of external assistance to political parties for the purpose of influencing the outcome of an election. The effort by the US government to bolster the Fatah campaign, as reported by the Washington Post three days before the election, was misguided on two counts: first, given the prevailing circumstances in Palestine and the timing of the specific program, the support was unlikely to have had much positive impact on Fatah's fortunes; and second, the risk of

³ Larry Garber and Glenn Cowan, "The Virtues of Parallel Vote Tabulations," *Journal of Democracy*, April 1993, pp. 97-98.

disclosure in terms of its effect on Palestinian voters and future US efforts at democratization outweighed the potential benefits. In the end, the Washington Post's story created a series of articles on the subject within the Palestinian media, which probably reinforced concerns among some Palestinians over US influence and moved some undecided voters into Hamas' column.

International Observation

While there was understandable interest in the Palestinian elections, the observation effort was an example of international "overkill." For a voting population of 1.2 million voters and a relatively small geographical area, the number of observers from the three main organizations alone – the European Union, Canada and the NDI / Carter Center – was excessive. This was particularly true given the very sophisticated domestic election monitoring effort that various Palestinian civil society organizations put in place. Thus, the role of observers was not to deter or ferret out fraud, tasks that could capably be performed by the party agents and the domestic monitors, but to provide confidence to the population, a job that could have been accomplished by smaller delegations.

Second-Guessing

With Hamas' victory, some analysts are questioning whether or not these elections should have been allowed to proceed. Certainly, there was discussion prior to the elections about postponing them to a future date, given Hamas' excellent performance in the municipal elections held in December. Some Fatah leaders and Israeli government officials pressed for a delay. However, President Abbas rejected their arguments and, somewhat surprisingly, was backed by the Bush Administration.

I believe the decision to proceed with the elections was correct, despite its problematic outcome. Palestinians have been waiting for five years to participate in national elections and they deserved the opportunity to express their collective preferences. Palestinians will now have to live with the consequences of their choice, which indeed may mean additional short-term hardships for the population. Border-crossing agreements with Israel will be more difficult to forge and international assistance may be less forthcoming. However, these realities will place pressures on the new Palestinian government to adopt moderate policies or face a loss of credibility among the general public, who are unlikely to welcome a further decline in their already deflated standard of living.

Indeed, I believe the much-criticized Abbas deserves credit on three grounds: a) for proceeding with the elections; b) for enshrining the place of PA president as above politics, as opposed to being involved in Fatah's day-to-day electoral agenda; and c) for supervising a proper performance by the security forces in the context of these elections, much as he did with the Israeli disengagement from the Gaza Strip. The latter point, of course, begs the question of why Abbas does not exercise this authority more broadly; he will now have the opportunity to implement his objective of "one authority, one law, one gun," albeit in a context he had not envisioned. He also now faces the broader challenge of respecting the will of the Palestinian public while protecting broader Palestinian interests. From both constitutional and practical perspectives there are no alternatives to his remaining in office. Thus, despite all of his well-documented personal weaknesses, I sincerely hope that he does not resign, but provides a medium for reconciling the conflicting policies of the various protagonists for the good of the Palestinian and Israeli publics, and for the future of the region.

The international community now faces major challenges. It should not countenance the prospect of engaging with a Hamas-led government that promotes or facilitates violence against Israel or that adopts coercive legislation that undermines the basic rights of Palestinians living in the West Bank and Gaza. At the same time, the international community must be avoid creating a humanitarian crisis in Palestine and further radicalizing the population. The policy goal should be to encourage Palestinian moderation and the continuation of economically-critical daily Palestinian-Israeli interactions, while ensuring that terrorist activities and anti-Israel incitement are not rewarded.