

PEAM Addendum

Overview

The National Democratic Institute (NDI) organized a pre-election assessment mission to the West Bank and Gaza from April 25 to May 7, 2017 in advance of local elections scheduled for May 13, 2017. The mission aimed to produce an addendum to the Institute's original pre-election assessment conducted from August 24 to September 1, 2016 in advance of the subsequently postponed October 8 local elections. Members of the original delegation returning for this follow-up assessment included: Owen Kirby, former Senior Advisor in the Department of State's Middle East Partnership Initiative (MEPI) and currently consultant for the International Republican Institute (IRI) and Emily Harding, NDI's Resident Representative for West Bank/Gaza programs.

The purposes of NDI's meetings in the West Bank and Gaza were to: demonstrate the interest of the international community in the development of stronger democratic political processes and governance in the Palestinian Territories; assess the prevailing political environment in the West Bank and Gaza and preparations for the polls; and identify areas where improvements may be needed to enhance the integrity of the process.

On September 8, 2016 the Palestinian High Court suspended October municipal elections in the West Bank and Gaza due to a pending case regarding the legitimacy of courts in Gaza to rule on challenges to electoral lists. The High Court later ruled that courts in Gaza could not legally determine election-related cases and that elections could proceed in the West Bank but not in Gaza. The Palestinian Authority (PA) postponed elections in both territories in order to revise the election law to include the establishment of a new electoral court.

On January 31, 2017, the PA announced that elections would take place on May 13, 2017. In a February meeting with the Central Election Commission, Hamas set out three conditions for its participation in the vote: 1) that the PA loosen its security grip on the West Bank to facilitate campaigning by Hamas candidates; 2) that the PA cancel any recent revisions to the local election law, namely the creation of the electoral court; and 3) that elections be conducted according to the 2005 election law. Some sources reported that the Hamas leadership was angered at not having been consulted on the new election court or the new date of the elections. Regardless of the cause, it was clear that Hamas would not allow local elections in Gaza, leaving them officially postponed, and it was unclear what Hamas' involvement in West Bank elections would be.

In addition to Hamas' refusal to participate in local elections, The People's Front for the Liberation of Palestine (PFLP) announced that it was boycotting the rescheduled local elections in protest of the PA's security practices. Islamic Jihad announced that it would also abstain from the elections as had been planned prior to the polls scheduled for October.

Summary of Observations

Political Context

On May 13, 2017, West Bank localities will have an opportunity to elect a mayor and municipal council members. Of the 391 localities in the West Bank, 181 submitted a single list where seats will be awarded by acclamation; voters will not be afforded the opportunity to cast a yes or no vote on the lists. Sixty-five localities, mostly small villages, did not submit any lists or submitted an incomplete list. Per the election law, the PA could call another date for these elections, though it is unlikely, according to observers. The

remaining 145 localities will see competition between political party and/or independent lists. As a result competition between lists will occur in only 37 percent of West Bank localities.

While most of those with whom the delegation met agreed that elections were important for Palestinian democracy, many noted increased voter apathy due to Hamas' boycott of the rescheduled municipal vote and despite high levels of voter registration and survey findings consistently showing significant popular support for elections at all levels.

The May elections will be conducted in the West Bank only and will lack robust political party competition due to the boycott of Hamas and the PFLP. Many Palestinians are opposed to elections taking place in the absence of national unity out of concern that it will only deepen the divide between the two territories. The resulting competition between lists is viewed by many as an 'in-house' Fatah affair as opposed to a real political contest. Combined with a general lack of confidence that the elections will not be postponed again, particularly in light of a hunger strike launched on April 17 by Palestinian prisoners in Israeli jails, voter interest is reportedly low.

Despite the perceived weaknesses in these elections, for some local candidates and prospective office holders the May vote provides an important opportunity. The percentage of women candidates has reached 26 percent. There are two all-women lists and eight total lists headed by women. Youth participation is also strong, with candidates aged 25-35 accounting for 31 percent of the total. In Beni Naiem, a conservative town outside Hebron, a list made up completely of women is running despite active discouragement from the community and their families. Whether or not successful, the fact of their candidacy is noteworthy in itself.

Election Court

One of the notable changes from last year's postponed polls is the change in the election law to include a local election court. Election challenges are first heard by the CEC and then forwarded to the local election court, which is a court of last recourse.

Of the 97 challenges brought to the CEC this April, all were rejected. The primary challenges were around residency issues and claims that signatures were forged on candidate consent forms. From the rejected challenges, 21 claims were forwarded to the new election court; six were considered, of which one was overturned. The remaining 15 either lodged appeals too late, had no legal representation or did not show up to court.

Political Parties/Lists

According to the Central Election Commission (CEC), 41.6 percent of registered lists represent political parties, primarily Fatah and the members of the Democratic Alliance, a coalition of small left-leaning parties consisting of the Palestinian Democratic Union (FIDA), Democratic Front for the Liberation of Palestine (DFLP); Palestinian People's Party (PPP), and Palestinian National Initiative (PNI). 'Independent' lists without official party affiliation, which are predominantly made up of unofficial Fatah candidates and/or representatives of families, make up 58.4 percent of registered lists.

Fatah is the dominant player in the local elections. While there are only nine official Fatah lists in the 27 largest localities (those with over 7,000 voters) in the West Bank, there are presumed to be many 'non-official' Fatah candidates on mixed lists or family lists. From the Fatah perspective, all candidates running are, as one Central Committee member put it, "our children". The attitude of the Fatah leadership towards the May polls appears to differ from that towards the October polls when the Central Committee was reported to be very involved in selecting the party's candidates, warning its members that those who ran

against the official Fatah list were to be expelled from the party. This time, there has been reportedly very little involvement from the Central Committee, presumably because there is no perceived threat from Hamas.

While Hamas is officially boycotting these elections, there is evidence of Hamas-affiliated candidates participating in various localities, reportedly even on mixed lists with members of other parties.

Citizen Engagement

While the Central Election Commission (CEC) has launched campaigns to raise the public's awareness of the elections and are training election day workers, there did not appear to be any significant outreach by NGOs and citizen groups in the form of issue campaigns and voter education.

Gaza

Enthusiasm for the October 2016 polls had been greater in Gaza than the West Bank, with a majority of residents in the Strip viewing elections as a step towards resolving the political division. Now, however, with elections limited to the West Bank only, Gazans are left to ponder the effects of recent PA decisions to cut the salaries of public employees in the Strip by 30 percent and end payment for Israeli electricity to the territory. Recent changes in the leadership of Hamas add to the sense of uncertainty.

Recommendations

Given the expectation that voting will take place in the West Bank on May 13 and within such a constrained context, there are few steps to be taken in the short-term to enhance the electoral process or instill greater confidence. Rather, efforts should focus on future exercises.

This is particularly important in light of potential future transition in the Palestinian Authority and repeated announcements that new elections, presidential and legislative, are or will be part of any West Bank-Gaza reconciliation agreement. In April 2017, Hamas announced its support for national elections in 90 days. While regarded by respondents in a recent survey as a political tactic by Hamas, snap elections would leave little time to resolve a number of additional technical and political issues remaining from 2005-2006, the last time presidential and legislative elections were conducted.

To this end, the PA should reinvigorate Palestinian elections and people's interest in them by commencing a holistic review of the electoral framework at all levels. Such an initiative should commence in the wake of the May vote and include the active participation and input of civil society, elected officials, election administrators and political parties, as well as international experts, if necessary.

For example, while the establishment of the new electoral court may have been intended as a positive step to depoliticize decision making by the courts of first instance, the decree establishing the court is perceived by some as politically motivated and not a product of a consultative process. It therefore remains of questionable legitimacy.

Similarly, a number of reforms to the local election law advocated for by civil society since the last municipal poll in 2012 failed to receive a hearing in advance of either the original October 2016 or the revised May 2017 election dates. These include lowering the age of candidacy, increasing the women's quota, and opening lists to allow voters the option to select their preferred candidates from amongst the lists rather than being forced to block vote for an entire council. A more fulsome discussion and review of such changes should be undertaken.

In parallel, political actors should undertake efforts to engage citizens with initiatives that encourage competition, inclusion and commitments to democratic practices and norms, including renouncing violence and supporting mechanisms to defuse political tensions that could turn violent. This would help to address concerns over “consensus” lists or elections by acclamation, reduce security concerns instill greater confidence among the citizenry while concurrently moving Palestinian political procedures closer to common international norms.