

Post-Election Briefing N° 1

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Hamas' Victory: A Landslide in Seats, not in Votes

25 January Elections to the Palestinian Legislative Council (PLC)

Summary

- Contrary to the impression created by many media, the majority of Palestinians (56% on the national list) did not vote for Hamas. The high number of seats giving Hamas a clear majority in the Palestinian Parliament was mainly a result of the election system used.
- In a mirror effect of Hamas' election success, the Fatah party turned a relatively high number of votes (41% on the national list) into a very low number of seats.
- In a fully proportional election system, the Fatah party could have formed a coalition government with the help of small secular parties.
- Hamas proved to be sophisticated in analysing the electoral system and playing it to its advantage. Whether this heralds a long-term commitment to values of electoral democracy remains to be seen.
- Looking at the state of democracy in the region, the Palestinian elections were remarkably transparent and well-run in a context of occupation. The establishment of an independent, impartial and professional election commission was key to this success.
- While the dominance of the PLC by Hamas poses great challenges and risks to stability in the region, the inclusion of Hamas into the electoral process has already brought some benefits, leading to a 'lull' of violent activities against Israelis.

1. Introduction

The elections to the Palestinian Legislative Council (PLC) were highly significant for a variety of reasons: Firstly, it was the first truly competitive contest at national level in an election under the Palestinian Authority (PA), since its creation following the Oslo Accords. In the 1996 post-Oslo elections Hamas and other groups had boycotted the elections, leaving no popular competitor to Arafat and his Fatah party. In last year's Presidential elections Hamas did not participate and the outcome of the election was a foregone conclusion. The 2006 elections were therefore a crucial test whether electoral competition could work in a context of occupation and open rivalry between PA security forces and numerous armed groups. Secondly, the elections provided a test of Hamas' popularity at a national level. The good results in local elections in 2005 were a pre-cursor to the outcome of the PLC elections. Finally, the outcome of the elections is obviously of key importance for the future direction of the PA and the peace process.

2. The Results: The Seat Distribution does not tell the Whole Story

Many media created the impression that an absolute majority of Palestinians voted for Hamas¹. This is not the case. Hamas secured a majority of PLC seats, because it exploited the possibilities of the election system well, whereas Fatah played the system in the worst possible way.

The 132 seats for the PLC are distributed in a mixed electoral system: One half from a proportional national list election, the other through district elections of a varying number of candidates per district. Here voters can cast as many votes as there are seats. Candidates winning the highest number of total votes gain the seats. This is known as the 'block vote'². For the national list voters tend to base their decisions mainly on the party programme and overall party image, while in the districts they tend to vote for the individual candidates. The national list vote may thus be more significant in reflecting overall sentiments about parties.

On the national list the Hamas party received 44% of the votes, while Fatah received 41%³. This translated into 29 seats for Hamas and 28 for Fatah. Had the elections been held under a fully proportional system, Fatah could have formed a government with the support of the smaller parties. Hamas' success was sealed in the multi-member district elections, which provide for the other 66 seats in the PLC. Here Hamas gained 46 seats against 17 for Fatah. But it would be a mistake to assume that an overwhelming number of people voted for Hamas in the districts. According to analysis of the Israeli-Palestine Center for Research and Information, Hamas received only 36% of the votes here⁴, though it must be said that this figure is less meaningful than the one for the national elections. Voters in the district had as many votes as there are seats for the district. That means that a voter has many options: He/she can only cast one vote for his/her the best-favoured candidate or several votes for several candidates.

This makes it more difficult to infer overall voter preferences, but certainly those who voted for Hamas on the national list, did not cast all their votes for all Hamas candidates in the districts.

To illustrate the spectacular way in which Hamas marginalised Fatah in the district elections one can look at Hebron: Hamas candidates won all nine seats of this district with some 490,000 votes (voters could cast up to nine votes here); the next nine places were “won” by Fatah candidates with some 325,000 votes. As the district only had nine seats, this counted for nothing. This pattern was repeated across the territories with differing intensity. Hamas did not gain more than a 3:2 lead of votes in any constituency, but won 68% of the seats there against 26% for Fatah. As a website specialised on election administration notes: “Under the block vote, when voters cast all their votes for the candidates of a single party, which is often the case, the system tends to exaggerate all the disadvantages of First-Past-The-Post, in particular its disproportionality”⁵. This is what happened to the benefit of Hamas. In themselves such outcomes are not unusual. Election systems which are not fully proportional by definition do not produce proportional results⁶, but the way in which Fatah failed to translate a high number of votes into PLC seats was akin to an electoral worst-case scenario.

What did Fatah do wrong?

Given the Palestinian Authority’s record on corruption, the catastrophic economy, ever-growing Israeli settlements in the West Bank and the building of the ‘separation barrier’ (often separating Palestinians from each other) as well as the stalled peace process, Fatah’s 41% on the national list could be seen as a manifestation of trust by a significant part of the electorate in the face of difficult circumstances. Fatah’s problem was how it played the election system, which poses the question about Fatah’s motivation when adopting this system in the PLC in June 2005.

President Abbas was indeed in favour of a fully proportional system, anticipating that Fatah’s history and name would attract voters to a national list, even if they were not convinced of local candidates and their achievements.

The Fatah Parliamentarians were, however, against it. They thought that a mixed system was good (which it is in principle, just not for Fatah at this time) and the younger ‘Intifada’ generation feared that a national list would be filled with the old cadres. Some opposed it because a proportional system was more risky for them: Saeb Erakat knew that he would win the Jericho seat (one of three single-member district) and therefore preferred district elections. The divisions in Fatah thus not only lead to unconvincing candidatures, but produced an election system which would magnify its weaknesses as a party. Contrary to calls by the ‘younger generation’ led by Marwan Barghouti, Fatah did not go through proper primaries to select its candidates. Serious splits between the ‘generations’ initially led to two separate Fatah lists, one with the older generation and one under the name ‘Future’ with younger candidates. These two lists were eventually merged in circumstances that were considered murky and legally questionable by many analysts.

The unified list, headed by Marwan Barghouti, was dominated by names of the 'older' generation. The squabble may have already weakened Fatah's appeal, but most detrimental to its election effort were candidates close to Fatah, who run as independent candidates. The Fatah vote was now split, at a time when it was crucial to concentrate the electorate on exactly the number of candidates that were needed to fill the seats in a district and no more. The election system required a measure of internal discipline, which Fatah did not prove to have. Fatah's defeat in seats would have been even worse, had it not secured five out of six seats which are reserved under the election law for the Christian minority. One was won by a candidate close to Hamas.

What did Hamas do right?

Hamas obviously played a much better hand in the constituency elections, finding some locally respected personalities to represent its 'Change and Reform' party. While there is a multitude of 'secular' parties, Hamas also benefits from a near-monopoly in the 'religious' spectrum. Hamas put up the number of candidates needed to win seats and was thus, true to its reputation, more focused and disciplined than Fatah. At the district level Hamas could particularly play on its achievements in providing social services and its anti-corruption image. Hamas was aware of its edge at the district level and already insisted on a mixed system last March at the Cairo meeting of Palestinian factions.

Does it matter now?

Hamas has clearly won these elections since the seat distribution is decisive for the allocation of political power. It is nevertheless important to keep the actual proportional distribution of votes in mind. Firstly, because the voting outcome does not allow the conclusion that "most Palestinians are in favour of Hamas". Secondly, because there is a risk that the public perception contributes to Hamas' self-perception as being fully empowered by the overwhelming majority of the Palestinian people. While Hamas has received a clear mandate, it cannot claim to have the backing of the majority of the Palestinian people. At the same time one must bear in mind that Fatah remains a strong political force albeit in opposition, since there is still a significant number of Palestinians who continue to identify with Fatah.

Why did the results come unexpected?

After the elections there has been a debate, why Hamas' election victory came as a surprise⁷. All opinion pollsters had forecast a majority, though mostly slim, for Fatah. With the benefit of hindsight this is somewhat surprising. Hamas had done very well already in local elections. Pollsters and with them secret services⁸, diplomats and journalists probably did not sufficiently analyse the impact of the voting system in the districts⁹, where Hamas sealed its victory. As explained above, the election system requires a high degree of party discipline, something associated with Hamas and not with Fatah. In addition it was probably difficult to elicit definite answers to questions related to district elections where voters had numerous choices. Finally, pollsters found a high number of undecided

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voters before Election Day, who may have actually been voters unwilling to disclose their support of Hamas.

3. The Process: An Achievement in itself

Since Election Day the public focus has been mainly on the outcome, so that the achievements in terms of the democratic process have received less attention. Few elections in the world are held in such adverse conditions with a context of occupation, Palestinian attacks on Israeli civilians, the construction of the “separation barrier”, heavily constrained campaign conditions in East-Jerusalem and a highly precarious security situation, with PA security forces and armed groups in open competition with each other. Many people doubted the elections, which had been in discussion for many years and were postponed last summer, would be held at all.

Nevertheless, the elections did take place and were considered credible and genuinely democratic by election observers (see below). President Abbas showed strength and determination to see this process through. To his credit, he understood that the PA was lacking credibility with a PLC dominated by Fatah members who were elected almost ten years ago. At the same time the independent Central Election Commission (CEC) was instrumental in ensuring a smooth process which, overall, could not be questioned by the competitors. The political-technical quality of the election process was key to prevent conflict; any deficient process could have easily triggered an armed confrontation.

It is often pointed out that the PA has no functioning institutions and in particular no checks and balances. In regard to the election process this is not true. In two national elections the CEC has proven to be independent, credible and authoritative, despite numerous serious challenges and threats¹⁰. The often-criticised EU support to the PA included political, financial and technical to establish and run the CEC. In the region the existence of an independent election commission is a rarity.

The CEC and the overall process also benefited from the large presence of domestic and international election observers. No other elections in the world regularly attract such a high ratio of observers/voters as elections in the Palestinian Territories. Some 17,000 domestic observers followed the process and there were numerous international observers, notably the European Union Election Observation Mission (185 observers)¹¹ and a joint mission of the U.S. NGOs, The Carter Center and the National Democratic Institute¹² (85 observers).

The most deficient part of the election process was once again East-Jerusalem. Here no real campaigning was possible and according to international observer missions the voting conditions in the six polling stations were poor. At any rate only 5% of eligible voters in East-Jerusalem can use local polling stations. The rest is forced to travel to the West Bank to cast their vote.

These mainly symbolic arrangements already proved to be unworkable in last year's Presidential elections.

4. Implications for Democratisation

The shock about the victory of the Hamas list has intensified the discussion on whether it was wise to allow the group to participate in the first place. This discussion rightly looks at the consequences for the relationship to Israel and the peace process.

However, amidst debate over the impact of the outcome of the vote it should not be forgotten that the right to elect one's government is a human right¹³. Hamas represents an integral part of Palestinian public opinion and its participation was a pre-condition for making this a meaningful and pluralistic process. Obviously it raises significant questions when a group propagating violence participates in elections, but Palestinians argue that Hamas' violence has generally not been directed against its Palestinian competitors, at least not more than other armed groups, including those related to Fatah. Hamas' 'external' violence against Israel is considered by most Palestinians as 'resistance'. Thus from an internal Palestinian view, there was no reason to prohibit Hamas from running, if these were to be genuinely competitive elections. For the outside world it is obviously more difficult to balance between the interest of pluralism and the liabilities of including political parties, which are at the same time armed groups propagating and perpetrating violence, including against civilians.

Regarding the instrumental aspect of its participation there has been at least one benefit already: Hamas agreed in the March Cairo meeting of Palestinian factions on a "state of calm" with regards attacks on Israel in exchange for participation in elections.

When for one moment leaving aside the question of violence and the peace process, this could be a promising moment for the region: A relatively open, competitive election process administered by an independent election commission, in which the outcome is generally accepted and power transferred peacefully (to a point). While there have always been checks and balances in the Palestinian polity, these have been extra-constitutional, mainly achieved by competing armed groups and factions. The inclusion of Hamas could begin the process of bringing these checks and balances inside an institutional framework.

Political life could start stabilising around two well-established parties and political ideologies: Fatah representing the nationalist-secular spectrum and Hamas Islamist beliefs. This would certainly be difficult, because Islamist parties will challenge part of what secular parties and the West consider to be key pillars of democracy, notably gender equality¹⁴ and separation of state and religion. On the other hand Islamist trends are so powerful and representative that it may be preferable for these conflicts to be addressed inside a democratic framework and to find a political balance reflecting Muslim societies' brand of democracy.

5. The Challenge for Hamas

The fact that Hamas carefully analysed the electoral framework and developed a winning strategy, is a positive sign of engaging in the democratic process. This was not a foregone conclusion, because Hamas rejected the PA as a product of the Oslo agreement. Furthermore, if your core beliefs as an organisation are religious, you may not think that political questions should be decided by the majority. However, this electoral engagement is consistent with the record of other Islamist parties in the region. Last year Hezbollah secured all seats in Shi'ite constituencies of Lebanon. Whether accepting election rules implies a long-term commitment to democracy remains an open question. It has to be seen how Hamas executes power and responds to possibly decreasing voters' support in the long-run. It is easy to like democracy when you win elections. Islamist parties argue that it is difficult to prove their democratic credentials if they are never given a chance. Hamas has its chance now, but will probably only succeed if it manages to turn internal democratic legitimacy into external legitimacy.

¹ E.g. the New York Times referred to a "sweeping vote", in "Young Palestinians ponder Future under Hamas", 28 January 2006. Given that information on seat distribution emerged first, media concentrated on the unexpected seat results. The actual voting results were then overshadowed by the discussion on Hamas. Media simply referred to the "Hamas landslide". Perceptions turn, intentionally or not, into assertions. See e.g. Natan Sharansky: "With the **vote** being a choice between corrupt terrorists dedicated only to themselves and honest terrorists who are also dedicated to others, is it any surprise that Hamas won by a **landslide**." „The Price of Ignoring Palestinians Needs“, International Herald Tribune Op Ed 1 February (emphasis by DRI)

² For more details see: <http://www.aceproject.org/main/english/es/esd02.htm>

³ Results are published on the homepage of the election commission: <http://www.elections.ps/english.aspx>

⁴ See <http://www.ipcri.org/>

⁵ <http://www.aceproject.org/main/english/es/esd02b.htm>

⁶ They can even produce the opposite to the popular vote: Two elections to the UK Parliament after 1945 produced a majority for the party which gained fewer votes. Likewise in 2000 President Bush won less votes overall than Al Gore.

⁷ See e.g. "Rice admits U.S. underestimates Hamas strength", New York Times, 30 January 2006

⁸ Associated Press reported that Israeli secret services were called off-guard by the results, "Israel regrouping after surprise Hamas win", 27 January 2006

⁹ Election expertise is more often employed in election assistance and observation than in political analysis.

¹⁰ The CEC has often been under direct pressure. After the Presidential elections last year and again in the run-up to these elections Fatah-affiliated gunmen stormed the CEC HQ and personnel were threatened.

¹¹ The EU Election Observation Mission's preliminary statement can be found under <http://www.eueomwbg.org>

¹² Their statement: http://www.accessdemocracy.org/library/1978_wbg_statement_012606.pdf

¹³ Art. 25 International Covenant for Civil and Political Rights (ICCPR)

¹⁴ Note that the PLC election system includes a woman quota for the national proportional list.

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