

MUNICIPAL ELECTIONS

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A bulletin about the Palestinian Municipal Elections

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About This Bulletin

This Bulletin discusses the issues surrounding the Palestinian municipal council elections which are scheduled to take place this year. These elections will be held in all areas of the Gaza Strip and West Bank which are under Palestinian National Authority (PNA) civilian jurisdiction. They will have considerable significance for the internal political situation in these areas, as, all political groups have stated an intention to participate, including: national and Islamic groups, both inside and outside the frame of the PLO; those which oppose the Oslo political process; and those who boycotted the general elections in January 1996.

In the sphere of our work on the development of democratic values in Palestinian society, the Palestinian Centre for Human Rights regards the municipal council elections as being of great import. Accordingly a *Municipal Elections Monitoring Team* has been established; the production of this series of Bulletins forms the report of their work.

The Palestinian Centre's *Municipal Elections Monitoring Team*

During the past year the Palestinian Centre has been actively involved in discussions regarding the legal framework for local councils and their elections.

In June 1996 the Centre published a *Critique of the Draft Law for Palestinian Local Councils and the Draft Law for Municipal Elections*, which considered the legal development of Palestinian municipalities since the Ottoman Empire, and recommended amendments to the Draft Laws. The Centre organised a series of workshops with a view to influencing Palestinian decision-makers and legislators in order to ensure the strengthening of democratic elements in the Laws and a more decentralised approach.

Following protracted debate in the Palestinian Legislative Council (PLC), the *Municipal Elections Law* was passed and ratified by the President of the PNA on 16th December 1996. The law covers all aspects of the electoral process, including: the administration of the elections; organisation of the electoral districts; voter

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eligibility and registration; nomination; the electoral campaign; ballot papers; voting; vote-counting; election results; vacant seats; and electoral malpractice.

This Bulletin considers the following issues: the passing of the *Draft Municipal Councils Law* through its second reading by the Legislative Council; a letter sent by the Palestinian Centre to all Members of the Legislative Council regarding the Draft Law; the appointment of municipal committees to run municipal affairs in Salfit and Bethlehem; the controversy surrounding the postponement of elections until three months after Israeli troop re-deployment; Palestinian Centre's criticisms in regard to the postponement of elections; the demand by the Interior and Security Committee of the Legislative Council for the elections to be held in August as scheduled; the demands of the unified leadership of PFLP and DFLP to hold the elections in August 1997.

i. The passing of the Draft Municipal Councils Law through its second reading by the Legislative Council

On 2nd July 1997 the Palestinian Legislative Council passed the Draft Law for Municipal Councils following its second reading.

The Council had previously refused a proposal made by the Minister for Local Government, Dr. Sa'eb Erekat that the second reading of the Draft Law should be postponed until he had made his comments. The Council argued that the Minister could propose amendments to a draft law even after it has passed its second reading, but that discussions on the law would not be postponed. A by-law of the Legislative Council states that a draft law may be considered law once it has passed its second reading unless the executive authority proposes amendments within 40 days; if the executive makes amendments then the draft must pass through a third reading by the Council.

In the same session the Council voted against a proposal from Dr. Erekat to incorporate the Mukhtar Law into the Municipal Councils Law. Different points of view arose in the discussion, but most were opposed to the existence of the position of Mukhtar in the political sphere. Most of the speakers considered that having the post of Mukhtar supported the tribal system in Palestinian society, which contradicts the basic principles of democracy that Palestinians are seeking to promote in Palestinian society. It was further suggested that Palestinian society no longer needed Mukhtars. The Council has transferred this issue to its Legal Committee which will hold discussions on the matter with the Ministry of Local Government and the Minister of the Interior.

The Palestinian Centre expresses its support for those Council Members who proposed the abolishment of the Mukhtar role, as we are in an era of democratic development. The approaching Municipal Council elections should bring democratic representation in all communities, even those of a very low number. The Mukhtar system is one of appointment rather than election and the PNA should support the process of democratic development by abolishing the role of Mukhtar in the political process.

The establishment of ministries and civil institutions under the PNA eliminates the need for Mukhtars. The Palestinian Centre believes that the existence of the Mukhtar

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cannot be justified at the municipal level of Palestinian civil and political life.

ii. A letter sent by the Palestinian Centre to all Members of the Legislative Council regarding the Draft Municipal Councils Law

On 1st July 1997 (the day before the Draft Law passed its second reading in the Legislative Council), the Palestinian Centre sent a letter to all Council Members demanding changes in specific articles of the Draft Municipal Law on the grounds that they undermined democratic development. The Centre commented on the following:

a. Article 10 - Resignation of municipal council members and heads

According to this article resignation from office is not valid without the approval of the Minister for Local Government..

This restriction on resignation is not justified. Resignation should not be conditional on the Minister's acceptance. It is the Centre's view that public office requires good will and good faith and that an official cannot be expected to fulfil such requirements while they are not willing to be in office. It should be noted that the current law applicable in the West Bank and Gaza Strip, provides for automatic resignation from public office which is not conditional on acceptance from the executive authority.

The restriction on resignation from public office was introduced through a military order by the Israeli authorities. It was a mechanism by which the Israeli authorities sought to maintain control of the municipalities through mayoral office held by Palestinians.

The Palestinian Centre suggested that the new law should not maintain this restrictive element, but rather should seek to improve on the past situation under foreign domination.

b. Article 13 - Losing and regaining membership in the Municipal Council

This article of the draft law specifies conditions in which the head or members of the municipal councils may lose their positions. The article gives the Municipal Council and the Minister for Local Government the right to determine removal from office, requiring that the municipal council inform the Minister within a week of a member or the head of the council leaving office. The ex-member or head can then apply to the Minister to be reinstated. The Minister's decision is final.

The Palestinian Centre suggested to the Legislative Council that this provision renders the decision-making open to arbitrariness and that the courts should have a role to play. There should be an opportunity for judicial determination on the removal of a council member in order to ensure that non-partisan and objective decisions determine removal from office. The court should have the final ruling and not the Minister.

iii. New municipal apin Salfit and Bethlehem

A new municipal council has been appointed by the Minister of Local Government in

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Salfit, headed by Dr. Shaher Shtaya. The inauguration of the council took place on 24th May and was attended by the Deputy Minister for Local Government, Dr. Hussein Al-Araj.

On 11th June 1997, President Arafat approved the appointments made by Dr. Sa'eb Erakat for a municipal council in Bethlehem, headed by Dr. Hanna Nasser. The former Head of Bethlehem Municipal Council, Elias Freij resigned from this office and that of Minister of Tourism in the PNA for health reasons in the middle of May 1997.

Many institutions and groups from Bethlehem opposed the new appointed council and boycotted its inauguration on the 14th June. In local Palestinian newspapers, it was reported that citizens had demanded elections and rejected the policy of appointment.

iii. Municipal council elections to be held three months after redeployment of Israeli troops

Dr Sa'eb Erakat has reiterated that the municipal council elections would be postponed until after Israeli troops had re-deployed from the areas scheduled to be transferred to Palestinian autonomy in the West Bank. Dr. Erakat said that elections would not be held until three months after re-deployment.

Dr. Erakat gave a speech on 19th June at the College for Science and Technology in Abu Dis in East Jerusalem. He considered that the holding of elections in August as scheduled would be unacceptable while Israel maintains its control of significant areas of the West Bank. Dr. Erakat denied that postponement was due to the fear of defeat in the elections. He added that Israeli troops are still in control of around 80% of local councils in the West Bank and that it was the Israeli Government that was obstructing Palestinian democracy by delaying re-deployment.

It should be noted that contradictory statements have been made about the date of elections. Dr. Erakat ascertained the technical readiness of his Ministry to hold the elections in the 374 communities of the West Bank and Gaza Strip. He added in an interview given to *Al-Hayat al Jadida* published on 26th May 1997, that \$7 million had been donated by the US, EU, Norway and Japan to finance the municipal elections. This money was in addition to other donations from foreign governments. In the same interview Dr. Erakat refused to specify a date for elections, hoping that they would be held soon under the autonomy of the PNA. However Dr. Erakat hinted on more than one occasion about the possibility of postponing the elections. In a speech during the inauguration of the appointed municipal council for Bethlehem on 14th June, he stated his preference that elections should be held after Israel had fulfilled its obligations to re-deploy in the West Bank.

It should be noted that the Ministry for Local Government has appointed several committees to run municipalities in the West Bank and Gaza Strip. The most recent of these appointments was in Bethlehem. These appointments raise doubts about the seriousness of the PNA to hold elections as scheduled in August. In response to a question posed to Dr. Erakat in regard to the legitimacy of the appointed committees, he stated that the PNA does not interfere to impose specific persons on the committees

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and they are appointed after reaching a compromise between the political groups. He added that appointments are only temporary until the holding of the elections.

However many groups are often disappointed by the appointments, which are finalised by the Ministry; and it is believed that the postponement of elections reflects only the PNA candidates' fears of losing the municipal elections.

iv. PCHR criticises the postponement of the elections

In response to news of the postponement, the Palestinian Centre issued a critical press release on 16th June. The Centre stated its position that it rejects the approach that links the holding of the municipal elections with the re-deployment of Israeli troops, and stressed the importance of the municipal elections as all political groups have stated their intention to participate, including national, Islamic and opposition groups who boycotted the general elections in January 1996. The Centre considers that the holding of elections contributes to the promotion of democracy in the Palestinian Territories. Plus, the general elections of 1996 were held in areas where there had not been any re-deployment of Israeli troops. In the light of the stalling in the Oslo negotiations, it is unlikely that re-deployment will take place in the near future, and it is unreasonable to postpone the municipal elections indefinitely.

v. The Legislative Council Committee of the Interior and Security demands the holding of elections in August as initially scheduled

In its meeting of 24th June 1997 the Committee of the Interior and Security refused the postponement of the elections and demanded that they should be held as scheduled in August in all areas including those of the West Bank from where Israeli troops have not re-deployed.

It should be noted that the holding of elections requires that voter registration be held three months before the polling date. Voter registration has not yet begun; therefore, even if voter registration were to begin on the date of the Committee's decision, 24th June, the elections would still not be held before 24th September.

vi. The Unified command of the PFLP and DFLP demand the holding of elections in August

The unified command of the PFLP and DFLP have twice demanded that the polling date be set for August. On 16th June they issued a press release, in which they stressed the need to promulgate the Municipal Councils Law and to hold elections in August.

They issued a second press release on 27th June stating that the municipal elections constitute the practising of democracy, wherein citizens are guaranteed the right to choose representatives to run their local affairs. Reacting to Dr. Erekat's statement to link the elections with re-deployment, the command refused that democratic development be controlled by the deadlocked political process. The press release added that the Minister himself is aware of the fact that the Palestinian people were able to elect their own municipal representatives even under direct occupation by Israel; and further that the elected municipal councils were a constructive, political

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forum from which the Palestinian people could confront the Israeli occupation in an organised way. The command noted that the Palestinian general elections of January 1996 had taken place before Israeli withdrawal.

The DFLP and PFLP called upon the Palestinian people and all national and democratic forces to take steps in order to ensure that democratic, free and fair elections would be held at the municipal level, so that the Palestinian people can choose their representatives, and municipal councils strengthened and made more effective through the application of democratic principles.