

**WEST BANK AND GAZA**

**PRESIDENTIAL ELECTIONS**  
**9 January 2005**

**EUROPEAN UNION**  
**ELECTION OBSERVATION MISSION**

**FINAL REPORT**

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## 1 Introduction

Following an invitation from the Palestinian Central Elections Commission (CEC) the European Union (EU) took the decision to deploy an Election Observation Mission (EUEOM) for the 9 January 2005 election for the President of the Palestinian Authority (PA). Commissioner Ferrero-Waldner appointed Mr. Michel Rocard (MEP), a former Prime Minister of France, as Chief Observer and the EUEOM was deployed to the West Bank and Gaza on 8 December 2004.

The Core Team comprised: Deputy Chief Observer, Mark Stevens (UK); Election Expert, Ron-Helmut Herrmann (Germany); Legal Expert, Andrew Caldwell (UK); Media Expert, Giovanna Maiola (Italy); Press Officer, Nuala Haughey (Ireland); Operations Expert, Xavier Noc (France); Operations Assistant, Roberto Lora (Italy); Security Expert, Victor Perez (Spain); Security Assistant, Harald Haas (Austria); LTO Co-ordinator, Ulrike Weissenbacher (Austria); LTO Co-ordinator Assistant, Demetrio Lazagne (Italy).

The International Organisation for Migration (IOM) was selected as the Service Provider, and supported the mission in all its operational activities.

The key objectives of the EUEOM were to undertake a comprehensive analysis of the entire electoral process and to provide an impartial, balanced and informed assessment of the election, and to provide support to the development of democratic institutions and procedures in the country. By the presence of EU observers, it was also hoped that the mission would contribute to a reduction in tension and instances of fraud, intimidation and violence, thereby giving confidence to contestants and voters to participate freely.

In making its assessment of the electoral process the EU took account of international standards for elections (based on Article 21 of the UN Declaration of Human Rights and Article 25 of the International Covenant of Civil and Political Rights) and good observation practice (see Handbook for European Union Election Observation Missions). In order to ensure a comprehensive and consistent analysis the EU also adopted framework criteria for election assessment in its Communication on Elections (2000), representing the key electoral elements to be considered:

- The degree of impartiality shown by the Election Administration;
- The degree of freedom for political parties and candidates to assemble and express their views;
- The fairness of access to state resources;
- The degree of access for political parties and candidates to media, in particular public media;
- The universal franchise afforded to voters;
- Other issues concerning the democratic nature of the election, such as campaign violence, rule of law, legislative framework and the electoral environment;
- The conduct of the polling and counting of votes.

The 9 January elections were of course held under very specific circumstances of foreign military occupation and the conduct of the process had to be considered in this context. Likewise, notwithstanding the problems mentioned throughout this report, it is acknowledged that the Israeli authorities ultimately enabled the process to be undertaken, which it might not have done. Further, the EUEOM was in a position of having to deal with and therefore offer its comments to not only the 'national' Palestinian authorities responsible for the election but also to the Government of Israel.

The EUEOM deployed 42 Long Term Observers (LTOs), representing 19 countries (including Canada, Norway and Switzerland). The LTOs were deployed throughout the West Bank and Gaza and covered all 16 districts.

At both the national and regional levels regular meetings were held with Palestinian and Israeli governmental and military officials, election commissions, candidates, parties, civil society and media. The EUEOM also maintained very close contacts with representatives of EU Member States and other countries, based in both the Palestinian Territories and Israel.

At the time of the election, the EUEOM was joined by 167 Short Term Observers (STOs), representing 26 countries. The EUEOM analysed over 1,200 polling station report forms.

In addition, the EUEOM was joined by a delegation from the European Parliament, comprising 28 MEPs and 22 associated staff.

The EUEOM wishes to thank the Palestinian national and electoral authorities for their co-operation and assistance during the course of the observation. The EUEOM would also like to thank the political parties, candidates and civil society organisations for their valuable time and co-operation. In addition, the EUEOM would like to thank the Ministry for Foreign Affairs of Israel and the Israeli military co-ordination units for their co-operation.

Special thanks are due to the European Commission Technical Assistance Office and its Head, John Kjaer, and Political Officer Michel Paternotre, for their generosity and invaluable and unstinting support during all phases of the mission.

## **2 Executive Summary**

1. The 9 January 2005 election for the president of the Palestinian Authority represented a genuine effort to conduct a regular electoral process. Despite the difficult and tense conditions, Palestinian electoral authorities made adequate and sufficient arrangements for voters and the public was enthusiastic to exercise its democratic rights. However, the occupation and continuing violence as well as restrictions on freedom of movement meant that a truly free election was always going to be difficult to achieve.
2. With the exception of some tense parts of the Gaza Strip, the process on election day in the regular polling stations was generally peaceful and voters had sufficient freedom of

movement. Checkpoints were noticeably relaxed in some areas, but problems remained in Nablus, Hebron and parts of Gaza. Observers noted that the process in the regular polling stations was well conducted and polling station commissions worked extremely hard and diligently to administer the voting.

3. However there is concern at the decision by the PLC to amend the Law to provide for the use of the civil register for the voting process in addition to the normal Voters List. The Civil Register was not a reliable document and its use placed a great burden on the electoral authorities. Further, the decision in the late afternoon on the day of the election to allow people to vote at the special 'civil register' polling stations even if they were not on the list was outside of the law and impacted negatively on the proper administration of voting at these places.
4. It is clear that this decision by the Central Elections Commission (CEC) to change the procedures during the day of the election was only undertaken after serious and sustained pressure by political authorities. This pressure also subsequently resulted in senior election officials considering their resignation. Such action is unacceptable in a democratic election and the Palestinian leadership is strongly urged to ensure that this is not repeated in future elections as it is highly damaging for the quality and credibility of the process.
5. There is also concern at the lack of proper electoral procedures for voters and candidates in East Jerusalem, and it was noted that on election day people faced a lack of clear information and administrative obstacles in exercising their voting right. The Protocol on Elections does not provide proper or reasonable electoral conditions, such as by limiting the process to just five post offices, and the position taken by the Israeli Authorities with regard to refusing to allow Palestinian election officials to be involved in the post offices, refusing to allow adequate preparation by the DEC, together with their closing down of the registration of voters in September, had a profoundly negative impact on the electoral process in Jerusalem. It is clear that for the coming elections the present Israeli-Palestinian agreement concerning elections in East Jerusalem requires reconsideration in order to avoid further tension and problems.
6. The election campaign passed off without major incident directly linked to the campaign, but restrictions were placed on the freedom of movement of candidates. This caused considerable frustration among candidates as they faced obstacles in gaining access to voters, notably in East Jerusalem and Gaza. However, the campaign was vigorously contested, with candidates utilising media advertising and eventually conducting rallies in most areas. Freedom of movement would have been greatly facilitated by clearer and more timely procedures for the granting of permits for candidates and their staff.
7. Overall media coverage of the election campaign provided all candidates with access, though with considerable variances in levels of visibility. Whilst the allocation of a considerable amount of free airtime on public broadcasters (TV and radio) was a positive innovation, the excessive coverage afforded to Mahmoud Abbas in news broadcasts on

public TV and radio, as well as in the publicly financed Al-Hayat daily newspaper, was a serious shortcoming.

8. With the exception of East Jerusalem the voter registration process conducted by the CEC between September and November 2004 was highly credible, capturing some 71% of the electorate.
9. There was wide misuse of public resources in favour of Mahmoud Abbas, with public officials seen campaigning in his favour. The law is clear that such abuse should not be allowed, but the electoral authorities took no action despite numerous complaints.
10. Despite the noted shortcomings, it is clear that given the context in which it was held this election represents an achievement and an opportunity. Whilst democracy cannot necessarily be consolidated in one or two elections, the practice for Palestinian leaders to seek legitimacy through the ballot box is being entrenched and the spirit in which the Palestinian people registered and participated are strong indicators of a will to follow the path of the rule of law and popular participation.
11. It remains clear that many of the problems facing the election stemmed from the wider political context and the impact of the existing occupation and conflict. For the electoral process the challenge now is to learn from this experience by further strengthening the independence of the CEC, ensuring more rigorous enforcement of the legal provisions and clarifying and developing the legislative framework in time for the proposed Palestinian Legislative Council (PLC) elections later in the year.

### 3 Recommendations

#### **Ensure electoral arrangements are finalised in good time**

- All electoral arrangements need to be considered and agreed in good time to avoid the late finalisation of the electoral arrangements and the consequent poor provision of information to voters and candidates.
- This is particularly relevant to any arrangements which require a Palestinian-Israeli agreement, as this proved to be extremely time consuming and problematic.
- Taking account that the PLC elections are scheduled for July and the next round of municipal elections are scheduled for May, the need to identify and agree the various modalities is immediate.

#### **Provide Reasonable Electoral Conditions for Candidates and Voters in East Jerusalem**

- It is imperative that the electoral process in East Jerusalem is conducted in an equal manner as far as possible in comparison to the other electoral constituencies.

Whilst it is understood that Annex II of the Declaration of Principles may still be relevant, it is hoped that good will and common sense will prevail in this respect to prevent a recurrence of the problems which characterised the process in Jerusalem in both 1996 and 2005.

- There must be a full and inclusive registration of Palestinian voters in Jerusalem, with clear information provided as to where they will vote on election day.
- Voters must receive assurances that their participation in the electoral process will not in any way jeopardise their rights and status as Jerusalem ID card holders.
- The arrangements for election campaigning, including the establishment of campaign offices for candidates and the free movement of candidates throughout the constituency must be articulated in good time before the start of the campaign.
- Candidates eligible to stand for election in Jerusalem, but currently residing elsewhere, must be afforded proper access to the constituency.
- Proper, reasonable and adequate provision must be made for voting by all registered voters in the vicinity in which they live, in accordance with basic international electoral standards of equal treatment, secrecy of the vote and convenient provision of adequate polling places.
- If the postal services should remain the provider of infrastructural support to the voting process, then this should not necessarily in itself mean there is a limitation on the number of premises that can be provided, as based on examples elsewhere in the world when there is an increased “seasonal” demand for postal services, temporary postal facilities can be utilised.
- Regular electoral officials should be permitted to oversee the proper conduct of the election, possibly in a supervisory role so that problems can be properly addressed.

#### **Ensure the Independence and Integrity of Electoral Administrative Bodies**

- The EUEOM strongly recommends that political authorities undertake to respect the independence of the CEC and its subordinate bodies in all districts, in the interests of the integrity and legitimacy of the electoral process. This is a question of political will, as the required provisions are already present in the law.
- It is encouraging that the newly-elected President has apparently reiterated this, but it now must be seen to be the case as the CEC prepares for the crucial PLC elections. Any repetition of these pressures and interference would have serious consequences for the integrity of the electoral process in future elections.

- Further, the suggested changes to CEC and DEC procedures (see below) would add extra safeguards in this respect.
- In addition, agreement on or reiteration of clear and binding procedures for the registration and voting rights of security and police personnel would help to avoid any repetition of the highly detrimental pressure to which the CEC and other electoral management bodies were subjected to during this election, as well as serve to prevent such large numbers of public servants from potentially losing their rights. The CEC and Ministry of Interior should ensure that the procedures for this are agreed and implemented in good time before the next election.
- The EUEOM also wants to stress that there is no requirement for the CEC to resign following an election. There is no legal imperative for this and it would bring into question the independence of the body.

#### **Conduct Voter Registration and end the use of Civil Register for Electoral Purposes**

- The law should be amended to end the use of the civil register in the electoral process.
- There should be a parallel end for a need for 'special polling stations'.
- A period of supplementary voter registration is organised to provide reasonable opportunity for persons not on the voter list to confirm their eligibility and be added to the list and informed of the location of their regular polling station.
- Voters should be made aware that they have a responsibility to present themselves for registration and political parties and civil society organisations should be mobilised to publicise the registration process, ensuring as many eligible persons as possible are reached.
- The law is amended again to end the possibility for the use of the civil register for voting purposes, meaning that for future voting there are just regular polling stations and regular polling lists.

#### **Provide Appropriate Freedom of Movement for Electoral Stakeholders**

- The EUEOM strongly recommends that the electoral process must enjoy the basic freedoms of movement and assembly. Even in the worst case scenario whereby Israeli forces are still imposing strict measures, given sufficient time it should still be possible to expand upon the procedures employed for the 9 January election in order to put in place adequate arrangements for the proposed July elections, where the number of candidates will be significantly larger.



### **Enforce the Prohibition on Involvement of Public Authorities in the Electoral Campaign**

- It is important that the law on the prohibition of abuse of “state resources” is respected and enforced, ending the pervasive practice during the 9 January elections of support being provided to one candidate by PA officials and institutions.
- Internal guidelines for public bodies and public figures should be developed, explaining clearly what is permissible and what is not.
- Heads of public bodies could be asked to sign a declaration to indicate support for such prohibitions, and would therefore be held accountable in the face of evidence of abuse.
- The CEC and DEC’s are urged to act, and be seen to act, upon complaints.
- The liable sanctions for violations should be widely publicised to ensure familiarity.

### **Increase the Transparency of the CEC and DEC’s**

- The CEC should establish and publish clear internal procedures for decision-making, to preclude ad hoc decisions.
- There should be no changing the rules of the election on the day of the election.
- There should be a requirement on behalf of the CEC for the publication and notification to relevant stakeholders of all formal CEC and DEC decisions.
- The CEC should consider allowing a limited number of relevant stakeholders (such as political party representatives, observers) to attend formal meetings of the CEC and DEC’s.
- The CEC must ensure the publication of decisions on complaints and appeals, including information on and reasons for the refusal to consider any complaint.

### **Develop Clearer and More Comprehensive Guidelines on Media Coverage**

- Develop internal guidelines for media outlets, providing a barometer for assessing media output as well as serving to inform media of their responsibilities. Including guidelines on Journalists’:
  - Rights (right to report, right to criticise, confidentiality of sources, access to information, etc.) and,

- Duties (produce information that is reliable, true, clear, timely, verifiable, substantiated and accurate)
- Develop external guidelines, with a more detailed explanation in the election law of how media should cover the election campaign in order to provide balanced coverage for the public. This can help define:
  - Right to reasonable access and fair treatment for all election contestants, particularly with regards to the official media.
  - Duty to provide fair and professional editorial coverage (news, debates, etc.) on behalf of all electronic and official media.
  - Any potential conflict of interest (i.e. candidates owning media outlets, journalists running as candidates, advantage of the incumbent government etc.).
- If the CEC puts in place a proper framework for media conduct for the election it could consider establishing a media monitoring unit to measure compliance.
- The legal framework for media should include provisions regulating the purchase of airtime both in terms of amount of paid advertisement candidates are entitled to buy during the campaign period and in terms of fees that media can impose on candidates, including the provision that the same rates should apply for all candidates and the rates should be the lowest for the time band requested.

**Develop More Comprehensive Procedures for Verifying Campaign Financing and Expenditure**

- The political and electoral process would benefit from the development of more comprehensive, feasible and viable procedures for verifying campaign financing and expenditure.
- There also needs to be a concurrent will to enforce such regulations, because if successful, such mechanisms can have a positive effect on the process, including increasing the accountability of political parties, ensuring more effective political competition, preserving the integrity of the electoral process by increasing transparency, enhancing accountability, eliminating corruption and strengthening the rule of law.
- The EUEOM recommends a re-consideration of this part of the law, leading to the development of a more rigorous, but feasible and enforceable, series of financial disclosures on behalf of all candidates.

### **Provide Increased Safeguards Against Manipulation of Assisted Voters**

- The legal provisions on procedures for assisted voters should be amended to place a limit of just one voter to be assisted by any other person. This will help address the problem of individuals assisting multiple persons in a polling station.

### **Ensure the Proper Management, Verification and Scrutiny of Sensitive Election Materials**

- The CEC should ensure that it improves its handling and scrutiny of the various stages for production and distribution of the sensitive election materials, such as the printing and delivery of ballots.

### **Provide Full, Timely and Transparent Publication of Election Results**

- The EUEOM strongly recommends that the CEC fully utilises the resources it has to ensure for future elections a prompt publication of all details relating to results and voting turnout. It has been shown in elections elsewhere, that such a willingness and capacity to rapidly provide such information greatly adds to the transparency and confidence in an election.
- Such transparency and confidence would be further enhanced if the results were also published down to polling station level. The Palestinian election is actually of a very modest size compared to many, with just over 3,000 polling stations in total and such a prompt breakdown should be feasible.
- Further, as civil society organisations and party representatives are permitted to collect copies of polling station results and as such results are also to be posted at the polling station site for a period of days after the election, it is somewhat logical that this exercise is only valuable if such results can be compared to the ones officially published as having been tabulated at a later stage.

## **4 Political Overview and Results**

### **4.1 Background to the 2005 Presidential Elections**

The 9 January 2005 elections were the first since the elections of 20 January 1996, when an estimated 75 percent of the electorate turned out to elect, pursuant to the Oslo Accords, a president and an eighty-eight member Legislative Council. Yasser Arafat was the overwhelming winner in the presidential elections, against a virtually unknown social activist Samia Khalil. In the PLC elections Fatah won some 57% of the seats, with the additional support of some of the independent council members. The election was boycotted by all the factions which opposed the Oslo peace process, such as Hamas, The Popular Front for the Liberation of Palestine (PFLP) and The Democratic Front for the Liberation of Palestine (DFLP), though it was known that some of the so-called “independents” were close to these organisations.

Following the election the envisaged Israeli re-deployment from the West Bank and Gaza never met the deadlines and there were accusations on both sides as the Oslo process began to unravel. Final status negotiations finally began after Israeli prime minister Netanyahu (Likud) was replaced by Labor's Ehud Barak in Israel's 1999 elections but the

process ultimately broke down amid mutual recriminations after the July 2000 Camp David summit sponsored by U.S. President Clinton. Shortly thereafter, in September 2000, the “Al-Aqsa intifada” began.

Ariel Sharon was elected Israeli prime minister in 2001 and re-elected in 2003. The whole period was characterised by military actions by both sides and an increased militarisation of the conflict. Israeli armoured incursions took place into Palestinian cities and Palestinian suicide bombings in Israel produced unprecedented casualty levels on both sides. Amid escalating conflict Israel re-occupied West Bank cities in April 2002 and began construction of the “Security Wall”. Attempts to revive the peace process, such as the 2003 Roadmap, failed to produce the necessary breakthrough. Throughout this period, the Palestinian political leadership were increasingly marginalised. In 2004, Prime Minister Sharon announced his policy of “unilateral disengagement” from the Gaza Strip, scheduled for 2005.

The death of Yasser Arafat in November 2004, was met with widespread grief among Palestinians, as he was, for most, despite all his documented shortcomings, the only leader they had ever known and was seen as having represented and led them and suffered with them for decades. Conversely his death was characterised by the international community and Israel as providing an opportunity for peace, and this mantle was firmly placed on the shoulders of the yet to be elected second Palestinian President.

## **4.2 Political Overview of the 2005 Presidential Elections**

The Palestinian Authority (PA) is a combination of parliamentary and presidential systems, divided into executive and legislative bodies. The balance of power between these bodies has been a matter of tension for some time. The President of the PA, together with the government, holds the executive authority and the PLC performs the legislative role. Under Arafat many of these functions and powers had been effectively held by him, and the issue of reform had long been on the agenda.

Following the death of Yasser Arafat on 11 November 2004, and in respect of Article 37.2 of The Basic Law, an election was called for 9 January, within the stipulated 60 days, and the Speaker of the Palestinian Legislative Council assumed the powers and duties of the Presidency. In the wake of the death of Yasser Arafat there was cautious optimism at this decision among the international community and Israel. Likewise, Israel’s move towards disengagement from Gaza and the visible support of Egypt in this, helped create the perception that a new era may have begun.

As soon as the elections were announced Hamas indicated that it would boycott the poll because of its opposition to the creation of the Palestinian Authority in the Oslo peace accords. It also said it rejected the idea of holding separate legislative and presidential elections. Some analysts wondered whether Hamas was not also concerned with its actual level of support given some less than promising opinion polls, and by avoiding the election they avoided a straight forward “run-off” against Fatah.

Whatever their reasons were there was concern on the ground as to whether their boycott would be “active”, i.e. a direct campaign against the election, or whether it would be more passive, just encouraging its own supporters not to participate. In the end the boycott proved to be passive, as did the boycott of other rejectionist groups such as Islamic Jihad. However there were sporadic reports during the election of a more active boycott, including activists from Al-Tahrir in Hebron and Hamas in towns outside of Jerusalem city encouraging people not to vote.

With Hamas declining to compete in the election, the path was clear for Fatah and its officially designated candidate Mahmoud Abbas (Abu Mazen). Abbas, was drawn from Arafat's inner circle and was the last of the small group (Arafat – Abu Ammar, Abu Jihad, Abu Iyad and Abu Mazen) which had been at the forefront of Fatah / PLO politics for the last few decades. Indeed one newspaper article characterised Abu Mazen as “The Last Palestinian”.

However, his “unassailable” position looked less assured following the challenge from within Fatah, by Marwan Barghouti. Marwan Barghouti is a leading member of Fatah's Al-Aqsa brigades, and is currently serving a prison term in Israel of five consecutive life sentences. The two men clearly represented different but strands of contemporary Fatah and even Palestinian political thinking. Abbas is from what might be classified as “the old guard”, the prominent PLO leadership which returned to Palestine during the Oslo process in the mid-1990s. Barghouti, one of the “new guard” emerged to prominence during the first Intifada, was elected to the PLC in 1996 and was notable during the second Intifada at the forefront of the Al Aqsa brigades.

Mahmoud Abbas clearly stated that he supported the Intifada but believes the armed Intifada was a mistake and should end and be replaced by a negotiated settlement. Marwan Barghouti also supported a negotiated settlement but stressed the need for continued armed struggle as a strategy to strengthen the Palestinians' position. Opinion polls differ on the relative weight of support for these two positions, and the respective cleavages within Fatah, but it is clear that there remained a sizeable constituency in favour of Marwan Barghouti's stated position. Opinion polls at the time, which should be taken as a general indication rather than scientific indication of public opinion, showed that Barghouti might have enjoyed over 20% of the vote.

Eventually, after much conjecture Marwan Barghouti pulled out of the election on 12 December, citing opposition against his candidacy among the international community and the implications of this for the peace process. However, he had also been under pressure from his Fatah colleagues not to split the Fatah vote. In his withdrawal statement he declared his support for Mahmoud Abbas and stressed the importance of the issues of Palestinian prisoners and the refugees' right of return. It was also clear that reform of Fatah internally, with the call for party primaries, would also come onto the agenda

However, the nature of Barghouti's candidacy highlighted two clear problems for Abbas. Firstly, the ideas Marwan Barghouti stood for had a clear support base among Fatah supporters which would have to be addressed by Abbas who had publicly stood against them. Secondly, it was clear that various Al Aqsa Brigade leader did not see themselves as subservient to the mainstream Fatah leadership. This indicated the lack of control and command over the armed Al Aqsa groups, which would also need to be addressed, as the characterisation of the PA being “an authority with no authority” would be tested. The nature of the campaign, with on-going actions by the Israeli military against Palestinian areas and actions by Palestinian groups such as Hamas and Al Aqsa exemplified Abbas' challenge for the post election period.

Following the withdrawal of Marwan Barghouti and two other prospective candidates, the main challenge to Abbas came from Mustafa Barghouti, by coincidence a distant cousin of Marwan but with no political connections to him. Mustafa Barghouti was formerly a leading member of the

Palestine People's Party (PPP) and became well known as a human rights activist with the PPP's Medical Relief Committees during the first Intifada. He stood as a candidate in the 1996 PLC elections but was unsuccessful. Mustafa Barghouti was one of the founders of the Palestinian National Initiative (PNI), with a number of other prominent personalities, including Haider Abdul Shafi.

Following Abdul Shafi's decision not to be a candidate in the election, Barghouti put his own name forward. He told the EUEOM that his aim was to forge a "third political force", a centre-left "national democratic alternative" between Fatah and Hamas. During the campaign Barghouti picked up the official backing of the Popular Front for the Liberation of Palestine (PFLP).

Barghouti conducted a very strenuous campaign but was always aware that ultimately he could not compete with the strength of Fatah, the Palestinians' leading national liberation movement, particularly after the withdrawal of Marwan Barghouti from the race, which might have split the Fatah vote.

The final candidates (in ballot paper order) confirmed in the race were:

- Mustafa Barghouti                      Independent
- Mahmoud Abbas                        Fatah
- Bassam Salhi                            PPP
- Tayseer Khalid                                      DFLP
- Abdul Karim Shbair                      Independent
- Abdul Halim Al-Ashqar                      Independent
- Al Sayyed Barakah                      Independent

The official results from the CEC showed that Abbas secured some 62.5% of the vote, whilst Barghouti got 19.5%. Tayseer Khalid (Democratic Front for the Liberation of Palestine) was third placed with 3.35%.

Once Marwan Barghouti had withdrawn, much political analysis actually focused on the significance of the voter turnout, given Hamas' boycott and suggestions that many Fatah activists and supporters were somewhat apathetic about Abbas. In the event it was not easy to say what the final turnout was given the introduction of the civil register (see below). According to informed sources at the CEC and the Ministry of Interior the turnout of eligible electors on 9 January was approximately 54%, given a realistic appraisal of the actual number of eligible persons in the country. Such an assessment, which was shared among many analysts, caused a very positive response from Hamas after the election regarding their prospective level of support for the forthcoming PLC elections, particularly in light of their vote in the municipal elections that have taken place on a rolling basis since December 2004.

Immediately after the election the spotlight was on the possible rapprochement between the Israeli government and the Palestinian Authority and the concurrent "truce" which both sides were calling for, in order to provide the needed stability and confidence in the negotiation process on both sides.

## 5 Legal Framework

### 5.1 Election Law and Other Relevant Documents

The 9 January presidential elections were held on the basis of:

- The Basic Law (amended 2003);
- The Palestinian Election Law (No.13) of 1995 (amended);
- A series of Presidential decrees;
- CEC by-laws;
- The Israel-PLO ‘Protocol Concerning Elections’ (Annex II of the September 1995 Declaration of Principles), notably Article 6, ‘Electoral Arrangements Concerning Jerusalem’.

Whilst the laws and associated documents generally provide the basis for the conduct of reasonable elections a number of shortcomings are evident.

- The Election Law itself was written specifically for the 1996 joint presidential and PLC elections, and like the Israel-PLO ‘Protocol Concerning Elections’ (Annex II of the September 1995 Declaration of Principles) was considered at the time to be an interim arrangement. Therefore there remains a lack of clarity on some provisions in the event of a single election as occurred on 9 January as opposed to the joint ones of January 1996.
- The “status” of the Protocol is also pertinent to the conduct of the electoral process in Jerusalem. At present Article 102.3 of the Election Law states that the “election shall take place in Jerusalem in accordance with the provisions of the Interim Agreement ...” The interim arrangement was intended to be relevant under the process envisaged by Oslo. However as the timelines in this process have been missed it raises the question as to how long the “interim” phase is expected to last.
- The election law and election regulations are supposed to be “consistent with the provisions of this agreement” (Art. 1.2 of the Agreement). However, this is problematic because the agreement does not provide reasonable conditions for elections as relating to the voters and the process in Jerusalem (see below), which is a significant shortcoming.
- During this election there was some confusion regarding the tabulation process and what role the DEC’s would play and also with regard to publication of the breakdown of results at the district level. The CEC stated that there was no requirement for DEC’s to publish detailed results as it was a national election constituency. However, the law infers that such a breakdown – which is good electoral practice – will be provided, but is at the same time ambiguous. Article 82.3 states that “Each DEC shall publish the provisional results of the elections in its constituency ...” There is no provision for any alternative scenario, yet the CEC was initially loathe to implement this procedure.

- There is a lack of clarity regarding issues such as whether or not the existing CEC is the permanent CEC foreseen in the law (Art. 23.2) or whether, like its 1995/96 counterpart it is a transitional one. The Chairperson of the CEC informed the EUEOM that the CEC was the permanent one, but it was not clear whether in its formation by presidential decree this was indeed made explicit. If it was not constituted as the permanent one, then this raises questions as to why not, as the law clearly states that following the 1996 elections the next CEC will be permanent. If it is considered permanent then this raises questions as to why the CEC stated its intention to resign following the election to allow for the new president to appoint a new CEC (see below).
- With regard to the length of the election campaign, Article 55 states that the “campaign shall start 21 days before the polling day and shall finish 24 hours before that day”. This provides for a campaign period of three weeks. However, during this election only a campaign period of two weeks was officially provided. This was largely as a consequence of the fact that the Basic Law stipulates that in the event of the death or resignation of the PA president new elections must be held within 60 days, thereby not providing adequate time for all associated electoral activities, particularly under the circumstances prevalent in the West Bank and Gaza.
- The election law is quite specific regarding the voting procedures, but the CEC has subsequently changed the procedures. For instance, Article 61 states that “There shall be special envelopes into which the elector shall insert the ballot ...” For this election it was decided that envelopes would not be used. The EUEOM has no opinion on whether envelopes should or should not be used, but the law remains clear. Whilst such a change in procedure does not affect the integrity of the process it does illustrate the fact that actual procedures and law need to be brought into line.

## 5.2 The Electoral System

The position of President (sometimes referred to as the *Ra'ees* or Chairman) of the Palestinian Authority is to be elected directly in a simple majority system with the whole Palestinian Territories (West Bank, including Jerusalem, and the Gaza Strip) forming a single national constituency.

There is no threshold for voter turnout and no requirement for an absolute majority. In simple terms, whichever candidate gets the most votes is the winner, regardless of how many voters turn out to vote on election day.

For administrative purposes the country is divided into 16 administrative districts.



## 6 Election Administration

The election administration basically managed to organise the process to a reasonable level, though under very difficult circumstances. The main problem facing the organisation of the election was the effects of the on-going occupation of the West Bank and Gaza, and the ensuing lack of freedom of movement. However, other problems were more “self-inflicted”, notably the political pressure on the CEC on election day which undermined the independence of the main body charged with running the election, as well as various shortcomings in the CECs decision-making and results publication procedures, which resulted in a reduction in transparency.

### 6.1 Administrative Structure and Responsible Bodies

The 2005 Presidential Election was conducted by a three-tiered administrative structure. The highest body was the **Central Elections Commission** (CEC). In addition there was a District Elections Commission (DEC) in each of the 16 administrative districts and a Polling Station Commission in each of the 2,838 polling stations.

In accordance with Article 21 of the Election Law, the CEC also appointed administrative personnel required for the implementation of the election procedures. These staff comprised the National Election Office (NEO), headed by the Chief Election Officer, and a District Election Office in each of the 16 districts.

The CEC is responsible for the preparation, organisation and adoption of all necessary measures for the proper conduct of the election. The 9-members are appointed by the President, following consultation with the PA and various political groupings. Article 23 of The Election Law provides for the independence of the CEC, stressing that it “shall not be subject to any other governmental or administrative institution in the exercise of its functions”.

The key responsibilities of the CEC were to:

- Ensure equal legal and operational conditions and opportunities for all candidates and voters
- Control the work of subordinate election commissions and offices
- Register partisan entities and candidates
- Adjudicate on formal complaints against decisions of DEC or PSCs
- Receive appeals to the Election Appeals Court
- Declare the final results

Given the special circumstances under which the election was held and the challenges posed as a result of the occupation and resultant restrictions on freedom of movement, particularly between the West Bank and Gaza, the CEC also established a special Regional Office in Gaza. This office was under the authority of the CEC but was responsible for the organisation of the process throughout Gaza.

There was also an **Election Appeals Court** to adjudicate on claims and appeals related to decisions taken by the CEC or on any other decision subject to appeal before the Court. The five-

judge Court was appointed by the President of the PA and had offices in both the West Bank and Gaza. The court was required to rule on any claim within five days of it being filed.

The **District Election Commissions** (DECs) were appointed by the CEC with the basic role of implementing all CEC regulations and instructions in their area of responsibility. Their key responsibilities were to:

- Supervise voter registration
- Monitor the election operations
- Receive and rule on complaints during pre-election period and against work of PSCs
- Verify election results provided by the PSCs.

The **Polling Station Commissions** (PSCs), according to the Law, were to be nominated by the relevant DEC and appointed by the CEC (see below). Their key responsibilities were to:

- Conduct voter registration
- Conduct voting and counting in the polling station
- Ensure order in the polling station
- Deliver results to the relevant DEC

## 6.2 Jerusalem

The voting process in Jerusalem was conducted under very different conditions compared to other districts. In accordance with the arrangements agreed upon by Israel and the PLO for the 1996 elections the voting process in Jerusalem was organised by the relevant DEC but in co-ordination with the Israeli postal authority as the “Implementing Agency” and the process was only to be conducted in post offices. Further, the process was limited, initially, to only the five post offices (which provided for a total of just 11 polling places) listed in the 1995 Protocol Concerning Elections.

Crucially the protocol states: “A number of Palestinians (emphasis added) of Jerusalem will vote in the elections through services rendered in post offices in Jerusalem, in accordance with the capacity of such post offices.

The relevant post offices for the purposes of these arrangements shall be:

- (1) Salah-a-din post office
- (2) Jaffa Gate post office
- (3) Shuafat post office
- (4) Beit hanina post office; and
- (5) Mount of Olives post office.”

As a consequence, in 1996 the “number of Palestinians” allowed to participate in these places was just 5,367. The other estimated 95,000 potentially eligible voters had to vote elsewhere, in neighbourhoods outside of the city of Jerusalem.

For this election, the same formula was adopted, but the Israeli authorities agreed to the addition of one extra post office (Subaher) very late in the process, increasing the capacity to 6,000 voters.

However, no Palestinian election officials were allowed to administer the process, rather postal officials were responsible. Further, voting booths were not permitted, instead voters marked their ballots at normal post office windows and put the ballot in an envelope, which was then put into a special post box by the postal official.

Pressure by Israeli authorities against Palestinian election officials in East Jerusalem also meant that virtually no advance preparation could be undertaken until after 26 December when the Israeli government finally issued a statement acknowledging the poll. Further, the EUEOM was informed that certain election officials in East Jerusalem were “invited” for questioning by Israeli police, who stressed that no electoral activities should be undertaken prior to the official Israeli government statement, which was only forthcoming on 26 December.

The late agreement of procedures meant that, for example:

- The procedures for the election campaign activities in East Jerusalem were inadequate and were only agreed half-way through the two-week campaign period. For example the Jerusalem Municipality only published the notification of the list of official billboards for campaign posters on 4 January – 11 days after the campaign started and 3 days before it finished;
- Candidates repeatedly faced problems in entering Jerusalem to campaign, resulting in the detention of two of the candidates for a few hours each;
- The final voter lists for Jerusalem were only completed on the day before the election, and were incorrectly delivered to the polling places;
- Voters were not properly informed of the modalities for election day in East Jerusalem, causing a high degree of chaos, anxiety and tension.

The position taken by the Israeli Authorities with regard to refusing to allow Palestinian election officials to be involved in the post offices, refusing to allow adequate preparation by the DEC, together with the closing down of the registration of voters on 13 September, had a profoundly negative impact on the electoral process in Jerusalem and was responsible for most of the noted shortcomings. However it was also clear that the issue of the election in Jerusalem was a highly sensitive matter for both the Israeli and Palestinian authorities, and that both of them to varying degrees played politics with it. It appeared to the EUEOM that the PA was intent on keeping the various electoral arrangements out of the public domain as much as possible, in order to ensure that as much blame as possible for the problems could be attributed to the Israeli authorities and also to ensure that the various arrangements to which they had agreed in both 1996 and 2005 would not become known, as they feared the public would blame them for agreeing to such bad terms for Palestinian voters in Jerusalem.

### 6.3 Late Formation of DEC's

The CEC only appointed DEC's on 1 January. Prior to this the work had been carried out by District Election Officers (DEO). In conversations with the EUEOM the CEC explained that it did not favour the establishment of the DEC's, as in 1996 they had proved unreliable and a complicating factor in terms of administering the process. In fact, the CEC had requested that the PLC amend the law to remove the requirement for DEC's to be established and instead rely solely on DEOs at the district level. However, the PLC did not undertake such an amendment.

Article 27 of The Election Law is clear, "There shall (emphasis added) be one DEC for each one of the electoral constituencies.....". Whilst it might be argued under certain circumstances that for a presidential election, where the whole country is a single national constituency, there might not be a requirement for constituency-based commissions, the Palestinian Election law does not provide such flexibility. The DEC's are not only legally required but have a legal competence in terms of receiving complaints and nominating respective PSC members.

The EUEOM had raised this issue on numerous occasions with the CEC, pointing out that the process was open to a strong legal challenge, and there was a threat from the Palestine People's Party on 22 December to launch such a challenge if the DEC's were not properly constituted in accordance with Articles 27 and 28 of the law.

Following this, the CEC took the decision to legally constitute the DEC's, though it appears to have merely appointed the existing DEOs in many cases, rather than follow the stipulations laid down in Article 27.2, which calls for DEC members to be drawn from among "university professors, lecturers, lawyers, political scientists, economists, sociologists and public administrators". The situation in Ramallah seems to have been quite typical, whereby all of the persons previously acting as the DEOs were appointed as the DEC. None of them were female.

Once the DEC's had been formed the CEC redefined their responsibilities in terms of handling results from the PSCs. The process for tabulation and publication of results is outlined in the law, though at times there is a degree of confusion regarding which election type is being referred to and whether the DEC or DEO has responsibility, Article 82.1 clearly states that, "The District Election Offices shall receive and gather all the copies of the protocols sent by the PSCs .... and add the electoral results contained in them". Article 82.3 states that "Each DEO shall publish the provisional results of the elections in its constituency ...". And, Article 82.4 states that, "The DEC shall then send to the CEC the copies of the protocols sent by the PSCs, together with the provisional results of the election in their districts".

However, in the CEC's Polling and Counting Manual, which was used to train PSC members and which was intended as the blueprint for election operations, the CEC changed the role of the DEC's to one of merely communicating the PSC results with no tabulation or verification. This was meant to streamline the process and avoid the hold-ups experienced in 1996, but again, such a provision was outside of the law and this was pointed out clearly by the Palestinian Centre for Human Rights. In response less than one week before the day of the election and after the

training of PSC's had been conducted the CEC changed the provisions back to those foreseen in the law, with resulted in confusion.

Whilst such a worded provision as Article 27.2 may be cumbersome and rather pedantic, it was the law for this particular election and the CEC's reluctance and reticence in appointing the DEC's, reflected their attitude towards some of the legal aspects of the process, as did their unilateral redefinition of the responsibilities of the DEC's in terms of handling election results. It could be said that in some respects the CEC was more focused on meeting operational requirements than fulfilling legal requirements or facilitating transparency and accountability.

These issues are highly pertinent for the forthcoming PLC elections, and the respective roles and responsibilities of the DEC's and DEOs must be clearly articulated and respected. Further, the provisions must ensure adequate transparency and accountability.

### **6.3 Impact of Israeli Occupation on Conduct of the Electoral Administration**

The electoral authorities faced a series of hurdles in preparing for the poll due to the ongoing restrictions imposed as a consequence of the occupation. The most serious problems were in Gaza and Jerusalem, but all operations, such as delivery of materials and training of election officials were hampered by the difficulty in being able to move around freely and the need to seek permits for movement.

CEC members in Gaza were unable to visit the main CEC office in Ramallah and instead held meetings by video conferencing, and the CEC established a Regional Office in Gaza for the organisation of the poll there. The most serious difficulties they faced were in moving materials and documents into and out from Gaza, necessitating common arrangements with the Israeli authorities. These arrangements were often hampered by the fallout from military actions and clashes in the area, which were fairly regular.

Within Gaza, the electoral administration was very nervous about its ability to conduct training and deliver materials given the severe restrictions on movement between the north of the Strip and the south, through the Abu Holi checkpoint. Movements through this checkpoint were often limited to just a few hours per day.

There was also concern at the location of various polling stations, given their proximity in some instances to places of possible confrontation and tension. On the day of the election this became evident as polling places, for example in Deir al-Balah and Khan Yunis, were caught up in skirmishes between Israeli forces and Palestinian militants.

On the eve of the election there was an attack against Israeli forces outside Nablus. A curfew was immediately imposed on eight villages in the area. There was concern that this might impede the return of sensitive materials which was due to take place at that time. However, the curfew was quickly lifted on seven of the villages and it was reported that the materials had been delivered to the final village later in the evening.

#### **6.4 Ballot Printing**

The ballot papers were printed at two printing houses, in Nablus and Jerusalem, using paper provided by Spain. Printing of the ballots was completed on 29 December and they were then delivered to secure premises in Ramallah. A series of incidents led the EUEOM to conclude that the electoral authorities did not fully and actively scrutinise and verify the printing process:

- At the time of delivery, responsible election staff in Ramallah were unable to locate unused ballot papers and the printing plates;
- The films for producing the printing plates were initially left behind in Nablus;
- During the printing of ballots in Jerusalem there was a mis-print resulting in the ballot books containing varying numbers rather than the stipulated 100 ballots-per-book, and the extra “ballots” did not have the serial number. This only came to light as election staff sample checked the ballots upon delivery. It was not identified during the process. As a consequence on election day each PSC was instructed to remove such ballots and count them as invalid.

This lack of proper safeguards did not result in any breaches of the law, but such materials are sensitive in both technical and political terms and should not be handled casually.

#### **6.5 Appointment of PSCs**

PSC members are, according to the Law, supposed to be nominated by the relevant DEC and appointed by the CEC. However, they were neither nominated by a DEC or appointed by the CEC. Rather, PSC members were nominated by the Ministry of Education (the DEC had not been constituted at the time) and signed a contract with the NEO.

Whilst in practice the EUEOM can be sympathetic to such a solution to a massive undertaking (there were 16,279 PSC members), and acknowledging that it was done in this way in 1996 and delivers PSC members who enjoy high public recognition with the requisite qualifications, it also raises some potential concerns, as the final scrutiny of election staff should be an integral part of the work of the levels of Election Commissions.

There is also the problem of perception. As public employees there could be a perceived link to their employer, the PA, which did not play an impartial role in the election. Further, the Ministry of Education told the EUEOM that mis-behaviour by staff as PSC members would count against them on their work records, which again might be perceived as a possible means of pressure by the public authority, which was not seen as impartial during the election.

#### **6.6 Rule of Law, Transparency and Decision-Making Procedures**

The CEC appeared to lack a formal process for decision making as well as any consistent and transparent procedures for the publication of decisions.

This lacuna was particularly noticeable in relation to the CEC's consideration of any complaints and appeals. The CEC informed the EUEOM that it did not favour the publicising of any complaint received or the consequent decision in the interests of discretion. However, this lacked transparency and meant that the rule of law was not seen to be respected. All such cases should be a matter of public record.

Further, it was not clear what the internal procedures for formal decision making by the CEC were. The EUEOM had requested permission to attend CEC meetings but this was denied, and the decision was respected by the EUEOM. However, the EUEOM requested a formal process for receiving information of decisions taken by the CEC and was informed that decisions, where the CEC felt they were of interest, were published on their website. Effectively this meant that the CEC selectively decided which decisions – which were formal parts of the electoral process – were publicised and which were not. Further, many decisions were published with some delay.

In addition, the EUEOM was not convinced that the CEC had internal procedures regarding internal decision-making, such as on how to call for a meeting, who should be present, how decisions would be taken etc. This was exemplified on the day of the election, with two of the most crucial decisions (regarding changed procedures for Jerusalem and the changed procedures for the whole country) taken with apparently no formal constitution of the CEC and no formal written decision. Ultimately the lack of procedures meant an absence of safeguards against the pressure the CEC eventually faced on the day of the election.

It was also widely reported by observers throughout the West Bank and Gaza that whilst numerous complaints were submitted to DEC's and the CEC, there was little or no response to these. The CEC itself had acknowledged during the build-up to election day that it lacked the resources to adequately do this, and also that many complaints, including on election day, were improperly submitted and therefore could not be considered. However, it remains the case that the perception, and in many cases the reality, was that the rule of law was not seen to be respected. A DFLP representative in Ramallah told the EUEOM that, "the CEC has no real enforcement role and acts more as an advisory body. This is quite evident [so] many do not obey some of the articles of the Law".

## **6.7 Local Elections**

The EUEOM did not observe the Municipal Elections, which were taking place during the course of the mission. However, it is clear that aspects of the two electoral processes have an impact on each other and that technical and political issues from the two processes are also mutually influential. Good or bad electoral and democratic practices create patterns of behaviour in a society. For this reason it is important for both electoral processes to be as correct as possible.

It is recognised that the local electoral process would benefit from having access to the normal voter registers used for the presidential election, with the exception of the Jerusalem lists which remain problematic. It is also recognised that the reputation of the CEC and its staff to resist as far as possible political interference is one to be admired, whilst the Higher Election Commission responsible for Local Elections does not enjoy this confidence. In a country the size of the

Palestinian territories and with such a modest sized electorate the EUEOM could see no technical reasoning for the existence of two separate electoral bodies.

## **7 Voter Registration**

### **7.1 The Voter Registration Process**

The Election Law states that persons eligible to vote must be:

- ✓ Palestinian
  - Born in Palestine as defined by British Mandate, or
  - Born in Gaza or West Bank, including Jerusalem, or
  - Irrespective of place of birth having one or more direct ancestors born as above, or
  - Is the spouse of an eligible Palestinian, but
  - Is NOT a citizen of Israel
- ✓ At least 18 years of age on election day
- ✓ Entered in the voter register
- ✓ Not deprived of right due to judicial sentence from Palestinian court

The CEC conducted a 6-week registration of voters in September and October 2004 and there was a further six-day period of registration following the death of Yasser Arafat. As a consequence of these two periods a total of 1,282,524 persons were registered. This is often referred to as being anywhere between 71%-78% of the potentially eligible electorate. Estimates vary due to the nature of the dispersed Palestinian society and the problems in maintaining national records, particularly since 2000.

Explanations as to why some people did not register include the fact that as no election was foreseen during the main registration period people were not motivated. Also, most political factions, including Fatah, were not mobilized sufficiently to support the registration process at that time. Reports indicate that refugee camps and some of the larger cities were most affected. In Gaza there were numerous military clashes during this period, resulting in the closure of dozens of registration centres, which also impacted negatively on the registration.

However, registration of Palestinians in East Jerusalem was curtailed by 13 September after registration centres were subjected to frequent raids by Israeli authorities. As a consequence, and even though the CEC established some centres outside of the boundaries of municipal Jerusalem, tens of thousands of Palestinians in East Jerusalem were not registered at this time. Following an agreement between the PA and the Israeli government on 26 December, the CEC initiated a door-to-door registration or canvassing of voters on 29 December, which continued up to the week prior to the election.

The inadequate and late registration of voters in East Jerusalem had serious consequences for the orderly administration of the process in the city during the later stages.

However, despite these problems, and acknowledging East Jerusalem as a separate problem, most observers of the process concluded that the registration process had been conducted “at a high



level of technical proficiency”. Further, the capturing of some 71% of the estimated eligible electorate under these circumstances was a highly credible exercise, and the resultant preliminary Final Voter List was proven to be reliable.

## **7.2 PLC Decision to Provide for Use of Civil Register**

On 1 December 2004, the Palestinian Legislative Council (PLC) amended the law to allow for use of the national civil register (CR) in addition to the Voter List. The CR contained some 700,000 names of persons over 18 years of age who did not appear on the Voter List.

The PLC argued that the amendment was necessary as the electoral franchise should be offered to all Palestinians, providing voting rights for those persons who return for the election or who have subsequently changed their mind regarding participation.

The CEC was against the amendment. They argued that the registration process had offered full opportunity for people to register. Further, the CEC was concerned that by allowing for the use of the CR, which was widely regarded as not “clean” or reliable, the safeguards built into the voting process, whereby people only appeared on one voter list in one polling station, were undermined.

As a consequence, the CEC changed the procedures, allowing for the use of indelible ink for all voters to prevent double or multiple voting. The CEC also attempted to clean the CR as far as possible, by identifying double entries. They also decided to set up Special Polling Stations for voters appearing on the CR, and on election day there were some 71 special centres. However, from the outset the CEC struggled to adequately inform voters of the location of their correct Special Polling Centre.

Critics of the PLC decision point to the fact that it was passed with three readings of the amendments to the Law in one day, which requires a very strong political will by the Speaker and the leading faction in the PLC to achieve. Critics of the amendment argued that the stimulus for the PLC’s action was Fatah’s concern was due to the fact that registration levels were weaker in urban areas and refugee camps, both of which are Fatah strongholds. The PA is also loathe to be accused of denying a Palestinian their right to vote, and so the political imperative overrode the technical imperative in this case.

Whatever the reasons behind the decision to allow for the use of the CR, the consequences of it were to highly complicate the CEC’s work at a late stage and to create uncertainty and confusion among voters, which manifested itself on the day of the election in one of the most serious problems the election faced.

## **7.3 Palestinian Prisoners In Israeli Prisons**

The Palestinian Minister for Prisoners’ Affairs made an appeal to the Israeli Supreme Court for Palestinian prisoners in Israeli jails to be given the right to vote. This was not provided for in 1996. The case was heard before Chief Justice Barak in the week prior to the election. However, prisoners had been allowed to register by proxy under a special procedure.

The case came very late in the process and actually the basis of the court's ultimate rejection of the case was a practical one, that provisions could not be established in time. The issue has high political weight among Palestinians and all candidates in the election stressed their support for the prisoners, estimated to number some 8,000.

Palestinian representatives were highly encouraged by the case, given that the rejection was not one of principle but one of practicalities. This means that for future elections, given that they have a case heard in time and given a similar opinion among the relevant judges there might be the possibility for Palestinian prisoners in Israeli jails to be afforded the right to vote.

## **8 Registration of Candidates**

### **8.1 The Registration Process**

The CEC handled the registration of candidates in full accordance with the law and registration requirements are reasonable, providing full opportunity for interested persons to stand as a candidate. All prospective candidates had to meet the following criteria:

- ✓ To be Palestinian;
- ✓ To be 35 years of age or over;
- ✓ To have a valid address in the West Bank (including east Jerusalem) or Gaza;
- ✓ To be an eligible voter;
- ✓ To have collected the signatures of 5,000 voters; and
- ✓ To have paid a deposit equivalent to \$3,000.

During the nomination period, 20 November – 1 December 2004, the CEC received 12 submissions. However, two of these were immediately rejected because they did not meet the above criteria; failing to meet the time deadline and the requirement for a financial deposit respectively.

Candidates then had up to 15 December to withdraw their candidacy if they so chose. All candidates remaining after 15 December would appear on the ballot. During this period three further candidates withdrew:

- Hassan Khreisha, an Independent member of the PLC, withdrew his candidacy. He was showing very low levels of support in opinion polls, but he cited Israeli restrictions on freedom of movement for candidates as his primary reason for the withdrawal. Though he later also conceded that he lacked the funds for a full election campaign;
- Marwan Barghouti, a senior Fatah (Al-Aqsa Brigades) West Bank leader serving five life sentences in an Israeli prison withdrew his candidacy on 12 December. He cited opposition against his candidacy among the international community and the implications of this for the peace process as his reasons, but he had also been under pressure from his Fatah colleagues not to split the Fatah vote;

- Abdul Sattar Qassem (Independent), who claimed to be close to the Islamist movement, also withdrew just before the deadline. He claimed that the election would not be fair due to Abbas and Fatah's dominance of the process. However, he was also polling at less than 1% and would also have struggled to mobilise an effective election campaign due to financial limitations and the problems with freedom of movement.

## **8.2 Complaint Against Official "Party" Candidates**

A lawyer from Gaza submitted a complaint to the Election Appeals Court, claiming that the three candidates representing political "entities", Mahmoud Abbas (Fatah), Tayseer Khalid (DFLP) and Bassam Salhi (PPP), should be rejected as candidates because the "entities" are not properly registered with the Ministry of Interior.

The Court ruled in favour of the candidates on the basis that the Ministry of Interior confirmed the entities' registration status.

## **9 Election Campaign**

### **9.1 Campaign Regulations and Conduct of the Campaign**

The official election campaign lasted for just two weeks from December 25 - January 7, with 24 hours of campaign silence on 8 January.

According to the law, candidates were at liberty to conduct a public election campaign, with public rallies, meetings in towns and poster and leaflet campaigns. There is also a provision for free airtime on public media and the opportunity to take out paid advertising in private media.

The law also stipulated various restrictions and regulations for the campaign. It states that:

- The PA is to remain neutral and not to engage in campaign activities,
- No campaigning should take place in mosques or churches or government buildings
- No posters should be placed in non-designated places
- There should be no insulting of other candidates

In terms of how the campaign was conducted, candidates held large scale public meetings and posted banners, posters and leaflets around the towns. They also held meetings with key families, to try to gain the support of large families and "clans". Of course, Fatah with its more substantial "party" apparatus afforded the candidature of Mahmoud Abbas some advantage in terms of mobilising for the campaign.

In terms of the issues raised by candidates there was a noticeable focus among all on what are known as "Palestinian national issues", or "national constants", on which candidates stressed the strength of their adherence. These issues are:

- The need for an independent Palestinian state
- The right of return for refugees
- The demand for release of Palestinian prisoners from Israeli detention
- The stress on East Jerusalem as the capital of any future independent State
- The need to dismantle Israeli settlements.

There was more substantive debate on the issue of armed resistance, with Mahmoud Abbas clearly stating that he was in support of the Intifada but not its militarization. Other candidates were less explicit in their positions. There was also some discussion regarding the need for reform of the Palestinian Authority and other institutions. Whilst Abbas supported this, he was also implicitly on the receiving end of criticism related to this issue given his position at the head of the PLO and his former positions of power within the PA.

It is clear that various candidates started their “campaigns” before the official start date of 25 December, as evidenced by Mustafa Barghouti’s complaint that in trying to meet voters in Jenin during the second week of December he was harassed by an Israeli patrol; by the massive Barghouti billboards and posters put up in Ramallah at the time the EUEOM opened its office on 8 December; Bassam Salhi’s visit to demolished houses in Anata near Jerusalem on 21 December; and by the massive amount of media coverage and publication of Mahmoud Abbas’ trip to various Gulf States at the beginning of December. However, it is also recognised that the two week period for the campaign was too short, particularly given the constraints the candidates faced in conducting their campaigns.

Mustafa Barghouti’s representatives in many areas complained of harassment by Fatah activists, including by the removal of posters to intimidation to attacks against campaign offices, including one in Jenin after the election which was reported to the EUEOM by Mustafa Barghouti himself. While the EUEOM was not able to corroborate all of these claims, it is convinced that many claims were valid, and therefore is concerned at such practices.

It was clear that there were many problems associated with the election campaign in Gaza, from the problems of candidates to visit Gaza (with the exception of Mahmoud Abbas), problems moving around inside Gaza and the atmosphere throughout the area. The LTO team in Deir al-Balah highlighted that given the number of attacks by Israeli forces in the area, including helicopter attacks, assassinations, closing of checkpoints and frequent shootings from surveillance towers, as well as attacks by Palestinian militants against Israeli forces, there was only limited attention paid to the election in this part of Gaza.

## **9.2 Freedom of Movement**

During the election campaign the EUEOM received a number of complaints from candidates that faced many obstacles in moving within the West Bank and Gaza Strip and between the two areas in order to conduct their electoral campaigns. For example it was reported to the EUEOM that:

- Bassam Salhi was detained by Israeli police trying to enter Jerusalem;

- Mustafa Barghouti was also detained in Jerusalem for allegedly violating the terms of his permit;
- Mustafa Barghouti and Bassam Salhi both complained of excessive delays in the issuing of permits for Jerusalem and Gaza;
- Mustafa Barghouti was only given a three day permit for Gaza, which was insufficient;
- Candidates based in Gaza (Abdul Shbair and Sayyed Barakah) complained that they could not get permits to leave Gaza until very late in the campaign;
- Due to violence in the Gaza Strip, Mustafa Barghouti was stuck in Gaza and the Gazan Candidates were stuck in the West Bank;
- There were problems for candidates in getting permits for their staff to travel with them.

It is also clear that some candidates also used some of these incidents to increase their media exposure and therefore as part of their electoral campaigns. For example, Mustafa Barghouti used pictures of his “harassment” by Israeli forces as part of his poster campaign.

### **9.3 Jerusalem**

The establishment of rules for campaigning in East Jerusalem only by the middle of the campaign (which itself was only two weeks long) clearly caused confusion and represented an obstacle for candidates and voters alike.

According to Article IV of the Israel-PLO Protocol Concerning Elections, the modalities for providing permission for campaign activities, campaign locations etc. is to be determined in advance by the CEC, presumably in agreement with the relevant Israeli authorities, and handled on a case-by-case basis by the relevant District Co-ordination Office (DCO). However, for this election the joint Israeli-Palestinian Co-ordination offices were not established as for the 1996 election. Also the CEC confirmed to the EUEOM that it was not in a position to liaise directly with the Israeli government, that this was a task for the PLO and PA, which created a further level of decision-making and involvement.

Therefore the mechanism by which candidates should inform the DEC of their intended activities and the DEC should inform the DCO in order to attain the proper permission never functioned as per the agreement. For this election, it was eventually agreed, a few days before the day of the election, how candidates should submit a request for a permit through the DEC, however by this time it was effectively too late and a series of incidents had already occurred (see above).

Further, the Israeli authorities were adamant at a meeting with Palestinian negotiators attended by the EUEOM that candidates were not permitted to have any campaign offices whatsoever in Jerusalem. In reality candidates therefore had to use surrogate offices of their related party or supporters in order to be able to conduct any campaign activity.

### **9.4 Abuse of Public Resources**

Article 54.2 states: “The Palestinian Authority and all of its administrative or security bodies shall remain neutral throughout the different phases of the electoral process, and shall refrain

from conducting any kind of activity which may benefit any candidate against others or any partisan entity against others.”

However, during the election the EUEOM noted the widespread use of Palestinian Authority resources and the widespread involvement of PA officials and personnel in the campaign effort of Mahmoud Abbas. The fear is that such a practice will be repeated during the PLC elections in favour of Fatah candidates.

During the presidential election the CEC and various DEC's received numerous complaints of these practices but never acted effectively upon them. The CEC did at one stage urge some senior officials to resign due to their involvement in Abbas' campaign and they duly did so. However, the practices continued unabated.

Examples of such abuses during the campaign, by supporters of Mahmoud Abbas and by Fatah in favour of Mahmoud Abbas and of CEC/DEC inaction on the matter include:

- School Headmasters in Hebron were “invited” by the Minister of Education to attend a Mahmoud Abbas rally on 4 January.
- The Governor of Tulkarem had a large banner for Mahmoud Abbas hanging on the front of his building. The DFLP complained to CEC on 7 January but did not receive an official response;
- The Governor of Bethlehem threatened to withdraw security for the election unless the DEC changed the procedures allowing security forces to vote;
- For the delivery of materials from the DEC to PSCs, vans with Mahmoud Abbas posters on them were used;
- Mahmoud Abbas posters were put up in or on public buildings all across the West Bank and Gaza Strip;
- Posters were seen on police cars in many areas;
- The Governor of Nablus was openly supporting the candidacy of Mahmoud Abbas;
- PA vehicles in Nablus and Ramallah were observed being used in the campaign of Mahmoud Abbas
- There was inadequate security at campaign rallies for candidates, with the exception of Mahmoud Abbas. For example a Mahmoud Abbas rally in Tulkarem on 4 January was attended by hundreds of policemen, whereas the Tayseer Khalid (DFLP) rally had just a handful of internal security agents. The DFLP complained to the DEC about the lack of protection (indeed stones were thrown at the attendees by unknown assailants) but no action was taken;
- Some 200-300 uniformed Palestinian police attended an Abbas rally in Salfit, with no discernible distinction between the provision of security and their participation in the rally.

## 9.5 Campaign Financing Regulations

Article 93.3 states, “The Palestinian Authority shall refrain from helping or financing the electoral campaign of any candidate.”

Article 93.4 of the Election law states, “Every partisan entity participating in the elections and every elected candidate (emphasis added) shall submit to the CEC, within 20 days from the announcement of the results, a detailed report about its funding sources and its expenditures during the electoral campaign.”

Article 94.1 states, “No party or candidate participating in the elections shall receive funds for the electoral campaign from any foreign source.”

During the election there were numerous allegations regarding supposed foreign funding of candidates’ campaigns, the undeclared use of NGO funds from donors and the use of PA funding and resources for campaign purposes. These allegations were very damaging for the integrity of the campaign and yet it did not seem possible for the CEC to verify or refute such allegations. Further the CEC did not seem inclined to pursue the matter either.

Whilst any regulations regarding disclosure of campaign funding and expenditure must be realistic and verifiable there are three problems with the law as it stands:

- The Law is ambiguous in that Article 93.4 only appears to relate to candidates officially representing a “political party/entity” or to elected candidates, but not other contesting candidates;
- The provisions are not comprehensive enough to ensure a real scrutiny of campaign funding and expenditure;
- There does not seem to be a will on behalf of the electoral authorities to actively check on such matters.

## **10 Media**

### **10.1 Media Landscape and Legal Framework**

Media in the West Bank and Gaza Strip is fairly diverse, with a plurality of media outlets. The official media (Palestine TV, Palestine Satellite Channel, Radio Voice of Palestine and Wafa News Agency) is managed by the Public Broadcasting Corporation (PBC), under the authority of the PA which appoints its management and provides it with financial support.

There are some 40 local radio and televisions whose audience is generally limited to their respective areas of coverage. Local broadcasters seldom produce their own informative programmes preferring to rebroadcast news and current affairs programmes produced by Pan-Arab channels.

There are three daily newspapers, of which the Jerusalem based Al-Quds enjoys the widest circulation. The other two dailies are based in Ramallah: Al-Ayyam, which is privately owned, and Al-Haya al-Jadeeda, officially owned by the PA.

According to the Jerusalem Media and Communication Centre, the majority of Palestinians watch the Qatar-based al-Jazeera Satellite Channel, the Abu Dhabi Satellite Channel and Hizbullah’s al-Manar Satellite Channel. Voice of

Palestine is the most listened to radio station, followed by the Gaza-based Sawt al-Huriyeh, and Radio Israel (Arabic service).<sup>1</sup>

Journalists face a series of problems in the conduct of their work, including harassment by Israeli forces and a lack of freedom of movement as their accreditation is not recognised. Further, based on past experience journalists know that a “red line” must not be overstepped with regards to a number of issues, including any serious criticism of the PA, the PLO or its members, corruption and the debate on alternatives to resistance.

The legal framework regulating media coverage during the election campaign is set by the Basic Law, the Press Law, the Election Law and CEC Instructions concerning the conduct of the campaign.

The Press Law adopted in 1995 regulates both print and electronic media. It also represents the legal basis to sanction those media violating the provisions established in the Election Law. Article 57 (1) of the Election Law entitles the CEC to liaise with the PBC to ensure access to the candidates. The CEC informed the PBC of their obligations to provide free access and an agreement was signed between the CEC and the PBC.

Point 6 of the **Instructions** is devoted to the election campaign in the media. The main provisions pertaining to the media campaign stated that

- Free airtime is ensured to all candidates on an equal basis in the official media. Candidates had the right to a 1.5 hour “talk show”. The programme was broadcast every day starting from 1 January 2005 during prime-time. Candidates were also entitled to 10 minute-slots after prime time newscast (at about 9.30 PM). The order of broadcasting was decided by drawing lots under the CEC’s responsibility.
- No paid advertising was allowed in the official media; on the contrary private media were allowed to sell space and airtime to candidates. No limits were set on the quantity of paid advertisement candidates could purchase.

In terms of an enforcement mechanism the CEC did not have the power to sanction media outlets violating electoral provisions. The CEC liaised with the Ministry of Information to issue written cautions against media violating the relevant provisions. The CEC was supposed to act against violations only upon complaint. However, no media monitoring entity was established at institutional level; therefore the CEC had no means to autonomously oversee infringements of the law.

## 10.2 Media Monitoring

The EU EOM Media Monitoring Unit was active during the pre election period (19–24 December 2004) and the entire official election campaign period (25 December 2004–7 January 2005)

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<sup>1</sup> JMCC – Public Opinion Poll n. 48 April 2003.



The following media were monitored:

TV Channels (every day from 18.00 – 24.00)

Palestine TV: official television, coverage West Bank and Gaza Strip

Watan TV: private, coverage Ramallah and 70% of West Bank

Al-Jazeera: private

Radios (every day from 7.00 – 13.00)

Voice of Palestine: official radio, West Bank and Gaza Strip

Amwaji Radio: private, coverage Ramallah

Newspapers (every day)

Al-Quds: private, Jerusalem based, largest circulation

Al-Ayam: private, Ramallah based

Al-Haya-Jadida: owned by the PA, Ramallah based

The allocation of free airtime to candidates on the official broadcasters was a very positive innovation, appreciated by candidates and stakeholders as a measure providing the basis for a leveled playground.

However, the media did not provide balanced information on all of the candidates in terms of coverage. This unbalanced coverage can be interpreted as the outcome of a number of factors: the dominance of two candidates (Mahmoud Abbas and Mustafa Barghouti) with the other five candidates having a more marginal position in public support, the lack of experience in election reporting among Palestinian media, the lack of an appropriate legal framework for the media, the central role of Fatah in the political scene and the institutional role of Mahmoud Abbas.

In fact, a clear advantage was afforded to Mahmoud Abbas who enjoyed of greater visibility than any other candidates. On many occasions it was stressed that Abbas' intense coverage was due to his institutional position as the Chairperson of the Executive Committee of the PLO and the consequent need to report on his duties. Nevertheless, the amount of coverage he was provided with went far beyond regular levels for a candidate holding an official position.

**Print media<sup>2</sup>**

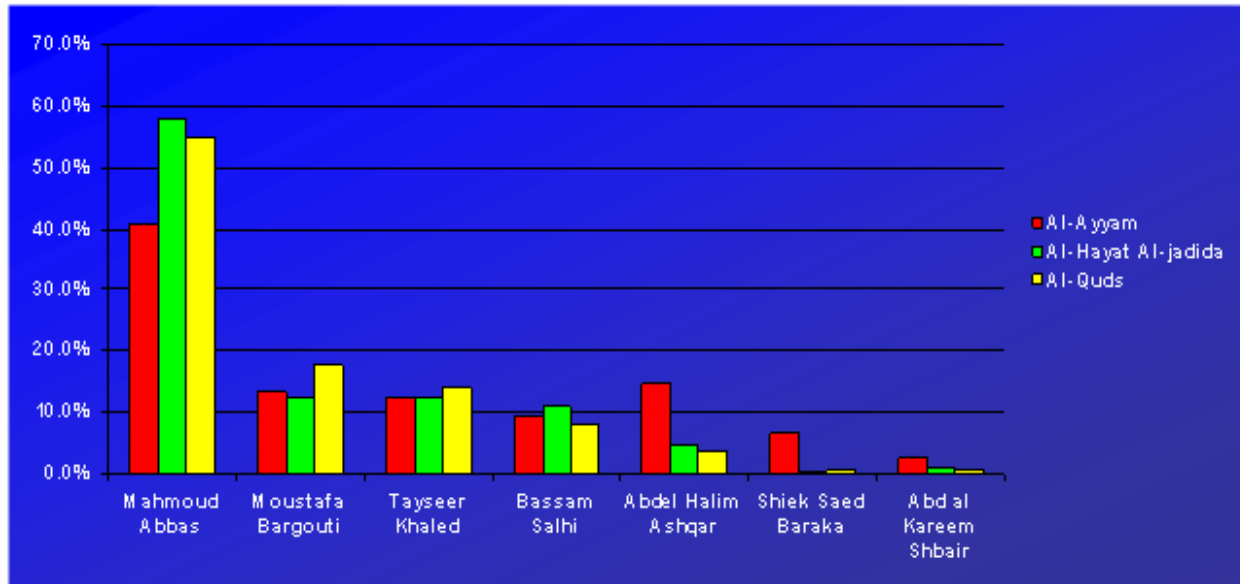
The daily press provided Mahamoud Abbas with the largest coverage, even if some of the articles published by the three newspapers displayed critical comments on him.

The official PA newspaper Al Hayatt devoted 58% of its editorial coverage to Abbas, while the privately owned Al Quds allotted Abbas some 55% of its space. Al Ayyam provided Abbas with 41% of the total editorial coverage. The two candidates from Gaza received considerably less coverage compared to the other five candidates.

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<sup>2</sup> Unless otherwise specified all the data do not include paid advertisement of the candidates.

Chart 1 Al Hayatt - Editorial coverage of candidates

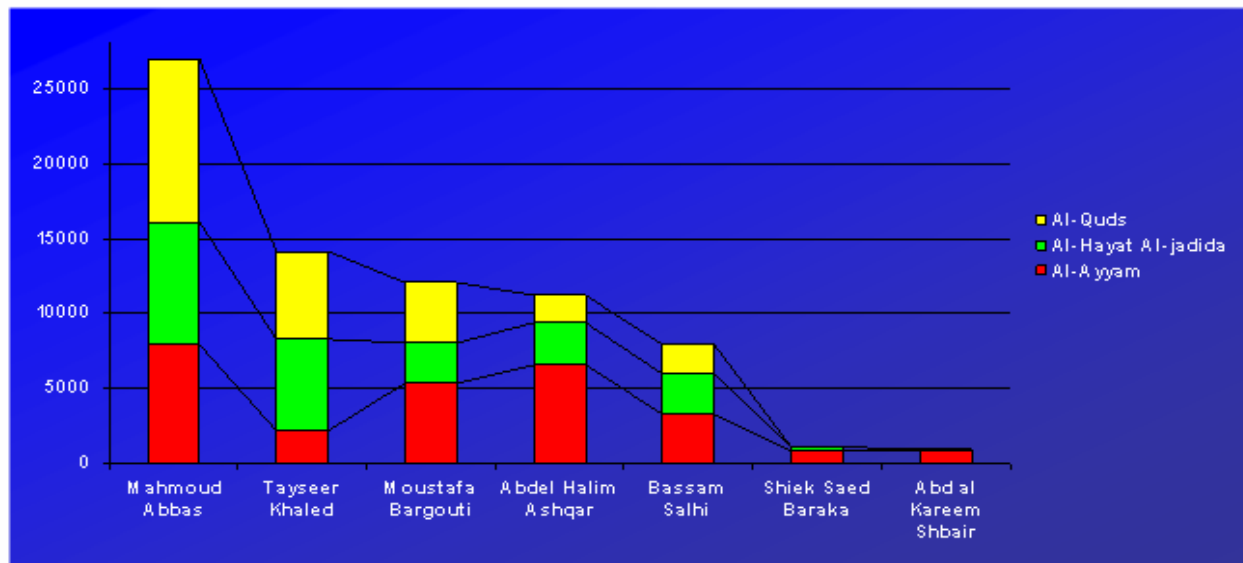


The advantage enjoyed by Abbas was even more evident when observing the figures related to front page coverage and photo coverage. Abbas enjoyed an average of 83% of the total space on the first page in the three monitored dailies, while he received an average of 59% of the total visual coverage.

All candidates purchased paid advertisement in the three dailies (see chart below) even though the quantity of space was meaningfully different. Abbas was the candidate with the highest amount of paid space, followed by the other four West Bank candidates.

The three dailies violated the 48 hours moratorium period (January 8 and 9) by publishing articles on candidates and publishing paid advertising.

Chart 2 Paid advertisement of candidates in the daily press

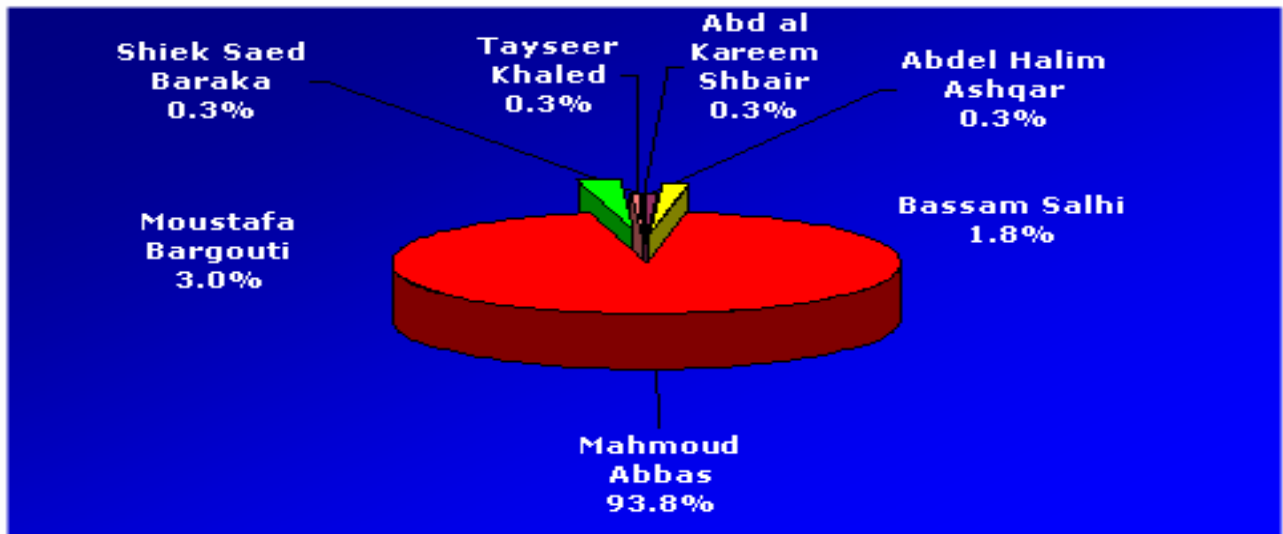


### Broadcast media

After the start of the election campaign, the official media Palestine TV and Voice of Palestine radio provided all candidates with the opportunity to present their platforms in accordance with the provisions set by the law. Also positive, the tone of the coverage for candidates and partisan entities was always neutral or positive and avoided offensive or insulting portrayal of any candidate

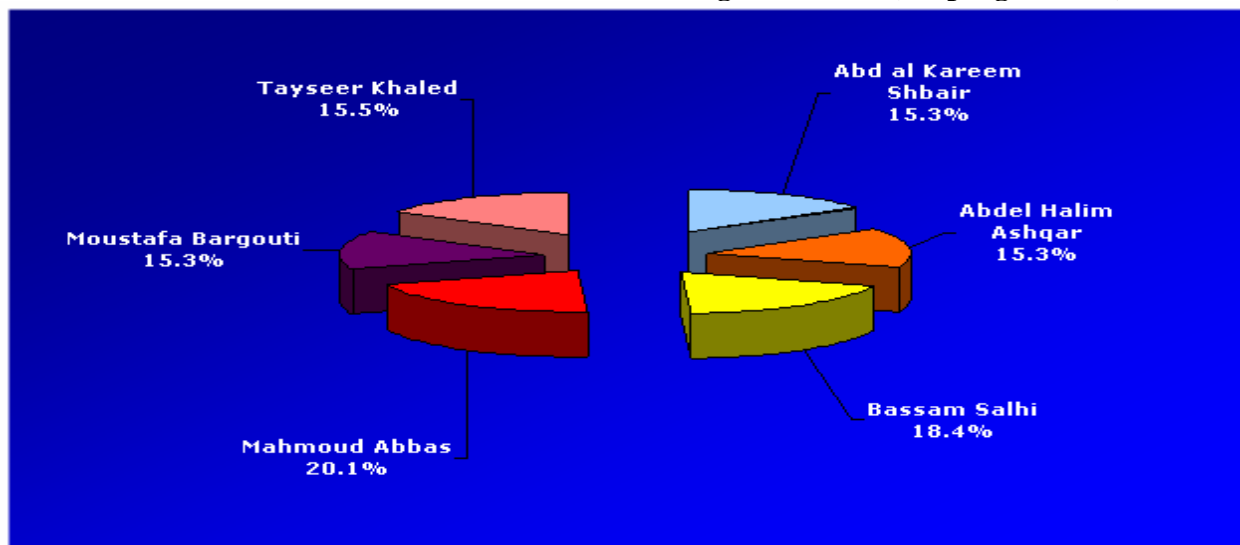
The overall coverage afforded to candidates by Palestine TV across all programmes was quite balanced and allotted all seven candidates with a reasonable amount of time to put their message across. In addition, the talk show with candidates was broadcast in prime time and repeated after the main news editions with the intention to reach the largest number of voters. However, in terms of news coverage on Palestine TV, Abbas received some 94% of the overall airtime.

Chart 3 Palestine TV – Allocation of airtime among candidates in news



Voice of Palestine radio guaranteed all candidates free airtime (see below), but as with Palestine TV, news coverage was overwhelmingly devoted to Mahmoud Abbas (see above).

Chart 4 Voice of Palestine – Allocation of airtime among candidates (All programmes)



The two private stations monitored clearly favored two candidates. Watan TV devoted 47% of its programming to Moustafa Bargouti, while Amwaji Radio dedicated 94% of its time to Bassam Salhi. On both channels, the two candidates were covered in a very favorable manner.

A positive element of the media campaign was the decision of Al Jazeera, which is the most watched channel in the region, to cover all the seven candidates with short interviews. The

interviews were broadcast during prime time in the course of the last week of the campaign thus allowing the contestants to reach a large number of voters.

## **11 Voting, Counting and Tabulation**

### **11.1 Overview of observation reports**

On the day of the election the EUEOM co-ordinated the work of over 250 observers, receiving and processing some 1,400 report forms from across the West Bank and Gaza Strip. Reports were submitted from some 1,200 (35%) of the 3,400 polling stations.

Overall observers reported very positively on the voting and counting procedures in the polling stations, with some 98.9% of all reports concluding that the process was either “Good” or “Very Good”. The main points of concern were the process at the post offices in Jerusalem, the late change to the voting procedures at the special polling centres and the prevalence of Fatah activists around polling centres.

If one breaks down the reports between regular polling stations and special polling stations then it is clear that observers were a little more critical of the process in the special polling stations. The main reason for this more critical tone was due to:

- An increase in the number of instances of voters not finding themselves on the voter register (often caused by poor voter information)
- An increase in the degree of overcrowding and confusion at some stations (notably at the end of the day following the change in the rules)
- A breakdown in the proper checking of voters for ink at the end of the day following the change in the rules
- A few instances of multiple voting (again at the end of the day following the change to the rules)

In terms of the general assessment by observers the following points are worthy of mention:

- Polling stations were prepared for the day, with materials having been delivered and polling station commission present and ready to open on time;
- In most instances voters were checked for ink and were marked with ink after having voted;
- The ID of voters was properly checked;
- There was a general problem with voters not finding themselves on the voter register, but this might have been due to poor voter information/education and voter confusion as to which was their correct polling station;
- Palestinian domestic observers were only found in about half of the polling stations visited, but candidate agents were present in larger numbers.

In terms of the vote count observers reported positively again, with no major concerns raised regarding the counting process.

However, observers did report on the rather large number of blank ballots cast, which amounted to more than 3% of all votes cast. In some areas it was mentioned that this may have been a “protest” vote of some sort, as it was alleged that people came to vote because they felt under pressure from Fatah locally and felt there might be implications if they were not seen to vote. The EUEOM was unable to verify if this was the case but it is clear that the number of blank votes cast was abnormally high. It was also clear that there was a general effort by Fatah to encourage a higher voter turnout.

There was also a degree of criticism of the reception of polling materials by the DECAs. In many areas, such as Bethlehem, Ramallah and Hebron, observers reported on the confusion and disorder at the DECAs when receiving the protocols and ballot boxes, with many having insufficient space to receive the materials and insufficient human resources to deal with the paper work.

## **11.2 Freedom of Movement**

One of the main concerns in the lead up to the election day was whether or not voters would be afforded adequate freedom of movement in order to be able to reach the polling stations and cast their votes and whether polling station commissions would be able to deliver the ballot materials at the end of the process to DECAs given the number of checkpoints around the area.

Israeli authorities had promised a 72-hour period of relaxation of checkpoints, thereby facilitating the process. The EUEOM found that whilst this “period of relaxation” did not really materialise as expected it was sufficient to facilitate the process.

Observers in Nablus, Hebron and Gaza reported that checkpoints remained fairly intrusive but that there was a more rapid flow of people compared to “normal” days. For example, in Hebron the barrier at Al-Huriez hindered the movement of election staff (and observers) in the morning and evening of election day. In Siafa, in northern Gaza, which is an enclave surrounded by Israeli settlements the gate which allows residents to enter or leave was only opened for short periods (07.30 to 12.00 and from 14.00 to 17.00) on the day of the election.

## **11.3 Jerusalem**

The electoral process in Jerusalem was far more problematic than elsewhere, reflecting all the shortcomings in the build up to the poll mentioned earlier in the report. The problems represent a catalogue of shortcomings:

- Shortly after 07.00, the time of opening of the post offices (see above), it became apparent that some of the post offices had the wrong or incorrect voter lists and that voters turning up at the post offices were unsure of where to go;

- During the first hours of voting very few votes were cast as voters were unable to find their right place, as it appeared that post office voter lists did not correspond with the registration of voters in the local neighbourhoods;
- By 09.00 the election co-ordination unit was aware of the problem and considered various solutions;
- In the meantime Fatah activists were transporting voters from post office to post office or to special voting stations in J2 to ensure they could cast their ballot;
- By mid-afternoon the CEC issued a new instruction that voters could vote at any post office and be added to a special voters list to be completed with the assistance of observers from NDI/Carter Centre, after an agreement “brokered” by former US President Jimmy Carter;
- On-the-ground understanding of this information was patchy and the inability of post office workers, voters and Fatah activists to make distinctions between various categories of observers increased tension;
- By 17.00 post office workers received a written instruction from the CEC allowing voters with a registration slip but not on a list to register at the polling place and vote;
- By 18.00 crowds and tension in front of post offices had increased as word of the new procedure spread

#### **11.4 Incidents And Other Concerns**

During the day of the election one of the main concerns raised by observers was the active presence of Fatah activists at many polling centres, with some observers reporting that this represented an intimidating presence for voters and PSC members. Whilst this was again a particular problem at special voting centres it was also quite common at regular polling stations.

On the day of the election shooting incidents were reported in Deir al-Balah and Khan Yunis in the Gaza Strip, affecting some polling stations. In Deir al-Balah a PSC Chairperson was prevented initially from leaving his house and attending the polling station by the placement of a barrier across his road and firing by people from the nearby settlement of Kfar Darom. The shootings continued throughout the day with no explanation from the Israeli army.

In the lead up to the election it was reported that several thousand persons were unable to cross the Rafah checkpoint from Egypt back into Gaza due to the closing of this checkpoint following an attack by Palestinian militants against Israeli Army forces there. The number of persons affected was not clear to the EUEOM but it did appear to be several thousand rather than several hundred, of whom a reasonable percentage can be expected to have been potential voters.

#### **11.5 CEC Decision to Amend Voting Procedures**

At approximately 16.00 on the day of the election the CEC made a decision to extend the voting hours from 19.00 to 21.00 and, more significantly, to allow people, so long as they had an ID card to prove they were over 18 years of age and so long as they did not have ink of their finger, to vote at any special polling station regardless of whether or not they were on the list. This change in procedures more than the extension of the voting hours (which is foreseen in a sense in

the law in any case) was troubling because it took away one of the main safeguards in the electoral process, whereby people could only vote at places where they appeared on the list (be it the regular voters list or civil register list).

In the opinion of the EUEOM, the actual number of voters taking advantage of this decision had no impact on the outcome of the election. However it is of great concern that this incident highlights the apparent willingness of those in positions of power to exert undue and excessive pressure on the CEC, as well as highlighting the apparent vulnerability of the CEC to such pressure.

### **11.5.1 Background to the Decision and Election Day Events**

In December 2004, the Ministry of Interior requested the CEC to allow security and police to vote wherever they found themselves on the day of the election, and the CEC gave the Ministry a deadline by which they had to inform them of the locations of security and police so they could be added to the appropriate list for voting. The Ministry did not furnish the CEC with this information.

Senior election administrators have informed the EUEOM that they started to come under pressure from the Ministry of Interior in the weeks and days before the election in order to change the rules to allow security forces to vote at any voting centre. They also claim to have been the target of threats and personal slurs in the media in the days leading up to the election. District governors are also reported to have pressured district-level election officials on the issue.

On the day of the election, the CEC reported that it received some 15,000 phone calls from persons not finding themselves on the civil register list where they expected to be. The issue of disenfranchisement is of course very sensitive in the Palestinian context, and the EUEOM is not unsympathetic to this, but subsequent events indicate that the electoral franchise for “regular” voters, whilst of concern, may not have been the driving force behind the ultimate decision. Further, the call centre to which persons telephoned should have been in a position to provide many with the information they needed to identify their correct voting centre.<sup>3</sup>

During the election day, senior election administrators at the CEC report that they received personal visits and telephone calls from senior officials, including a senior figure in the campaign team of Mahmoud Abbas, demanding changes to the voting procedures for security officials. At the time there were even allegations that this included personal threats against senior figures at the CEC. The EU EOM has been informed by senior election officials that at 15.00 on the election day, a senior security official telephoned the senior election administrator again demanding a change to the procedures for security personnel, and at the same time the bodyguard of the security official was outside the CEC firing shots in the air. The same senior election officials reported that this incident was followed by the return of the senior member of Abbas’

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<sup>3</sup> *There is a possibility that the location may not have been convenient, as it might have been on the wrong side of a checkpoint and beyond the limits of their freedom of movement based on a voter’s personal ID.*



campaign team, who after a meeting with the president of the CEC secured the change to the procedures.

In addition, a number of DEC's informed the EUEOM that they were against the changes but were aware of the pressure in favour of it. For example the DEC Chairman in Tulkarem was pressured throughout the day, by the District Governor and even the then Minister of Interior, to change the procedures in the district to allow all persons not found on the register to vote. He resisted the pressure until he received formal confirmation later in the day from the CEC that the procedure had indeed been changed. The DEC's in Jenin and Salfit also reported having been subjected to pressure and even threats in the case of Jenin to force them to extend the voting hours.

It is also interesting to note that in some instances observers noted that PSC staff refused to abide by the reported change, despite pressure from Fatah activist, because they claimed it was illegal on the basis that during their training they had been told to only adhere to written instructions and not to instructions issued by telephone. However, it is clear that the pressure on them ultimately proved irresistible.

A short time after the CEC announcement of the change, international observers noted bus loads of police and security personnel arriving at special voting centres in some areas, such as parts of Gaza, Ramallah and Jericho. The CEC announced that the number of persons voting during this time was some 30,000-40,000. The EUEOM concurs that the numbers in terms of the overall election outcome are small, but in the areas affected the impact was quite severe on perceptions of the process.

As a consequence of these developments 46 senior election staff across the West Bank and Gaza submitted their resignations and the CEC members themselves were considering their positions. However, after assurances from the new President in late February regarding the independence of the CEC, the resignations, at the time of writing, appear to have been withdrawn. However, the issue leaves a bad impression, notably with regard to the propensity for Palestinian officials to apply such pressure as they see fit.

## **11.6 Ink**

The CEC decided to introduce the use of indelible ink, bought from Denmark, following the PLC decision to use the civil register as well as the voter register. It was felt that ink was required as a backup procedure in case of problems with the registers.

On the day of the election it was observed that election officials were mostly properly checking for and applying ink to voters. However, reports emerged of claims that the ink could be removed, either immediately after application or after the application of various chemical substances.

For example in Bethlehem LTOs observed a man presenting himself at a special polling station after the change in voting procedures and after being inked by staff he told them that he had

already voted earlier in the day and had removed the ink and had merely returned in order to make a point that it was possible.

The EUEOM found that the reliability of the ink was rather mixed, and whilst it was adequate in most places it was also confirmed that in other places it could be removed. The chairperson of the CEC acknowledged that the of the ink was rather mixed.

The EUEOM mostly found that voters were not adverse to the use of ink, however this finding was not consistent. Some observers, particularly in rural areas, reported that some voters were rather hostile to the use of ink.

### **11.7 Publication of Results**

During the publication of the final results the CEC had to amend the figures a number of times. There was also a slight delay in the publication of results considering it was a relatively straight forward election in terms of the size of the electorate, the number of candidates and the electoral system. Further, some of the existing procedures and practices for the reporting of the results did raise concern regarding the transparency of the process.

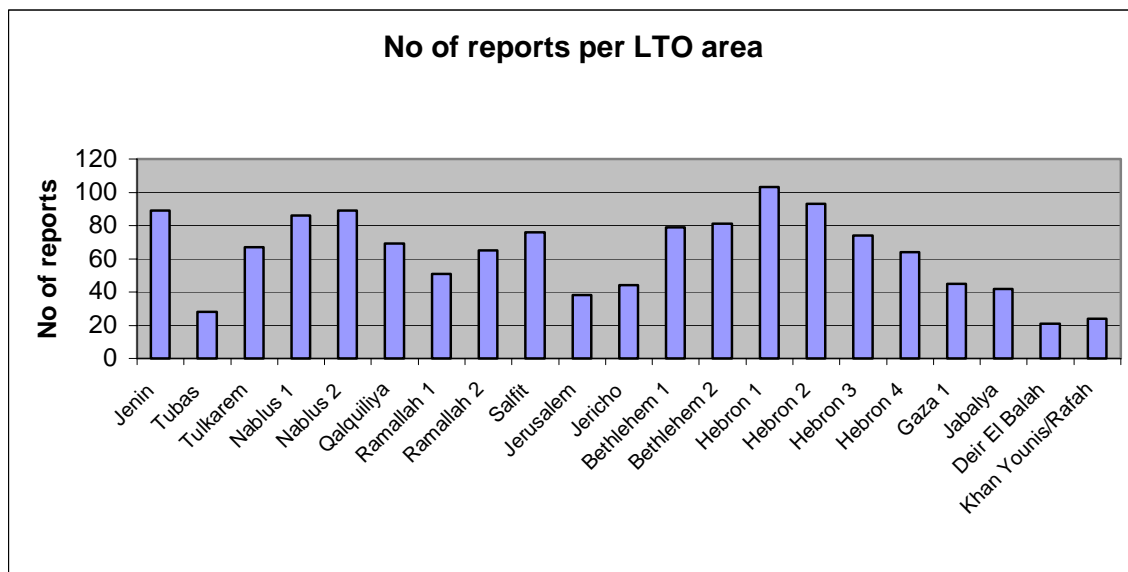
At present the law requires that polling station commissions post the result from the polling station at the premises. However in practice this was not so successful. While most PSC's did post the result, in many cases, the polling station was in a school compound and so not accessible or visible, thereby negating any real benefit from the exercise.

Further, the CEC published results broken down by district level but not by polling station level. It was therefore not possible for parties, candidates, domestic observers or international observers to verify that the polling station result observed was in fact tabulated correctly. This resulted in a lack of transparency that should be addressed at the PLC elections.

## 12 Annexes

### 12.1 Observation Reports by Region

REGION	FORMS RECEIVED AND PROCESSED		
	Voting	Counting	Total
Jerusalem & Jericho & Ramallah	198	13	211
North West Bank	504	36	540
South West Bank	493	34	527
Gaza Strip	132	7	139
Total:	1327	90	1417



### 12.2 Observation Statistics: Polling Station Reports

1. Indicate PS type:		
	Regular	88.7
	Special	11.3
2. Were <b>people able to reach the polling station</b> without hindrance?		96.7
3. Did you observe any problems with the <b>opening procedures</b> ?		11.9
6. Were all <b>necessary election materials present</b> ?		98.3
7. Were all <b>voters checked for ink</b> ?		97.2
8. Did all voters <b>present ID</b> to vote?		99.8
9. Were all voters found on <b>Voter List / Civil Register</b> ?		82.6
10. Were all <b>voters marked with ink</b> ?		99.4

11. Was the <b>secrecy of the vote</b> ensured?		98.7
14. Did you observe instances of <b>multiple voting</b> by any person?		0.6
15. Did you observe the same person “ <b>assisting</b> ” numerous voters?		1.4
16. Was process seriously hampered by <b>overcrowding or disorganisation</b> ?		1.7
17. Were <b>Palestinian NGO observers (blue accreditation)</b> present?		47.3
18. Were <b>candidate agents</b> present?		91.7
	Abbas	81.4
	Barghouti	63.2
	Khaled	32.5
	Salhi	12.9
	Other	7.4
19. Have any <b>official complaints</b> been noted?		1.8
20. <b>Rate the voting process:</b>		
	Very bad	0.4
	Bad	1.1
	Good	32.0
	Very good	66.6

### 12.3 Observation Statistics: Comparison of Regular and Special Polling Stations

	Regular	Special
2. Were <b>people able to reach the polling station</b> without hindrance?	97.2	93.2
3. Did you observe any problems with the <b>opening procedures</b> ?	11.3	16.7
6. Were all <b>necessary election materials</b> present?	98.5	97.2
7. Were all <b>voters checked for ink</b> ?	97.4	94.1
8. Did all voters <b>present ID</b> to vote?	99.8	99.2
9. Were all voters found on <b>Voter List / Civil Register</b> ?	83.5	73.0
10. Were all <b>voters marked with ink</b> ?	99.7	97.5
11. Was the <b>secrecy of the vote</b> ensured?	98.9	98.4
14. Did you observe instances of <b>multiple voting</b> by any person?	0.5	2.6
15. Did you observe the same person “ <b>assisting</b> ” numerous voters?	1.2	3.4
16. Was process seriously hampered by <b>overcrowding or disorganisation</b> ?	1.0	8.2
17. Were <b>Palestinian NGO observers (blue accreditation)</b> present?	48.9	37.9
18. Were <b>candidate agents</b> present?	93.5	78.2
	Abbas	83.8
	Barghouti	65.4

	Khaled	34.9	16.6
	Salhi	13.8	6.9
	Other	8.0	2.1
19. Have any <b>official complaints</b> been noted?			
20. <b>Rate the voting process:</b>			
	Very bad	0.2	2.4
	Bad	0.9	2.4
	Good	30.6	39.5
	Very good	68.3	55.6

#### 12.4 Final Election Results

Mahmoud Abbas	501,448	62.52% of votes cast
Mustafa Barghouthi	156,227	19.48%
Tayseer Khaled	26,848	3.35 %
Abdul Halim Ashqar	22,171	2.76%
Bassam Salhi	21,429	2.67%
Assayed Barakeh	10,406	1.30%
Abdul Karim Shbair	5,717	0.71%
Invalid Ballots	30,672	3.82%
Blank Ballots	27,159	3.39%
<b>Total Votes Cast</b>	<b>802,077</b>	