I. The elections at a glance

⇒ On 15 January 2021, President Abbas issued a decree announcing 3 rounds of elections:
   * 22 May 2021 Palestinian Legislative Council (PLC) elections
   * 31 July 2021 PA presidential elections
   * 31 August 2021 Palestinian National Council (PNC) formation

⇒ 93% of the 2.8 million eligible voters for the first two rounds of elections registered to vote

⇒ 14 Palestinian factions, including Fatah and Hamas, discussed the elections in Cairo in early February

⇒ Hamas will participate in the legislative but not in the presidential elections.
   Fatah suffers from internal divisions and might break up into several lists ahead of the legislative elections. Islamic Jihad is the only faction that has announced its abstention from the elections so far.

⇒ Abbas’ main rivals are Marwan Barghouti, currently imprisoned by Israel, and Mohammed Dahlan, currently living in the UAE. Barghouti is the most popular candidate and has reportedly been discouraged to run for the presidency by Abbas’ affiliates.

⇒ Opinion poll from December 2020:
   2/3 of the Palestinians living in the OPT demanded Abbas’ resignation, 3/4 wanted elections but only 1/3 expected them

⇒ One of the many obstacles affecting the likelihood of the elections going ahead is the issue of East Jerusalem voters. Israel has not yet replied to the PA’s request to allow for campaigning and voting in East Jerusalem.
II. The announced elections and the Palestinian Electoral System

i. The 2021 elections

On 15 January 2021, the President of the Palestinian Authority (PA)\(^1\) and Chairman of the Palestinian Liberation Organization (PLO)\(^2\), Mahmoud Abbas, enacted a presidential decree\(^3\) stipulating the holding of elections in the summer of 2021. He announced three elections:

a. Palestinian Legislative Council (PLC) elections

The elections of the PLC are bound to take place on Saturday, 22 May 2021. The PLC is the legislative body of the PA and is composed of 132 elected members. It represents Palestinians living in the West Bank, the Gaza Strip, and East Jerusalem. The PLC has wide-ranging legislative authority with regard to internal matters\(^4\), limited by issues subject to the permanent status agreement\(^5\) that has never been reached. According to the Palestinian electoral law, the PLC's term is of four years. However, the last PLC elections were held in 2006\(^6\).

b. Presidential elections

The presidential elections were announced to take place on Saturday, 31 July 2021. These elections will designate the head of the PA. The presidential term foreseen by the law is of four years, however, the last presidential elections were held in 2005. President Abbas has stayed in office after his term came to an end in 2009. According to the Palestinian electoral law, the President of the PA cannot be elected for more than two terms.

c. Palestinian National Council (PNC) formation

Abbas announced that the PNC, the legislative body of the PLO, is to be formed by 31 August 2021. The provisions governing the formation of the PNC are laid down in the PLO Fundamental Law (articles 5 and 6), whereby the PNC members are to be elected directly by the Palestinian people. If such elections should be impossible, the current PNC will remain in office until the holding of elections is again possible. In fact, to this date, PNC elections have not been held once; its current several hundred members are mostly appointed. The PNC is the PLO's highest authority and formulates policies and programs; its current speaker is Saleem Al-Zanoon. As a PLO organ, the PNC represents all Palestinians, including those outside the OPT.

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\(^1\) The PA was established by the Oslo Accords (and hence the signature of the PLO) as a temporary, transitional body to deal with the powers and areas transferred to it by Israel. Initially it was to operate only during the 5-year interim period. Jurisdiction over internal matters, \textit{de facto} also conducts foreign policy.

\(^2\) The PLO is recognized internationally (including by Israel) as the sole legitimate representative of the Palestinian people, representing all the Palestinians, including those living outside the OPT. The PLO deals with broader decisions regarding the status of Palestine and conducts foreign relations but has no legal authority over internal local governance.

\(^3\) \url{https://www.elections.ps/tabid/1127/language/en-US/Default.aspx}

\(^4\) Internal matters referring to the PA's jurisdiction over the OPT, meaning excluding Area C.

\(^5\) The permanent status agreement was going to conclude the Oslo peace process but due to the failure of the Camp David negotiations and the subsequent Second Intifada, such an agreement has never been reached.

\(^6\) See VI - Past elections and their absence for more information.
and its membership is not reduced to political parties. Since there is no past model of PNC elections and their implementation seems unfeasible, it is highly unlikely that they should take place. Therefore, this paper will mostly focus on the elections for the PA posts and if not specified otherwise, the terms "legislative" and "presidential" elections will refer to those of the PLC and the President of the PA respectively.

ii. The legal framework and the electoral system

The setting up of ‘free and fair’ elections in the OPT finds its roots in the Declaration of Principles within the framework of the Oslo Accords. The amended 2003 Basic Law (drafted by the PLC and ratified by then-President Arafat), serving as a quasi-constitution, adopts the Oslo Accord's draft of Palestinian elections and establishes a semi-presidential regime in the OPT. The amended Basic Law of 2003 and its amendments of 2005 (hereinafter 'Palestinian Basic Law') constitute the basis of today's Palestinian legal and political organization. With regard to the electoral system, a series of Election Laws and their amendments have governed passed elections. Currently, the Decree Law No. (1) of 2021 amending Decree Law No. (1) of 2007 of General Elections and the Election Law by Decree of 2007 lay down the provisions for the holding of general (presidential and legislative) elections.

Main features of the electoral system's current form include the closed list proportional representation system for general elections and the two-round system for presidential elections. The quota for female representation in the PLC is of 26%. In order to participate in the presidential and/or legislative elections, the eligible voter has to be registered in the final voters registry, be Palestinian, at least 18 years of age, be in the OPT and not hold Israeli citizenship. The final list of running candidates is published 22 days prior to election day, marking the beginning of the official electoral campaign. The elections are organized by the Central Election Commission (CEC), an institution established by the Oslo Accords whose members are appointed by the PA.

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8 A decree-law is a presidential decree holding the force of a law enacted by the legislature.
9 Oslo II, Annex II, Article 1(3)
III. Overview: the latest developments

i. Background

The intra-Palestinian rift between Fatah and Hamas and the continued disagreement between the two that has governed their relationship for the most part since the 2007 - major fallout have greatly contributed to the absence of elections since 2006. All of the election promises made since then fell through. Towards the end of 2019, Fatah and Hamas seemed (once again) to have agreed on holding elections in the near future, although still divided over matters relating to East Jerusalem voters. Abbas refused to issue a presidential decree announcing an election date until Israel would guarantee East Jerusalemites' permission to vote. Hamas and other critical observers saw in Abbas' reservation to move forward an attempt of escaping elections altogether. Be it as it may, the arrival of the Covid-19 pandemic naturally disrupted the alleged election plans.

ii. The lead-up to the presidential decree

Nevertheless, some (mostly symbolic) action was taken to maintain the illusion of upcoming elections. In April 2020, Abbas issued a presidential decree to reconstitute the CEC, headed by Hanna Nasser. In a meeting of the Palestinian Factions in September 2020, joint agreement on the holding of free and fair elections according to proportional representation was reiterated. In his speech before the UNGA later that month, Abbas said that he was preparing for elections. Talks between Hamas and Fatah representatives took place in Istanbul and Cairo. Following a reconciliation letter by Hamas early January 2021, Abbas met with Nasser, the CEC chairman, to discuss elections. Shortly afterwards, Abbas adopted a decree-law amending the 2007 election law, introducing some important changes that, together with previous judicial reforms infringing upon judicial independence, may facilitate Abbas' clinging to power. On 15 January 2021, Abbas issued a presidential decree on holding general elections which constitutes an essential step towards the materialization of elections that was reached only once in all of the past election promises, fueling hope that this time, decision-makers were serious about holding elections. Still, the list of remaining obstacles is long, and elections are premised on Fatah and Hamas reaching an agreement regarding the technicalities before May. Their talks are to take place in Cairo, starting on 8 February 2021. Following Abbas' announcement of general elections, members of the international community welcomed the decision and offered their support; the CEC started its preparations. Palestinian stakeholders have called on the international community to pressure Israel into allowing East Jerusalemites to vote.

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11 https://english.wafa.ps/Pages/Details/120336
12 Such a decree was also issued in 2009, calling for general elections in early 2010 that never came to fruition, https://www.elections.ps/tabid/335/language/en-US/Default.aspx
iii. Important legal changes and their political repercussions

Some of the important changes introduced by the decree-law of January 2021 amending the Palestinian Election Law include:

- Changes to the presidential candidacy requirements, now including a certificate of no criminal record. Officially, all introduced changes "aim to overcome all obstacles related to the electoral process". In reality, they seem to undermine the opposition's prospects of success. Dahlan, one of Abbas' main rivals has been stripped of his parliamentary immunity by Abbas and subsequently convicted in absentia for embezzlement by a court instituted by the President.

A prime example of past efforts to reshape the election law in Abbas' favor was his 2007 decree-law changing the electoral system from a mixed one to a purely proportional one following the 2006 legislative elections that revealed that Fatah did much better in the latter system than in the former and its rival Hamas vice versa.

- The requirement for PLC candidates to be committed to the Amended Basic Law of 2003 and its amendments, substituting the previous requirement "to uphold the PLO as the sole legitimate representative of the Palestinian people and the Declaration of Independence Document in addition to the provisions of the Basic Law". This modification is a clear olive branch directed at Hamas and Islamic Jihad who are not (yet) members of the PLO and openly objected its readiness to compromise in the Oslo Peace talks, possibly indicating an intra-Palestinian peace effort that may come at the expense of a further worsening of Palestinian-Israeli relations. It should be noted that the amendment only addresses the PLC candidacy, leaving the requirement for presidential candidates to uphold the PLO as sole legitimate representative unchanged.

- The allowing of non-simultaneous elections (legislative and presidential) as agreed upon in talks between Fatah and Hamas in 2020. During the 2019 election talks Hamas still rejected the untangling of the two. The consecutive holding of the two elections seems to be designed to buy the PA head time in case of unfavorable PLC election results. The 10 week-gap could allow Abbas to shift his strategy with a view to holding onto the presidency.

- The rise of the quota for women's representation in the PLC from 20% to 26%, deemed a step into the right direction by some women's organization but falling short of the promised 30% lobbied for.

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13 https://english.wafa.ps/Pages/Details/122816
14 Election Law by Decree 2007, Article 4 ("complete proportional representation system") annulling Election Law No. 9 of 2005, Article 3 ("mixed electoral system (...) relative majority (...) and proportional representation").
15 https://www.elections.ps/Portals/0/pdf/The%20final%20distribution%20of%20PLC%20seats.pdf
16 https://www.mei.edu/publications/how-palestinians-agreed-elections
17 https://themedialine.org/life-lines/palestinian-women-say-planned-increase-in-legislative-council-representation-not-enough/
Changing all references of "National Authority" and "Chairman of the National Authority" to "State of Palestine" and "President of the State of Palestine" - a symbolic change the meaning of which should not be underestimated. First, equating the PA with the State of Palestine illustrates the PA's gradual *de facto* taking over of powers *de jure* belonging to the PLO. Second, such a move seems to, even if not intentionally, sideline the Palestinians in the Diaspora. Because the PA represents only those living in the OPT, they are the only ones who will elect its president. By calling him/her the President of the State of Palestine, the importance of the political opinions of those Palestinians living in the Diaspora with regard to their State appears degraded. 

In addition to the amendments of the Election Law, amendments of the Judicial Authority Law of 2002 as well as two decree-laws pertaining to the formation of regular and administrative courts may not leave the elections unaffected. The President-made changes mainly strengthen the executive authority's involvement in the judiciary, for example by

- enabling the President of the PA to appoint presiding judges and their deputies at high instance courts (instead of following the independent recommendation by the High Judicial Council - which Abbas dissolved in 2019 and replaced by the Transitional High Judicial Council);

- abolishing a number of securities previously enjoyed by judges, such as the immunity from dismissal, the lowering of the retirement age, and the High Judicial Council's ability to force judges to retire even before that age (over 40 judges have already been dismissed under these provisions). An exception was made for the 85-year-old Supreme Court President and head of the High Judicial Council Issa Abu Sharar;

- establishing administrative courts “subordinate to the executive” with the authority to hear petitions against official institutions and government entities, including the General Elections Committee. The PA President appoints the administrative courts' president, deputy, and all judges on the appellate level. In practice, these new courts may eliminate the High Court of Justice.

These decrees were issued within the context of a wide-ranging interference policy by Abbas that included the establishment of a president-friendly Constitutional Court in 2016 and the forcing into retirement of all 35 Palestinian Supreme Court judges in 2019. The introduced changes are claimed to violate the Judicial Authority Law and the Palestinian Basic Law (art. 98) as well as the basic legal principle of the separation of powers. Given the increase of

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18 https://www.middleeasteye.net/opinion/edit-abbas-decree-palestinian-elections-raises-questions
21 Ibid.
22 https://www.reuters.com/article/us-palestinians-abbas-court-idUSKCN0X816B
23 https://www.alhaq.org/advocacy/14779.html
24 Ibid.
presidential power enabled through these decrees, their timing (publication four days prior to the call for general elections) appears to be particularly questionable. Depending on the status that the Cairo talks will accord to the West Bank judiciary with regards to electoral matters, the new state of law might allow Abbas to either have the elections be called off by a judge that he appoints for that purpose\textsuperscript{25} (constituting a slightly more subtle solution than doing so himself through a presidential decree) or reject appeals by the opposition.

iv. Cairo talks

During a two-day meeting in Cairo in early February (08.02. - 09.02.2021), 14 Palestinian factions discussed the upcoming PA legislative and presidential elections, agreeing to abide by the timetable for Palestinian elections set by Abbas’ presidential decree of 15 January 2021. Islamic Jihad announced that it will boycott the elections because of its disapproval of the PLO’s agreements with Israel but it pledged not to obstruct the electoral process\textsuperscript{26}. The factions are due to return to Cairo in March to discuss the PLO’s PNC elections\textsuperscript{27}. According to a joint statement, the factions…

…agreed upon:

- The establishment of an \textbf{independent elections court} with judges from the West Bank, Gaza, and East Jerusalem that will solely be competent to adjudicate in election-related matters. On 1 March, Abbas issued a presidential decree establishing such a Court, headed by Iman Naser Al-Deen, a senior judge at the High Judicial Council\textsuperscript{28}. According to the decree, the Court will consist of eight judges from the West Bank and from Gaza, “exclusively responsible for whatever is related to the electoral process, its results and any disputed issues”\textsuperscript{29}.

- The immediate release of \textbf{political prisoners}. The implementation of this point has been bumpy to say the least and is far from accomplished\textsuperscript{30}.

- Allowing \textbf{campaigning} of all factions in all of the OPT (\emph{note}: Israel will most certainly not allow Hamas' campaigning in East Jerusalem)

\textsuperscript{26} https://www.jpost.com/israel-news/islamic-jihad-to-boycott-palestinian-vote-658841
\textsuperscript{29} https://www.jpost.com/middle-east/palestinian-election-coronavirus-fatah-strife-may-delay-vote-660583
\textsuperscript{30} https://www.al-monitor.com/pulse/originals/2021/02/palestinian-elections-obstacles-hamas-fatah-division.html
…did not agree upon / only vaguely commented issues relating to:

- **Security:** Generally speaking, Fatah and Hamas regard each other's police as illegitimate. The Cairo talks agreed that polling will be secured by the "Palestinian police". One source (Reuters) interprets this very vague statement to mean Fatah police guarding voting sites in the WB and Hamas police deploying in Gaza.

- **East Jerusalem** issue. The factions merely expressed the need for holding elections in all of the OPT but did not come up with plans on how to achieve voting in East Jerusalem.

- No further information regarding the possibility of a **Fatah-Hamas joint list**.

- No official plans on how to successfully hold elections without deteriorating relations with the West in the light of the expected participation of a political faction, Hamas, that is considered a terrorist group by an overwhelming majority of Western (donor) countries.

- No mentioning of how to overcome the extraordinary **pandemic**-caused circumstances in which elections are to take place

- **No guarantees** other than verbal affirmation for the respect of the election outcome and a secured transfer of powers / post-elections transition

- **Form and conditions of a Fatah-Hamas reconciliation** agreement

- Generally speaking, most of the issues have been postponed, to be discussed after the elections and the possible formation of a unity government.

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32 https://www.reuters.com/article/palestinians-politics-election-int-idUSKBN2A92OL
IV. Challenges and obstacles

Since 2007 Fatah and Hamas have gone through multiple reconciliation talks, some of which included election promises, all of which fell through. The latest rapprochement between the two sides debuted in October 2020 in Istanbul. Whether or not this round of talks will be more successful than the previous ones will largely determine the likelihood of elections and the concrete shape they will take. A number of issues remain to be settled and are expected to be discussed in Cairo from 8 to 9 February 2021. Even if Fatah (represented by Jibril Rajoub) and Hamas (delegation headed by Saleh Al-Arouri) are by far the biggest two factions in the Palestinian political scene, Cairo is hosting a total of 14 Palestinian factions.

The so-called national dialogue that took place in Cairo talks aimed to "overcome the last of the hurdles that stand in the way of holding elections". There are, in fact, many remaining hurdles affecting the likelihood of elections that solutions have to be provided for, including:

- **East Jerusalem voters.** A number of Palestinian political factions have expressed their expectation that Palestinian inhabitants of Jerusalem should be allowed to participate in the upcoming elections and have called upon the international community to pressure Israel into allowing it. The PA also formally requested Israel to guarantee Jerusalemites their right to vote. Israel has not yet officially commented or replied. Naturally, Israel is not keen on allowing Palestinian electoral activity (including campaigning and voting) in Jerusalem because that would amount to acknowledging at least some Palestinian entitlement to the city.

  Israel occupies Jerusalem since 1967 and illegally annexed it declaring Jerusalem to be the undivided capital of Israel in 1980. In past elections, Israel refused to let East Jerusalemites cast their vote until 11 days prior to election day, when an agreement was reached that some voting (around five percent of all of the eligible voters residing in Jerusalem at that time) could take place at postal offices within the municipal boundaries. Others had to travel outside of Jerusalem to cast their votes. Standards were inadequate, many voters who had acquired a ticket allowing them to vote in Jerusalem arrived at their postal office on polling day to find out that their names had been registered on the list of a post office much further away. Even though eventually solutions were found to allow turned away voters to cast their ballots, poor communication and overall confusing and changing instructions contributed to the fact that in past elections "Jerusalem district recorded the lowest turnout" of all 16 districts. Candidates in Jerusalem were detained by Israeli police, campaigning at Damascus Gate was prevented, the use of Palestinian symbols was banned, and fines were imposed for

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33 https://english.wafa.ps/Pages/Details/123174
34 Ibid.
35 https://apnews.com/article/election-2020-donald-trump-israel-iran-nuclear-egypt-53c8512a7ff3547d8b2c7e28255c5939
37 https://www.knesset.gov.il/laws/special/eng/basic10_eng.htm
38 https://www.ndi.org/sites/default/files/2068_ps_elect_012506.pdf
putting up campaign posters. Hamas was not allowed to campaign in East Jerusalem.\textsuperscript{39} It should be noted that Israel accepted Jerusalem residents’ right to vote in the Oslo accords II, article 2(3)\textsuperscript{40}.

During the 2019 talks suggesting the holding of elections in the OPT, Fatah insisted they could only take place if Israel guaranteed that East Jerusalemites would be allowed to vote. While Hamas also wanted them to be able to vote, it rejected Fatah’s line of argumentation saying they were using the East Jerusalem issue as an excuse to escape elections. The change from a mixed electoral system to a purely proportional one may take some pressure of the Jerusalem issue from a legal point of view because elections could be run without any Jerusalem representative. On the other hand, that would clearly undermine the rights of Palestinian residents of Jerusalem, potentially leaving them with no representation in the PLC. But many Palestinian Jerusalemites might even be reluctant to participate in elections, for example out of fear that by doing so, they might risk Israel revoking some of their rights\textsuperscript{41}. Hanna Nasser, the chairman of the CEC, said that he had other alternatives for people from Jerusalem if they were denied their rights without specifying what these alternatives would look like\textsuperscript{42}. It may very well be that the East Jerusalem issue will once again be used by whatever side in order to call off the elections while blaming Israel for it.

- \textbf{A road map to impede a repetition of 2006/2007.} Neither Israel nor the West, not even Middle Eastern powers would be content with a Hamas victory. While Hamas is categorized as a terrorist group by the former two, the latter fear such a victory could "spell momentum for other Islamist political groups" in the region\textsuperscript{43}. Although not confirmed, it appears that the Fatah-Hamas joint list proposal is to assure Fatah 10 more seats than Hamas in order to at least impede a Hamas-dominated government\textsuperscript{44}. This would allow Fatah to name the PLC’s speaker - an important role because according to the Basic Law, he/she would be the one to replace the 85-year-old Abbas as an interim president in case Abbas was no longer able to carry out presidential functions. Coming up with such an agreement which would basically decide on the formation of the new PLC even before the actual holding of elections may be considered very problematic from a democratic point of view. But, on the other hand, polls show that Palestinians consider national unity to constitute a greater priority than bringing back democracy with regard to the elections\textsuperscript{45}.

\begin{itemize}
  \item \textsuperscript{39}Ibid.
  \item \textsuperscript{40}https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS_950928_InterimAgreementWestBankGazaS
    trip%28OsloII%29.pdf
  \item \textsuperscript{41}https://themedialine.org/by-region/the-jerusalem-dilemma-and-the-palestinian-elections/
  \item \textsuperscript{42}https://themedialine.org/by-region/the-jerusalem-dilemma-and-the-palestinian-elections/
  \item \textsuperscript{43}Ofer Zalzberg of the Kelman Institute for Conflict Transformation, cited in: https://www.ynetnews.com/article/SyLdQuTl00
  \item \textsuperscript{44}https://themedialine.org/news/opinion/will-elections-solve-palestinian-division/
  \item \textsuperscript{45}https://www.pcpsr.org/sites/default/files/Poll%2078%20English%20fulltext%20December%202020.pdf
\end{itemize}
• The pandemic. While voting has been possible in a number of countries in the past few months despite the ongoing global health crisis, a lot of them postponed the scheduled elections, sometimes repeatedly, citing inability to ensure health safety as a reason\textsuperscript{46}. The OPT have seen close to 200,000 infections that claimed over 2,000 corona related deaths\textsuperscript{47} and the vaccination campaign only started early February. Because Israel refused to provide vaccines for all of the inhabitants of the OPT (constituting a breach of its international law obligations) and due to the lack of Palestinian financial and logistical capacity to acquire large numbers of doses itself early on, the vaccination process is far from advanced. In addition to that, only about half of the Palestinians would accept to get vaccinated if they had the option to do so\textsuperscript{48}. Hence, chances are that the OPTs will not make it out of the pandemic until the scheduled dates of the elections. If any of the political powers wanted to call off the elections or at least postpone them, they could always cite health-related risks caused by the pandemic. In fact, on 1 March, it was reported that a PA official raised the possibility of having to postpone or cancel the elections in light of the surging Covid-infection rates\textsuperscript{49}.

• The political will. Many observers believe that Abbas’ call for elections was first and foremost an olive branch for Biden. After four years of Trump administration that proved to be nothing less than disastrous for the Palestinian cause, many hope for improvement with new American President Biden. A call for elections may serve as a signal to Biden, but also to other Western donors, that efforts to maintain democracy and bring back accountability are being undertaken\textsuperscript{50}. On the other hand, Abbas really needs to renew his legitimacy; Hamas is broke due to sanctions, the border control, and lack of PA payments. Political analyst Yara Hawari is convinced that even if the elections were actually held, they would not "produce a democratic and representative leadership" but merely prop up the status quo. According to her, in reality, neither Fatah nor Hamas, nor Israel or the international community, nor the Palestinian elite are interested in achieving real democracy in Palestine. Therefore, "Palestinian elections are nothing but political theatrics to cover over" the lack of political will to promote "a democratic Palestinian society"\textsuperscript{51}.

• The technicalities of a post-elections transition. One of the side-effects of a president still in office over a decade after his term came to end is the fact that power transfers are neither properly institutionally assured nor been practiced in a long time. When Hamas surprisingly won the 2006 legislative elections, Abbas and the international community refused to accept that democratic outcome. Efforts to work together in a unity government proved unsuccessful several times. The Cairo talks would have to come up with a framework of plans and assurances that would allow for the respect of the elections' outcome in an orderly manner. Regarding the post of the president, many

\textsuperscript{46} https://www.idea.int/news-media/multimedia-reports/global-overview-covid-19-impact-elections
\textsuperscript{47} https://english.wafa.ps
\textsuperscript{48} https://www.pcpsr.org/sites/default/files/Poll%2078%20English%20fulltext%20December%202020.pdf
\textsuperscript{49} https://www.jpost.com/middle-east/palestinian-election-coronavirus-fatah-strife-may-delay-vote-660583
\textsuperscript{50} https://www.aljazeera.com/opinions/2021/1/27/palestinian-elections-democracy-for-no-one
\textsuperscript{51} https://www.aljazeera.com/author/yara_hawari_171105061333630
expect Abbas to somehow assure to stay in office. Even if he did, his age requires Palestinian politics to give some serious thought to his successor. Theoretically, article 37 (2) of the Palestinian Basic Law stipulates that, should the post become unexpectedly vacant, the speaker of the PLC would assume the presidential powers for an interim period of no more than 60 days before the holding of new elections. However, Hamas' claims that Aziz Dewik (Hamas), speaker of the PLC, should be the rightful (interim) president following the expiry of Abbas' term in 2009, were widely ignored. Fatah will probably seek to assure that the new PLC speaker will be of its own political color. Be it as it may, even if Fatah managed to name a Fatah speaker, internal Fatah divisions, political dissatisfaction and the fact that power transfers have not been regularly managed and implemented all point to the dangers that may arise from an unprepared vacancy or an unwanted election result.
V. Candidates

i. PLC elections - lists

The final electoral lists and their candidates are set to be published on 30 April 2021. For now, official and unofficial statements by party representatives and speculations suggest the following:

- Jibril Rajoub, member of Fatah’s Central Committee, announced on 25 January 2021 that Fatah would run as one list. At the same time, he said that forming one joint list with all factions would be conditioned by “Fatah’s views (being) taken into consideration.” At the same time, internal divisions question this statement. Fatah leaders seem desperate to overcome those as they are widely believed to have contributed to Fatah’s poor election results in 2006; some sources suggest that Abbas is “threatening to block Fatah members who plan to run on independent candidates lists from participating in the election.” On 28 February, Azzam Al-Ahmad, also a member of the Central Committee, allegedly revealed that Fatah was informed by five other factions about their readiness to ally with Fatah: the Palestinian Democratic Union, the Palestinian Liberation Front, the Palestinian Popular Struggle Front, the Arab Liberation Front and the Palestinian Arab Front. On the day before, Jibril Rajoub had reiterated Fatah’s desire to end divisions, looking at composing a single list of all factions. Al-Ahmad said “no agreement or details were discussed with the Islamic Hamas movement to be included in the alliance in one electoral list.”

- On 16 January 2021, Dahlan’s Democratic Reform Bloc signaled openness regarding running on a unified list with Fatah - a proposal that was rejected by the latter. This Fatah offspring is therefore now believed to run on a separate list. Mid-February, a Democratic Reform Bloc spokesperson said that their faction and Barghouti’s associates were discussing the possibility of allying forces for the PLC elections. This was not confirmed by Barghouti. Representatives of the movement met with the Hamas delegation that attended the Cairo talks and two members of the DRB returned to Gaza on 14 February. These developments have been interpreted as demonstrating Dahlan’s determination to participate in the elections in one way or another. Indeed, Imad Moshen, a spokesperson for Dahlan, affirmed that his “movement will participate in all elections, including the presidential (one), in the form it deems appropriate with the requirements of the current situation.”

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53 https://english.wafa.ps/Pages/Details/123004  
54 https://themedialine.org/top-stories/palestinian-elections-are-attempt-to-settle-political-landscape/  
55 http://www.xinhuanet.com/english/2021-02/28/c_139773654.htm  
56 https://english.wafa.ps/Pages/Details/123460  
57 http://www.xinhuanet.com/english/2021-02/28/c_139773654.htm  
58 https://www.facebook.com/sufian.a.zaida/posts/10158185418511409  
60 https://www.timesofisrael.com/from-israeli-prison-barghouti-mulls-presidency-bid-turning-up-heat-on-abbas/  
61 https://www.arabnews.com/node/1810041/middle-east
At this stage, it remains unknown whether Marwan Barghouti will run on Fatah’s list, on a separate one, or indeed not at all, and conflicting statements circulate. Barghouti is currently imprisoned by Israel, serving five life sentences for his role during the Al-Aqsa Intifada. What is known for a fact is that PA Civil Affairs Minister Hussein Sheikh, a close confident of Abbas’, visited Barghouti in prison on 11 February 2021 to discuss the overall political situation and the elections. While Al-Sheikh reported that Barghouti welcomed the election decree, called for a high voter turnout and supported a unified list of the Fatah movement (implicitly suggesting that Barghouti would refrain from running on a different list)\(^{62}\), several media sources report that Barghouti remains firm in his alleged decision to form an independent list. It seems that Al-Sheikh sought to persuade Barghouti not to run for presidency, offering him a high rank on the official Fatah list in return. Barghouti’s wife was even quoted as saying her husband was “almost threatened” by a senior aide of Abbas\(^ {63}\). Other sources and scenarios suggest that Barghouti may have been offered that the PA negotiate his release from prison, although some point out that this was also the unmaterialized promise made to him in 2005, causing him to withdraw his candidacy he had intended back then. Hani Al-Masri, director general of Masarat, the Palestinian Center for Policy Research and Strategic Studies, and close to Barghouti, expects him to run on the official Fatah list if he deems it democratic. Alternatively, he may choose to support a different list headed by Nasser Al-Qudwa, nephew of the late Asser Yarafat \(^{64}\) who boycotted Fatah’s Central Committee meeting on 12 February and openly supports a Barghouti presidential candidacy\(^ {65}\). Others on Al-Qudwa’s potential list might include: Qadura Fares, Abdel Fatah Hamiel, and Abdel Qader\(^ {66}\). The latter, a senior Fatah leader and close ally of Barghouti’s pointed out that Barghouti does not plan on running for the PLC. Because of his intention to run for presidency, it would be impractical to run in the legislative elections as he would have to resign from the PLC member position in order to present his candidacy for the presidency shortly afterwards\(^ {67}\).

Hamas expressed keenness to participate in the legislative election; member of Hamas Politburo Khalil Al-Hayya stated "Hamas (was) open to all forms of participation in the elections”\(^ {68}\). Secret internal rounds of elections are currently taking place within the Hamas movement to fill senior positions. Current Hamas Politburo leader is Ismail Haniyeh, Yahya Sinwar his deputy.\(^ {69}\)

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\(^ {62}\) [https://english.wafa.ps/Pages/Details/123247](https://english.wafa.ps/Pages/Details/123247)


\(^ {64}\) [https://www.youtube.com/watch?v=9h6OkquGdGI&feature=youtu.be](https://www.youtube.com/watch?v=9h6OkquGdGI&feature=youtu.be)


Some rumors suggest that Fatah and Hamas might consider running on a joint list. It was widely expected that things would be clearer after the Cairo talks the first round of which took place from 8 - 9 February 2021. However, no official statement regarding the option of a joint list has been made to this day.

Talks exist about the possibility of a unified list of democratic and leftist forces. Omar Shehadeh, an official of the Popular Front for the Liberation of Palestine, signaled his group’s intentions to build such a “democratic popular alliance” for the legislative elections, centered around resistance.

ii. Presidential elections

The final list of candidates is set to be published on 9 July 2021.

On 20 January 2021, Prime Minister and member of Fatah, Mohammad Shtayyeh, announced that Abbas would be Fatah's nominee for the upcoming presidential elections. Shtayyeh said there was consensus and unanimity within Fatah in support for that choice. Other Fatah officials reacted in surprise and deception towards the alleged nomination, having had hoped Abbas might make room for younger candidates. Abbas has yet to make his candidacy official.

If the Abbas-rival Mohammed Dahlan were to announce his desire to run for presidency, a likely scenario, then the established Fatah-dominated rule would probably do whatever possible in order to impede his candidacy. The Abbas-introduced changes in legal requirements for presidential candidates are already being used to justify banning Dahlan from presenting a candidacy. Abbas ostracized Dahlan from Fatah's Central Committee in 2011 and stripped him of his parliamentary immunity in 2012, a move that was declared constitutional by the Constitutional Court created by Abbas in 2016. Shortly afterwards, Dahlan was found guilty of embezzlement and was convicted in absentia. Fatah Central Committee member Azzam Al-Ahmad already made it clear that Dahlan will not be allowed to run for the presidency because "he does not have a clean record". Dahlan is said to be the US favorite option, not least because of his ties to the UAE. Dahlan recently secured that Gaza receive a 20,000 doses shipment of Sputnik V vaccines from the UAE, generous gesture that may be aimed at improving his popularity rates in the OPT in light of the upcoming elections.

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73 https://www.reuters.com/article/us-palestinians-politics-idUSKBN131108
• Marwan Barghouti has not yet announced whether he is seeking presidential candidacy. In terms of popularity, he would be the most dangerous rival for Abbas. He would be the first candidate to run for presidency from behind Israeli bars. If he were to run and win the presidential race, it would put Israel into a very uncomfortable position, either having to eventually deal with him in prison or be forced to release him. Some estimates predict that “half of current Fatah supporters would side with Barghouti over Abbas.” In the absence of an official statement, several media outlets claim that he is decided to run for presidency. Nasser Al-Qudwa, nephew of the late Asser Yarafat has been open about supporting a Barghouti candidacy.

• Hamas decided not to run in the presidential race.

75 https://www.aljazeera.com/opinions/2021/2/23/political-prisoner-marwan-barghouti-for-president
VI. Voter registration

In order to be able to vote in the legislative and presidential elections, voters have to be registered in the final voters registry. They were able to do so electronically until 16 February 2021 via the CEC’s website or in person during five days starting on 10 February 2021.

The CEC started its field voter registration campaign as scheduled on 10 February 2021. The CEC operated 80 voter information and registration centers; the field teams were comprised of 600 employees and facilitated registration in all West Bank and Gaza districts.

On 17 February 2021, the CEC announced that 93.3% of eligible voters (a total of 2.6 million) registered to vote. Residents of East Jerusalem with Israel-issued ID cards may participate in the elections without registering. In the 2006 legislative elections, voter registration stood at around 80%, 75% of which cast their ballots.

The voter turnout of the 2005 presidential elections saw a turnout of 65%, despite Hamas’ boycott.

Regarding the issue of prisoner voters, Hussein Al-Sheikh, chairman of the General Authority for Civil Affairs and member of Fatah Central Committee, announced on 21 February 2021 that they were going to “officially ask the government of Israel to allow Palestinian prisoners in its prisons and detention facilities to exercise their right to vote.” There are currently over 4,000 Palestinians in Israeli jails.

The overall successful registration process saw a turmoil on the last day of registration when a number of registration centers were moved without voters’ knowledge. Some eligible voters found that their names had been moved to a voting location far from their regular one. According to activists, 300 to 500 voters were affected, including some election candidates. Hanna Nasser, chairman of the CEC, reacted to the incidents that occurred during the final hours of registration, condemning them as election crimes. He said the CEC had reassigned the registrations of the transferred registrants back to their original centers. The CEC also filed a complaint to the Public Prosecution and believes that the tampering was not due to a hacking of the system, but rather caused by an abuse of the CEC’s e-service.

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79 https://www.elections.ps/TabId/1069/ArtMID/8994/ArticleID/2637/CEC-Launches-Field-Voter-Registration.aspx
80 https://english.wafa.ps/Pages/Details/123324
81 https://www.jpost.com/middle-east/palestinian-election-23-million-voters-register-657541
84 https://fas.org/sgp/crs/mideast/RL33269.pdf
85 https://english.wafa.ps/Pages/Details/123379
86 https://www.btselem.org/statistics/detainees_and_prisoners
88 https://www.elections.ps/TabId/1083/ArtMID/9183/ArticleID/2659/CEC-Chairman-Addressed-the-Transfer-of-Registration-Centers.aspx
VII. International Reactions

i. Israel

Israel has yet to react to the presidential decree announcing elections in the OPT. Chances are that they are waiting to see how the likelihood of elections actually taking place evolves. No reaction is expected before the Israeli elections scheduled for 23 March 2021. Generally speaking, it is in Israel’s interest that the Palestinian elections be called off.

While the Israeli government may not have officially reacted to the election decree, the Israeli army has led intensive arrest campaigns of Hamas leaders and other political figures in the West Bank over the past few weeks. For example, Omar al-Barghouti, a Hamas leader in the West Bank, said Israeli authorities had threatened him that he would be arrested immediately if he announced his candidacy.89

ii. USA

While it is widely believed that one of the main reasons for calling for elections was Abbas’ desire to renew his legitimacy in the eyes of the new Administration in Washington, Biden has thus far kept quiet about his stance on the issue. It seems that in fact the US will support Palestinian elections only as far as they generically support democratic developments anywhere in the world, but nothing beyond that. Additionally, worries about a potential Hamas involvement in a new government contribute to the Administration’s silence on the topic. APIAC, the powerful pro-Israel lobby in the US, has called for America and others to ensure Hamas be barred from the ballot.90

90 https://english.alaraby.co.uk/english/comment/2021/2/16/aipac-wants-to-decide-who-runs-in-palestinian-elections
VIII. Annex

i. Past elections

a. The 2005 presidential elections

Since the establishment of the PA and until the death of President Yasser Arafat in November 2004, only one round of presidential and PLC elections was held. Elections had been scheduled for 2000 but were delayed due to the outbreak of the Al-Aqsa Intifada. Following Arafat's death in November 2004, the Speaker of the PLC, Rawhi Fatuh, took on the role of interim President as foreseen by the Basic Law and immediately called for new elections. These were held on 9 January 2005. Abbas came out as the clear winner amongst the seven candidates who had competed in the poll. He won 62.5% of the votes, his main challenger Mustafa Barghouti just under 20%. Overall, the elections were widely described by outside monitors as free and fair, the voter turnout was of 65% despite Hamas' boycott.

b. The 2006 PLC elections

The 2006 legislative elections took place after an amendment of the Elections Law No. 9 of 2005, increasing the number of PLC seats from 88 to 132 and introducing a mixed electoral system amongst other changes. 77% of registered voters turned out on election day, 25 January 2006, resulting in a surprising landslide victory of Hamas. Hamas obtained 74, Fatah 45 seats. Elections overall met international standards despite some smaller issues and obstruction in East Jerusalem. However, the international community was shocked to see Hamas, a designated terrorist group in the eyes of many, win, and refused to enter into relations with a Hamas government, imposing sanctions.

c. The 1996 elections

This section will be added soon.

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91 https://fas.org/sgp/crs/mideast/RL33269.pdf
92 not to be confused with Marwan Barghouti who is seen as a popular potential candidate for the 2021 elections. The two are distant cousins.
95 https://fas.org/sgp/crs/mideast/RL33269.pdf
ii. Opinion polls

PCPSR Opinion Poll December 2020

According to a survey\(^6\) conducted by the Palestinian Center for Policy and Survey Research (PCPSR) mid-December 2020 in the OPT, two thirds demand Abbas' resignation, 3/4 demand new elections but only one third expects them.

If **legislative elections** had been held on the day of the poll, 69% would have participated and Fatah would have gained 38%, Hamas 34%. Support for Hamas is higher in Gaza whereas support for Fatah is higher in the West Bank. Overall, at the time of the survey, 38% expected Fatah to win, 25% Hamas and 23% third parties / new lists. 56% support holding the elections even without East Jerusalem, 39% oppose this idea. 76% think that Fatah would not accept a Hamas victory, whereas 58% think Hamas would not accept a Fatah victory. If Barghouti formed an independent list, he would get 25% leaving the official Fatah list with 19%. If Dahlan formed his own list, his would only get 7% leaving the official Fatah one with 27%.

In **presidential elections** between current PA-leader Abbas and current Hamas-leader Haniyeh, the former would lose against the latter with 43% for Abbas to 50% for Haniyeh. Support for Abbas is higher in the West Bank and support for Haniyeh higher in the Gaza Strip. If Abbas was not to run again and the presidential race was to take place between Barghouti and Haniyeh, Barghouti would win comfortably with 61%, leaving Haniyeh with 37%. If the current PA Prime Minister Shtayyeh confronted Haniyeh in presidential elections, both would receive 47%. At the time of the survey, 52% would view Abbas as Fatah nominee as the wrong choice believing that Fatah has better candidates (Barghouti, Dahlan, Shtayyeh) versus 25% who would view him as Fatah's best candidate. If Abbas abstained from the presidential race, overall, 37% would want Barghouti, 23% Hanyieh, and 7% Dahlan.

When asked about the **top priority for Palestinian elections**, 28% replied restoring unity between the West Bank and Gaza, 24% named improving economic conditions, 18% the removal of the Gaza blockade, and 15% the fight against corruption. Only 6% replied the top priority of Palestinian elections should be to bring back democracy.

Overall, 52% agree that had elections been hold on the day of polling, they would have been neither free nor fair.

\(^6\) https://www.pcpsr.org/sites/default/files/Poll%2078%20English%20fulltext%20December%202020.pdf