



## AL-HAQ PALESTINIAN PRESIDENTIAL ELECTIONS 2005 MONITORING REPORT

### I. INTRODUCTION

This report provides an overview of Al-Haq's main findings during its monitoring of the Palestinian presidential elections. Held on 9 January 2005, they took place following the death of Palestinian National Authority (PNA) President Yasser Arafat in November 2004, in line with constitutional provisions that elections must be held within 60 days of the inability of the PNA President to govern. As mandated by the Presidential decree of Interim PNA President Rawhi Fatooh, the Central Elections Commission (CEC) conducted a voter registration drive from 4 September-13 October 2004, and which ended with the registration of 67% of eligible voters (not including the Jerusalem Electoral District). From 24 November-1 December 2004, an additional voter registration period was held, thereby increasing the total percentage of registered eligible voters to 71%.<sup>1</sup> Given the continued Israeli military occupation of the West Bank (including East Jerusalem) and Gaza Strip, the challenge of holding elections in such circumstances can not be overestimated. As subsequent sections of this report will highlight, this had a substantial impact on the various aspects of the electoral process, most notably during the campaigning period, and the ability of Palestinian East Jerusalemites to participate in the elections on actual voting day.

### II. AL-HAQ'S PREPARATIONS AND ROLE

As a local organisation accredited by the Palestinian Central Elections Commission (CEC), Al-Haq observed both the campaigning period (from 25 December 2004-7 January 2005), and day of elections (9 January 2005). In its efforts to prepare itself internally for this task, and contribute to raising public awareness regarding the electoral process through the following activities took place:

- It is worth mentioning that Al-Haq declined to allow for the participation of independent persons or volunteers to monitor the process in association with organisation, as it did not want to jeopardize its neutrality during the monitoring process and take on responsibility for the acts of others not formally associated or knowledgeable of the organisation's work.
- Trained its staff internally on their role as local observers, and highlighted the most important violations of the regulations, as prescribed by Election Law No. 15 (thereafter Election Law).<sup>2</sup>

<sup>1</sup> Central Elections Committee, "The Presidential Elections 2005: Guidebook", Ramallah, West Bank., 2005.

<sup>2</sup> Law No. 15 of 1995 Relating to the Elections, Issued by the Palestinian National Authority in Gaza on 7 December 1995. <http://www.elections.ps/english/legislation/law1995.pdf>.

- Coordinated the participation of 3 representatives of the International Commission of Jurists (ICJ) as international observers, at the request of Al-Haq. The ICJ accompanied our Al-Haq throughout the Occupied Palestinian Territories (OPT), and monitored the elections in Jerusalem, Bethlehem, Hebron, Nablus and Qalqilya.
- Held a workshop on 4 January 2005, for police and law enforcement officials from various locations in the OPT, to brief them regarding their duties of preserving law and order, and the electoral process more generally.
- Developed and disseminated a “Know Your Rights” brochure that was disseminated widely within the society at large.
- Put together a form that Al-Haq filled out to ensure that uniform factors were observed by all of our staff during the electoral process.

On 9 January 2005, 24 Al-Haq and ICJ acted as observers throughout the OPT. Below were the areas covered in the OPT and the number of voting centres visited.<sup>3</sup>

	<b>Location</b>	<b>Al-Haq</b>	<b>ICJ</b>	<b># of Polling Centre Visited</b>
1.	Al- Bireh	1		5
2.	Al-'Eizariyya	1		6
3.	Dahiet Al Barid	1		1
4.	Al-Ram	1		6
5.	Bethlehem/Beit Jala/Beit Sahour	1		7
6.	Birzeit/Al-Jalazoon	1		6
7.	Hebron	2	1	7
8.	Jenin	1		5
9.	Jerusalem-Barid Al-Quds post offices	1	1	11
10.	Jerusalem-surrounding villages	1	1	13
11.	Nablus	2	1	12
12.	Nablus-surrounding villages	1		7
13.	Ramallah	1		7
14.	Ramallah Bitouniya	2		10
15.	Ramallah-surrounding villages	1		8
16.	Toulkarem	1		5
17.	Qalqilya	1		5
	<b>TOTAL</b>	<b>21</b>	<b>3</b>	<b>121</b>

<sup>3</sup> Although ICJ international observers were visited the Gaza Strip during the Campaigning period, neither Al-Haq nor ICJ international observers were present there during Election Day. However, ICJ's other Palestinian affiliate organisation - the Palestinian Centre for Human Rights (PCHR) - monitored the elections there closely. For more information see “International Commission of Jurists observes Palestinian Presidential Elections, 10 January 2005 (<http://www.icj-aust.org.au/?no=21>).

### III. POSITIVE TRENDS OBSERVED

Approximately 65% of registered Palestinian voters participated in the presidential elections, which were monitored by numerous international and local observers, and were largely conducted in compliance with legal standards regarding free and fair elections. As two organisations which participated in monitoring the electoral process throughout the West Bank, Al-Haq and ICJ believe that while there were some mistakes in the process, the overall success was indicative of the hard work of the CEC and the Palestinian people's commitment to democratic elections.

In this regard, the CEC staff were generally well-trained, and the electoral process was very well organised, given the conditions under which it was held. Staff was present in all centres that Al-Haq observed, were well trained and remained neutral as they explained the procedures to the registrants. They also explained counting procedures with accuracy, and generally paid attention to numerous details during the various stages of the electoral process: making sure that there was a stamp at the back of the vote as it was cast; that the names on the lists were crossed out, and that persons voted inside the balloting booths, and explained the procedures for casting their votes and marking the right candidate. For example, in one polling station, one of the local observers wanted to assist an illiterate woman with the voting, which the staff did not allow. They were also all generally very cooperative and responded to any queries that local or international observers or the media had. Al-Haq and ICJ observers also emphasized that CEC staff ensured order in their respective stations, and would order those "who cause or attempt to cause disorder, or to obstruct the vote or the counting" to leave the premises as required by law".<sup>4</sup>

With the exception of the civil registry centres, and two polling centres in Dahiet al-Barid in the Jerusalem District, and in Ramallah, polling stations did not suffer from overcrowding or chaos during the elections. In addition, they were spacious and provided the privacy necessary for the voting process.

Al-Haq also commended the efforts of the security and law enforcement officials to maintain law and order at the various polling centres, and how they abided at all times by the requirement to remain outside the actual stations (with the exception of Hebron where Palestinian security forces had accompanied former President Carter into one of the polling stations), and "to maintain the security of the citizens in all of the phases of the electoral process".<sup>5</sup> Except for one polling centre in Hebron, security and law enforcement officials were present outside all polling stations. Even when they voted, they entered stations without their weapons.

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<sup>4</sup> *Supra* note 2, Article 30.

<sup>5</sup> *Ibid*, Article 59.

#### **IV. VIOLATIONS NOTED**

##### **1) THE ISRAELI AUTHORITIES AND OCCUPYING FORCES**

###### **A) INCURSIONS AND MOVEMENT RESTRICTIONS**

Contrary to the declaration, Israeli authorities failed to take measures that would create the political environment and conditions necessary for Palestinians to participate effectively in Palestinian public life. For example, Israel continued with its measures of collective punishment and measures intimidation, such as repeated incursions into the OPT to arrest or kill wanted individuals, the demolition of houses and destruction of property (most notably during its repeated incursions in the north of the Gaza Strip during the campaigning period).

Despite Israel's reassurances that it will allow free and fair elections and promises to ease movement restrictions on the Palestinian civilian population during the electoral process, Al-Haq noted with great concern the fact that during the campaigning period, Palestinians continued to be denied their fundamental right to freedom of movement between the Gaza Strip and the West Bank, including East Jerusalem (for more details see Section IV (3) below). Soon thereafter, the presidential candidates were repeatedly prevented from entering the West Bank or Gaza Strip. More seriously, several candidates were either arrested and even physically assaulted at checkpoints, or denied access to East Jerusalem.

Although Al-Haq and ICJ noted easy passage through the checkpoints which were still in operation throughout the West Bank, most of the checkpoints were physically still in place and manned by soldiers. In addition, the day was not free of incidents, particularly around the Jerusalem. Moreover, several persons complained about severe restrictions being applied during the days leading up to Election Day. In Hebron for example, Al-Haq noted that Israeli soldiers were still at the Halhoul checkpoint, and that they were present on the road from Hebron to Sa'ir.

###### **B) JERUSALEM**

In the case of voting in East Jerusalem, the most significant violation to be noted is the fact that out of 200,000 eligible Palestinian voters in East Jerusalem, only approximately 5,000 were allowed to vote inside the city, and only at Israeli post offices, while the remaining portion of the population had to exercise this right in surrounding areas in the OPT. This undermined their right to effectively take part in Palestinian public life including the right to vote, and to participate in an electoral

process that has significant implications for the realisation of their political and social rights.

There were a number of significant restrictions placed upon the process by Israeli authorities in the East Jerusalem area during the campaigning period and on Election Day. During the campaigning period, East Jerusalemites were intimidated by the continued presence of checkpoints, the closing down of the existing registration centres,<sup>6</sup> and the threat of IDs confiscation by members of the Israeli security forces should they decide to exercise their voting rights. The restriction of presidential candidates from campaigning within East Jerusalem denied the Palestinian East Jerusalemites the right to choose their representatives in an informed manner.

While a number of checkpoints throughout the West Bank were removed on the actual day of the elections, the majority of those surrounding East Jerusalem remained. In this regard, Al-Haq and ICJ noted that even though there was no Israeli presence at the different post offices, Israeli officials imposed several mobile checkpoints in their vicinity. Palestinian Jerusalemites seeking to go to surrounding areas in the OPT were faced with long lines at such checkpoints, and in some instances were told that as Jerusalem ID holders, they were not allowed to cross them at all, and were turned back.

In addition, the system established for East Jerusalemites of voting at Israeli postal offices was also severely problematic. Voters were afforded limited privacy in completing their ballot papers at post office counters, alongside people accessing postal services. As Al-Haq and ICJ noted, the transparency of the electoral process was undermined further by the absence of official CEC staff, and the limited access to the city for local observers to oversee the electoral process. Furthermore, rather than being put in transparent ballot boxes, ballot papers were placed in envelopes that were handed over to Israeli postal staff. Where there were minor typographical errors in the name of the voters, post office officials turned persons back and refused to let them vote. Palestinian voters were not provided with lists of registered names outside the postal offices, and as a result, had no way of knowing in which post office they could vote. They were turned away if they attended the wrong facility, and were not informed by postal staff of the correct location to go to. This generated a lot of chaos, and created additional financial and physical burden on those wanting to exercise their right to vote as they had to check for their names in numerous post offices in their effort to find where they are registered.

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<sup>6</sup> On 13 September 2004, Israeli authorities closed down all six registration centres, thereby preventing approximately 200,000 eligible Palestinian East Jerusalemite voters from registering.

## 2) BY THE CEC AND THE PNA EXECUTIVE AUTHORITY

### A) EXTENDING THE VOTING PERIOD

At around 6.00 p.m. on Election Day, the CEC announced that the voting period would be extended for another two hours (from 7.00-9.00 p.m.). This violated Article 72 of the Election Law which stipulates that “the poll shall commence at 7 hours a.m. and shall be closed at 19 hours p.m.” The right to decree extensions is a legal matter that falls only within the powers of the PLC, and therefore is not within the mandate of the CEC.

### B) ALLOWING REGISTRATION IN THE CIVIL REGISTRY LISTS ON ELECTION DAY

In December 2004, the PLC decreed that all eligible voters who did not participate in the CEC voter registration drives could vote by registering their names on the Civil Registry list prior to Election Day.<sup>7</sup>

On Election Day, the CEC’s last minute decision to extend the voting period by an additional two hours was carried out to enable persons who had failed to register their names in the civil registry list to do so on the same day. Practically, this meant that Palestinians were allowed to register in the civil registry centres without having to ensure that their names had been checked against a previously prepared list.

Al-Haq believes that this measure violated a number of provisions within the Palestinian Election Law. According to Article 1 of this law, a person is only entitled to vote on Election Day if he/she has fulfilled a number of criteria, including that this person has been “entered in the electoral register of the polling district where he or she is to exercise the right to vote”, and that he/she “be entered in the final electoral register.” It also prevented CEC staff from verifying with certainty whether persons were qualified to vote in the first place,<sup>8</sup> or had already registered in other voting centres.<sup>9</sup> In Al-Haq’s view, this created opportunities for double voting, and undermined the legal right of any person to file claims regarding “erroneous inclusion or omission in the electoral process of *any other person* [emphasis added]”.<sup>10</sup> It also facilitated the voting of individuals who were under the minimum legal age requirement of 18-year-legal requirement (as for example noted by Al-Haq’s observer in the Civil Registry in al-Kuliyya al-Ahliyya School in Ramallah, where one 16- year- old boy voted). Al-Haq also noted that it generated chaos and pressure in various civil voting centres (such as in al-Najah University in Nablus)

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<sup>7</sup> Central Elections Committee, “The Presidential Elections 2005: Guidebook”, Ramallah, West Bank.

<sup>8</sup> As mandated by Article 6, *supra note 2*.

<sup>9</sup> *Ibid*, Article 8.

<sup>10</sup> *Ibid*, Article 17.

### **C) NEUTRALITY**

According to the Election Law, “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”.<sup>11</sup> Nevertheless, Al-Haq and ICJ noted discrepancies in a number of districts. As an official complaint filed by one staff in a Jerusalem post office with Al-Haq noted, Palestinian intelligence officers entered the voting centre in al-Sawahra al-Sharqiyya in the Bethlehem/Beit Sahour district where they intimidated local observers, confiscated the ID of one of the CEC staff and treated him in a degrading manner.

Another incident reported was that of a member of the PNA Executive branch who sought to override the Election Law’s provisions by voting without providing an ID in a voting centre in the Jerusalem district. Further, security and law enforcement officials and Preventative Security Services displayed at times a clear bias towards a certain presidential candidate during his campaigning visits throughout the OPT (for example in Jenin and Tulkarem) by urging voters to vote for their preferred candidate, and the use of cars carrying official PNA licence plates in the campaign. Similarly, PNA officials were seen accompanying one Presidential candidate during his campaigning tours. In the Bethlehem, Al-Haq noted that one of the Municipal Councils was used by the supporters of one candidate as a campaigning centre.

### **D) PUBLIC DISPLAY OF FINAL REGISTER OF ELECTIONS**

On Election Day, and in response to a communiqué from the CEC, its staff in the numerous voting centres failed to publish a copy of the final voter registry. This violated Article 65 of the Election Law which requires that a copy of the final register of elections is “displayed in a visible place of the polling station.” As noted, failure to do so prevented persons from exercising their right of making claims in relation to the electoral register.

### **E) INK**

There were significant complaints about the fallibility of the ink with which voters thumbs were marked, undermining the transparency of the process. Al-Haq and ICJ noted that in several instances voters had either stated or demonstrated that they can rub off the ink (such as in Hebron. Following the decision to allow unregistered Palestinians to vote, this ink became the only means by which it was possible for polling centre officials to verify whether a person had voted.

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<sup>11</sup> *Ibid*, Article 54, paragraph 2.

## **F) VOTING BY ILLITERATE VOTERS AND DISABLED**

According to the Election Law, an illiterate person has the right to make elect the presidential candidate of his own choosing, provided that the decision was made in front of a CEC official. However Al-Haq later learned that this was not required by law, which created confusion. In some instances, the organisation also observed that those who accompanied illiterate people clearly selected their own preferred presidential candidate without taking into account the decision of the former.

One important issue raised by Al-Haq and ICJ observers that would facilitate voting for disabled people. In Hebron for example, a man confined to a wheelchair was unable to vote because the polling station in question was on the second floor of a girl's school.

## **3) BY THE PRESIDENTIAL CANDIDATES AND THEIR SUPPORTERS**

Generally Al-Haq and ICJ noted the continued display of campaigning materials, in particular posters, in close proximity to the entrance. Frequently, this took the shape of campaigning vehicles covered with posters, or supporters dressed in t-shirts that carried the picture of their candidate of choice. The vehicles were generally parked in front of the polling centre for prolonged periods of time. They would frequently drive past the polling centre or wait outside them. In only one instance, in a centre in Dahiyet al Barid in the Jerusalem district, attempts were made to hang posters of the latter inside one of the polling stations. In this instance however, he was prevented from doing so by the CEC.

These problems were seen throughout the OPT, including at aL-Najah University polling centre. During the 45 minutes one Al-Haq's observer spent there (at around 7.00 p.m.), there were several parked campaigning cars and several that drove by, including one car that displayed support for one Presidential Candidate, using a loudspeaker. During half of the time, between one to four men carrying machine guns stood in the street in front of the entrance to the polling station with only the curb in-between. Once, another car supporting the same candidate stopped in the street directly in front of polling station entrance. A gunman, and one person in the car leaned out of the window to speak to him. For about half a minute, the gunman shook his machine gun up and down in the air above his head, before the car drove on. Meanwhile, a group of young men took turns standing immediately next to the entrance and scribbling something on a block of paper.

In other electoral districts, Al-Haq noted enticements being offered by supporters such as the provision of lunch or flour rations, or the transportation people of people to various voting centres.

Although the Election Law states that "no person, except for the security forces shall carry any type of arm, the possession of which is punishable by law, or let



off firearms during rallies and other electoral activities”,<sup>12</sup> this was not always observed. For example, Al-Haq observed civilians with weapons outside four polling centres in the Nablus area. In these instances, those with weapons discretely handed over the weapon to a friend before entering the polling centre. Such weapons appeared to be held in a non-intimidating manner until the individual re-emerged from the centre, after having voted.

## **V. CONCLUSION**

Despite these problems, Al-Haq believes that the Palestinian presidential elections were generally carried out smoothly manner and in compliance with international and domestic law. Unquestionably, conducting national elections while the West Bank and Gaza Strip remains under occupation poses immense challenges. Nevertheless the electoral process was conducted in a manner that was largely transparent and efficient, which highlighted the Palestinian people's dedication to democracy and the rule of law.

However, Al-Haq remains deeply concerned about the manner in which elections were held in East Jerusalem and the fact that Israeli measures clearly intended to undermine the participation of Palestinian East Jerusalemites, in order to solidify Israel's illegal annexation of East Jerusalem. Al-Haq reiterates that this remains in violation of principles of international human rights and humanitarian law, and defies the consensus of the International community that Israel's actions, aimed at the annexation of East Jerusalem, are “null and void” and are not to be recognised.

## **VI. RECOMMENDATIONS**

Since Palestinian Legislative Council elections are scheduled to take place on 17 July 2005, the Executive Authority and the CEC take into account the observations made by local and international observers of discrepancies that took place during the Palestinian presidential elections, so that necessary practical and legal measures are taken to prevent their re-occurrence during the upcoming legislative elections.

### **1) TO THE EXECUTIVE AUTHORITY**

- Ensure respect of the provisions of the Election Law during the Electoral process by Government officials, and that no one is above the law.
- Ensure that official PNA institutions and officials remain neutral, and do not display support for specific Presidential candidate during the campaigning period.
- Ensure that there are no violations of the code of conduct by security forces and that they do not encroach on the duties of law enforcement officials or those of the electoral commission staff.
- Although elections in East Jerusalem were scheduled to be conducted in accordance with the provisions of the Oslo Agreements, Israel failed to adhere thereto during the 2005 presidential elections. As residents of the OPT, Palestinian Jerusalemites should be permitted to vote in Jerusalem-

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<sup>12</sup> *Supra* note 2, Article 59.

based Palestinian facilities in future elections. It is vital therefore that the Palestinian negotiator raises these concerns with the Israeli side.

## **2) To THE CEC**

- Fully abide by the provisions of the Election Law.
- Develop and issue clear instructions to the CEC staff present in various electoral centres regarding their own voting.
- Ensure that voting centres are provided with facilities that would enable disabled persons to vote.

## **3) To THE PLC**

- Use only the voter registry lists and not the civil registry lists, in the future.
- Ensure that election related legislation that deals appropriately with issues that have affected the ability of voters to exercise their free choice, particularly by illiterate voters.
- Delegate more powers to the CEC enabling it directly intervene to end abuses occurring during the campaigning period and electoral period.
- Adopt clear criteria and procedures by law enforcement officials. In line with similar procedures followed in other countries, those officials should be allowed to vote one day prior to the actual Election Day, to ensure that they can dedicate their full attention to their duty to maintain law and order on that day.
- Provide clear legal provisions endorsing the right of the CEC staff and observers to vote in the voting centres where they are working on Election Day, even if they had registered elsewhere.