

INSS Insight No. 1248, January 15, 2020

East Jerusalem and the Palestinian Legislative Council Elections

Yohanan Tzoreff, Kobi Michael, and Gilead Sher

The participation of East Jerusalem residents in the Palestinian Legislative Council (PLC) elections has become a matter of contention between Hamas and Fatah. While the Fatah-controlled Palestinian Authority has conditioned this participation on Israeli consent, Hamas has insisted that there is no such requirement and that the two sides should wage a joint struggle to force Israel to let this population participate. Neither party is enthused by the idea of elections and both would prefer that they be deferred, but each has painted itself into a corner and is trying to foist responsibility for a postponement on the other. Mahmoud Abbas, who began the process, and the Fatah organization are liable to pay a high price should they be saddled with the blame. East Jerusalemites participated in PLC and presidential elections in the past, and are today permitted to participate in elections in accordance with the interim accords signed by Israel and the PLO. It behooves Israel not to cast itself as an element opposing these elections, but rather, invoke the conditions set out in the accords for participating in elections: renunciation of terrorism and violence, and respect of commitments stipulated in the accords.

All Palestinian organizations and factions, save Islamic Jihad, have agreed on elections for the Palestinian Legislative Council (PLC), but the question of participation in the election by Palestinian residents of East Jerusalem remains in dispute between the two big organizations, Fatah and Hamas. Palestinian Authority Chairman Mahmoud Abbas has conditioned issuing a formal presidential decree that would announce the elections on the consent of the Israeli government to Palestinian Jerusalemites voting in polling stations in East Jerusalem, while Hamas does not regard this as a condition for formally announcing the elections.

While neither Hamas nor Fatah is keen on holding the elections, domestic and external pressures have placed the issue firmly on the agenda. Abbas, who raised the idea, sought to neutralize pressure from leading European powers that voiced disapproval on the lack of elections over the 14 years of his tenure. Meeting him in August 2019, German Chancellor Angela Merkel pointed out that during his term in office, she herself underwent five elections, while he has deferred elections and lost legitimacy. Europe today is the Palestinian Authority's main economic and political support in the international sphere, following the Trump administration's series of critical statements

and sanctions vis-a-vis the Palestinians. In tandem, there has been a continual decline in the importance of the Palestinian issue among leaders of the Arab world. These external pressures have been compounded by pressure at home, manifested in protests by young people and total distrust of the Palestinian Authority, Fatah, and Abbas himself. Overall, domestic opinion is highly critical and skeptical toward Abbas and the Palestinian Authority.

For its part, Hamas has long contended with difficulties posed by its rule over the Gaza Strip. The organization's leadership has reached the conclusion that there is no way of simultaneously waging armed resistance against Israel and maintaining civic governance. When in 2017 Abbas intensified sanctions on the Strip, Hamas even agreed to hand over civic control of the area to the PA, reversing its former refusal – albeit with an insistence on retaining control of the organization's military wing. The rounds of fighting between Hamas and Israel over the last decade have seriously damaged Hamas, destroyed the Strip's infrastructures, and stoked frustration and rage among the Gaza population toward the organization and its leadership. The destruction and neglect are felt everywhere, basic needs are not provided, and income and purchase power are in constant decline. Hamas is perceived by many in the Strip as at a dead end and the cause of the severe distress, far worse than in the days of Fatah rule. Hamas has thus, in recent years, sought non-military means for resistance that would not compromise its image as a resistance group against what it calls Israeli occupation. Within Gaza, dissatisfaction with the Hamas leadership is sounded, particularly with the performance of the Sinwar team – Ruhi Mushtaha and Tawfiq Abu Naim, who were freed in the Shalit deal and elected to leadership roles in Gaza.

When Abbas proposed the elections, his hope was that Hamas would oppose the idea. Hamas, however, correctly assessed that he was not sincere and aimed rather to foist the responsibility onto its rival for not holding elections. Abbas's announcement at the UN General Assembly in September 2019 that he intended to hold elections was meant to address a letter Hamas had sent the UN Secretary-General earlier, disputing Abbas's legitimacy as the exclusive representative of the Palestinians. Hamas thus agreed to the terms of elections set by Abbas, including holding proportional representation elections only and dispensing with the block vote, on whose basis half of previous PLC members were elected, as well as separating the PLC election from the presidential election. This was contrary to past agreements between the organizations.

Abbas, however, has cast the question of participation of East Jerusalemites as a core issue that could obstruct the elections. Their participation is anchored in the interim accord (Oslo II) signed by Israel and the PLO in September 1995, which is still in force

and sets out the provisions for residents of the city's eastern sector to take part in the elections – including criteria for eligible candidates.

In a speech on January 1, 2020 aired at a Fatah rally in the Strip, Abbas reiterated: "We will not hold elections without Jerusalem being at their heart, meaning that every Jerusalem resident will vote from the very heart of East Jerusalem." In other words, Abbas is challenging Israel to allow voting at post offices – the format of previous elections and which is anchored in the Oslo II accord – while signaling that there should also be voting stations at locations other than post offices, knowing that Israel would refuse such a demand. Hamas, by contrast, sees this demand as a pretext, and made clear that "there is no reason to delay the presidential decree on the elections after all the factions agreed to holding them." Hamas believes that Abbas fears a confrontation with Israel if it does not allow East Jerusalem residents to take part in the elections. Hamas would be interested in mounting a joint struggle of this kind, which would also entail mobilizing a mass protest against Israel. The organization's leadership assumes that it would thus be possible to charge the Palestinian resistance batteries, lift the public's spirits, and dislodge Israel's exclusive decision making power over the elections. It is precisely this that Abbas fears – specifically, a destabilization of the West Bank. Therefore he has tried to drum up international pressure on Israel to allow the participation of East Jerusalem residents in the elections, and is demanding guarantees before he issues his decree; or, alternatively – and, for him, preferably – for the international community to cease calling for elections to be held, and for Israel to bear the blame for foiling the initiative. Abbas is involving the international community, including with his speech at the UN, and is thus roping it into responsibility for whether or not the elections are held.

Given the corner into which he has boxed himself, Abbas presumably faces the following options:

- a. Postponing the elections until after the Israeli Knesset elections in March, in the hope that a government will be elected that will not object to the participation of East Jerusalem residents in the PLC elections; and continuing to appeal to European states to pressure Israel to allow East Jerusalem participation, or alternatively, appealing that Europe cease the calls for elections.
- b. Holding elections in the Jerusalem outskirts, which would entail setting up polling stations in districts abutting the city's east, or outside of it – a move that he believes Israel would likely accept. It would spell difficulty for residents of the city's eastern sector to reach the polling stations, a lower number of voters, and a blow to Abbas's credibility after he demanded elections be held in the heart of East Jerusalem.

- c. Holding elections without the participation of East Jerusalem residents, which would be an embarrassment for Abbas and a boon for Hamas.
- d. An alternative to elections: If elections are not held, and the split between Fatah and Hamas persists, the expectation is that demands will surface for an alternative mechanism for managing Palestinian affairs. While visiting Qatar in November 2019, Abbas heard a call for Fatah-Hamas power-sharing.

In any event, Abbas will be required to deliberate with the various Palestinian factions and organizations in order to share responsibility for what happens and thereby spare himself criticism as someone who does not keep his word. The two PLO member groups, the Popular Front for the Liberation of Palestine and the Democratic Front for the Liberation of Palestine, are likely to support him. However, from the Palestinian Authority's standpoint, the absence of elections or talks on inter-factional reconciliation with Hamas are liable to bolster separatist trends, the option of a separate arrangement between Hamas and Israel, and fears that the "deal of the century" might be brought in through the back door – namely, the Gaza Strip.

Israel for its part has decided not to respond to Abbas's request for East Jerusalem residents to take part in the PLC elections as long as the presidential decree has not been issued. However, Israel must not allow itself to be cast as the party preventing PLC elections. As far as it is concerned, there is some risk to PLC elections at this juncture. Fatah's weakness, its unreadiness for elections, the numerous splits within its ranks, and above all the sense of superiority that its people evince toward Hamas, given what they deem as its resounding failure in managing the affairs of the Strip – all these elements attest to Fatah's not having learned the lessons of the 2006 PLC elections and are liable to play into Hamas's hands. Israel would do well to speak with PA figures through back channels to understand how it can help prevent negative fallout from the elections, and brief European powers on the risk inherent in the elections to the very existence of a Palestinian Authority that prevents violence, and to its post-Abbas future.

In addition, in parallel to talks with Palestinian Authority and European representatives with a view to postponing the elections, Israel would do well to condition voting in East Jerusalem on an a priori announcement by Hamas and all factions participating in the elections that they accept the terms set out in the Oslo accords regarding a rejection of the path of terrorism and violence. Israel would similarly do well to set out the three prerequisites of the Quartet for dialogue with Hamas after its election in 2006 – recognition of Israel, a renunciation of terrorism, and respect for agreements signed by the PLO and Israel – as a condition for the participation of any party or faction in the elections.

Hamas and the other organizations, with the exception of Fatah, would probably reject this demand. However, responsibility then would not rest in Israel's court, and it would be made clear – again – that Palestinian Authority elections are meant to be run according to the Oslo outline and this alone, and that no indirect legitimacy will be lent to movements and organizations that champion terrorism. It would emphasize to one and all Israel's commitment to the framework of the accords. It would also serve to strengthen Abbas's course, which favors political struggle and security coordination with Israel as the preferred path toward Palestinian independence, and to thwart Hamas's aspiration of using the elections as a platform for bolstering its political clout and appeal as a legitimate alternative within the Palestinian system. It is therefore in Israel's interest to observe both the terms defined by the international community for Hamas on the one hand, and the arrangements anchored in the peace accords, on the other.