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When are the next Palestinian elections?

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The schedule of next elections for the President of the Palestinian National Authority (PNA) is a matter of debate between Fatah and the PA on one side and Hamas on the other. This Q&A paper seeks to answer some questions regarding the schedule of elections.

Is the schedule of the Palestinian elections a matter of political decision or legal framework?

The Palestinian legal framework does indeed provide the basis for scheduling elections in both regular and early elections.

What are the sources of legal framework for the elections' schedules?

The Basic Law and the Elections Law.

If the next Palestinian elections were to be regularly scheduled, when should they be held according to the legal framework?

The Palestinian Basic Law and the Elections Law do not provide a clear answer to this, and they are somewhat contradictory. For example, the Presidential term is limited to four years, but the date of the next elections is tied to the Palestinian Legislative Council (PLC) election. The four year limit was introduced into both the Basic and the Elections Law in 2005.

What does the Basic Law actually say?

The amendments to the Basic Law (*from August 2005*) stipulate that "*the term of the presidency of the National Authority shall be four years*" (Article 36). Taking into account that President Abbas was elected in January 2005, this means that his presidency will need to be terminated in January 2009 in order to be compliant with the law.

What does the Election Law say?

The Elections Laws (*both 2005 and 2007 versions*) confirm the four year limit, but they also state that the next Presidential elections will be held at the same time as the PLC elections. As the term for the PLC elections is also four years and the PLC was elected in January 2006, this would mean that the next Presidential and PLC elections will be held in January 2010.

Why are we mentioning both the 2005 and 2007 Election Laws?

Because of the dispute on which Elections Law is in power.

The 2005 Elections Law was enacted through regular legislative procedure and signed by President Abbas in August 2005. The 2007 Elections Law was drafted by the President's office and enacted by the President by decree in September 2007. The 2007 law (*as all laws enacted under "emergency*

government”) should be ratified by the PLC (Article 120 of the 2007 Elections Law and Article 110 of the Basic Law), but this is on hold as the PLC is not operational.

Are there differences between the 2005 and 2007 Elections Laws on the term of the President?

Both laws use virtually the same language regarding the duration of Presidential terms:

- 2005 law, Article 2: *“The presidential office term shall be four years subject to re-election for only two consecutive terms”*;
- 2007 law, Article 3: *“The presidential office term shall be four years. He/she shall not be elected for more than two terms”*.

Both laws also have similar language on holding Presidential elections at the same time as the PLC elections:

- 2005 law, Article 111: *“The new presidential elections shall be conducted by the end of the legislative term of the first elected Palestinian Legislative Council after the enforcement of the provisions of this amended law and in accordance thereof”*.
- 2007 law, Article 116: *“Without violating the provisions of Articles (105 and 106) of this law, the next presidential elections shall be conducted at the same time with the first legislative elections that shall be conducted by virtue of this law”*.

Why is there a contradiction over the length of the Presidential term and the dates of the elections?

The provision to hold Presidential and PLC elections at the same time are a “relic” from the 1995 Elections Law. This was “one time use” temporary law to create “interim” Palestinian Authority institutions, as Palestinians expected to establish a state before the next elections.

Which is the correct reading of the legal framework? Which law has supremacy?

Arguably, the Basic Law, as the Basic Law is a “temporary constitution”. However, the four year term limit was introduced with the Basic Law amendments in August 2005, after 2005 presidential elections. *Nulla poena sine lege* legal principle would commend that these amendments do not apply to the current term of the President Abbas, as he was elected before the introduction of the explicit term limit. On the other hand, cited principle is arguably applicable to penal codes and not to constitutional matters.

What about arguments of the “Fatwa and Legislation Office” that President Abbas should serve until 2010?

Fatwa and Legislation Office (FLO) claims that President Abbas was just continuing Arafat’s term. According to FLO, Abbas started with his term at the time of PLC elections, since the Presidential and PLC elections were “single elections with two different dates”.

What about early elections?

The legal framework does provide a basis for early Presidential elections in case of death, resignation and disqualification (*by the Supreme Constitutional Court and PLC*). However, the legal framework does not provide a basis for early PLC elections.

So, when are the next Presidential elections?

Whenever there will be a political agreement to hold them.