

PALESTINIAN TERRITORIES

INTRODUCTION

In the first Palestinian elections in 1996, held in pursuance of the Oslo accords, the civil registry “served as the principal but flawed means of identifying potential voters”¹⁹² and the Palestinian Central Election Commission (CEC or the Commission) conducted a door-to-door canvass to compile a voters list. An estimated 75 percent of the electorate in the West Bank and Gaza turned out to elect a president and an 88-member Legislative Council.¹⁹³ In 2004, the CEC conducted its first voter registration drive, during which all Palestinians were invited to appear personally to register to vote.¹⁹⁴

Palestinians voted in several elections between 2004 and 2006 and again in 2012, including for president in 2005. Overall, Palestinians and the international community largely accepted the results of the elections. Nevertheless, observers

identified a number of shortcomings including: inadequate arrangements for voting by East Jerusalemites . . . the continuing use of the civil registry—widely viewed as an unreliable means of verifying voter eligibility—alongside and despite the creation of a new and improved voters register . . . and last minute changes in election procedures that led to confusion among voters, candidates, observers and election officials.¹⁹⁵

Since 2004, there have been several successful registration updates in the West Bank, albeit with few elections and with efforts in Gaza and Jerusalem seriously curtailed by the rivalry between Fatah and Hamas and by the Israeli authorities, respectively. In general, the efforts of the CEC have been challenged by security concerns, restrictions on freedom of movement as a consequence of the occupation, tensions over how to register Palestinians living in East Jerusalem, and internal political fights between and among Palestinian political factions. As most recently noted:

The impact of the Israeli occupation on the electoral process and democracy building within the OPT [Occupied Palestinian Territories] cannot be underestimated, as it profoundly impedes the exercise of Palestinian rights of assembly, association, speech, movement and other fundamental freedoms. Moreover, the impasse within the Palestinian political system, particularly the conflict between Fatah and Hamas, cannot be disconnected from this wider framework of disempowerment and the lack of the right to self-determination.¹⁹⁶

192 *Final Report on the Palestinian Legislative Council Elections*, National Democratic Institute, 2006, <https://www.ndi.org/node/13641>, 8.

193 Aref Jaffal, Director, Arab World Democracy & Electoral Monitor, email message to author, February 4, 2014.

194 Hisham Kuhail, Chief Elections Officer (CEO), Palestinian Central Election Commission (CEC), email message to author, February 3, 2014.

195 National Democratic Institute, *Final Report*, 5.

196 *Palestine Electoral Study Mission Urges Political Reconciliation*, The Carter Center, October 21, 2012, <http://www.cartercenter.org/news/pr/occupied-palestinian-territory-102112.html>, 1.

Despite this challenging context, as of the last voter registration exercise in March 2015, the CEC reported the total number of registrants in the West Bank and Gaza Strip as 1,951,799, making up 78.6 percent of the total eligible population. There are now 1,144,832 registrants (74.9 percent) in the West Bank and 806,967 registrants (84.6 percent) in Gaza.¹⁹⁷

INTERNATIONAL AND REGIONAL AGREEMENTS

Evaluation under international law needs to be made within the parameters of this unique context. Technically, the non-state status of the Palestinian Territories precludes the government from officially ratifying international treaties. However, the Palestinian Liberation Organization (PLO) and the Palestinian Authority (PA) have voluntarily committed to a series of international and regional human rights treaties, the provisions of which are relevant for the electoral process and are considered binding on Palestinian institutions in this sense. These treaties include the Arab Charter on Human Rights, the Universal Declaration on Human Rights, the International Covenant on Economic, Social and Cultural Rights (ICESC), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).¹⁹⁸ With respect to CEDAW, the Palestinian Authority has pursued efforts to increase the participation of women, although given its current status it is, unfortunately, not compelled to submit a state report to the CEDAW committee.¹⁹⁹

LEGAL FRAMEWORK

Elections in the Territories are governed by the Basic Law of 2003, considered the basis for a future constitution, and the Election Law by Decree of 2007. Previous elections were held in accordance with the Election Law of 2005, the Election Law of 1995 (meant only to be used once), and very early on, officially, the Palestinian-Israeli Interim Agreement on the West Bank & Gaza Strip Annex II, Protocol Concerning Elections.

Notably, the CEC was established in October 2002 under the General Elections Law of 1995. The 2005 law went further and made clear that the CEC is “the supreme body that undertakes the management, supervision, preparation and organization of elections and to take all necessary measures to ensure its integrity and freedom.” Article 22 of the law further clarified the CEC as “a permanent body with corporate personality and administrative and financial independence.”

A key provision in the Basic Law is Article 9, which provides that “Palestinians shall be equal before the law and the judiciary, without distinction based upon race, sex, color, religion, political views or disability.” Article 26 states that “Palestinians shall have the right to participate in political life, both individually and in groups. They shall have the following rights in particular: . . . To vote . . . in order to have representatives elected through universal suffrage in accordance with the law.”

197 “The CEC Publishes the Updated Voters List,” Central Election Commission, May 18, 2014, <https://www.elections.ps/tabid/40/language/en-US/Default.aspx?IDL=560>.

198 The Carter Center, *Electoral Study Mission*, 3.

199 See *National Situation Analysis Report: Women’s Human Rights and Gender Equality, Occupied Palestinian Territory*, EUROMED Gender Equality Programme, 2010, <http://www.enpi-info.eu/library/content/national-situation-analysis-report-women%E2%80%99s-human-rights-and-gender-equality-palestinian-terr>.

The presidential decree of 2007 overrides the 2005 law and sets out the election and voting system in the Territories, including with respect to registration, as follows.

Administration: The nine commissioners of the CEC are chosen by the president of the Palestinian National Authority.²⁰⁰ In a change criticized by some international elections analysts,²⁰¹ the commissioners of the CEC can also be changed at will by the president. Article 9 of the 2007 election decree further says that the Commission “shall be composed of nine members to be selected from the Palestinian judiciary, academics and experienced lawyers and others.” No further criteria are suggested. Under Article 13, the Commission is responsible for appointing members of the registration centers, approving registration centers, and adjudicating challenges related to registration.

Eligibility: According to Article 27 of the Election Law, a person can register to vote if he or she was born in Palestine as defined by the borders of the British Mandate or was entitled to be a citizen during that era; if he or she was born in the Gaza Strip, the West Bank or Jerusalem; if his or her ancestors fall into one of these aforementioned categories regardless of where he or she was born; or if he or she is a spouse of a Palestinian. Significantly, Article 28 provides that every Palestinian in the West Bank, Gaza and Jerusalem who meets these requirements shall enjoy the right to vote regardless of religion, political affiliation or social, financial or social status. However, this provision does not include gender, or ethnic or national origin.

Among those not eligible to register are those “deprived of that right by virtue of a final judicial decision throughout the term of such a ruling.” It is unclear what types of acts might be punishable by disenfranchisement. Also ineligible are those judicially declared incapacitated. Article 29 states that anyone “convicted of a felony which violates honor and integrity and not reinstated as per provisions of law” is ineligible. It is not evident what felonies violate “honor and integrity” and how this is determined. Finally, Article 29 states that anyone who has acquired Israeli citizenship may not register to vote. There is nothing to say that acquiring a second nationality other than Israeli citizenship is disqualifying; such a provision could be considered discriminatory under international obligations.

Registration Process: The voter registration process in the Palestinian Territories is an active one—citizens must initially take active measures to get on the voters list and continuously ensure their information is accurate and up-to-date. A voter registers to vote in a center based on residency and votes in the same place where registered. Registration must be in person, though it also may be done by a proxy or through a relative up to the second degree—a brother, sister, grandfather, grandmother or grandchild.²⁰² According to the language of Article 30, a Palestinian who has lived in the Territories for a year but was not part of a registration exercise may request to be added to the list by the Commission.

In order to register, a Palestinian citizen must appear at the registration center closest to his or her home during the designated registration period and with the necessary documents that prove age, identity,

200 “About the CEC,” Central Elections Commission, 2015, <http://www.elections.ps/tabid/709/language/en-US/Default.aspx>.

201 Vladimir Pran, Jarrett Blanc, Richard Atwood and Ammar Dwaik, “Notes on the New Elections Law,” International Foundation for Electoral Studies, September 2007, <http://www.ifes.org/-/media/Files/Publications/Election%20Law/2007/1350/Notes%20on%20the%20new%20Palestinian%20Elections%20Law.pdf>.

202 Hisham Kuhail, email message to author.

Palestinian citizenship and place of residence.²⁰³ Most Palestinians in the West Bank and Gaza today have a national identity card issued by the PA that can be used as proof. If a Palestinian does not have such a card, he or she can use a foreign passport with a birth certificate that proves a right to Palestinian citizenship, pursuant to a 2004 CEC by-law.

The Commission must update the voters list annually and/or preceding every election. An update is effected by “auditing the registry, opening the registry for new voters and declaring the registry for challenge.” Article 31 allows for a practice whose use in earlier laws and elections was criticized by election observers (further discussed below): the use of the civil registry to supplement the voter registration process.²⁰⁴ Article 31 also mandates that the registration process be “public and open to the scrutiny of international and local observers, to journalists and representatives of the media.” Other measures that support a transparent process are the requirement that the final registry be published at the electoral area office seat (Article 35) and that copies of the voters list be posted in the polling center and made available to voters, observers and candidates (Article 75).

According to the Chief Election Officer of the Commission, to ensure the process is as inclusive as possible, the CEC conducts registration drives at refugee camps and sends mobile units to schools, city centers and remote areas to conduct door-to-door registration.²⁰⁵

The practice is different for Palestinians living in Jerusalem. According to the 1993 Oslo Agreements, only 6,000 Jerusalem ID holders can vote and they must do so at designated post offices; however, the CEC considers all Jerusalem residents to be registered. Therefore, all residents are put on the voters list and permitted to vote on election day in any designated voting center in the suburbs of Jerusalem, which Israel considers part of the West Bank. They must, however, have the “blue” Jerusalem ID card²⁰⁶ (see below) and proof of residency, such as an electricity bill.²⁰⁷

Challenges and Adjudication: Under Article 32, a person whose name has not been included or was recorded incorrectly may appeal to the registration center staff; anyone can object to the inclusion of a voter to the staff as well. Such appeals must be filed within five days of publication of the list, and the center staff must decide within three days thereafter. There is a three-day window for appeals to the electoral area office, which must decide within three days. The decision of the electoral area office is appealable to the Commission.

Under Article 17, a voter has three days to challenge a decision by the Commission regarding registration, and the Commission must decide upon that challenge within three days of its filing. The decision can then be appealed to the court. Under Article 20, the Election Cases Court is composed by presidential

203 “Article 16: The Registration,” Election Law no. 15, Central Elections Commission, 1995, <http://www.elections.ps/tabid/1089/language/en-US/Default.aspx>; “Where Do I Vote?” Central Elections Commission, 2015, <https://www.elections.ps/tabid/887/language/en-US/Default.aspx>.

204 Pran et al., “Notes.”

205 Hisham Kuhail, email message to author.

206 Hisham Kuhail and Aref Jaffal, email messages to author.

207 “Jerusalemites Are Automatically Registered in the Voters List,” Central Elections Commission, February 17, 2013, http://www.lfd.ps/documentsShow.aspx?ATT_ID=6844.

decree of a president and eight judges, upon the recommendation of the Supreme Judicial Council.²⁰⁸

The CEC allows Palestinians living abroad to register to vote. The voter's father, mother, daughter, son, husband or wife, or a certified power of attorney, can register him or her by proxy by sending the CEC a copy of the voter's identification. However, one must vote in the Palestinian Territories on election day; there is no voting from abroad.²⁰⁹

RECENT VOTER REGISTRATION UPDATES

2013

Although the CEC updates the voters registry periodically,²¹⁰ its most recent significant registration initiative was undertaken in 2013²¹¹ and included both the West Bank and Gaza Strip. Registration was conducted in hopeful anticipation of elections for parliament and president. Technically, the law requires elections to be held within three months of registration.²¹² This, however, has not come to pass.

The Commission conducted the voters registry update between February 11 and 20. According to official news reports,

The CEC said a total of 1,861,211 people, of which 1,090,575 were in the West Bank, not including East Jerusalem Palestinians, and 770,636 in Gaza Strip, have registered to vote, increasing the percentage of registered voters in all the Palestinian Territories from 69.1% to 82.1%. . . . The percentage of registrants now stands at 77.7% in the West Bank and 89.1% in Gaza, said the CEC, of which 52% are males and 48% females.²¹³

These are remarkable numbers, especially given the circumstances, and the gender balance in the registration rates is also notable. That the CEC actually disaggregates the data by gender at all is unusual and commendable.

The CEC opened 373 registration centers in the West Bank.²¹⁴ The 2013 exercise was particularly remarkable because the CEC was also able to operate in Gaza. In earlier exercises, Hamas had blocked

208 The Supreme Judicial Council is the highest body of the Palestinian Judicial Authority. "The council was established in accordance with the provisions of the Law of the Judicial Authority No. (1) of 2002. The council's membership is as follows: 1. Head of the High Court 2. High Court Senior Judge 3. Two judges from the High Court 4. President of the Court of Appeals in Gaza, Jerusalem, and Ramallah 5. The Attorney General 6. The Undersecretary of the Ministry of Justice." Supreme Judicial Council, Second Annual Judicial Conference "Toward an Independent Judicial Authority," July 16-18, 2009.

209 "Voter Registry Update 2013," Central Elections Commission, <http://www.elections.ps/tabid/1089/language/en-US/Default.aspx>.

210 "The CEC Announces the End of Voter Registry Update for 2015," Central Elections Commission, March 5, 2013, <https://www.elections.ps/en-us/home.aspx?IDL=576>.

211 Ahmad Melhem, "Palestinian Elections on Hold until Further Notice," *Al-Monitor*, October 28, 2014, <http://www.al-monitor.com/pulse/originals/2014/10/palestine-presidential-parliamentary-elections-on-hold.html>.

212 Nidal al-Mughrabi, " Hamas Allows Gaza Voter Registration in Step to Heal Palestinian Split," *Reuters*, January 30, 2013, <http://mobile.reuters.com/article/idUSBRE90T0WM20130130?irpc=932>.

213 "Elections Commission Completes Voters Registry," Palestinian News and Information Authority, April 10, 2013, <http://english.wafa.ps/index.php?action=detail&id=22103>.

214 Central Elections Commission, "Voter Registry Update 2013."

such operations as a result of political disputes with Fatah. The Gaza operation included an effort to register 350,000 citizens, many for the first time, by 351 CEC staff at 256 schools based upon lists provided by the Ministry of Interior. It was the first time since 2006 that voter registration was conducted in Gaza.²¹⁵ At the end of the process, it was estimated that more than 300,000 Gazans did indeed register to vote. According to the CEC at the time, “Registration centers witnessed an unprecedented registration turnout, especially in Gaza Strip. The CEC deployed mobile registration teams to universities and schools to register youth.” As of February 19, 422,000 Palestinians—of which 90,000 are in the West Bank and 332,000 are in the Gaza Strip—have participated in the voter registration process. The lowest registration turnout was in Hebron, where only 66 percent of the eligible population registered.” The registration period was indeed extended for two days due to heavy turnout.²¹⁶ There was some criticism of the process as too slow.²¹⁷

2012

Although voter registration preparations were initially undertaken in the hopes of preparing for presidential and parliamentary elections in May 2012, the process became ensnared in divisions between Fatah and Hamas; in early July, Hamas suspended the work of the CEC in Gaza, the day before it was set to start registering voters.²¹⁸ Hamas claimed it made this move because Hamas supporters were being repressed and Hamas representatives were not allowed to supervise the process.

Registration did take place in the West Bank in August 2012 in preparation for municipal elections.²¹⁹ According to the CEC, 754 voter registration centers were open for five days, from 9 a.m. to 2 p.m. Sunday through Thursday. The last time the registry had been updated was in March 2011.²²⁰

Voters elected representatives in 98 municipal councils, 245 village councils, and ten local councils in the West Bank. The Jerusalem district was also included but the voting centers had to be located on the outskirts of city, not in East Jerusalem itself.²²¹ Although Hamas boycotted the polls, these were nonetheless the first elections in the Territories since 2006.

Despite the political challenges and the practical complications of implementing registration in the context of occupation, the CEC was praised for its performance. Nonetheless, it was also noted by observers that participation in registration was lower than expected, “possibly due to reduced working hours of the registration centers during the month of Ramadan.”²²²

215 “Voter Registration Starts in Gaza, West Bank,” *Agence France-Presse*, February 11, 2013.

216 Mohammad Suliman, “Gazans Hope Elections Will End Palestinian Stalemate,” *Al-Monitor*, February 20, 2013, <http://www.al-monitor.com/pulse/tr/originals/2013/02/gaza-street-reacts-elections.html>.

217 Suliman, “Gazans Hope.”

218 See *Implementation of the European Neighbourhood Policy in Palestine, Progress in 2012 and Recommendations for Action*, Joint Staff Working Document of the High Representative of the European Union for Foreign Affairs and Security Policy, March 20, 2013, http://eeas.europa.eu/enp/pdf/docs/2013_enp_pack/2013_progress_report_palestine_en.pdf, 5.

219 Fares Akram and Isabel Kershner, “Hamas Suspends Voter Registration Process in Gaza,” *The New York Times*, July 12, 2012, <http://www.nytimes.com/2012/07/03/world/middleeast/hamas-suspends-voter-registration-in-gaza.html>.

220 The Carter Center, *Electoral Study Mission*, 4.

221 “CEC: Voter Registration Opens in West Bank,” *Maan News*, August 5, 2012, <http://www.maannews.net/eng/ViewDetails.aspx?ID=510110>.

222 The Carter Center, *Electoral Study Mission*, 4.

REGISTRATION PROCESS AND RESULTS 2004-2006

Presidential Election

The presidential election of January 2005 was administered in accordance primarily with the Basic Law, a protocol between Israel and the PLO concerning elections, and the 1995 Election Law. The 2005 law, which was much more expansive, had not yet been passed. However, existing law did establish the independence of the CEC and charged subordinate District Election Commissions to supervise voter registration and Polling Station Commissions to conduct voter registration.

With respect to voter registration more specifically, the election law of the time, similar to later versions, allowed registration to Palestinians born in Palestine as defined by the British Mandate; born in Gaza, the West Bank or Jerusalem; who had ancestors born as such; or were the spouse of a Palestinian. Those with Israeli citizenship were not permitted to register. Voters were required to be 18 years old on election day, enrolled on the voters list, and not deprived of the right to vote by a court.²²³

In September and October 2004, the CEC held a six-week voter registration exercise, and a further six days of registration after the death of President Yasser Arafat. A total of 1,282,524 people, between 71 and 78 percent of the eligible electorate, registered to vote. This was an impressive rate given that no election was necessarily imminent; there was minimal party mobilization, including in refugee camps and in big cities; and numerous military clashes in Gaza during this period “result[ed] in the closure of dozens of registration centers.” The early shutdown in East Jerusalem also severely depressed the registration rate, although just before election day the CEC was permitted to undertake door-to-door registration of voters for a week.²²⁴

In December 2004, against the wishes of the CEC, the Palestinian legislature passed a bill allowing the use of the civil registry as a supplement to the voter registration list, enabling 700,000 people not on the voters list to cast a ballot on election day. This led the CEC to institute use of an inking procedure at polling places to ensure against multiple voting and to set up special polling stations for voters just on the civil registry, which greatly complicated the CEC’s tasks.²²⁵

A major challenge to the system was that, under the terms of the arrangements between Israel and the PLO, all elections activities in Jerusalem were required to be conducted by Israeli postal officials in five post offices, severely limiting the opportunity for Palestinians in this area to participate. For example, because of disputes among the authorities and an Israeli prohibition on Palestinian election officials making preparations until just before the election, the “final voters lists for Jerusalem were only completed on the day before the election, and were incorrectly delivered to polling places.” The registration of voters was closed down very early in Jerusalem on September 13 after a series of raids by Israeli authorities.²²⁶

NDI commended “the CEC for the high level of proficiency with which the new register was compiled,” noting that voter registration centers were established throughout the area mostly at schools, which

223 *Final Report on the Presidential Elections*, European Union Election Observation Mission to West Bank and Gaza, 2005, http://www.eods.eu/library/FR%20WEST%20BANK%20AND%20GAZA%202005_en.pdf, 22.

224 European Union, *Final Report*, 22.

225 European Union, *Final Report*, 23.

226 European Union, *Final Report*, 17.

would then be used as polling stations. However, NDI criticized the last minute change to the election law mentioned above that allowed the use of the civil registry as a basis for allowing people to cast a ballot, commenting that “the registry, a document compiled for purposes unrelated to voting, was known to be inaccurate and to contain the names of hundreds of thousands of people who had died or emigrated.” The 2005 law, passed after the election, did eliminate the use of the civil registry as an alternate source of identifying and allowing voters to vote.²²⁷

In the end, according to the European Union (EU) Election Observation Mission (EOM), given the circumstances, the CEC conducted a “highly credible exercise, and the resultant preliminary Final Voter List was proven to be reliable.”²²⁸

Legislative Elections

Palestinian Legislative Council (PLC) elections were held in 2006 under the provisions of the new 2005 election law. The CEC undertook a number of voter registration drives in anticipation of the election, earning high praise from observers:

A total of 1,332,499 voters were registered for this election, an impressive increase of over 240,000 (21 percent) on the number of voters registered for the January 2005 presidential election. The increase reflected a range of effective steps taken by the CEC to improve the accuracy of the voter register. These included a process of running “rolling” registration of voters, sustained levels of excellent voter education and a number of “registration drives” that targeted non-registered voters, the last taking place in December 2005.²²⁹

Registration did require proof of identity, including an address in the West Bank, Gaza or Jerusalem, and the EU did express some concern about the under-registration of minority groups, especially of the Bedouin, while noting that the CEC did attempt to run mobile registration in these communities.²³⁰

The biggest challenge was again Jerusalem:

The registration of an estimated 130,000 eligible voters in East Jerusalem was not permitted by the Israeli authorities. The EU EOM was informed by the CEC that attempts to implement voter registration in May 2005 were blocked and had led to the temporary arrest of CEC registration staff. Following the late decision by the Israeli authorities to allow voting for some Palestinian voters in certain post offices, it was not feasible to create a realistic voter register of those voters eligible to vote. Ahead of election day, an innovative system of issuing “voter allocation tickets” was devised in lieu of a voter register to ensure that 6,300 eligible voters could be allocated to specific post offices. The allocation of tickets was undertaken over three days by voluntary groups at a series of locations, such as schools, with tickets being issued to voters showing proof of eligibility, i.e. an Israeli identification card showing a Palestinian aged over 18 resident in Jerusalem. All available tickets were issued. All other eligible non-registered voters resident in East

227 National Democratic Institute, 8.

228 European Union, *Final Report*, 23.

229 European Union, *Final Report*, 16.

230 European Union, *Final Report*, 16.

Jerusalem were able to vote in special polling stations in the West Bank areas of Jerusalem district upon proof of identity as a resident of East Jerusalem.²³¹

ISSUES UNDER INTERNATIONAL LAW

The inability of Palestinians living in Jerusalem to register to vote is an ongoing problem, and another casualty of the larger ongoing Israeli-Palestinian dispute. The CEC has certainly handled the situation in the best way possible in the last several years, but it is still far from ideal. The CEC is confident that despite the fact that one can register and vote on election day with an identification card, the protections in place—including the use of indelible ink to prevent double voting—will prevent fraud, and this is not widely disputed. As a general matter, voter registration in advance of the election can be advantageous in providing information on who is on the registry and where they will be voting, and some believe it is necessary to verify voter eligibility, including through challenges to eligibility by members of the public. In this instance, it seems that the system put in place under difficult circumstances is more or less working. The more challenging issue seems to be the obstacles such a system places on the ability of Palestinian Jerusalemites to vote, as most of them must do so in suburban polling sites that are not necessarily in close proximity to their homes. Moreover, given that it does take place in the West Bank and Gaza, Jerusalemites' exclusion from the voter registration process, which is a very central element of the Palestinian election system, is unfortunate from the perspective of the election principles described in numerous international treaties.

While the EU has expressed some concern over the full registration of some minority groups such as the Bedouin, the EU itself remarked and the CEO of the CEC has confirmed that it makes use of mobile registration to try to address these needs. The extent of these operations, and how successful they are, remain unclear.

There are some questions around some of the eligibility requirements. Article 28 provides for the right to vote regardless of religion, political affiliation, social, financial or social status, but as noted, this provision does not include gender, or ethnic or national origin. This becomes more interesting when paired with the bar on anyone with Israeli citizenship registering to vote. As a practical matter, it is unlikely this arises as a major problem. In principle, however, the ICCPR bars discrimination on the basis of birth or national origin.

Under Article 29 of the Palestinian law, among the disenfranchised are those who are “deprived of that right by virtue of a final judicial decision throughout the term of such a ruling.” Given the need for consistent application of the law, it might be clarified what types of acts are punishable by disenfranchisement. Similarly, Article 29 states that anyone “convicted of a felony which violates honor and integrity and not reinstated as per provisions of law” is ineligible. It is not evident what felonies violate “honor and integrity” and how this is determined.

International observers have cited obstacles to free movement as a problem and the CEC has complained strenuously about barriers to freedom of movement due to the Israeli occupation and the impact they have on preparing for and implementing registration and elections. The CEC has reported road closures

²³¹ European Union, *Final Report*, 17.

that have prevented Palestinians from reaching centers to register to vote and that have blocked election workers from bringing necessary materials to registration centers.²³² This is potentially a violation of international law, though it is difficult to apply when dealing with a state of occupation. Both the UN Declaration of Human Rights and the ICCPR recognize a general right to freedom of movement, and one would think this would especially apply in the context of the conduct of elections, with all due consideration given to security needs.

While the idea of proxy registration is not unique to the Palestinian Territories in the region, and there is no proxy voting, allowing any number of relatives to register another relative to vote could create theoretically create problems. It could open the door to manipulation and the registration of a person who does not wish to register, registration under an incorrect name or address, or more than one person making an application for registration. It is unclear whether this has been a problem in practice.

Another matter worth mentioning is the manner of appointment and composition of the CEC, even though it has done well under difficult circumstances, especially in achieving high registration rates in the West Bank and Gaza. Currently, although the Commission is independent, CEC members are appointed by presidential decree. Increasingly, many countries are opting for complete independence with a form of appointment that provides greater impartiality, resulting in stronger public trust. That is not the process in the Territories. As NDI has suggested in the past,

The procedures should provide for broad input on potential CEC members and incorporate adequate checks and balances in the process. On balance, the appointment system must guarantee the impartiality and competence of the individual members and a body that warrants public confidence in its independence and effectiveness. In accordance with general practice elsewhere, once appointed, Commissioners should be allowed to elect their own chair from among their members. The procedures for the recruitment of the Chief Electoral Officer and the necessary qualifications should also be regulated by law.²³³

232 “Elections Under Occupation,” Central Elections Commission, 2015, <http://www.elections.ps/tabid/732/language/en-US/Default.aspx>.

233 National Democratic Institute, *Final Report*, 19.