



THE
CARTER CENTER



STATEMENT OF THE NATIONAL DEMOCRATIC INSTITUTE/CARTER CENTER PRE-ELECTION ASSESSMENT OF THE PALESTINIAN LEGISLATIVE COUNCIL ELECTIONS

Jerusalem, 06 January 2006

Introduction

This statement has been prepared by the National Democratic Institute (NDI) in partnership with The Carter Center. NDI and the Carter Center examined the technical preparations and political dynamics surrounding the upcoming Palestinian Legislative Council (PLC) elections in the West Bank and Gaza, currently scheduled for Wednesday, 25 January 2006. In addition to drawing on the observations of ten long-term observers stationed throughout the West Bank and Gaza since December 1, 2005, the delegation conducted a series of meetings with electoral authorities, campaign representatives, Palestinian and Israeli governmental officials, representatives of domestic and international monitoring organizations and political party leaders.

The group conducting the assessment included: Leslie Campbell, NDI Senior Associate and Director of Middle East and North Africa programs; Michael Murphy, Director of NDI's Programs in the West Bank and Gaza; Colin Stewart, Director of the Carter Center's West Bank Gaza Field Office and Vladimir Pran, NDI Senior Program Officer for Elections.

This pre-election assessment is part of a comprehensive international observation effort for the 25 January PLC elections being organized by NDI in partnership with the Carter Center. The assessment forms part of NDI comprehensive two-year program to monitor the electoral process in the region, which has included the placement of long term observers in Jerusalem, the West Bank and Gaza, observation of the 2005 Palestinian Presidential Election and observation of all five rounds of Palestinian local elections. All reports are available at www.ndi.org <<http://www.ndi.org/>>. The pre-election assessment and the international observer delegation are supported by a grant from USAID.

Background

The 2006 PLC elections, being organized under the difficult circumstances of the ongoing conflict and occupation and being held shortly after the Gaza withdrawal, will pose tremendous challenges for the Palestinian Central Election Commission, the Palestinian political leadership and Palestinian and Israeli security forces. Nevertheless, the importance of holding elections seven years after the PLC's original mandate has expired and after three previous postponements was emphasized to the delegation by Palestinians and the international community alike. Elections will provide a unique opportunity for political leadership renewal and institution building which could, if accomplished peacefully, pave the way for greater stability and a better future for Palestinians and their neighbors.

NDI and the Carter Center, conducting an assessment during the first several days of active campaigning, found several issues which threaten to undermine the success of the election and the delegation offers the following observations and recommendations:

Participation of Hamas

The 2006 Palestinian Legislative Council elections face a unique challenge in that they include the participation of a group, the Islamic Resistance Movement, or Hamas, that defends violence (including the killing of civilians) as a means to achieving a political end, refuses to give up arms or to declare a permanent ceasefire and is committed to the destruction of a United Nations member state, Israel. While it is in the long term interest of Palestinian democratic development and likely in the long term security interests of Israel that a wide spectrum of groups participate in lawful and peaceful political processes, Hamas' current political participation, while simultaneously advocating violence, undermines a fundamental principle of democratic elections.

In an August 2002 pre-election assessment, NDI, the International Republican Institute (IRI), and the International Foundation for Election Systems (IFES), recommended the adoption of candidacy requirements for the expected 2003 PLC elections. The 2002 report also suggested that a code of conduct be developed and enforced which committed all parties to transparent and democratic principles, disallowed election related violence and restricted individuals engaged in, or advocating violence from becoming candidates.

A code of conduct was developed by the Arab Thought Forum in conjunction with NDI in late 2005, which went some way toward this goal. While stopping short of disallowing certain candidates, the code does contain important undertakings that will help enforce peaceful and fair campaigning and promote a peaceful acceptance of the results of the polls. Most political parties have signed on to the code of conduct, and Hamas, as of January 5th, also accepted and signed the code. The international community and domestic observers should be vigilant in watching for violations.

The code is a necessary but incomplete step toward ensuring that elections are about peaceful means to achieve political ends. The Palestinian Authority and newly elected PLC should, as a priority, amend the election and party laws to ensure that political entities participate in elections fairly and peacefully and do not advocate the use of violence as a political tool. This prohibition should apply equally to all groups.

Voting in East Jerusalem

There are an estimated 120,000 eligible voters in East Jerusalem, accounting for as much as 9% of the total Palestinian electorate. Given the long-standing dispute over the status of Jerusalem, these voters have yet to obtain a reasonable opportunity to exercise their franchise.

A compromise was reached in 1995 (the Israeli-Palestinian Interim Agreement Elections Protocol, Annex II, Article IV) that provided some opportunity for Palestinian residents of East Jerusalem to vote. The arrangement, utilized during the first PLC election in January 1996 and again in the Palestinian Presidential election of 2005, utilized Israeli post offices in East Jerusalem as a location for Palestinians to cast ballots. This arrangement allowed Palestinians to cast ballots within the boundaries of Jerusalem but could also be considered a form of “postal ballot” in that ballot boxes were picked up at the end of the voting day and transported to counting centers within the West Bank administered by Palestinian election authorities.

The 1996 and 2005 arrangements for East Jerusalem were far from optimal and caused difficulties and confusion (see www.ndi.org for previous reports) but they did allow elections to go ahead. Israel has, so far, declined to offer even this imperfect arrangement for the PLC election of 2006, but has instead offered to facilitate the travel of the approximately 120,000 eligible Jerusalem voters to voting places situated outside the municipal borders of Jerusalem. The reasoning behind the Israeli stance includes a reluctance to accept that Hamas is participating in the election, and therefore an unwillingness to facilitate voting for Hamas in areas where the Israeli State -- postal authorities and police officers -- are required to facilitate such voting.

The Palestinian stance is, understandably, different. For Palestinians, the ability to vote within the municipal boundaries of Jerusalem is important for issues of Palestinian rights and important to the fair conduct of the election. Voters will be choosing six Jerusalem representatives to the PLC as well as voting for a national list in a proportional representation system. Unlike the Presidential poll, where the Jerusalem votes had little influence over the national outcome, the Palestinians argue, every Jerusalem vote will be crucial in fairly determining Jerusalem district and national representation.

It is clear that a solution to this problem is required to allow the election to go ahead. The Palestinian Authority has announced that it will postpone elections if voting in Jerusalem is not allowed, and the Central Elections Committee requires a clear announcement of intent by Israel to accomplish the requisite organization for the vote.

NDI and the Carter Center recommend the following as possible solutions to the impasse:

- 1) While recognizing its shortcomings, the preferred solution would be to reach a political agreement to allow voting with substantially the same arrangements as in 1996 and January 2005. The precedent already exists, the arrangements are familiar to voters, and, with explicit Israeli cooperation, the CEC can accomplish the necessary organizational tasks within the time left before election day. While significant problems with voting may still occur, this procedure would probably be the best available at this juncture.
- 2) A second option, which partially takes into account Israeli reluctance to facilitate voting in East Jerusalem, is to set up polling stations in private locations in East Jerusalem which may include private schools, hotels or clubs. While still requiring some Israeli security arrangements, government-owned facilities would not be utilized. A related scenario may be to utilize UN facilities for balloting within East Jerusalem.
- 3) A third option may be to organize some form of mobile balloting -- for example, buses -- which would be deployed to various neighborhoods. Ballots would be cast in Jerusalem but gathered and transported to CEC facilities in the West Bank for counting and verification.

Whatever solution is worked out, there is a need for immediate discussions between Palestinians and Israelis and a clear and effective communication to the voters is required.

Security in Gaza

Security in Gaza is deteriorating quickly and may threaten the ability of voters to cast ballots freely and without fear of recrimination. In recent days there have been a number of confirmed reports of election related violence. CEC offices have been raided and closed by gunmen, one party's campaign worker was shot and killed by a rival activist and threats of kidnapping have been issued against international election observers. Manifestations of violence and disorder, especially those near the Rafah border crossing, have had distinct political overtones. Police forces in Gaza, far from being able to impose law and order, have appealed to the Palestinian political leadership for more support, refusing in some cases to intervene to stop violent incidents on the streets.

It is not too late to provide the peaceful atmosphere necessary to the conduct of a fair election, and NDI and the Carter Center urge the Palestinian leadership to impose the necessary security to assure that the CEC can organize efficiently, that Palestinian parties can campaign freely and that voters can cast their ballots without threat of coercion.

Freedom of Movement

Freedom of movement for election organizers, candidates and campaign workers and voters is essential to the conduct of a fair and credible election. The PLC election, with multiple parties and individuals competing in both district based elections and on national

lists, demands even greater freedom of movement than the presidential poll of January 2005. The NDI/Carter Center observation delegation in January 2005 recognized the extraordinary efforts of Israelis during the Palestinian Presidential election to allow unimpeded movement through checkpoints during the campaign period, and particularly on election day. Israeli officials assured the delegation that similar freedom of movement will be ensured for the 2006 election.

The official campaign period started on January 3rd, 2006. There were numerous reports that political candidates and campaign workers were unable to move through checkpoints and isolated reports that election workers were also delayed. NDI and the Carter Center recommend that Israeli security authorities facilitate reasonable freedom of movement for bona fide candidates, campaign and election workers through the campaign period. On election day, voters should be unrestricted as they move to polling places to cast their ballots.

NDI and the Carter Center recognize that there are bona fide security concerns relating to some individuals and groups and this recommendation is not meant to minimize those concerns but to describe the minimum conditions for a meaningful election.

Campaigning in Jerusalem

On the first day of official campaigning, candidates in the Jerusalem district were prevented from campaigning near the gates of the old city. Israeli police briefly detained some candidates and dispersed the crowd. Subsequent meetings between Israeli officials and the NDI/Carter Center delegation suggest that campaigning will be allowed in Jerusalem for Palestinians under the same conditions that it is allowed in Israeli elections. Israeli authorities stated to the NDI/Carter Center delegation that Palestinian candidates will now be able to campaign freely in Jerusalem as long as there is sufficient prior coordination with the police and other relevant authorities.

The delegation welcomes Israeli cooperation and clarity in this matter and will monitor developments as the campaign progresses.

Election Administration

NDI and the Carter Center have found the Central Election Commission (CEC) to be independent, competent and professional and believe that they are endeavoring to administer the electoral process according to international standards.

The delegation also noted that the PLC accepted the recommendation of the NDI/Carter Center and European observation missions to the Presidential elections to cease using the civil registry as a source for voters list records. This change to the law enabled the CEC to prepare a sound (with the exception of Jerusalem) voters list. NDI and the Carter Center also commend the extensive voter registration drives and accompanied campaign organized by the CEC to provide as many opportunities to voters to register as possible.

NDI and the Carter Center evaluated the CEC plan for the voting of security forces. Arrangements have been made that would include 77 special polling stations located in governorate capitals that would be made available for early voting for security forces in their home governorate. Early voting would take place over three days prior to the election and would apply to registered voters only. The delegation considers the CEC's plan as an appropriate application of international standards.

The CEC has been under pressure to allow security forces to vote only within their barracks – a plan that would create many opportunities for fraud and manipulation and which could make it impossible for the CEC to provide proper oversight. As of this writing the CEC has offered to resign to protest the pressure coming from the security administration and the Council of Ministers, and the NDI/Carter Center delegation urge a swift resolution to this issue that keeps the integrity of the CEC's original plan.

NDI and the Carter Center offer these observations and recommendations in the spirit of cooperation and thank the Palestinian and Israeli officials and Palestinian political party and civic activists who so generously offered their time and energy to facilitate the delegation's work.