



**PRELIMINARY STATEMENT OF THE NDI / CARTER CENTER
INTERNATIONAL OBSERVER DELEGATION TO THE
PALESTINIAN LEGISLATIVE COUNCIL ELECTIONS**

Jerusalem, January 26, 2006

This preliminary statement on the January 25, 2006 Palestinian Legislative Council (PLC) elections is offered by the international observer delegation organized by the National Democratic Institute (NDI) in partnership with The Carter Center. The delegation was led by former United States President Jimmy Carter, former Albanian President Rexhep Meidani, former Swedish Prime Minister Carl Bildt and former Spanish Foreign Minister Ana Palacio. It included current and former legislators, former ambassadors, elections and human rights experts, civic leaders and regional specialists from 22 countries in Asia, Europe, the Middle East, North Africa and North America. The delegation visited the Palestinian territories from January 21-26 and deployed 85 observers to the West Bank, Gaza and East Jerusalem.

This delegation is part of NDI's two-year comprehensive observation of Palestinian election processes, which is supported by USAID and which began with the 2004 voter registration process and included all five rounds of the 2004-2005 municipal elections, the joint NDI/Carter Center observation of the 2005 presidential election, and the placement of long-term observers in Jerusalem, the West Bank and Gaza in the lead up to these elections. The Institute issued a series of statements on the voter registration and municipal election processes, and NDI and The Carter Center issued statements on the presidential election and on the pre-election environment, all of which are available on NDI's web site at www.ndi.org. NDI and The Carter Center also jointly organized an international election observation mission for the 1996 Palestinian presidential and legislative elections.

The purposes of the delegation were twofold: to demonstrate the international community's continued interest in and support for the development of viable democratic institutions that will enable Palestinians to freely choose their leaders and representatives; and to provide Palestinians and the international community with an impartial and accurate assessment of the election process and the political environment surrounding the elections to date. The delegation conducted its assessment on the basis of the Declaration of Principles for International Election Observation, comparative practices for democratic elections and Palestinian law. For more than a decade, NDI has conducted, on an impartial basis and across the political spectrum, programs to support the development of democratic Palestinian institutions and processes.

The delegation wishes to emphasize that this statement does not constitute a conclusive assessment of the election process, given that the final official tabulation of results is not complete and that any electoral complaints that may be lodged will require monitoring through their completion. The delegation recognizes that ultimately it will be the Palestinian people who will judge the quality of the election process.

SUMMARY OF OBSERVATIONS

Under the difficult circumstances of the ongoing conflict and occupation, Palestinian voters turned out in large numbers in a strong expression of their desire to choose representatives through

open and competitive elections. The obvious pride and enthusiasm of Palestinians about the election process was evident throughout the voting districts. This was reinforced by the professional and impartial performance of election officials. Through the high turnout in these elections and in the 2005 presidential election, as well as the notable participation in five rounds of municipal elections over the last year, Palestinians have clearly demonstrated a commitment to democratic elections. It is now up to the elected leaders and representatives to construct genuinely democratic institutions and processes that will bring the peace and prosperity that the Palestinian people deserve, within a free and independent state.

The January 25 elections can be an important step on the road to greater democracy for the Palestinian people. They present a unique challenge in that they included a group that advocated the use of violence as a means of achieving a political end and refuses to give up arms. Also, it has been committed to the destruction of a United Nations member state. It is universally accepted that democratic elections and democratic governance are about employing peaceful means to achieve political goals. We hope that the elections will mark a decisive move toward the renunciation of violence by all groups and toward addressing corruption and other issues that are central to improving the lives of Palestinians.

The elections were characterized by the following positive developments.

- Within the bounds of an occupied territory, the legal framework for the elections generally compared favorably to international standards.
- The adoption of a voluntary code of conduct by all political parties set an important precedent, though not all points were consistently implemented.
- The Central Election Commission (CEC) operated with a high level of confidence among the political contestants and the Palestinian population.
- The election campaign proceeded relatively peacefully and allowed voters to obtain abundant information about the contestants.
- Except for restraints in East Jerusalem, the election process was open and highly competitive.
- Election day was generally peaceful, and the elections thus far appear to be well administered under the difficult circumstances of ongoing conflict and occupation.
- A large number of Palestinians turned out to vote and were able to exercise their franchise without major difficulties. Voting procedures for illiterate persons generally curbed problems noted in prior elections.
- Israeli authorities generally eased travel through checkpoints to facilitate freedom of movement for election day processes.
- A significant number of political party and candidate agents and a significant number of nonpartisan Palestinian election observers were present in the polls, providing transparency to the process and helping to ensure its integrity.
- Women played a large role in the election process as election officials, party and candidate agents, nonpartisan observers and voters. The legal framework required 20 percent of the

- names on the party lists for proportional representation seats be women, though few women appeared as candidates for district-based majoritarian seats.

The elections, however, were not without problems, including the following developments.

- Arrangements for voting in East Jerusalem were agreed to late in the process by Israeli authorities, while possibilities for voting in their neighborhoods remained inadequate for Palestinian voters in East Jerusalem. Conditions in East Jerusalem post offices did not provide voting privacy, as voters marked ballots on counters in view of postal workers.
- Campaigning by virtually all parties and many independent candidates was widespread on election day in violation of the election law, and, though in most instances such campaigning was peaceful, it contributed to tensions and scattered incidents of violence, particularly in Gaza and some localities in the Hebron governorate (Beit Awwa and Ash Shuyuk).
- Though freedom of movement was generally unobstructed on election day, there were numerous confirmed reports that political candidates, campaign workers and election workers were unable to move satisfactorily through checkpoints during the campaign period that began on January 3.
- While parties and candidates were able to get out their messages, and they received free access to public media through regulated spots, news coverage documented by professional Palestinian and international media monitors noted significant bias, and paid political advertisements were not offered at the same price to all candidates by certain media outlets.
- There were credible reports of use of Palestinian Authority resources for the benefit of Fateh candidates and numerous reports of campaigning in many mosques on behalf of Islamic Resistance Movement (Hamas) candidates.

The vote tabulation process is still underway. Election complaints may be lodged by political parties and/or candidates. NDI and The Carter Center will continue to monitor these developments until the election process is completed and may issue additional statements. A final report will be issued soon after completion of the election process.

THE ELECTORAL CONTEXT

Participation of Hamas. The 2006 PLC elections present a unique challenge with the participation of the Islamic Resistance Movement, or Hamas, which has advocated violence, including the killing of civilians, as a means to achieving a political end. It is also committed to the destruction of a United Nations member state. 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, is not consistent with 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 voluntary code of conduct was developed by the Arab Thought Forum with support from NDI in late 2005, which went some way toward this goal. While stopping short of disallowing certain candidates, the code contains important undertakings geared to help enforce peaceful and fair campaigning and to promote a peaceful acceptance of election results. All political parties and movements, including Hamas, signed on to the code. The Palestinian Authority, in successful efforts led by President Mahmoud Abbas, engaged different factions in dialogue over the last year, including Hamas, to consolidate the “State of Calm” initiated by the Cairo Agreement signed in 2005.

Such steps related to the elections could help set the stage for renunciation of violence by all parties beyond the elections in order to achieve the peace and prosperity that are goals of democratic governance. The new PLC also has an opportunity to address this issue with the adoption of a political party law. Now that it has entered the political arena, Hamas has the chance to accept and adhere to recognized democratic norms.

Voting in East Jerusalem. There are an estimated 120,000 eligible voters in East Jerusalem, accounting for about 9 percent of the 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, as implemented, provided an opportunity for approximately 5,000 Palestinian residents of East Jerusalem (approximately 6,300 in these elections) to vote inside the city. The agreement, employed during the 1996 PLC elections and the 2005 Presidential election, designated Israeli post offices in East Jerusalem as locations for that number of Palestinians to cast ballots. Palestinian Jerusalemites not voting in post offices were provided an opportunity to vote in special voting centers outside the city’s boundaries. Under this arrangement, voting in East Jerusalem could be considered by Israelis as a form of “absentee” balloting, since ballot boxes were transported to counting centers in the West Bank, while Palestinians could consider the ballots as regular votes. This compromise, though inadequate, allowed the elections to proceed.

The ability to vote within the municipal boundaries of East Jerusalem remains important to both Palestinian rights and the fair conduct of elections. The PLC is to have six representatives from Jerusalem, and Jerusalemites vote for national lists in the proportional representation system. Until approximately two weeks before the January 26 PLC elections, however, Israeli authorities refused to agree to the prior compromise for East Jerusalem voting. Israel’s ambiguous stance was explained by its reluctance to facilitate Hamas participation in the elections. While the compromise was again eventually implemented, the delay hindered electoral preparations in Jerusalem and made it difficult to mount adequate related voter education efforts.

Some administrative procedures were modified in these elections to avoid the large-scale confusion that was evident in the 2005 presidential election. However, secrecy of the ballot remained a serious problem, with voting at counters in view of postal workers. In these and the 2005 election, the areas in East Jerusalem had the lowest turnout of any Palestinian electoral district. An often stated reason for this is the potential loss of certain social and state benefits if Jerusalemites vote, though no evidence of such losses have been presented to NDI or The Carter Center. NDI and The Carter Center have urged that Israeli officials publish express assurances that there will be no retribution against Palestinian Jerusalemites who vote.

The Legal Framework. The legal framework for the PLC elections was provided by the Basic Law and the Election Law. Though incomplete and not without shortcomings, they provide a foundation for democratic elections and compare favorably to international standards. The legal framework provides for 132 seats in the PLC, 66 of which are determined by proportional representation. Eleven parties and independents groups competed for those seats with closed national lists of candidates. The other 66 seats are divided into electoral districts corresponding to the 16 Palestinian governorates, with seats allocated to each district based on population, providing at least one seat per governorate. Voters then selected up to the number of individual candidates on the ballot corresponding to the number of seats allocated to their respective governorate. Six seats were set aside for Christians, with the Christian candidates receiving the highest number of votes in designated governorate being awarded the allocated seats and the remaining seats in the governorate going to the highest vote winners that are not Christian. National party lists for the proportional seats must contain one woman in the first three names on the list, one woman in the next four names and one woman in every five names thereafter, thus approximating 20 percent of each list. There were no requirements for including women as candidates for the district-based majoritarian seats.

Electoral Administration. The CEC and its staff operated with a high level of confidence among the political contestants and the Palestinian population. Despite uncertainties in the timing of the elections, the difficult circumstances of the ongoing conflict and occupation and some political pressures, the CEC operated as an independent, effective and professional administrative body. The PLC accepted a recommendation of the NDI/Carter Center and European Union observer missions to the 2005 presidential election to cease using the civil registry as a source for the voter lists. This change to the law allowed the CEC to prepare, with the exception of Jerusalem, a sound voters list. The voters list was developed based on voters going to registration centers, and the process was marked by extensive voter education and registration drives organized by the CEC that provided a genuine opportunity for all voters outside East Jerusalem to register.

The CEC also addressed a problem in the presidential election by requiring closer scrutiny of those claiming assistance as illiterate voters and of those seeking to assist voters, thus better ensuring against undue influence and compromising ballot secrecy. The CEC provided for voting by security forces during the three days preceding January 25. Such voting took place in 17 special polling centers located in home governorate capitals of security force personnel. This allowed the forces to be on duty on election day without their disenfranchisement and avoided voting in barracks, which poses significant potentials for undue influence on voting choices. In addition, recruitment and training of polling station workers and logistical preparations were completed successfully in advance of the elections. Maintaining political impartiality, developing effective administrative capacities and successfully organizing for election day is an enormous and difficult undertaking in any environment and is particularly commendable in the circumstances of these elections.

The Campaign Environment. The election campaign was vigorously contested and generally peaceful. These were the first parliamentary elections where all major Palestinian political movements competed, and they provided the first opportunity in 10 years for Palestinians to hold their representatives accountable. Some 738 candidates stood for the 132 seats, including on 11 national lists of candidates.

Public opinion polling indicated that the major issues of voter concern were eliminating corruption, providing essential government services and establishing and maintaining law and order. The campaign provided a genuine opportunity for the contestants to present their views on these and other issues and allowed voters to obtain information upon which to make an informed choice.

Code of Conduct. A voluntary code of conduct, developed by the Arab Thought Forum with support from NDI, was signed by all political parties. Compliance with the code's provisions concerning peaceful and fair campaigning was monitored by nonpartisan Palestinian observers, including the Higher National Committee to Follow up The Code of Conduct. The process leading to acceptance of the code and its monitoring may have contributed to the relative peacefulness of the campaign.

Improper Campaign Activity. Significant issues were noted by international and Palestinian nonpartisan election observers concerning use of Palestinian Authority resources for the benefit of Fateh and campaigning in a significant number of mosques for Hamas candidates. Public resources, including government funds, vehicles, communications equipment, materials and work hours of government officials and employees belong to the Palestinian people and should not be used for the benefit of individual parties or candidates. The lack of a clear and enforceable regulatory framework for campaign activities and financing undermines public trust. At the same time, use of religious facilities to benefit individual parties and candidates runs counter to standards for democratic elections and is counter to Palestinian law and the political party code of conduct.

Freedom of Movement and Campaigning. There were numerous confirmed reports that political candidates and campaign workers, as well as in some cases election workers, were unable to move satisfactorily through checkpoints during the campaign period that began officially on January 3. On the first day of the official campaign, candidates in the Jerusalem district were prevented from campaigning near the gates of the old city. Israeli police detained some candidates and dispersed the crowd.

Security Situation in Gaza. Incidents of violence and disorder in the Gaza Strip during the campaign period, especially those near the Rafah border crossing, had distinct political overtones. In addition, the CEC offices were raided and closed by gunmen, and one party's campaign worker was shot and killed by a rival activist. There was at least one politically motivated threat that mentioned international observers, though all factions announced publicly that they disavowed any such threats. Police forces in Gaza appealed to the Palestinian political leadership for more support, refusing in some cases to intervene to stop violent incidents on the streets, due to lack of resources to impose law and order. These conditions added to the problems of organizing successful elections.

The Media. The Palestinian mass media present a plurality of views. Palestinians also have ready access to regional and international new media, which provided significant coverage of the elections. Parties and candidates, by law, were provided free access to public broadcast media to offer messages to the electorate. The media carried paid political advertisements, and political posters were present throughout the Palestinian territories.

The political contestants therefore were able to present their views to the population, and voters received information upon which to make informed political choices in the elections. However, professional international and Palestinian media monitors, including monitoring by the Pavia Institute for the European Union Election Observation Mission and the Palestinian NGO "Filastiniyat", noted significant bias in the broadcast media, with the public media favoring Fateh and privately owned media favoring candidates who owned certain media outlets. Media monitors also noted that some media outlets discriminated by charging candidates different prices for political advertisements. The lack of regulations to ensure fairness and prevent discrimination remain a weakness in the electoral framework.

ELECTION DAY

Election day was orderly, well administered and generally peaceful. This was a particularly significant accomplishment in light of the ongoing conflict and occupation, as well as the tensions and incidents in the Gaza Strip during the lead-up to the elections. There were, however, limited instances of disturbances and violence in Gaza and Hebron governorate (Beit Awwa and Ash Shuyuk).

Palestinian voters turned out in large numbers in a clear expression of their desire to choose their representatives in open and competitive elections. Through the high turnout in these and the 2005 presidential election, and notable participation in five rounds of municipal elections over the last year, Palestinians have demonstrated a strong commitment to democratic elections.

As with the 2005 presidential election, the delegation was impressed by the dedication and professionalism of the vast majority of polling officials, members of the District Election Commissions and CEC members and staff, who worked diligently for long hours and under difficult conditions. Large numbers of political party and candidate agents and Palestinian nonpartisan election observers were present in polling stations and worked cooperatively with each other and election officials, thus adding to the transparency and credibility of the process. International election observers were granted unhindered access to the polls.

Election monitoring by large numbers of party and candidate agents and the strong presence of nonpartisan Palestinian election observers, who monitored pre-election events as well as election day developments, is a substantial achievement that represents the growing strength of Palestinian society to safeguard electoral integrity. These efforts by political competitors and by civil society groups, such as the Arab Thought Forum, the Palestinian Center for Human Rights (Gaza), the Palestinian Election Monitoring Committee, Filastiniyat and others, made important contributions to a generally peaceful election day and the development of public confidence in Palestinian election processes.

The high participation of women in the election process as election officials, political party and candidate agents, nonpartisan election monitors and as voters illustrates the commitment of Palestinians to the democratic elections and citizen participation in public affairs. The requirement that 20 percent of the political party lists be women candidates was also a positive development, though the small number of women candidates for constituency majoritarian seats was disappointing (e.g., there was only one woman on the ballot in Hebron, and reportedly she unofficially withdrew from the election). The generally high level of women's participation in other aspects of the process was nonetheless a positive feature of these elections.

THE DELEGATION AND ITS WORK

NDI and the Carter Center are independent, nongovernmental organizations that have conducted more than 100 impartial pre-election, election-day and post-election observation missions around the world. Both organizations recognize that elections cannot be separated from the broader political process of which they are part. NDI's and The Carter Center's methodologies for assessing elections are based on the premise that all aspects of the election process must be considered to accurately understand the nature of an election. Considerable weight must be given to the pre-election period as well the resolution of complaints and disputes following the initial proclamation of results.

The delegation held meetings with Palestinian Authority President Mahmoud Abbas; the Chairman and officials of the Central Election Commission (CEC); representatives of the major

competing political parties/candidate lists that have renounced violence; civic leaders; news media; political analysts; the heads of the European Union, European Parliament and Canadian Observation Missions; other representatives of the international community who are concerned with supporting a democratic Palestinian election process; and senior Israeli government officials and analysts. The delegation worked in close cooperation with Palestinian nonpartisan election monitoring organizations and with the European Union's International Observation Mission.

Delegates divided into teams and deployed to 14 electoral districts in the Palestinian Territories for meetings with governmental, electoral, political and civic leaders in their respective localities. On election day, the teams observed the voting, counting and tabulation processes in over 300 polling centers selected on the basis of a scientific statistical sample and at District Election Commissions. Delegates then reconvened in Jerusalem to debrief and develop this statement. The delegation expresses its gratitude to all with whom it met.