

## PLO NEGOTIATIONS AFFAIRS DEPARTMENT

# DEMOCRACY UNDER OCCUPATION: JERUSALEM AND THE 2006 PLC ELECTIONS

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*"[W]e have chosen democracy as a way of life [...] But democracy is like a coin; it has two sides. On one side [of the coin] is democracy; on the other side of the coin is freedom."*

- PA President Mahmoud Abbas,<sup>1</sup>

### FACT SHEET:

Since January 2005, Palestinians in the occupied Palestinian territory (oPt) have held a series of municipal and national polls, culminating with parliamentary elections on January 25, 2006. Palestinians view these expressions of Palestinian democracy as essential steps in moving closer towards statehood.

Meanwhile, Israel has been accelerating its colonization of the occupied West Bank, particularly in and around East Jerusalem. Metropolitan East Jerusalem, which includes the neighboring cities of Bethlehem and Ramallah, has historically accounted for between 30 to 40% of the Palestinian economy. Without East Jerusalem, a politically and economically viable Palestinian state cannot exist.

Israel's approach to Palestinian elections in Jerusalem mirrors its attempts to unilaterally remove the city from the negotiating table. Just as the Wall and illegal settlements (colonies) Israel is building around occupied East Jerusalem are designed to sever the city from the rest of the occupied West Bank, so too do Israeli restrictions on PLC elections effectively sever most Jerusalemites from the Palestinian democratic process.

### Background: The Palestinian Legislative Council (PLC) and Jerusalem

#### **I. Palestinian Legislative Council and Elections**

The Palestinian Legislative Council (PLC) is the 132-seat the parliamentary body of the Palestinian National Authority (PA).<sup>2</sup> Established on the basis of the 1993 Oslo Accords, the PLC represents Palestinians throughout the occupied Gaza Strip and the West Bank, including East Jerusalem.

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<sup>1</sup> Joint press conference at the White House with President Abbas and President Bush on May 26, 2005, available at: <http://www.whitehouse.gov/news/releases/2005/05/20050526.html>, last checked January 24, 2006.

<sup>2</sup> For information on the PLC electoral system, see: <http://www.elections.ps/template.aspx?id=143>, last checked January 24, 2006.

On January 25, 2006, the PA will hold the first elections for the PLC in ten years and the second PLC elections ever, as agreed in the internationally-backed Roadmap. For these elections to be “free, open and fair,” as stipulated in the Roadmap,<sup>3</sup> they must be free of Israeli intimidation, intervention and obstructionism throughout the oPt – including East Jerusalem.

## II. The Legal Status of Jerusalem

Under international law, East Jerusalem is territory occupied by Israel, as recognized by virtually the entire international community, including the United States.<sup>4</sup> On July 9, 2004, the International Court of Justice (ICJ) reaffirmed that “[a]ll these territories (including East Jerusalem) remain occupied territories and Israel has continued to have the status of occupying power.”<sup>5</sup>

Although Israel claims to have annexed East Jerusalem, the United Nations Security Council rejected the attempt, declaring that “all...actions taken by Israel, the occupying Power, which purport to alter the character and status of...Jerusalem have no legal validity and constitute a flagrant violation of the Geneva Convention...and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East.”<sup>6</sup>

Under the 1993 Oslo Accords, Jerusalem’s final status will be determined via negotiations between the Palestinians and Israelis.

## III. The Right of Jerusalemites to Vote

Unlike Palestinians in the rest of the West Bank, East Jerusalemites have residency rights in and access rights to Israel, even though the international community does not deem East Jerusalem to be a part of Israel.

Palestinians, including East Jerusalemites, enjoy the right to vote under international law. The basic right stems from the Palestinian people’s right to self-determination. The Oslo Accords also set a precedent for East Jerusalemites to vote in Palestinian Elections, as do last year’s Presidential elections. Moreover, the internationally-backed Roadmap implicitly recognizes the right of Palestinians to vote in Palestinian elections.

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<sup>3</sup> The Roadmap requires that Israel “fully facilitates travel of Palestinian officials for [...], electoral [...] activity, and other supportive measures related to the reform efforts,” and states that: “As early as possible, and based upon the above measures and in the context of open debate and transparent candidate selection/electoral campaign based on a free, multi-party process, Palestinians hold free, open, and fair elections.” See: <http://www.state.gov/r/pa/prs/ps/2003/20062.htm>, last checked January 24, 2006.

<sup>4</sup> For further information, see ‘Occupied East Jerusalem – Legal Status’, NEGOTIATIONS AFFAIRS DEPARTMENT, available at: [http://www.nad-plo.org/inner.php?view=facts\\_jerusalem\\_f9p](http://www.nad-plo.org/inner.php?view=facts_jerusalem_f9p) last checked January 24, 2006.

<sup>5</sup> International Court of Justice, Advisory Opinion, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, ¶ 78 (2004).

<sup>6</sup> United Nations Security Council Resolution 476 (1980).

*For a more comprehensive analysis of Palestinian residents of East Jerusalem's right to vote, please see "The Right to Vote: Palestinians in Occupied East Jerusalem", NEGOTIATIONS AFFAIRS DEPARTMENT, available at: [www.nad-plo.org/news-updates/East%20J24.01.06.pdf](http://www.nad-plo.org/news-updates/East%20J24.01.06.pdf), last checked January 24, 2006.*

## **Fighting to Vote: Democracy under Occupation**

### **I. Restrictions on Voter Participation in East Jerusalem**

Formally, Israel has agreed to allow PLC elections to take place in East Jerusalem under the 1996 arrangements. However, the situation on the ground in 2006 is vastly different from that of 1996. Now, East Jerusalem is being fractured by expanding settlements and severed from the rest of the West Bank by an 8 meter high concrete Wall. These physical structures are part of Israel's "closure regime"—a matrix of checkpoints, permits, and ever-tightening restrictions on Palestinian movement within and between Palestinian areas.

Today, the number of eligible voters in East Jerusalem to the West of the Wall stands at approximately 100,000 Palestinians. To cope with this volume of eligible voters, at least 40 polling centers with 200 polling stations, each housing two ballot boxes would be required according to international elections precedents and best practices. However, Israel has permitted only six polling centers with a total of 12 polling stations to be located inside the city. Seven polling stations will be located in Salah Addin St. Post Office, while a single polling station will be located in each of the following five post offices: Beit Hanina, Attour, Sur Bahir, Bab al-Khalil and Shu'fat.

Under these arrangements, only 6,300 Palestinian Jerusalemites will be permitted to vote in their city. That accounts for approximately 6.3% of the Palestinian electorate in central Jerusalem. The remaining 93.7% will have to attempt to pass Israeli military checkpoints and travel beyond the bounds of Israel's Wall if they are to cast their vote on Election Day.

### **II. Restrictions on Palestinian Freedom of Movement**

Despite Israel's closure regime, the PA has received no guarantee that restrictions on Palestinian freedom of movement will be lifted on Election Day – neither for voters traveling between occupied East Jerusalem and the remainder of the West Bank, nor for those traveling between different parts of the West Bank outside of Jerusalem.

As the Central Elections Commission (CEC) has reported, Israeli closure is also:

- restricting the movement of candidates between Palestinian governorates;
- preventing CEC staff from performing their duties;

- “obstruct[ing] the distribution of voter education materials to the voting public and electoral materials to registration and polling centers, such as ballot boxes and ballot papers.”<sup>7</sup>

### III. Restrictions on Candidates and Campaigning

Despite invitations from the PA to coordinate on elections in East Jerusalem as long ago as June 2005, Israel finally sat down to discuss campaigning arrangements for candidates in Jerusalem in January 2006 - a week into the three week campaigning period. By then several candidates and civil society activists had already been arrested in East Jerusalem by Israeli police forces for participating in the Palestinian democratic process.

In contrast to the arrangements of 1996, Israel has also taken the following, stricter, measures to obstruct the electoral process and the democratic ambitions of Palestinians in Jerusalem:

- banned the Palestinian flag and other Palestinian ‘symbols’;
- banned shops and public places from displaying campaign material;
- restricted campaign meetings to private houses and indoor public places where prior approval has been granted by Israeli authorities;
- barred candidates from several political parties from campaigning altogether;
- called for certain candidates to be removed from the ballot papers.

Apart from violating Palestinian law, this last intervention would also be detrimental to the development of democratic Palestinian institutions and governance. As PA President Mahmoud Abbas has argued, the participation of several opposition groups in the 2006 elections conducted in the framework of the Oslo interim peace agreements is a positive development, ensuring that the rich diversity of Palestinian society and political thought is fully represented in the democratic process.

### IV. Israeli Intimidation Tactics

Since the start of the campaign period on January 3, 2006, Israel has deployed its forces to make high profile arrests of candidates and civil society campaigners in East Jerusalem, and has physically assaulted several candidates and campaign workers.<sup>8</sup> Last year, Israeli police forces also closed down voter registration centers in East Jerusalem, arrested their staff and photocopied voter registration lists, fuelling wide-spread

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<sup>7</sup> See: <http://www.elections.ps/template.aspx?id=223>, last checked January 24, 2006.

<sup>8</sup> For further information, see ‘PMG Special Report: Israeli Obstructions of the Palestinian Electoral Process’, available at: <http://www.nad-plo.org/news-updates/PMG%20PLC%20Elections%2023%2001%2006.pdf> last checked January 24, 2006.

concerns that Israel is monitoring the Palestinian elections in order to penalize Jerusalemites who participate in them.

Moreover, fears abound that Israeli violations of the agreement in 1996 may be repeated this year, including:

- videotaping of voters inside and outside polling centers;
- a massive police and security force presence around the polling centers;
- the closure of roads and checkpoints into Jerusalem;
- the misinforming of voters voting outside central Jerusalem that traffic and security conditions prevent them from completing their journey.