

## **ELECTION UPDATE No.01**

### **A special election bulletin prepared by the**

### **Palestinian Centre for Human Rights**

This Bulletin is part of the Palestinian Centre for Human Rights' electoral monitoring project, and precis the development in the first Palestinian election in the Occupied Territories. The aim of this work is to analyse the electoral process in order to encourage free and fair elections with the wider aim of developing a civil democratic society where human rights and the rule of law are respected.

Much of this update has been published earlier in correspondence, reports and interventions made in relation to the election. This update intends to summarise these and provide an overall picture of the Palestinian elections. The original of this update has been produced in Arabic.

The issues that have arisen so far have been: the election process began even before the Election Law was in force; delays and disorganisation in the establishment of core election administrative and coordinating bodies, and criticisms about their formation; premature campaigning in transgression of the Election Law; shortage of time for each of the election stages; the right to vote is based on the holding of ID Cards; 20, 000 security forces personnel have not been organised into voting constituencies; movements to coordinate local election monitoring; Central Elections Commission' s response to criticisms has been less than adequate.

### **DELAYS IN ESTABLISHING KEY ELECTORAL BODIES**

The Palestinian Election Law provides for the formation of the Central Elections Commission (CEC) and the Elections Court of Appeal. These are responsible for administration, monitoring and preparation of the elections and for reviewing of decisions in relation to candidates and voters. Unfortunately this was not established directly after the law was passed and the lack of consultation, as required by law, has led to charges of bias in the Central Elections Commission. This sullies the fairness of the election process.

The election process had already begun before 7 December 1995, the date on which the Election Law was adopted by the Palestinian Authority. The registering of voters and the nomination of candidates was well under way when the law was adopted-and the key bodies responsible for administering the election law had not even been established.

The Law provides for the Central Elections Commission and the Court to be established by Presidential Directive. A Presidential Directive was issued on 13 December 1995, but this made no reference to the formation of either the Commission or Court. This delay transgresses the provisions of the Election Law.

On 20 December 1995 the Palestinian Centre for Human Rights sent a letter to Mr Sa'eb Erakat

who was the Head of the Municipal Government and the temporary Elections Commission (which operated directly under the Palestinian Authority). The Palestinian Centre expressed its concern that the absence of the Court and the Central Elections Commission, while the electoral process was well underway, would undermine the fairness of the elections and prevent them from being conducted according to democratic principles and the Election law.

It was only on 21 December 1995 (over a week after the passing of the Elections Law) that Presidential Directive No.3 was issued. This provided for the formation of the Central Elections Commission headed by the PLO Executive Committee member Mr Mahmood Abass (Abu Mazin). But still no reference was made to the formation of the Court.

Although formation of the Central Elections Commission was welcomed, it was accompanied by many questions in regard to its impartiality and independence. For example, the Head of the Commission Mr Abu Mazin though enjoying respect, is a member of the Central Committee of Fatah. Other Commission members are also well-known Fatah members. Fatah is one of the political parties participating in the elections. This contravenes the Election Law which provides that the Central Elections Commission shall be entirely independent and that its members shall be chosen from judges, academics and lawyers. However no judges have been chosen as members of the Central Elections Commission.

In addition the Law provides that the formation of the Central Elections Commission must be conducted after consultation with political parties. However the CEC was established without any such consultation. Thus though in existence the Central Elections Commission's formation undermines the basic tenets of the Election Law.

Immediately after Presidential Directive No.3 was issued the Palestinian Centre for Human Rights issued a Press Release drawing attention to the criticisms of the newly established Central Elections Commission and affirming the necessity for the immediate formation of the Court, as this body is necessary for ensuring effective monitoring and fairness in all stages of the electoral process.

On 23 December 1995 Presidential Directive No.4 was issued, establishing the Court. This came very late and raised questions as to the spirit in which the Election Law and the electoral processes were being carried out.

## **ELECTION CAMPAIGN**

The time period for the electoral process has been widely criticised for being too short to enable fair, free and democratic elections.

The Election Law states that the Election campaign can only take place from 22 days before polling day. This means that the election campaign should have begun on 31 December 1995, as polling day is scheduled for 20 January 1996.

Notwithstanding that this time period is too short to enable adequate campaigning, the time restriction has not been adhered to by most of the candidates. The actual election campaigning began long before the prescribed date and no measures have been taken against these candidates by the Palestinian Authority.

by the Palestinian Authority.

A Presidential Directive was issued by President Arafat on 29 December 1995 adding 5 more seats to the Palestinian Elected Council and reducing the period of time for election campaigning from 21 to 13 days. Therefore campaigns should have officially begun on 5 January 1996. The Oslo II Agreement provides that any amendments to the Election Law must be approved by Israel.

In spite of this provision the election campaign has not stopped, but in fact has increased in momentum. In this regard the Palestinian Centre for Human Rights sent Mr Mahmood Abass, the Head of the Central Elections Commission, a letter dated 2 January 1996 requesting that the CEC exercise its authority to stop the election campaigns and to take necessary measures against candidates who have violated the time restrictions for campaigning.

Subsequent to these amendments the Central Elections Commission issued a statement rendering them void and reverting the date for the start of the electoral campaigning back to 31 December 1995.

Each stage of the election process has been allotted a very short period of time. However, allowing illegal campaigning by some candidates undermines the Election Law, and contravenes the principles of equal access and opportunity and fairness for candidates, which must be guaranteed in all the electoral stages. In addition these changes caused confusion and uncertainty.

## **ELECTION CAMPAIGNING IN THE MEDIA**

The Election Law provides that arrangements shall be made for a special programme to be decided upon between the Central Election Office and bodies of the Palestinian media. Such arrangements were not made until 5 January 1996 when the Central Elections Commission issued a declaration establishing the special programme. The programme provides for equal opportunity for all candidates in the Gaza Strip and West Bank to make radio recordings. Each candidate must come personally and on time to the radio station to record his/her election programme for a maximum of two minutes.

Although this declaration did not refer to the right of access to television stations, Mr Mahmood Abass commented in a press conference held in Gaza on 5 January that each candidate could have access to television for a maximum of two minutes but that candidates must pay for this.

Establishment of the media campaigning programme did not come until well into the campaigning period. This period is already very short and the lack of access to media until now has restricted campaigning activities even further.

## **REGISTRATION AND NOMINATION**

As discussed above both nomination and registration began before the Election Law was in force and before the Central Elections Commission and Elections Court were established. This raised many questions in regard to the legitimacy of this process.

According to the Election Law the deadline for nomination was supposed to be 23 December 1995. When 5 seats were added to the Council membership, the registration and nomination process was re-opened. On 29 December 1995 a Presidential Directive was issued stating that the Election Law would be amended, giving the President the right to extend the period of nomination. Subsequently the deadline for the nomination period was extended by 8 days to 31 December 1995.

On 2 January 1996 the Palestinian Centre for Human Rights sent Mr Mahmood Abass Head of the Central Elections Commission a letter praising the President's decision to extend the nomination period. However we expressed our fears that changing the dates would not only create confusion; but moreover changing these dates without changing the polling date (20 January 1996), would result in additional procedural and technical problems. In addition such a time change would compound the problem of the shortage of time for the electoral process. Dates for the electoral processes are not fixed absolutely which renders the demand for a re-consideration of the polling date even more legitimate and imperative.

## **REGISTRATION OF DISPLACED PERSONS**

The Election Law and Oslo II Agreement signed between the Israeli Government and the PLO defined the right to participate in the election process according to the holding of ID cards. This means exclusion of displaced Palestinians or resident Palestinians who have lost their ID Cards since 1967.

The Palestinian Centre for Human Rights feels strongly that basing the right to vote on the holding of an ID Card is a violation of human rights, and that, as was done in the two examples provided below, all displaced persons and non-holders of ID Cards should be given the right to vote:

In the Khan Younis constituency Ibrahim Abdul Karim Al Najar and his son Iyad were registered on the Electoral Register and they were issued with registration cards, despite the fact that they do not have ID Cards. This registration followed an order issued by a Central Elections Commission member following a representation by their lawyer.

However it is important that the principles of equality, objectivity and non-discrimination are adhered to and that the authority of the Election Law is not undermined. Therefore the Centre lauds this stand, as long as it constitutes Central Elections Commission policy, as this will provide the opportunity for thousands of Palestinians who do not have ID Cards to be registered and to participate in the electoral process. But we cannot condone a selective or arbitrary approach.

The Palestinian Centre for Human Rights sent Mr Mahmood Abass a letter in this regard on the 2 January 1996 and attached a copy of the two registration cards issued from Khan Younis constituency.

## **VOTING OF PALESTINIAN SECURITY FORCES PERSONNEL**

The Election Law guarantees the right to vote to security forces personnel. However registration and voting arrangements in this regard have not yet been defined. Therefore security forces personnel can register and vote in any place that they happen to be.

The potential consequences of this are serious for democratic and fair standards. Security forces personnel are around 20,000 in number. In the context of the division of constituencies and the simple majority system this is a large number and may affect the result of the elections.

In raising this issue it is not an aim of the Palestinian Centre for Human Rights to deprive any individual of any right that is guaranteed by the Law. Rather the Centre aims primarily to ensure that elections are conducted freely and fairly and without suspicion or unanswered questions.

The Palestinian Centre for Human Rights suggests that the Central Elections Commission should coordinate with Palestinian Security Forces and that they should distribute vote-holding personnel among the different constituencies, on a proportional but equal basis, a week before the polling date.

## **CONSTITUENCIES COMMISSIONS**

On 25 December 1995 the Central Elections Commission issued a decision, based on Article 27 of the Election Law, which appointed the members of the Constituencies Commissions in Gaza Strip. It appears that the Central Elections Commission did not consult appointed persons, nor did it take into consideration their positions in the electoral process.

For example the decision named advocate Yousef El Absey from Rafah as a member of Rafah's Constituency Commission, even though he is also one of the candidates. The decision also named Advocate Abdullah Abu Jazar, who is also in Rafah constituency and who was nominated without even being consulted.

On the 28 December the Commission issued another decision naming the Constituencies' Commissions and replacing the aforementioned persons.

These nominations of candidates for the membership of the Commission were seriously flawed. It is beyond comprehension that a candidate is also allowed to be a member of a Constituency Commission. It appears that nominations have taken place without reviewing the list of candidates or at least without consulting them for such appointment.

The decision of the Central Elections Commission to replace appointed members of the Constituencies' Commissions is laudable. However such mistakes should not have been allowed to happen in the first place as they have a serious impact on the fairness of the elections.

## **LOCAL ELECTION MONITORING COMMITTEES**

From the start of the election process the Palestinian Centre for Human Rights has coordinated with human rights and other NGOs working in the Gaza Strip to establish a local election

with human rights, and other NGOs working in the Gaza Strip, to establish a local election monitoring committee of high credibility and professionalism. Unfortunately the Central Election Commission has not provided the Palestinian Centre with a permit to carry out this work.

The monitors will cover each stage of the electoral process by attending the different election activities and documenting observations so that adherence to the principles of fairness and conformation with the Election Law can be checked.

These NGOs have authorised the Palestinian Centre for Human Rights to prepare this Committee. Subsequent to this we approached the Central Elections Commission providing it with a list of the local monitors and requesting registration for them.

Although we received the consent of the Central Elections Commission the Centre has not received the required licence which has been granted to other local monitors.

## **THE CENTRAL ELECTIONS COMMISSION'S RESPONSE TO CRITICISM**

As stated above, the Palestinian Centre for Human Rights sent a number of letters to the Central Elections Commission in regard to the issues contained in this Bulletin. The Centre was astonished by the reply, which it received from the Central Elections Commission, in which it expressed its refusal to review or reply to our criticisms and the important issues raised in our letters. The Central Elections Commission justified this stance with the claim that our letters were impolite, because we used phrases such as “draw your attention to” and “requesting you to act immediately”.

The Centre did not expect, what we consider to be an inadequate and unjustified reply, and have attached in the appendices copies of the letters which were sent to the Central Elections Commission.

We have previously sent similarly formulated letters to, for example, President Arafat and different ministries of the Palestinian Authority, and never have we received a reply which questioned our politeness.

The Palestinian Centre for Human Rights enjoys appreciation and respect for our work, from different governmental and non-governmental organisations both locally and internationally, which is widely considered to be of high credibility and professionalism.

The Centre addresses the Central Elections Commission from the premise that it is a credible and respectable body. We affirm our wide appreciation for the work of the honourable members of the CEC, particularly that of Mr Mahmood Abass. We regret the claims contained in the reply received from the Central Elections Commission, which can only be interpreted as non-objective answers to the important and pertinent issues which we initially raised in our letters to them. Our approach is based on good-will and cooperation.

We reaffirm that these letters do not exceed appropriate standards of politeness in correspondence. We stand by the requests raised in our letters and request answers to all the issues which were raised.

**ATTACHMENTS (6)** : Letters sent to the Central  
Commission and the reply we received.

Elections

*The Palestinian Centre for Human Rights is a legal agency dedicated to protecting and promoting human rights in the Occupied Palestinian Territories. It was established by Raji Sourani, Robert F Kennedy Memorial Human Rights Laureate, and a group of lawyers and individuals actively committed to seeking respect for international standards of human rights and humanitarian law, for the rule of law and promoting the development of a democratic civil society in the Occupied Territories. The Palestinian Centre is supported by Agir Ensemble pour le Droits de l'Homme, CAW Social Justice Fund, Christian Aid, DanChurdhAid, NOVIB, Open Society Fund, Robert F Kennedy Memorial Foundation, Royal Norwegian Embassy and Swedish International Commission of Jurists.*

## **APPENDIX I**

21 December 1995

**Mr Sa'eb Eraket**

**Minister of Municipal Government**

**Acting Chairperson of the Central Elections Commission**

**Palestinian National Authority**

Dear Mr Eraket

The Palestinian Centre for Human Rights is acting as coordinator for and with the authority of the NGO network in the Gaza Strip in relation to local election monitoring.

Based on the provisions of the Palestinian Election Law (Article 103) which authorises the Central Elections Commission to accredit local monitors, we would like to request that you accredit those named in the attached list accordingly.

This will enable us to fulfil our role in monitoring the elections process and to help in monitoring the elections as fair and free as possible.

Regards

Yours sincerely

**Raji Sourani**

**Director**

**APPENDIX II**

2 January 1996

**Honourable Mr Mahmood Abass (Abu Mazin)**

**Head of Central Elections Commission**

Dear Mr Abass

The Palestinian Centre for Human Rights have applied to participate in the monitoring of the forthcoming Palestinian elections on the 20 January. This application is made on behalf of and with the authorization of the Palestinian NGO network and the Centre fulfils a coordinating role for them.

We have been informed by Mr Usama Abu Safieh the Coordinator of the Central Elections Commission that you have consented to this. We hope that the elections will be fair and free and are sure that local monitoring will be one of the mechanisms by which this will be ensured.

We note that monitoring licences have been issued by the Central Elections Commission to a number of monitors. However as yet such a licence has not been granted to us. As time is extremely short we request that you issue the proper guidelines and regulations for the issuing of licences so that we can organise our monitoring activities.

Regards

Yours sincerely

**Advocate Raji Sourani**

**Director of the Palestinian Centre for Human Rights**

**APPENDIX III**

2 January 1996

**Honourable Mr Mahmood Abass (Abu Mazin)**

**Head of Central Elections Commission**

Dear Mr Abass

We write in regard to the modification of the Election Law (with the effect that the election campaign period has been shortened from 22 days to 14) which was effected by a Presidential Directive issued on 29 December. This means that the election campaign must begin on 6 January 1996.

The Palestinian Centre for Human Rights has approached the Central Elections Commission requesting them to cease the premature election campaigns which are violating provisions of the Election Law.

We note that an appeal was issued by the Central Elections Commission to these violators. However the campaign has not only not stopped, but has actually gathered momentum. So far we do not know of any further measures which the Central Elections-Commission has taken under the provisions of the Election Law against those who violate the Election Law.

The continuation of this status quo and the conducting of electoral campaigns before the specified date of the 6 January by candidates is a clear violation of the provisions of the Election Law and undermines the underlying principles of democratic elections which seeks to guarantee that candidates and voters have equal opportunities afforded by the Law.

We request that measures be taken immediately to stop these premature campaigns, that all election campaign materials from the streets are removed and that appropriate measures are taken against the violators of the Election Law.

We hope that you will reply as soon as possible.

Best Regards

Yours sincerely

**Advocate Dajj Sourani**

**Advocate Raii Sourani**

**Director of the Palestinian Centre for Human Rights**

**APPENDIX V**

2 January 1996

**Honourable Mr Mahmood Abass (Abu Mazin)**

**Head of Central Elections Commission**

Dear Mr Abass

It is undoubted that participation in elections was supposed to be a right for Palestinians both inside and outside the autonomous areas, and as you know Oslo Agreements I and II restricted this right.

Both Mr Ibrahim Abdul Karim Al Najar and his son Iyad from Khan Younis have approached our Centre (the Palestinian Centre for Human Rights) and neither holds an ID Card as required by the Agreement, both hold Palestinian travel documents issued from Cairo. Registration Office No.24 in Khan Younis has refused to register them. Therefore they appealed to the Central Elections Commission and asked for registration through their lawyer.

It is laudable that an order was issued to register these two men as voters in that constituency by a member of the Central Elections Commission.

We understand that the Israeli authorities have the right to object to the Draft Electoral Register and to delete names, as was agreed upon in Oslo II.

We encourage this step of the Central Elections Commission if it is its policy to open the door wider and to allow those people who do not have ID Cards to be registered on the Electoral Register. This will provide the opportunity for thousands more to have the right to vote. If this is not done the granting of registration to only these two persons will constitute unjustified deprivation and selectivity.

We hope that we will hear from you as soon as possible in this regard.

Best Regards

Yours sincerely

**Advocate Raii Sourani**

**Director of the Palestinian Centre for Human Rights**

Enclosed.: Attached copy of registration papers

**APPENDIX IV**

2 January 1996

**Honourable Mr Mahmood Abass (Abu Mazin)**

**Head of Central Elections Commission**

Dear Mr Abass

We note the decision of the President of the Palestinian National Authority to extend the nomination and registration process to the 31 of December 1995, and understand that this was taken in the higher national interest, and in order to give greater opportunity for the candidates to be nominated for elections.

We appreciate that opportunity has been afforded equally in all the constituencies, without restriction, and this is clearly not a violation of the narrow reading of the text of the Law. But it does not fall within the spirit of elections, which are part of the democratic process, and will cause confusion.

We consider that it is necessary to reconsider a number of issues specifically:

- i) The conducting of the election campaigns before the prescribed date, which caused the Central Elections Commission to appeal to candidates for adherence to the Law. but without taking further measures against them.

These violations continue and have been increased due to the Presidential Directive which was issued on 29 December 1995, which restricted the campaign period to 14 days only beginning from 6 January 1996.

- ii) Local and international monitors are in agreement that, the period of time in which the election process has to be conducted within is very short and the date of 20 January 1996 will result in procedural and

technical problems in regard to the election process.

Since dates are not fixed absolutely and the quality of the elections must be the priority, we suggest that the Central Elections Commission should postpone the polling date for elections in favour of a longer period to be decided upon by yourselves, so that equal opportunities will be ensured and technical and procedural arrangements can be made by the Commission and its different bodies, so that democratic, free and fair elections can be assured.

Best Regards

Yours sincerely

**Advocate Raji Sourani**

**Director of the Palestinian Centre for Human Rights**

## APPENDIX VI

4 January 1996

Gaza City

Gaza Strip

**Director of the Palestinian Centre for Human Rights**

**Gaza Strip**

Dear Mr Sourani

In regard to your letters dated 2 January 1996 we would like to inform you that such letters cannot be accepted because they are impolite.

It is not acceptable to use words such as 'draw your attention to' since this suggests that we are deserving of punitive measures. In addition it is not acceptable for you to be issuing an order such

as requesting you to act immediately.

We are sorry that we have to return the letters back to their source, but they contradict acceptable standards of speech.

Yours sincerely

**Mr Abass**

**Head of the Central Elections Commission**