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ELECTION UPDATE NO.2

The second special election bulletin prepared by the Palestinian Centre for Human Rights

This second Election Update continues the election monitoring activities of the Palestinian Centre for Human Rights. The aim of our election monitoring programme is to disseminate information on, and to make an analysis of, the electoral process, in order to encourage free and fair elections, towards the development of a civil democratic society where human rights and the rule of law are respected.

The Centre received very positive feedback to its first Election Update. Responses came from amongst others the international and national press, participants in the elections and international observers. These responses affirm the Centre's fears and criticisms and reflect the widespread concern about the elections.

On the whole the election process has been characterised by failures by the responsible and appropriate bodies to effect timely implementation of provisions of the Election Law, and failures to enforce fully and in some cases failure to implement at all provisions of the Election Law. The issues specifically covered in this Update include: failure of the Central Election Commission (CEC) to make arrangements for local monitoring of elections; Election Law restrictions on the posting of campaign paraphernalia are not being enforced; the special programme for television campaigning has still not been fully implemented; concerns remain in relation to arrangements for voting of security forces personnel; distribution of Council seats amongst the constituencies has not been done according to stipulated proportional representation; arrangements have not been made for voting of released prisoners; fundamental freedoms of expression, association, movement and assembly are restricted by both the continued Israeli occupation and laws passed by the Palestinian National Authority.

The Palestinian Centre for Human Rights urges the concerned authorities to take necessary measures in regard to the shortcomings, flaws and transgressions which have occurred thus far in the election process.

We reaffirm that the principle aim of our work is not to criticise or to accuse, but rather to focus on mistakes and shortcomings so that they can be avoided in the future. We seek the development of a society where human rights are respected and the rule of law prevails. Such work is essential for the building process of a Palestinian civil society, which must be conducted democratically, through public, free and open dialogue.

This paper takes as its basis the Palestinian Election Law 1995 and international human rights standards and democracy. The original version of this Update has been

produced in Arabic.

Arrangements have Not Been Made for Local Election Monitoring

Most of the electoral processes have been completed and the CEC has still not made arrangements for local monitoring.

Our first Update raised this issue in relation to its own application, submitted to the CEC for official accreditation on behalf of NGOs in Gaza, who sought local monitoring status. The Centre has subsequently sent a second letter to the CEC in this regard, but as yet there has been no response and no arrangements have been made.

Article 103(2) of the Palestinian Election Law provides that the CEC shall accredit international and local observers. A.103(1) provides that all stages of the electoral process shall be public and open to international and domestic observation. As yet no arrangements have been made for local monitors in the Gaza Strip.

Election monitoring is one of the guarantees for the fair, free equal and democratic conduct of elections. The failure of the CEC to facilitate local monitoring this far into the election process undermines this guarantee and the standards it seeks to protect; and constitutes a violation of the Election Law.

Arrangements for accrediting local monitors and facilitating their work must be made as quickly as possible and without further delay.

Violation of Election Law Restrictions on Campaign Bill Posting

Article 56 and 58(2) of the Election Law is being violated. These provide for definition by the District Election Offices of specific locations for the posting of campaign stickers, posters and slogans; and forbid the posting of campaign materials in public places without permission of the District Election Offices.

The reality of the election campaign is that every street and wall in the Gaza Strip is adorned with campaign posters and slogans.

The Palestinian Centre for Human Rights requests candidates to respect the rule of the Law in force and to keep their campaigning methods within the Election Law. The CEC must ensure that the Election Law is complied with and that the rule of law is enforced so that such violations do not continue.

The issue of premature campaigning was discussed in our first Update. We are concerned that allowing such activities to occur undermines the principle of equal opportunity and access for all candidates as well as making a mockery of the Law. The cumulative effect of these transgressions is to undermine the standards for free, fair and equal elections.

Special Arrangements for Television Campaigning Still Not Fully Established

Article 57(1) of the Election Law provides for a special programme to be developed by the CEC for radio and television campaigning for candidates.

The CEC was very late in making such arrangements, the campaigning process was already well under way; and when they finally came there were no arrangements for television campaigning.

Reference was made by Mr Mahmood Abass in a press conference held in Gaza on 5 January to arrangements for campaigning on television: each candidate would have access to television for a maximum of two minutes and they must pay for this. As yet this comment has not been effected by an official declaration of the CEC and so there are still no arrangements for television campaigning.

Although arrangements for radio campaigning have not yet been used by any candidate, the failure to establish a special programme for media campaigning constitutes a transgression of the Election Law by the CEC.

Voting of Palestinian Security Forces Personnel

The Election Law guarantees the right to vote for security forces personnel. However voting arrangements for these 20,000 people were not made until well into the electoral process, and even these are not concrete.

In a seminar organised by the Palestinian Centre for Studies and Research, held in the Rashad Al Shawa Centre on 9th January 1996, General Nasser Youssef commented that it had been agreed in principle that Palestinian Security Personnel would vote according to the following arrangements: 1 mobile unit would transport 16 ballot boxes, one for each of the 16 constituencies in the Gaza Strip; security personnel will vote in the constituency where they work; they will vote for candidates from the constituency where they are registered to vote and in the presence of international observers.

The Palestinian Centre for Human Rights approves of these arrangements as long as they are fully monitored both locally and internationally in all aspects; and we would like to stress the necessity of such monitoring in all ballot stations. In addition it is crucial that the process of checking votes against the Voting Register must take place at the point of voting (ie in the mobile units); vote-counting from ballot boxes for security forces personnel must take place in the respective constituency for each box; after checking, the boxes must be closed, sealed and sent to the respective constituencies, in the presence of local and international monitors.

It is vital that these arrangements be adhered to closely as the potential threats to democratic and fair standards are enormous considering the high number of this group of voters and the effect this could have on the outcome of voting. What is of important

OF VOTERS AND THE EFFECT THIS COULD HAVE ON THE OUTCOME OF VOTING. WHAT IS OF IMPORTANT note hethat these arrangements are not official and there has been no further announcement from the CEC on this issue.

Distribution of Council Seats Amongst Constituencies

Article 5(2) of the Election Law provides that the distribution of seats amongst constituencies must be proportional according to the population number in each constituency. Distribution of seats amongst constituencies has given cause for concern because it appears that this formula has not been followed, and in fact no census has been made which would facilitate such a formula. It is notable that Council seats were assigned to the constituencies by Presidential Decree, and not by the CEC, the latter being an independent body specifically set up for such activities.

The failure to conduct a population census was not only a missed opportunity to conduct a socially useful and important survey, but in addition is important for proportional representation to be effected.

It is not clear on what basis the distribution of seats amongst constituencies has been arranged. The next most appropriate method for deciding the apportionment of seats would be to base it on the Electoral Register. But the following table shows that even on this basis the number of seats in a constituency does not follow proportional representation.

According to information contained in the Electoral Register which was declared formal and official by the CEC on 27th December 1995, the number of those registered to vote in West Bank and Gaza Strip is 1,013,235. Dividing the 88 Council seats on this basis means that each seat represents 11,514 registered voters.

This table shows that the allocation of seats is not proportional. We consider this to be a breach of the provisions of Election Law. What is astonishing is that even though the CEC has these statistics it has not reconsidered the apportionment of seats.

This table shows the number of seats in the constituencies based on the officially issued Electoral Register:

Constituency	No.of Registered Voters	No. of Constituency Seats Allocated by President	No of Constituency Seats Required to Fulfil Requirements of Proportional Representation
Jerusalem	76,400	7	6.64
Jericho	12,737	1	1.1

Bethlehem	54,534	4	4.7
Jeneen	82,850	6	7.19
Hebron	131,983	10	11.5
Ramallah	78,076	7	6.78
Silfeet	18,890	1	1.64
Tobas	15,792	1	1.37
Tulkarim	56,101	4	4.87
Kalkelia	27,220	2	2.36
Nablus	111,020	8	9.64
WEST BANK TOTAL	665,603	51	57.81
North Gaza	60,436	7	5.25
Middle of Gaza	54,538	5	4.74
Gaza City	120,483	11	10.46
Khan Younis	69,472	8	6
Rafah	42,703	5	3.7
TOTAL FOR GAZA STRIP	347,632	36	30.19

It is clear from this table that numerous constituencies have not been apportioned the number of seats proportionate to the number of registered voters in that constituency. Here are some examples based on the principle of proportional representation: the number of seats in the Nablus constituency should be 9.64, but it only has 8 seats; the number of registered voters in Khan Younis constituency is 41,548, less than the Nablus constituency, but it has been assigned the same number of seats, when it should only have 6; in Rafah constituency 5 seats were assigned while it should only have 3.71; Hebron constituency was given 10 seats while it should only have 11.5. The Gaza Strip should have been allocated a total of 30.19 seats, but has been given 36 seats; while the West Bank was allocated only 51 and it should have had 57.76.

Voting of Released Prisoners

It was agreed In the Oslo II Agreement that Israel would release 1200 prisoners from Israeli prisons. At this time only 782 prisoners have been released. However these persons fulfil the conditions for participation in the elections and therefore the CEC must take all necessary measures to ensure their participation in elections on the basis that participation in elections should be based on the principle of equality.

Mr Ibrahim Al Saqa, Member of CEC declared at a press conference held in Gaza on eve of 4th January 1996, that as yet no measures had been taken in regard to the prisoners , but that arrangements would be made upon their release. Now that some prisoners have been released arrangements must be made to ensure their full participation in Palestinian elections.

Their full participation will require the re-opening of the registration and nomination stages of the electoral process. Thus the Palestinian Centre for Human Rights once again invites the CEC to postpone voting until such time as appropriate arrangements have been made for the released prisoners, so that they have equal rights and access to all stages of the electoral process and they can enjoy the same opportunities as other voters.

Freedoms Necessary for Conducting of Democratic, Free, Fair and Equal Elections are Restricted

The Palestinian Centre for Human Rights has reiterated that the conduct of fair and free elections does not depend solely upon strict adherence to laws and technical arrangements; this also depends on the atmosphere in which elections are conducted. An appropriate atmosphere requires the protection of several fundamental individual freedoms which are facilitating rights for democratic elections. These include the freedom of association, freedom of assembly and the freedom of expression.

The occupation continues in a legal and physical form. The elections take place while Israel still has extensive control over the freedoms of expression and movement of the Palestinian people.

Freedom of Movement is Restricted by Israeli Occupation Forces

Severe restrictions are imposed by the Israeli occupying authorities on the freedom of movement for Palestinian voters and candidates both within and between West Bank, Gaza Strip and Jerusalem.

The imposition of closures on the West Bank and Gaza Strip has resulted in the isolation of West Bank from Gaza Strip and both from Jerusalem. Freedom of movement for Palestinians between West Bank and Gaza Strip is restricted on the basis of age: people who are under 35 years old are deprived of this right.

Palestinian Centre for Human Rights' documentation shows that the number of days that the Gaza Strip alone has been closed either partially or totally, from the signing of the Oslo Agreement, until 17th October 1995, is 238 days. In the aftermath of the assassination of Yeyah Ayyash on the 8th January 1996 Israeli authorities have imposed military seige once more on Gaza Strip and West Bank.

Israeli authorities have closed a number of streets and roads within the autonomous areas because these lead to the Settlements. The road that leads to Netzarim Settlement in Gaza Strip has been closed by the Israeli occupying forces from 11th November 1994 until now; Palestinians cannot use this road. Israeli troops on many occasions have closed the main street which links the northern and southern regions of Gaza. Since the assassination of Yeyah Ayyash Israeli troops have banned those under 30 years old who are not resident there from entering the Yellow Area (named by Cairo Agreement). This area includes Almawasi, the Swedish Village and the sea shore.

The continuation of the Israeli control of Palestinian resident movements will undoubtedly affect the election process.

The Palestinian Centre for Human Rights expresses its deep concern for the continuation of Israeli de facto and de jure control of the Palestinian movement within and without the Gaza Strip. Such restrictions will undoubtedly have an adverse effect on the Palestinian elections, particularly with the fragile situation in the autonomous areas at this crucial process of Palestinian development.

Palestinian Authority Restrictions on Freedom of Assembly

On September 1995 the Chief of Police issued two orders which banned unauthorised political assemblies, and bus companies from transporting any political groups or faction members, regardless of the purpose of their journey, without prior authorization.

Even though the campaigning process has already begun, and although these orders have not yet been enforced during campaigning, they have not been cancelled. The fair and free conduct of demathat assemblies must be held freely, as stated in the Law. This freedom guarantees that voters and candidates can meet without fear or threat in order to exchange ideas and distribute their campaign policies.

The Palestinian Centre for Human Rights calls for the abolition of these two orders, so that the threat to this freedom by their imposition can be removed.

Palestinian Authority Press Law Restrictions on Freedom of Expression

Fair, free and democratic elections cannot be guaranteed without protecting the freedom of expression. Candidates must be able to express their opinions freely, without fear or threat and voters must have free access to and freedom to exchange

information and different ideas so that they are empowered to make informed decisions. This right strengthens the opportunity for candidates and voters to have equal participation in the elections.

On 25th June 1995 the Palestinian National Authority adopted the Press and Publications Law which provoked vehement reaction from human rights organisations, political parties and intellectuals because of the restrictions it placed on this fundamental and crucial freedom. The Palestinian Centre for Human Rights issued a legal critique of the Press Law, evaluating it and the restrictions it places on the freedom of opinion and press.

The Press Law is part of a framework of Laws in force in the areas of Palestinian elections, excluding Jerusalem. It imposes extensive restrictions on what can be published or reported in a publication without authorization from the Ministry of the Media.

The Law has not yet been de facto invoked in regard to election activities. But the fact that the Law is still legally in force remains of real concern as it maintains a constant threat to fair, free and democratic elections.

State Security Courts

On the 7th February 1995 it was declared that state security courts would review cases that related to internal and external security matters. These courts both in their formation and procedures violate many basic human rights.

These courts are extraordinary and do not constitute part of the civil judiciary. Since their formation, 36 persons have been tried by them. They usually convene in secret, at midnight and no legal counsel is provided for defendants. Trials are far too expeditious to provide appropriate procedural guarantees for defendants.

Although these courts have not been convened since 6th September 1995, the fact that they still exist has an adverse effect on the atmosphere which is conducive to elections, by maintaining a climate of fear.

The Palestinian Centre for Human Rights expresses severe reservations about these courts, and urges the Palestinian National Authority to abolish them; not only because their existence is not conducive to the conduct of democratic elections, but also because they violate many international human rights principles and standards.