



The National Centre for Human Rights

Hashemite Kingdom of Jordan

Monitoring Report of the Parliamentary Elections for the Year 2016

Disclaimer

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Summary

The issuance of this report was delayed for reasons beyond the control of the administration of the Centre for Human Rights. The greater part of the information contained herein (95% thereof) was ready for publication on the eve of the conclusion of the electoral process for the Eighteenth House of Representatives and of the ruling of the Court of Appeal upon the challenges submitted by a number of persons. However, the absence of complete information concerning what took place at a number of polling and counting centres in the Central Badia constituency — the irregularities and tampering that were the most prominent event of that electoral process — compelled the Centre to delay the release of such a document at an early date, in the hope of obtaining documented information disclosing the circumstances of what occurred in that constituency. Verification of this matter lies at the very core of the Centre's functions, just as obtaining sound information concerning the role of each party and the limits of the responsibilities of those concerned in this regard is a right of the citizen; for knowledge of the truth is a fundamental human right. The verification process required a lengthy period of waiting, necessitated by repeated “attempts” to contact the official persons responsible in the said electoral constituency, as well as those who had a supervisory role over the boxes (which were tampered with), and others who might have been neutral witnesses. The majority of those concerned, however, refrained from disclosing any information about their roles, with the result that what happened to those boxes was not clarified. Nor did the competent authorities cooperate as required with the Centre's request to meet such officials and hear from them in order to complete this process of verification and monitoring.

II

“The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”¹ In order to safeguard this fundamental human right, the National Centre for Human Rights has consistently monitored the conduct of elections in the Kingdom since the year 2007. Elections are accordingly a human right guaranteed by the Constitution as well as by regional and international covenants and conventions.

International and national traditions in this respect have settled upon regarding a State's consent to the monitoring of the conduct of its electoral process by independent and impartial organisations and bodies as an indicator of that State's respect for human rights. International covenants and customs — together with the supporting opinions of jurists of constitutional law, and as has been established by practical experience — attest to the close relationship between the public's conviction as to the role of objective monitoring, as evidence of concern for the integrity of the electoral process, and the degree of the public's engagement in those elections. The more convincing the monitoring is to the public, the higher the turnout of citizens at the elections, and the converse is equally true. For this reason the National Centre for Human Rights has been keen to monitor the extent of the transparency, integrity and fairness

¹[The body of this footnote is blank in the Arabic original; the reference marker appears in the text with no accompanying text. The quotation corresponds to Article (21/3) of the Universal Declaration of Human Rights.]

of the parliamentary elections in Jordan, they being one of the means of protecting and promoting human rights — the sole competence of this monitoring institution.

Secondly, the Law of the National Centre provides in Articles (4/c), (5/a) and (10/b) that among its objectives are to “promote the democratic approach... verify the observance of human rights... and monitor infringements of human rights and public freedoms... including visiting any public place reported to be a place in which infringements of human rights have occurred or are occurring, and requesting from the relevant authorities any information, data or statistics it considers necessary for the achievement of its objectives...”. The monitoring of parliamentary elections is therefore one of those responsibilities undertaken by the Centre.

Its broad mandate and these responsibilities, guaranteed by its law and founded upon the principles and conditions for the establishment of national human rights institutions adopted by the United Nations, likewise require that it submit its reports and recommendations with complete impartiality and objectivity and with the utmost degree of professionalism. This responsibility cannot be discharged in full without the cooperation of the authorities concerned, particularly those entrusted with constitutional functions, since it falls to the Centre to investigate, record and monitor the administration of, and supervision over, the elections. This means [monitoring] the conduct of this process by every available means, and requires that all the relevant agencies, bodies and authorities cooperate with the Centre in this regard.

As for the electoral process in general (the quality of the law; the effectiveness of the electoral administration; the preparation of the electoral rolls; the follow-up of the electoral campaigns; the conduct of the polling and counting operations and the announcement of results; the handling of electoral complaints and electoral offences, etc.), the monitoring of all of these is expressive of: (i) the nature of the government and of the political system; (ii) the relationship of that government or system with society; and (iii) the values, priorities and culture of the nation. For this reason international standards have guaranteed the right of the citizen to participate in public affairs through free, fair and transparent elections. Accordingly, any irregularity, tampering or fraud in any elections, or any manipulation of them, is not merely tampering with, manipulation of and falsification of the will of the voter, but also a confiscation of the will of the deputy himself, an affront to the standing of the elected body and, most importantly, a misleading of public opinion concerning the fundamental rights and freedoms connected with elections.

III

In this report on the election of the Eighteenth House of Representatives, prepared by a specialised team and supervised by the administration of the Centre, the National Centre presents a faithful testimony within the limits of the information and facts it has been able to establish, with the aim of: first, clarifying the extent of compliance, in the process of electing the Eighteenth House of Representatives, with the principles set out above in their capacity as normative rules; second, [assessing] the effectiveness of the various constitutional, legal and administrative mechanisms provided by the authorities in order to give effect on the ground to these vital and fundamental principles; third, [assessing] respect for the constitutional principles that determine the nature of the Jordanian system of government (a parliamentary monarchy), that establish political legitimacy (the nation is the source of all powers) and that draw the requisite balance between these powers (the principle of flexible

separation of powers); fourth, safeguarding the principle of accountability and oversight within the framework of respect for rights and duties. In light of these considerations, the electoral administration and its performance are an expression of the nature of the political system, of the nature of the relationship between the government and the public, and of the values and culture of the nation.

As for the effectiveness of the constitutional mechanism (the Independent Election Commission) established by the State to guarantee the conduct of free, transparent and fair elections, this is a matter of vital importance, since what this Commission issues is ordinarily living testimony as to the extent of the fulfilment of the nation's supreme purpose — namely that the relationship of the State to society, and of the government to the citizen, rests always upon legitimacy and acceptance within the framework of respect for right and duty — and, beyond that, a test of the extent of the nation's (the Jordanian people's) adherence to the values of freedom, justice, equality, human rights, the rule of law and the principle of the separation of powers, being the same values and rules that constitute the essence of pluralism and of accomplished democracy. The review of this entire process and the evaluation of the performance of all the parties concerned is therefore a vital and fundamental objective of the Centre. Accordingly, the Centre submits this report to officials and to citizens so that they may benefit from the information and recommendations it contains in any future elections, concerning the three stages of the elections, namely: the pre-election procedures; the polling operations; and the results and outputs of the process and the handling of objections, challenges and complaints concerning the results after the elections. The monitoring of these elections is among the most important components of the electoral process, in order to verify the extent to which the conditions necessary for the holding of free and fair elections characterised by transparency are met. This monitoring process rests upon international foundations and standards that must be observed in order to guarantee balanced and objective reports. To this end, the National Centre for Human Rights (with partial support from the European Union) trained five thousand (5,000) observers. It also formed a specialised team, with a number of observers amounting to one thousand five hundred (1,500), to monitor these elections in their various stages; they were distributed across the electoral constituencies, twenty-seven (27) in number, alongside twenty-three (23) coordinators who coordinated the work of the various observation teams distributed by constituency.

Administration of, and supervision over, the elections

The Independent Election Commission began drawing up its plan for the administration of the electoral process early in the year 2016. This plan included the identification of the human resources required and of the requirements of the electoral process. The Commission proceeded to appoint the electoral committees, twenty-three (23) in number, so as to cover all the electoral constituencies specified under the Election Law. The Commission entrusted these committees with the task of appointing the staff working with them in accordance with the criteria it had laid down. The selection of the members of these committees was carried out at an early stage of the preparations for the electoral process, in order that any necessary administrative procedures might be undertaken; the principle of transparency in selection was, however, absent from this appointment process.

The electoral system / the delimitation of the electoral constituencies

Constitutional doubts surround the system of electoral constituencies for the year 2016, represented by the text of Article (8/a) of Election Law No. (6) of 2016. The Jordanian Constitution does not permit

the legislative body — the National Assembly with both its chambers — to delegate the constitutional powers vested in it to the executive; consequently, the provision empowering the Government thereunder to issue a regulation delimiting the electoral constituencies is not consistent with the substance of the Constitution.

Preparation of the voter rolls

The law confined itself to adopting the rolls on the basis of which the previous general elections had been held — rolls that had witnessed a great many defects and distortions — and to adopting them as the basis for the elections to the Eighteenth House of Representatives. The National Centre for Human Rights had proposed the preparation of clean electoral rolls on the basis of direct registration by citizens; this option — unlike the option that was in fact applied — is entirely consistent with the objective pursued by the law, namely the holding of free, fair and transparent elections.

A further criticism of the instructions relating to objections to the electoral rolls is that they did not permit objection, in a single application, in respect of more than one voter among those listed in the rolls objected to, a matter that constitutes a disincentive to the making of serious and effective objection for the purpose of verifying the accuracy of the electoral registers — particularly in light of what was then occurring in these registers, namely the existence of what became known at the time as the “flying” or “mobile” voting blocs, which were directed from one constituency to another and with which the registers of the various constituencies were fed on demand. It would therefore have been more fitting for the Commission to afford the opportunity to object to the names of voters by means of a single schedule or within a single list. The Board of Commissioners of the Independent Commission approved a package of executive instructions relating to the electoral process; these instructions generally regulated the electoral process in its details.

The Commission formed twenty-three (23) monitoring teams of its own, distributed across all the electoral constituencies, for the purpose of monitoring and recording the candidates' means of electoral campaigning. Numerous electoral violations were recorded and either removed or prevented from occurring. Among the violations recorded were: the conduct of electoral campaigning before its due date; the opening of campaign headquarters before the date specified for that purpose; and the opening of campaign headquarters at a distance of less than two hundred (200) metres from a polling centre.

The National Centre records a number of observations on the Electoral Constituencies Regulation No. (75) of 2016, issued pursuant to the text of Article (8/a)² of the Law on Elections to the House of Representatives No. (6) of 2016, which observations are as follows:

- The Constitution does not confer upon the executive the legal power to issue delegated regulations; its competence is confined to the issuance of executive regulations pursuant to the text of Article (31) of the Constitution, and of independent regulations pursuant to the text of Articles (45/b), (114) and (120) of the Constitution.
- The executive instructions relating to the preparation of the voter rolls, for the purpose of limiting the number of persons entitled to exercise the right to vote and to stand for election, adopted the fixed place of residence in accordance with the records of the Civil Status and

²[The body of this footnote is blank in the Arabic original; the reference marker appears in the text with no accompanying text.]

Passports Department, thereby depriving those who had changed their place of residence without the new place of residence being entered in the registers of the Civil Status Department. A number of citizens were likewise deprived whose place of residence had been recorded in the registers of the Civil Status Department as being outside the Kingdom while they were in fact present on the territory of the Kingdom at the time the elections were held. The executive instructions further broadened the scope of the deprivation stipulated in Article (3/c/2), inasmuch as the deprivation is not made conditional upon the issuance of a final judicial judgment in general terms.

- The executive instructions contravened the text of Article (6/1) of the Constitution, which provides that Jordanians are equal before the law with no discrimination between them in rights and duties even if they differ in race, language or religion, in that they discriminated against the Jordanian registered as an expatriate in the records of the Civil Status Department and deprived him of his right to stand for election and to vote, even where he was present within the Kingdom on polling day. The question of permanent residence, the purpose of which was to regulate voting within the country, thus prejudiced the rights of those abroad, such as expatriates, even where they were normally present in the country on polling day.
- The executive instructions obliged the Civil Status and Passports Department to furnish the Independent Election Commission with the voter rolls within a specified period from the date of the request (not exceeding seven days from the date of the request). In the course of implementation it became clear that this period is insufficient and ought to be longer, so as to afford the public an adequate opportunity to examine the rolls.
- The executive instructions specified the time limits applicable to applications relating to the addition of names to the preliminary voters' roll, and to applications relating to transfer from one electoral constituency to another, and referred competence to consider such applications to a special committee formed by the Director-General of the Civil Status and Passports Department, called the "Committee for Deciding Applications". Those instructions also set out the procedures and time limits applicable to objections to the voter rolls before the Independent Election Commission. Citizens generally did not possess sufficient knowledge of those requirements and of the procedures they were required to follow should they wish to object.
- The executive instructions relating to voting and to candidacy for the seats allocated to the people of the Badia departed from the principle of adopting residence for the purposes of registration in these rolls, and confined the matter exclusively to tribal affiliation among the people of the Badia, as set out in the regulation on the division of the electoral constituencies. This entails a duality of criteria in registration — by residence and by tribal affiliation.
- The appearance of the names of persons in the voter rolls of a number of polling and counting centres in the Badia constituencies, notwithstanding that the names of their tribes do not appear in the Regulation on the Division of the Electoral Constituencies No. (75) of 2016; not to mention the attachment of certain families to more than one tribe within the divisions of the Badia constituencies under the same regulation.
- The lack of clarity in the mechanism of objection and in the documents required for the purposes of objection, whether the objection was a personal one or an objection against a third party, in the instructions relating to the preparation of the voter rolls. Likewise, certain polling-

centre committees possessed no knowledge of, and no instructions specifying, the documents that the objector is required to submit.

- The Independent Election Commission merged the time limits available under the provisions of the law for objection against third parties with the period for personal objection, which prevented many voters from objecting against third parties, since the executive instructions did not permit those whose names had not appeared in the preliminary voter rolls to object. Moreover, objection against a third party requires the completion of a separate form in the name of each person in respect of whom the objection is made, which means that a person wishing to object in respect of a large number of names must complete dozens of forms or more. This affects the citizen's right to exercise his right of objection and is inconsistent with the principle of the ease of conduct of the electoral process.
- The executive instructions issued by the Commission permitted a voter who was entitled to transfer from his place of residence to join, as a matter of form, the voter rolls of the Badia constituencies notwithstanding that he did not reside therein. They likewise permitted a voter residing in the Badia whose name was not entered in its rolls to join the voter rolls of the governorate centre nearest to that Badia, while depriving other voters of the same right. They further permitted him to transfer to the electoral constituency according to place of birth (according to the place of birth of the grandfather or of the father, or by the attachment of the wife to the husband) in accordance with the civil status instructions — a matter that rendered the process of transfer of voters under the instructions on the preparation of the voter rolls discriminatory in character. The cause of this discrimination between citizens lies in the law, which distinguished between certain regions of the Kingdom and others as regards the manner of proving residence and the relationship of that to the right to vote and to stand for election.
- The refusal by the relevant offices of the Civil Status Department of a number of personal objection applications on the ground of lack of jurisdiction, in the schedule of rejected objections at page (69), in addition to the appearance therein of the expression “irrelevancies in the documents” — so which is the body competent in such a case?
- The Commission did not lay down any formula or legal framework for the resolution of electoral disputes, notwithstanding the announcement of the signing of a protocol with the Judicial Council for the resolution of such disputes.
- The executive instructions contained no conditions or criteria governing the composition of the members of the committee formed by the Independent Election Commission for the purpose of auditing the results and announcing the names of the winners in the elections.
- These instructions did not permit ordinary citizens or human rights activists to be among the members of the polling and counting committees, contrary to the position with regard to the two other committees.

Accreditation of the observers of the electoral process

The instructions did not include the powers and rights of local observers; they were confined to setting out the mechanisms and procedures for their accreditation — contrary to the Instructions on the

Accreditation of International Observers of the Electoral Process for the year 2016, which set out the conditions to be complied with.

Electoral campaigning

- The Law on Elections to the House of Representatives No. (6) of 2016, and likewise the executive instructions, overlooked the necessity of observing the principle of the “open proportional list” in electoral campaigning — that being the general principle adopted in the electoral process — by prohibiting manifestations of individual electoral campaigning.
- The Independent Commission was unable to address the use of illegal (political) money and the effect of such money upon the convictions of voters, whether directly or indirectly. Numerous reports reached the Centre in this field, and a greater number reached the Independent Election Commission. The phenomenon of vote-buying spread across the various electoral constituencies and did harm to the entire electoral process; yet none of the financiers or of the recipients of the ‘money’ was brought before the judiciary. The manifestations of the violations recorded in this respect were as follows:
 - a. Resort by certain lists to completing the number of candidates on the list by attracting certain persons to join the list in return for “their not bearing any expenses, including the payment of candidacy fees and the costs of the electoral campaigns”.
 - b. The undertaking by certain candidates — particularly those whose photographs and names occupied prominent positions and places in the electoral campaign — “to bear the costs of the electoral campaign of that list”.
 - c. The engagement by certain candidates of specified persons, for a specified period, “to follow up a group of voters until polling day so as to ensure that they vote for a particular candidate or a particular list”.
 - d. The wide spread of the phenomenon of vote-buying in return for sums of money paid directly by the person in charge of the electoral campaign, or through vote brokers who collect the civil status cards of voters and present them to the candidates so as to determine which of them will pay the most; half of the agreed sum is then paid upon receipt of the electoral card, while the remainder of the sum is paid at the time of voting.
 - e. The collection of civil status cards in return for in-kind support (such as the provision of heaters, food parcels, blankets or the like).
 - f. The collection of civil status cards in return for promises made by the candidate to those voters “to find them employment”.

The polling and counting stage

- The Independent Election Commission made efforts for which it is to be commended in the context of facilitating the electoral procedures and the access of voters to the ballot boxes, and of supervising the polling and counting procedures with an acceptable degree of transparency, with the exception of what occurred at a number of polling centres in the Central Badia constituency.

- Numerous violations occurred on polling day at several centres and electoral constituencies. These violations relate to the opening of the boxes by the chairmen of the polling and counting committees in front of the observers and the counting of the ballot papers; the interference of a number of chairmen and members of certain polling and counting committees in the choices of voters; the continuation of electoral campaigning in front of ‘the polling centres and inside them’; open voting; and the prevention of observers from performing their monitoring role. These violations generally remained without follow-up or resolution on the part of the Commission, with the exception of a limited number of them, consisting of flagrant violations by specified chairmen and members of electoral committees. The Commission's position, however, did not rise to the required level of accountability and of holding these persons to account, in that it confined itself to excluding a number of them without taking the measures provided for in the law (documented in the reports of the Centre's observers).
- Citizens and supporters of candidates attempted to obstruct the electoral process in several locations and in various forms. Incidents of gunfire and of threats to the comfort and security of voters occurred; these supporters interfered in the voting process so as to prevent voters from casting their votes, or obstructed the exercise of such right at several polling and counting centres. The intervention of the security forces came either belatedly or was indecisive, and in a number of cases came after the harm had already occurred, which opened the way for the interventions of those who tampered with the security and inviolability of the ballot boxes. The result was the occurrence of an irregularity in the electoral process at a number of polling centres in the Central Badia constituency.

The filing of challenges

In this report the National Centre for Human Rights does not address the question of the judicial challenges as such, whether directly or indirectly; nor does the National Centre comment upon or address the decisions of the judiciary, regarding them as the embodiment of the truth, founded upon the evidence submitted before the courts in accordance with the procedures and roles specified by the law.

1. The irregularities and the tampering with a number of ballot boxes in the Central Badia constituency

The National Centre for Human Rights followed with the greatest concern what was recorded by the observers and what was circulated by the media and by activists through the media and social media outlets — particularly on Wednesday 21/9/2016 — in the form of photographs and videos showing ballot boxes in the Central Badia constituency with parts of them broken and with ballot papers and polling records scattered about, and showing in the photographs a number of persons tampering with them on polling day, 20/9/2016. This gave rise at the time to manifest confusion as to the conduct of the electoral process, and to doubts as to its soundness. At the same time the Centre recorded the press statements of officials of the Independent Election Commission and the announcement of the recovery of those boxes, as well as the statement of the Commission's media spokesperson, who confirmed that “a number of the ballot boxes in the Central Badia constituency were subjected to assault and will be counted by a committee formed specially for that purpose in order to ascertain the extent of the damage sustained by them”, adding that “the election will be re-run in the areas covered by those boxes in respect of which manipulation is established”. The said spokesperson also stated that “this assault

constitutes an assault upon the will of the voters and their choices” — a confirmation that what occurred in those boxes amounted to “armed robbery”.

Likewise, the chairman of the electoral committee announced the results in the Central Badia constituency before the question of the irregularity that had affected the electoral process in this constituency had been dealt with, contrary to what ought to have been done, given that the special committee formed by the Board of Commissioners had been vested with a number of powers, including the auditing of the counting and aggregation records of the results. Table No. (9) sets out the polling centres and the numbers and quantities of boxes in the Central Badia constituency from which the results of four boxes were excluded:

Table No. (9): The polling centres and the numbers and quantities of boxes from which the results of four boxes were excluded, in the Central Badia constituency

Name of the polling and counting centre	Number of boxes	Box numbers
Irenbeh Al-Gharbiyeh Comprehensive Secondary School for Boys	2	Box (99) Box (50)
Rijm Al-Shami Al-Gharbi Secondary School for Girls	3	Box (101) Box (101) Box (109)
Al-Dhuhaibeh Al-Sharqiyyeh Secondary School for Girls	2	Box (91) Box (92)

Editorial note: The box numbers given in Table No. (9) of the Arabic original (99, 50, 101, 101, 109, 91, 92) do not correspond to the numbers of the annulled boxes as stated in the narrative and in the Board of Commissioners' Decision No. (37/2016), namely boxes (49), (92), (107) and (108); the table also lists seven boxes across three centres while referring to the exclusion of the results of four. Furthermore, the number “(101)” appears twice in the same cell. These discrepancies exist in the Arabic source and have been reproduced here without correction.

First: The contradictory statements of the Independent Election Commission concerning the assault upon the ballot boxes in the Central Badia constituency

1. On the evening of election day, 20/9/2016, the Chairman of the Board of Commissioners of the Commission announced that “there are seventeen (17) ballot boxes at specified centres in the Central Badia constituencies in respect of which controversy and observations arose giving rise to doubts, and that the Commission has formed a specialised body to look into the matter of these boxes”.

He added: “It became apparent in respect of box No. (12), following the electronic examination and the paper examination, that a number of papers had been inserted into it for voters other than voters in due form, and the papers were enumerated.”

On the same day the Chairman announced before the media: “the Commission's determination to hold supplementary elections in the Central Badia constituency”.

He added: “Ten (10) boxes were removed from the polling centres unlawfully and then returned after having been tampered with”, and continued: “tampering affected four other boxes, two of which were smashed, while the other two were assaulted inside the polling room; upon examination it was found that many of them were in a lamentable condition, and some of them were torn up. Papers were also found bearing seals but with differing signatures which are not those of the

chairman of the polling committee, which suggests that the original paper was substituted and that it is void as to its content and as to the signature it bears.” This statement constituted an express position on the part of the Commission as to the tampering and irregularity that had occurred in this constituency and had affected a number of boxes.

2. For his part, the media spokesperson of the Commission announced on the same day, 20/9/2016, the occurrence of an assault upon eight (8) of the ballot boxes of the Central Badia constituency “... where they sustained various forms of damage, such as the stuffing of ballot papers and abduction”, adding: “the preliminary results for the Central Badia constituency will not be announced until after supplementary elections have been held in the Central Badia constituency”.
3. On the morning of Wednesday 21/9/2016 the substance of televised statements by both the Chairman of the Commission and the media spokesperson was published to the effect that “... armed representatives seized a number of the ballot boxes in the Central Badia constituency and took possession of them under threat of arms and fled with them, in the presence of those representing the candidates and of the bodies entrusted with the maintenance of security”.
4. The Commission used the term “tampering with the boxes”. Pursuant to Article (57/e) of the Election Law, the act of “tampering” is a criminal act, the said Article having provided as follows: “There shall be punished by imprisonment for a period of not less than six months and not exceeding three years, or by a fine of not less than five hundred dinars and not exceeding one thousand dinars, or by both such penalties, anyone who commits any of the following acts: ... e. tampers with any of the ballot boxes or the electoral rolls or the papers prepared for polling, or steals any of these rolls or papers or destroys them, or fails to place them in the box, or performs any act with the intention of prejudicing the integrity and secrecy of the election procedures”.

Second

On 21/9/2016 the Independent Election Commission formed a special investigation committee to look into the matter of the ballot boxes that had been taken, after (part of them) had been recovered, in order to ascertain the extent of the irregularity affecting these boxes, namely those bearing the numbers (49), (92), (107) and (108). It issued its report on 22/9/2016, which constituted a narrative of what had occurred from its point of view, and decided to cancel the ballot papers that had been inside these boxes rather than to declare them void. Those steps taken by the Commission embodied a high degree of professionalism and a concern for transparency, which at the time reassured citizens as to the impartiality, professionalism and independence of the Commission.

Third

In the wake of those events, the judicial challenges relating to the Central Badia electoral constituency constituted the highest number of electoral challenges at the level of the Kingdom, the Amman Court of Appeal having received eight (8) challenges concerning the results of the elections of this constituency as announced by the Independent Commission — particularly after the Commission had confirmed, by Board of Commissioners Decision No. (37/2016), the annulment of the results of the boxes bearing the numbers (49), (92), (107) and (108), in which the number of voters amounted to one thousand one hundred and twenty-seven (1,127) voters out of a total of thirty-four thousand five hundred and seventy-two (34,572) voters in the Central Badia constituency.

In this connection, the decision of the Amman Court of Appeal stated that the assault upon the four boxes constitutes conduct that is condemned and criminalised under Articles (55), (75/a) and (60) of Election Law No. (6) of 2016, and that this Court has no jurisdiction to consider such condemned conduct, its jurisdiction being confined to the matter of challenges in accordance with the provisions of Article (71) of the Constitution.

Article (49) of Election Law No. (6) of 2016 provides as follows: “If it appears to the Board that an irregularity has occurred in the polling or counting process at one of the polling and counting centres which is such as to affect any of the preliminary results of the elections in the electoral constituency, the Independent Election Commission shall be granted a discretionary power to annul the results of the election at that centre as the case may require, and to repeat the polling and counting operations at that centre at such time and in such manner as it considers appropriate; the Commission shall have a discretionary power to annul the results of any polling and counting centre which would affect the results of the elections in the electoral constituency concerned.”

Editorial note: The Arabic text of this passage renders Article (49) in a partly duplicated form (the words “the Independent Election Commission shall be granted a discretionary power” being inserted in the middle of the quoted provision, and the concluding clause repeating the same idea). The quotation has been translated as it appears in the source. The full and unaltered wording of the Article is quoted again at point (2) of the Centre’s conclusions below.

It has been established through the judicial ruling of the Court of Appeal that the irregularity and tampering affecting the boxes was grave, to a degree affecting the will of the voters. The Centre accordingly considers that the Commission’s decision to annul the results of the boxes was sound and well founded. The Board of Commissioners did not, however, give effect to the final paragraph of Article (49) of the Election Law, which requires “the repetition of the polling and counting operations at those centres at such time and in such manner as it considers appropriate”.

The National Centre for Human Rights does not comment upon or address the decisions of the judiciary, regarding them as the embodiment of the truth. Nor does it address, in this report, the question of the judicial challenges as such, whether directly or indirectly.

The National Centre for Human Rights did, however, undertake a process of inquiry and verification with a view to ascertaining the truth of what happened to the four boxes bearing the numbers (99), (92), (101) and (101) in the Central Badia constituency at the stage preceding the stage of the judicial challenges, and specifically with regard to the incident of the assault upon, and the tampering with, these boxes. To this end it heard a number of the candidates in this constituency, as well as neutral citizens who had been outside and inside the precincts of the said polling centres and in the polling rooms of the boxes whose ballot papers were excluded. It reached the following:

Editorial note: The box numbers stated in this paragraph of the Arabic original (99, 92, 101, 101) differ from the numbers of the annulled boxes stated elsewhere in the report and in Board of Commissioners Decision No. (37/2016), namely (49), (92), (107) and (108). The discrepancy is that of the source and has been preserved.

- a. The results of the count of box No. (92) at Al-Dhuhaibeh Al-Sharqiyyeh Secondary School for Girls were delivered by the chairman of the polling committee to the final aggregation centre, it being noted that, according to the allegations of these citizens, there were no grounds requiring the annulment of the ballot papers in this box, since it was delivered in sound condition to the electoral committee by those responsible for it.

- b. A group of citizens in civilian dress entered Rijm Al-Shami Al-Gharbi Secondary School for Girls with the aim of disrupting the counting process, which was then in its final stages, the polling and counting committee having completed the count of box No. (109) and the counting committee being close to completing the count of the two boxes bearing the numbers (107) and (108). However, citizens who were dissatisfied with these preliminary results, after the approximate results of those boxes had appeared, smashed the two boxes and threw the ballot papers into the roads.
- c. At Irenbeh Al-Gharbiyeh Comprehensive Secondary School for Boys, where ballot box No. (49) was located, an assault was committed against the electoral committee and its members, and papers and seals were stolen from the polling centre, and papers were placed in the box after having been marked. The purpose was to create chaos at this centre with a view to the annulment of the counting results of the boxes located there; as a result they achieved this, the results of the ballot boxes bearing the numbers (49), (92), (107) and (108) having been annulled by the Independent Election Commission.
- d. As for Al-Dhuhaibeh Al-Sharqiyyeh Secondary School for Girls, ballot box No. (92) — which, according to what was reported in the media and in the statements of the Commission itself, “remains missing and has not been found” — the Commission did not disclose the whereabouts of this missing box, nor did the Commission furnish the Amman Court of Appeal with any documents relating to this box, whether the ballot papers pertaining to it or a statement of the actual condition of the said box.
- e. The accounts of the citizens who were heard included allegations that the associates of one of the officials concerned intervened to tamper with the results of certain boxes, believing that the counting of the votes contained in them would make a difference to the result in favour of other candidates and would consequently make a difference to the results in favour of one or more candidates; and that they succeeded in corrupting the electoral process at those centres so as to prevent the final result from being in favour of other candidates. Those concerned at the Centre contacted a number of these persons, being persons whose names had been mentioned by the citizens interviewed; the Centre, however, was unable to obtain any response from them, and they preferred not to avail themselves of the opportunity afforded them by the Centre to clarify their role — if they had any role, whether direct or indirect, in the tampering and irregularity that occurred in the ballot boxes that are the subject of this inquiry.

In consequence, and given that the acts and legal excesses referred to above together brought about an irregularity in the electoral process in the Central Badia constituency and affected the conduct of that process, it may be said that the elections in that constituency were tainted by matters that affected the true will of the voters in choosing those who would represent them in this constituency. This is because “any irregularity” — as confirmed by the Jordanian judiciary in its judgment in case No. (76/2013) concerning the irregularity that occurred in the elections of the Faqqou’ constituency in Karak Governorate — which is such as to prejudice the essence of the electoral process or its fundamentals, is regarded as a sufficient ground “for the annulment of the results of that process”. The Independent Election Commission, the official and oversight bodies and the civil society institutions concerned acknowledged that the elections of the Central Badia constituency for the Eighteenth House of Representatives, marked by armed robbery coinciding with groups of representatives, constituted a

grave precedent and a challenge to the legal and constitutional order, contrary to the provisions of the Penal Code and likewise contrary to Article (60) of the Election Law, which renders what occurred at a number of polling centres in that constituency a felony punishable by hard labour for from five to ten years in addition to a fine. Society, however, has not been informed of any penalties imposed upon the offenders, or of the legal measures taken against them to date; and transparency was absent from the measures taken by the Independent Election Commission against those who breached the law in the Central Badia constituency, in application of the text of Article (57) of the Law on Elections to the House of Representatives No. (6) of 2016.

Having established that there was incomplete information as to what took place in the Central Badia constituency, and for the purposes of completing its final report on the general elections to the Eighteenth House of Representatives, in order to ascertain what occurred on the evening of 20/9/2016 at the polling centres pertaining to boxes (49), (92), (107) and (108), and the role and responsibility of each of the parties concerned with guaranteeing the security, safety and proper conduct of the electoral process, a technical team of legal professionals took the following steps:

1. It requested a meeting with the officials concerned in the electoral committee of the Central Badia constituency; those officials, however, refused to speak without the approval of the Independent Election Commission.
2. The National Centre addressed the Chairman of the Independent Election Commission by its letter No. (أ/95/8024) dated 20/2/2017, informing him that it needed to meet the chairman of the electoral committee in the Central Badia constituency and the chairmen and members of the polling and counting committees.
3. The National Centre received the reply of the Chairman of the Independent Election Commission declining to accede to the Centre's request, by the Chairman's letter No. (ب/5/8/198) dated 22/2/2017, which contained the following: "For your information, the Independent Election Commission, upon assignment by the Amman Court of Appeal, submitted a detailed report on the course of what occurred in the Central Badia constituency, and the Court decided to adopt the report, considering that its content satisfies the purpose required of expert evidence, inspection and the facts required to be proved by personal testimony, and consequently decided not to hear personal testimony or to conduct a technical expert examination. Inasmuch as it is settled in jurisprudence and precedent that judgments having acquired the force of *res judicata*, by attaining finality, are regarded as a legal truth — because the judicial judgment is the embodiment of the truth and is not subject to review — the judgment issued by the Amman Court of Appeal, which has attained finality, represents the legal truth and must be given effect. We attach for you a certified true copy of the report submitted to the Amman Court of Appeal." Annex No. (4).
4. Since the task of verification is not for the purposes of dealing with the judicial challenges and the court's judgment upon them — which the Centre always affirms that it respects, the decision of the honourable Amman Court of Appeal being concerned with adjudicating the judicial challenges, and by which it abides — the Centre, relying upon its mandate, sought to ascertain the truth of the irregularity that occurred and of what each party concerned with the administration of the polling and counting process did, and the limits of responsibility for the act that led to the failure to respect the will of the voters in their electoral choices in expressing their election of those who represent them, and the responsibility of the Independent Election Commission as a

constitutional body entrusted with the administration of and supervision over the electoral process. The Centre therefore continued with the matter of verification and worked to interview eyewitnesses other than the officials referred to. Among these witnesses were a number of candidates who agreed to speak to the delegate of the National Centre; some of them attended at the National Centre, and some were interviewed at their places of residence. These persons confirmed that the operation of armed robbery, as described by the officials of the Commission, which took place in the Central Badia constituency, was aimed at imposing electoral results in the Central Badia constituency in the manner desired by (those who tampered and those behind them), because they believed that the votes of the social milieu that had entered those boxes might lead to the victory of persons other than those they wished to see win, and to the defeat of those they supported.

The accounts obtained by the Centre did not, however, enable it to establish this truth, and consequently to arrive at a definitive determination or view as to the truth of what occurred and as to the responsibility of each of the parties concerned. The Centre therefore declines to issue any opinion, position or conclusion in this field, and expresses its regret at the failure of the bodies concerned to cooperate in the verification process. It disclaims responsibility should important additional information emerge in the future disclosing new findings. It likewise apologises to the public for having been unable to arrive at the facts relating to what occurred, and consequently to reveal the identity of those responsible for the irregularity and the tampering affecting a number of the boxes of the Central Badia constituency.

In consequence, the National Centre is of the following view in this regard:

1. An irregularity occurred in the election process in the Central Badia constituency, and there was tampering with the will of the voters. This has been established materially and confirmed by the statements of the officials of the Commission, as well as by the decision of the competent court. It is noteworthy here that none of those responsible for the polling and counting centres that are the subject of this inquiry, nor of those concerned with protecting and securing the safety of the polling and counting process — whether civilian officials at those centres or non-civilians — has been questioned or held to account under the law in respect of the irregularity and tampering that occurred and that is known to the public, who have the right to know of it; this being so far as the Centre is aware and to date. It is to be hoped that what is set out in this report of the Centre will assist in supporting judicial efforts aimed at ascertaining the limits of the responsibility of all parties.
2. As to the question whether the tampering and irregularity, the occurrence of which has been confirmed and which affected a number of the ballot boxes in that constituency, produced an effect upon the results relating to the Central Badia constituency or not, this remains an open question, the determination of which requires complete transparency in dealing with what occurred. It is known, however, that the Commission did not give full effect to the text of Article (49) of Election Law No. (6) of 2016, which provides as follows: “If it appears to the Board that an irregularity has occurred in the polling or counting process at one of the polling and counting centres which is such as to affect any of the preliminary results of the elections in the electoral constituency, it may annul the results of the election at that centre as the case may require and repeat the polling and counting operations at that centre at such time and in such manner as it considers appropriate.” The Commission annulled the results of four boxes but did not repeat the

elections at these polling centres in accordance with the full terms of paragraph (49) of the Election Law. The National Centre appreciates the exceptional circumstances that surrounded the question of the irregularity and tampering that affected a number of boxes in the Central Badia constituency, which would have made the return of the Seventeenth House of Representatives inevitable had the announcement of the final results of the elections of the Eighteenth House been delayed beyond 28/9/2016. It likewise appreciates the significance of these circumstances and their effect upon the performance of the Commission and upon the general situation in the country. It affirms, however, that such circumstances would not have arisen or come about had the question of the timeframe of the electoral process as a whole been studied with care and professionalism in the first place — a matter for which responsibility falls upon the constitutional body empowered in this regard (the Independent Election Commission) when fixing the date of the elections and the date of the polling and counting day. The Centre recommends that this aspect necessarily be taken into consideration in any future elections. It sees no justification for the absence of transparency and clarity in this field, since such transparency would have protected the credibility of this institution and would enhance public confidence in the electoral process.

3. As regards the non-counting of the results of the four boxes that were excluded from among the boxes of the Central Badia constituency, which contained the ballot papers of one thousand one hundred and twenty-seven (1,127) voters, the Centre is of the view that Article (43/d) of the Law on Elections to the House of Representatives No. (6) of 2016, and Article (21) of Executive Instructions No. (9) of 2016 concerning polling, counting and the aggregation of votes, address the question of an excess or a shortfall in the ballot papers in a given box during the counting process — that is, where it appears that the number of papers sealed and signed by the chairman of the polling and counting committee exceeds or falls short of the number of voters in a normal voting process not attended by any irregularity or tampering during the polling. This situation arises during the process of counting the votes and after the completion of that process, whereupon the chairman of the polling and counting committee undertakes the procedures provided for in Article (43/d) of Executive Instructions No. (9), which conclude with the notification of the electoral committee in the constituency [and] the Board of Commissioners, within procedures specified at each stage. It is for the Board to decide whether that proportion affects the final result of the election in the electoral constituency or not; and this number constitutes the proportion permitted under the texts set out above. The irregularity that occurred, however, differs entirely, both substantively and formally, from what is contemplated by Article/(d) referred to above; rather, it concerns the occurrence of tampering and of a material assault whose source is external to the polling process itself and to the conduct of the voters while casting their votes — [and falls] under Article (49) of the Election Law in force. In this connection the Centre reviewed the figures set out in the report of the Independent Election Commission and found that the proportion of voters in the boxes that were excluded amounts to (3.16%) of the number of votes of the constituency.

2. Recommendations

1. To enhance confidence in the electoral process in accordance with the best international standards and practices, through the adoption or amendment of an electoral system that contributes to

strengthening blocs, and addressing the situation in which the bloc has become a purely formal matter and its members have come to compete against one another.

2. To strengthen the approach of political reform, so as to enable the political forces to coalesce into genuine electoral blocs or groupings for the purpose of electing a House of Representatives that represents the social categories and the intellectual and political currents in the country.
3. To guarantee the integrity of the electoral process through the administration and supervision of the Independent Election Commission.
4. To enhance transparency in the performance of the Independent Election Commission in a manner that guarantees the access of observers, candidates, parties and all their delegates to the places pertaining to all the stages of the electoral process, which will enhance confidence in the Commission and the credibility of the elections and, consequently, the willingness to participate in them in future and the acceptance of their results as a matter of course.
5. To strengthen the independence of the Independent Election Commission from the executive and to permit it to appoint its staff with complete impartiality.
6. To establish a precise plan and timetable for the electoral process.
7. To amend the text of Article (71) of the Jordanian Constitution in a manner that guarantees the right of litigation at two levels for challenging the validity of the membership of the members of the House of Representatives.
8. To amend the text of Article (73) of the Jordanian Constitution in a manner that guarantees the provision of a sufficient period of time for the conduct of the election within a timetable sufficient for all the stages of the electoral process.
9. To guarantee the selection of the members of the electoral committees transparently and at an early stage of the preparations for the electoral process, and the inclusion of their names in the voter registers so that the members of these committees may exercise their right to vote at the same centres at which they work.
10. To divide the electoral constituencies by the Election Law itself or by a schedule annexed thereto.
11. To prepare clean electoral rolls on the basis of direct registration by citizens.
12. To enable the citizen to have access to the voter rolls and to review them in order to verify their soundness, and to display them electronically in a form that enables the citizen to browse them more easily.
13. To raise citizens' awareness of the requirements and procedures they must follow should they wish to object to the voter rolls.
14. To establish a legal framework for the resolution of electoral disputes.
15. To devise clear mechanisms and controls to ensure candidates' compliance with the rules of electoral campaigning.
16. To include in the Election Law the conditions, controls and bases for fixing financial ceilings for electoral campaigning, and to put in place the mechanisms and means that guarantee their application.

17. To activate the role of the Independent Commission in monitoring the electoral campaigns and to activate the procedures of accountability and answerability.
18. To address the use of illegal money and its influence upon the convictions of voters, whether directly or indirectly, by means that ensure that it does not affect the will of the voters.
19. To accord popular oversight the place and role it deserves in monitoring the performance of official bodies, including the Independent Commission.