



The National Centre for Human Rights

Hashemite Kingdom of Jordan

Monitoring Report on the 2016 Parliamentary Elections

I.

The issuance of this report was delayed for reasons beyond the control of the administration of the National Centre for Human Rights. The greater part of the information contained in it — some 95 per cent — 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 on the challenges brought 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 district — the irregularity and tampering that constituted the most prominent incident of that electoral process — compelled the Centre to postpone the release of such a document at an earlier date, in the hope of obtaining documented information disclosing the circumstances of what occurred in that district. Verification of such matters lies at the core of the Centre's mandate, just as access to sound information concerning the role of each party and the limits of the responsibilities of those concerned is a right of the citizen. Knowledge of the truth is a fundamental human right.

The process of verification required a lengthy period of waiting, occasioned by repeated attempts to contact the official persons responsible in the said electoral district, as well as those who had a role in supervising the boxes that were tampered with, and others who might have served as neutral witnesses. The majority of those concerned, however, declined to provide any information as to their roles, with the result that what occurred in respect of those boxes remained unclarified. Nor did the competent authorities cooperate in the manner required with the Centre's request to meet and hear such officials 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 2007. Elections are thus a human right guaranteed by the Constitution and by regional and international covenants and conventions alike.

International and national practice in this field has settled upon the view that a State's consent to the monitoring of its electoral process by independent and impartial organisations and bodies is an indicator of that State's respect for human rights. International covenants and customary practice, together with the supporting opinions of scholars of constitutional law — and this has been borne out in practical experience — attest to the close relationship between the public's conviction as to the role of objective monitoring, as evidence of a concern for the integrity of the electoral process, and the degree of public engagement in those elections. The more persuasive the monitoring is to the public, the higher the rate of citizen turnout, and the converse holds equally true. It is for this reason that the National Centre for Human Rights has been careful to monitor the transparency, integrity and fairness of the parliamentary elections in Jordan, as one of the means of protecting and promoting human rights, that being the sole area of competence of this monitoring institution.

¹[Footnote marker (1) appears at this point in the Arabic original; the footnote body is blank in the source file. The passage quoted is Article 21(3) of the Universal Declaration of Human Rights.]

Secondly, the Law of the National Centre provides, in Articles 4(c), 5(a) and 10(b), that among its objectives are "the promotion of the democratic approach ... verifying observance of human rights ... and monitoring transgressions occurring against human rights and public freedoms ... including visiting any public place in respect of which it is reported that transgressions against human rights have occurred or are occurring, and requesting from the relevant authorities any information, data or statistics it deems necessary for the achievement of its objectives ...". The monitoring of parliamentary elections is accordingly one of the responsibilities discharged by the Centre.

This broad mandate and these responsibilities, embodied in its Law and founded upon the principles and conditions for the establishment of national human rights institutions endorsed by the United Nations, further require that the Centre submit its reports and recommendations with complete impartiality and objectivity and to the highest standards of professionalism. This responsibility cannot be discharged in full without the cooperation of the relevant authorities, particularly those constitutionally entrusted with the matter, since the Centre must investigate, record and monitor the administration and supervision of the elections. This means monitoring the conduct of the process by every available means, and requires that all relevant agencies, bodies and authorities cooperate with the Centre in this regard.

As to the electoral process generally — the quality of the law; the effectiveness of the electoral administration; the preparation of the electoral rolls; the oversight of the campaigns; the conduct of polling, counting and the announcement of results; and the handling of electoral complaints and violations — the monitoring of all of these reflects: (i) the nature of the government and of the political system; (ii) the relationship of that government or system to society; and (iii) the values, priorities and culture of the nation. It is for this reason that international standards guarantee the right of the citizen to participate in public affairs through free, fair and transparent elections. Any irregularity, tampering or fraud in any election, or any manipulation of it, is therefore not merely tampering with, manipulation of, and falsification of the will of the voter; it is also a confiscation of the will of the representative himself, an affront to the standing of the elected body and — most importantly — a misleading of public opinion as to the fundamental rights and freedoms bound up 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 was able to obtain, directed towards the following ends:

First: to clarify the extent of adherence, in the process of electing the Eighteenth House of Representatives, to the principles set out above in their capacity as normative standards.

Second: to assess the effectiveness of the various constitutional, legal and administrative mechanisms provided by the authorities in order to give practical effect to these vital and fundamental principles.

Third: to assess respect for the constitutional principles that define the nature of the Jordanian system of government (parliamentary monarchy), that establish political legitimacy (the nation is the source of powers), and that delineate the requisite balance among these powers (the principle of flexible separation of powers).

Fourth: to assess the safeguarding of the principle of accountability and oversight within a framework of respect for rights and duties.

For these reasons, the electoral administration and its performance are taken to be 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.

The effectiveness of the constitutional mechanism established by the State to guarantee the holding of free, transparent and fair elections — namely the Independent Election Commission — is a matter of vital importance, since what that body issues is ordinarily a living testimony as to the extent to which the nation's supreme purpose has been attained: namely, that the relationship of the State to society, and of the government to the citizen, rests always upon legitimacy and acceptance within a framework of respect for right and duty. Beyond this, it tests the extent of the nation's (the Jordanian people's) attachment to the values of liberty, justice, equality, human rights, the rule of law and the separation of powers — the same values and rules that constitute the essence of pluralism and of a fully realised democracy.

For this reason, a review of this process in its entirety and an evaluation of the performance of all the parties concerned constitute a vital and fundamental objective for the Centre. Accordingly, the Centre submits this report to officials and to citizens alike, so that they may benefit, in any future elections, from the information and recommendations it contains regarding the three stages of the elections: pre-electoral procedures; the polling operations; and the outcomes and results of the process, together with the handling of objections, challenges and complaints concerning the results in the post-electoral phase.

The monitoring of these elections is among the most important components of the electoral process, serving to verify the extent to which the conditions necessary for free, fair and transparent elections are present. Such monitoring rests upon international foundations and standards that must be observed in order to ensure balanced and objective reporting. 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 total of one thousand five hundred (1,500) observers, to monitor these elections at their various stages, distributed across the twenty-seven (27) electoral districts, together with twenty-three (23) coordinators who coordinated the work of the various monitoring teams distributed by district.

Administration and Supervision of the Elections

The Independent Election Commission began drawing up its plan for the administration of the electoral process early in 2016. That 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 districts specified under the Election Law. The Commission entrusted to these committees 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 took place early in the preparations for the electoral process, so as to permit the taking of any necessary administrative measures; the principle of transparency in selection, however, was absent from this appointment process.

The Electoral System and the Delimitation of Electoral Districts

Constitutional doubts surround the system of electoral districts for the year 2016, embodied in the text of Article 8(a) of Election Law No. (6) of 2016, inasmuch as the Jordanian Constitution does not permit the legislature — the National Assembly in both its chambers — to delegate the constitutional powers vested in it to the executive. Accordingly, the provision empowering the Government to issue a regulation delimiting the electoral districts is inconsistent with the substance of the Constitution.

Preparation of the Voter Registers

The Law confined itself to adopting the rolls on the basis of which the previous general elections had been conducted — rolls that had exhibited numerous defects and distortions — and to relying upon 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; that option — unlike the option in fact adopted — accords entirely with the Law's stated aim of holding free, fair and transparent elections.

A further criticism attaches to the instructions governing objections to the electoral rolls, in that they did not permit an objection to be lodged, in a single application, in respect of more than one voter listed in the rolls objected to. This constitutes a disincentive to the mounting of any serious and effective objection procedure capable of verifying the accuracy of the electoral registers — particularly in light of what was then occurring in those registers, namely the presence of what came to be known as "floating" or "mobile" voting blocs, which were directed from one district to another and used to supplement the registers of the various districts on demand. It would accordingly have been more appropriate for the Commission to afford the opportunity to object to the names of voters in a single schedule or within a single list.

The Board of Commissioners of the Independent Commission approved a set of executive instructions governing the electoral process; these instructions, in general terms, regulated the electoral process in its details.

The Commission formed twenty-three (23) monitoring teams, distributed across all the electoral districts, in order to monitor and record the candidates' means of electoral campaigning. A number of electoral violations were recorded and were either removed or prevented from occurring. Among the violations recorded were: the conduct of electoral campaigning before the permitted date; the opening of campaign headquarters before the date set for that purpose; and the opening of campaign headquarters at a distance of less than two hundred (200) metres from a polling centre.

Observations on the Electoral Districts Regulation No. (75) of 2016

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

²[Footnote marker (2) appears at this point in the Arabic original; the footnote body is blank in the source file.]

- The Constitution does not confer upon the executive the legal competence to issue delegated regulations; its competence is confined to the issuance of executive regulations pursuant to Article 31 of the Constitution, and of independent regulations pursuant to Articles 45(b), 114 and 120 of the Constitution.
- The executive instructions governing the preparation of the voter registers adopted, for the purpose of determining the persons entitled to exercise the right to vote and to stand for election, the fixed place of residence as recorded in the registers of the Civil Status and Passports Department. This deprived those who had changed their place of residence without having the new place of residence recorded in the registers of the Civil Status Department. It likewise deprived a number of citizens whose place of residence had been registered in the records of the Civil Status Department as being outside the Kingdom, whereas they were in fact present on the territory of the Kingdom at the time the elections were held.
- The executive instructions extended the scope of the disqualification provided for in Article 3(c)(2), in that they did not require a final judicial judgment as a condition of disqualification generally.
- 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. The instructions 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 in the country in the ordinary course on polling day.
- The executive instructions required the Civil Status and Passports Department to furnish the Independent Election Commission with the voter registers within a fixed period from the date of the request (not exceeding seven days from the date of the request). In practice it became clear that this period was insufficient and that it ought to be longer, so as to afford the public an adequate opportunity to examine the registers.
- The executive instructions fixed the time limits applicable to applications for the addition of names to the preliminary voter register, and to applications for transfer from one electoral district to another. They referred competence to consider such applications to a special committee formed by the Director-General of the Civil Status and Passports Department, known as the "Committee for the Determination of Applications". Those instructions also set out the procedures and time limits governing objections to the voter registers before the Independent Election Commission; citizens generally, however, lacked adequate knowledge of those requirements and of the procedures they were required to follow should they wish to lodge an objection.
- The executive instructions governing voting and candidacy for the seats allocated to the inhabitants of the Badia departed from the principle of relying upon residence for registration in these rolls, and confined the matter exclusively to tribal affiliation among the inhabitants of the Badia as set out in the Electoral Districts Regulation. This entails a double standard in registration, according to residence in one case and tribal affiliation in the other.

- Names of persons appeared in the voter registers for a number of polling and counting centres in the Badia districts, notwithstanding that the names of their tribes did not appear in the Electoral Districts Regulation No. (75) of 2016 — quite apart from the attachment of certain families to more than one tribe within the Badia district divisions under that same Regulation.
- The mechanism for lodging objections, and the documents required for that purpose, were unclear — whether the objection was a personal one or an objection in respect of a third party — in the instructions governing the preparation of the voter registers. Nor did some of the polling centre committees have any knowledge of, or instructions specifying, the documents an objector was required to submit.
- The Independent Election Commission merged the periods available under the provisions of the Law for objections in respect of third parties with the period for personal objections. This prevented many voters from lodging objections in respect of third parties, since the executive instructions did not permit persons whose names had not appeared in the preliminary voter registers to lodge an objection. An objection in respect of a third party further required the completion of a separate form in the name of each person lodging the objection, which meant that a person wishing to object in respect of a large number of names was required to complete dozens of forms or more. This affects the citizen's right to exercise his right of objection and is inconsistent with the principle that the electoral process should be easy to conduct.
- The executive instructions issued by the Commission permitted a voter entitled to transfer from his place of residence to be nominally attached to the voter registers of the Badia districts notwithstanding that he did not reside there. They likewise permitted a voter residing in the Badia whose name was not listed in its registers to attach himself to the voter registers of the governorate centre nearest to that Badia, while denying other voters the same right. They further permitted him to transfer to an electoral district according to place of birth (that of the grandfather or the father, or the attachment of a wife to her husband) in accordance with the Civil Status instructions. This rendered the transfer process, as governed by the instructions on the preparation of voter registers, discriminatory in character. The cause of this discrimination between citizens lies in the Law, which distinguished between some regions of the Kingdom and others as regards the method of proving residence and its bearing upon the right to vote and to stand for election.
- The relevant offices of the Civil Status Department rejected a number of personal objection applications on the ground of want of competence, as recorded in the schedule of rejected objections at page (69), in addition to the appearance there of the expression "documentary equivocation". The question arises as to which body is 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 signature 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 to audit the results and announce the names of the successful candidates 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 in respect of the other two committees.

Accreditation of Observers of the Electoral Process

The instructions did not set out the powers and rights of domestic observers, nor the mechanisms and procedures for their accreditation. They confined themselves to setting out the conditions to be complied with, contrary to the position under the Instructions on the Accreditation of International Observers of the Electoral Process of 2016.

Electoral Campaigning

The House of Representatives Election Law No. (6) of 2016, and likewise the executive instructions, omitted any requirement to observe 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 unlawful (political) money and the effect of such money upon voters' convictions, whether directly or indirectly. Numerous reports on this subject reached the Centre, and yet more reached the Independent Election Commission. The phenomenon of vote-buying spread across the various electoral districts and impaired the electoral process as a whole; yet none of those who financed, or those who received, such money was brought before the courts. The manifestations of the violations recorded in this regard were as follows:

- (a) Recourse by certain lists to completing the number of candidates on the list by attracting persons to join it in return for "their bearing no expenses whatever, including payment of the candidacy fees and the costs of the electoral campaign".
- (b) Undertakings by certain candidates — in particular those whose photographs and names occupied prominent positions and locations in the electoral campaigning — "to bear the costs of the electoral campaign of that list".
- (c) The engagement by certain candidates of particular persons, for a specified period, "to follow up a group of voters until polling day so as to ensure that they voted for a particular candidate or a particular list".
- (d) The widespread prevalence of the phenomenon of vote-buying in return for sums of money paid directly by the person managing the electoral campaign, or through vote brokers who collected voters' civil status cards and offered them to candidates in order to determine which of them would pay the most; half the agreed sum would then be paid upon receipt of the electoral card, and the remainder upon voting.
- (e) The collection of civil status cards in return for support in kind (such as the provision of heaters, food parcels, blankets or the like).
- (f) The collection of civil status cards in return for promises by the candidate to those voters that he would "provide them with employment".

The Polling and Counting Stage

The Independent Election Commission made commendable efforts to facilitate the electoral procedures and voters' access to the ballot boxes, and to supervise the polling and counting procedures with an acceptable degree of transparency, save for what occurred at a number of polling centres in the Central Badia district.

Numerous violations occurred on polling day at several centres and electoral districts. These violations concerned the opening of boxes by the chairmen of the polling and counting committees in the presence of observers and the counting of the ballot papers; interference by a number of chairmen and members of certain polling and counting committees in voters' choices; the continuation of electoral campaigning in front of and inside polling centres; open voting; and the prevention of observers from performing their monitoring role. These violations generally remained without follow-up or resolution by the Commission, save in a limited number of instances involving flagrant violations by particular chairmen and members of electoral committees. Even there, the Commission's position did not rise to the required level of accountability and answerability in respect of those persons: it confined itself to excluding a number of them without taking the measures prescribed by law. (These matters are documented in the reports of the Centre's observers.)

Citizens and supporters of candidates attempted to obstruct the electoral process at several locations and in various forms. Incidents of gunfire occurred, together with threats to the comfort and security of voters; these supporters interfered in the voting process so as to prevent voters from casting their ballots, or obstructed the exercise of that right, at several polling and counting centres. The intervention of the security forces came either too late or was indecisive, and in several instances only after the damage had been done — which opened the way to interference by those who tampered with the security and inviolability of the ballot boxes. The result was an irregularity in the electoral process at a number of polling centres in the Central Badia district.

The Lodging 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, and does not comment upon or address the decisions of the judiciary, these being the expression of the truth, founded upon the evidence submitted before the courts in accordance with the procedures and roles laid down by law.

1. The Irregularity and Tampering Affecting a Number of Ballot Boxes in the Central Badia District

The National Centre for Human Rights followed with the greatest concern what its observers recorded, and what was circulated by the media and by activists through the media and social media platforms — particularly on Wednesday 21 September 2016 — in the form of photographs and video footage showing ballot boxes in the Central Badia district with parts of them broken and ballot papers and polling records scattered about, and showing a number of persons tampering with them on polling day, 20 September 2016. This gave rise at the time to manifest confusion in the conduct of the electoral process and to doubts as to its integrity.

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, together with the statement of the Commission's spokesman, who confirmed that a number of the ballot boxes in the Central Badia district had been subjected to assault and would be counted by a special committee in order to determine the extent of the damage sustained, adding that the vote would be repeated in the areas covered by those boxes in respect of which tampering had been established. The said spokesman further stated that this assault constituted an assault upon the will and choices of the voters — a confirmation that what had occurred in respect of those boxes amounted to armed robbery.

Likewise, the chairman of the electoral committee announced the results in the Central Badia district before the question of the irregularity affecting the electoral process in that district had been addressed, contrary to what ought to have been done, given that the special committee formed by the Board of Commissioners had been vested with several powers, among them the auditing of the counting and aggregation records of the results.

Table (9) sets out the polling centres and the numbers and quantities of the boxes in the Central Badia district, four of whose results were excluded:

Table (9): Polling centres and the numbers and quantities of the boxes in the Central Badia district, the results of four of which were excluded

Polling and Counting Centre	No. of Boxes	Box Numbers
Irainbah al-Gharbiyya Comprehensive Secondary School for Boys	2	Box (99); Box (50)
Rajm al-Shami al-Gharbi Secondary School for Girls	3	Box (101); Box (101); Box (109)
al-Dhuhaiba al-Sharqiyya Secondary School for Girls	2	Box (91); Box (92)

First: The Contradictory Statements of the Independent Election Commission Concerning the Assault on the Ballot Boxes in the Central Badia District

1. On the evening of polling day, 20 September 2016, the chairman of the Commission's Board of Commissioners announced that there were seventeen (17) ballot boxes at specified centres in the Central Badia districts in respect of which confusion and observations had arisen giving rise to doubts, and that the Commission had formed a specialised body to examine the matter of these boxes. He added that it had emerged in respect of box No. (12), following electronic and paper examination, that a number of papers had been inserted into it on behalf of persons who were not voters in accordance with the proper procedure, and that those papers had been counted. On the same day the chairman announced before the media the Commission's determination to hold supplementary elections in the Central Badia district. He further stated that ten (10) boxes had been removed from the polling centres unlawfully and then returned after having been tampered with, and continued: that tampering had affected four other boxes, two of which had been destroyed, while the other two had been assaulted inside the polling room; and that upon examination many of them were found to be in a deplorable condition, some torn, while papers were found bearing seals but with differing signatures not belonging to the chairman of the

polling committee, suggesting that the original paper had been substituted and that it was void as to its content and as to the signature it bore. This statement constituted an explicit position on the part of the Commission as to the tampering and irregularity that had occurred in that district and affected a number of boxes.

2. For his part, the Commission's spokesman announced on the same day, 20 September 2016, that an assault had occurred on eight (8) of the ballot boxes of the Central Badia district, which had sustained various forms of damage, such as the stuffing of ballot papers and abduction. He added that the preliminary results for the Central Badia district would not be announced until after supplementary elections had been held in that district.
3. On the morning of Wednesday 21 September 2016, televised statements were published by both the chairman of the Commission and the spokesman to the effect that armed agents had robbed a number of ballot boxes in the Central Badia district and had seized them under threat of arms and fled with them, in the presence of persons representing the candidates and of the bodies entrusted with the maintenance of security.
4. The Commission employed the term "tampering with the boxes". Under Article 57(e) of the Election Law, the act of "tampering" is a criminal act, the said Article providing as follows: "There shall be punished by imprisonment for a period of not less than six months and not more than three years, or by a fine of not less than five hundred dinars and not more than 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 voting, or steals any of these rolls or papers, or destroys them, or fails to place them in the box, or performs any act with intent to prejudice the integrity and secrecy of the electoral procedures."

Second: The Special Investigation Committee

On 21 September 2016 the Independent Election Commission formed a special investigation committee to examine the matter of the ballot boxes that had been seized, following the recovery of part of them, in order to ascertain the extent of the irregularity affecting these boxes, namely those numbered (49), (92), (107) and (108). The committee issued its report on 22 September 2016, which constituted a narrative of what had occurred from its point of view; it decided upon the cancellation of the ballot papers contained within these boxes, rather than their nullity. Those steps by the Commission embodied a high degree of professionalism and a concern for transparency, which reassured citizens at that time as to the impartiality, professionalism and independence of the Commission.

Third: The Judicial Challenges

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

In this connection, the decision of the Amman Court of Appeal held that the assault on the four boxes constituted conduct that is condemned and criminalised under Articles (55), (75)(a) and (60) of Election Law No. (6) of 2016, and that this Court is not competent to consider such condemned conduct, its competence being confined to the matter of the 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 such as would affect any of the preliminary results of the elections in the electoral district, 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 deems appropriate." The Independent Election Commission is thereby vested with a discretionary power to annul the results of any polling and counting centre where these would affect the results of the elections in the electoral district concerned.

It was established through the judicial ruling of the Court of Appeal that the irregularity and tampering affecting the boxes were of such gravity as to affect 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, however, did not 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 deems appropriate".

The National Centre for Human Rights does not comment upon or address the decisions of the judiciary, these being the expression 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 the object of ascertaining the truth of what had befallen the four boxes numbered (99), (92), (101) and (101) in the Central Badia district at a stage prior to that of the judicial challenges, and specifically in relation to the incident of the assault upon and tampering with these boxes. To this end it heard a number of candidates in this district, together with 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 arrived at the following:

- (a) The results of the count of box No. (92) at al-Dhuhaiba al-Sharqiyya 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 assertions of these citizens, there were no grounds warranting the annulment of the ballot papers in this box, since it was delivered intact to the electoral committee by those responsible for it.
- (b) A group of citizens in civilian dress entered Rajm al-Shami al-Gharbi Secondary School for Girls with the object 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 on the point of completing the count of the two boxes numbered (107) and (108). Citizens to whom these preliminary results were not satisfactory, upon the emergence of the approximate results of those boxes, thereupon broke the two boxes and threw the ballot papers into the roadways.

- (c) At Irainbah al-Gharbiyya Comprehensive Secondary School for Boys, where ballot box No. (49) was located, the electoral committee and its members were assaulted and the papers and seals were stolen from the polling centre, and papers were placed in the box after being marked. The object was to create disorder at this centre so as to bring about the annulment of the counting results of the boxes located there; and this was in the event achieved, the Independent Election Commission having annulled the results of the ballot boxes numbered (49), (92), (107) and (108).
- (d) As to al-Dhuhaiba al-Sharqiyya Secondary School for Girls and 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 it furnish the Amman Court of Appeal with any documents relating to this box, whether the ballot papers pertaining to it or a statement of its actual condition.
- (e) The accounts of the citizens who were heard contained allegations that associates of one of the officials concerned had intervened to tamper with the results of certain boxes which they believed would, if the votes within them were counted, make a difference to the outcome in favour of other candidates, and would accordingly alter the results in favour of one or more candidates. They succeeded in vitiating the electoral process at those centres so as to prevent the final result from accruing to the benefit of other candidates. Those concerned at the Centre contacted a number of these persons, whose names had been mentioned by the citizens interviewed; the Centre was unable, however, 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, direct or remote, in the tampering with and irregularity affecting the ballot boxes under examination.

In consequence, and given that the acts and legal transgressions referred to above collectively produced an irregularity in the electoral process in the Central Badia district and affected the conduct of that process, it may be said that the elections in that district were attended by matters that affected the true will of the voters in choosing those who would represent them in this district.

Since, as the Jordanian judiciary affirmed in its judgment in case No. (76) of 2013 concerning the irregularity that occurred in the elections in the Faqqu' district of Karak Governorate, "any irregularity" such as would prejudice the substance of the electoral process or its essentials is regarded as a ground sufficient "for the annulment of the results of that process" — and this has been acknowledged by the Independent Election Commission, by the official and supervisory bodies and by the civil society institutions concerned — the elections in the Central Badia district for the Eighteenth House of Representatives, marked by armed robbery carried out simultaneously by groups of agents, 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 a felony punishable by hard labour for five to ten years in addition to a fine. Society, however, has not been informed of any penalties issued against the offenders, nor 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 violated the law in the Central Badia district, in application of the text of Article (57) of the House of Representatives Election Law No. (6) of 2016.

Having found that the information as to what occurred in the Central Badia district was incomplete, and for the purpose of completing its final report on the general elections to the Eighteenth House of Representatives — in order to ascertain what took place on the evening of 20 September 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 ensuring the security, safety and proper conduct of the electoral process — a technical team of lawyers took the following steps:

1. It requested a meeting with the officials concerned in the electoral committee for the Central Badia district; 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. (H A/95/8024) dated 20 February 2017, informing him that it needed to meet the chairman of the electoral committee in the Central Badia district 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. ('A T/5/8/198) dated 22 February 2017, which stated the following: "For your information, the Independent Election Commission, upon the instruction of the Amman Court of Appeal, submitted a detailed report on the course of what occurred in the Central Badia district, and the Court decided to adopt the report on the basis that its content satisfies the purpose required of expert evidence, inspection and the facts required to be established by personal testimony, and accordingly not to hear personal testimony or to conduct a technical expert examination. Since it is settled in doctrine and in jurisprudence that judgments which have acquired the force of *res judicata*, upon attaining finality, are regarded as a legal truth — because the judicial ruling is the expression of the truth and is not subject to review — the judgment issued by the Amman Court of Appeal, having attained finality, represents the legal truth and must be given effect. We attach a true copy of the report submitted to the Amman Court of Appeal." (Annex No. 4.)
4. Since the task of verification is not directed to the handling of the judicial challenges or the judgment of the court in respect of them — the Centre consistently affirming that it respects and abides by the decision of the honourable Amman Court of Appeal in adjudicating upon the judicial challenges — the Centre, relying upon its mandate, sought to ascertain the truth of the irregularity that occurred, of what each party concerned with the administration of the polling and counting process had done, and of 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 would represent them, as well as the responsibility of the Independent Election Commission as a constitutional body entrusted with the administration and supervision of the electoral process. The Centre accordingly continued the process 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 representative of the National Centre; some of them attended at the National Centre, and others were interviewed at their places of residence. These persons confirmed that the armed robbery, as described by the officials of the Commission, which took place in the Central Badia district, was intended to impose electoral results in the Central Badia district in the manner desired by those who tampered with the boxes and by those

behind them, because they believed that the votes of the social constituency that had entered those boxes might lead to the success of persons whose success they did not desire, and to the failure of those they supported.

The accounts obtained by the Centre did not, however, enable it to verify this fact, and thus to arrive at a conclusion or a final 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 regard. It expresses its regret at the failure of the bodies concerned to cooperate in the process of verification, and disclaims responsibility should significant additional information emerge in the future disclosing new findings. It likewise expresses its apologies to the public for having been unable to arrive at the facts concerning what occurred, and thus to disclose the identity of those responsible for the irregularity and tampering affecting a number of the boxes in the Central Badia district.

The Views of the National Centre

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

1. An irregularity occurred in the electoral process in the Central Badia district, together with tampering with the will of the voters. This was established materially and was confirmed by the statements of officials of the Commission and by the decision of the competent court. It is striking here that none of those responsible for the polling and counting centres under examination, nor any of those concerned with protecting and securing the safety of the polling and counting process — whether the civilian officials of those centres or the non-civilian personnel — has been called to account or held answerable under the law for the irregularity and tampering that occurred and of which the public, which has the right to know of it, is aware; this being so far as the Centre is aware and to this date. The Centre expresses the hope that what is set out in this report may assist in supporting judicial efforts directed at ascertaining the limits of responsibility of all the 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 district, produced an effect upon the results for the Central Badia district or not, that remains an open matter, and a determination upon it requires complete transparency in the handling of 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: "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 such as would affect any of the preliminary results of the elections in the electoral district, 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 deems appropriate." The Commission annulled the results in four boxes but did not repeat the elections at these polling centres in accordance with the full wording of Article (49) of the Election Law. The National Centre appreciates the exceptional circumstances surrounding the irregularity and tampering that affected a number of the boxes in the Central Badia district, which would have necessitated the return of the Seventeenth House of Representatives had the announcement of the final results of the elections to the Eighteenth House been delayed beyond 28 September 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 timetable for the electoral process as a whole been studied with care and professionalism in the first place — a matter the responsibility for which rests with the constitutionally authorised body (the Independent Election Commission) in fixing the date of the elections and the date of polling and counting. The Centre recommends that this aspect 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 enhanced public confidence in the electoral process.

3. As regards the failure to count the results of the four boxes excluded from among the boxes of the Central Badia district, 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 House of Representatives Election Law 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 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 unattended by irregularity or tampering during the poll. This situation arises during the process of counting the votes and after the conclusion of that process, whereupon the chairman of the polling and counting committee takes the measures prescribed in Article 43(d) of Executive Instructions No. (9), concluding with notification of the electoral committee in the district and of the Board of Commissioners, within procedures specified at each stage. It is for the Board to determine whether that proportion affects the final result of the election in the electoral district or not; this number represents the proportion permitted under the texts set out above. The irregularity that occurred, however, differs entirely — in substance and in form — from what is contemplated in the said Article 43(d); it concerns rather the occurrence of tampering and a physical assault originating from outside the polling process itself and outside the conduct of the voters in casting their ballots, and falls to be dealt with 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 amounted to 3.16 per cent of the number of votes in the district.

2. Recommendations

1. To strengthen confidence in the electoral process in accordance with the best international standards and practices, by adopting or amending an electoral system that contributes to the consolidation of blocs, and by addressing the situation in which the list has become a purely formal matter whose members compete against one another.
2. To strengthen the approach of political reform, so as to enable political forces to coalesce into genuine electoral blocs or groupings, with a view to electing a House of Representatives that represents the social categories and the intellectual and political currents in the country.
3. To ensure 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 so as to guarantee access by observers, candidates, parties and all their delegates to the locations pertaining to every stage of the electoral process, which will strengthen confidence in the Commission and the credibility of the elections and, in consequence, participation in them in the 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 own staff with complete impartiality.
6. To lay down a precise plan and timetable for the electoral process.
7. To amend the text of Article (71) of the Jordanian Constitution so as to guarantee the right of litigation at two levels in challenging the validity of the membership of members of the House of Representatives.
8. To amend the text of Article (73) of the Jordanian Constitution so as to guarantee the provision of a sufficient period for the holding of the election within a timetable adequate for all the stages of the electoral process.
9. To ensure that the members of the electoral committees are selected transparently and at an early stage of the preparations for the electoral process, and that their names are entered 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 districts by the Election Law or by a schedule annexed to it.
11. To prepare clean electoral rolls on the basis of direct registration by citizens.
12. To enable the citizen to access the voter registers and to review them so as to verify their accuracy, and to display them electronically in a form enabling the citizen to browse them more easily.
13. To make the citizen aware of the requirements and procedures he must follow should he wish to object to the voter registers.
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 on electoral campaigning.

16. To include in the Election Law the conditions, controls and bases for fixing financial ceilings for electoral campaigning, and to establish the mechanisms and means required to ensure their application.
17. To activate the role of the Independent Commission in monitoring the electoral campaigns and to activate the procedures of answerability and accountability.
18. To address the use of unlawful money and its influence upon voters' convictions, whether directly or indirectly, by means that ensure that it does not affect the will of the voters.
19. To accord to popular monitoring the place and role it deserves in monitoring the performance of the official body, including the Independent Commission.

— *End of report* —