

To:

The Honorable Judge Yitzhak Amit
Chairman of the Central Elections Committee for the 25th Knesset

Subject: Handling Elections of Fake News by Central Elections Committee

1. This letter is sent to you by Zulat for Equality and Human Rights, an institute striving to strengthen democracy and the protection of human rights, in light of the obligation of the Central Elections Committee (CEC) to enable free, fair, and safe elections while refraining from taking a political stand.
2. For reasons to be detailed below, Zulat would like to propose to you to establish a team of relevant public-government agencies to coordinate the handling of fake news during the run-up to the election, to publish guidelines for parties and candidates on the subject of fake news, to form a "rapid response" team to deal with the management of information about fake news, and to set up a hotline to field real-time reports about fake news from the public.
3. While Article 4 of the Election Law (Propaganda Methods)-1959 (hereinafter: "Election Law") still talks about restricting the use of loudspeakers, the penetration of digital platforms into political campaigns has given rise to new challenges due to the dissemination of false and misleading information and the use of algorithms to target individuals or groups of voters.
4. Fake news harms free and fair elections without which democracy cannot exist. Such elections take place when citizens are given the possibility to choose their leaders in a free, fair, regular, and orderly manner based on access to accurate, reliable, and trustworthy information about political parties, candidates, and other factors that may influence their vote.
5. When voters are fed misinformation, denied access to relevant data that should be readily available, and proceed to base their choice on false data, their vote does not correctly reflect their true positions.
6. Moreover, fake news may be used to suppress or increase voting percentages in certain sectors or regions of the country. An example of such an effort was the post published by former prime minister Binyamin Netanyahu on his Facebook page on 17 March 2015 ("the right-wing government is in danger. Arab voters are flocking to the polls in huge numbers. Left-wing NPOs are bringing them in buses"), which was intended to suppress the voting of Arab citizens and make them feel that their participation in the election was unwanted, as well as to encourage Netanyahu's supporters to get themselves to the polls in order to thwart the conspiracy of the Arabs and left-wing NPOs and to create an "alibi" in case Netanyahu lost the election.
7. On 15 August 2018, in a debate held by the Knesset's Science Committee, the National Cyber Directorate revealed that Facebook had blocked thousands of fake accounts that had been trying to influence the discourse ahead of the municipal elections in Israel.¹

¹ Omer Kabir, [Thousands of Fake News Accounts Trying To Influence Israeli Municipal Elections Uncovered](#),

8. A fake news campaign conducted during the run-up to the election of 21 March 2021 focused on the tally of the "double envelopes" (thus called because the regular envelope holding the ballot of absentee voters is placed in another envelope with the voter's name, national identification number, and address on the outside). Given that their number was expected to be twice as large as in the previous election due to the coronavirus pandemic, the campaign leveled baseless accusations that the chairman and chief executive officer of the CEC, Judge Uzi Fogelman and Attorney Orly Ades, would take advantage of the tally to steal Knesset seats from the pro-Netanyahu bloc.²

9. On 21 July 2022, journalist Omer Kabir reported that a fake news campaign was already afoot ahead of the upcoming election, focusing once again on Ades and the current chairman of the CEC, with false conspiratorial claims that they would try to falsify and disrupt the outcome of the vote.³

10. Although the impact that fake news (primarily disseminated by foreign elements) had on the outcome of the Brexit referendum in the United Kingdom and the US presidential elections in 2016 is well known, Israel remains ill-prepared to tackle the phenomenon, especially during run-ups to elections.

11. In 2019, the CEC published a set of recommendations to the public ahead of the elections to the 22nd Knesset,⁴ but clearly the public cannot deal with the flood of fake news on its own.

12. The provisions of the Election Law are anachronistic and suited to the pre-Internet era. Proposed updates, including by the Public Committee for the Examination of the Election Law chaired by former Supreme Court President Dorit Beinisch⁵ and by Zulat,⁶ have proved unsuccessful. Rulings 16/19 and 8/21 by former CEC chairmen, retired judges Hanan Melcer and Elyakim Rubinstein, extended the applicability of key provisions of the law to the Internet, but these remain extremely limited and do not obviate the urgent need for up-to-date legislation.

13. Amendment No. 40 to the Election Law (which added Article 2a1) requires full disclosure of the identity of election propaganda producers.⁷ However, in order to protect the right of individuals to anonymity, it stipulates that the duty of transparency does not apply to a person who publishes election propaganda if they are not acting on behalf of a candidate running for election or doing it for pay. As we have seen repeatedly in the last three years, the problem is that parties and politicians are usually careful not to disseminate fake news themselves, and the job often falls to "foot soldiers" acting on what they perceive as their "commanding officer's" frame of mind. The parties and politicians who profit from fake news usually do not denounce it, and at most claim that the disseminators are private individuals unrelated to them.

Calcalist, 15 October 2018 (Hebrew).

² Omer Kabir, [Forgery Conspiracy Continues: "Doesn't Matter Who Votes! What Matters Is Who Counts!"](#), *Calcalist*, 25 March 2021 (Hebrew).

³ Omer Kabir, [Propaganda Campaign Against CEC Already Here, More Aggressive and Dumber Than Ever](#), *Calcalist*, 21 July 2022 (Hebrew).

⁴ [What You Can Do To Avoid Fake News](#), *CEC*, 17 September 2019 (Hebrew).

⁵ Public Committee for the Examination of the Election Law, [Report](#), *Knesset*, 2017 (Hebrew).

⁶ Dr. Michal Evron Yaniv, [Fake News & the Violation of Human Rights: Challenges & Responses](#), *Zulat*, 23 December 2021.

⁷ [Election Law to 25th Knesset \(Special Ordinances and Legislative Amendments\)](#), *Reshumot Law Gazette No. 2982*, 30 June 2022 (Hebrew).

14. While the CEC's authority to prevent the spread of fake news derives from the interpretation of Article 13 of the Election Law ("There shall be no election propaganda on behalf of one party or list of candidates or on its behalf in any form or manner that unfairly interferes with election propaganda on behalf of a party or a list of candidates or on its behalf"), the means of enforcement contained therein are outdated and insufficient.

15. Likewise, while Article 119 of the Knesset Elections Law (Consolidated Version)-1969 can be interpreted to include the offense of interfering with the regular course of an election through the dissemination of fake news, criminal enforcement should only be used in the most extreme and extraordinary cases in a democratic country. In any event, from a practical point of view, this article provides no response to the phenomenon of fake news in light of the speed and scope of its spread on social media platforms.

16. Therefore, it is also very important to improve the CEC's performance in the area of information management. A good example is the performance of the Health Ministry, which chose to gear up its information campaign about the corona pandemic and vaccination and conduct it on Facebook, its official website,⁸ Twitter, and other media outlets. Within a few hours after they were posted, fake news reports received a scientific response from the Health Ministry that was disseminated on social media platforms in Hebrew, English, Arabic, and Russian.⁹ Although unable to completely stop the spread of fake news, the ministry at least succeeded to increase the public's awareness about the phenomenon and the need to be careful about drawing conclusions based on inflammatory publications. To wit, citizens started to disseminate the Health Ministry's responses to fake news on their own personal social media accounts.

17. In the run-up to the upcoming election, Zulat proposes to take the following steps to provide an effective and rapid response to the fake news phenomenon, which will help the CEC to uphold a proper election:

a. Set up a team to coordinate the handling of fake news during the election period comprising representatives of the CEC, relevant government ministries, Israel Police (primarily its Investigations and Intelligence Division and Lahav 433 Unit), the State Attorney's Office, and the National Cyber Directorate. The team would focus on major organized attempts, inside and outside Israel, to harm the chances of holding a proper election.

b. Publish guidelines for parties and candidates on the subject of fake news, underscoring the danger it poses to the integrity and fairness of elections, reminding them of the obligation to disclose the identity behind publications (including bots) and cautioning them that under certain circumstances the dissemination of fake news by a party or candidate might be considered a criminal offense.

c. Set up a CEC "rapid response" team (similar to the one operated by the Health Ministry) to deal with the management of information and to respond quickly on social media platforms and other outlets, especially to fake news intended to harm the integrity of the CEC's work or to suppress or increase voting in certain sectors or

⁸ [COVID Fake News](#), Health Ministry's website, 2021.

⁹ Sherry Shein, [Health Ministry Gears Up War on Fake News](#), Mako, 26 December 2021 (Hebrew).

regions of the country, all the while adhering to the principle of nonpolitical intervention.

d. Set up a hotline to field real-time reports from the public about fake news, and forward them to the relevant authorities.