

# **Supporting Women in Reclaiming Electoral & Political Rights**

**Naeem Mirza**  
**Aurat Foundation**  
17 October 2012, Islamabad

**Presentation at Public Hearing by  
Senate Special Committee to examine election issues**

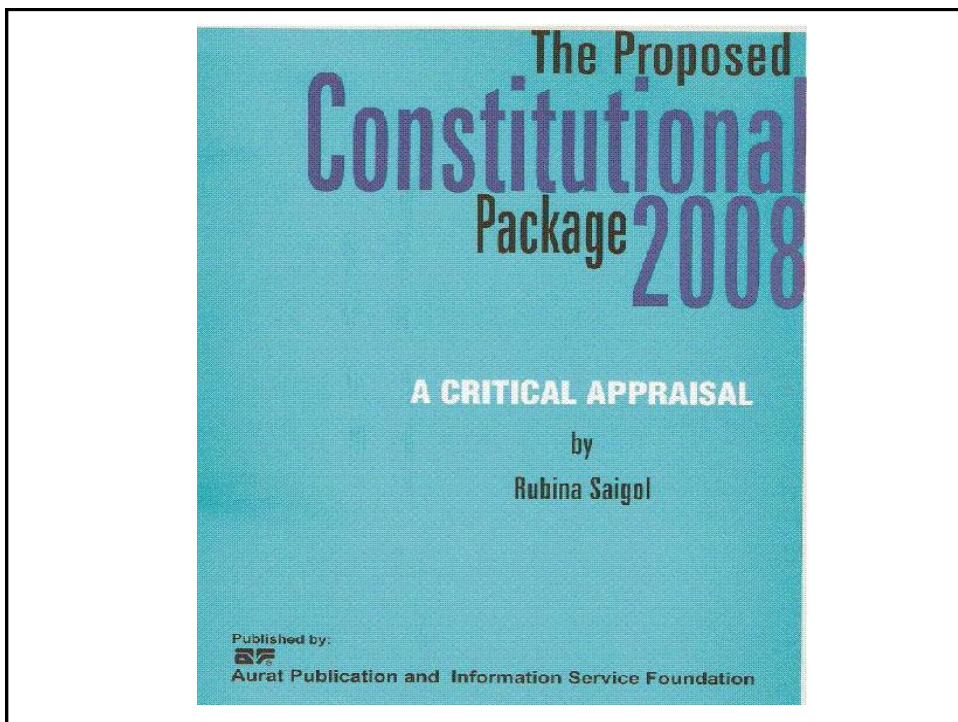
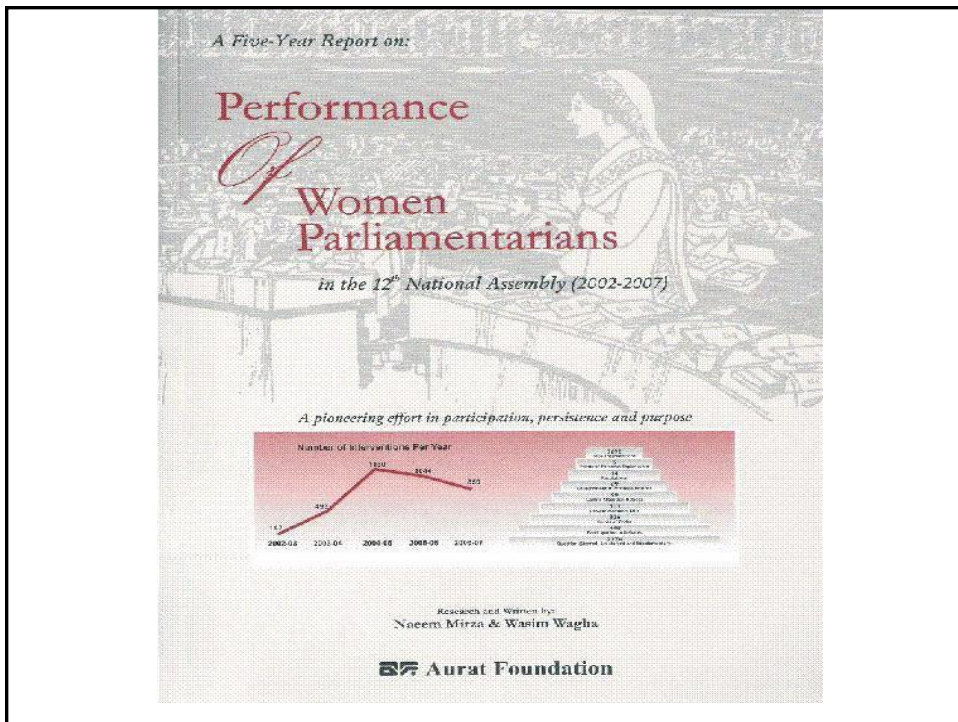
## **Aurat Foundation - background**

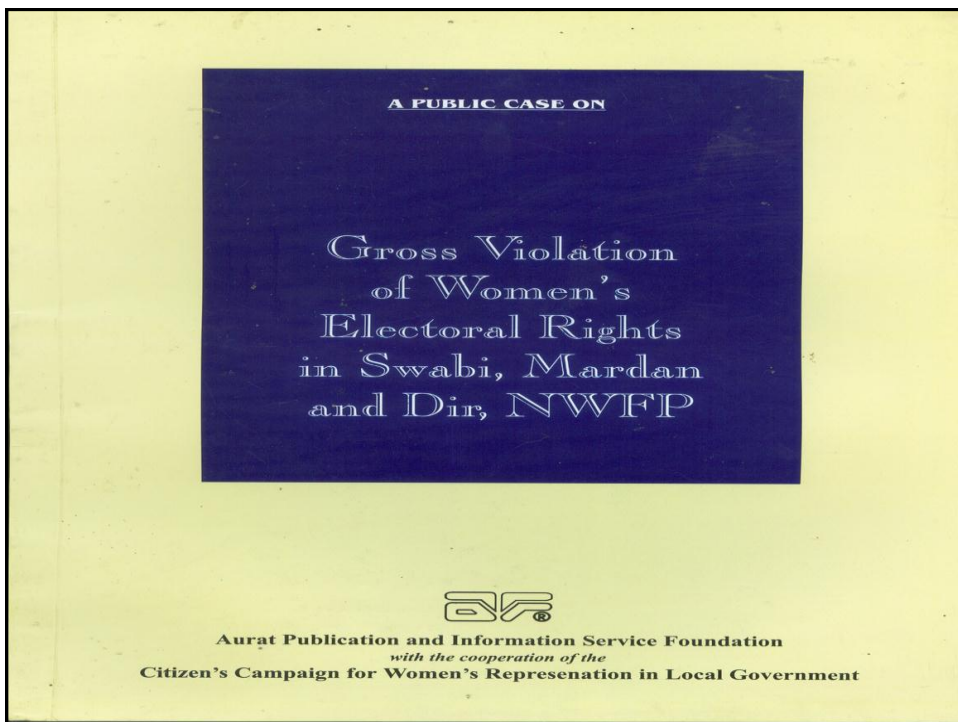
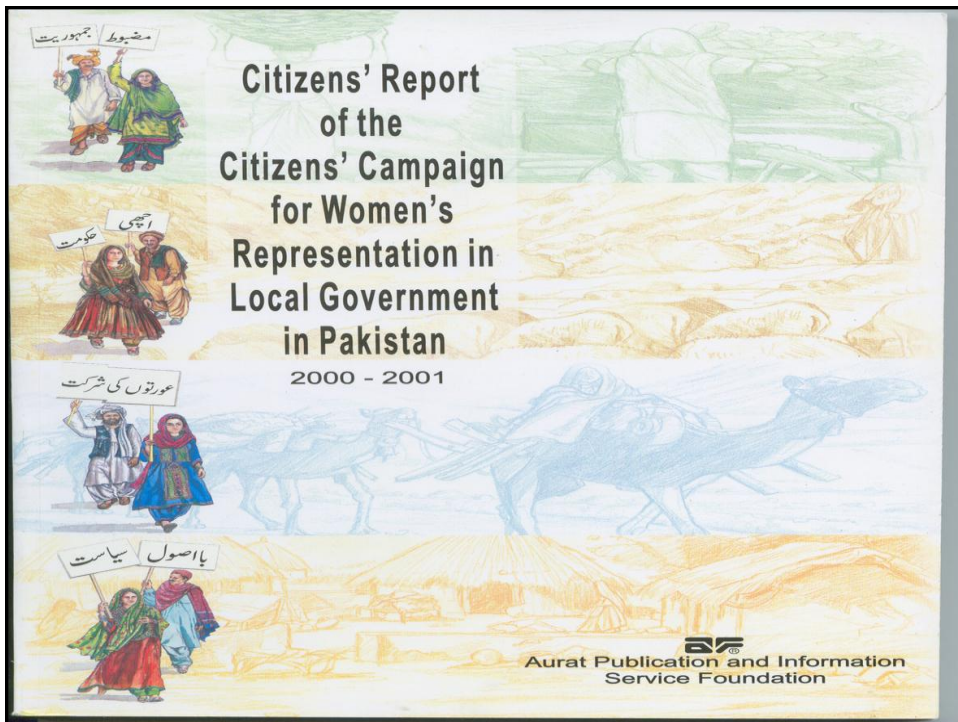
- Aurat Publication and Information Service Foundation was established in 1986, by two women's rights activists, Nigar Ahmad and (late) Shahla Zia
- It was born out of women's movement in Pakistan, with the consciousness that women must remove gender inequality in society and get their due share in economic resources and equal role in decision-making processes
- Aurat Foundation currently has presence in all districts of Pakistan through its Citizens' Action Committees, Information Network Centres and Women's Leaders Groups

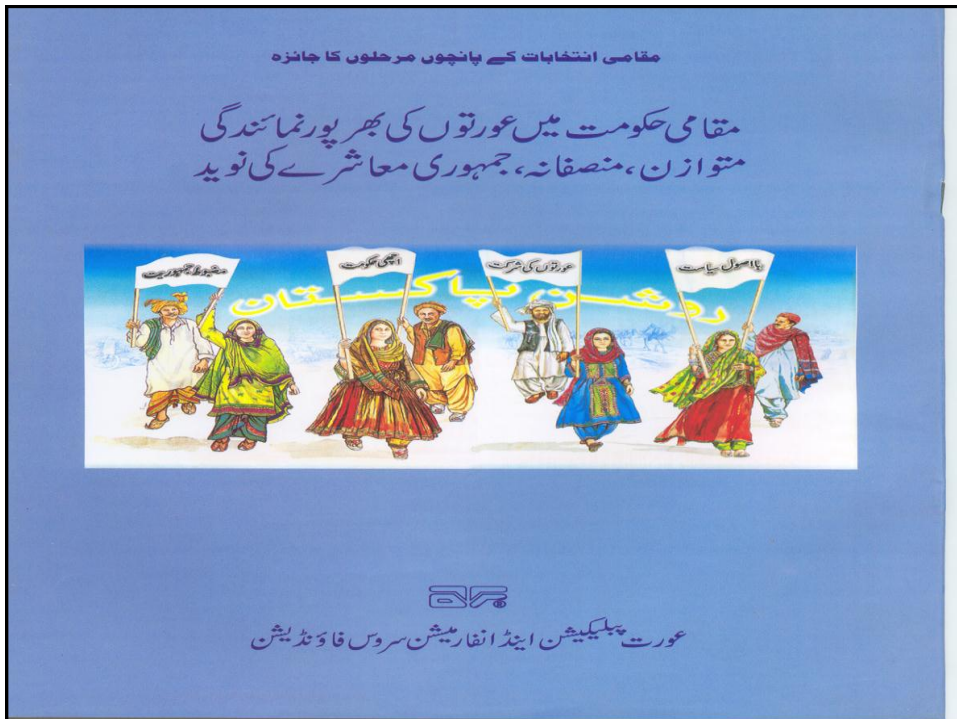
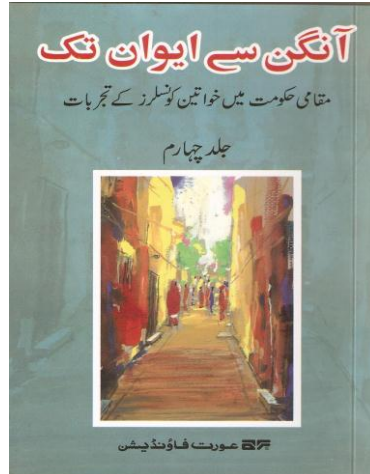
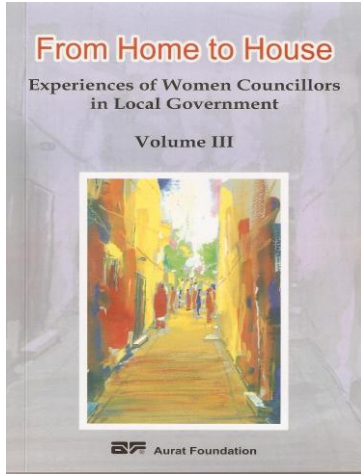
# MANIFESTO SUGGESTIONS FOR WOMEN'S EMPOWERMENT (FOR POLITICAL PARTIES)



Aurat Publication and Information Service Foundation







## **Registration of Votes & CNICs**

- During last three year years Aurat Foundation has facilitated 135,036 women to obtain computerized CNICs registration in 30 districts.
- Since July 2011, Aurat Foundation, in collaboration with NADRA, is supporting women's computerized CNICs registration and voter education in 34 districts through social mobilization in collaboration with local organizations. This initiative aims at providing CNICs to about 1.6 million women during the current year

## **Major issues for women related to legislation and electoral process**

- Disabling and hostile environment for women in several areas of the country to cast vote and contest polls
- Lack of will and absence of legal provision to penalise perpetrators of violating women's basic electoral rights
- Major gender disparity in voters' lists and CNICs
- Absence of representation of women in ECP at the highest decision-making level
- Absence of women in Parliamentary Boards of political parties

## **Major issues for women related to legislation and electoral process**

- Absence of constituencies for women being elected on reserved seats in national, provincial legislatures
- Less number of women are given party tickets on general seats – there is no affirmative action
- Unavailability of gender-disaggregated data of votes cast in elections
- Financial constraints for women in election campaigns and political violence during electioneering

## **Major Recommendations**

- ECP and NADRA ensure gender parity in electoral rolls and CNICs through mass-based campaigns in collaboration with political parties CSOs and media, especially in remote, rural and tribal areas
- Political Parties Order 2002 be amended to ensure that elections must be declared null and void in constituencies where less than 10% women's vote is cast
- Governments and ECP must ensure that strict and prompt action is taken against all parties, groups, bodies, candidates and individuals who seek to restrain or disallow women from exercising their right to franchise or contesting elections
- ECP should ensure that a system is instituted for collection and compilation of gender disaggregated data with respect to voter turnout in elections

## Major Recommendations

- Women on reserved seats in National Assembly and Provincial Assemblies should be elected through constituency-based elections
- Political parties Order 2002 be amended to make it mandatory for political parties to award at least 10 percent party tickets to women on general seats; parties may create financial pools and provide transport facilities etc to women voters
- Relevant laws are amended to ensure women's effective representation in all key policy and decision-making bodies and forums, including the ECP, economic, planning sector bodies, superior judiciary, advisory task forces
- Political Parties Order be amended to make it mandatory for political parties to have a minimum of 33 percent female membership, as well as, a minimum of 33 percent representation of women in all party committees & representation in Parliamentary Boards

Thank you

Senator Muhammad Jahangir Badar,  
Leader of the House and Chairman,  
Special Committee to Examine the Election Issues  
Senate of Pakistan  
Islamabad.

Dear Senator Muhammad Jahangir Badar,

With due reverence, I appreciate the democratic political initiative taken by the Senate of Pakistan under your leadership to consider reforms in election laws before the next General Elections in 2013. Equally appreciable is the Committee's gesture to hold this 'Public Hearing.' I honestly believe that electoral reforms primarily belong to political and parliamentary realm and civil society perspectives can supplement your work.

I represent Centre for Civic Education Pakistan that is working on issues related to democracy and federalism since 2002. Regarding elections we have a specific interest in "Political Finance Reforms" to make Pakistani democracy inclusive and participatory, especially for those who are with less financial resources.

Our arguments are anchored in a fact that Pakistan signed United Nations Convention against Corruption on 9<sup>th</sup> December 2003 and ratified it on 31<sup>st</sup> August, 2007 which says that:

*\* Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.*

*\* Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.*

*\* Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.*

It is in this context that I am pleased to submit for the consideration of the Committee following submissions;

***(A) Political Party Finance:***

1. Political parties are the most important institution that enriches nation's democratic experiences. Currently they are regulated through the Political Party Order-2002. This law was promulgated by a military dictator without any debate and discussion among stakeholders. The Parliament must revisit this law as it has broken many parties instead of facilitating development of democratic political culture in the country.
2. According to Political Party Order-2002 and Article 17 i.e. Right to Association of Constitution of Pakistan-1973, the political parties are accountable for their sources of funds. The political parties have to submit annual audited accounts by August 29 every year to fulfill a legal requirement to qualify for an election symbol. Clause 13 of the Political Parties Order, 2002 and Rule 4 of the Political Parties Rules, 2002 require every political party to maintain its accounts indicating its income, annual expenditure, source of funds, assets and liabilities to be submitted to the Election Commission within 60 days after the end of a financial year.
3. According to clause 6 of the Political Party Order;

(1) A member of a political party shall be required to pay a membership fee as provided in the party's constitution and may, in addition, make voluntary contributions towards the party's funds.

(2) The contribution made by members or supporters of any party shall be duly recorded by the political parties.

(3) Any contribution made, directly or indirectly, by any foreign government, multi-national or domestically incorporated public or private company, firm, trade or professional association shall be prohibited and the parties may accept contributions and donations only from individuals.

(4) Any contribution or donation which is prohibited under this Order shall be confiscated in favor of the State in the manner as may be prescribed.

**Explanation:** For the purpose of this section, a "contribution or donation" includes a contribution or donation made in cash, kind, stocks, hospitality, accommodation, transport, fuel and provision of other such facilities.

### ***Recommendations:***

- (a) The Parliament must revisit the Political Party Order 2002.
- (b) The restrictions imposed in clause 6 of the Political Party Order 2002 shall be revisited to allow associational donations in a transparent manner.
- (c) The law is silent about any limit on donations which in our understanding does not auger well for seeking 'clean resources' for political process.

### ***(B) Election Campaign Finance***

The second issue that we would like to flag pertains to 'individual candidate' electoral expenses. The Representation of Peoples Act-1976 defines them as expenses that are made on campaign from the time when nomination papers are submitted to the day after polling. It does not include the amount of (Rs. 4,000) for National Assembly and (Rs. 2,000) for provincial assembly deposited as security for participation in election. Legally an individual candidate can spend up to Rs. 1,500,000 for a National Assembly constituency and Rs. 1,000,000 for a Provincial Assembly constituency. According to the Senate (Election) Act, 1975 maximum ceiling is PKR 1 million. While the Senate election is an 'indirect election' and in a party-based polity this ceiling appears to be on a higher side.

For the National and provincial assemblies election the law says, where any person incurs any election expenses on behalf of such candidate, whether for stationery, postage, telegrams, advertisement, transport or for any other item whatsoever, such expenses shall be deemed to be the election expenses incurred by the candidate himself/herself. The law requires that the candidate has to keep the record of billing through receipt if amount is Rs. 500 or more.

After the Supreme Court verdict in the Constitutional Petition No. 87 of 2011, [Workers Party Pakistan vs. Federation of Pakistan and others], these conditions have been made further stringent. Like getting services only from GST number holding vendors, ban on voter facilitation camps and provision of transport.

As per the Law Returning Officer has to keep the record of electoral expenses for one year that would be asked anytime for inspection or the copy of whole

document of expenses. The law also restricts the candidate to provide transport facility to any voter except his/her family. Selling and buying of vote is also a crime. To make violations of these provisions a cognizable offense sections A-J of clause 171 of Pakistan Penal Code deals with election related offenses.

### **Recommendations:**

We need to rationalize election expenses ceiling to accommodate inflation and changed campaign culture. The current ceiling is not enough to send even a letter to all voters in any constituency usually comprised of 250,000-300,000 plus voters in a National Assembly constituency. According to our research a conservative estimate for a modest campaign is in the range of PKR 20-25 million for a national and PKR 12-15 million for a provincial constituency. (*Annex: 1*)

Secondly the entire legal regime controlling Political Party or Election Campaign Finance is silent about any limit on expenditures by political parties. Whereas they arrange rallies, organize centralized publicity campaigns and facilitate paid political broadcast etc. According to the research by the Centre during Election-2008, there were 36,339 paid political broadcasts/adverts by various political parties on 38 channels (13% on PTV and 87% on private channels). Their estimated cost against the announced tariff of the channels was PKR 539.26 million. The legal regime must address this issue.

Thirdly we monitored the implementation of the Code prepared by the Election Commission of Pakistan (ECP) after the Supreme Court verdict for bye-election in NA 151 (Multan) and found it pretty unrealistic. In absence of decent public transport system, the Code disfranchised those who don't have their own transport. Therefore the Parliament must come up with a set of realistic reforms. Option of Public Funding shall be explored. At initial stage it could be in kind (Toll-Free Phone, postage, media access on Public Service Broadcast, etc).

As per the Law Returning Officer has to keep the record of electoral expenses for one year that would be asked anytime for inspection or the copy of whole document of expenses. This clause must be amended and at least the expenditure statement of winning candidates must be made available with the ECP for a longer period for analysis and scrutiny. These details shall also be available on the ECP website.

The punishments prescribed for violations of electoral laws are very weak (fine from PKR 500 to PKR 5,000 and imprisonment from six months to three years), whereas the fine for boycotting a referendum is PKR 500,000 or imprisonment up to three years. This aspect must be rationalized.

***C. Some other points:***

- The Parliament has reformed the Constitutional framework for Elections and the Election Commission of Pakistan through the 18<sup>th</sup> and 20<sup>th</sup> Constitutional Amendments, but the corresponding subordinate legislation is old. It is a time to reform it in the light of new constitutional changes.
- The 18<sup>th</sup> Amendment Committee, recommended to the Executive branch that the Election Tribunal shall complete trial in electoral disputes within 90-day. This recommendation must be implemented.
- The Charter of Democracy (2006) inked by Shaheed Mohtarma Benazir Bhutto and Mian Mohammad Nawaz Sharif calls for creation of National Democracy Commission. According to the Article 25 of the Charter, “National Democracy Commission shall be established to promote and develop a democratic culture in the country and provide assistance to political parties for capacity building on the basis of their seats in parliament in a transparent manner.” A well thought out Commission can help address many issues pertaining to Political Finance in Pakistan.

We honestly hope that the Committee will give due consideration to our submissions.

With warm regards

Zafarullah Khan  
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October 14, 2012

# PACING UP ELECTORAL REFORMS IN PAKISTAN

A presentation to Senate's Special  
Committee to examine Electoral Reforms

**17 October 2012**



**By Munir Ahmed**

Director

Development Communications Network  
(DEVCOM-Pakistan)



## ABOUT DEVCOM-PAKISTAN

- ❑ **Our Beginning:** Established in March 2003 and registered in May 2005 under The Societies Registration Act 1860
- ❑ **Our aim:** Bringing a positive change by promoting sustainable development practices in the society through adequate communication and advocacy with innovative approaches
- ❑ **Our work:** Advocacy on variety of issues (Env, CC, Gender, HR, SRHR, Democracy), Public Awareness Campaigns, Communications tools for partners and capacity building
- ❑ **Our partners:** LEAD-Pakistan, IUCN, WWF, CCE, ECI, SPO, SDPI, CRCP, PODA, ARCON, European Commission, HTSPE, ILO-WEC PK, CIDA, CNFA-USAID, GEF-SGP, UNDP, UN Women, NDMA, ERRRA, Lok Virsa, AHAN, PTV Home, Radio Pakistan, FM Power 99



## OUR WORK ON 'DEMOCRACY & ELECTORAL REFORMS'

- ❑ **From activism to supporting reforms and efforts to strengthening democracy:** Right from protesting on the streets with other civil society activists, we have been supporting all initiatives by other CSOs, and writing supportive articles in the media for awareness on the recommendations and public support to policy change and reforms
- ❑ **Our forthcoming effort: National Culture for Democracy Festival (08-11 November 2012)** under the visionary and dynamic leadership of **Senator Jehangir Bader**. 13 events with the participation of youth and women, over 100 stalls by crafts persons, women, NGOs, Govt and corporate sector, daily entertainment and fun for families, over 200,000 visitors expected



## 'DEMOCRACY & ELECTORAL REFORMS'-1

- ❑ **Efficient and transparent electoral system** ensures every citizen democratic rights
- ❑ **Present government's three amendments** to strengthening the Election Commission of Pakistan: 18<sup>th</sup> Amendment (2010), 19<sup>th</sup> Amendment (2011), 20<sup>th</sup> Amendment (2012) – a real pride for the government
- ❑ **Democratic Future of Pakistan** depends on how these Amendments are translated into practice.
- ❑ **Would these Amendments make the ECP independent and impartial in real terms?** Watchdogs need to be alert and keep pushing the government and parliament to take necessary steps to expedite the pending legislation and to implement the larger reform agenda.



## 'DEMOCRACY & ELECTORAL REFORMS'-2

### ❑ Who should be suggesting the reforms? ECP or parliament?

.....it was duty of the parliamentarians to make legislations and the Election Commission of Pakistan (ECP) has no authority to suggest any amendments. (Senate's Special Committee on Election Issues, 4th October 2012)

### ❑ No doubt parliamentary committees should come forward for a vigorous and inclusive reforms package, but the situation on ground is contrary to the wishes of the parliamentarians .....

### ❑ Recent history of proposed Electoral Reforms followed by over 80 observations by the EU Election Observation Mission (2008)

### ❑ CEC formed Electoral Reforms Committee in April 2008 that had nationwide consultations supported by the UNDP/IFES

### ❑ Many of the suggestions incorporated in 18<sup>th</sup> Amendment (Apr 2010)



## 'DEMOCRACY & ELECTORAL REFORMS'-3

### ❑ Another ECP Reforms Package in process since April 2010

### ❑ Similarly NA Standing Committee on Law, Justice & Parliamentary Affairs (LJPA) formed a Subcommittee on Election Reforms in the same month

### ❑ The Subcommittee had some in-house meetings and reported in Nov 2011 that it had submitted its report to the NA Standing Committee ..... That is still confidential and the citizens have no idea as what the honorable NA members have proposed for reforms

### ❑ Even the NA Standing Committee is silence since then ...

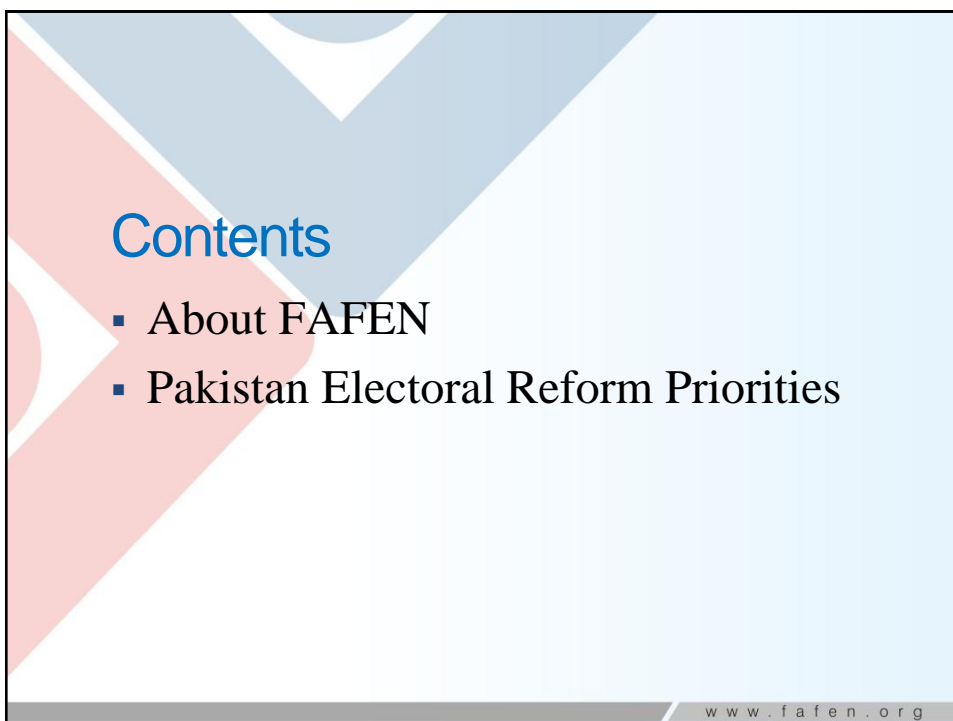
### ❑ Senate's Special Committee meeting a welcome step .....

### ❑ Lets hope for a vivid and vigorous process taking place .....



## OUR RECOMMENDATIONS

- ❑ The proposed reforms package should be inclusive, comprehensive, and a step forward to ensure the wider voters registration including youth and women, transparency in electoral roll, women's candidature, neutrality of state and govt, and violence-free whoever take the lead; ECP or the Parliamentarians
- ❑ The report of the Subcommittee of the NA Standing Committee on Law, Justice & Parliamentary Affairs (LJPA) should be made public with immediate effect for wider public discourse to finalize the reforms package
- ❑ ECP should also make public its progress on the new reforms package
- ❑ Countrywide stakeholders' consultations on both should be convened to finalize the unanimous electoral reforms package for legislation ahead of the next elections (May 2013) ....



## About FAFEN



- Formed in 2006, FAFEN is a network of 42 Pakistani civil society organizations.
- FAFEN's overarching goal is to strengthen all forms of democratic accountabilities in Pakistan.
- FAFEN registered in October 2008 under the Trust Act as Trust for Democratic Education and Accountability (TDEA).
- TDEA programming is managed through the Free and Fair Election Network (FAFEN) and other program offices.

www.fafen.org

FAFEN 2007/08:

## Election Observation

- **Comprehensive, long-term observation** from Display Period for Draft Electoral Roll through political campaign period to final consolidation of election results
- **Statistically-valid** audit of the Draft Electoral Roll
- **Unprecedented** Parallel Vote Tabulations (PVTs) in every National Assembly constituency
- **Nationwide** outreach with 20,000 well-trained observers
- **Multi-layered** relationships with ECP = access/respect
- **Frequent reporting** to voters, parties & media
- **Empirically-based** recommendations and advocacy

www.fafen.org

FAFEN 2012/13 Observation so far:

## Assessment of Voters' List & Display Period

What?	Audit of Preliminary Electoral Roll (PER) 2012
How many?	2,100+ Locations (0.35% MoE) 1,900+ trained observers 55,800+ visits to 6,500+ Display Centers
Methodology	List-to Voters & People-to-List Assessments Display Center Process Assessment
Reporting & Advocacy	Daily reporting to ECP and AECs for immediate remedial action; Final Process & Audit Report
Findings	<ul style="list-style-type: none"> <li>- One in every eight registered voters (13%) does not reside at the address listed on PER 2012, and therefore will not be able to vote.</li> <li>- 20 million adults not registered to vote.</li> </ul>

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## Electoral Reform Priorities - I

1. **Complete and Correct the Voters' List**
  - 20 million eligible voters not registered to vote, including 3.59m who already have CNICs
  - Wrong address for 13% of registered voters, which will prevent them from voting
5. **Select and Publish Permanent Polling Stations**
  - Identify all polling stations now, with full local consultation
  - Publish polling station list on website long in advance, and allow no changes

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## Electoral Reform Priorities - II

### 3. Protect Women's Voting

Parliament must pass ECP proposed law reforms to

- Void election results for any constituency where parties collude to bar women's voting
- Count and report number of ballots in each women's and men's polling booth

### 4. Report Vote Counts by Polling Station

- Void vote count in any polling station with >100% voter turnout or other clear anomalies
- Automatic re-count at stations w/margin <200 votes
- Publish polling station vote data immediately on web site for public scrutiny

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## Electoral Reform Priorities - III

### 5. Strengthen ECP Control

- Allow ECP to hire temporary personnel for election duties, rather than civil servants
- If civil servants serve, enforce rule against transfers
- Eliminate election administration role of judiciary, which does not follow ECP instructions

### 6. Protect Election Observation

- Observer Code of Conduct must follow best international practice, based on full consultation
- Timely, certain accreditation of all neutral observers

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## Electoral Reform Priorities - IV

### 7. Enforce Election Complaints System

- Finalize Code of Conduct with political parties and enforce rigorously and even-handedly
- Put a realistic system in place to address electoral complaints during campaign period

### 8. Timely Resolution of Electoral Disputes

- Appoint only retired judges to address election result disputes
- Enforce time limitations for resolution of all electoral disputes after elections

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*Thank You*

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## FPCCI

### Recommendations for Improving the Electoral Process

Below are listed some of the key areas that may be considered for electoral reform in Pakistan:

- ECP should develop strong ties with the Parliamentary committees working on developing electoral laws and the relevant departments of the Ministry of Law drafting electoral laws in order to proactively promote the required changes to the electoral laws, e.g. through the establishment of joint working groups.
- The ECP should develop liaison with key government agencies in relation to use of resources for electoral purposes and exchange of data, such as records of voters moving address, coming of age, passing away or being declared mentally unsound. NADRA's database of CNIC's should be used to improve the electoral rolls.
- Marginalized groups should have stronger representation. There should be better provisions for direct election to reserved seats for women and minorities. Women participation should be strengthened: This could include targeted civic education, dedicated polling stations, and more female registration and polling staff.
- Appointment of the members of the election commission and the Chief Election Commissioner (CEC) should be made through broad consultation.
- The organization of the ECP should be improved: The ECP should evaluate its organizational design on all levels, including field structure. In particular it should dedicate more resources to legal council, training and complaint units.
- A strategic plan should be developed for election activities: The ECP should develop a strategic plan for the next electoral cycles for each type of election. The plan should encompass all phases, operational aspects, and take into account stakeholder interaction.
- Consultations between ECP and stakeholders such as political parties should become more regular and frequent. The ECP can lead the way in this, starting with the establishment of regular consultations with political parties, civil society and media.

- The ECP should publicize its deliberations and decisions. A good starting point would be public consultations on the electoral reform initiatives – the administrative as well as legislative reform issues.
- The ECP should use the Internet to increase transparency about its activities and elections in general. This could include publication of ECP decisions, press releases, voter education material in general, voter lists, assignment to polling stations, complaint tracking and timely election results.
- Display of voter lists should be improved. The draft electoral rolls should be easily accessible for all voters to ascertain that they are duly registered and to know the location of their polling station well ahead of Election Day. The draft and final rolls should be available to all political parties as part of their legitimate observation of the electoral process. When the rolls are computerized all stakeholders should have electronic access to the rolls.
- Polling stations should be assigned earlier: The ECP must assign voters to polling stations, including any voters that have been augmented from NADRA. Polling stations locations and assignment of voters should be finalized and publicized in reasonable time before Election Day, and thereafter not changed before Election Day. A voter's assignment should not change between elections unless the voter has moved address.
- Count and results processes should be improved and made more transparent: The count and result aggregation processes should be improved, both to ensure the transparency of the process and to enable publication of results sooner after the close of polls. Part of the solution to this would be the improvement of the electronic results reporting system.
- Polling station results must be made public: Election results should be published by polling station, both physically at the polling station and on the ECP website. This must include provisions to ensure that secrecy of the vote is intact, e.g. through combining results from very small polling stations. The publication should take place immediately after the results are available.

HRCP has many issues but at this stage we would like to raise the following few.

- The continued silence on separate electorate
- Fears of violence during elections (not just in Balochistan or Karachi) and what is the plan to deal with those.
- Assumption of responsibility regarding new things being mentioned by the Supreme Court, such as provision of transportation to all voters. Does the Election Commission even know what that would imply? Who will be supervising/controlling provision of transportation? The district administration? What will be done to ensure transparency and neutrality? And then there are constituencies where providing such transportation would simply be impossible for the EC.
- Then there are suggestions made by the EC, such as one or cancellation of election results where at least 10 percent women voters do not cast their votes. And now the EC has withdrawn that after pressure from the political parties. HRCP cares deeply about consulting the political parties but the EC should also think about voters' rights.

We know that the Chief Election Commissioner is a very honest person but he will not be conducting elections all by himself.



# Presentation for Public Hearing by Senate Special Committee to Examine Election Issues

By Ashraf Azim

President

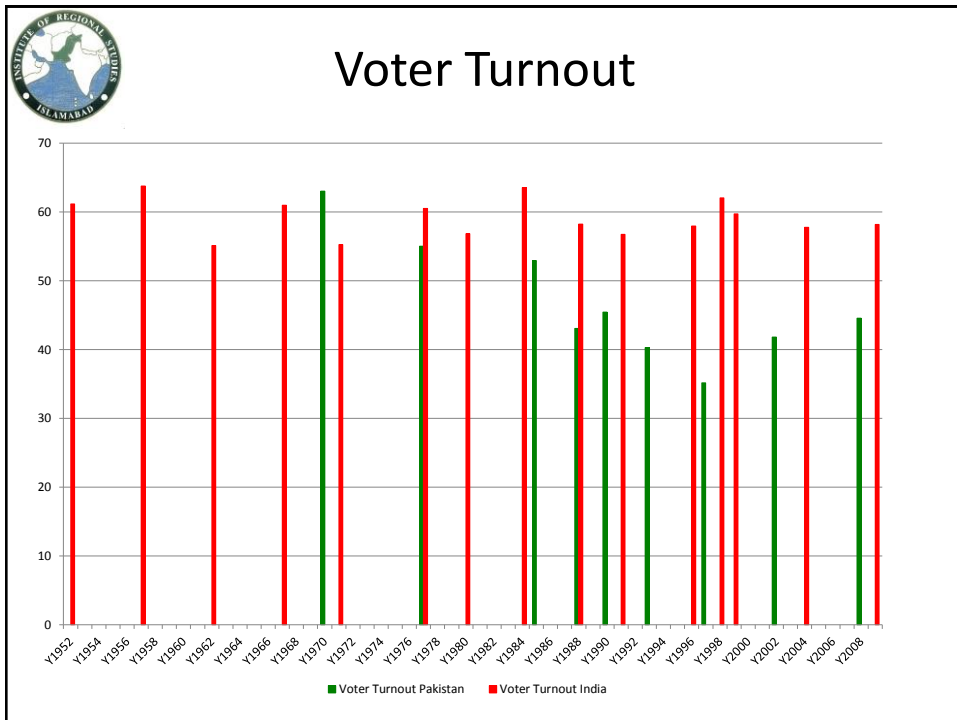

Institute of Regional Studies (IRS)

Islamabad



## Voter Turnout Percentage of Selected Countries

Country	Turnout %
Austria	92
Belgium	91
Italy	90
New Zealand	88
Sweden	86
Germany	86
Brazil	83
Australia	81
Israel	80
France	76
United Kingdom	76
Canada	74
Spain	73
Japan	71
Hungary	66
Russia	61
India	58
Switzerland	54
Poland	51
United States	48

## Dissemination of Public Service Messages for Voter Turnout

- TV channels
- Local cable networks
- Social media and internet
- Cell phone texts
- Print
- Billboard



## Code of Conduct

Awareness of Media



Informed Discourse



Awareness among Voters



Check on Malpractices

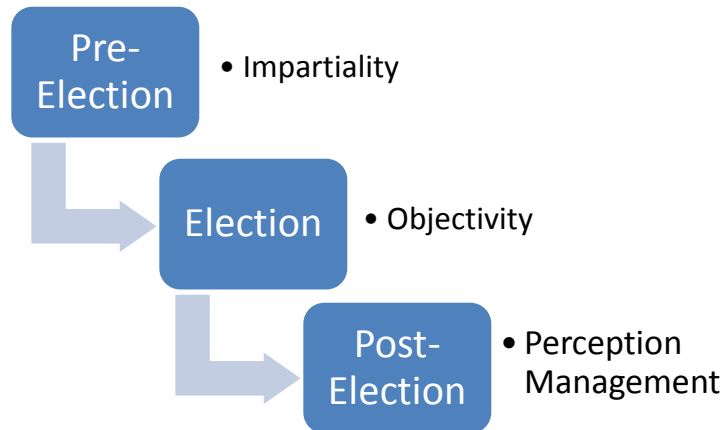


## Election Observation

- There was an extensive Election Observation Manual in 2008.
- There would be a similar one for the upcoming election as well.
- Trainings on the election observation not only for international observers and NGOs but also district-level media correspondents.



## Is there a Need for a Code of Conduct for the Media?



## Who Should Develop the Electoral Code of Conduct for the Media?

The representative organizations of the media houses and journalists in consultation with the Election Commission of Pakistan



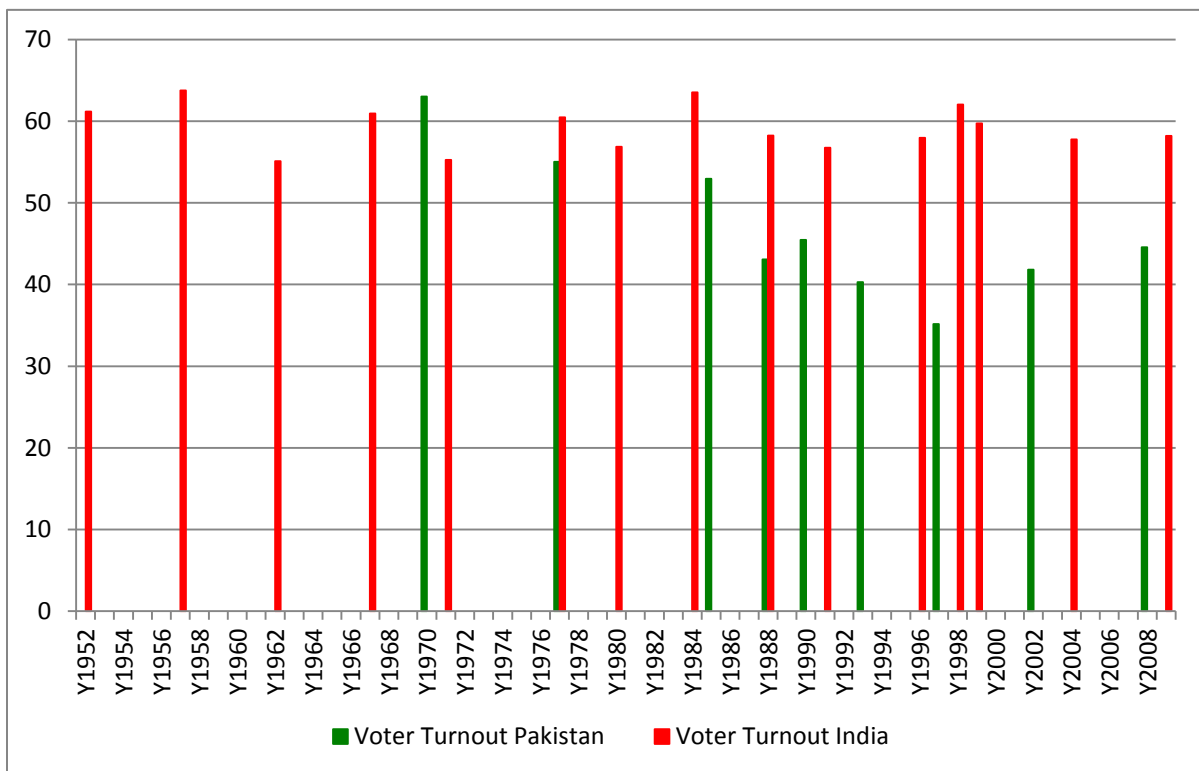
Thank you...

## Institute of Regional Studies

### Presentation for Public Hearing by Senate Special Committee to Examine Election Issues

Let me begin by admitting that the electoral laws and election process in Pakistan has undergone positive reformation over a period of time. There might still be a need for further reform in the election laws and processes, but that would be discussed in other presentations and discussion. My presentation would concentrate on finessing the existing electoral regulations and putting in an extra bit of effort to make the election free, fair, and transparent.

#### Voter Turnout



Source: based on data from International Institute for Democracy and Electoral Assistance (International IDEA) website <http://www.idea.int/vt/countryview.cfm?id=105> and <http://www.idea.int/vt/countryview.cfm?id=178>; and *Free, Fair, and Credible Elections in Pakistan*, Pakistan Institute for Legislative Development and Transparency (PILDAT) 2005, p. 7.

As evident from the chart above, India's voter turnout has always remained higher than Pakistan over the years. The average voter turnout for India from 1952 to 2009 is 59.18. On the other hand, the average voter turnout for Pakistan from 1970 to 2008 is 46.81. Therefore, there is a need for taking measures to increase voter turnout.

The Election Commission of Pakistan (ECP) has done a remarkable job in preparing new electoral rolls for getting rid of discrepancies and maintaining a sophisticated website for helping the voters. Considering the gap in voter turnout, however, the media and political parties would have to help the ECP for encouraging people to vote.

Public service messages from leaders of political parties on national TV channels, local cable networks, social media, internet, and cell phone texts encouraging people to vote for their future leadership far ahead of the elections would help in increasing voter turnout.

## **Code of Conduct**

The ECP had an elaborate code of conduct for the 2008 general elections. It sure would have an extensive code of conduct for the upcoming elections as well. There is a need, however, to first educate the media representatives about the code of conduct to serve as effective watchdogs on the election process; and to educate the masses about the code of conduct through a media campaign. The educative process for the media could take the shape of training workshops organized by the ECP for media correspondents. This could be followed up by encouraging the media to print and electronic media representatives to write special articles and run special TV and radio programs about the code of conduct for elections. Such an exercise would enable the media and the masses to assess any deviations from the code of conduct by any contesting candidates and would also serve as a warning to the candidates against any practices outside of the code of conduct.

## **Election Observation**

The ECP had developed an extensive manual for election observers in the 2008 general elections. Various NGOs also gave trainings to national and international observer missions on elections observation based on that document. The ECP would surely be developing a similar manual for the upcoming elections as well. There would be a need to give trainings on election observation to district-level print and electronic media correspondents who would also be observing the election and at times streaming live from polling stations. A trained media professional would be better able to accurately report on any polling malpractices.

## **Code of Conduct for the Media?**

Print and electronic media are enjoying unprecedented freedom in Pakistan. The government's regulation of the media is rather limited. The media houses have not developed an extensive code of conduct for themselves as well. This gives rise to the question whether there should be a code of conduct for the media on pre-election, election, and post-election reporting as well, so that the election process itself and post-election perception about the process is not prejudiced because of prejudiced reporting. There is also a great need for the government to remain impartial in the development of this code of conduct. Therefore, the development of this code of conduct for the media should be made the responsibility of the media houses in collaboration with the ECP through consultations organized by the ECP with owners and editorial boards of the media houses.



## PAK WOMEN

## Electoral Support Network KP and FATA

*An association of Pakistani Women  
Children and Persons with Disabilities*

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### **PRESENTATION IN PUBLIC HEARING** **BY SENATE SPECIAL COMMITTEE TO EXAMINE ELECTION ISSUES**

#### **Presentation of Pak Women and Electoral Support Network (ESN) Work on Election Reforms:**

##### **1. Advocacy and Lobbying with Parliamentarians:**

Pak Women under ***“Citizen Voice for Effective Legislative Governance Project”***, is working in 17 provincial constituencies of Mardan, Malakand and Swat districts of Khyber Pakhtunkhwa Province, doing advocacy and lobbying with 17 legislators on their effective role in their respective constituencies, advocacy on development funds and election laws and reforms. The project is under “Citizen Voice Project (CVP), managing by Trust for Democratic Education and Accountability (TDEA) and funded by USAID.

##### **2. Applied Research and Citizen Voice through Citizen Assemblies:**

Pak Women is starting one applied research on role of legislators and legislature and development funds in Khyber Pakhtunkhwa Province, will be covering period from 2008 elections campaign till completion of this legislature, will also have focus on gaps and issues in electoral laws and will find out concrete recommendations for electoral reforms. On the basis of research findings Pak Women will develop Charter of Demand (CoD) and will send to provincial assembly of Khyber Pakhtunkhwa with copy to national assembly and senate. Pak Women will make regular follow up to some concrete steps and reforms on CoD recommendations.

##### **3. Women Voters Education:**

Pak Women under its project ***“Supporting Women CNIC Registration in District Gilgit”***, under Gender Equity Program (GEP) managing by Aurat Foundation and funded by USAID is doing 6311 women CNIC registration as well as women votes registration and voter education. Pak Women (WASFD) also completed registration of 6000 women CNIC and votes registration in district Swabi and voter education

in Swabi, Mardan and Chitral districts of KP with the support from Election Commission of Pakistan (ECP) funded by United Nations Fund for Development (UNDP) before 2008 elections.

#### **4. Capacity Building of Women Parliamentarians Khyber Pakhtunkhwa:**

Pak Women with support from United Nations Fund for Women (UN Women) Fund for Gender Equity (FGE) will build capacities of 22 women parliamentarians of KP on gender mainstreaming in laws and policies, gender mainstreaming in annual budget of KP particularly development budget, gender mainstreaming in electoral laws and enhancing their communication, lobbying and advocacy skills. Also will build capacities of 250 women leaders from all 25 districts of KP and will link the network of women with the women parliamentarians to ensure flow of information and issues including electoral issues from district level to the parliament and to be discussed in parliament for some concrete steps.

#### **5. Electoral Support Network (ESN) Khyber Pakhtunkhwa and FATA:**

Pak Women has been take a lead to form a network of civil society organizations covering KP and FATA, the network is called Electoral Support Network (ESN), main objective of the network is coordination, information sharing, raising related issues and problems from the grass root level and to communicate to high level forums and government authorities before, during and after elections.

Pak Women is currently working as secretariat of the network and the network has been launched its first Charter of Demand (CoD) which has only one following point and the ESN will work to attain the demand, this demand is contributing to Election Commission of Pakistan demand/proposal to the parliament.

**“In General Election if women votes cast at any polling station is less than 15%, the election on that polling station should be declared null and void”.**

#### **Issues in Electoral Legislation and Electoral Process:**

##### **1. Issues relating to Electoral Rolls:**

Lack of information regarding electoral rolls by citizen particularly women and men living in rural areas of Khyber Pakhtunkhwa. Lack of information on procedures how to make correction to their information in electoral rolls. Lack of understanding of ECP cell phone smss by illiterate citizen and by those citizen who cant understand English language.

##### **2. Lack of Understanding of Election Laws and Electoral Reforms by Citizen:**

As there is lack of understanding of election laws, electoral reforms, role of legislators and legislature by citizen and particularly by marginalized groups including women. So when the citizen lacking knowledge how they can ask or enforce for its implementation and how can judge transparency at the grassroot level and how can play their effective role before, during and after election.

### **3. Redressal of pre poll, during the poll and post poll complaints:**

There is no proper mechanism for pre poll, during the poll and post poll complaints particularly in rural areas of the country including Khyber Pakhtunkhwa. Due to which the voters and candidates are facing problems while there are complaints or disputes, and many grievances did not resolved on time which creating negative impacts in the long run. ECP has started complaint tracking system but again it is not covering the whole country and particularly the rural areas and those areas where women facing problems in polling votes.

### **4. Appropriate legislation for electoral disputes resolution:**

There is no proper legislation for electoral disputes resolution, so all citizen of the country, Election Commission of Pakistan, relevant departments, political parties, candidates lacking clarity to how resolve the election related disputes to prevail peace and harmony.

### **5. Lowest Voters Turn out in South Asia:**

Pakistan has held 9 national and provincial general elections on the basis of adult franchise since its coming to existence in 1947. Eight of these elections have been held after the 1973 Constitution was passed, generally there was low turnout in these elections. The highest turnout was in 1970 elections, which was recorded 63.4%. the lowest turnout was in 1997 general election which was 35.4% and during 2008 general election it was 44.4%, so the average turnover for the last eight elections recorded to be 45.9%, which is making Pakistan a country with the lowest voter turn out in South Asia.

### **6. Low Women Voters Turnout and agreements by political parties, religious leaders, Jirgas:**

As the voters turn out in Pakistan is very low, but the women voters turn out is the lowest. In rural areas and even some time in urban union councils it is main hindrance to the vote polling of women that political parties, religious leaders or Jirgas make decision that there will be no women polling and in this way the women are stopped from using their fundamental and constitutional rights, if we cant ensure polling of women votes in those areas, then why we are going only for registration of votes, so there is need to stop those practices.

### **Recommendation to the Committee on improving the electoral legislation and electoral process:**

1. Information regarding electoral rolls must be reached to citizen in remote and rural areas through public announcements through radio where other media can't reach or even through loudspeakers, the procedures also be announced through local media or through civil society, but should reached to possible number of citizen, so they will be able to make correction etc well in before and will not face problems on the election day.
2. Election Commission of Pakistan (ECP) should plan and implement with the support from and in partnership with funding agencies, civil society organizations effective civic and voter education campaign which not only educate voters on importance of vote and polling information, but also provide citizen information on election laws and electoral reforms.

3. Proper legislation for electoral disputes resolution and establishment of effective and transparent election complaint and disputes resolution mechanism.
4. Legislation to make polling of vote compulsory for all citizen, irrespective of man or woman. Legislation for stopping political parties, religious leaders and Jirgas from making agreements for stopping women from polling votes.

***Will be Presented by:***

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## Public Hearing by Senate Special Committee to Examine Election Issues

Sarwar Bari  
Pattan Development Organisation  
17 October 2012

Pattan is registered under Societies Act 1860. Registration No: RS/ICT/190 of 1993

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## Pattan's work on electoral issues & reforms

Based on research and monitoring of electoral processes since 2000, we have produced various reports, developed public policy documents, contributed op-ed articles and launched advocacy campaigns on electoral issues. As first Secretary General of Free and Fair Election Network assisted it developed recommendations on election issues. Some publications of Pattan on electoral issues are mentioned below:

- Women Manifesto 2088-2013, published in Urdu and Sindhi.
- Peoples' Agenda for Union Nazims and Naib Nazims.
- Democratise political parties.
- Understanding the role of political dynasties.
- Role and Performance Assessment of Pakistani Women parliamentarians 2002-07.
- Analysis of Local Government elections 2001, produced 4 volumes.
- Analysis of General Elections 2002.
- Analysis of Local Government elections 2005. Produced eight reports.
- Asia Democracy Index: A study of Asian countries.

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## Electoral issues

- Understanding the context: Civil-military relations. Social inequalities and regional disparities. Weak social base of political parties and too much dependence on powerful wealthy political dynasties. Promotion of primordial/parochialism versus political ideology. Lack of intra-party democracy.
- Quality of election determines quality of governance
- Peoples' alienation from electoral processes: Low turnout means minority rule
- Weak ECP: failed to establish its writ and to implement its laws. Political finance. Code of conduct
- Too many laws: The Representation of the People act 1976, The Electoral Rolls Act 1974. The Delimitation of Constituencies Act 1974. The Political Parties Order, 2002.
- Element of coercion: lowest and highest turn out areas

## Recommendations

- Make political parties manifesto (ideology) and membership based.
- Strengthen linkages of political parties with social movements and civil society. Mainstream women in party hierarchy
- Introduce official audits by the ECP of candidates and political party accounts and make these audit findings public on the internet
- Conduct a review of all candidate and political party disclosure declarations in order to identify those which require audit
- Require and enforce reporting by candidates of all sources of income, both cash and in-kind
- Require reporting by political parties of both income and expenditures, cash and in-kind, related to campaigns
- Engender election campaigns
- Introduce direct elections of women, minority seats and The Senate
- Ban donations by foreign individuals to candidates or political parties
- Form coalitions on issues rather than on portfolios and power sharing

## Pattan's Networking

- Free and Fair Network (FAFEN)
- Alliance for Reform and Democracy in Asia & World Forum for Democracy in Asia
- Global Network for Local Governance
- Asian Disaster Risk Reduction and Response Network
- Insani Haqooq Ittihad (IHI)
- National Humanitarian Network (NHN)

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## Pattan stands for

**Pattan Vision:** To have a democratic and just society where all people enjoy equal economic, political, socio-cultural, and religious rights, equitable opportunities and benefits of development process without any discrimination.

**Pattan Mission:** Pattan is committed to mainstreaming marginalised and isolated communities, groups and women into political and economic decision-making processes at all levels through mobilisation, networking, capacity building and advocacy for structural and policy change.

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[www.pildat.org](http://www.pildat.org)

*Policy Brief*

# **The unfinished Agenda of Electoral Reforms in Pakistan**

July 2012



## Introduction

**PILDAT** facilitated the formation of the **Citizens Group on Electoral Process-CGEP** in 2006, with the avowed goal of contributing towards the holding of free, fair and credible elections in Pakistan. A number of well-known personalities from the media, legal profession, civil society and former members of the superior judiciary and armed forces, but with no present affiliation with any political party, have been serving as members.

The CGEP has played a key role in monitoring the electoral process ahead of February 2008 General Elections and since after the election has been working to institute and promote Electoral Reforms in Pakistan.

The elected political government, Parliament and the Election Commission of Pakistan have covered a lot of ground in instituting significant electoral reforms during the past three years. Providing for full-time members of the Election Commission; Bi-partisan process to appoint members of the election commission and Chief Election Commissioner; Making Computerised National Identification Card (CNIC) mandatory for registration as a voter and for casting the vote; Preparation of Computerised Electoral Rolls with voters pictures by using the NADRA database; initiating the mechanism of constituency monitors; instituting a more elaborate system of monitoring election expenses and providing for a neutral care-taker government during the General Elections appointed through a bi-partisan process are some of the key reforms which have been instituted through Constitutional amendments, Acts of Parliament and administrative actions by the Election Commission as of this date. This is an impressive record by any standard but a number of reforms are yet to be introduced.

A firm political will and commitment to reform, with support from citizens and the media can enable the country to put in place the balance Electoral Reforms that can truly provide a level-playing field to all and fulfill the criteria of free, fair and credible elections in Pakistan. Now when the General Election is less than a year away, the policy brief on the updated proposals on Electoral Reforms by CGEP, therefore, is a sincere contribution to this process at this crucial stage.

This Brief contains proposals about placing checks on the office of the President and the Governors from influencing the electoral process. The disclosure and declarations by the candidates in their nomination forms should be made public through the internet before every election. There is a need for changing the eligibility criteria for the members of the Election Commission and for the post of the CEC.

CGEP also advocates for reforms such as live posting of polling stations-wise (progressive) voting results on the ECP website; an agreed Code of Conduct by political parties; strict compliance of Laws by the ECP to control Government influence; setting up of a realistic ceiling on maximum election expenses and application of electoral rules and laws on all.

The CGEP also proposes that the number of polling stations should be increased to an extent that no polling station is more than 2 kilometres from the population it serves. CGEP also proposes that polling staff should not be deputed in the district of their original posting to save them from the pressure of the local influential persons

who may have played a role in their appointment and who may be expecting return of the favour during election time.

CGEP has also proposed that the system of Constituency Observers recently introduced by the ECP should be further strengthened by appointing more senior observers and providing extensive orientation / training to the observers.

It is also proposed that dedicated Election Tribunals should be appointed in sufficient numbers so that all election complaints are decided within the period of four months as stipulated in the law.

## **The Unfinished Electoral Reforms**

Following is an account of the CGEP proposals on the unfinished Agenda of Electoral Reforms in Pakistan:

### **1. Public input and Updating of Computerised Electoral Rolls**

After the printing of the Final Electoral Rolls (FERs), the Citizens Group makes the following recommendations :

- i. The Final Electoral Rolls (FERs) should be made easily accessible to political parties, civil society organizations and other stake holders so that they may scrutinize the rolls and may point out any gaps or flaws to the ECP. Both hard copies of the complete Electoral Rolls organised constituency-wise and unalterable CDs should be provided to the interested persons and groups at nominal cost and the procedure to obtain a copy should be simple and efficient.
- ii. The Computerised Voters List should be available at the ECP website
- iii. In case political parties, civil society organizations or ordinary voters point out a large number of discrepancies in the FERs, the ECP may arrange for a third party validation of the Rolls.
- iv. The Election Commission of Pakistan (ECP) together with the National Database and Registration Authority (NADRA) should institute a system whereby future voter registration is carried out at the time of issuance of Computerised National Identification Cards (CNICs) by NADRA. Provision for extra information such as the preferred location for voting may be instituted at the time of registration for CNICs. ECP may take a reasonable time to verify the applicant's bonafides but he or she should not be required to go to another office to register as a voter.
- v. The NADRA should also be directed to ensure issuing CNIC (Computerised National Identification Card) to all eligible voters in Pakistan within a period of next six months.

### **2. The role of the President and Provincial Governors during and immediately before the election period**

In a parliamentary democracy and as per the parliamentary traditions, the President and the Governors should not act in a partisan manner. They may originally come from a political party or be the nominees of a political party but once they are elected to these positions, they are expected to act in a non-partisan manner. It is in this background that President and the Governors are not specifically mentioned in the Code of Conduct during election whereas Prime Minister, Chief Ministers, Federal Ministers and Provincial Ministers are specifically barred from using state resources to visit election constituencies, implicitly or explicitly, supporting any political party or group in a public statement, speech or a meeting. Since the offices of the President and the Governors are symbols of the unity of the State, the holders of these offices cannot act partisan at anytime. However, the present ground realities in Pakistan are different where President of the country is also co-chairman (de-facto head) of the largest ruling party PPP and Governors are also active party faithfuls. The President / Co Chair of PPP has recently made highly partisan speeches criticising opposition parties and forecasting victory for his party in all provinces in the coming election.

Some of the provincial governors especially the one in the Punjab also makes frequent partisan pronouncements. These partisan activities are likely to increase in number and intensity as we get closer to election and as we enter the election period. It is therefore important that the electoral laws be amended and the Election Code of Conduct be tailored in view of the ground realities. The relevant electoral laws and the code of conduct should provide for certain restrictions on the possible partisan conduct of the President and Provincial Governors at least 6 months preceding the expiry of the term of the National Assembly, of the President/Governors or from the date of dissolution of the National Assembly whichever of the three occurs earlier.

- i. The President or the Governor should not attend any public meeting, rally or congregation organized by or organized for the benefit of a political party or a candidate to contest elections. The restrictions applicable to the Prime Minister and Chief Ministers during a bye-election should be equally applicable to the President and Provincial Governors both during the bye-elections and the general election.
- ii. The President or the Governors should not promise or announce any special or preferential package or development programme from public funds for any constituency or area at least 6 months preceding the scheduled expiry of the term of the National Assembly or with effect from the dissolution of the National Assembly whichever occurs earlier.

### **3. Public Access to Disclosure and Declaration made by candidates**

The ECP obtains key information through nomination papers that each candidate has to submit. This form includes declaration of information about each candidate such as educational qualification, list of criminal cases, amount of income tax and land revenue paid and statement of assets and liabilities of the candidate, and candidate's status of nationality, etc. The spirit of obtaining these declarations is that voters should be made aware of the credentials of the candidates so that they may be able to make an informed choice at the time of polling.

However, despite getting all this information, the ECP does not actively publicise it for the voters' knowledge and information. Even though Nomination Papers are considered a public document, a bureaucratic and time-consuming procedure is in place to access these disclosures. The CGEP proposes that:

- i. The ECP should make arrangements to upload all disclosures received through Nomination Papers for each constituency on the ECP website before every Election and within 24 hours of filing of the nomination forms.
- ii. The availability of this information at ECP website be publicised for public knowledge.

The ECP had made a commitment in its **Five-Year Strategic Plan 2010-2014** to *Publish the financial statements of parliamentarians and political parties on the ECP website*. The ECP had set the deadline of *October 2010* for this task.<sup>1</sup> So far this commitment has not been realized.

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<sup>1</sup> The ECP's Five Year Strategic Plan 2010-2014: Strategic Goal No # 12: Political Parties and Candidates, page 45

#### **4. Election Commission Should Ensure Strict Compliance of Laws Relating to Control of Government Influence in Elections**

Since a neutral caretaker government will be in place at the time of the General Election, as required by the constitution, the misuse of government resources during the period of the caretaker government does not seem to be a major issue any more.

The role of the President and the Provincial Governors, however, needs to be restricted by law during the election period.

As the current trend indicates, both the federal and provincial governments have allocated and started spending huge sums on advertisements publicizing the 'achievements' of their governments during the past four years. It is therefore important that some arrangement be made to stop the misuse of public funds on early electioneering during the final year of the governments before the general election.

In addition, the role of the partisan governments should also be regulated during the by-elections so that public resources are not misused by the federal or provincial governments to influence the by-elections.

During the by-elections, the ECP needs to ensure ***strict compliance of laws relating to the control of government influence*** such as advertisements in the print and electronic media, announcing development schemes by the government near elections, use of government resources in election campaigns by incumbents such as official vehicles, aircrafts, rest houses and official trips.

The Election Commission should adopt an effective mechanism to check misuse of government resources by all public officials including the President, Prime Minister, Governors and Chief Ministers, federal and provincial cabinet ministers, parliamentary secretaries and other officials for election campaigns for their party candidates.

#### **5. The Election Commission Should Exercise Control, Superintendence and Discipline on the Staff Assigned to Election Commission for Election Duty**

The Election Commission should exercise direct and complete control, superintendence and discipline on the staff assigned for the election duty including writing their Performance Reports and taking disciplinary action for violation of rules.

#### **6. Polling Staff from Other Districts**

CGEP proposes that polling staff should not be deputed in the district of their original posting to save them from the pressure of the local influential persons who may have played a role in their appointment and who may be expecting return of the favour during election time.

#### **7. Election Commission Should Ensure Strict Compliance of Laws Relating to the Maximum Election Expenses**

It is a common knowledge that many candidates spend excessive amounts of money on elections which far exceeds the limits prescribed in the law. There has hardly ever been a disqualification of a candidate on this basis. The Election Commission should

initiate a consultation with the political parties and the civil society to help develop a consensus on a rational limit of spending and then propose amendment to the present laws to fix a rational maximum limit. The ECP should devise an effective mechanism to check the excessive spending and disqualify the violators of the law.

The ECP has taken some welcome steps to ensure the compliance of electoral laws regarding the election expenses after the Supreme Court judgment of July 8, 2012. These steps include:

- i. Instructions to candidates to open a single bank account for election expenses, submission of weekly statement of account for election expenses to the ECP,
- ii. Deployment of constituency monitors to check the election expenses such as Banners, Hoardings and Posters of sizes larger than prescribed, election rallies etc.
- iii. Prohibition on provision of transport to voters on the Election Day etc.

These steps have been implemented during the by-election in constituency NA-151 Multan held on July 19, 2012.

It is very important that the ECP reviews the feedback on these steps and makes these steps more effective and meaningful before the general election. Apparently the decision to provide transport to voters from those areas where polling stations were located at a distance greater than 2 kilometres from population centres needs to be reviewed. It may be better to increase the number of polling stations to make these more accessible to voters instead of providing transport at ECP expenses.

## **8. Increase Polling Stations and make them Permanent**

The CGEP proposes that number of polling stations be increased for the convenience of voters and to decrease the dependence of voters on vehicals for transport to polling stations. This will discourage the practice of candidates providing transport to voters and thus influence voters by the use of material resources. As far as possible, Polling Stations should be at a walking distance (maximum 2 Kilometres) for the population they serve.

The ECP should also declare permanent polling stations wherever possible in the country. The list of polling stations be announced 45 days before the poll. Objections to the draft scheme be invited from all candidates. The objections should be adjudicated by a committee and a final list of polling stations should be announced 30 days before the poll after which no change should be made in the polling station scheme. The current laws provide for this plan; its strict compliance be ensured by the Election Commission.

The ECP's **Five-Year Strategic Plan 2010-2014** had set the objective to *Identify new buildings and facilities for establishing accessible polling stations* with a deadline of *December 2010*.<sup>2</sup> The ECP had also aimed to *Establish permanent polling stations across the country in consultation with the public* up to *June 2011*. Progress on this objective as of June 2012 is 10%.<sup>3</sup> The ECP also committed to a *Gradual increase in the number of polling stations for facilitating voters, including*

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<sup>2</sup> The ECP's Five Year Strategic Plan 2010-2014: Strategic Goal No # 3: Election Operations, page 33

<sup>3</sup> Citizens Report on State of Electoral Reforms – 3<sup>rd</sup> Quarter Report, PILDAT. July 2012.

*the number of polling stations dedicated to female voters by December 2012. Progress on this objective as of June 2012 is 0%.<sup>4</sup>*

### **9. Use of Thumb Impression to Check Bogus Voting**

As per the current practice a Polling officer ensures that each voter affixes his/her thumb impression on the back of the ballot paper before casting it. The Election Commission should select a certain number of randomly selected casted ballot papers from each constituency after the election and match the thumb impression finger prints with the finger prints in the NADRA record or on the National Identity Card to ascertain any mismatch indicating bogus voting. The finger prints database of NADRA can also help in identifying the thumb impression of the person who fraudulently affixed the thumb impression. These arrangements are to be made with the help of the available technology. If it is known that such a random exercise will be carried out after the election, it will act as an effective deterrent to impersonation and bogus voting.

### **10. Gender disaggregated data of voters from each polling station**

In some areas of the country, women have been barred by their male family members or through an agreement among candidates from voting. It is important to analyse this problem and identify where this problem persists so that suitable arrangements be made to address the problem. As a first step, ECP should make sure that the polling station-wise gender disaggregated data of voters turn-out be made available after every election. This means that the total number of registered voters and the number of votes cast be recorded and announced separately for men and women for each polling station.

### **11. Appointment of Constituency Monitors by the Election Commission**

The Election Commission should continue and build upon the practice of appointing constituency monitoring teams by the ECP at the by-election in NA-151, Multan IV held on 19<sup>th</sup> July 2012. It is proposed that the ECP appoints heads of the Constituency Monitoring Teams from amongst senior government officials (Grade 20 or at least Grade 19) to ensure that political parties and candidates carry on their election campaign according to enacted laws and agreed norms and do not indulge in extravagant election expenditure, the electoral and administrative machinery functions in non-partisan manner. The Election Commission of India appoints these Special Observers from amongst the rank of deputy secretaries and additional commissioners of income tax and above both from the central and state cadres. In the case of Pakistan, Observers should be officers working in one province to be posted in another province to safeguard against pressure on them by their provincial government. The two types of observers are appointed in India - General Observers and Election Expenditure Observers. The same practice may also be considered in Pakistan.

The ECP took the very welcome step to deploy four teams of Constituency Monitors each consisting of 3 persons including a video cameraman during the by-election for the National Assembly Constituency NA-151. It is important that such an arrangement be further strengthened by appointing more senior officers at the head of each team. In addition, these teams should be thoroughly briefed and given

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<sup>4</sup> Ibid.

extensive orientation about the electoral laws and what they need to monitor and report.

## **12. Strict Compliance of Electoral Code of Conduct**

Although a Code of Conduct is announced ahead of each election, the code is not strictly enforced. The CGEP proposed a model code of conduct ahead of February 2008 election for the consideration of the ECP asking the ECP to get a unanimous approval of the parties on the Code.

Lack of strict compliance of the Code of Conduct results in flouting of the code and in turn weakening of the authority of the ECP.

It is proposed that all features of the code of conduct be incorporated in electoral laws with penal provisions and the code of conduct should be left for political parties to agree among themselves. This code of conduct should consist of provisions over and above the electoral laws.

The ECP in its **Five-Year Strategic Plan 2010-2014** aimed to *Strengthen the Code of Conduct for the political parties and contesting candidates* with a deadline of *June 2011*. Progress on this objective as of June 2012 is 60%.<sup>5</sup>

## **13. Posting of Polling-Station Wise (Progressive) Results on the Election Commission Website**

Each polling station should electronically (e.g email, telephone, SMS, fax, etc.) transmit a copy of its vote count (results) directly to the Election Commission who should immediately post the results on its website.

The progressive results should be posted on the website in real time as these are received without any delay.

The ECP should employ latest technology such as the use of mobile telephones and text messaging, etc., in areas where traditional facilities like e-mail, telephone and faxes are not available. Delay in posting the polling-station-wise results should be declared illegal and the Election Commission should be assigned the responsibility to ensure web-posting of results as these come in. This measure will preclude any manipulation after the result is compiled and will enhance public confidence in the electoral process.

The ECP has mentioned the objective, in its **Five-Year Strategic Plan 2010-2014** to *Publish polling stations-wise results on the ECP website immediately after the results are available*. The ECP has set the deadline of *June 2013* to achieve this goal – the year when next General Elections are due to be held. Progress on this objective as of June 2012 is 0%.<sup>6</sup>

The ECP, in its Strategic Plan, had also set the deadline of *December 2011* to *Redesign the ECP website to facilitate greater public access to information on the electoral process, including voter information, polling stations, complaint tracking and timely election results*. Progress on this objective as of June 2012 is 75%.<sup>7</sup>

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<sup>5</sup> Citizens Report on State of Electoral Reforms – 3<sup>rd</sup> Quarter Report, PILDAT. July 2012.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

#### 14. Qualifications of the Members of the Election Commission and the Chief Election Commissioner (CEC)

The CGEP proposes following changes:

- i. **Chief Election Commissioner (CEC) and Other Members of the Election Commission Do Not Have To Be Necessarily from the Judiciary:** The CEC and other members of the Election Commission do not have to be necessarily from the Judiciary. This, reform will require an amendment in the Constitution. After the acceptance of this proposal, the relevant provisions will become in line with the practice in most of the countries including India, Bangladesh and Sri Lanka. The CGEP feels that there is no reason why this position be confined to the persons of judicial background only whereas the functions and duties as the CEC are mainly administrative. At best, one of the members of the Election Commission looking after legal matters may be from a judiciary background.
- ii. **Retired Judges Should Not Be Appointed as Election Commissioners Directly After Retirement:** A judge should not be appointed as CEC or a member of the Election Commission before the expiration of 3 years after he/she has ceased to hold the position of a judge of the Supreme or High Court. Article 207 (2) of the Constitution will need to be amended to implement this proposal.

Since the members of the ECP and the CEC have already been appointed recently through a bi-partisan process, CGEP proposes that the above proposed reforms may be incorporated for future vacancies in the Election Commission.

#### 15. A Culture of Consultation & Dialogue

A dialogue between the Election Commission and political parties is a rarity in Pakistan. For any meaningful reform in the electoral process, it is important that a comprehensive dialogue is held by the Election Commission between the political parties, media and civil society. The only guarantee of freedom of the Election Commission is the trust and credibility it enjoys among political parties, media and the civil society.

The ECP in its **Five-Year Strategic Plan 2010-2014** has set its objectives to *Increase the level of interaction with political parties and general public for enhancing confidence in electoral process* and to *Hold regular consultation at the national, provincial and district levels*. The ECP has given the deadline of *December 2014*<sup>8</sup> to achieve this objective.

During the past one and half year, the ECP culture had undergone a major transformation and it had established two separate forums of consultation with political parties and the civil society. The ECP started holding periodic consultations which did enhance transparency and credibility of the ECP. Due to change in ECP leadership during the past few months (since the Secretary ECP, **Mr. Ishtiaq Ahmed Khan** resigned on March 2, 2012 and the CEC **Justice (Retired) Hamid**

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<sup>8</sup> The ECP's Five Year Strategic Plan 2010-2014: Strategic Goal No # 11: Public Outreach and Interaction with Political Parties, Civil Society Organisations and the Media, page 44

**Ali Mirza** retired on March 23, 2012, this culture of consultation seemed to have weakened. It is important that the culture of consultation and openness at the ECP should not only be maintained but rather enhanced.

#### **16. Electronic Voting Machines be Employed**

Electronic Voting Machines like the ones tried, tested and now applied on all polling stations in India should be developed and be ***gradually*** applied in Pakistan to introduce accuracy and efficiency in the counting procedure.

#### **17. Election Tribunals Should Decide Petitions within the 4-Months Period Prescribed in the Law**

According to the Representation of the people Act, 1976; article 67 (1A), the Election Tribunals shall decide the election petitions within 4 months by conducting day-to-day hearings. This, in reality, however, seldom happens. The Election Commission should develop a mechanism and appoint sufficient number of tribunals by assigning sufficient number of judges so that the requirement of the law is fulfilled. This can be ensured only if ***sufficient number of judges are assigned the work of Election Tribunals*** so that they can exclusively hear election petitions and not take up any other burden during the period of hearing and disposing election petitions. The Tribunals should exclusively hear and dispose election petitions during the four-month period. A period should also be fixed within which the appeals should also be decided.

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Mrs. Farukh Khan  
President Women Wing, Pakistan Muslim League

First of all I would want to thank Senator Jahangir Badar, Leader of the House in Senate, to have invited me and to have given me the opportunity to speak on this forum.

I have been asked to share details of my work towards election reforms. As the president of Women's Wing of Pakistan Muslim League, Quaid-e-Azam, I, along with my fellow party women, have not missed a single opportunity to advocate and speak up for a fair electoral process and reforms. We had many multi-party round table sessions and brainstorming on electoral process and reforms, where we identified common areas of concern, discussed with other party leaders, which really helped to not only highlight issues but also come up with their solutions. Although there are many organizations working on the electoral process, I must mention those we had the chance to work with. National Democratic institute (NDI), Aurat Foundation, Democracy Reporting International of European Union, International Republican Institute (IRI), UN women, Political Party Development Program of the US Aid, Election Campaign Development Almani US Department of State, and so on.

My concern and priority has always been women and girls. We have been very vocal and have always emphasized their registration, security, protection and full participation. We strongly believe in their right of casting votes, especially in the areas where they are prohibited to do so. I feel good to tell that a proposed law calling for a mandatory 10% of the votes at every polling station to be cast by women is finally taking shape. Election Commission of Pakistan (ECP), under the chairmanship of Chief Election Commissioner, Honorable Justice (r) Fakhruddin G. Ebrahim has agreed to ensure effective participation of women and has strongly recommended that it should be compulsory for every polling station to have at least 10% of the total votes cast by women. Otherwise, the results from that specific station will be considered null and void. This is a big achievement. Our voice has been heard!

But this is not the end. We still have a long way to go. Now women of all parties are asking at least a quota of 10% of general seats, which I feel is a reasonable demand and I am very sure that the present election commission will help us to achieve this next milestone. As far as major issues are concerned there are many. I've focused on 5 points, which I feel need more attention.

- 1: Security around the polling stations.
- 2: The issuance of the CNIC to women, particularly in the FATA and Baluchistan, Khyber Pakhtunkhwa, and the interior Sindh.
- 3: Challenges women face as voters, candidates and women staff at the polling stations.
- 4: Electronic system, the electronic system of voting.
- 5: Election dispute resolution system.

1. Addressing security challenges in the country, especially in FATA, Baluchistan Khyber Pakhtunkhwa, and in interior Sindh:

The security challenges are immense at this time. I feel this is not only the task of the law enforcing agencies anymore to solve this problem but, in fact, every one of us has to take responsibility for our self and for others in the country - mainly due to the threat of terrorism and unpredictable terrorist activities in Pakistan. Before the election the interim government has to be extra vigilant and careful for the security of people, the political party workers and their leaders. On the election day, security around the polling stations should be effective. All the law enforcing security agencies should be taken on board and extra measures are to be asserted throughout the country around every polling stations. But for the security of the voters, candidates and the polling staff, law enforcing agencies' presence is required. However, they should be stationed outside the polling area to minimize any illegitimate interference. The political parties should also play their due role to make their voters understand that violence can lead to disaster, both to property and life. The polling areas should have a peaceful and safe environment. Political banners and pamphlets should not be allowed nor should any sloganeering be permitted in the vicinity, so that voters of different parties are not agitated, angered or humiliated. The ECP should set priorities for the security of women voters and staff at the polling stations.

2.The issuance of the CNICs to women, particularly in the FATA, Baluchistan, South Punjab, Khyber Pakhtunkhwa, interior Sindh: CNIC is another major issue which will deprive many people from taking part in the upcoming elections, which is their right to vote. NADRA, without any further delays, should take stronger and more effective steps in making CNICs of all Pakistanis, especially the ones that are eligible to vote. There should be mobile teams reaching the far flung areas with their electronic machines to make CNIC at every doorstep. At the NADRA office people face a lot of problems, to counter this, there should be easy access to get CNICs made with less hassle. And the process should not be as time consuming as it is right now. Women counters should be separate with covered waiting rooms and rest rooms should be easily accessible. There is a report that 10 million women are not in the voters list. ECP should make sure to take all necessary arrangements to solve this critical issue.

3.Challenges, women face as voters, candidates and polling staff. In traditional societies, there is very limited women practice in politics and other activities. Women in many areas of Pakistan who are active in public life face all sort of threats. But I must appreciate the government of Pakistan and President Asif Ali Zardari who have taken immense steps for women empowerment and to eliminate all forms of discrimination against them. He has empowered women in all walks of life. He has placed women on key posts, like Mohtarma Dr. Fehmeeda Mirza as the Speaker of the National Assembly, Mohtarma Hina Rabbani Khar as Minister of Foreign Affairs, Mohtarma Sherry Rehman as Ambassador to the United State of America, Mohtarma Farzana Raja as

minister of Benazir Income Support Program in which women are the ones who are the main beneficiary, Accounted General of Revenue is also a woman. Women are becoming IG police. But let me remind you that a big credit also goes to Pakistan Muslim League, Quaid-e-Azam also. Under the leadership of Senator Ch. Shujat, President PML and Ch. Pervaiz Elahi, Deputy Prime Minister and the President of PML Punjab, 33% women were given representation in the local government as councilors, district and tehsil nazims, 17% in the provincial and national assemblies. Women Protection Bill, one of the crowning achievements of the PML Q government, was made possible due to the combined efforts of women parliamentarians and members of the civil society. I am grateful to the present government that it is taking it on. The Pakistani women of today enjoys a better status than most Muslim women According to a Human Development Report released by the United Nations, Pakistan has better gender equality than neighboring India.[.However, they do have problems facing them when they come into the election realm as voters, candidates, polling agents and staff..

To cater this I suggest that women candidates should be given police protection when they go for election campaigning. They should organize political gatherings in the protected areas and should have more corner meetings. Specific time should be allocated to them to cover online campaigning free of charges on the national TV without any discrimination of any party by the interim government so they can come on electronic media and can elaborate and explain their future programs and plans. They should use print media, banners handbills and cell phones messages which are very effective for canvassing. For the women voters security there should be more accessible polling stations and proper transportation should be provided to them. Women police should be installed in polling stations to avoid any violence against the polling agents and officers especially at the time of counting votes. The polling women staff must be provided transport with proper security as most of them leave for their homes late at night.

#### 4.Introduction of Electronic Voting Machines:

Electronic voting is quite new to Pakistan's electoral process. It should be ensured that the polling staff is well trained on these machines, for which technical training teams should be sent all over Pakistan or the polling staff should be called to major cities to train them on these machines. The new system is more sensitive than the distribution of ballot boxes. Electronic equipment needs running batteries or electricity and extra back up and you need computer network reliability. Communication hardware can break down and my major fear is that if the machines collapse, or some unseen problem happens or it is taken away by force by trouble makers then the data is completely lost. There should be a backup of at least 3 copies of voters list with CNIC numbers and other relevant documents should be available with ballot boxes in all polling stations.

One more very important thing which we must focus on is that the

voters also have to be educated with effective voting program to use this technology

#### 5. Election dispute resolution system:

As I have been in the election area myself and I have witnessed the corrupt and illegal practices that how winning candidates' ballot papers were looted and burned at the polling staff women were beaten and harassed. The case was put to the election commission with all the proofs, election commission was sympathetic did agree to our grievances but it has been months now the case is still pending the opposite candidate is enjoying his MPA ship and the griever one the oppressed one is still waiting for justice, when will his right of winning will come. This relates to one person but there are many such cases.

My concern is that election disputes should be resolved in a time frame like three months or as soon as possible whereas at the moment it takes the whole assemblies tenure of five years and the dispute is not resolved.

Although a national Conference on Election Dispute Resolution was hosted by the ECP on October 28, 2009 to review the reports to reform the election dispute resolution structure in Pakistan, loads of recommendations were made but unfortunately the implementation is needed in a quick and effective way.

**Points for**  
**Senate special committee meeting**  
**to Examine Election Issues.**  
**Held on 17 Oct 2012**  
**At 10:00 am**  
**At Serena hotel Islamabad**

**Presented by:**  
**Iftikhar Ali Malik, Vice President SAARC**  
**Chamber Of Commerce and Industry**

→ Election Commission of Pakistan to issue **new Code of conduct**, Key consideration should be transparency and fairness.

- ❖ **Error free Computerization of electoral Rolls** in collaboration with National Database and Registration Authority (NADRA) and timely updation for **credible results**.
- ❖ **Computerization of electoral processes for :**
  - Fast and secure counting.
  - People living outside their constituencies will be able to vote without having to go travel back to their areas.
  - Overseas Pakistanis can also vote in this way.
  - It will put an end to forced voting
  - It will replace the postal ballots completely
  - Even visually impaired and disabled people can vote through e-Voting.
  - It can indirectly provide a boost to IT sector in Pakistan.
  - Peaceful, free, and fair election process
- ❖ **Introduce Digital vote counting Machines at priority**
  - Digital vote counters , be introduced for quick and error free counting
  - It is inevitable to reform the system, now and Election Commission of Pakistan should expedite its digitalization

pursuing models of India, Nepal, Bhutan and Bangladesh to reform the electoral process into a computerized and fair system, taking all stakeholders onboard.

→ **Training for latest election gadgetry:**

- ❖ Training is an essential component of electoral processes.
- ❖ Federal Election Academy in the ECP should get assistance of training facilities from SAARC countries.

→ **Election management**

- ❖ **Transparency by all means:** Now or never policy, ensure transparency of everything by:

- Judicious use of Army, Rangers, Police.
- Manage to eliminate to forced voting
- The role of money in politics influences the quality of democracy and governance, Election expenses be strictly monitored.

- ❖ **Voter turnout:** Participation of civil society by awareness and facilitation is insured:

- Role of Media
- Education of Masses
- Incentives for voters at Election Booth site.
- Free Transport etc

→ **Advisory Board / Think Tank directly under Planning Division (Indonesia Model):** To highlight anything against interest of the common people, to build a strong moral fiber, and to have a true representation from all segments of society:

**Include following in the Govt to play a role:**

- ❖ Five Technocrats
- ❖ Five Business men elected from each Chamber of industry
- ❖ Five educated individuals elected for
- ❖ Mix of retired Doctors, Generals other high officials.
- ❖ 10 years Economic revival Plan with Consistency, Continuity of Policy

→ **Legislative changes:**

- ❖ Legislative changes should be made in constitution, to develop a secure e-Voting system.

- ❖ **Assets declaration:**

- Details (degrees, assets, tax returns, and electricity, gas & phone bills, foreign travel history) of candidates and their families should be put on website of Election Commission of Pakistan.
- All these details should be submitted at least **six months** before elections so that they can be verified and **current system of submission till last night should be abolished** because it doesn't allow ECP to verify details

- ❖ Proper Utilization of Donation Money

- ❖ **Party Manifesto:** Declaration of party **Manifesto** before elections and ensure execution / implementation

→ **Electoral reforms for real democracy:** all stake holders to be taken on board comprising intelligentsia, party cadres, journalists, academicians, Business leaders, social reformists and Election Commission for :

- ❖ Land reforms
- ❖ Execution of Merit based appointments.
- ❖ Election criteria to ensure true representation of people from all segments.

→ **Save country by solving issues on war footing**

- ❖ Rising Energy Prices
- ❖ Electricity and Load shedding
- ❖ Law and Order
- ❖ Overall Inflationary Situation
- ❖ Terrorism
- ❖ Corruption

- Ensure Supremacy of Supreme Court – across the board accountability.
- Ensure Supremacy of Parliament, by having real Govt of the people, by the people and for the people.
- Improve Relations with India – People are still divided.
- Improve Relations with USA, giving due importance to regional countries.
- Due importance to Education

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# **Presentation on Election Issues**

Sheikh Asad Rahman  
Sungi Development Foundation

## Sungi's work in Election Reforms

- Partner in election observation initiatives
- Mobilizing Women as voters and candidates in National, Provincial and Local Government elections 1997, 2002, 2008
- Member of Free and Fair Elections Network (FAFEN)

## Senate Elections Policy Reforms

- All Provinces are equally represented in the Senate
- Therefore to make it a more effective/representative legislative body direct elections must be mandatory
- Women senators should also be directly elected on 30% reserved seats
- Fiscal and Legislative powers to Senate

## Minimum Percentage of Votes

- Minimum percentage votes cast for NA, PA, LG elections 25% per constituency and polling booths mandatory voter turn out and if less results to be declared void
- 10% of this 25% votes cast must be women votes and if less results to be declared void
- 30% reserved seats for women to be elected directly

## Electoral Rolls

- ECP immediately establishes an accessible and reliable mechanism for updating and maintaining the electoral roll, in order to provide for adult suffrage
- ECP provides gender disaggregated data, recruit, train women polling staff and respond to women voters non-participation by declaring results void

## Election Commission of Pakistan Reforms

- Must be an independent permanent body with tenures based on retirement not limited time tenures according to international good practices
- Clear Legal framework legislated by Parliament for an inclusive process basing legislation proposals on stakeholder consultation, constitutional requirements and international law commitments

# Key Electoral Reforms

DEMOCRACY  
REPORTING  
INTERNATIONAL

# Background

- **Observers on General Election of 2008:** a significant improvement; however, many areas for progress to meet international standards for elections
- **European Union Election Observation Mission Report:** 83 Recommendations, major political parties endorsed the final EOM report recommendations
- **DRI's mission:** follow up on the EU EOM recommendations and advocating for electoral reforms based on international standards and Pakistan's international obligations
- **DRI's work:** 2010-2011, DRI was actively engaged with the National Assembly Sub-committee on electoral reforms, provincial assemblies and the media to support the electoral process.
- **DRI Briefing Papers:** platform for advocacy for electoral reform. The topics of the briefing papers included:
  - International obligations of Pakistan
  - Exclusion of Women Voters
  - 18<sup>th</sup> amendment and electoral reform
  - Independence and accountability of the Election Commission
  - Assessment of legal frameworks for local elections in Balochistan and Khyber Pakhtunkhwa
  - Overseas voters

# Key Reforms

- **Key Reforms:** Focus on specific measures for the 2013 elections
- **Areas of interventions:**
  - **Electoral Rolls:** update mechanism and allocation of voters to polling stations
  - **Transparency:** of the process, including election tabulation and election observation
  - **Electoral Tribunals:** special tribunals and time limits
  - **Women Voters:** special measures
  - **Overseas Pakistanis**
  - **Code of Conduct:** Binding code of conduct
  - **Unified legal framework**

# Electoral Rolls

- ***Key recommendation:*** *The Election Commission of Pakistan immediately establish an **accessible reliable mechanism for updating and maintaining** the electoral roll, in order to provide for universal suffrage. This should include establishment of **polling scheme***

# Transparency in the process

- **Key recommendation:** *the ECP establish working transparency mechanisms, including full **access of observers** to results **aggregations and immediate publication of all polling station results** (at the polling station and on the ECP website). This can be undertaken for all upcoming by-elections, so that systems can be tried and tested before the general elections and confidence can be built in the work of the ECP.*

# Electoral Dispute Resolution

- ***Key recommendation:** the law be amended to broaden the category of those permitted to file election petitions, to establish the **independence of the work of the tribunals**, and to set **meaningful time limits** for the completion of cases. The ECP and judiciary take all measures possible to establish a clear and efficient system for complaints and appeals, with due preparation time and resources allocated.*

# Women Voters

- *Pakistan has committed itself to the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**. The treaty requires state parties to '**take all appropriate measures to eliminate discrimination against women in the political and public life of the country**'.*
- ***Key recommendation:** the ECP immediately provide **gender-disaggregated data on turnout** - the number of men and women who have voted at each polling station, recruit and train **female polling staff**, and respond to women's non-participation including with declaring results void. An inclusive process takes place for **agreement on a suitable minimum level of female voter participation at the polling station/constituency levels**. Parties and observer groups recruit, train and support female agents and observers.*

# Voting for Overseas Pakistanis

- **Key recommendation:** *The ECP undertake feasibility studies assessing benefits, risks and costs. This is followed by a full public discussion with decisions being established in law by the parliament, including in regard to the electoral system to be used. Given the serious risks involved, the large OCV electorate, and the short time available, such public discussion and decision **may be best postponed until after** the next general elections.*

# KEY REFORMS FOR GENERAL ELECTIONS IN PAKISTAN

## EXECUTIVE SUMMARY

The upcoming elections in Pakistan provide an opportunity, but also pose a risk. This paper seeks to identify a selection of priority electoral issues that urgently need attention before the next general elections. All recommendations are based on the International Covenant on Civil and Political Rights (ICCPR) which Pakistan ratified in 2010:

### 1. Reliable inclusive electoral roll

The Election Commission of Pakistan (ECP) immediately establishes an accessible and reliable mechanism for updating and maintaining the electoral roll, in order to provide for universal suffrage.

### 2. Transparency in the process

The ECP establish working transparency mechanisms, including full access of observers to results aggregations and immediate publication of all polling station results (at the polling station and on the ECP website).

### 3. Effective system for election dispute resolution

The law be amended to broaden the category of those permitted to file election petitions, to establish the independence of the work of the tribunals, and to set meaningful time limits for the completion of cases. The ECP and judiciary take all possible measures to establish a clear and efficient system for complaints and appeals, with due preparation time and allocation of resources.

### 4. Participation of women voters

The ECP immediately provide full gender-disaggregated data, recruit and train female polling staff, and respond to instances of women's non-participation including by declaring results void. An inclusive process takes place to reach agreement on a suitable minimum level of female voter participation at polling stations and in constituencies.

### 5. Neutral state administration

The current government, as well as the care-taker government that will oversee transition during the upcoming election period, make a clear public commitment that all state officials will be proactive and responsive to complaints, and will work impartially including in the application of penalties. Information on the measures being taken is regularly made available to the public. Similar neutrality measures are also be taken by state security services.

### 6. Out-of-country voting

The ECP undertakes feasibility studies assessing benefits, risks and costs of out-of-country voting procedures. This is followed by a full public discussion with decisions being established in law by the parliament. Given the serious risks involved, the large out-of-country electorate, and the short time available, any decisions may be best postponed until after the next general elections in order not to overburden an already challenging electoral context.

### 7. Reduced political violence, intimidation and compulsion

Based on consultation with parties, a binding code of conduct is established in law or under ECP regulations. The ECP and other responsible state authorities respond swiftly to complaints, and proactively and publicly enforce the code of conduct. All contesting parties be required to publicly denounce violence, intimidation, and coercion, and demonstrate what measures they are taking in this regard. A system of coordination and mediation for partisan conflicts be established on lowest possible level.

### 8. Clear legal framework

Parliament immediately begins an inclusive process of legal reform basing legislative proposals on stakeholder consultation, constitutional requirements and international law commitments.

## INTRODUCTION

The upcoming general elections pose substantial risk. There has been a history of troubled elections in Pakistan. The political environment is tense. The security situation is difficult. However these elections also bring opportunity as they could contribute to the stabilisation of the political situation and civilian leadership. This requires a positive election process in which there is public confidence.

This paper identifies a selection of priority electoral issues that urgently need attention before the next general elections for national and provincial assemblies, due to be held by May 2013 at the latest. Taking such actions requires political will and commitment to the democratic process. This list is not exhaustive but rather a selection of key critical issues. Other important issues include enforcement and transparency of meaningful campaign finance regulations, full media freedom, and extensive and consistent training of polling staff by the ECP.

All recommendations are based on the International Covenant on Civil and Political Rights (ICCPR), which is binding international law to which Pakistan has committed (along with over 165 other countries).<sup>1</sup> The upcoming general elections are the first to be held since Pakistan ratified the treaty in 2010. Additional information on the various issues outlined below is available from the organizations producing this paper – the Center for Civic Education (CCE), the Aurat Foundation (AF), Free and Fair Election Network (FAFEN), Human Rights Commission of Pakistan (HRC) and Democracy Reporting International (DRI).

## 1. RELIABLE INCLUSIVE ELECTORAL ROLL

Under Article 219(a) of the Constitution, the ECP is responsible for preparing the electoral roll for elections of the national and provincial assemblies, and revising them on an annual basis. The preparation of the electoral roll in cooperation with

National Database and Registration Authority (NADRA) and the process of cross-referencing with the civil registry<sup>2</sup> have helped to decrease the prevalence of duplicates.<sup>3</sup> To resolve the problem of registering voters in their proper location<sup>4</sup>, the ECP undertook a door-to-door ‘verification’ exercise to assign voters to their locality. According to the media and observers’ report, this exercise was badly implemented.<sup>5</sup> In March 2012 the ECP displayed the draft electoral roll in 55,000 locations to provide an opportunity for citizens to come forward to check and correct records. Unfortunately, the turnout was very low. The ECP was supposed to publish the revised electoral roll by the end of May, but it has not done so yet and there is no indication of when the roll will be ready for publication. Furthermore, the current electoral roll is only a snapshot. Updates are needed before the next election to account for people who move location, become 18, or choose to get a Computerized National Identity Card (CNIC), which does not mean that a person is automatically added to the electoral roll. A robust accessible updating mechanism is also needed as there have been some limitations in the process so far. For example, FAFEN have found that, based on sample data, as many as 20 million voters could be missing from the electoral roll and 11.1 million could be registered in the wrong location.

To date, no widely-accessible mechanism<sup>6</sup> has been established by the ECP for updating the electoral roll, allowing for corrections, additions, and deletions (for deceased voters). A consistent system is needed to avoid allegations of political selectivity. The system also needs to be widely publicised and easy to access. Without this there is a risk of frustration at voters not being on the register or being on the list but in the wrong location.

The ECP needs to undertake proactive measures to provide an opportunity for registration to all eligible

<sup>2</sup> CNIC database.

<sup>3</sup> The ECP collaborated with NADRA and the Pakistan Census Organization to cross-reference voters’ records with CNIC records and census block records.

<sup>4</sup> Civil registry records include two addresses for every CNIC holder, but those could be different than the address under which the voter was registered in the electoral roll

<sup>5</sup> For example, see [dawn.com/2011/09/30/deadline-for-voters-list-verification-extended](http://dawn.com/2011/09/30/deadline-for-voters-list-verification-extended)

<sup>6</sup> Currently updating can be undertaken at district offices, but there is no consistent system used throughout the country. Thus some offices reportedly require a higher burden of proof and therefore there is a risk that this is perceived to be politically motivated and applied. Furthermore there are only 124 district offices for an electorate of approximately 86 million, meaning that services are not readily accessible.

<sup>1</sup> [www2.ohchr.org/english/law/ccpr.htm](http://www2.ohchr.org/english/law/ccpr.htm). The authoritative interpretations of the treaty by the treaty monitoring body, the Human Rights Committee, are also referred to – see [www2.ohchr.org/english/bodies/hrc/](http://www2.ohchr.org/english/bodies/hrc/).

Pakistani citizens and to extend voting opportunities to communities which face access challenges – including internally displaced persons and prisoners.

ICCPR obligations require that '[e]very citizen shall have the right and the opportunity... without unreasonable restrictions... to vote' and that elections are held by 'universal' suffrage.<sup>7</sup> The ICCPR treaty monitoring body has authoritatively elaborated that 'states must take effective measures to ensure that all persons entitled to vote are able to exercise that right'.<sup>8</sup> An accurate electoral roll is also critical for reduced risk of fraud in the polling process. Furthermore a good voter registration process builds confidence in the election administration body and in the election itself.

**Key recommendation:** *The ECP immediately establishes an accessible and reliable mechanism for updating and maintaining the electoral roll, in order to provide for universal suffrage and make this widely known to stakeholders. Voters are given clear information in good time about the polling station to which they are allocated and its location.*

## 2. TRANSPARENCY IN THE PROCESS

To date the ECP has not always made critical electoral information public nor opened its actions to scrutiny, particularly in regards to the results process. Currently non-partisan observers have no legal recognition and observer groups have recently reported problems of access to polling.<sup>9</sup> There have been problems accessing the aggregation of polling station results in the last general elections and in by-elections. After the last general elections, the polling station results were only made available many months later, after the deadline for submission of petitions. Similarly, polling station results for by-elections held in 2012 are still not on the ECP website, despite the ECP's commitment to

publish polling station results in their 2010 strategic plan.<sup>10</sup>

Unless the ECP provides the results of each and every polling station in a constituency, the total results cannot be checked, thereby leaving people with room to doubt the announced results and outcome. In a highly contested election, as the upcoming ones are likely to be, such transparency is even more important if disputes and accusations of rigging and bias are to be avoided. The ICCPR treaty monitoring body has recently stated that 'States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information.'<sup>11</sup> It has also said that '[t]here should be independent scrutiny of the voting and counting processes'.<sup>12</sup>

**Key recommendation:** *The ECP establish working transparency mechanisms, including full access of observers to results aggregations and immediate publication of all polling station results (at the polling station and on the ECP website). This can be undertaken for all upcoming by-elections, so that systems can be tried and tested before the general elections and confidence can be built in the work of the ECP. Provisions for observers and requirements for ECP transparency could also be secured in law*

## 3. EFFECTIVE SYSTEM FOR ELECTION DISPUTE RESOLUTION

Election petitions to tribunals have typically not been undertaken or have been decided so late that their value is rendered negligible. The Parliamentary Committee on Constitutional Reform recommended in 2010 that amendments be made to legislation so that election petitions to tribunals are completed within 90 days. Without complaints and appeals

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<sup>7</sup> ICCPR article 25 requires that '[e]very citizen shall have the right and the opportunity... without unreasonable restrictions... to vote'. It also requires that elections are held by 'by universal and equal suffrage'.

<sup>8</sup> General Comment 25 by the Human Rights Committee notes that 'States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed.'

<sup>9</sup> For example, FAFEN was denied accreditation for Multan by-elections: [www.fafen.org/site/v5/detail-ecp\\_disallows\\_fafen\\_from\\_monitoring\\_multan\\_by-polls!853](http://www.fafen.org/site/v5/detail-ecp_disallows_fafen_from_monitoring_multan_by-polls!853).

<sup>10</sup> ECP Five -Year Strategic Plan 2010-2014. Objectives of Strategic Goal # 3 'Election Operations' commit to '...compile and release polling station-level election results in the shortest possible time and making it available on the ECP website' [ecp.gov.pk/sp/goals-objectives.html](http://ecp.gov.pk/sp/goals-objectives.html).

<sup>11</sup> UN Human Rights Committee, general comment 34, paragraph 19. [www2.ohchr.org/english/bodies/hrc/comments.htm](http://www2.ohchr.org/english/bodies/hrc/comments.htm).

<sup>12</sup> UN Human Rights Committee, general comment 25, paragraph 20. [www.unhchr.ch/tbs/doc.nsf/0/d0b7f023e8d6d9898025651e004bc0eb](http://www.unhchr.ch/tbs/doc.nsf/0/d0b7f023e8d6d9898025651e004bc0eb).

being completed in good time, ICCPR obligations to provide an effective remedy are not being met.<sup>13</sup>

There are also concerns about the independence of petition bodies.<sup>14</sup> According to the Constitution, the ECP appoints election tribunals<sup>15</sup> and the President of Pakistan needs to approve them.<sup>16</sup> In Pakistan's highly partisan political environment this process can raise concerns.

There is a lack of clarity on the avenues for complaints and appeals to the ECP and judicial channels. The legal framework does not clearly demarcate which body should be addressed first, how the bodies interact and what the deadlines are. Opportunity for effective remedies is also overly-restricted as currently only candidates may initiate judicial appeals (petitions), leaving voters and other election stakeholders without access to effective remedies.

**Key recommendation:** *The law be amended to broaden the category of those permitted to file election petitions, to establish the independence of the work of the tribunals, to set meaningful time limits for the completion of cases and to specify that tribunals do not undertake any other work than election petitions until the final disposal of the petitions. The ECP and judiciary take all possible measures to establish a clear and efficient system for complaints and appeals, with due preparation time and allocation of resources.*

## 4. PARTICIPATION OF WOMEN VOTERS

Cases have regularly arisen in Pakistan of election results being announced and accepted despite negligible numbers of women having voted in the constituency (even though the current legislation allows room for a stronger response by the ECP). Far too few measures have been taken to increase the integrity of women's participation at polling stations, such as increasing the number and training of female officials. There is no provision of full gender-

disaggregated data on the participation of women by the ECP, which is necessary for knowing the extent and nature of the problem.

The legislative framework currently does not require all women to have photographs on their CNICs, as is required for men, so there is increased opportunity for impersonation of female voters.

Political parties have not always been active in taking measures to deter the disenfranchisement of female voters and in taking action against members involved in such practices. Parties have also had lower numbers of agents scrutinising the polling in female polling booths and stations than in male ones.

The lack of practical fulfilment of universal franchise compromises the integrity of the election process and leaves the representativeness of those elected open to question. The lack of measures taken by the state to overcome this problem is not consistent with Pakistan's obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).<sup>17</sup> The treaty requires state parties to 'take all appropriate measures to eliminate discrimination against women in the political and public life of the country'.<sup>18</sup>

**Key recommendation:** *The ECP immediately provide gender-disaggregated data on the number of men and women who have voted at each polling station, recruit and train female polling staff, and respond to instances of women's non-participation including by declaring results void. An inclusive process takes place to reach agreement on a suitable minimum level of female voter participation at the polling stations and constituencies.*

## 5. NEUTRAL STATE ADMINISTRATION

Historically there have been problems with holders of executive office being partisan in the electoral process. In response, a care-taker government system has been established in order to try to ensure a level playing field. However care-taker governments have also been subject to controversy,

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<sup>13</sup> Article 2.3 of the ICCPR states that '[a]ll persons whose rights or freedoms are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.'

<sup>14</sup> The ICCPR treaty monitoring body has said that there should be 'access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes.' General comment 25, paragraph 20.

<sup>15</sup> Constitution, article 219(c).

<sup>16</sup> Appellate tribunals (for hearing appeals related to candidate nomination) require presidential approval. Representation of People Act, section 14.5.

<sup>17</sup> [www.un.org/womenwatch/daw/cedaw/cedaw.htm](http://www.un.org/womenwatch/daw/cedaw/cedaw.htm).

<sup>18</sup> CEDAW article 7. The treaty monitoring body has authoritatively elaborated that 'These rights must be enjoyed both de jure and de facto' in general recommendation 23, paragraph 18. [www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom23](http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom23).

accusations of bias, and allegations that they have contributed to election rigging. State security services have also been accused of exerting excessive influence in the electoral process.<sup>19</sup>

Pressure on voters and misuse of incumbency compromise the possibility of a genuine election process.<sup>20</sup> The ICCPR treaty monitoring body indicated that ‘persons entitled to vote must be free to support or to oppose government, without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector's will.’<sup>21</sup> It also added that ‘intimidation or coercion of voters should be prohibited by penal laws and those laws should be strictly enforced.’<sup>22</sup> Further measures are needed for establishing the neutrality of the state administration and confidence in its impartiality.

**Key recommendation:** *The current government as well as the care-taker government that will oversee transition during the upcoming election period make a clear public commitment that all state officials will be proactive and responsive to complaints, and will work impartially including in the application of penalties. Information on the measures being taken is regularly made available to the public. Similar neutrality measures also be taken by state security services.*

## 6. OUT-OF-COUNTRY VOTING

The Supreme Court and the ECP have both taken steps for the introduction of legislation for out-of-country voting. Thus, the next general elections may be the first in which Pakistani citizens based outside of the country can vote.<sup>23</sup> There are estimated to be 3.7 million<sup>24</sup> eligible in 105 countries.<sup>25</sup>

Out-of-country voting is very difficult in practice as it occurs at a distance, is prone to being less transparent, and integrity can be more difficult to guarantee. These factors make out-of-country voting more liable to manipulation and abuse than in-country voting. There is a risk that public funds are

spent on something that although positive in principle, is in practice a source of dispute and contention, possibly undermining confidence and acceptance of electoral results.

International legal obligations do not contain requirements for states to grant citizens abroad the right and opportunity to vote. Any out-of-country voting procedure must meet the same standards as in-country voting. This requires sufficient electoral safeguards so that states fulfil their obligation of ‘guaranteeing the free expression of the will of the electors’.<sup>26</sup>

**Key recommendation:** *The ECP undertakes feasibility studies assessing benefits, risks and costs of out-of-country voting procedures. This is followed by a full public discussion with decisions being established in law by the parliament, including in regard to the electoral system to be used. Given the serious risks involved, the large out-of-country electorate, and the short time available, any decisions may be best postponed until after the next general elections in order not to overburden an already challenging electoral context.*

## 7. REDUCED POLITICAL VIOLENCE, INTIMIDATION AND COMPULSION

Political violence has been a regular feature of elections in Pakistan,<sup>27</sup> costing the lives of many and distorting the political process and electoral outcomes. Often the violence occurs between supporters of different political parties. Intimidation and fear is also reportedly used as a means of upholding discipline within parties.

Violence, intimidation and compulsion undermine an election process.<sup>28</sup> The ICCPR treaty monitoring body has said that:

‘[p]ersons entitled to vote must be free to vote for any candidate for election... without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector's will. Voters should be able to form

<sup>19</sup> See for example, International Crisis Group “Reforming Pakistan’s Electoral System” March 2011.

<sup>20</sup> ICCPR article 25 requires citizens to have the right and opportunity ‘to vote and to be elected at genuine periodic elections’.

<sup>21</sup> UN Human Rights Committee, general comment 25, paragraph 19.

<sup>22</sup> UN Human Rights Committee, general comment 25, paragraph 11.

<sup>23</sup> See ECP Press Release,

[www.ecp.gov.pk/ViewPressReleaseNotific.aspx?ID=1490&TypeID=0;dawn.com/2012/02/15/overseas-pakistanis-get-right-to-vote/](http://www.ecp.gov.pk/ViewPressReleaseNotific.aspx?ID=1490&TypeID=0;dawn.com/2012/02/15/overseas-pakistanis-get-right-to-vote/).

<sup>24</sup> Ibid.

<sup>25</sup> [www.ecp.gov.pk/Reports/Minutes%20Overseas%20Pakistanis-6-1-10.pdf](http://www.ecp.gov.pk/Reports/Minutes%20Overseas%20Pakistanis-6-1-10.pdf).

<sup>26</sup> ICCPR article 25.

<sup>27</sup> See for example ICG “Political Violence in Pakistan 1988 – 2010: Patterns and Trends”. [www.theigc.org/sites/default/files/shapiro\\_fair\\_and\\_rais\\_final.pdf](http://www.theigc.org/sites/default/files/shapiro_fair_and_rais_final.pdf). For FAFEN’s reports on electoral and political violence see [www.fafen.org/site/v5/page2.php?id=400&projects=Electoral+and+Political+Violence&subProjects=Reports&report=Proceed](http://www.fafen.org/site/v5/page2.php?id=400&projects=Electoral+and+Political+Violence&subProjects=Reports&report=Proceed).

<sup>28</sup> ICCPR article 25 requires citizens to have the right and opportunity ‘to vote and to be elected at genuine periodic elections’.

opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind.<sup>29</sup>

It has also said that:

‘any abusive interference with registration or voting as well as intimidation or coercion of voters should be prohibited by penal laws and those laws should be strictly enforced.’<sup>30</sup>

**Key recommendation:** *Based on consultation with parties, a binding code of conduct which includes measures related to a peaceful genuine election process, an enforcement mechanism, and penalties is established in law or under ECP regulations. The ECP and other responsible state authorities respond swiftly to complaints, and proactively and publicly enforce the code of conduct. All contesting parties be required to publicly denounce violence, intimidation, and coercion, and demonstrate what measures they are taking in this regard. Contesting parties respond swiftly and publicly to any alleged wrongdoings by their members and supporters. A system of coordination and mediation for partisan conflicts be established on lowest possible level.*

## 8. CLEAR LEGAL FRAMEWORK

The current electoral legislation – scattered across many legal acts – is in need of a comprehensive overhaul. However, this cannot be accomplished ahead of the next general elections. Nonetheless, there is an urgent need for immediate reform of some key issues before the elections. In particular, the primary legislation is not consistent with the recently amended Constitution and with the commitments contained in the ICCPR. Without reforms to accommodate these new obligations, the legal framework will remain weak and ambiguous, leaving room for malpractice and increased likelihood of legal controversies around the elections.

Changes needed in the primary legislation include:

- The 18<sup>th</sup> amendment changed the ECP into a collective body of five members, however the primary legislation still refers to power being

vested in one individual, the Chief Election Commissioner.

- In line with the 18<sup>th</sup> amendment’s limitation of presidential powers and strengthening of the ECP’s independence, further amendments to primary legislation are needed to give the ECP the authority to issue legally binding regulations without presidential approval and to delete the presidential powers for ‘removal of difficulties’.<sup>31</sup>
- Candidacy requirements need to be brought into line with the 18<sup>th</sup> amendment. Furthermore, the ambiguous language in the Constitution on candidacy qualification and disqualification could be supplemented and tightened in the primary legislation to avoid the risk of accusations of selective application.<sup>32</sup>

In addition, the recommendations contained above in this paper need to be addressed in the legal framework.

**Key recommendation:** *Parliament immediately begins an inclusive process of legal reform basing legislative proposals on stakeholder consultation, constitutional requirements and international law commitments.*

<sup>31</sup> Election Commission Order (articles 9E and 9F), Conduct of General Election Order (articles 9(1) and 10(1)), Political Parties Order (article 19), Representation of the People Act (section 107), Electoral Rolls Act (sections 28 and 28A), The Delimitation of Constituencies Act (section 10B).

<sup>32</sup> The ICCPR treaty monitoring body notes that ‘any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria.’ General comment 25, paragraph 15.

<sup>29</sup> UN Human Rights Committee, general comment 25, paragraph 19.

<sup>30</sup> UN Human Rights Committee, general comment 25, paragraph 11.

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- Women and Politics series of publications.<sup>33</sup>

**CCE** ([www.civiceducation.org](http://www.civiceducation.org))

- Civic Briefs on election topics.<sup>34</sup>

**DRI** ([www.democracy-reporting.org/pakistan](http://www.democracy-reporting.org/pakistan))

- Out-Of-Country Voting: Principles and Practices, 2011;
- No Voice: The Exclusion of Women from Voting, 2011.<sup>35</sup>

**FAFEN** ([www.fafen.org](http://www.fafen.org))

- Pakistan General Election 2008: Election Results Analysis;
- Election Observation Summary and Recommendation for Electoral Reform;
- Election Day Process and Analysis;
- A Unification of Pakistan's Election Legislation including Model Provision for Electoral Reform;
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AND:

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DRI's programme is funded through a grant from the European Union

<sup>33</sup> [www.af.org.pk/Publication/Publications/Women%20and%20Politics/Reports%20and%20Books.pdf](http://www.af.org.pk/Publication/Publications/Women%20and%20Politics/Reports%20and%20Books.pdf)

<sup>34</sup> [www.civiceducation.org/downloads](http://www.civiceducation.org/downloads)

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<sup>37</sup> [www.hrcp-web.org/Publications/AR2010.pdf](http://www.hrcp-web.org/Publications/AR2010.pdf)



# Priority Recommendations for Electoral Legislation

IFES Pakistan

IFES Pakistan – International Foundation for Electoral Systems



## IFES Background

- The International Foundation for Electoral Systems (IFES), established in 1987, is an independent, non-governmental organization providing professional support in strengthening electoral democracy.
- IFES-Pakistan is providing technical advice and assistance to the ECP.
- It helped ECP in developing its first 5 year Strategic Plan and is providing technical assistance in a number of fields for implementation of the Strategic Plan.

IFES Pakistan – International Foundation for Electoral Systems



## Electoral Legal Framework Committee

- ECP constituted an Electoral Legal Framework Committee (“ELFC”) to revise legal framework
- The Committee working in collaboration with IFES has reviewed existing electoral legal framework and has prepared a draft **Unified Election Law**, integrating five different electoral laws, which is awaiting the Election Commission’s approval before it is sent to the Parliament for consideration.

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## Legal Amendment Priorities before forthcoming General Elections

The enactment of the Unified Law, as proposed by the Committee, is a lengthy and time consuming process which may not be possible before the general elections.

**Therefore some legal amendments should be taken up by the Parliament for early enactment.**

- **Consequential amendments:** The Eighteenth Amendment to the Constitution has necessitated many amendments to different election laws, which should be made in order to remove any possible ambiguity or confusion. Amendments in various sections of the Senate (Election) Act and the Representation of the People Act are required.

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## Legal Amendment Priorities before forthcoming General Elections

- **Submission to the Commission:** ECP should have more authority over the officials of other departments seconded to it for the conduct of election. This will help the ECP to have proper control over such staff during elections. An amendment in Section 5 of the Representation of the People Act, 1976 will be required.
- **Appointment of Appellate Tribunals:** The Appellate Tribunals for hearing appeals against acceptance or rejection of nomination papers of the candidates are currently appointed with the approval of the President. In order to make the election process more transparent and independent, this authority should rest with the Election Commission. Amendment in section 14(5) of ROPA will be required.

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## Legal Amendment Priorities before forthcoming General Elections

- **Permanent Polling Stations:** For facility of voters and for ensuring fairness in the election process, polling stations should be established on a permanent basis. This will require amendment in Section 8 of ROPA.
- **Code of Conduct:** A Code of Conduct helps in regulating pre-poll electoral activities, particularly during the election campaign. For effective implementation of the Code, it is essential that the Code has legal support with authority for ECP to impose sanctions for its violation.

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## Legal Amendment Priorities before forthcoming General Elections

- **District Inquiry Committee:** Another important step to deal with pre-poll complaints and disputes is establishment of District Inquiry Committees. A district level committee will be more helpful in prompt resolution of complaints and disputes locally during the campaign period. Such Committees should have legal authority to act, which can be provided by adding a new section in the Representation of the People Act, 1976.
- **Restriction on election expenses:** The maximum limit for campaign expenditure by a candidate as provided in the law is quite unrealistic. (1.5 million rupees for National Assembly election and 1 million for Provincial Assembly election). For bringing more fairness to the election process, it is required to be suitably enhanced through amendment in section 49 of the Representation of the People Act, 1976.

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## Legal Amendment Priorities before forthcoming General Elections

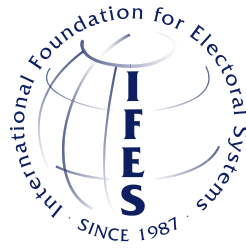
- **Proceedings at the close of polls:** In order to bring transparency to the process, the Presiding Officers must provide copies of the Statement of the Count and the Ballot Paper Account to candidates or their polling agents as well as election observers, and also affix copies outside the polling station for information of the general public. Section 38 of ROPA may be amended.
- **Declaration of results:** Provision may be made for uploading results, polling station-wise, on the official website of the ECP as soon as it is available.

IFES Pakistan – International Foundation for Electoral Systems



# Thank you!

IFES Pakistan – International Foundation for Electoral Systems



## **Priority Recommendations for Electoral Legislation**

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The conduct of just, fair and honest elections depends upon an enabling legal framework which provides transparent and voter friendly electoral processes and procedures. In Pakistan electoral laws and regulations are elaborate, yet there is a need to review some of the legal provisions in order to bring them in line with international best practices.

The Election Commission of Pakistan (ECP) and the International Foundation for Electoral Systems (IFES) have been working together on improvement of the electoral legal framework for some time. The ECP's Electoral Legal Framework Committee, in collaboration with IFES, has prepared a draft **Unified Law**, which is awaiting the Election Commission's approval before it is sent to the Parliament for consideration. It is an effort to consolidate more than a dozen different election laws into a single Act. Obviously it is a lengthy and time consuming process and it may not be feasible for the Parliament to deliberate on and enact the unified law before the forthcoming general elections. In these circumstances, the Parliament may consider immediate enactment of certain priority legal reforms required before the next general elections.

IFES is of the view that legal amendments in the following areas will help in making elections more fair and transparent:

1. **Consequential amendments:** The eighteenth amendment to the Constitution has necessitated amendments to different election laws, which should be made in order to remove any possible ambiguity or confusion. These amendments include substituting the word "Commissioner" with the word "Commission" because the Eighteenth Amendment has entrusted the functions of the CEC, under Article 219 of the Constitution, to the Election Commission. The amendments will be required, in the Senate (Election) Act, 1975 and the Representation of the People Act, 1976. Furthermore, amendments in Articles 62 and 63 of the Constitution regarding qualifications and disqualification for being a Member of the Parliament or Provincial Assembly need to be reflected in the Representation of the People Act and the Senate (Election) Act.
2. **Submission of seconded staff to the Election Commission:** During elections, ECP engages a large number of federal and provincial government officials for functioning as Presiding Officers, Assistant Presiding Officers and Polling Officers. ECP will also be availing the services of federal and provincial employees as District Returning Officers (DROs) and Returning Officers (ROs) which came from the Judiciary for the previous elections. The ECP has very little direct control over these temporarily seconded staff of other departments. In order to provide effective control and supervision by the ECP over temporarily engaged government officials, an amendment in section 5 of the Representation of the People Act, 1976, is essential so that the cases of breach of duty by officials deputed for election duty are minimized. The amendment should also cater for ECP's requirement to ban transfers/postings of government officials after the election schedule is announced.

3. **Appointment of Appellate Tribunals:** The Appellate Tribunals for hearing appeals against acceptance or rejection of nomination papers of the candidates by the Returning Officers are appointed by the Election Commission with approval of the President. Delay in appointment of the Tribunals often creates problems for the ECP. For fairness and better management of election process, this authority should rest with the Election Commission. As such Section 14(5) of the Representation of the People Act 1976 should be amended to empower the Election Commission.
4. **Permanent Polling Stations:** It is commonly observed that sometimes around the time of elections polling stations are abruptly changed, thus creating problems for voters. In some cases, polling stations were changed a night before the polling day. For facility of voters and for ensuring fairness in the election process, polling stations should be established by ECP on a permanent basis through a transparent process with public consultation. In order to address this issue, an amendment should be introduced in section 8 of the Representation of the People Act, 1976. It will enhance confidence of voters in the electoral process.
5. **Code of Conduct:** ECP formulates and issues a Code of Conduct for political parties and candidates before every general election. Complaints of violation of the Code generally remain unresolved mainly because the existing complaints resolution mechanism does not provide it sufficient legal cover. It is imperative that codes of conduct for political parties, candidates and other stakeholders have appropriate legal support for their effective implementation. A new section may be added to the Representation of the People Act, 1976 providing authority to the ECP to impose appropriate sanctions.
6. **District Inquiry Committee:** Another important step to deal with pre-poll complaints and disputes is establishment of District Inquiry Committees. A district level committee will be more helpful in prompt resolution of complaints and disputes locally during the campaign period. Such Committees should have legal authority to act, which can be provided by adding a new section in the Representation of the People Act, 1976.
7. **Restriction on election expenses:** The maximum limit for campaign expenditure by a candidate as provided in the law is quite unrealistic. (1.5 million rupees for National Assembly election and 1 million for Provincial Assembly election). For bringing more fairness to the election process, it is required to be suitably enhanced through amendment in section 49 of the Representation of the People Act, 1976.
8. **Proceedings at the close of polls:** In order to bring transparency to the counting process, it should be mandatory, under the law, for the Presiding Officers to provide copies of the Statement of the Count and the Ballot Paper Account to candidates or their polling agents as well as accredited observers, as may be present at the polling stations, and also affix copies of these documents outside the polling station for information of the general public. Amendment in section 38 of the Representation of the People Act, 1976 will be required.
9. **Declaration of results:** For greater transparency in result management, provision should be made in the law for uploading results of the elections, polling station-wise, on the official website of the ECP as soon as these are available.

# IFES Pakistan

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The International Foundation for Electoral Systems (IFES) is an independent, non-governmental organization providing professional support in strengthening electoral democracy. As the global leader in democracy promotion, IFES advances good governance and democratic rights by providing technical assistance to election officials; empowering the underrepresented to participate in the political process; and applying field-based research to improve the electoral cycle. Since 1987, IFES has worked in over 135 countries, from developing democracies to mature democracies.

Since 2002, IFES has provided assistance to help build Pakistan's democratic institutions. As a partner and technical advisor to the Election Commission of Pakistan, IFES has delivered extensive technical assistance on a host of issues, including electoral system design, legislative reform, electoral dispute resolution, feasibility study on electronic voting machines, use of GIS in constituency boundary delimitation, computerization of the electoral rolls, cooperation with NADRA, and regulating political finance. Working with the ECP's Federal Election Academy (FEA), IFES has provided training for election officials, thereby strengthening the ECP's long-term capacity. Moreover, IFES has brought stakeholders throughout Pakistan together to drive towards extensive electoral reform. IFES worked closely with ECP to develop the ECP's first-ever Five-Year (2010-2014) Strategic Plan. The Strategic Plan includes all of the reform recommendations made by stakeholders during and since the 2008 general elections.

Through the Supporting Election Reform in Pakistan (SERP) project, IFES continues to work closely with the ECP to assist in the implementation of the Strategic Plan. Current electoral reform activities undertaken by IFES include the following:

**Legislative Reform:** IFES has been working with the ECP to improve rules and regulations guiding electoral dispute resolution and political finance. Some of these reforms have been included in the draft Unified Electoral Law drafted by the ECP in cooperation with IFES. Ahead of the upcoming General Election, IFES has provided technical assistance to the ECP in updating the Codes of Conduct for electoral stakeholders and the Nomination Booklet. After the release of the Supreme Court Judgment on Petition No.87 of 2011, IFES conducted a detailed analysis of the directions given by the Supreme Court and assisted the ECP Steering Committee in drafting their own report on the ruling.

**ECP Capacity Building and Training:** IFES has been working closely with the ECP's FEA to conduct trainings for temporary election officials and ECP permanent staff. Since April 2012, IFES, together with UNDP, assisted the ECP in conducting trainings for 3,833 polling officials ahead of by-elections. The lessons learned from these trainings will form the basis for the nationwide training of more than 600,000 polling officials before the general elections. IFES will also be training all District Returning Officers, Returning Officers and Assistant Returning Officers before the general elections. Furthermore, IFES has conducted BRIDGE workshops on political finance and pre-election activities for permanent ECP staff.

**Electoral Rolls:** IFES continues to provide technical assistance to the ECP in improving the quality of the electoral rolls and working with the ECP and NADRA to implement permanent procedures for the continual maintenance of the electoral rolls after the General Election.

**Voter Education:** IFES is strengthening the ECP's capacity to conduct voter and civic education activities by supporting the development and implementation of the ECP's first Voter Education Plan. Special focus is given to participation of women in the electoral process, and to engaging civil society at a district level.

*IFES' Supporting Electoral Reforms in Pakistan (SERP) project is funded by the European Union and UK aid through the UK Government. Contents of this document are the sole responsibility of IFES.*



# Political Party Development Program

*National Democratic Institute*



## Political Party Development Program

- Designed to assist parties to develop greater internal democracy through policy development processes
- Assists parties to develop capacity to form training, research and communications units
- Creates a space for multi party groups to come together to discuss and reach consensus on electoral reforms



## Round Tables on Electoral Reform

- 12 political parties convened – two round table events to date
- Round tables developed consensus recommendations
- Recommendations for Parliament, ECP and NADRA, Government



## Recommendations for Parliament

- Independence and Autonomy of ECP – administrative and financial autonomy
  - Staff development
  - Office equipment
  - Provincial and district offices
- Amending of Electoral Law – voter transportation (amendment to the Representation of the People Act, 1976)



## Recommendations for Government

- Security Challenges – additional security measures to ensure safety of voters, candidates and polling staff.
- Safe and welcoming environment for women voters including women police at polling stations
- Take measures to eliminate interference in the electoral process



## Recommendations for ECP & NADRA

- Voter lists – addresses used
- Instruction Guide – how to check, change, correct and verify entries on the electoral roll
- Registering under represented groups – women and IDPs as well as voters in remote areas
- Increase in number of polling stations - accessibility
- Election monitoring – domestic and international
- Vote counting and recording – Form 14
- Election dispute resolution – timely and accessible
- Electronic Voting Machines – explore potential

## Electoral Issues and Reforms

NDI (National Democratic Institute) has been engaged in the process of democratic development in Pakistan for over 20 years, working with political parties and civic groups seeking to improve democratic institutions.

NDI has been actively involved in supporting the electoral process, organizing international observation delegations and assessing election preparations for six elections since 1988, including organizing a pre-election assessment mission, bringing political parties together to establish consensus recommendations on electoral reform and training political party polling agents in advance of general elections in 2008.

More recently, the National Democratic Institute (NDI) convened two Multi-Party Roundtables on Electoral Issues during July 2012. Senior leaders of twelve political parties including ANP, JI<sup>1</sup>, JUI-F, MQM, NP, PPP, PPP-S, PML, PML-F, PML-N, PkMAP and PTI took part in these discussions. Party leaders discussed electoral issues and prioritized key issues of concern. Following are issues and recommendations that figured prominently during the two multi-party roundtable discussions:

### Recommendations for the Parliament:

- 1- Independence and Autonomy of ECP:** The participating parties were unanimous in their position that the administrative and financial autonomy of the ECP must be guaranteed. Party leaders recommended that the ECP should be provided with the financial resources necessary for staff development, up-to-date office equipment and offices at provincial and district levels in ECP purpose built buildings. They also recommended legislative amendments and Constitutional changes to achieve these goals.
- 2- Amending Electoral Laws:** Majority of the parties supported a legislative amendment that would allow parties to provide transport for voters who wish to go to the polls. The recommended an amendment to the Representation of the People Act, 1976.

### Recommendations ECP and NADRA:

- 1- New Voter Lists:** Party leaders keenly deliberated upon various aspects of electoral rolls. Registration of voters at their present or at permanent addresses was discussed. Ten out of twelve parties favoured voter registration at their present addresses but only after a proper verification process.

There is confusion about the process of making corrections in the voters list. To alleviate this confusion the parties recommend a clear, concise, step-by-step instruction guide or pamphlet be provided by the ECP, describing how to check, change, correct and verify entries in the electoral roll.

- 2- Registering Under Represented Segments of Society:** Party leaders called for a targeted campaign to register under represented and vulnerable groups of the population, including women, internally displaced persons (IDPs) and residents of far flung areas in Balochistan, FATA, Khyber Pakhtunkhwa, South Punjab and interior Sindh. They asked that the issuing of

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<sup>1</sup> Jamaat-e-Islami leaders participated in the first roundtable. They were not able to attend the second roundtable; however, in-charge of JI election cell sent his written comments to NDI on prioritization of issues discussed during the first roundtable.

CNICs for these groups be expedited and suggested that the ECP and NADRA work together to ensure that citizens receiving new CNICs also have the opportunity to register as voters.

- 3- More Polling Stations:** Party leaders recommended an increase in the number of polling stations to provide easier access to voters, allowing citizens to vote in their own locality.
- 4- Election Monitoring:** The parties recommended that access to polling stations should be provided to both domestic and international election observers, ensuring their presence in every National Assembly and Provincial Assembly constituency during the election campaign and on the polling day. They also suggested that the ECP improve the capacity of its own monitoring teams to ensure effective monitoring and compliance with electoral regulations.
- 5- Vote Counting:** Party leaders requested that the ECP guarantee that votes are counted according to procedures outlined in the election laws and rules. They stressed that Form 14 should be completed, signed by each presiding officer and a copy provided to the polling agent of each participating candidate or political party.
- 6- Election Dispute Resolution:** Party leaders requested that all election disputes be resolved during a stipulated time and that election tribunals be increased in number. They argued that hearings should be held regularly, and schedules of these hearings must be made available and accessible to the public including on the ECP's website.
- 7- Electronic Voting Machines:** The majority of the parties were in agreement that the introduction of Electronic Voting Machines (EVMs) should be explored. They suggested that the ECP hold open and formal dialogues with political parties on the merits and demerits of EVMs, carefully considering potential benefits and disadvantages before introducing electronic voting system.

## **Recommendations for Government:**

- 1- Security challenges:** Member parties discussed concerns about security challenges, particularly in Balochistan, Khyber Pakhtunkhwa, Karachi and FATA. They called for ensuring safety and security of voters, candidates and polling staff. They recommend additional security measures be taken to guarantee a safe and welcoming environment for women voters, including the deployment of women police at women's polling stations.
- 2- Interference in Electoral Process:** Given past experience, the political parties are concerned about interference in the electoral process in favour of select candidates. Party leaders suggested that the government and ECP take all possible measures to prevent the military and intelligence agencies, from interfering in the electoral process in any way other than security duty outside polling stations.

**Note:** These roundtables are part of a series of sessions that NDI is convening on election related issues. The objective is to provide a platform for political parties to engage in open discussion, to identify common concerns and determine a consensus-based approach to address electoral challenges in the short, medium and long term. The roundtables are a component of a program in which NDI is working with 12 political parties to assist them in enhancing their capacity to develop policies and election platforms in a democratic and research based process. The program is also helping parties to develop party units with expertise in research, training and communications.



## Senate Special Committee to Examine Election Issues

Public Hearing  
17 October 2012, Islamabad

Presentation by:  
Nasar Hayat  
Project Manager  
Electoral Cycle Support  
to the Election Commission of Pakistan

## Electoral Cycle Support to the Election Commission of Pakistan



- UNDP is supporting the Election Commission of Pakistan (ECP) through a three year project spanning 2012-2014.
- The Project has the signed approval of the ECP, the Economic Affairs Division - Government of Pakistan, and UNDP.
- The Project's main areas of support to the ECP are in:
  - ◆ Improving electoral processes and procedures.
    - Provision of Ballot Boxes
    - Services of a Legal Adviser
    - Assistance to Federal Elections Academy
  - ◆ Strengthening ECP to deliver its Strategic Plan.
    - Provision of BRIDGE training to ECP Staff
    - Improved Elections Administration through expert advise
    - Provision of services of International Technical Adviser on elections operations
  - ◆ Developing an improved elections results management system.
    - Provision of Computers and other IT Equipment to all Returning Officers
    - Development of Results Management Software for transparent and error free results compilation
    - Technical Advise on increasing transparency and public confidence with international best practices

## Electoral Cycle Support to the Election Commission of Pakistan



- ◆ Voter education, in particular, increasing the participation of women and youth in the elections.
  - Development of Voter Education Campaign through electronic, print and social media
  - Organizing voter education campaign through focused intervention in twenty districts targeting women and youth
  - Assisting ECP in increasing voter registrations especially women and other disadvantaged groups such as minorities, aged, disabled etc.
- ◆ Training of polling staff.
  - Development of training material for Temporary Elections Staff that include Presiding Officers, Assistant Presiding Officers and Polling Officers
  - Conduct of training of the Temporary Elections Staff

## Guiding Principles



- The **credibility of the electoral process** and **public confidence** in the results will benefit from measures that promote:
  - ◆ Transparency
  - ◆ Inclusiveness
  - ◆ Enforcement of electoral laws
  - ◆ Fair and quick resolution of electoral disputes

# Recommendations



## Recommendation 1:

Publication of the voter turnout for each polling station including **women's voter turnout**.

This simple measure will provide greater transparency at polling station level. It also sends a strong message that women have a right to vote and are encouraged to do so.

The project proposes to amend the Election Result Forms (Forms XIV, XV and XVII)

# Recommendations



## Recommendation 2:

The enforcement and implementation of electoral legislation and Codes of Conduct will facilitate a level playing field. They will also help to ensure that elections are free from intimidation and take place peacefully.

For e.g.:

- The cooperation of government agencies will be critical in the monitoring of campaign expenses.
- Enforcement of the law during the pre-poll, election day and post-election period will promote a level playing field for all candidates as well as reduce harassment and violence towards candidates, supporters and poll workers.
- Project Proposes legislation to make ECP issued Codes of Conduct to be legally enforceable and violations punishable.

# Recommendations



## Recommendation 3:

Fair and quick resolution of electoral complaints and disputes are essential to maintain the credibility of the elections. Mechanisms should be put in place for election related complaints and disputes to be handled fairly, transparently and quickly.



For further elaboration and clarification please  
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# Support to Elections

UN Women initiatives



## UNW stance for political empowerment of women

*It is important we target the youth especially, the young girls who have recently come of age and can be included in the voting process. It is they, who are part of the future of Pakistan and need to be involved, to ensure women participate politically and contribute towards a progressive and strong democracy.*

## Issues to be considered

- Low Registration and turnout of women voters.
- Non availability of gender disaggregated data of elections results
- Insufficient representation of women as voters, candidates, election officers and observers
- Women's limited access to information
- Possibility of electoral violence

## Support to NADRA

- Community mobilization for registration of women for CNIC in 5 districts of Balochistan
- Media campaign
- Registration of 2000 women per district to get their CNIC made.
- Piloted in 5 districts of Balochistan: Zoab, Pishin, Gawadar, Kila Saifullah and Lasbela

## Support to WPC

- Position and empower women in politics; at decision making levels in political parties
- Introduce special women quotas for party tickets to the general elections.
- Include women's agenda in policy making bodies and manifestos of political parties. Adopting policies in party manifestos to address women's agenda as pivotal.

## Support to ECP

- Improved engagement of citizens, particularly women and youth in electoral processes including Civic voter education
- Engendering processes of ECP: gender mainstreaming strategy, results management, training and training manuals, recruitment of women in ECP.
- Engendering legislation: ensuring women voter participation

## Recommendations

- Engendering of all processes of ECP and NADRA; codes of conduct, quotas, Civic and Voter Education.
- Gender disaggregated voter registration, turnout data
- Gender sensitive mechanisms for dealing with electoral violence

The Secretary,  
Special Committee of Election issues,  
Senate Secretariat,  
Parliament House,  
Islamabad.

This is with reference to your ad in daily Dawn on 12th October, 2012 regarding the Election issues. You might remember that on 12th April, 2012 a Supreme Court Judge remarked while hearing the case about mandatory casting of vote that people often prefer to stay at homes and watch movies instead of going out to cast their votes. Therefore, it should be made mandatory for all citizens to cast the votes.

There are many reasons for not going to cast their votes. On Polling day, hundreds of people remain on duties outside their hometowns like army jawans, police personals, government servants, the employees of hospitals and other essential services etc. They find it difficult to visit hometown to cast their votes. Though the postal way is available but this seems unfeasible in present times.

Similarly due to heavy security risk at polling stations, the peaceful citizens avoid visiting polling stations. They have to queue up for hours under open sun to get into polling booth to cast their votes. At many places unfair practices, rigging, wrangling and even infighting are common on that day; therefore, parents do not allow their young daughters to go outside. In some areas, women are discouraged to cast their votes.

In view of these factors, I suggest that CEC may think of devising a system in collaboration with NADRA, allowing people to cast their votes online through internet or through SMS. We are living in fast communication era and things like this are not impossible.

It is good decision on the part of CEC that woman voters in every constituency should at least be 10%. It may also be made mandatory for every political party that its 10 % candidates for National and Provincial Assemblies should consist of women. In other words political parties should award 10% tickets to women. This

will enable parties to clear the misconception that they do not weigh women in their manifesto.

Hope you will consider the above suggestions favorably.

Thanks.

Amin Valliani (CNIC No.42000-0424350-7)

39-H, Platinum H. Society,

Garden West, Karachi.

Tele: 021-32230459

Dear Sir,

Regards,

I am writing some suggestions for your kind perusal with firm believe that nobody in present political system will accept it.

1. Member must gain 70% votes from his area.
2. After Selection as MPA/MNA/Senator nobody claim security if they are real public rep. (Why are they need bullet proof glass & cars if they are won there elections on merit, why they are so frighten after election)
3. After reaching in assemblies they are only talking about there privileges even though they are claiming public Reps, they never ask for public privileges.
4. Every member must follow official timings, why all Gov and public reps are mostly start their work in afternoon till the late night( NIGHT MEANS CONSPIRACY nothing else)

Thanks

Sajid Ali Jafri

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