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Electoral Reforms in Pakistan

Perspectives & Opportunities

DEVELOPMENT ADVOCATE
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Development Advocate Pakistan provides a platform for the exchange of ideas on key development issues and challenges in Pakistan. Focusing on a specific development theme in each edition, this quarterly publication fosters public discourse and presents varying perspectives from civil society, academia, government and development partners. The publication makes an explicit effort to include the voices of women and youth in the ongoing discourse. A combination of analysis and public opinion articles promote and inform debate on development ideas while presenting up-to-date information.

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In any country, even in established democracies, the legal framework and administrative processes for elections are not calcified. They need to be seen as organic, requiring regular review and modifications. This is not only to ensure compliance with international standards and obligations. It also reflects a broader political need to engage in continuous efforts to sustain confidence in the efficacy of the democratic system by making sure electoral processes are responsive and inclusive and are aligned with the expectations of all electoral stakeholders. This is as true in Pakistan as it is in any other country, especially in an era in which the pace of technological change is impacting on how citizens engage in democratic institutions and processes.

In Pakistan, despite the differences that exist, there is a clear recognition among all stakeholders, local and international, that electoral reforms are required. The European Union Election Observer Mission, in its report on the 2013 General Elections, noted that, *"Fundamental problems remain with the legal framework and the implementation of certain provisions, leaving future processes vulnerable to malpractice and Pakistan not fully meeting its obligations to provide citizens the right and opportunity to stand as candidates and to vote."* In a nationwide survey of 4,535 people commissioned by UNDP, 49 percent said that they were not satisfied with the existing electoral system while 55 percent of those polled said that electoral reforms are necessary.

The narrative on electoral reforms also pre-dates the 2013 general elections. It is not new and this reinforces the fact that the rhetoric on what needs to be done has to be transformed into a coherent, and judiciously sequenced, course of action. A first step should be a cross-party agreement on the urgent need for a new population census, followed by the fresh delimitation of constituencies to ensure, to the extent possible, that all electoral constituencies are roughly equal in population size.

Whatever the outcome of the current political crisis, all political leaders should candidly acknowledge that holding another election without a new census and without addressing the weaknesses in the legal and administrative framework, is not in Pakistan's national interest. In fact, it would risk jeopardizing Pakistan's hard won democratic gains. An opportunity was missed before the last elections to move beyond piece-meal reforms and implement the range of measures that are required to ensure compliance with international obligations under instruments such as the International Covenant on Civil and Political Rights which Pakistan ratified in April 2010. A window of opportunity now exists for political leaders to come together and complete the unfinished business of electoral reform.

The formation of a Special Parliamentary Committee on Electoral Reforms, comprised of representatives from all the major political parties, offers a platform to seize this opportunity and develop an agenda that addresses the grievances and aspirations of all stakeholders, not just political parties, but citizens as well. Equally significant is the fact that the formation of a Special Committee asserts the primacy of parliament in the electoral reform process, as opposed to the judiciary or the bureaucracy.

For meaningful progress to be made, all political parties need to view electoral reform as a complex process that requires extensive dialogue, research and public consultation. Therefore steps should be taken to extend the tenure of the Parliament Committee to at least one year, if not more. It will take time to develop a reform agenda that not only reflects cross-party consensus but also broader societal perspectives on electoral reform. This raises the question of

how broad the reform agenda should be. Should it focus purely on legal and administrative aspects of elections or should it also address the political context in which elections take place?

In a series of seminars that UNDP held across all four provinces with civil society, academia, youth and women representatives over the past three months, a recurrent theme has been the need for electoral reform to be a holistic process tackling all aspects that are perceived to undermine the credibility of the electoral system. In particular, representatives called for urgent measures to increase the number of women candidates (such as the introduction of legislation making it a legal requirement for parties to allocate 10 percent of the tickets for general seats to women) and for candidate nomination procedures in political parties to be subject to a democratic selection process.

It will also take time to correctly identify what the problems are and what the appropriate solutions should be. Some problems are easy to identify and should be relatively easy to fix—such as raising the current threshold for candidate expenses—but others are more technical and require considerable research and public debate to ensure that proposed solutions do not inadvertently make a specific problem even worse. Take the issue of Electronic Voting Machines (EVMs). Very few countries use them, partly due to cost but primarily because there are valid concerns that EVMs have a negative impact on the fundamental criterion for a credible election—transparency. On the other hand, there are also potential benefits from using EVMs such as improving the accuracy and speed of counting and results transmission. Thus, any decision to introduce EVMs, or other electoral technologies, has to be based on a clear assessment of the perceived benefits and the potential risks.

Finally, there is the issue of implementation. From our experience of supporting electoral reform processes in dozens of countries around the world, successful implementation of all aspects of electoral reform is conditioned by two factors: sustained political commitment from all parties and an electoral management body possessing the capacity and authority to be at the vanguard of the implementation process. In Pakistan, electoral reforms, however impressive they are on paper, in terms of technical substance, relevance and ambition, will count for very little unless the Election Commission of Pakistan is given full independence and sufficient resources to exert its authority over all aspects of electoral administration and ensure reforms are properly implemented.

Electoral Reforms in Pakistan

Transforming an idea into reality.

The aftermath of the 2013 general elections set the stage for a remarkable moment in Pakistan's democratic process—unprecedented voter interest especially among women and youth. While previous periods of debate focused on fundamental issues of transitions to elected government, today's discussion is now predominantly focused on the roles of democratic actors in the process, whether that be the Electoral Commission of Pakistan (ECP), the political parties, or the Judiciary. This 'normalization' of politics naturally follows the first democratic transition of power from one elected government to another—it represents a great potential for progress. Thanks in large part to the substantial progress made in recent years, both in constitutional amendments—which reconfigured the electoral institutions, technical improvements such as the computerization of electoral rolls and a noteworthy addition of the new media environment. In this new media and political environment, the public expectations in the area of elections has increased. Citizens and political parties are interested in strengthening the way in which officials are elected and for the first time a mature debate about fixing the “nuts and bolts” of the system has emerged.

Much ink has been spilt and numerous television hours have been devoted to the issue of electoral reforms. The political leadership of Pakistan and the reports on the general elections are extensive and detailed. Observers and civil society have been diligent in their collection and publication of extensive electoral data. The formation of the Parliamentary Committee on Electoral reforms (PCER) represents a commitment by the government and the parties in parliament to look seriously at reforms.

Consultations are critical to any such process to give it real legitimacy. The PCER has received thousands of suggestions for reform and at the time of writing is already moving towards making recommendations. We, at UNDP, along with our colleagues at the Human Rights Commission of Pakistan (HRCP) and the

Strengthening Participatory Organization (SPO) among others, have organized meetings across the country to measure stakeholder interest in various aspects of electoral reforms. From North to South, Peshawar to Karachi, participants in our seminars have voiced a unanimous demand for strengthening the ECP and the electoral process. Whether men from rural areas, elite urban women, or politicians and bureaucrats, the people of Pakistan have a remarkable amount of knowledge on electoral processes and what is at stake with a thirst to know and do more on the matter.

The challenge: Transforming substantive reforms from an idea into reality.

For all of the supporters of the idea of reforms, there remains a significant question: How? How can society secure the electoral process to which they aspire? Reform processes neither end with finding fault in the current system, nor with putting forward good ideas on how to bring about change. Appointing a new Chief Election Commissioner (CEC) and investigating the previous elections is not sufficient. Rather, there must be an accepted roadmap for achieving the status where every voter has full confidence in a free and fair process, from the delimitation of constituencies to the announcement of final results.

The debate requires a theory of change.

Experience from around the world demonstrates that substantive electoral reforms are fundamentally difficult to achieve. Even a small tweak may shift the political balance of power. Institutional and political forces will normally be timid to adopt changes which could compromise their interests and so it is a unique situation in which large-scale electoral reforms occur.

The classic case of this dynamic can be seen in the perennial question of how proportional or majoritarian an electoral system should be: smaller parties with a diversified support base will tend to push for a more proportional system, while larger parties or those with a concentrated

support base will tend to prefer a majoritarian system because it is likely to give them more seats than their vote share.

The same dynamic holds true for even much more constrained reforms such as the security features of ballot papers or the campaigning rules. Each reform has the potential to have an effect on campaigns and results, and so is likely to face resistance to a degree beyond a similar reform in another governance area.

Nonetheless, countries do change the way elections are held. With electoral reform high on the agenda in Pakistan and several processes already in place, it is perhaps appropriate to look at some broader examples from other nations who have gone from highly disputed electoral processes to widely accepted ones. When do election processes improve? When do political parties agree to strengthen the electoral commission to the level that it can deliver irreproachable polls? How can political actors increase trust in the institutions of democracy without losing relative to their opponents?

Countries such as Italy and New Zealand have made whole scale reforms to their electoral system formulas and countries such as Mexico and Kenya have made wide ranging reforms to their electoral commissions to make them more independent. These have normally occurred when the system dramatically malfunctioned, as in New Zealand where a party got the most votes but ended up losing the election.

Major electoral gains are made when parties agree to what scholars call “pacting over institutions.” This essentially means that political forces agree to make the electoral commission fully independent from political influence.

One of the first examples of this occurring was in Canada, where issues of incumbent governments blatantly skewing electoral rules in their favor led to one of the first independent electoral management bodies in 1920. The result of the reforms was the birth of a new federal body, Elections Canada, which operates under a

single and powerful chief electoral officer and approves its own budget.

A similar situation took place in Mexico in 1990 when the rising cost of perceived electoral fraud led the political leadership to 'tie their own hands' by creating a robust and well-funded electoral institution. Reforms continue to take place, but today Mexican electoral institutions are admired for their independence and professionalism.

A third and more recent example can be seen in Kenya, where deadly violence resulted from a disputed election in 2007. The people of Kenya demanded whole scale reforms to the disgraced election commission which resulted in a new and powerful independent election and boundaries commission with powers to delimit constituencies and manage elections.

A final example may be seen in post-revolutionary Tunisia, where political actors have agreed to give exhaustive power to a new independent commission made up of two judges, a lawyer, a university professor and experts in finance and IT. Among other reforms, the commission deployed trained citizens to do the work of presiding officers.

What these examples illustrate is that political leadership does sometimes agree to 'tie their own hands' and empower the electoral institutions to hold polls without political interference. In the context of Pakistan such an agreement would mean a consensus amongst the core political leaders of the country to further empower the ECP with the mandate, resources and leadership to conduct polls and regulate electoral campaigns, so well that they would be unassailable.

Empowering the ECP with fearless leadership

Leadership comes from the top and the importance of the appointment and qualifications of the CEC and members of the ECP cannot be understated. It is an area where reforms could indeed bear fruit.

The difficulty of the work of the ECP is not to be underestimated. The

ECP manages one of the world's largest single-day electoral processes, a considerable task made more formidable by Pakistan's unique security, development and access issues. The task is not only one of solving disputes, but also of managing thousands of permanent staff deployed across the country and hundreds of thousands of temporary election staff.

There remains no one model for the qualifications of the person or people appointed as election commission members, but there are a few best practices that have emerged and sensible examples from around the world. The Pakistan model of appointing retired judges has few parallels internationally. Several countries in Latin America and the Middle East appoint only judges but few limit them to those already retired. More common though, is the appointment of eminent public figures renowned for political neutrality with expertise in fields such as law, public administration, political science or the media. This approach is used in a number of countries including Australia, Bangladesh, Canada, India and Indonesia. Tunisia has broken new ground with a multi-member commission encompassing a range of skill-sets described above.

Many countries stipulate a mandatory retirement age for election commission members to ensure that the commission is run by officers in the height of their careers. In India, Canada and Malaysia, members of the commission must retire at 65 years of age. In Ghana, the maximum age is 70. This type of reform could help to revitalize the ECP and put it more in touch with voters (who are mostly young).

The constitutional obligation of appointing retired Supreme Court judges to lead the commission ensures that the pool of candidates for appointment is extremely small. Those few who are qualified may see the apex of their career behind them and do not wish to expose their legacy to the withering criticism which the post may bring. Reformers in Pakistan should consider if the appointment of the members and staff should be expanded beyond the Judiciary to attract a broader pool of talented individuals from other sectors such as civil society, business, or the civil service. Reforms could also include mandatory retirement ages along the lines of many countries.



In concert with these reforms, responsibility lies with the individual as well. Electoral Management Body (EMB) leadership must be fearless in its actions by being able to actively protect the sanctity of the electoral process without bias regardless of the political implications of their work. The presence of a committed commissioner at the helm will often do more to strengthen the commission than any amount of legislated powers.

The personalities are important because independent state institutions build their independence through action. The Election Commission of India, for instance, has very aggressively used its powers and authority, including a threat to suspend its own constitutional mandate, ordering re-polling in case of fraud and regulating the transfer of police and administrative officers with partisan leanings. These actions have strengthened the mandate of the body in its effective management of the electoral process, particularly in regards to the discipline of civil servants deputed for election duties.

Independence can be compromised by budget linkages with the government. This is an area where the ECP can further develop through existing powers. The ECP has substantial financial powers, similar to those of the Supreme Court of Pakistan, the Senate, and other constitutional bodies. The ECP can charge expenditure directly to the Federal Consolidated Fund which contains all revenues collected by federal agencies. Parliament can discuss the ECP expenditure, but has no role in approving it. This budgetary power is similar to that of other electoral commissions, such as Elections Canada, and underlines the constitutional power vested in the ECP.

Easy wins in Electoral reforms

Out of the robust debate on electoral reforms, stakeholders have put forward many suggestions. The key big-picture reforms have been either highlighted above, or in subsequent articles in this issue of the Development Advocate. Much of the focus in the media has been on 'magic bullet' technologies and complicated reverse engineered processes like fingerprint verification of electoral rolls. While high-tech solutions may solve some problems, they also raise new issues and costs which must be considered (see "Gadgets at the polls: Can technology deliver better elections?") Society should not overlook some simple reforms which could be delivered without too much hassle, such as:

(a) Count the number of people who voted. This simple integrity check costs nothing and can stymie basic forms of ballot stuffing. It involves counting the number of signatures/fingerprints on the electoral rolls at the close of polling. This step is standard practice in countries around the world. At the close of polling, the polling team counts the number of signatures/fingerprints on the electoral rolls, notes this on the results form and then compares it to the number of ballots found in the box. If the numbers do not add up, and cannot be accounted for in the spoiled ballots, then it may indicate ballot stuffing and should be flagged for further investigation. A simple change in the procedures is all that would be required.

(b) Create a permanent polling scheme. A polling scheme is a list of places to vote (primarily schools) and an indication of which voters (by block code) should vote at them. Poling schemes are at the core of electoral management not only for logistical and voter information, but also because they can be manipulated for political gains by creating 'ghost' polling stations or systematically making it difficult for some voters to reach the polls. A single 'ghost' station can be enough to swing a close election particularly for a provincial assembly seat.

Under the current laws, the creation and management of the polling scheme is the responsibility of the returning officer (RO) and it

should not be changed less than two weeks before the polls. Observers noted that ROs frequently flouted this legal deadline and changed polling schemes after the deadline. This left the results management system without updated information thereby creating confusion with voters and delays during the results process.

A simple change of the legislation could shift this responsibility to the District Election Commissioner, a permanent official of the ECP based in each district. S/he could maintain a permanent polling scheme throughout the electoral cycle, updated live on ecp.gov.pk and posted in the local and provincial offices.

(c) Increase transparency in the results process

In general, less stakeholder focus has been placed on the processes that take place after the counting of the votes as compared to the campaign and voting process. Nonetheless, any delay or lack of transparency in the results can derail an entire election and negate success in other areas. Transparent results processes mean that any voter or party agent can check the compilation process against the result at the polling station, and follow the numbers all the way through. In 2013, the ECP (with UNDP support) digitized major components of the results compilation process and secured the manual components with tamper-evident bags. A great step forward by elections and future general elections would be to put the whole process online for all to see. After all, sunlight is often said to be the best disinfectant.

These are a few examples of low-cost high-value projects, but it is by no means an exhaustive list. Any reform process should prioritize those reforms with the highest returns.

Achieving electoral integrity by looking forward

Our final point is on the prickly issue of how to achieve electoral integrity and eliminate substantive fraud. It is important to realize that electoral integrity should be a preemptive process. It is much more difficult to ensure retroactively, or at the 11th hour, or through tribunals and commissions of inquiry. The checks and balances must be integrated at the beginning, whether in the appointment procedures of ROs or the adoption of transparent results systems. Take the example of an invalid ballot, once cast it cannot be identified amongst a pool of valid ones. The system must be focused on preventing this from happening rather than the impossible task of rectifying it later. This is why basic integrity checks such as the publication and scrutiny of electoral rolls, the clear publication of polling stations and the presence of well-trained representatives of every contesting party at every polling station is so necessary.

This issue of the Development Advocate covers a range of electoral topics, from election dispute resolution to the role of technology, to the critical issue of returning officers. Each of these areas of reform is critical to the electoral process, but none is sufficient on its own. The quality of the election process will rely on each and every one of these systems working. Faulty technology, poorly trained staff, delays in logistics or campaign finance abuses can all undermine public trust in the process.

At the same time, no election is perfect. Even in the oldest democracies, or those with the most impressive electoral institutions, there will be problems, malpractices and even deliberate fraud. Fraud can always occur and no country can ensure a fool-proof system. What can be done is to raise the cost of fraud to the point that it is so costly, inconvenient and risky that it is no longer worth doing. The goal of electoral managers and everyone interested in democratic governance must be to reduce and eliminate fraud and malpractice to the greatest extent practicable. We hope that this issue will contribute to that end.



Election officials preparing to conduct delimitation.

Post-PCER, what's next for the electoral reform bill?

The formation of the Parliamentary Committee on Electoral Reforms is a historic opportunity for substantive progress. Here we outline the next procedural steps in the process:

Once the parliamentary committee finalizes its recommendations, the document will likely be signed by the entire committee. The agreed draft might seek amendments to the constitution, or to existing laws. In each case, the next step would be to get the approval of the Cabinet.

After the Cabinet's approval, the Bill would be introduced in the House by the Minister of Law & Justice. Such a bill would normally be referred to the relevant Standing Committee, but, as was the case of 18th Amendment, this step is likely to be omitted because of the detailed discussions that have already happened in the Parliamentary Committee. In any case, any member of the Committee or of the National Assembly could request the

Speaker to refer it to the Committee once again. It would then be the discretion of the Speaker to do so.

After the Committee stage, the Bill would be made a part of the Order of the Day and disseminated to the members. After at least two days, the Minister/mover of the bill could then move to take the bill into consideration (on that day or a later date) and send the Bill to a Select Committee, or further disseminate the Bill for eliciting further opinion.

Provided no member raises an objection on the grounds that the bill is repugnant to the teachings of Islam, nor amendments proposed, the Minister may then move for the Bill to be passed.

If the reforms will amend the constitution, then the bill must be passed by two-thirds majority in both houses. The bill must first be passed in the National Assembly (NA), then the Senate, and finally sent for signature by the President. If the Senate passes it with amendments, then it shall return to the NA for passage. If the Senate fails to pass it in 90 days, then it will be included in the joint session.

KEY ISSUES FOR REFORM

What is it?

What is at stake?

What are the options?

International Example

ECP Leadership and Independence

How can the ECP achieve fearless independence? The appointment process, qualifications, and mandatory retirement age of the CEC and the members. The independence of the ECP and its provincial and local branches from government and political interference.

The leadership of the ECP is perhaps the single most important issue in determining how credible and independent the ECP is as an institution. The leadership will determine as to what extent the ECP fully utilizes its expansive constitutional powers and achieves its mandate.

The key questions for reform are
 (a) Whether expanding the current pool of potential CEC & commission members from former judges of the Supreme court to a broader pool of candidates including talented individuals from other sectors such as civil society, business, or the civil service.
 (b) Whether reforms should also include mandatory retirement ages (65 or 70 years) along the lines of many other countries.

The Election Commission in Tunisia consists of two judges, a lawyer, a university professor and experts in finance and IT. The commission deploys trained citizens to do the work of presiding officers.

Returning officers (RO) & Polling Staff

Appointment and qualifications of the ROs at the district (District Returning Officer-DRO) and constituency level (Returning Officer-RO), as well as the appointment of polling personnel.

At the front-line of the electoral administration, the role of the returning and presiding officers is fundamental to the credibility of any electoral process.

The key aspects for discussion include their appointment, skills, professionalism, and independence, impartiality, performance and management—refer to the table on 'Potential Alternative RO/DRO configurations'. (pg.25)

When presented with an array of possible options, stakeholders involved in UNDP's provincial consultations generally recommended the need for effective administrative control over these temporary staff (the Indian model), and the recruitment of qualified individuals from the market for both presiding officers and returning offices (the Canadian model).

Gender gaps (voter registration and turnout)

Differences between male and female rates of voter registration, of voter turnout, and as candidates for elected office.

Universal suffrage is a core international standard for elections. There was a gap of roughly 11 million women on the 2013 voter rolls and yet female turnout—estimated at 49 percent—was significantly lower than male turnout—estimated at 60 percent. These gaps portray a systematic disenfranchisement of women because of cultural norms, insecurity, and/or procedural issues such as with the issuance of CNICs. Furthermore, the system of indirect election of reserved seats for women in parliament, the national assembly, and local government systems faces a legitimacy gap.

Gaps in voter registration could be narrowed through long-term campaigns focusing on getting women registered. There are a range of sensible options strengthening the systems of reserved seats systems at the local, provincial, and national levels through direct rather than indirect election.

Countries including Uganda, India, France and Bolivia have made progress in gender equality in politics through direct election of women rather than indirect reserved seats. Local government systems in India have seen governance improvements through the adoption of special provisions for women as leaders.

Electoral Complaints and Disputes

Administrative and judicial processes by which election complaints and disputes are resolved.

Electoral justice needs to be both fair and timely to prevent electoral disputes from spilling into the streets, impeding development, or undermining the legitimacy of an elected government. Election complaints of an administrative nature—such as campaign or polling violations—should have a separate administrative resolution process to prevent them from becoming full-fledged disputes.

Stakeholders should look at the election tribunal process to see how it may be streamlined—such as removing the requirement to join all contesting candidates to the petition. Additionally look at a formal administrative complaints processes, housed within the ECP, to resolve campaign and polling complaints.

Campaign finance regulation

Efforts to reduce the impact of 'black' and 'grey' money in politics. Regulation of campaign donations and spending by parties and candidates through statutory limits, incentives, public funding and disclosure requirements.

While money is necessary for democratic politics, unregulated donations and spending, and the usage of illegal resources, can have a corrosive effect on politics and electoral integrity. The increasing use of cell phones, internet and the spread of private television channels have opened up new avenues of communications to reach out to voters. However, the use of these new technologies has driven up the cost of electoral campaigns.

Review existing provisions, limitations on spending, system of enforcement and oversight.
 (a) Ease compliance by revising existing spending limits with constituency-specific limits depending on size and number of voters.
 (b) Strengthen restrictions for donations to candidates.
 (c) Empower the ECP to investigate and scrutinize campaign and party finances.
 (d) Toughen prohibitions on the use of black and grey money.

Electoral technology

As electronic devices become cheaper, more powerful and more secure, numerous technologies have been applied to various aspects of the electoral process from voter registration to electoral rolls.

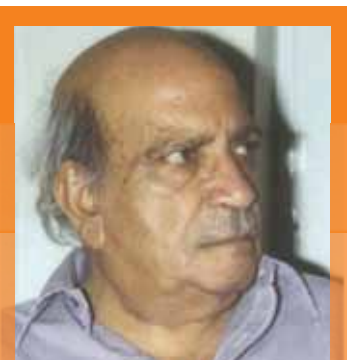
Two major technologies, biometric voter identification and electronic voting machines (EVM) have been proposed by stakeholders for future elections. Stakeholder opinion remains mixed if the risks and costs of these technologies outweigh the potential benefits.
 Alternatively, the strengthening of existing technologies such as computerized results management and the management of polling schemes could significantly increase transparency without significant cost.

Four countries—India, Brazil, Venezuela, and the Philippines—use EVMs for nationwide elections. Three countries have implemented biometric voter identification—Ghana, Kenya, and Venezuela—but success has been mixed as many voters do not have readable fingerprints.

Electoral reform will be a long haul



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The reforming of Pakistan's electoral system has been a recurrent theme, since the very first elections held post-independence. These elections were marred by allegations of widespread and blatant rigging. The debate has thus gained intensity ever since the general elections of 1977 when none of the polls were accepted by either party or by the public at large. Such complaints led to strong movements for the removal of the Prime Minister.

Thus, the current process of streamlining electoral procedures has received support from both the aggrieved parties as well as the civil society.

Although the present drive for electoral reform has been propelled by complaints of rigging, it is obvious that poll manipulation is only possible if there are loopholes in the system.

The issues in debate therefore include:

- (a) The question of the independent capacity of the Election Commission of Pakistan (ECP);
- (b) Equal opportunities for all eligible voters especially the disadvantaged, such as women and members of minority communities, to exercise their democratic rights;
- (c) Preparation of authentic electoral rolls and fair delimitation of constituencies;
- (d) Safeguards against rigging of polls or manipulation by candidates/parties or cheating by voters;
- (e) Arrangements for the settlement of election disputes;
- (f) Discrimination on the grounds of belief;
- (g) The denial of electoral opportunities to people of modest means.

Much needs to be done in each of these areas. Some of the problems are unlikely to yield to

quick-fix remedies and all concerned should be prepared for a long and sustained effort. Yet, no delay can be allowed in developing a framework that meets the minimum standards of free, fair and democratic elections.

As the lynch-pin of the electoral system, the ECPs progress towards the desired level of autonomy has only recently begun. It was only in 2002 that the condition of the ECP becoming a permanent multi-member body was met. Comprising five men drawn from the judiciary, the new ECP is still finding its feet.

However, it is still necessary to grant the ECP maximum autonomy in the selection of its key staff, greater freedom in securing funds from the Finance Ministry and unfettered authority to develop training institutes for its adequately extensive network. There is a need to enhance the effectivity of the ECP by including in it experts in administration, political scientists and authorities on representative bodies. A strong case exists for including a woman representative as well. In the ongoing debate on the 2013 general elections, an issue that was central to rigging allegations was ECPs lack of control over returning officers and the polling staff. It has been argued by both domestic and foreign poll observers that the returning officers should be from the ECPs own cadre. It also has the option to choose them from non-judicial services who can be more easily held accountable. To an extent, the problem can be met by persuading the ECP to use its authority to proceed against violators of Pakistan Penal Code's sections 171-B to 171-1, relating to offences of bribery, impersonation, undue influence, false statements and illegal payments, and the provisions of the Representation of the People Act regarding corrupt practices, booth capturing and misdemeanor or offences by officials on election duty. The ECP should have the power to countermand elections if a section of civilians is prevented from casting votes or the process of balloting is tampered with.

The ECP has been seeking the power to take action against the polling staff that acts in violation of the law. Recommendations to this effect had been made before the 2013 elections, but the parliament was unable to complete the legislative formality. The problem now seems to be advancing towards a resolution.

By increasing the efficiency and transparency at all stages of the electoral process, rigging can be controlled. It would help if the ECP fulfilled its obligation

to revise electoral rolls each year, delimited constituencies by brushing aside the demands of elected barons and completed the identification of polling stations much before an election became due. The possibility of rigging as a means of manipulation by parties and candidates can also be reduced significantly by guaranteeing online access to voters' lists, the layout of constituencies and polling stations in each constituency. Likewise, doubts about the impartiality of polls can be reduced by uploading various forms containing poll data on the website immediately after the tabulation of results at each polling station.

The need to guarantee a fair playing field to all candidates, regardless of any distinction, is perhaps the most ticklish issue of all. The condition of a separate voting list for Ahmedis puts a cross on the fairness of election and ways must be found to remove it. The laws to deal with interference regarding women's and minorities' right to vote need to be strengthened with an increased guarantee for application. Special provisions need to be made to enable vulnerable people—women, people with disabilities, prisoners, nomads and bonded workers—to join the electoral mainstream.

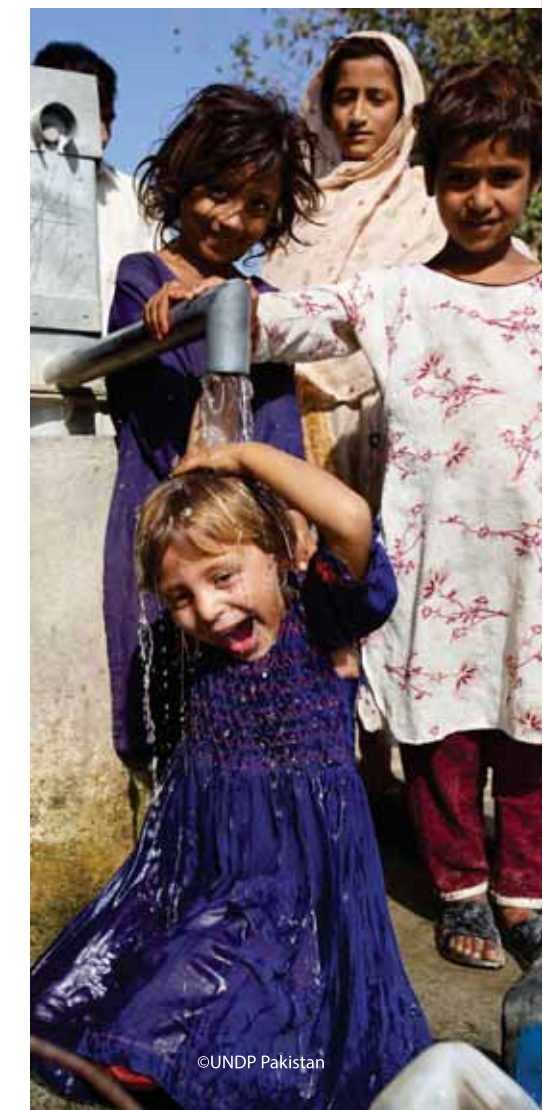
The urgency of controlling election expenses is also a major issue. The laws in place to check election expenses need to be tightened with an increased scrutiny on the expenses of the political parties and election candidates.

Last but not the least, the unsatisfactory working of election tribunals has been a serious issue for many years now. Two complaints have been common. First, proceedings are subject to long delays. There have been cases when a petition for the recount of votes was not disposed till the announcement of fresh polls made it in fruitless. Second, confusion about the interpretation of law or prevalent loop holes has resulted in the frequent overturning of tribunal decisions by superior courts. Both complaints are curable. The official response has been limited to reducing the time limit for the disposal of cases, a condition rarely honoured. Petitions demanding only a recount of votes can be summarily decided and the law and accompanying procedures need to be reviewed in order to assist fair adjudication.

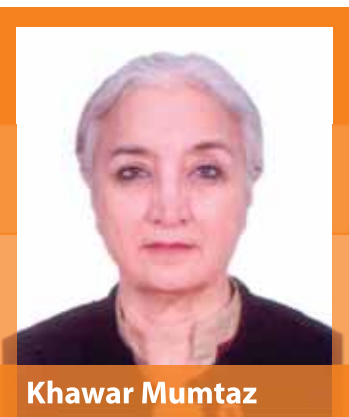
It may be possible to increase the level of fairness of elections and their transparent management if civil society poll observers are afforded legal cover, as has been done in several Commonwealth countries with promising results.

The most intractable issue relating to the election system is the need to clear the way for citizens with modest means to join electoral contests. As long as elections remain an intra-elite affair they can hardly offer a wholesome representation of the society. Of course, there is no legal bar to the economically disadvantaged citizens' participation in elections, but a majority of the people cannot meet the demands of election activities.

Unfortunately laws and regulations alone cannot be of much help to people of limited means though the situation can be eased in their favour by restricting campaign expenditures, by enabling the ECP to meet some of the election cost and by reserving seats for the economically weaker sections of the society in all legislatures. Yet, the issue will remain unresolved until the landed aristocracy's social hold over a large population is broken and progress is made towards establishing an equality of citizen participation regardless of belief, gender or social status.



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Khawar Mumtaz

Chairperson
National Commission on the Status of Women (NCSW)

Electoral reforms in Pakistan How to close the gender gap ?

Electoral reforms are perhaps the most significant vehicle for the strengthening of democratic norms and processes in the society. The elections of 2013 marked the first democratic transition from one government to the next and also saw a substantially higher rate of voter participation. The highest number of women voter turnout-45 percent-was also recorded in the said elections. Similarly, many more women filed papers as contestants on general seats than ever before-a total of 455 (158 for the National Assembly and 297 for the Provincial Assemblies)-representing a big jump from the 280 in 2008 (64 in the National Assembly and 116 in the Provincial Assemblies).¹ This increase, while very encouraging, did not greatly impact the gender gap as women contestants on general seats represented only 3.4 percent of the candidates in the National Assembly and 2.7 percent in the Provincial Assembly.²

As the electoral system is currently under review by the Parliamentary Committee on Electoral Reforms (PCER), it is perhaps an opportune time to examine the various factors that come in the way of women's fuller participation in elections-both as contestants as well as voters-and suggest some recommendations. Some of the factors are institutional while others are determined by social norms and attitudes. The gender biases embedded in the social fabric influence the electoral process too and while change is discernible, there is much more that is needed to ensure that women are able to exercise their Constitutional rights of voting and choice. Some critical factors are listed below:

Under-registration: There is a gender gap in the voter registration of nearly 11 million (2013) according to the Election Commission of Pakistan, with women constituting just 43.6 percent of registered voters.³ At 34.4 percent, FATA has the lowest number of registered women voters while Islamabad has the highest at 46 percent. Possession of the National Identity Card (CNIC) is essential for registration as voters and while 76 percent of women are now registered with NADRA, the numbers on the electoral roll are much lower. The low level of registration is attributed to the lack of male interest in getting women registered and women's lack of awareness about the electoral system. Limited mobility and a lack of education are additional contributing elements.

Exclusion from political party decision making structures: Very few women are in leadership positions-less than 5 percent in the Central Executive Committees-in most political parties and are usually confined to women's wings. Thus, they are not in a position to influence either the awarding of tickets or imposing restrictions on voting.

Unable to vote: Mobility restrictions mean that women need permission from family males to go to polling stations. As a result, there have been instances of women being disenfranchised in the 2008 and 2013 elections. In 2013, 15 incidents of women being debarred from exercising their vote were reported as a result of an understanding between local elders, political parties and non-state actors. Women were also restricted from voting in combined polling stations. Most of the

restrictions on women's voting were reported from remote areas of Khyber Pakhtunkhwa (KP). Older women and women with disabilities have faced challenges as a result of the inappropriate location of polling booths that prevent them from casting their vote.

Security issues: While security threats are a cause of concern for all, women voters and contestants are more vulnerable because of their gender, as was seen in Balochistan, where threats to field workers prevented women from coming out to vote. Women candidates too complained about security concerns and harassment incidents during electioneering-a Sindh minority woman candidate reported that her campaign convoy had been attacked four times. Another revealed that her family was threatened by her rival candidate. Even a high profile candidate like the former Speaker of the National Assembly was not spared harassment. The lone woman candidate from Lower Dir shared experiencing similar treatment on her visit to the National Commission on the Status of Women (NCSW). For these women, their poverty and disadvantaged social status exacerbated their vulnerability.

Miscellaneous: Among other factors that impede women's fuller participation are that of a paucity of funds available for campaigning. In the last elections a majority of women candidates could not invest in media campaigns. Women's access to information is restricted because of their lower literacy levels and limited access to TV or radio.

Addressing the gender gap

Entering the political mainstream has been a challenging task for women, who until very recently, were generally reached out with the underlying agenda of obtaining their votes. The political landscape underwent a change with an affirmative action in 2002 when a substantial quota for women was established. Since 2002, women have constituted between 17 to 22 percent of seats in the Senate, National Assembly and Provincial Assemblies. The change in the gender composition of assemblies has created an enabling environment for women to participate in and offer contributions in the lawmaking process. They have played a significant role in proposing laws for women's protection and for the promotion of their rights.

NCSW monitored elections in 23 constituencies and received reports from election observer missions as well as complaints from the field before and during the election. It submitted recommendations for electoral reforms aimed towards strengthening and enhancing women's participation in the electoral process. NCSW is of the view that:

1. Women's reserved seats should be increased to 33 percent in the assemblies. An experience of 5-10 years in the fields of social development and women's rights should be set as the basic criteria. Furthermore, mechanisms for Constituency based direct elections for women's reserved seats should be devised.
2. The option to contest elections on general seats should remain and amendments in the relevant law for political parties should be made that allots 15 percent tickets to women for contesting elections on general seats. A recent resolution in the NA that has been unanimously adopted grants women an allocation of 10 percent seats by political parties and 33 percent seats in the General Councils. Women's representation in Parliamentary Committees should also be made mandatory at 33 percent.
3. There should be a reserved seat for at least one woman with a disability. Similarly, the female quota for minorities should be increased to 33 percent of the minority quota.
4. Special measures should be instituted to prevent disenfranchisement of women by communities, political parties or non-state actors from exercising their constitutional right to vote. Results of a polling station that registers less than 10 percent of female votes should be declared void.
5. Separate polling stations should be set up in areas where combined stations deter women from voting and female trained polling staff should be deployed at all polling stations and booths. Polling booths for women with disabilities should be on the ground floor and enable wheel chair accessibility.
6. NADRA registration should automatically lead to registration on the electoral list.

Reserved seats

Direct reforms: Should reserved seats for women be directly elected?

Pakistan was a leader in the early adoption of reserved seats for women. In Pakistan's first five decades, the law reserved a small number of seats for women which fluctuated, but never exceeded 10 percent. These reserved seats were filled initially by indirect votes and then subsequently through a partly list. This era of quotas ended in 1998 when the quotas expired and the numbers of elected women subsequently collapsed. The replacement system, still in place today, reserves parliamentary seats to be indirectly elected from women's lists in accordance with party seat share in the national polls. Few women stand or are elected in unreserved seats, though the

numbers are increasing with each election.

During consultation with electoral stakeholders across the country, UNDP heard unanimous demands for reforms to the way these seats are filled. Stakeholders questioned the efficacy of indirect elections in promoting gender equality in politics and promoting the legitimacy of the women representatives. Recent research on women's empowerment documents four main options, used in other countries, which are appropriate for Pakistan's electoral system. Each of these systems either increases the number of women directly elected or on the ballot. Each of the systems has its unique benefits and trade-offs and any would help to close the 'legitimacy gap.'

Table 1: Options for reform to the reserved seat system.¹

1. Nomination Quota	2. Super Constituencies	3. Rotating Constituencies	4. Alternative Threshold
Specific % of candidates who must be women, provides sanctions for non-compliance.	Special women-only constituencies. Voters cast two ballots.	General constituencies are temporarily reserved for women candidates on a rotating basis.	Reserved seats filled by highest vote-receiving female candidates.
Ensures women are on ballot.	Ensures women are directly elected.	Ensures women are directly elected.	Ensures women are directly elected.
Bolivia, France, Mexico, Mongolia, Nepal, Republic of Korea, Senegal, Uzbekistan.	Eritrea, Kenya, Uganda.	India (local bodies).	Jordan, Samoa.

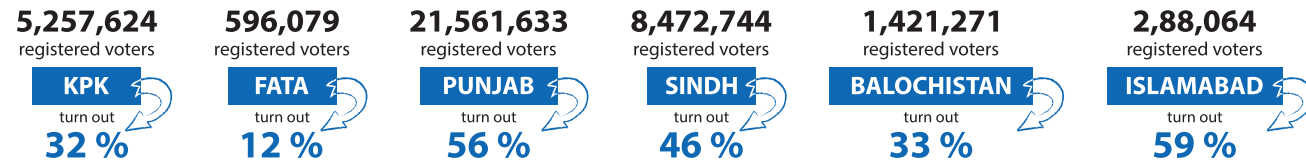
¹Excerpted from G.Bardall and S.Christensen, *Gender Quotas in Single-Member District Electoral Systems*, RSCAS 2014/104 / Robert Schuman Centre for Advanced Studies

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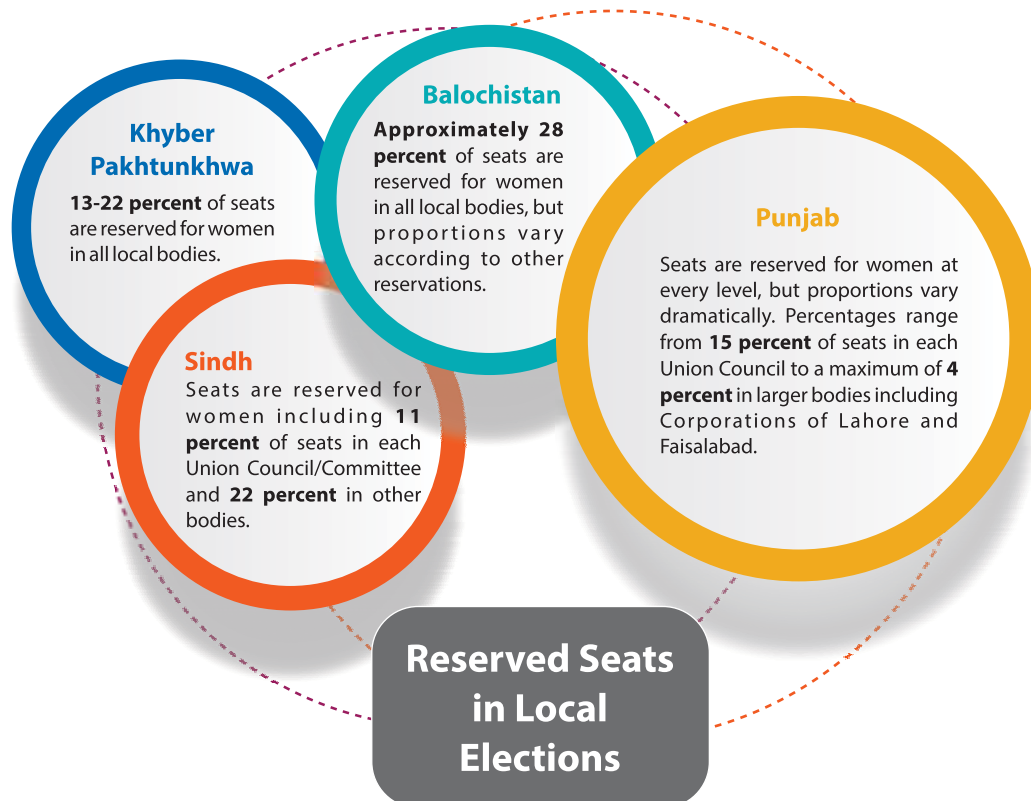
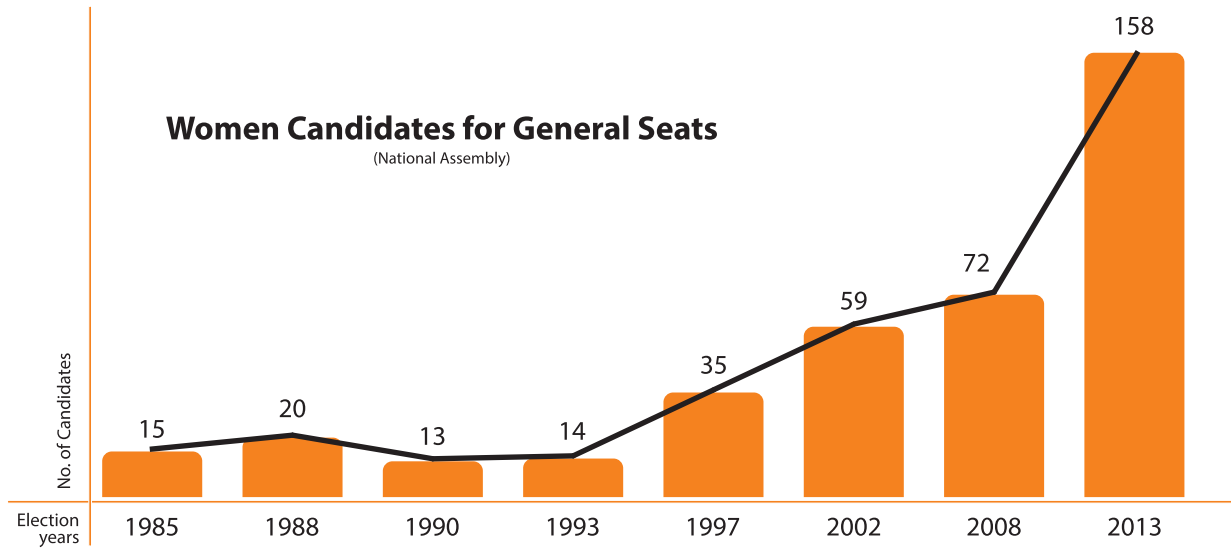
Women in Elections 2013

Women Voters



Women Candidates for General Seats

(National Assembly)



Who draws the lines? Reforms in Local Government Elections

The 18th Amendment to the Constitution provided for the first time, full constitutional protection of the local government and made it the responsibility of the provinces to ensure establishment of local governments. Each province has made progress in forming this critical tier of government, thus far only Balochistan has been able to hold local government elections and even that process has yet to be completed.

Nonetheless, there is notable progress in preparations for local government elections. Court-driven reforms have strengthened the independence of the commission and the Election Commission of Pakistan (ECP) is preparing the groundwork for the successful conduct of these polls.

Initial rounds of local government elections were held in Balochistan as early as 7 December 2013, but one year on, the final rounds have yet to be conducted for certain categories of reserved seats. Balochistan is also facing issues of how to transfer financial and administrative powers to the newly elected governments and some observers doubt whether administrative and financial powers will ever be transferred to these bodies.

The Development Advocate provided a detailed analysis of these acts in a previous issue, which has not been reprinted here. In the intervening months, key controversies have been settled. The question of whether candidates would stand independently or as representatives of political parties has now been settled—all elections except for the Khyber Pakhtunkhwa village and neighborhood councils will be party-based.

The issue of women's representation remains an area for reform. In some bodies the allotment of reserved seats for women is historically low. For instance, in Metro and Municipal Corps in Lahore and Faisalabad, women's seats have been capped at 4 percent. This number is far below the 'critical mass' that such seats are meant to achieve.

A third, thorny issue is the question of

constituency delimitation. Constituency delimitation has historically been done by the ECP for National and Provincial elections and by provincial governments in local body elections. The Local Government Acts of Balochistan, Punjab, and Sindh maintained this status quo and the provincial governments subsequently conducted a detailed delimitation that was forwarded to the ECP. The elections in Balochistan have been conducted on boundaries defined by the government. In case of Punjab and Sindh, the Supreme Court of Pakistan voided this delimitation on the grounds that electoral boundaries were an integral part of the electoral process and therefore should fall under the remit of the electoral commission.

In line with the court judgment, the President as well as governors of Punjab and Sindh promulgated ordinances which empowered the ECP to conduct LG delimitation through amendment to the relevant federal and provincial legislation. The ECP has followed suit by preparing the associated rules for the delimitation of constituencies (national and local bodies). These fill a gap in legislation that has existed since the passage of the 1947 Delimitation of Constituencies Act. The commission is also currently training DECs and RECs across Punjab and Sindh to delimit local constituencies and resolve complaints and objections in line with new laws and international standards.

The most unfortunate hurdle that these officers may face is the lack of a recent census. Under the existing laws, they will have to delimit constituencies according to 1998 population figures, knowing full well, that such figures are woefully out of date. Some have proposed using electoral rolls data—which is more up to date—to substitute for census figures. Moreover, the electoral rolls were based on more recent blocks of a census which was never completed—this will create administrative morass where each voter must be re-assigned to the old census blocks manually.

It is important to understand that the actual delimitation set out in these ordinances was shared between provincial

governments and the ECP. The provinces will delimit all local bodies with the exception of Union Councils and wards. This follows a certain logic and consistency with the national assembly and provincial assembly delimitation in which the government defines administrative areas (provinces and districts) and the ECP subsequently defines electoral areas within those bounds.

The recent legal developments created an uncertain situation for Khyber Pakhtunkhwa whose delimitation process was completed by the Local Government Department and which has not been voided by the Supreme Court. This delimitation could be voided by the Supreme Court and even if it is not, it will create an unusual situation whereby federal laws present delimitation as a federal subject and provincial law maintain it as a provincial one.

Since the local government delimitation has historically been the domain of the provincial governments, some see this as a re-centralization of what should rightly be a provincial subject. Independent commissions are the emerging international standard in delimitation and provincial government conducted delimitation naturally creates incentives for manipulation and gerrymandering. Delimitation of local bodies could remain a provincial subject and yet be independent from political influence with a reform to create electoral boundaries commissions at the provincial level.

Regardless of the challenges, local government elections can and must go ahead. There are reasonable ways to overcome each and every issue and the ECP and the provincial governments are equipped with every capacity to do so. This critical tier of government should not be left to gather dust.



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Women Voices



Kishwar Khan

The electoral process can be reformed by ensuring increased women participation in the electoral process, proper registration of women as voters, enhancing security measures for women and facilitating them with transport.



The current system of reserved seats for women does not ensure a wholesome geographical coverage of the country and women generally enter on the basis of nominations by party bigwigs. Consequentially, almost 70 percent women do not interact with constituencies due to geographical constraints and hence, suffer a disconnect from the community.



Rakshanda Naz



Zoya Ashraf

Polling stations should be set up at less distances in rural areas as an incentive for female voters. Votes should be properly registered with women made to understand the importance of voting. Political parties should nominate a prominent female in a rural area to further encourage women voting.



A media cell should be established in the ECP to inform, educate and motivate the general public all year round towards the importance of the election process. A well-defined law under the title of "Election Awareness Media Obligations" should be enacted. In addition, a provision for an equal amount of allotted air time should be made obligatory to all stakeholders.



Faiza Mir

Women Voices



Maria Soomro



Political debate today has a much different meaning because more people are speaking out and being heard. In the pre-Internet era, you had to write an opinion column in a newspaper or send a letter to the editor to have your opinion published. Today, anyone can create a blog, post a comment on a social networking site or participate in a forum, all with a much larger audience.



Shad Begum

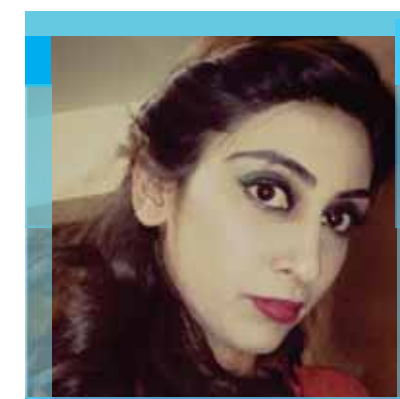
A special training program of women voters' registration should be initiated. Once their National Identity Card has been issued, NADRA should directly take steps to enroll all women voters.



Women are extremely marginalized in all legislative and decision-making institutions. Moreover, few policy-making measures pertain to women. An overall elevation of women's social, economic and political status will go a long way in increasing women's voting rates.



Asma Faiz



Mehtab Zareen

There is a need to improve campaigning procedures by cutting back on excessive advertisement and building up person to person contacts in order to gain the voter's confidence and provide them direct access to their respective candidates.

Gadgets at the Polls: Can technology deliver a better election?

Technology has already revolutionized many aspects of life and politics and elections are no exception. As electronic devices become cheaper, more powerful and better connected, numerous technologies have been applied to various aspects of the electoral process from voter registration to electoral rolls.

Stakeholders sometimes see electoral technologies as a 'magic bullet' for electoral problems, while others see them as a distraction. The use of gadgets, websites and social media has a unique attraction both for voters and people running for office. A computer is hard to bribe, biometric data seems objective and spreadsheets rarely make mistakes in simple maths.

Many countries have computerized aspects of their electoral processes and many more are considering it. Nonetheless, the limited number of countries that have actually gone down the path of fully computerized elections may surprise you. Table 1 highlights the four key electoral technologies that are used in electoral processes:

CNIC Biometric Electoral Rolls	EVID Electronic Voter Identification (Fingerprint scanning at polling stations)	EVM Electronic Voting Machines	RMS Results Management Systems
Voter lists and biometric data in databases. (NADRA/CNIC)	Voters are asked to scan their fingerprint at the polling station before voting.	Computerized balloting and counting.	Computerized system to aggregate results.
Can reduce duplicate registration.	Can reduce multiple voting and voter impersonation.	Can reduce invalid ballots and improve integrity of count.	Can provide more accurate results and improved transparency.
Examples	Examples	Examples	Examples
Pakistan, Ghana, DRC	Pakistan, Ghana, DRC	India, Brazil, Venezuela, Philippines, USA	Pakistan (partial), Brazil, Venezuela, Philippines, USA, Kenya, Zambia

Table 1: Key electoral technologies¹

Countries may use some, all, or none of these technologies. In Pakistan, the biometric NADRA databases are the foundation of the electoral rolls. NADRA and the Election Commission of Pakistan (ECP) have leveraged this technology to detect duplicate registrations and thus have more credible voter rolls. This is an efficient and practical use of technology, which must now be extended to close the gender gap on the electoral rolls and reach more of the ever expanding voting age population.

At the other end of the process, Pakistan has also begun to leverage the potential of technology in results management systems (RMS). RMS systems are networked computer terminals which allow computerised compilation and transmission of the results from returning officers to provincial centres and headquarters. This simple technology has the potential to dramatically reduce errors in the results process and increase transparency and stakeholder

confidence. The ECP began computerizing the results process at the constituency level for the first time in the 2013 General Elections-though not applied in all constituencies, the commission has committed to use RMS in all constituencies in the next general elections, as per its latest strategic plan. The key reform in this area is to begin to publish the detailed results online so that stakeholders can track the results figures from the polling station to the gazette.

Electronic voting and counting technologies (EVM) are rarer, but are used in about a dozen countries around the world and are typically integrated with computerized results management. EVM helps to reduce or eliminate spoiled ballots, but may compromise the integrity and secrecy of the ballot.

Electronic Voter Identification (EVID) is a recent development used only in three countries at present. The Khyber Pakhtunkhwa government has committed to piloting the use of EVID in the upcoming local government elections. While authenticating voters electronically can help to reduce voter impersonation, many voters

cannot be authenticated due to a lack of machine-readable fingerprints.

Labourers, bricklayers and the elderly often do not have clear enough fingerprints for the machines to use. The deployment of traditional paper electoral rolls is recommended as a backup, since machines are unlikely to be able to authenticate a significant number of voters.

Countries use some, all, or none of these technologies. Some have adopted EVMs while maintaining traditional electoral roles; others have introduced EVID while maintaining paper balloting (Kenya, Ghana). Only Venezuela uses an integrated EVID/EVM/RMS.

How does Electoral Technology Impact Transparency?

Transparency is one of the core international standards for elections and a key stakeholder demand in Pakistan. More transparency is often seen as the only effective way to overcome low trust in electoral processes. The adoption of technology could have profound impacts on transparency of the electoral process as summarized in Table 2.

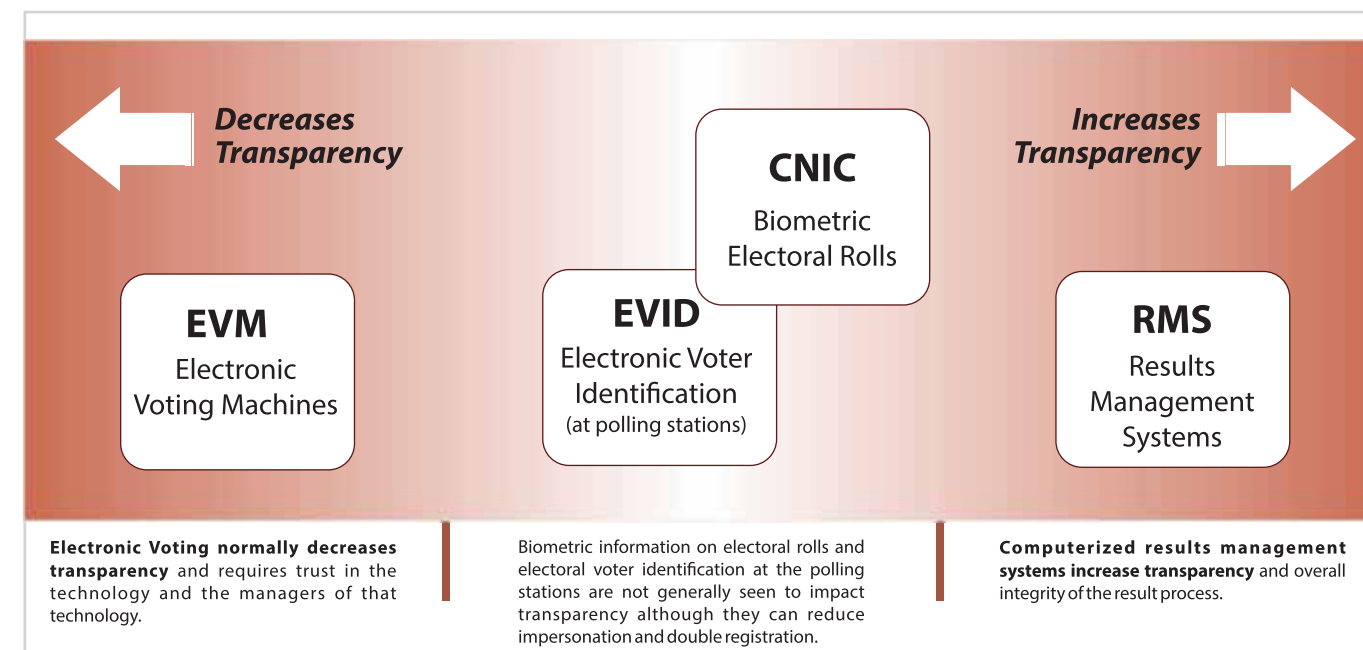


Table 2 : Transparency & technology don't always go together²

As electronic devices become cheaper, more powerful and more secure, inexpensive electronic voting methods which meet the needs of stakeholders may soon become a reality. Many experts believe it is not a question of if, but when. Despite advances in technology, there is rarely a 'magic bullet' for electoral problems. Practical technology, such as results management and computerized electoral rolls are key tools to promote transparency and integrity. Experience from around the world demonstrates a need for caution before embarking on more technology at the polling station, it rarely overcomes low trust or poor management in electoral processes. Reformers should carefully consider if electoral technology addresses the issues that need to be addressed in Pakistan's electoral process.

Finally, it is important to remember that technology costs money. EVID systems in recent cases have amounted to the equivalent of 700-800 rupees per voter. It may be wise to consider whether similar money might be better spent on recruiting more or better electoral staff, rather than spending it on technology.

Remarks by the Australian High Commissioner



Australian High Commissioner to Pakistan, His Excellency Peter Heyward was a keynote speaker at the recent UNDP Technology and Strengthening Democracy Conference in Islamabad. The event provided a forum for key actors in the democratic process in

Pakistan to discuss with international practitioners and representatives from Pakistan's growing technology sector, the role of technology in strengthening democracy.

The Australian Government has contributed AUD 7 million in 2012-14 to the 'Support for the Election Commission of Pakistan Programme' implemented by the UNDP.

During his address, the High Commissioner elaborated upon the democratic values of Australia which were centered on key freedoms and individual rights involving responsibilities and accountability of elected representatives and public officials. "Modern technology can strengthen both the exercise of individuals' rights and the rule of law," the High Commissioner said.

The High Commissioner noted the use of technology in Pakistan's General Election

last year, where it had played a significant role in the tabulation of votes by the Election Commission and in the mobilizing of voters by political actors through SMS and social media, in particular women and youth. Technology had also contributed to the 55 percent turnout of voters-the highest percentage turnout for an election since the 1980s.

The High Commissioner said that social media had afforded new opportunities for citizens to engage in democratic processes and because of its interactive nature it offered improved opportunities for mediated communication. He noted that while technology was a great facilitator, it was not enough on its own. Technology, while powerful, was a tool, not an actor in the democratic process, as it required people to use technology for positive change.

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Youth Voices



Bayazeed Kasi

Without any restrictions on campaign finance, the richest candidate is strongly favoured to win, regardless of merit. In a true democracy, someone should be able to run a successful campaign, even if they do not hail from a rich background.



Rules and regulations need to be put into place if we want any improvement in the electoral system. Automated screening processes such as biometric screening should be introduced, followed by accountability. The existent media regulatory authorities also need to re evaluate and improve their screening policies.



Farah Khan



Hanan Ali Abbasi

It is the duty of the youth to challenge corruption. The minimum age limit for being a member of the Senate or the National Assembly must be amended. National motivational media campaigns should be launched to enhance youth participation. The youth are willing to participate wholly, if given the chance.



Technology is not a solution itself! It is a means to a solution. Applications of technology can help in minimizing controversies, overcoming flaws in the manual system and improving the process of elections altogether.



Sahibzada Abdul Hadi

Youth Voices



Political parties should be bound to follow democratic principles, by holding intra-party polls so that people from the grass root can emerge to the mainstream level.



Mushtaq Ahmed



Fawad Alam



The youth of today are the future leaders of tomorrow and democracy can only flourish when the youth is involved in the democratic system. The recent demonstrations by Pakistan Tehreek-e-Insaf have motivated the youth to play their part and become more engaged in the electoral process.



I am not sure if the youth even wants to fight for electoral reforms altogether. The recent political sit-ins in Pakistan were not a sign that the youth wanted to see electoral reforms in the country. They just wanted to see their favorite candidate winning the elections.



Sahar Abbas



Dr. Saad Dhamrah



Candidates that are disqualified to contest elections in three constituencies are eligible to contest elections in the fourth constituency. Malpractices like these need to stop. The youth just wants a transparent parliament.



Electoral Justice: Resolving Election Disputes and Complaints

Introduction

No election is perfect, and so in order to guarantee the integrity and legitimacy of any election, an effective process for the resolution of complaints and disputes is necessary. Not only will such a system improve the overall quality of elections, but it will also increase the likelihood that losing parties will accept the results.

Election disputes can broadly be categorized into two categories: complaints and petitions.

	Election Petitions (disputes)	Election Complaints
Type	Disputes, which if upheld, would impact the results of the election.	Complaints which do not affect the results of the election such as violations of campaign regulations, voters barred from voting or procedural errors in voting procedure.
Mechanism	Should be handled by a dedicated electoral tribunal.	Should be best handled by a dedicated administrative process within the Election Commission. May be appealed to a judicial body.
Current Situation	The election tribunal system is designed to deal with these type of disputes.	There is no single system in place for handling complaints.

Complaints

All process-related violations, including campaigning violations, pre-poll and polling day violations and disenfranchisement of legitimate voters, or malpractice by polling staff come under complaints.

A single official process for addressing electoral complaints remains the best international practice. Pakistan does not have an inclusive or unified system in place. The Election Commission of Pakistan (ECP) has implemented three commendable initiatives which deal with specific complaint areas: appellate tribunals for nomination, monitoring teams for the campaign period and magistrate powers to the polling staff during polling.

Though an effective but limited remedy, the appellate tribunals is the only official pre-poll remedy where aspiring candidates can issue appeals. Monitoring teams were also put into place in the subsequent by-Elections in 2012 and in the May 2013 General Elections. Though these teams worked effectively, yet there were glitches in the eventual output, owing to a lack of clear legal and procedural coverage.

The third approach which the ECP

employed was the temporary empowerment of Presiding Officers (PO) as First Class Magistrates at the polling station level. This provision legally enabled the PO to summarily deal with certain violations during the polling process. Unfortunately, most of the polling officers have been reluctant to use this power outside of an institutional structure.

A quick and fair system for dealing with complaints related to the electoral process could improve the acceptance of election results both by parties and the public. Electoral reforms in this area could empower the ECP to notify rules for a transparent system that can manage and address such complaints administratively. Such a system could include specific forms and clear procedures for filing a complaint which is accessible and easy to understand for all stakeholders and potential complainants.

Election petitions

In contrast to complaints, election petitions are reserved for violations of the nature that would change the outcome of the elections. These could be systematic attempts to rig the election, or campaign violations so widespread that they demonstrably



changed the result.

Under the current system, the ECP appoints Election Tribunals for each election. Petitions are first filed with the Election Commission and then forwarded to relevant tribunals. Several reforms have been made to enhance the affectivity of this system. These included a revision in the timeline for the disposal of election petitions by the election tribunals. In addition, the 2013 elections saw the ECP change the nature of appointments to the tribunals as a bid to speed up the resolution of disputes. The previous practice of appointing sitting judges of the High Court as tribunals was abolished and replaced with hired judges, who would devote their attention specifically to the electoral disputes.

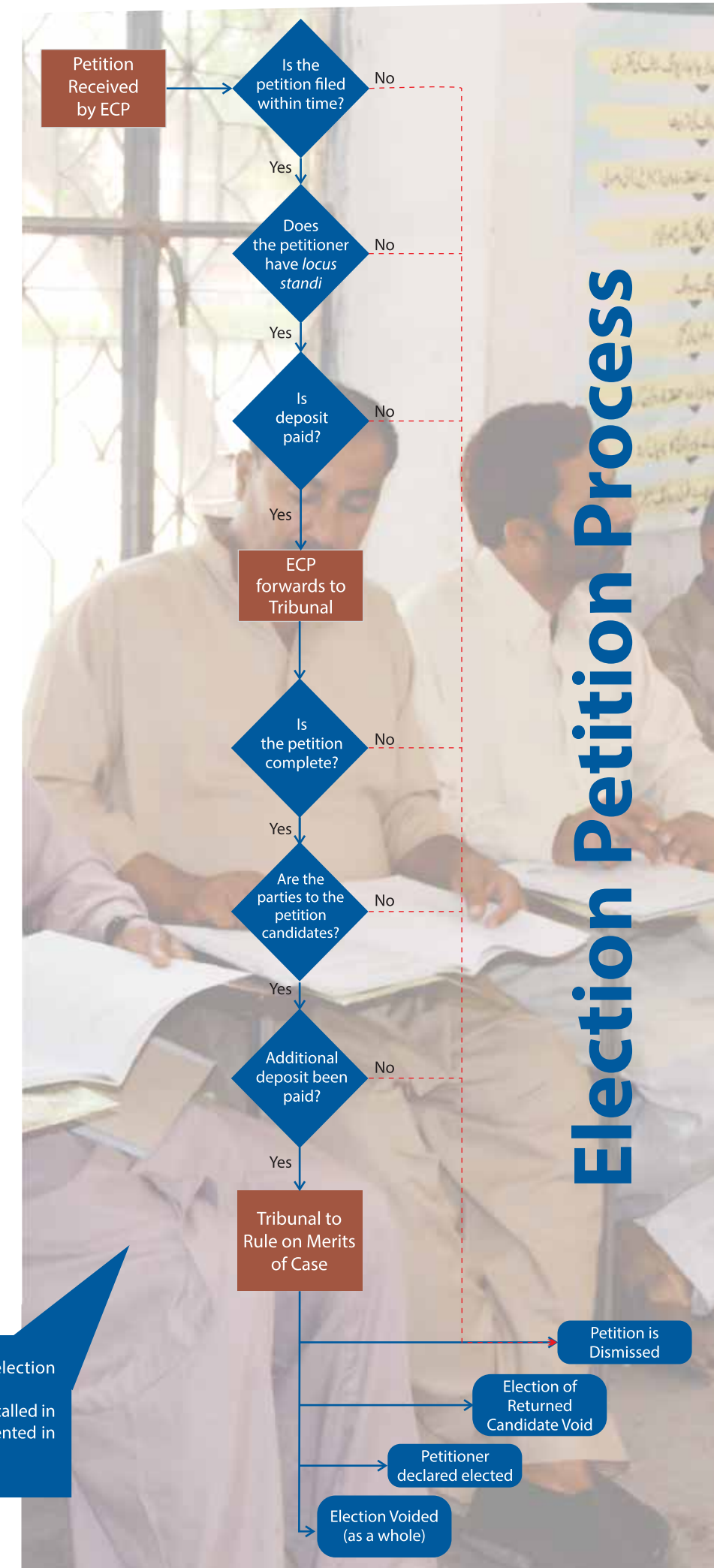
Reforms and recommendations

The election dispute resolution system offers ample space for improvement. In this regard, several recommendations have been proposed. These include the elimination of the ECPs role of vetting petitions before sending them to the Tribunal, allowing a petitioner to directly present his/her petition to the Tribunal concerned, and making only returned candidate respondent in an election petition instead of the presently vague provisions for all contesting candidates.

The EU Election Observation Mission 2013 Final Report also recommended the establishment in law of a clear system for filing administrative complaints to the ECP and petitions to Tribunals, to avoid overlapping jurisdictions and improve clarity and predictability of access to remedy.

There is a need to review and amend the current legal framework and incorporate provisions to improve and strengthen the process for electoral disputes resolution by establishing the independence of the work of election tribunals, setting meaningful time limits for hearing and timely disposal of electoral disputes, appeals, election petitions, and also to bring the EDR mechanism into conformity with Pakistan's international commitments under the International Covenant on Civil and Political Rights (ICCPR).

The flowchart represents the process of election petitions. According to Article 225, no election shall be called in question except by an election petition presented in the manner provided through law.





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They say laws are made to be broken. Though one can't disagree but the word 'breaking' offers a harsh connotation. A better way to word this could be by saying that there is a need for laws to be reviewed and improved continuously. No law can be perfect, more so in a society where the governance system is still in its infancy, in the modern sense of the word.

In the case of Pakistan, the evolution of electoral laws has been a sorry tale of repetitive distortion that has delayed democracy to the masses.

The current election laws were enacted by the country's first directly elected parliament in the mid 1970s. They were put into practice in the general elections of 1977 but the resultant parliament could only survive for three months.

The military rule that lasted for well over a decade has significantly impacted upon the electoral system. Many believe that the modifications have been tailored as per vested interests. There is a general consensus that these changes have fuelled religious tensions.

The short-lived elected governments of the 1990s struggled to wrench power from the military establishment in an attempt to cleanse the system but were met with limited success. Their meek efforts were scuttled in 1999 when the country again plunged into another decade long military rule.

The new military regime again made extensive changes in the electoral system, mainly aimed at giving their rule longevity by pleasing certain sections of the polity. However, in 2008, the country finally crossed the coveted milestone of the first-ever democratic transition. In 2013, for the first time, an elected government

completed its constitutional tenure and handed over power to the one elected next.

Pakistan's current legal and administrative electoral structure is weak, to say the least. The laws are deficient and require improvement but what is more debilitating is the marked absence of institutional will and a commitment to implement the laws in letter as well as spirit.

Take for example, the issue of the statements of count at the polling stations. The Representation of the People Act 1976 clearly states that the vote count at each polling station shall be carried out under the watch of polling agents of the contesting candidates present, it shall be documented on prescribed forms, duly verified by all the parties first and then made public. There are no lacunae in the law or the rules here but the counts have been a subject of all kinds of controversies over the years.

Prior to the 1993 elections, Pakistan People's Party had complained that the presiding officers did not put their original signatures on the statements of count and thus could easily evade prosecution if the results were challenged in court. The caretaker government amended both the rules and the form and made it mandatory for the presiding officers to thumb impress the statements in addition to signing them. That should have solved the matter for good but it did not and the issuance of statements of count remained a popular contested matter in all latter elections, including the last ones.

Current deficiencies in the laws cannot be blamed. Further modifications in the law also cannot offer a suitable remedy. The vital ingredient missing here is the will and vigor to implement the law.

It is commonly believed that military regimes have always manipulated the election laws and have weakened the institutions responsible for implementing these. In the cruel game of power, the Election Commission of Pakistan (ECP) was denied the opportunity to claim and groom an independent constitutional personality. Ironically, the approach has continued to date. The recent delay in the appointment of the Chief Election Commissioner stands witness to the fact that the importance of affording an unabated and energetic life to the election body has not yet been fully appreciated.

One of the many legacies of military rules in Pakistan is that most public institutions

do not consider themselves accountable to the general public. Since it has its roots in our Colonial past, it is deeply entrenched. This culture of opaque administration and the need to hide information brewed together make a lethal concoction labeled mistrust.

This is no surprise that the ECP administers elections through personnel that are not its employees. The same holds for almost every other country. The majority of the seconded staff is enlisted to perform polling station level duties for a day or two, just once in five years. Such a limited exposure breeds skill deficits and potential political bias and partisan. This external staff is also vulnerable to be bribed or coerced into taking certain positions by powerful local persons. These are common ground realities that no one can deny.

The Commission has to work in these given conditions. It needs to institute a system to monitor these functionaries and/or support and condone a public oversight to help improve their performance.

The Election Commission of India (ECI), for example, has devised its own system of monitoring the performance of its polling station staff. It only accepts the results of a station if verified by its monitors otherwise a re-poll is ordered at that particular station. The ECI also constitutes its own vigilance teams that remain active throughout the period of the election campaign.

The election body in Pakistan does not have a monitoring system of its own. It relies on complaints filed mainly by the contestants against each other or bases these on sporadic media reports and the only way it can provide remedy to the aggrieved parties is through election tribunals. The lengthy legal procedures cannot substitute on spot rectifications of any minor glitches if and when reported under a non-partisan reporting system.

There is no doubt that a degree of improvement is required in shaping the electoral laws of Pakistan but funneling it down to just this sole aspect of agenda reform is a folly. These laws shall be 'broken and/or bent' but before that, they need to be fully implemented in letter and preferably in spirit as well.

This can only happen when the Commission is transformed into an independent constitutional institution that has all the powers, capacity and resolve required to implement the elections laws in the most challenging of environments.

Returning Officers: Reform on the Front Lines

The role of the returning officers is fundamental to the credibility of any electoral process. This is particularly true in Pakistan, where public discourse on the electoral processes is often focused on the critical role of the district (District Returning Officer - DRO) and constituency (Returning Officer - RO). The key aspects for discussion include their appointment, skills, professionalism, independence, impartiality, performance and management.

Over different electoral events, the Election Commission of Pakistan (ECP) has practiced three main models of hiring District Returning Officers (DRO) and Returning Officers (RO):

- Appointment of judges (judicial model)
- Appointment from civil service (executive model)
- Appointment from ECP permanent staff (ECP model)

The experience of the ECP for these three appointment procedures has been mixed, and in recent elections, stakeholders have expressed significant concerns with DRO/RO performance and integrity. Criticism has focused on a lack of professionalism, poor management of the polling process, and a lack of effective control over these officers by the ECP. The limited control of the officers by the ECP resulted in an unclear responsibility of who was in charge. The criticism underlines the need for a thorough discussion on how D/ROs might be appointed and managed in future elections in a way that is acceptable to all stakeholders.

It is clear that in Pakistan any long-term improvement of the quality and integrity of elections will need to address the weaknesses of the appointment and management system of the polling staff. The weaknesses of the judicial and civil service models in recent elections and the potential unavailability of judges for future elections both limit ECP options for recruitment of D/ROs and necessitate the consideration of potentially more effective alternatives.

A fourth potential model includes the recruitment of experts/professionals from the market, a technique not



Regarding the appointment of ROs/DROs, I believe that these officials often suffer harassment during or after Elections. With these threats hanging over their heads, it is only natural that individual professionalism would be compromised. Cross-deputation of election officials is critical i.e. Election officials should not be deputed in their own home constituencies."

Mr. Sahibzada Abdul Hadi, Karachi

previously applied in Pakistan. Such an approach has clear advantages in terms of capacity and cost, but would require careful vetting to ensure they are not perceived to be politically biased. Such a model could be combined with others, for instance the use of ECP staff.

A fifth potential approach would be to follow the civil service approach, but with effective administrative control by the ECP (option C in the table). The ECP had in-fact made efforts prior to the 2013 general election to strengthen their control of temporary staff (such as DROs and ROs). The draft reforms would have significantly enhanced the commission's power to take disciplinary action, including imposing penalties against any official for misconduct, or for avoiding to carry out orders of the ECP in connection with an election duty. The draft was submitted to the Parliament in January 2013, but it was never introduced as a Bill or passed into law.

Participants in our electoral reform seminars stress the need to lessen the influence of local professional or familial networks through cross-deputation. This would mean appointing ROs away from their normal place of posting or residency.

The Global Perspective

The possible options for appointment/recruitment of DROs and ROs are summarized in the following table. Each approach has both merits and demerits.

Table 1: Potential Alternative RO/DRO configurations

	Option A	Option B	Option C	Option D	Option E
DROs/ROs	Judges	Civil Servants	Civil Servants w/ Effective Administrative Control	Election Commission Permanent Staff	Experts (recruited from the market)
Country Examples	Pakistan	Bangladesh	India	Australia, Kenya, Indonesia	Canada, Ghana, Nigeria, New Zealand

European Union's perspective on election reforms



Ambassador
Lars-Gunnar Wigemark

Head of Delegation of the
European Union to Pakistan

Just over a year and a half ago, Pakistan achieved a significant democratic milestone: it was the first time that a democratically elected government completed its five year term and peacefully transitioned to another administration. But, as in every country, the democratic project is far from complete. Periodic elections are an important manifestation of a healthy democratic system, yet on their own elections do not ensure its sustainability. Democracy is not just about institutions and processes, it is about values and behaviours. Most importantly, citizens must have faith in the credibility and legitimacy of their own democratic system.

The European Union's (EU) support for democracy is central for everything we do here in Pakistan. The European Union itself is a union of 28 democracies, several of which were subject to authoritarian and military regimes before joining the EU. This is why the EU is so strongly committed to supporting and working with Pakistan for the strengthening of its democratic and electoral process. The Parliament demonstrated its strength in August this year, when political parties, including from the opposition, expressed strong support to the democratically elected government.

The EU's commitment to democracy in Pakistan is long-standing. The EU was

invited to observe three Parliamentary elections in 2002, 2008 and 2013. We currently have a democracy portfolio with a total budget of €37 million for improving elections and strengthening parliamentary institutions. In short, the EU has invested in and wishes to see a democratic Pakistan.

However, without the political will for reforms, no cooperation or assistance can produce good results. The EU therefore relies on the commitment for reforms of Pakistan's legislator to strengthen the all-important trust of the citizens in the political participatory process.

Electoral reforms are the call of the day. They represent an opportunity to build consensus and to address structural shortcomings in the electoral process. It is an incremental process that gradually improves not only the overall efficiency and reliability of elections, but also the credibility of the whole democratic system. It is a process that concerns all citizens of Pakistan. And it is critical that this process and the debate on reforms are inclusive, reaching out to all political parties, parliamentarians and most importantly, the citizens themselves.

During the elections last year, the autonomous EU Election Observation Mission praised the strong commitment by the state institutions, civil society, political parties and voters. It also noted how the electoral process was competitive and had improved, despite the difficult security environment and many procedural and practical shortcomings. At the same time, it pointed out that "fundamental problems remain with the legal framework and the implementation of certain provisions, leaving future processes vulnerable to malpractice and Pakistan not fully meeting its obligations to provide citizens the right and opportunity to stand as candidate and to vote."

The Election Observation Mission made 50 recommendations to improve the election process, drawing attention to the critical legislative role that the Parliament must play in order to ensure that future elections are credible, transparent and inclusive. In

particular, the mission noted that legislative work needs to be carried out-17 recommendations were made for strengthening the electoral legislative framework-to ensure that Pakistani citizens have the right and effective opportunity to exercise their political and civic rights as spelled out in the international legal instruments ratified by Pakistan.

It is for the people of Pakistan to determine the acceptance of the electoral process. And as a sovereign country, it is for Pakistan to decide on the nature of its laws. It goes without saying that improvements of the electoral framework would restore confidence of the citizens in the election process. Steps could be taken on transparency and accountability, dispute resolution, strengthening of the Election Commission, the promotion of participation of women and minorities or the organization of a long awaited national census. Holding of long awaited local body elections is also critical to bringing participatory governance closer to the citizens.

The recently formed Parliamentary Committee on electoral reforms is a step in the right direction and the EU hopes it will deliver a comprehensive electoral reforms package. The expectations are high and the EU and its Member States are ready to support this process in the coming years. We believe in democracy in Pakistan.

DEVELOPMENT ADVOCATE PAKISTAN