

Citizens' Group on Electoral Process

POSITION PAPER

Proposed

Electoral Reforms

PILDAT is an independent, non-partisan and not-for-profit indigenous research and training institution with the mission to strengthen democracy and democratic institutions in Pakistan.

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Pakistan Institute of Legislative Development and Transparency
No. 7, 9th Avenue, F-8/1, Islamabad, Pakistan
Tel: (+92-51) 111-123-345; Fax: (+92-51) 226-3078
E-mail: info@pildat.org; Website: www.pildat.org

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Preface

The year 2007 is termed as crucial for the future of democracy in Pakistan. Election to the top office of the President of Pakistan and the General Election for the National Assembly and four Provincial Assemblies are scheduled during the year or early 2008. Given Pakistan's history of elections that are generally perceived to be rigged or flawed, serious concerns are being expressed about the fairness of the coming elections. Many consider that coming elections are critical for the future of the country. Failure to hold free, fair and credible elections may lead to political instability and conflict in the country. While traditionally Pakistan welcomes international election observation teams, these observer missions arrive in Pakistan near the day of election and their reports comment on the electoral processes which take place during their stay in the country or that have already taken place. PILDAT felt that there was a need for indigenous monitoring of the electoral process in Pakistan as early as a year before the next general election is expected to be held to ensure active monitoring of electoral processes leading up to Presidential and General Elections in 2007/08.

In this backdrop, PILDAT has facilitated the formation of a Group of around 25 Eminent Pakistanis to monitor the electoral process. The Group, formally known as the Citizens' Group on Electoral Process - CGEP has brought together a mix of well-reputed former members of the judiciary, lawyers, academicians, media persons and members of civil society. Emphasis has been placed on neutrality and non-partisanship of the members of the group. The CGEP began its work in December 2006 and meets on a monthly basis to evaluate various actions and processes that are likely to have an impact on the elections. The Group has so far produced research and position papers on various electoral issues including topics such as Electoral Rolls, Model Code of Conduct and Presidential Election, etc.

The Citizens Group feels that reforms in key areas of the electoral process are required to ensure that a level-playing field is provided to all in a free, fair and transparent contest. It is in this backdrop that CGEP has compiled a set of proposals on required electoral reforms. The **CGEP Position Paper on Proposed Electoral Reforms** presents electoral reform proposals in key areas ranging from appointment of Chief Election Commissioner to suspending of local governments at the time of elections; monitoring and implementing limits on election expenses to advanced public announcement of polling scheme; efficient working of election tribunals to posting of polling-station wise (progressive) results on the Election Commission web site, and appointment of neutral caretaker government by consensus.

CGEP strongly feels that the Government of Pakistan and the Election Commission of Pakistan should adopt, implement and announce the required electoral reforms at this stage. Whereas it is the responsibility of the Government and the ECP to consult all political parties on key reforms, it is equally important from the larger citizens' standpoint that ECP takes steps that not only assert its fairness and independence but provide level-playing field to all in elections.

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Proposed Electoral Reforms

Urgent Reforms Required before Election

1. **Posting of Polling-Station Wise (Progressive) Results on the Election Commission Website:** Each polling station should transmit a copy of its vote count (results) directly to the Election Commission who should immediately post the results on its website. The progressive results should be posted on the website in real time as these are received without any delay. The ECP should employ latest technology such as the use of mobile telephones and text messaging, etc., in areas where traditional facilities like e-mail, telephone and faxes are not available. Delay in posting the polling-station-wise results should be declared illegal and the Election Commission should be assigned the responsibility to ensure web-posting of results as these come in. This measure will preclude any manipulation after the result is compiled and will enhance public confidence in the electoral process.
2. **The Local Government Nazims and Naib Nazims Should Be Made Non-Functional From the Date of Announcing of Election Schedule till the Finalization of Election Results:** Local governments are seen to be the engines driving election rigging elections. Therefore, the Local Government Nazims and Naib Nazims should be made non-functional from the date of announcing of election schedule till the finalization of election results. Administrators belonging to the civil bureaucracy will be appointed during the period when Nazims and Naib Nazims are made non-functional.
3. **Election Commission Should Ensure Strict Compliance of Laws Relating to Control of Government Influence in Elections:** The ECP needs to ensure strict compliance of laws relating to the control of government influence such as advertisements in the print and electronic media, announcing development schemes by the government near elections, use of government resources in election campaigns by incumbents such as official vehicles, aircrafts, rest houses and official trips. The Election Commission should adopt an effective mechanism to check misuse of government resources by the President, Prime Minister, Governors and Chief Ministers, federal and provincial cabinet ministers, parliamentary secretaries and other officials for election campaigns of themselves or their party candidates. A framework for immediate action needs to be developed and publicised by the ECP against the violators
4. **Computerised Voting Lists:** In relation to the Computerised Electoral Rolls, following actions need to be undertaken by the ECP:
 - i. Provision of Preliminary Rolls to Political Parties and others
 - ii. Improvement in the functioning of Display Centres including increasing compensation to the staff manning display centres.
 - iii. The computerized voting lists should be updated to include the photographs of voters
 - iv. The Voters lists should be amalgamated with the NADRA (National Database and Registration Authority) database
 - v. NADRA should also be directed to ensure issuing CNIC (Computerised National Identification Card) to all eligible persons. The Government should declare a period of 6 months or longer in which CNICs will

be issued by NADRA without charging any fee.

- vi. NADRA and ECP should evolve a mechanism by mutual cooperation to register voters at the same time as issuing CNICs. In the future NADRA database should act as regular updating of electoral rolls.
 - vii. Provisional Voter List should be made available online while final Voter List should be made available online at all times
 - viii. ECP should be proactive in initiating a new legislation if the above measures require such a new legislation.
5. **Neutral Caretaker Government Appointed by Consensus Should Hold Elections:** A Neutral Caretaker Government should be appointed after reaching a consensus with major opposition parties. In addition to the Caretaker Prime Minister and Chief Ministers, the ministers in the caretaker cabinet should also not be eligible to contest the immediately following election of any assembly in the General Election.
 6. **The Election Commission Should Exercise Control, Superintendence and Discipline on the Staff Assigned to Election Commission for Election Duty:** The Election Commission should exercise direct and complete control, superintendence and discipline on the staff assigned for the election duty including writing their Performance Reports and taking disciplinary action for violation of rules.
 7. **Election Commission Should Ensure Strict Compliance of Laws Relating to the Maximum Election Expenses:** It is a common knowledge that many candidates spend excessive amounts of money on elections which far exceeds the limits prescribed in the law. There has hardly been a disqualification of a candidate on this basis. The election commission should devise an effective mechanism to check the excessive spending and disqualify the violators of the law..
 8. **Use of Thumb Impression to Check Bogus Voting:** As per the current practice a Polling officer ensures that each voter affixes his/her thumb impression on the back of the ballot paper before casting it. The Election Commission should select a certain number of randomly selected casted ballot papers from each constituency after the election and match the thumb impression finger prints with the finger prints in the NADRA record or on the National Identity Card to ascertain any mismatch indicating bogus voting. The finger prints database of NADRA can also help in identifying the thumb impression of the person who fraudulently affixed the thumb impression. These arrangements to be made with the help of the available technology. If it is known that such a random exercise will be carried out after the election, it will act as an effective deterrent to impersonation and bogus voting.
 9. **Scheme of Polling Stations Should Be Announced for Public Objections, if any, and Final List be Frozen 30 Days Before the Polling Day:** The list of polling stations be announced 45 days before the poll. Objections to the draft scheme be invited from all candidates. The objections should be adjudicated by a committee and a final list of polling stations should be announced 30 days before the poll after which no change should be made in the polling station scheme. The current laws provide for this plan; its strict compliance be ensured by the Election Commission.
 10. **Number of Polling Stations Be Increased:** The number of polling stations be increased for the convenience of voters and to discourage the practice of candidates providing transport to voters and thus influence voters by the use of material resources.

- 11. Election Tribunals Should Decide Petitions Within the 4-Months Period Prescribed in the Law:** According to the Representation of the people Act, 1976; article 67 (1A), the Election Tribunals shall decide the election petitions within 4 months by conducting day-to-day hearings. The Election Commission should develop a mechanism and appoint sufficient number of tribunals by assigning sufficient number of judges so that the requirement of the law is fulfilled. This can be ensured only if sufficient number of judges are assigned the work of Election Tribunals so that they can exclusively hear election petitions and not take up any other burden during the period of hearing and disposing election petitions. Ad-hoc judges may be appointed to take care of existing work load of regular judges assigned to Election Tribunals. Election Tribunals should be headed by a judge from the other province than the one the case pertains to. The Tribunals should exclusively hear and dispose election petitions during the 120 days period. A period should also be fixed within which the appeals should also be decided.

Systemic Reforms

- 1. Appointment of the Chief Election Commissioner (CEC) After Consultation With the Opposition:** The Chief Election Commissioner (CEC) should be appointed after a meaningful process of consultation with the leaders of all major political parties and groups represented in the National Assembly. Article 213 (1) of the Constitution will need to be amended to implement this proposal. Until a constitutional amendment is approved in this regard, the President of Pakistan should voluntarily accept this mechanism. In this context, we may like to learn from the example of Sri Lanka where under 17th constitutional amendment, appointments such as the CEC are made by a Constitutional Commission having representation of opposition parties.
- 2. Chief Election Commissioner (CEC) and Other Members of the Election Commission Do Not Have To Be Necessarily from the Judiciary:** The CEC and other members of the Election Commission do not have to be necessarily from the Judiciary. Article 213 (2) will need to be amended to implement this proposal. After the acceptance of this proposal, the relevant provisions will become in line with the practice in most of the countries including India, Bangladesh and Sri Lanka
- 3. Retired Judges Should Not Be Appointed as Election Commissioners Directly After Retirement:** A judge should not be appointed as CEC or a member of the Election Commission before the expiration of 3 years after he/she has ceased to hold the position of a judge of the Supreme or High Court. Article 207 (2) of the Constitution will need to be amended to implement this proposal.
- 4. Electronic Voting Machines be Employed:** Electronic Voting Machines like the ones tried, tested and now applied on all polling stations in India should be developed and applied in Pakistan to introduce accuracy and efficiency in the counting procedure.

Citizens Group on Electoral Process - CGEP

List of Current Members

(Names from No. 1-20 Listed Alphabetically by First Name)

1. **Anjum Niaz**, Ms.; Columnist Dawn
2. **Arif Nizami**, Mr.; Editor, The Nation
3. **Asad Durrani**, Lt. General (Retd.); Former Director General, ISI / MI
4. **Aslam Kazi**, CEO, Daily Kawish/KTN
5. **Ghazi Salahuddin**, Mr.; Daily 'The News'
6. **Hameed Haroon**, Mr.; CEO, Dawn Group of Newspapers
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8. **Ijaz Shafi Gilani**, Dr; Chairman, Gallup Pakistan Ltd.
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18. **Sikandar Hayat Jamali**, Mr.; Former Chief Secretary, Balochistan
19. **Talat Hussain**, Mr.; Director News & Current Affairs, Aaj TV
20. **Tasneem Noorani**, Mr.; Former Federal Secretary
21. **Ahmed Bilal Mehboob**, Mr.; Executive Director, PILDAT
22. **Aasiya Riaz**, Ms.; Joint Director, PILDAT

The list carries names of members on the date of the publication of the paper.



Pakistan Institute of Legislative Development and Transparency
No. 7, 9th Avenue, F-8/1, Islamabad, Pakistan
Tel: (+92-51) 111-123-345; Fax: (+92-51) 226-3078
E-mail: info@pildat.org; Website: www.pildat.org