

# STATE OF ELECTORAL REFORMS IN PAKISTAN

**3<sup>rd</sup>** Quarter Report

**Citizens Monitoring Report on the  
Implementation of the ECP 5-Year Strategic Plan**

*As on June 30, 2012*

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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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*Implementation of the ECP 5-Year Strategic Plan  
As of June 30, 2012*

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## State of Electoral Reforms in Pakistan

*Implementation of the ECP 5-Year Strategic Plan*

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### Foreword

Pakistan is a country with the lowest voter turn-out among the countries of South Asia and sixth from the bottom among 169 countries whose average voter turn-out statistics were compiled by IIDEA, an international inter-government organization based in Sweden. According to the statistics compiled, the average voter turn-out for the last eight general elections (excluding 1977 election which was largely believed to be rigged) works out to be 46.12 %.

One of the possible explanations for this low voter turn-out has been the voters' lack of trust in the electoral system. This weak credibility of the electoral system in general and the Election Commission of Pakistan in particular has been at the heart of the weak political system in the country.

After the 9<sup>th</sup> General Election in Pakistan held in 2008, important strides have been made on electoral reforms in Pakistan. The Election Commission of Pakistan's 5 Year Strategic Plan outlines some of the reform initiatives that are planned by the ECP. While the ECP has the responsibility to implement the 5-year strategic plan, it is the responsibility of the citizens to monitor the progress of implementation and raise questions where the progress is slow or stalled. This is the 3<sup>rd</sup> Quarterly Report prepared by PILDAT since October 2011.

PILDAT firmly believes that citizens' monitoring is not an effort in finger-pointing and instead it is helpful to the ECP in overcoming obstacles in the way of timely implementation. The Monitoring Report is an initiative to further strengthen the transparency in the ECP operations which have tremendously improved over the past couple of years.

PILDAT also welcomes the appointment of **Mr. Justice (Retd). Fakhruddin G. Ibrahim** as the Chief Election Commissioner of Pakistan through a Parliamentary consensus and hopes that under his able guidance the Election Commission will not leave any stone un-turned to achieve the targets set in the 5 year strategic plan and beyond. We also hope that the openness and transparency at the ECP will further improve during the days to come as this is the key to building confidence among the electorate and population in general about the ECP and its working.

### Acknowledgments

We wish to thank the **ECP** for providing us the information requested by us regarding the progress on the Strategic Plan and for sparing time to discuss the progress on various objectives of the Strategic Plan.

We also wish to thank the members of the PILDAT **Citizens Group on Electoral Process (CGEP)** for their valuable input while reviewing the draft report.

This report is prepared by PILDAT under the project Supporting Monitoring of Democracy, Electoral Reforms and Development of Youth in Pakistan which is supported by the **Danish International Development Agency (DANIDA), Government of Denmark**. We wish to thank for their support.

### Disclaimer

The views expressed in this report are those of PILDAT and do not necessarily represent the views of DANIDA, the Government of Denmark and the Royal Danish Embassy Islamabad. PILDAT team of researchers has made every effort to ensure the accuracy of the data and analysis contained in this report and any omission or error is not deliberate.



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## Executive Summary

The Election Commission of Pakistan has only achieved **54.20%** progress on its stated objectives during the preceding quarter in which lack of timely completion of final Electoral Rolls, due on May 27, 2012, has been the major highlight.

The ECP once again missed the deadline of May 27, 2012 of producing Final Electoral Rolls (FERs). This is the deadline that the ECP had set for itself despite the direction of the Supreme Court to complete the process by February 23, 2012. It was not clear what contributed to this additional delay but the Acting CEC indicated at a couple of public events that the FERs will be produced by the end of July 2012.

It remains to be seen that to what extent the ECP has been able to rectify the mistakes and update the electoral rolls. This is an extremely serious matter as all past efforts to prepare credible electoral rolls have failed in Pakistan despite spending huge sums of money.

From April to June 2012, delay by the Parliamentary Committee on Appointment of Chief Election Commissioner and Members of the Election Commission of Pakistan remained another cause of concern in agreeing on the appointment of the new Chief Election Commissioner. The committee finally agreed on the name of **Justice (Retd.) Fakhruddin G. Ibrahim** as the Chief Election Commissioner of Pakistan on July 9, 2012. Notification for the appointment of the CEC was issued by the President on July 13, 2012 and it is only after an inexplicable delay of 10 days that the CEC was finally administered oath by the Chief Justice of Pakistan on July 23, 2012. It is worth noting that the outgoing Chief Election Commissioner completed his term on March 23, 2012. **Justice Mian Shakirullah Jan**, occupied the office of the Acting CEC in the interim period of about 4 months.

This quarter has also been significant for the verdict of the Supreme Court on the Constitution Petition No. 87 of 2011 (Workers Party Pakistan v. Federation of Pakistan, etc.) that was issued on June 8, 2012. Where on the one hand the judgement upheld the legal provision of expense limit for candidates for the National and Provincial Assemblies elections, it also ordered the Election Commission of Pakistan to put in place mechanisms to ensure election expense limits are not violated by the candidates. Apparently going beyond its remit, however, the Supreme Court also ventured into what constitutes policy areas best left to the Government and the Parliament as well as political parties of Pakistan to take, such as first-past-the-post (FPTP) system, compulsory voting, run-off election, and none of the above (NOTA) options in the ballot paper, etc.

Based on the Supreme Court verdict, the Election Commission of Pakistan issued a detailed directive for bye-election in Multan (NA-151), the seat vacated by Syed Yusuf Raza Gilani after his disqualification, putting in place hitherto untested mechanism essentially of constituency monitors teams by the ECP, mandatory opening of election expense accounts by candidates and providing weekly statements to the ECP and ban on provision of transport to the voters by the candidates on the election day, among other things.

While most of these directives are very welcome initiatives to improve the compliance of electoral laws and rules by the candidates and political parties, the decision to provide transport to voters from distant polling stations at state expense and arranged by the ECP is rather questionable on more than one count. Apparently, establishing more polling stations closer to the population centres would have been a much better option.

Openness and Transparency at the ECP which had seen a very welcome improvement during the past 2 years appeared to have shrunk lately after the departure of the CEC Justice (Retired) Hamid Ali Mirza and Secretary Mr. Ishtiaq Ahmad Khan in quick succession. The ECP could not hold any consultation with the Political Parties, Civil Society Organizations and Media during this quarter and the two forums established by the ECP for such consultations, the Civil Society Consultative Forum and the Political Parties Consultative Forum remained dormant during this time.

A high degree of dynamism and activity was witnessed on the part of the Acting CEC during the quarter. He spent long hours in his office after discharging his routine daily duties as a Judge of the Supreme Court of Pakistan. He toured the country extensively and took some important decisions such as the directive of June 27 issued following the Supreme Court judgement on election expenses case.



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The ECP and the Supreme Court have moved to enforce the Constitutional bar on dual nationality holders to be members of national and provincial legislatures. The steps taken by the ECP and the Supreme Court in enforcing these constitutional provisions will go a long way in strengthening the rule of law in the country. In the Senate Election, the ECP included a declaration in the nomination forms about the status of nationality of each candidate. The Supreme Court suspended the membership of 3 PPPP legislators on the basis of holding dual nationality during the reporting period. On June 6, the Supreme Court also ruled that the federal and provincial legislators who processed dual citizenship at the time of filing their nomination papers and did not validly renounce it then were disqualified to hold office.

The Provincial Governments have continued to Judiciary, however, moved to ensure holding of Local Government Elections. On April 12, 2012, Supreme Court of Pakistan asked the Provincial Governments to immediately announce the schedule of local government elections.

The Provincial Governments continued to defy their duty to hold Local Government Elections. On April 12, 2012, Supreme Court of Pakistan asked the Provincial Governments to immediately announce the schedule of local government elections. By May 2, only the government of Khyber Pakhtunkhwa (KP) had announced that it would hold Local Government election in October-November 2012 after the passage of Local Government legislation in the KP Assembly.

In a significant departure from the usual practice, the National Assembly Standing Committee on Law, Justice and Parliamentary Affairs approved a package of electoral reforms proposing 50 amendments to electoral laws on May 28. It is, however, not clear whether Government will initiate a bill to amend the electoral laws or it will be moved by members of the standing committee as a private member's bill. Despite the hard work of the sub-committee, the ruling coalition is very slow in initiating the formal legislative process to amend the electoral laws and give effect to the proposed electoral reforms.

President Zardari's dual office and its implications for the coming General Election are becoming more and more serious with each passing day. On June 27, 2012, a full bench of the Lahore High Court called upon the President of Pakistan to give up his political activities by September 5 in accordance with a May 12, 2011 judgment given by a larger bench against the holding of the office of PPP co-chairman also by him. On April 17, 2012 a newspaper had alleged that the President of Pakistan, Mr. Asif Zardari had violated the code of conduct issued by the ECP when he visited Multan on April 14, 2012 and met Mr. Usman Bhatti, the PPP candidate just two days after the ECP had issued the election code for the by-election in PP-194, Multan I.

Looking at the implementation of the ECP 5 year Strategic Plan in this backdrop, PILDAT assesses that the Election Commission has only managed to make 40% progress on seventy nine (79) objectives which were scheduled to be achieved by the Election Commission of Pakistan by June 30, 2012<sup>1</sup> and 14% progress on 44 objectives, whose realization is due after June 30, 2012. The overall progress on the Strategic Plan is estimated to be 54% (40% + 14%) as of June 30, 2012.

Overall progress for all the 15 Goals was assessed to be **53 %** as of March 31, 2012.

The progress made on Strategic Plan goals from April 1, 2012 to June 30, 2012 is as follows:

**Goal # 2: Electoral Rolls**

Goal # 2 is the most important goal of the Strategic Plan pertaining to Improvement in the Registration of Credible, Accurate, Up-to-date and Accessible Electoral Rolls. During this period, the ECP was unable to print and make available the Final Electoral Rolls (FERs). The electoral rolls are not even available for the Political Parties to view. The ECP had committed a date of May 27, 2012 for the Electoral Rolls to be ready, however, the ECP could not complete the Electoral Rolls by the committed date. According to the Strategic Plan, this goal was originally planned to be achieved by December 31, 2011. There is, therefore, a delay of nearly 6 months in achieving this goal.

1. The Election Commission of Pakistan (ECP) prepared and unveiled a Five-Year Strategic Plan 2010-2014 on May 25, 2010. Under the Plan, a total of 127 objectives are listed under 15 Strategic Goals with deadline for achieving each objective.. Four (4) objectives do not have a specific deadline as these relate to recurrent activities. For details, please see Appendix A.

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It is estimated that this Goal has achieved **90 %** progress so far, an increase of 1 % point since March 31, 2012 when the progress on this Goal was estimated to be **89 %**.

#### **Goal # 3: Election Operations**

Goal # 3 of the Strategic Plan also made some progress. The Recruitment and Hiring system of temporary staff advanced from 10% progress as on March 31, 2012 to 25 % on June 30, 2012.

It is estimated that the overall progress of the Goal has increased to **30%** as of June 30, 2012 compared to **29%** progress on March 31, 2012.

#### **Goal # 6: Logistics, Infrastructure and Equipment for ECP**

Another Goal that witnessed progress during the Quarter was Goal 6: Logistics, Infrastructure and Equipment for ECP. The purchase of computers, Scanners and Printers etc. advanced from 50 % progress as of March 31, 2012 to 65 % on June 30<sup>th</sup>, 2012 and another objective Adopt a policy for engaging private vehicles for elections has secured 25%.

It is estimated that the overall progress of the Goal has advanced to **38 %** as of June 30, 2012 compared to **30 %** progress on March 31, 2012.

#### **Goal # 7: Human Resources – Staffing and Compensation**

The Objective 'Prepare the ECP officials for the roles of DROs, ROs' witnessed increase in progress from **50%** as on March 31, 2012 to **65%** on June 30, 2012.

It is estimated that overall progress goal has advanced to **50%** on June 30, 2012 from **48%** as on March 31, 2012.

#### **Goal # 9: Training, Research & Evaluation**

Goal #9 of the Strategic plan witnessed an increase of 3% as compared to last Quarter. Its overall progress is estimated to be **63%** on June 30, 2012 as compared to **60%** on March 31, 2012.

#### **Goal # 11: Public Outreach and Interaction**

Goal 11 of the Strategic Plan: Public Outreach and Interaction also witnessed some progress. Development and Implementation of Media Outreach Policy and Strategy made some progress which is assessed to be 45 % as of June 30, 2012.

Overall progress on Goal 11 has increased to **48 %** on June 30, 2012 from **39 %** on March 31, 2012.

#### **Goal # 12: Political Parties and Candidates:**

Under Goal 12: Political Parties and Candidates, strengthening of Code of Conduct for Parties and Candidates progressed from 50 % on March 31, 2011 to 60 % on June 30, 2012.

Overall Progress on this Goal has been assessed to be **29%** as of June 30, 2012 compared to **24 %** on March 31, 2012.



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## Developments during the Quarter

Following are the some of the major issues and developments relating to electoral reforms that occurred during the preceding quarter April 1, 2012 - June 30, 2012:

### **ECP misses the deadline on completion of final Electoral Rolls - Again**

The Election Commission of Pakistan was unable to print and make available the Electoral rolls on its latest given deadline of May 27, 2012. According to the ECP 5 Year Strategic Plan, Credible, Accurate, Up-to-date and Accessible Electoral Rolls were to be made ready and available by the ECP by December 2011. From December 2011 to June 30, 2012, the Election Commission has been asked by the Supreme Court to expedite the process as well. The final deadline of May 27, 2012 was announced by the ECP in the previous quarter. However, despite the lapse of the deadline, the Acting Chief Election Commissioner and the Election Commission did not take the people into confidence as to why the deadline could not be met.

It is worth noting that prior to the Acting CEC's advent to the ECP, the Supreme Court had directed the Election Commission of Pakistan to complete the Electoral Rolls by February 23, 2012. The ECP had reportedly expressed its inability to meet the Supreme Court deadline which the Supreme Court had rejected. From March 24, 2012 onwards when Justice Mian Shkirullah Jan, was appointed as the Acting CEC, no further deadline by the Supreme Court has been given to the Election Commission.

Speaking at a seminar in Peshawar on July 4, 2012, the Acting Chief Election Commissioner said that the ECP will be ready to hold General Elections any time after July 2012.<sup>2</sup>

### **Rectification of Flaws in the Draft Electoral Rolls**

Besides the delay, serious reservations and objections were filed by individuals and political parties on the draft electoral rolls. Some demonstrations and multi-party conferences were also organised by a number of political parties about what they termed as 'massive' flaws in the electoral rolls especially in Karachi. It remains to be seen that to what extent the ECP has been able to rectify the mistakes and update the electoral rolls. This is an extremely serious matter as all past efforts to prepare credible electoral rolls have failed in Pakistan despite spending huge sums of money. Collaboration with NADRA to prepare the new electoral rolls is a very welcome step and it is hoped that the database and the technology available with NADRA would go a long way in producing a credible electoral rolls. It is important that constituency-wise and complete electoral rolls should be made available to political parties, civil society organizations and all concerned so that the list could be verified and flaws, if any, could be identified in time for rectification by the ECP. It is only at that stage that the need or otherwise of a third-party validation of the electoral rolls could be decided about.

### **Delay in the Appointment of the Chief Election Commissioner**

From April to June 2012, delay by the Parliamentary Committee on Appointment of Chief Election Commissioner and Members of the Election Commission of Pakistan<sup>3</sup> in agreeing on the appointment of the new Chief Election Commissioner remained another cause of concern although one can understand this delay given the fact that working relationship between the PPP, the ruling party in the centre and PML-N, the main opposition party became further strained after the Supreme Court convicted the former Prime Minister on April 26, 2012 and the opposition refused to recognise Mr. Yusuf Raza Gilani as the legitimate Prime Minister of Pakistan and therefore refused to engage in any consultation with him on the appointment of the new CEC. It is also understandable that it was the first time in the history of Pakistan that a CEC was being appointed through a bi-partisan process and developing consensus was not easy on such a high-stakes issue.

The Parliamentary committee finally agreed on the name of **Honourable Justice (Retd.) Fakhruddin G. Ibrahim** as the Chief Election Commissioner of Pakistan on July 9, 2012. The appointment of Justice (Retd.) Ibrahim was notified as the CEC on July 13, 2012.

2. ECP ready to hold polls any time after July, says CEC, The News, July 04, 2012:

3. Parliamentary Committee on Appointment of Chief Election Commissioner and Members of the Election Commission of Pakistan, is chaired by Syed Khurshid Ahmed Shah, MNA. List of members can be accessed here: <http://www.na.gov.pk/en/cmnen.php?comm=Njg=>

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Inexplicably, however, the Chief Justice of Pakistan, instead of administering oath to the new CEC on the same day, reportedly set the date of administration of oath for July 20, a week after his official notification. Eventually, the new Chief Election Commissioner was administered oath on July 23, 2012, 10 days after his official notification.

It is also worth noting that the outgoing Chief Election Commissioner completed his term on March 23, 2012. **Justice Mian Shakirullah Jan** occupied the office of the Acting CEC in the interim period of about 4 months.

### **Supreme Court Verdict on Election Expenses ventures into Policy domains**

In Constitution Petition No. 87 of 2011 (Workers Party Pakistan v. Federation of Pakistan, etc.) the Supreme Court of Pakistan issued a judgment on June 8, 2012 upholding the legal provisions of expense limit for candidates for the National and Provincial Assemblies elections.

The very prescriptive judgment related to the regulations of election campaign expenses, issuing of perchies (paper slips) to voters, setting up polling stations, camps near polling stations, etc. The judgment prescribed to the ECP on what the Declaration Form should include in a candidate accounting for all the expenses after the election is over; that the ECP “must hold meetings with the candidates and apprise them of the relevant laws/rules;” provision of official transport to the voters, and “in no case, shall it allow the candidates to hire/use private transport on Election Day,” etc<sup>4</sup>.

Apparently, going beyond its remit, however, the Supreme Court also ventured into what constitute policy areas best left to the Government and the Parliament as well as political parties of Pakistan to take, such as first-past-the-post (FPTP) system, Compulsory voting, run off election, and none of the above (NOTA) options in the ballot paper. The Supreme Court directed the ECP as follows:

- (l) *The Election Commission is obliged to ensure that all elections witness a substantial participation of the electorate, therefore, **all necessary steps must be taken to make voting compulsory in Pakistan as early as possible;***
- (m) *In the 'First Past the Post' system of election, the winning candidate does not necessarily receive an absolute majority of all votes cast, therefore, such a candidate does not command the majority of the votes polled. As such, the **system of 'First Past the Post' violates the principle of majority.** The Election Commission may explore ways and means to introduce appropriate system of election including '**run off election**' and '**none of the above options**', in the light of the discussion made hereinabove, to ensure true representation of the people and rule of the majority;<sup>5</sup>*

### **ECP Directive for bye-election in NA-151 in the light of Supreme Court verdict**

In the light of Supreme Court judgment in Constitution Petition No. 87 of 2011 (Workers Party Pakistan v. Federation of Pakistan, etc.), the Election Commission of Pakistan issued a detailed directive for bye-election in Multan (NA-151), the seat vacated by Syed Yusuf Raza Gilani, MNA and former Prime Minister, after his disqualification.

The ECP directive issued for bye-election in NA-151 Multan-IV and which the ECP suggested will be implementable in all future elections included putting in place hitherto untested mechanism such as sending teams of 'constituency monitors' by the ECP, mandatory opening of single election expense accounts by candidates and providing weekly statements to the ECP and ban on the provision of transport to the voters by the candidates on the election day, among other things. Some of the major features of the directive included:

- i. Opening of an account by each candidate to meet the election expenses and submission of a statement of election expenses to the District Returning Officer on every Thursday of the campaign period

4. For detailed text of the judgment of the Supreme Court in Constitution Petition No. 87 of 2011 (Workers Party Pakistan v. Federation of Pakistan, etc.), please see Appendix F.

5. Ibid.

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- ii. Limit on campaign including pre-authorized corner meetings, affixing the size of banners and hoardings, etc.
- iii. Ban on establishment of camps near the polling stations on the polling day by the political parties, the contesting candidates or their supporters
- iv. Ban on the use of vehicles by political party or contesting candidates to convey voters to or from the polling station
- v. Appointment of three-member teams of Constituency Monitors by the ECP; one of the team members was professional cameraman with a video camera, to monitor the election process including campaign expenditure and observance of Code of Conduct by contesting candidates and political parties.

As a result of the directive, the Election Commission of Pakistan made the following arrangements in bye-election of NA 151:

- i. Delivery of individual voter's particulars (perchi) such as serial number in the voters list and name and address of the polling station etc to about 308,000 voters at the voters' residences through Pakistan Postal Service
- ii. Sending of SMS containing particulars including number and name of their polling stations to 138,000 voters who had mobile phones.
- iii. Establishments of 40 Voter Facilitation Camps in various schools of the constituency
- iv. Transport facility to the voters of 29 aloof polling stations, etc.
- v. Increase in the numbers of polling stations from 233 to 245
- vi. Deputation of 4 Monitoring Teams to monitor the process of bye-election. Each team consisted of two Election Officers, one cameraman and squad of Police contingent with police van

What the above additional measures, such as delivery of perchis to voters and provision of transport to voters has cost the national exchequer in just one bye-election and how the cost escalation compares to the average cost of election in one constituency remains to be seen.

Media reports on the compliance of these directives also paint a negative picture and raise concerns as to how the ECP will be able to implement these directives in a country-wide General Election if the implementation standards have been so poor in just one constituency.

Concluding its pre-election assessment mission in NA-151 a day before polling, PILDAT's Citizens Group on Electoral Process also said that the new directive of the ECP relating to curtailing election spending is only partially enforced in the by-election<sup>6</sup>. PILDAT statement said that:

*Perhaps the biggest issue is the lack of clarity of the ECP staff on the ground on what constitutes election expenses. While the ECP officials were satisfied with the weekly bank statements they said they received from candidates as per new directions by the ECP, they failed to monitor election expenses incurred by candidates' supporters in holding jalsas, placing newspaper advertisements, and other promotional material. Article 49-1 of the Representation of Peoples Act 1976 states that expenses incurred on election by any person other than the candidate for "any ...item whatsoever, .... shall be deemed to be the election expenses incurred by the candidate himself." The elaborate monitoring system and monitoring teams put in place by the ECP failed to monetarily evaluate supporters' contributions which has resulted into candidates flouting the legal expense limit of Rs. 1.5 million.*

While most of these directives are very welcome initiatives to improve the compliance of electoral laws and rules by the candidates and political parties and the ECP should be complimented on taking these steps, the decision to provide transport to voters from distant polling stations at state expense and arranged by the ECP is rather questionable on more than one counts. Establishing more polling stations closer to the population centres would have been a much better option.

6. For details please see ECP directives only partly enforced in NA-151: PILDAT Citizens Group: <http://www.pildat.org/eventsdel.asp?detid=554>

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#### **Superior Courts and the ECP move to enforce the bar on dual nationality holders to be members of national and provincial legislatures**

Although the constitution of Pakistan always placed a bar on persons holding or acquiring nationality of any country other than Pakistan to become members of national or provincial legislatures of Pakistan, it is to the credit of the present ECP which made practical arrangements to enforce this constitutional provision by including a declaration in the nomination forms about the status of nationality of each candidate.

The Supreme Court of Pakistan directed the Secretaries of the National Assembly and the Senate on May 8, 2012 to submit a comprehensive report on the Parliamentarians who hold dual nationality. On May 26, the Supreme Court suspended PPPP MNA Farahnaz Ispahani's membership of the National Assembly for holding the nationality of the USA. On June 5 the Supreme Court suspended the Senate membership of Rehman Malik, Federal Minister for Interior, as he failed to prove that he was not a British national. On June 6, the Supreme Court ruled that the federal and provincial legislators who processed dual citizenship at the time of filing their nomination papers and did not validly renounce it then were disqualified to hold office. On June 26, the Supreme Court suspended the membership of PPPP MNA Zahid Iqbal for apparently holding dual nationality.

The steps taken by the ECP and the Supreme Court in enforcing the constitutional provisions are commendable and will go a long way in strengthening the rule of law in the country.

#### **Superior Courts direct the Provincial Governments to hold Local Government Elections**

The present provincial governments failed to hold local government elections since the term expired for the previous local governments. Except for Balochistan, other three provinces have even failed to frame a local government law which provided the basis for local government election.

The ECP, therefore, failed to discharge its duty to hold the local government election as mandated by the 18<sup>th</sup> amendment to the constitution.

The Judiciary, however, moved to ensure holding of Local Government Elections. On April 12, 2012, Supreme Court of Pakistan asked the Provincial Governments to immediately announce the schedule of local government elections. By May 2, only the government of Khyber Pakhtunkhwa (KP) had announced that it would hold Local Government election in October-November 2012.

On April 30, the Chief Justice of Pakistan directed the Secretaries local government departments in the four provinces to intimate the date of the local government elections by May 3.

On May 8, the KP Assembly passed the Local Government Act 2012. On May 18, the Sindh High Court directed the Sindh Government to hold Local Government election within 90 days.

Punjab Government has drafted a new Local Government law which is placed before the Provincial Assembly for consideration and passage. Sindh government is engaged in protracted dialogue with its coalition partner MQM to iron out some of the key differences about the power and structure of the local government and has yet to initiate a bill in the assembly.

#### **National Assembly Committee proposes Electoral Reforms package**

In a significant departure from the usual practice, the National Assembly Standing Committee on Law, Justice and Parliamentary Affairs approved a package of electoral reforms proposing 50 amendments to electoral laws on May 28.

Earlier, the amendments were extensively considered and debated by a sub-committee on electoral reforms and recommended for adoption by the full committee. Prior to that the National Assembly Standing Committee on Parliamentary Affairs headed by MQM MNA S.A. Iqbal Qadri had worked on these reforms and held extensive consultations with civil society organizations.

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Later this committee merged with the Standing Committee on Law and Mr. Qadri headed the sub-committee on Electoral Reforms to conclude the work.

The package has now been sent to the ECP for their input. It is not clear whether Government will initiate a bill to amend the electoral laws or it will be moved by members of the standing committee as a private member's bill. Generally the government or a member initiates a bill and it is referred by the full House to one of its relevant committees for detailed consideration. In this case, no bill was introduced in either house but the sub-committee on electoral reforms (and standing committee on parliamentary affairs earlier) initiated consideration of the electoral reforms package. Some of the proposed amendments were the same as proposed by the ECP earlier.

Despite the hard work of the sub-committee, the ruling coalition is very slow in initiating the formal legislative process to amend the electoral laws and give effect to the proposed electoral reforms.

### President Zardari's dual office and its implications for the coming General Election

On June 27, 2012, a full bench of the Lahore High Court called upon the President of Pakistan to give up his political activities by September 5 in accordance with a May 12, 2011 judgment given by a larger bench against the holding of the office of PPP co-chairman also by him. The Court also said that *"In the present case, the respondent (President) has also accepted the judgment (May 12, 2011) by not challenging the same."*

On April 17, 2012 a newspaper had alleged that the President of Pakistan, Mr. Asif Zardari had violated the code of conduct issued by the ECP when he visited Multan on April 14, 2012 and met Mr. Usman Bhatti, the PPP candidate in the election just two days after the ECP had issued the election code for the by-election for a seat of the Punjab Provincial Assembly in constituency PP-194, Multan I where the election was scheduled for April 26. The newspapers carried pictures of the meeting the next day.

The code issued by the ECP clearly stated: *"If any person in the service of Pakistan misuses his official position in any manner calculated to influence the result of the election, he may be tried by a court of sessions as contemplated under section 95 of the Representation of the People Act, 1976 and if found guilty of the offence, may be punished with imprisonment for a term which may extend to two years or with fine which may extend to Rs. 2000 or with both under section 92 of the Act."*

With the Lahore High Court following up on its judgment of May 12, 2011, the President holding the office of Co-Chairman PPP simultaneously and his partisan activities in and out of the President's House increasing with the approaching General Election, the question about including the President also among the public office holders who are barred from visiting the constituencies during election etc has become all the more relevant and significant.





## State of Electoral Reforms in Pakistan

Implementation of the ECP 5-Year Strategic Plan  
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### Analysis of the Progress made on Strategic Plan Goals from April to June 2012

During the past three months, PILDAT could see some progress on Seven (07) of the fifteen (15) goals of the strategic plan. A description and analysis of the progress on these seven Goals is as follows:

#### Electoral Rolls

This is the most important goal (**Goal # 2**) of the Strategic Plan which is: **Improvement in the Registration of Credible, Accurate, Up-to-date and Accessible Electoral Rolls**. The ECP once again missed the deadline of May 27, 2012 of producing Final Electoral Rolls (FERs). This is the deadline that the ECP had set for itself despite the direction of the Supreme Court to complete the process by February 23, 2012. It was not clear what contributed to this additional delay but the Acting CEC indicated at a couple of public events that the FERs will be produced by the end of July 2012.

It is estimated that this Goal has achieved **90 %** progress so far, an increase of **1 %** since March 31, 2012 when the progress on this Goal was estimated to be **89 %**.

#### Election Operations

Goal # 3 of the Strategic Plan has also seen some progress. One of the objectives in this goal, the **Recruitment and Hiring system of temporary staff**, advanced from 10% progress as on March 31, 2012 to 25 % on June 30, 2012.

It is estimated that the overall progress of the Goal has increased to **30%** as of June 30, 2012 compared to **29%** progress on March 31, 2012.

#### Logistics, Infrastructure and Equipment for ECP

Another Goal that witnessed progress during the preceding Quarter was **Goal 6: Logistics, Infrastructure and Equipment for ECP**. The purchase of computers, Scanners and Printers etc. advanced from 50 % progress as of March 31, 2012 to 65 % on June 30, 2012.

It is estimated that the overall progress of the Goal has advanced to **38 %** as of June 30, 2012 compared to **30 %** progress on March 31, 2012

#### Human Resources – Staffing and Compensation

This is the Goal # 7 of the Strategic Plan. The Objective **Prepare the ECP officials for the roles of DROs, ROs** witnessed increase from **50%** as on March 31, 2012 to **65%** on June 30, 2012.

It is estimated that overall progress goal has advanced to **50%** on June 30, 2012 from **48%** as on March, 31, 2012.

#### Training, Research & Evaluation

Goal # 9 of the Strategic plan witnessed an increase of 2% as compared to last Quarter. Its overall progress is estimated to be **63%** on June 30, 2012 as compared to **61%** on March 31, 2012.

#### Public Outreach and Interaction:

**Goal 11** of the Strategic Plan: 'Public Outreach and Interaction' also witnessed continuation of the same trend. Development and Implementation of Media Outreach Policy and Strategy made some progress which is assessed to be 45 % as of June 30, 2012.

Overall progress on Goal 11 has increased to **50 %** on June 30, 2012 from **39 %** on March 31, 2012.

#### Political Parties and Candidates

Under **Goal 12: Political Parties and Candidates**, strengthening of Code of Conduct for Parties and Candidates progressed from 50 % on March 31, 2011 to 60 % on June 30, 2012.

Overall Progress on this Goal has been assessed to be **29 %** as of June 30, 2012 compared to **24 %** on March 31, 2011.

#### Overall Progress

Overall progress for all the 15 Goals was assessed to be **53 %** as of March 31, 2012. The progress as of June 30, 2012 is estimated to be **54 %**.

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### An Overview of the Progress on the Implementation of the Strategic Plan

only 29 % progress is estimated.

There are a total of 127 objectives which are to be realized under 15 Strategic Goals of the ECP 5-Year Strategic Plan. Out of these, 4 Objectives do not have any specific deadline as these are continuous or regular or recurrent activities.

Out of the remaining 123 Objectives, 79 (64 %) objectives were scheduled to be achieved by June 30, 2012. The remaining 44 (36 %) objectives are scheduled to be achieved after June 30, 2012 - some of them as late as December 2014. *Appendix A: Breakdown of ECP Strategic Plan Goals and Objectives* provides all relevant statistical details about how 127 objectives are divided up among the 15 Strategic Goals. *Appendix B: Goal-wise Progress Summary of ECP Strategic Plan* presents summary of the estimated progress for each Goal.

We have tried to assess the progress for each objective individually. We have discussed the objectives' progress with more than one knowledgeable expert outside PILDAT and where possible we have provided an opportunity to the ECP to give us a feedback on the assessment of the percentage of Progress made by us. We have tried to modify our estimate of percentage progress made on individual objectives in case we received a feedback which warranted this modification. *Appendix C: Objectives-wise progress on implementation of ECP Strategic Plan* presents not only the progress but a brief account of the progress made which formed the basis of the assessment of percentage progress.

As of June 30, 2012, the average progress made on 79 objectives which were scheduled to be completed by June 30, 2012 is assessed to be **40 %**, whereas this progress should have been 100 %.

There has been some progress on some of the 44 objectives whose realization is not yet due. The average progress made on 44 objectives is assessed to be **14 %**.

The total progress made on all 123 objectives as of June 30, 2012 is estimated to be **54 %** (40 % + 14 %).

Out of all the Strategic Goals, the greatest progress (**90 %**) seems to have been made on Goal 2: **Registration of Votes and Electoral Rolls**. The second greatest progress is made on Strategic Goal 9: **Training Research and Evaluation (63 %)**. The least progress has been made on Strategic Goal 12: **Political Parties and Candidates** where

# APPENDICES



**State of Electoral Reforms in Pakistan**

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**Appendix A**

**Breakdown of ECP Strategic Plan Goals and Objectives**

Goal No.	Goal Title	Number of Objectives scheduled to be completed <b>BY</b> June 30 2012	Number of Objectives scheduled to be completed <b>AFTER</b> June 30, 2012	Total Number of Objectives with specific deadline	Number of Objectives without any specific deadline	Total Number of Objectives
1	Legal Framework	3	0	3	1	4
2	Electoral Rolls	11	0	11	1	12
3	Election Operations	12	5	17	2	19
4	Complaints & Disputes Resolution	3	1	4		4
5	Restructuring ECP	7	0	7		7
6	Logistics, Infrastructure, Equipment	5	6	11		11
7	Human Resources	8	3	11		11
8	Finance & Budget	3	1	4		4
9	Training, Research & Evaluation	5	12	17		17
10	IT	7	1	8		8
11	Public Outreach	1	4	5		5
12	Political Parties & Candidates	5	1	6		6
13	Civic & Voter Education	2	8	10		10
14	Marginalised Groups	5	1	6		6
15	Branding	2	1	3		3
	<b>Total</b>	<b>79</b>	<b>44</b>	<b>123</b>	<b>4</b>	<b>127</b>

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**Appendix B**

**Goal-wise Progress Summary of ECP Strategic Plan - As of June 30, 2012**

Goal	Goal Title	Progress made on Objectives Scheduled to be completed <b>BY</b> June 30, 2012	Progress made on Objectives scheduled to be completed <b>AFTER</b> June 30, 2012	Total Progress for the Goal as of June 30, 2012	Total Progress for the Goal as of March 31, 2012
1	Legal Framework	33%	0%	33%	33%
2	Electoral Rolls	90%	0%	90%	89%
3	Election Operations	22%	8%	30%	29%
4	Complaints & Disputes Resolution	20%	30%	50%	45%
5	Restructuring ECP	45%	0%	45%	42%
6	Logistics, Infrastructure, Equipment	38%	0%	38%	30%
7	Human Resources	47%	3%	50%	48%
8	Finance & Budget	8%	20%	28%	28%
9	Training, Research & Evaluation	45%	18%	63%	60%
10	IT	39%	10%	49%	61%
11	Public Outreach	0%	48%	48%	39%
12	Political Parties & Candidates	29%	0%	29%	24%
13	Civic & Voter Education	65%	11%	76%	76%
14	Marginalised Groups	12%	0%	12%	12%
15	Branding	5%	30%	35%	35%
	<b>Overall Progress for 15 Goals</b>	<b>40</b>	<b>14</b>	<b>54</b>	<b>53</b>

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**Appendix C**

**Objectives-wise progress on Implementation of ECP Strategic Plan**

Strategic Goal	Objectives with Deadline by June 30, 2012			Objectives with Deadline after June 30, 2012			Overall Progress as of June 30, 2012	
	Number and Title of Objectives	Progress as of March 31, 2012	Progress as of June 30, 2012	Number and Title of Objectives	Progress as of March 31, 2012	Progress as of June 30, 2012		
<b>1: Legal framework</b>	1: Revise legal framework	50%	50%				<b>50%</b>	
	2: Unification of election laws	50%	50%				<b>50%</b>	
	3: Enhance public understanding of election laws through Urdu translation	0%	0%				<b>0%</b>	
<b>Overall Goal Progress</b>		<b>33%</b>	<b>33%</b>				<b>33%</b>	
<b>2. Electoral Rolls</b>	1. Improve existing CERS	50%	60%				<b>60%</b>	
	2. Agreement with NADRA	100%	100%				<b>100%</b>	
	3. Pilot project for ECP-NADRA collaboration	100%	100%				<b>100%</b>	
	4. Verify Electoral Rolls with NADRA database	75%	75%				<b>75%</b>	
	5. Legislation on mandatory CNIC	100%	100%				<b>100%</b>	
	6. ECP Infrastructure for maintaining Voters Data	75%	75%				<b>75%</b>	
	7. Study on female enumerators	100%	100%				<b>100%</b>	
	8. Simplify voters registration forms	100%	100%				<b>100%</b>	
	9. Study on picture in electoral roll	100%	100%				<b>100%</b>	
	10. improve display of draft rolls	75%	75%				<b>75%</b>	
	11. extend CERS to all country	100%	100%				<b>100%</b>	
<b>Overall Goal Progress</b>		<b>89%</b>	<b>90%</b>				<b>90%</b>	
<b>3. Election Operations</b>	1. Identify new buildings for polling stations	10%	10%	8. Increase number of polling stations	0%	0%	<b>10%</b>	
	2. Recruitment & Hiring System for temporary staff	10%	25%	10. Efficient Results Management System	10%	10%	<b>35%</b>	
	3. Establish Polling Staff Database	0%	0%	11. publish polling station-wise results on ECP website	0%	0%	<b>0%</b>	
	4. EVM Study	100%	100%	15. Enhance access to Election Observers	30%	30%	<b>130%</b>	
	5. Establish permanent polling stations	10%	10%	16. Delimit Constituencies for N.A and PA	0	0	<b>10%</b>	
	6. Explore CCTV monitoring	0%	0%				<b>0%</b>	
	7. Linkage between polling stations and electoral rolls	10%	10%				<b>10%</b>	
	9. Simplify election related forms	10%	10%				<b>10%</b>	
	12. Review guidelines for polling agents	0%	0%				<b>0%</b>	
	13. Examine postal ballot system	0%	0%				<b>0%</b>	
	17. Review Election symbols	70%	70%				<b>70%</b>	
	14. Booklet for candidates	30%	30%				<b>30%</b>	
	<b>Overall Goal Progress</b>		<b>21%</b>	<b>22%</b>		<b>8%</b>	<b>8%</b>	<b>30%</b>



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<b>4. Election Complaints &amp; Disputes Resolution</b>	1. Designate officer to deal with Pre-Poll complaints.	0%	0%				<b>0%</b>
	2. Ensure appropriate legislation for electoral disputes resolution system	50%	50%	4. Put in place a complaint tracking system	30%	30%	<b>80%</b>
	3. Establish Complaint Management Committees	10%	10%				
<b>Overall Goal Progress</b>		<b>25%</b>	<b>20%</b>		<b>30%</b>	<b>30%</b>	<b>50%</b>
<b>5. Restructuring the ECP</b>	1. Develop and approve the re-organization plan	90%	90%				<b>90%</b>
	2. Organizational restructuring of the ECP	20%	20%				<b>20%</b>
	3. Establish a Legal Unit headed by a Deputy Secretary.	50%	50%				<b>50%</b>
	4. Establish a Training, Research and Evaluation Wing.	75%	75%				<b>75%</b>
	5. Update DG IT to BS 20.	0%	0%				<b>0%</b>
	6. Establish an Electoral Rolls Unit.	10%	10%				<b>10%</b>
	7. Strengthen the Federal Election Academy	50%	70%				<b>70%</b>
<b>Overall Goal Progress</b>		<b>42%</b>	<b>45%</b>				<b>45%</b>
<b>6. Logistics, Infrastructure and Equipment for ECP</b>	1. Conduct a comprehensive need assessment of ECP infrastructure.	50%	50%	2. Construct/Purchase ECP buildings for Field Offices	0%	0%	<b>50%</b>
	7. Replace/purchase vehicles for District offices	50%	50%	3. Construct Housing for ECP staff	0%	0%	<b>50%</b>
	8. Purchase Computers, scanners, printers furniture etc	50%	65%	4. Construct ECP warehouses for Election Material	0%	0%	<b>65%</b>
	10. Review and maintain computer based inventory of Election Supplies.	0%	0%	5. Construct building for ECP Federal Election Academy	0%	0%	<b>0%</b>
	11. Adopt a policy for engaging private vehicles for elections	0%	25%	6. Construct additional space for Court Room at ECP Secretariat.	0%	0%	<b>25%</b>
				9. Develop logistics plan for conducting elections	0%	0%	<b>0%</b>
<b>Overall Goal Progress</b>		<b>30%</b>	<b>38%</b>		<b>0%</b>	<b>0%</b>	<b>38%</b>

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<b>7. Human Resources Compensation</b>	1. Develop a comprehensive HR policy	75%	75%	7. Ensure that eligible women have atleast 10% representation in the ECP jobs.	10%	10%	<b>85%</b>
	2. Review and update HR rules.	50%	50%	8. Ensure that eligible persons with disabilities have atleast 2% representation in the ECP jobs	0%	0%	<b>50%</b>
	3. Prepare TOR/Job Descriptions of each position	75%	75%	9. Ensure that eligible minorities have atleast 5 % representation in ECP jobs.	0%	0%	<b>75%</b>
	4. Establish policy for initial appointment of officers in BPS-17	50%	50%				<b>50%</b>
	5. Increase pay structures	0%	0%				<b>0%</b>
	6. Review the existing promotion policy.	30%	30%				<b>30%</b>
	10. Create a pool of former and serving officers.	30%	30%				<b>30%</b>
	11. Prepare the ECP officers for the role of DROS, Ros	50%	65%				<b>65%</b>
<b>Overall Goal Progress</b>		<b>45%</b>	<b>47%</b>		<b>3%</b>	<b>3%</b>	<b>50%</b>
<b>8. Finance and Budget</b>	1. Ensure Complete financial autonomy.	25%	25%	3. Raise funds for the implementation of the ECP strategic Plan.	20%	20%	<b>45%</b>
	2. Computerized the Budget Wing	0%	0%				<b>0%</b>
	4. Asses and strengthen the current procurment policy	0%	0%				<b>0%</b>
<b>Overall Goal Progress</b>		<b>8%</b>	<b>8%</b>		<b>20%</b>	<b>20%</b>	<b>28%</b>
<b>9. Training, Research and Evaluation</b>	1. Stengthen the Federal Election Academy to make ita model training insitution.	50%	65%	2. Build Capacity for all employees through training.	30%	30%	<b>95%</b>
	4. Develop curricula for various training programmes.	50%	50%	3. Conduct Specific workshops for various officials.	30%	30%	<b>80%</b>
	5. Conduct BRIDGE Training for ECP officials	50%	50%	6. Conduct Research on contemporary electoral issues	20%	20%	<b>70%</b>
	9. Develop a pool of resource persons for FEA.	30%	30%	7. Undertake Elecction-related Study Visits	50%	50%	<b>80%</b>
	14. Specialized IT training	30%	30%	8. Monitor and evaluate all programmesand projects.	30%	30%	<b>60%</b>
				10. Train polling officers.	10%	10%	<b>10%</b>
				11. Train political party agnts.	0%	0%	<b>0%</b>
				12. Conduct trainings/briefings for election observers.	0%	0%	<b>0%</b>
				13. Conduct training of Security Personnel.	0%	0%	<b>0%</b>
				15. Conduct IT trainings in country-wide offices.	10%	10%	<b>10%</b>
				16. Cordinate with Donor agencies.	30%	30%	<b>30%</b>
				17. Cordinate with Training Wing of the Establishment Division.	0%	0%	<b>0%</b>
	<b>Overall Goal Progress</b>		<b>42%</b>	<b>45%</b>		<b>18%</b>	<b>18%</b>

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10. Information Technology	1. Formulate a comprehensive IT policy.	50%	50%				<b>50%</b>
	2. Strengthen the IT infrastructure at ECP.	30%	30%				<b>30%</b>
	4. Re-Design the ECP web	75%	75%	7. Introduce a geographical information system.	10%	10%	<b>85%</b>
	5. Restructuring the IT directorate.	30%	30%				<b>30%</b>
	6. Establish computerized electoral rolls data centre.	50%	50%				<b>50%</b>
	8. Develop and Implement comprehensive information security and private policy.	10%	10%				<b>10%</b>
	3. Extend the ECP Intranet portal facility.	30%	30%				
<b>Overall Goal Progress</b>		<b>39%</b>	<b>39%</b>		<b>10%</b>	<b>10%</b>	<b>49%</b>
11. Public Outreach and Interaction.	4. Establish a permanent Media Centre at the ECP.	0%	0%	1. Increase the level of Interaction with Political Parties.	50%	75%	<b>75%</b>
				2. Hold regular consultations with political parties and civil society organization.	30%	50%	<b>50%</b>
				3. Develop and implement media outreach policy and strategy.	0%	45%	<b>45%</b>
				5. Publish and ECP quarterly newsletter.	20%	20%	<b>20%</b>
<b>Overall Goal Progress</b>		<b>0%</b>	<b>0%</b>		<b>25%</b>	<b>48%</b>	<b>48%</b>
12. Political Parties and Candidates	1. Reform Legislation on Political finance	20%	35%	5. Train political party reps & candidates on electoral rolls	0%	0%	<b>35%</b>
	2. Develop regulations and mechanisms.	20%	20%				<b>20%</b>
	3. Publish the financial statements of Parliamentarians on ECP Website.	0%	0%				<b>0%</b>
	4. Strengthen Code of Conduct for parties/candidates.	50%	60%				<b>60%</b>
	6. Make changes in statement of assets & liabilities Form	30%	30%				<b>30%</b>
<b>Overall Goal Progress</b>		<b>24%</b>	<b>29%</b>		<b>0%</b>	<b>0%</b>	<b>29%</b>
13. Civic and Voter Education.	1. Conduct a baseline survey to determine participation rates of various segments of society	80%	80%	3. Implement civic and voter education strategy.	10%	10%	<b>90%</b>
	2. Develop civic and voter education strategy.	50%	50%	4. Increase the % of voter turnout from 44 to 63 %.	50%	50%	<b>100%</b>
				5. Increase the turnout of female voters.	25%	25%	<b>25%</b>
				6. Increase the turnout of minority voters.	0%	0%	<b>0%</b>
				7. Increase the turnout of persons with disabilities	0%	0%	<b>0%</b>
				8. Minimize election violence thru voter education	0%	0%	<b>0%</b>
				9. Include voter education in schools curricula	0%	0%	<b>0%</b>
			10. Develop youth-specific awareness campaigns.	0%	0%	<b>0%</b>	
<b>Overall Goal Progress</b>		<b>65%</b>	<b>65%</b>		<b>11%</b>	<b>11%</b>	<b>76%</b>

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14. Marginalized Groups	1. Support legislation on participation of disabled.	0%	0%	3. Develop awareness materials for participation of the marginalised.	0%	0%	0%
	2. Conduct research on voting participation of disabled	0%	0%				0%
	4. Conduct research on voting participation of women	10%	10%				10%
	5. Develop and implement policies to increase electoral participation of women & marginalised groups	0%	0%				0%
	6. Train ECP officials re participation of disabled voters.	50%	50%				50%
<b>Overall Goal Progress</b>		<b>12%</b>	<b>12%</b>		<b>0%</b>	<b>0%</b>	<b>12%</b>
15. Branding of the ECP	1. Develop a design for Divisional & District Office Buildings	0%	0%	2. Develop and Launch Media Campaign around the vision & Mission of ECP	30%	30%	30%
	3. Develop an ECP branding.	10%	10%				10%
<b>Overall Goal Progress</b>		<b>5%</b>	<b>5%</b>		<b>30%</b>	<b>30%</b>	<b>35%</b>
<b>Total Objectives</b>	<b>79</b>		<b>3160%</b>	<b>44</b>		<b>625%</b>	<b>54.20%</b>
<b>Overall Progress</b>			<b>40%</b>			<b>14%</b>	

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**Appendix D**

This is the last quarter progress report from ECP. New progress report for this quarter was not printed as reported to PILDAT.

**Progress Report on Implementation of the Five-Year Strategic Plan**

The Election Commission of Pakistan (ECP) launched its Five-Year Strategic Plan on 25 May 2010. The ECP developed the Plan in consultation with various stakeholders including political parties, civil society organizations, political workers, lawyers, female councilors, minority groups and international organizations - with technical assistance from IFES. The overarching goal of the SP is to build the ECP's capacity and to turn it into a modern election management body that fulfills its constitutional mandate of conducting free, fair and impartial elections.

Following is an update (from May 2010 to February 2012) on the progress made by the ECP in implementing the Strategic Plan:

**Goal #1: Legal Framework**

<b>Objective</b>	<b>Completion Timelines</b>	<b>Latest Status</b>
#1. Support the revision and reform of the legal framework for the better management of election process	Dec 2010	Law on mandatory national ID card for voter registration and casting of vote enacted by the Parliament Amendment in the Delimitation of Constituencies Act 1974 approved by the Parliament allowing at least three members of the Commission deal with appeals/representations Package of legal reforms sent in 2009 by the ECP is under consideration of the NA's Standing Committee for Law, Justice and Parliamentary Affairs
# 2. Support the unification of different election laws for their easy understanding and use	Dec 2011	The draft of the unified law has been prepared with the help of legal experts engaged by IFES Pakistan. The draft of unified law has been finalized by the Electoral Legal Framework Committee in its last meeting held in November, 2011. Unified law consists of existing five main laws governing election activities and also contains consequential amendments necessitated due to passing of Eighteenth and Nineteenth Amendment to the Constitution as well as some suggested amendments in line with the vision and objectives of the Strategic Plan. Twentieth Amendment will also be incorporated. Once this law is approved / passed, the Committee will undertake consolidation of various
#3. Enhance public understanding of the election law, through the translation and dissemination of election laws in Urdu	Dec 2010	ECP's Electoral Legal Framework Committee proposed that it would be more appropriate if Urdu translation of Election Laws is undertaken only after Unified Election Law is passed by the Parliament.
#4. Develop legally binding regulations to improve the conduct of elections and to implement new legal requirements	Regular	Need-based (Continuous process) Once unified law is adopted there will be need to draft procedures/ regulations in view of the changes introduced

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**Goal #2: Registration of Voters and Electoral Rolls**

<b>Objective</b>	<b>Completion Timelines</b>	<b>Latest Status</b>
#1. Improve the existing computerised electoral rolls system (CERS)	June 2010	The NADRA verified, updated and augmented Electoral Rolls 2006-07 on the basis of CNIC database. Head of family data collected on a specially designed form for preparing Preliminary Electoral Rolls on the basis of new census blocks.. NADRA prepared Draft Electoral Rolls on the basis of new census blocks, using CNIC as unique identifier of voters. The ECP conducted country-wide door-to-door verification of these rolls. NADRA incorporated data changes on the basis of voters' data forms collected during door-to-door verification using double-blind data entry mechanism. The Preliminary Electoral Rolls have been printed by NADRA and delivered to the ECP's field offices. The ECP has established more than 50,000 Display Centers across Pakistan for public display of Preliminary Electoral Rolls for inviting Claims, Objections and Applications for Corrections. After incorporating the decisions of the Revising Authorities the Final Electoral Rolls shall be published in May 2012.
#2. Enter into agreement with NADRA for computerised electoral rolls	May 2010	Contract/Agreement between the ECP and NADRA for the revision of electoral rolls signed.
# 3. Pilot project for ECP-NADRA collaboration	June 2010	Pilot project successfully conducted.
#4. Verify, validate, update and augment electoral rolls with NADRA database	Dec 2010	Covered under objective#1 above
# 5. Legislation on mandatory condition of CNIC for voter registration leading to accuracy in the electoral rolls	Sep 2010	The legislation made as mentioned in Goal No. 1
#6. Create infrastructure at the ECP for maintaining voters' data	Dec 2010	The state of the art IT equipment is being procured.
#7. Conduct a study into the engagement of female enumerators with a view to appointing them to better serve the female population	Dec 2010	The ECP Taskforce for the Revision of Electoral Rolls deliberated and recommended not to engage female enumerators because of law and order situation.

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#8. Simplify voter registration forms—amendments	July 2010	Forms reviewed and two new forms introduced for house-to-house verification.
#9. Conduct a study into introduction of photographs in the electoral rolls	Nov 2010	The Commission has approved electoral rolls with photographs and thumb impression to be used by the presiding officers. A proposal to amend law for providing photographs and digitized ink thumb impressions of voters on FER has been sent to National Assembly's Standing Committee.
#10. Improve the display of draft electoral rolls and accessibility to voters	Dec 2010	ECP in collaboration with IFES has finalized its strategy for a comprehensive display process during display of Preliminary Electoral Rolls and easy accessibility of voters to facilitate the citizens in filing Claims, Objections and Applications for Corrections. A massive awareness campaign is being launched to ensure maximum participation of voters.
#11. Extension of CERS project to country wide field offices	Dec 2010	Initially CERS will be operationalized at ECP and PEC Offices After necessary infrastructure is in place, CERS will be extended to field offices.
#12. Revise the electoral rolls annually in the month of January each year as required by the Constitution	January each year	For annual revision of electoral rolls, different approaches are being considered by the ECP, in collaboration with IFES and NADRA.

**Goal # 3: Election Operations**

<b>Objective</b>	<b>Completion Timelines</b>	<b>Latest Status</b>
#1. Identify new buildings and facilities for establishing accessible polling stations. #5. Establish permanent polling stations across the country	June 2011	Buildings have been identified to establish permanent polling stations and proposals are being finalized by PECs. A committee has been constituted to review the proposals being made by PECs The recommendations of the Committee shall be placed before the Election Commission for approval. After approval of the Commission, the permanent polling stations shall be notified in the official gazette for information of the general public. Necessary amendment in the law shall also be placed before the Parliamentary Committee for declaring the polling stations as permanent.
#2. Establish a recruitment and hiring system for temporary election staff that is transparent and results in the recruitment of qualified, non-partisan, and diverse staff	Dec 2010	The Electoral Legal Framework Committee has suggested an amendment in the Representation of the People Act, 1976, to enable Election Commission to hire temporary election staff during elections. The list of government servants belonging to the provincial and federal governments have been obtained who are now going to be trained as Returning Officers (DROs, ROs and AROs).

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#3. Establish a database for polling staff, including a performance review system, to facilitate hiring of well-performing staff for future electoral events	Dec 2010	List of government servants obtained. An elaborate database will be developed to maintain the data of well-performing staff. Initially lists of the officers, who are likely to be appointed as DROs and ROs for next general elections, have been obtained. A Plan to train them for their role in elections is ready for implementation from March, 2012.
#4. Conduct feasibility study on the use of electronic voting machines	June 2010	Feasibility study report on the use of EVMs (electronic voting machines) has been completed. ECP, with IFES assistance, also arranged an EVM demonstration from international and national vendors and invited political parties and civil society organizations to participate and provide their input to the discussion. Political parties and civil society organizations are in favor of introducing EVMs for conduct of elections in the country. The study covers all relevant aspects for introducing EVMs. ECP has constituted a Committee to plan and conduct Pilot project for introduction of EVM. Final specifications of the EVM prototype have been prepared and placed before the Commission for approval.
6 Explore devising a system for CCTV monitoring of sensitive polling stations	June 2010	No work initiated.
#7. Create linkage between polling stations and the computerised electoral rolls database	Dec 2010	This objective will be executed once the Electoral Rolls are finalized and polling stations are declared permanent.
#8. Gradual increase in the number of polling stations for facilitating voters, including the number of polling stations dedicated to female voters	Dec 2012	This objective will be achieved while pursuing objective 1 and 5 of this goal, which deal with setting up new and permanent polling stations.
#9. Simplify all election related forms	Dec 2011	An ECP Committee has looked into various Forms to simplify them. The forms will be placed before the Legal Framework Committee in order to simplify them and if possible reduce their number.
#10. Establish an efficient results management system to compile election results in shortest possible time	Dec 2012	This objective (polling stations level) shall be implemented before the next general elections in collaboration with UNDP.
#11. Publish polling station-wise results on the ECP website immediately after the results are available	June 2013	This objective (polling stations level) shall be implemented before the next general elections in collaboration with UNDP.



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# 12. Review the guidelines/code of conduct for polling agents	Dec 2010	The guidelines/code of conduct for polling agents will be reviewed by the Committee constituted for the Code of Conduct
# 13. Examine the system of the current postal ballot with a view to improving and examining the possible use of mobile polling stations	Oct 2010	The postal ballot system will be examined by the Legal Framework Committee. The postal ballot system is being explored for granting right of vote to overseas Pakistanis. No work has been done on the issue of mobile polling stations.
#14. Write and adopt a booklet with information about elections, eligibility and nomination procedures for candidates	June 2010	The booklet is ready – waiting finalization of the Code of Conduct which will be added to the booklet
#15. Enhance access for election observers to the electoral process	Dec 2012	ECP's Legal Framework Committee has deliberated on this aspect in the process of unification of election law and overall electoral legal reforms. It will be part of the package to be sent to the Government/Parliamentary Committee on Electoral Reforms by the ECP.
# 16 . Delimit constituencies for National and Provincial Assemblies	Dec 2012	Delimitation is done after each population census. Population census has been delayed due to numerous factors. Re-description of constituencies required due to administrative changes will be completed by the end of first quarter of 2012.
#17. Review the current list of election symbols and improve their quality	Mar 2012	ECP has reviewed the existing list of election symbols. A Summary to the President has been moved to amend relevant Rules thereby deleting some of the existing symbols and adding some new ones. .
#18. Improve quality of voting material	Regular basis	Quality of Voting material has been improved
#19. Enhance security arrangement for polling stations	Regular basis	A District Election Security Committee headed by DRO is being proposed which will comprise representatives of District Administration and other law enforcing agencies which will ensure appropriate security arrangements at the polling stations.

**Goal # 4: Election Complaints and Disputes Resolution**

Objective	Completion Timelines	Latest Status
#1. Designate officers to deal with pre-poll, poll-day and post-poll complaints at the ECP Secretariat and PEC offices	June 2010	This is an administrative arrangement which will be done once the election schedule is announced

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#2. Ensure appropriate legislation for development of electoral disputes resolution system	June 2011	The objective is being covered in the legal reform package – under goal#1.
#3. Establish complaint management committees at district level for disposal of complaints	June 2012	District level committees will be formed for disposal of pre-poll, polling day and post poll complaints after announcement of election schedule
#4. Put in place a complaint tracking system at district level by using IT	Dec 2012	IT-based complaint tracking system is already in place at the ECP which will be extended to district level.

**Goal # 5: Restructuring the Election Commission of Pakistan**

<b>Objective</b>	<b>Completion Timelines</b>	<b>Latest Status</b>
#1. Develop and approve the re-organisation plan, including budgets	Apr 2010	This objective has been achieved
#2. Organisational re-structuring of the Election Commission of Pakistan at the Secretariat as well as Provincial, Divisional and District levels	Apr 2010	As a first step towards the main objective of re-organizing/re-structuring the ECP, CEC has upgraded all positions in BPS-1 to 20 —both in the Secretariat and in the field offices. Some of the posts have been re-designated to make them compatible with changing situations. The officials and officers in the Secretariat and field offices have been upgraded /promoted to next pay scale using the mechanism for upgrading all officials without any discrimination. About 285 new posts of Assistants and Data Entry Operators have been created for the district offices.
#3. Establish a Legal Unit headed by a Deputy Secretary in the ECP to strengthen internal capacity on electoral legislation and the practices	July 2010	2 posts of Additional Director General (Legal) and Director Legal have been created.  With respect to FEA 4 positions -one Additional Director general (Training) and four Directors - are now available for TRE Wing, which are now being filled in.
#4. Establish a Training, Research and Evaluation Wing to be headed by a Joint Secretary	July 2010	JS-TRE has been re-designated as JS-LGE and Deputy Secretary (Elections) has been promoted as Additional Director General (Training).
#5. Upgrade DG IT to BS 20 and provide additional posts for IT Directorate, on need basis	July 2010	DG (IT) has been promoted in BPS-19. 2 new posts of Director (BPS-18) have been created for IT Wing.
#6. Establish an Electoral Rolls Unit at the ECP Secretariat headed by a Deputy Secretary	July 2010	A new post of DS (Electoral Rolls) has been created.

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#7. Strengthen the Federal Election Academy with the provision of permanent staff and management structure	Dec 2011	The trainers – 2 Pakistani nationals - at FEA are being funded by IFES. The ECP has succeeded in getting sanctioned some posts exclusively for training purposes, which also include the post of Additional Director General (Training, Research & Evaluation) and 4 positions for Directors. The process of filling these posts has started.
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**Goal # 6: Logistics, Infrastructure and Equipment for Election Commission of Pakistan**

Objective	Completion Timelines	Latest Status
# 1 . C o n d u c t a comprehensive need assessment of the ECP's infrastructure, logistics and equipment	Nov 2010	The goal as a whole has made no progress, mainly due to non-availability of funds. Two out of 11 objectives had been set for 2010 – Objective 1 and 11. There are three objectives to be achieved during 2011 (7, 8 & 10). Rest of the objectives are for 2012 (5, 6 & 9) and 2014 (2, 3, & 4). Major funding requirements of the Strategic Plan are related to this goal.
#2. Construct/purchase ECP buildings for housing the field offices, to the extent of resources available	Dec 2014	
#3. Construct housing units for ECP employees	Dec 2014	
#4. Construct ECP warehouses for election materials	Dec 2014	
#5. Construct additional building (space) for the ECP's Federal Election Academy	Dec 2012	
#6. Construct additional space for Court Room at the ECP Secretariat	Dec 2012	
#7. Replace/purchase suitable vehicles for the district offices, divisional offices, Provincial headquarters and ECP Secretariat	June 2012	
# 8 . P u r c h a s e computers, scanners, printers, photocopiers, furniture items, etc	June 2011	
#9. Develop logistics plans for the conduct of elections	Dec 2012	

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#10. Review and maintain computer-based inventory of electoral supplies and other material and equipment	Mar 2011	
#11. Adopt a policy for engaging private vehicles for the conduct of elections	Dec 2011	

**Goal # 7: Human Resources – Staffing and Compensation**

Objective	Completion Timelines	Latest Status
#1. Develop a comprehensive HR policy for the ECP	Sep 2010	<p>Working closely with the ECP, IFES has extended its assistance by hiring a human resources expert. Through a comprehensive internal consultative process and review of the existing policies the expert has been able to come up with draft job description of all ECP positions.</p> <p>A detailed HR policy has also been developed.</p> <p>Draft Service Rules 2012 have been prepared and placed before the Election Commission for consideration and approval.</p> <p>1 female Assistant has been appointed in the ECP Secretariat.</p> <p>2 female PROs in BPS 17 have been appointed in Punjab and Balochistan.</p> <p>An Assistant has been appointed in the ECP Secretariat on the minority quota. ECP and IFES are doing an assessment of gender issues with regard to women participation in elections and inclusion of women in the ECP jobs. The assessment will be followed by a strategy to improve women role in electoral processes.</p>
#2. Review and updating of the Election Commission (Officers and Servants) Rules, 1989 to achieve various objectives	June 2010	
#3. Prepare Terms of Reference / Job Descriptions for each position in the ECP	Oct 2010	
#4. Establish policy for initial appointment of officers into Basic Pay Scale (BPS)-17 – Election Service of Pakistan	Dec 2010	
#5. Increase pay structures to retain efficient officers through additional allowance	May 2010	
#6. Review the existing promotion policy and introduce a progressive policy, enabling efficient officers to rise within the organisation	June 2010	
#7. Ensure that eligible women have at least 10% representation in the ECP jobs	June 2013	

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#8. Ensure that eligible persons with disabilities have at least 2% representation in the ECP jobs	June 2013	
#9. Ensure that eligible minorities have at least 5% representation in the ECP jobs	June 2013	
#10. Create a pool of former and serving officers (people with honesty and integrity) for election related functions	Dec 2010	A pool of former officers is being identified from amongst the officers of the federal and provincial services.
#11. Prepare the ECP officers for the roles of DROs, ROs and AROs and creation of an independent cadre	Dec 2010	19 ECP officers have been trained for the role of DROs/ Ros.  46 ECP officers have been trained as Master Trainers to train about 1200 DROs/ROs. Federal Election Academy is preparing a comprehensive training plan for the training of DROs, ROs and AROs for forthcoming general elections.  It is expected that this training will be completed by end of March 2012.

**Goal # 8: Finance and Budget**

<b>Objective</b>	<b>Completion Timelines</b>	<b>Latest Status</b>
#1. Ensure complete financial autonomy through relevant legislation on the pattern of National Assembly and Senate	Dec 2010	A proposal has been sent to the Prime Minister
#2. Computerize the Budget Wing for easy operation and effective controls	June 2011	This objective is linked with the procurement of IT equipment
#3. Raise funds for the implementation of the Strategic Plan	2010-2014	Government of Pakistan is providing funds.  The Commission also welcomes technical assistance and support from the IFES, UNDP and others for implementation of Strategic Plan
# 4. Assess and strengthen the current procurement policy (Supplies)	June 2010	Election Commission follows Public Procurement Regularity Authority Rules for procurement of all supplies.

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**Goal # 9: Training, Research and Evaluation**

Objective	Completion Timelines	Latest Status
#1. Strengthen the Federal Election Academy to make it a model training institution	Dec 2011	<p>Four positions for the FEA have been sanctioned and the ECP has started recruitment process with issuance of a newspaper advertisement. The positions include – an Additional Director General and 4 Directors.</p> <p>The Government has been requested to allot a plot of one acre in H-10 Sector for construction of a full fledged academy.</p> <p>Meanwhile, buildings are being rented out to meet the requirement.</p> <p>A floor has been earmarked in the additional block being constructed.</p> <p>IFES continues to provide a two training specialists to FEA as part of its training and capacity building assistance to the ECP.</p>
#2. Build capacity of all employees through continuous training	Dec 2014	<p>409 ECP Officers – Deputy Election Commissioners, Assistant Election Commissioners, Election Officers, Section Officers, and Superintendents - were given various trainings as part of capacity building efforts. The areas of training include:</p> <p>Election laws and procedures</p>
#3. Conduct specific programmes, courses, workshops for various officials	Dec 2014	<p>Communication skills</p> <p>Presentation skills</p> <p>Office procedures</p> <p>Training techniques</p> <p>Financial management</p> <p>Team building</p> <p>Roles and Responsibilities as DRO/RO</p> <p>Time management</p> <p>Work ethics and behaviors</p> <p>Electoral rolls verification through ECP-NADRA collaboration</p> <p>Dealing with stakeholders</p> <p>Administration Management</p> <p>5210 Presiding Officers and Polling Staff trained through cascade training methodology during bye-elections. Thirty ECP officers (DECs, AECs) were trained as Mater Trainers who trained the presiding officers and polling officers for bye-elections.</p> <p>152 ECP officers were trained as Lead Trainers for the roll-out of Supervisors and Verifying Officials training for door to door Electoral Rolls revision 2011.</p> <p>2,295 Registration Officers were trained as Master Trainers by 152 ECP Lead Trainers for the roll-out of Supervisors and Verifying Officials training before door to door electoral roll revision.</p> <p>166,994 Verifying staff (including 125,533 Verifying Officers and 41,461 Supervisors) was trained by Master Trainers for door to door Electoral Roll Revision 2011.</p> <p>A plan is being implemented to provide orientation to over 600 officers for districts to function as Revising Authorities during electoral rolls display process. IFES is helping the ECP in doing this.</p> <p>46 ECP officers have been trained as Master Trainers for the roll out of DROs/ROs/ARO training.</p> <p>26 ECP officers have been trained for the conduct of Senate Elections.</p>

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<p>#4. Develop curricula for various training programmes</p>	<p>Dec 2011</p>	<p>A variety of training material was produced/ revised including 6 different kinds of training manuals, 3 kinds of Resource Guides for Resource Persons / Trainers and 11 kinds of Handbooks for various ECP officials. The manuals and handbooks include:</p> <p>Trainer's manual for Capacity Building Training of AECs Facilitators notes for training of ECP Officers for role of DRO, RO Trainer's manual for Training of Master Trainers for Roll-out of Presiding Officers Training Master Trainer's Manual for Presiding Officers Training Trainers Manual for Polling staff Training Handbook for Election Officers training Handbook for District Returning Officers (Revised) Handbook for Returning and Assistant Returning Officers (Revised) Handbook for Presiding officers (Revised) Handbook for Polling staff (Revised) Handbook for ECP officials training (at Provincial HQ) Guidelines for Verifying Officials for ER Verification 2010 (Door to door verification following ECP-NADRA collaboration) Introduction to Information Technology &amp; Microsoft Office 2003. Booklet on "Tips for Conducting Effective Trainings" Trainers Manual for the Training of Verifying officials for Electoral Roll revision Resource guide for AECs training Resource Guide for DROs/ROs training Resource Guide for Election Officers Training Guidelines for the Display Center In-charge Guidelines for the Revising Authorities</p>
<p>#5. Conduct Building Resources in Democracy, Governance and Elections (BRIDGE) training for ECP officials</p>	<p>Dec 2011</p>	<p>13 Trainings have taken place in which 285 ECP Officers have been trained.</p> <p>Subject to availability of funds IFES and UNDP will assist the ECP in conducting BRIDGE training events for the ECP officers.</p>
<p>#6. Conduct research on contemporary electoral issues for providing input to ECP policy making processes</p>	<p>Dec 2014</p>	<p>With IFES assistance a few activities have been undertaken:</p> <p>National workshop on political finance First past the post versus various versions of proportional representation system Finalization of technical specifications for electronic voting machines</p>
<p>#7. Undertake election-related study visits and trainings abroad</p>	<p>Dec 2014</p>	<p>An ECP delegation visited Belgium to participate in a conference on elections/ technology and use of electronic voting machines in France and Belgium. CEC and Secretary ECP participated in the SAARC forum of Election Management Bodies in Bangladesh. Participation of ECP Officers in two events in India – Hyderabad and Delhi. ECP and High Commissioner of Maldives in Pakistan have been working on the possibility of exposure and exchange visits between both countries' election commission staff and also training of Maldives election commission staff at the ECP's FEA. The Chief Election Commissioner along-with Secretary ECP, JS (Elections) and DG (IT) visited India from 22 to 27 October to attend informal meeting of SAARC heads of EMBs hosted by Malaysian Commonwealth Study Centre. The ECP delegation also saw Indian EVMs demonstration and reviewed these devices from operational, procedural, technical and financial aspect. 3 ECP IT officers were sent to Dubai for training on Information Security – with IFES assistance.</p>

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#8. Monitor and evaluate all programmes and projects	Dec 2014	This matrix is part of the progress monitoring of the implementation of the Strategic Plan. It is shared with all the wings. Secretary ECP himself regularly seeks updates and review progress. While the ECP is slow on some objectives, there are others which have been achieved much before the completion date.
#9. Develop a pool of Resource Persons/Trainers for FEA	Dec 2011	30 Deputy Election Commissioners and Assistant Commissioners trained as Master Trainers for the training of polling staff. 19 DECs and AECs have been trained in the role of DROs/ROs. They are the future resource persons for the ECP – building in-house capacity of the ECP. 46 ECP officers have been trained as Master Trainers for the roll-out of DROs/ROs training for the next General Elections. 152 Officers (AECs/DECs) were trained as Lead Trainers for roll out of Verifying Officials Training who in turn trained 2295 Master Trainers across country for the Electoral Rolls revision 2011 exercise. Planning is underway for training of 35 ECP officers in the conduct of election to Senate of Pakistan – based on Single Transferable Vote system. IFES and ECP officers are working on this together.
#10. Train polling officials for the next election, and include election related training in teachers' training curriculum/programmes	Dec 2012	First pilot of the cascade training was conducted in four constituencies. Keeping in view the learning from the pilot project, a national level cascade training model will be adopted for next General Elections. No progress on the inclusion of subject of election in teachers' training manual.  The matter was discussed in a day-long brainstorming session at the ECP on 1 Dec 2011 and later in a follow up review meeting held on 9 January. With IFES and UNDP assistance the ECP plans to train polling officials before the next general elections. Nevertheless, this depends on availability of funds.
#11. Train political party agents	Dec 2012	It about time to start deliberation on this and draw a plan. FEA may be asked to do this. The number of these agents huge – and can be nearly 1.5 million across the country. It is thus imperative that FEA looks at goal #12, objective #5 (train political party representatives) and train a selected group of political party representatives who could take up guiding their respective agents on their role in elections.
#12. Conduct trainings/briefings of election observers and media	Dec 2012	The objective is related to the next general elections – and such briefings will be organized at an appropriate time.
#13. Conduct training of security personnel	Dec 2012	This is another important area which requires FEA's attention. ECP may devise guidelines for security personnel assigned to election duty and hand it over respective district police authorities.
#14. Specialised IT training from authorised training centres abroad	Dec 2011	The DG (IT) developed a plan "Training Required for ECP's IT Professionals". ECP will ensure to implement this training plan and seek external assistance where necessary.
#15. Conduct IT skills training for officers and staff covering country-wide offices	June 2012	ECP with IFES assistance arranged SQL Server 2008 and Windows Server 2008 training for 10 ECP/PECs IT professionals at a Karachi-based reputed institute.
#16. Coordinate with donor agencies and facilitate donor assistance programmes	Dec 2014	A donor meeting was held at the ECP Secretariat in order muster support/funds for the Strategic Plan.  USAID's commitment of USD 35 million could not be materialized. IFES and UNDP are trying to muster donor assistance in support of the ECP strategic plan, electoral



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#17. Coordinate with Training Wing of the Establishment Division and other training institutes in the country for training of ECP officials	Dec 2014	
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**Goal # 10: Information Technology**

<b>Objective</b>	<b>Completion Timelines</b>	<b>Latest Status</b>
# 1. Formulate a comprehensive IT policy for the ECP	Dec 2010	The draft IT Policy of the ECP was prepared by the IT Wing in collaboration with IFES in January 2011. The draft IT Policy was sent to Ministry of IT, NTISB and NADRA to solicit their comments. The reply/feedback is still awaited.
#2. Strengthen the IT infrastructure at ECP offices across the country by computerising field offices and installing electronic communication	Dec 2011	The two objectives are connected with the procurement of requisite IT equipment to strengthen the IT infrastructure in the ECP offices across the country
#3. Extend the ECP Intranet portal facility to all field offices	June 2012	
#4. Redesign the ECP website	Dec 2011	ECP has designed the new website which is operational since January 2010
#5. Restructuring the IT Directorate at the ECP Secretariat and IT set up in the PEC Offices	Dec 2010	This is part of the ECP's overall upgrading / re-structuring of the various positions across the country.
# 6 . E s t a b l i s h computerised electoral rolls data centre	June 2011	A state-of-the-art data center will be established with the assistance from UNDP
# 7 . I n t r o d u c e a geographical information system to support the entire election process	Dec 2013	The GIS Committee comprising ECP and IFES experts was established to conduct Feasibility Study to explore and recommend possible GIS applications for the ECP, particularly the delimitation of constituencies. The GIS committee report has been finalized. A presentation will be made to the Election Commission The ECP has yet to initiate GIS Pilot Project and establish GIS Lab which is linked with Goal # 2.
# 8 . D e v e l o p a n d i m p l e m e n t comprehensive information security and privacy policy	June 2011	Three ECP's IT professionals have been trained in "Information Security and Risk Management" at Dubai with the assistance of IFES. This training will be instrumental in strengthening ECP's in-house capacity to develop and implement comprehensive information security and privacy policy. A road map to implement information security policy has been prepared which will be placed before the Election Commission for consideration and approval.

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**Goal # 11: Public Outreach and Interaction with Political Parties, Civil Society Organizations and the Media**

Objective	Completion Timelines	Latest Status
#1. Increase the level of interaction with political parties and the general public for enhancing confidence in electoral processes	Dec 2014	The ECP has established two formal forums for interaction/consultation – Political Party Consultative Forum; Civil Society Consultative Forum. The two forums have been consulted on Strategic Plan and the use of Electronic Voting Machine for elections in Pakistan.  5 Consultative meetings with political parties and other stakeholders on special initiatives taken by ECP have been held during the last 2 years - on the progress on the implementation of the Strategic Plan, Political Finance, Electronic Voting Machines, ECP-NADRA collaboration, Electoral Rolls, SMS facility to voters, Magnetize ink for obtaining voter's thumb impression, photographic electoral rolls (for the presiding officers only), printing of ballot papers with special security features, Election Symbols, Code of Conduct etc.
# 2. Hold regular consultations with political parties and civil society organisations at the national, provincial and district levels	Dec 2014	
# 3. Develop and implement media outreach policy and strategy	Dec 2014	ECP has proactively engaged the media with regard to its activities and also sought their input on Code of Conduct for Media.
# 4. Establish a permanent Media Centre at the ECP	Dec 2011	This part of the IFES future assistance to the ECP. Work on this will start after March 2012.
#5. Publish an ECP quarterly Newsletter	Dec 2012	ECP with IFES assistance developed a design of the newsletter. The first such edition shall be issued by the end of first quarter 2012.

**Goal # 12: Political Parties and Candidates**

Objective	Completion Timelines	Latest Status
#1. Reform legislation on political finance relating to political parties and candidates, strengthening financial accountability and enforcement mechanisms	Dec 2011	ECP organized a National Workshop on Political Finance in November, 2010, which was attended by the senior management of the ECP, representatives of major political parties and civil society organizations and other national and international stakeholders. An international expert on political finance conducted the Workshop and made keynote presentation. There was consensus that basic reforms are required to contain role of money in electioneering. A report on the Workshop findings has been prepared and shared with all stakeholders.
#2. Develop regulations, mechanisms and procedures to implement legislative requirements concerning political finance	Dec 2011	The Electoral Legal Framework Committee of ECP is considering different proposals to make appropriate legal amendments for the implementation of main recommendations of political finance workshop.  ECP is setting up a political finance unit at its secretariat headed by Financial Analyst for which necessary posts have been sanctioned. IFES is assisting the ECP in the development of the TOR for this unit.

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#3. Publish the financial statements of parliamentarians and political parties on the ECP website	Oct 2010	The meetings have been held with the Federal Board of Revenue and Auditor General of Pakistan. A roadmap has been prepared to move forward.
#4. Strengthen the Code of Conduct for the political parties and contesting candidates	Jun 2011	ECP with IFES assistance has developed Codes of Conduct for various stakeholders including –political parties, election observers, media, polling personnel, and security personnel. The drafts have been finalized by the Code of Conduct Committee. Consultations have been held with Political Parties, Civil Society and Media. Their formal comments are awaited. After receipt of comments from the concerned quarters, the same shall be placed before the Election Commission for consideration and approval.
#5. Train political party representatives and candidates on their electoral roles and	Nov 2012	ECP will soon start work on this. Political parties' consultative forum will also be used for this purpose. This will contribute towards strengthening a more responsible political and electoral culture in Pakistan.
#6. Make necessary changes in the existing Statement of Assets and Liabilities to make it simple and meaningful	Nov 2011	The meetings have been held with the Federal Board of Revenue and Auditor General of Pakistan. A roadmap has been prepared to move forward.

**Goal # 13: Civic and Voter Education**

Objective	Completion Timelines	Latest Status
#1. Conduct a baseline survey to determine participation rates among various sections of society (general, women, youth, persons with disabilities, minorities, urban/rural), factors influencing participation and knowledge about the electoral process to formulate voter education strategy	May 2010	A nationwide survey was held and the findings were used in various strategic decisions taken. (Electoral Rolls, Media habits, knowledge about the work of Election Commission, age and gender wise understanding of elections etc.)
#2. Develop civic and voter education strategy, in consultation with civil society organisations and other governmental and non-governmental actors, to ensure information outreach to all sections of society	May 2010	The ECP with IFES assistance identified and inducted a national consultant to oversee the survey and start work on the national strategy on voter participation. An international expert from Australia was hired by IFES to help develop the strategy. Through stakeholder consultations the strategy was finalized and presented to the ECP management. It is being currently reviewed by the ECP.

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#3. Implement civic and voter education strategy, in collaboration with civil society partners and others	Dec 2010	In consultation with the ECP, IFES presented a district-based national voter outreach plan which was agreed by the Commission and the Secretary. However, no formal approval was granted. This intervention has the potential to revolutionize engagement of stakeholders at district level and increase voter turnout.
# 4. Increase the percentage of voter turnout from 44% (2008 Elections) to 63% of registered voters in 2013	June 2013	All these objectives will be the outcome of the voter education campaign plus other management, operational and administrative arrangements to be made by the ECP leading to the next general elections.
#5. Increase the turnout of female voters	June 2013	
#6. Increase the turnout of minority voters	June 2013	
#7. Increase the number of persons with disabilities to vote in the elections	June 2013	
# 8. Minimise the incidents of violence during elections through voter education	June 2013	
#9. Include voter education in the curricula at secondary/intermediate level in Pakistan Studies	June 2013	This objective will be taken up with federal and provincial governments in due course of time.
#10. Develop youth specific awareness campaigns to engage them in electoral matters	June 2013	Youth segment of the society is one of the important components of the national voter education strategy. The objective will be covered under objectives 1, 2 and 3 above. UNDP, as part of their assistance to the ECP plans to cover youth segment of society – to increase their participation.

**Goal # 14: Marginalized Groups including Women, Minorities and Persons with Disabilities**

<b>Objective</b>	<b>Completion Timelines</b>	<b>Latest Status</b>
# 1. Support the development and adoption of legislation on the participation of persons with disabilities in the electoral process	Dec 2010	To facilitate the disabled persons on the polling day, special SOP will be developed at an appropriate time.
#2. Conduct research on voting participation of persons with disabilities to understand the issue in depth and formulate relevant policies	Sep 2010	Some officers of ECP have been oriented about the treatment of persons with disabilities to understand the issue in depth by IFES who are now formulating specific proposals.  The research will be carried out in the month of April-May, 2012.

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#3. Develop awareness materials highlighting the importance of the vote of every person, specifically targeting marginalised groups	Dec 2010	To be covered under national survey on voter participation and subsequent voter education strategy.
#4. Conduct research on voting participation of women to formulate relevant policies	July 2011	ECP and IFES are in the process of conducting a gender assessment with focus on women in the ECP and women participation as voters. The assessment will be finalized in the first week of March, 2012 and a strategic framework will be developed immediately afterwards.
# 5. Develop and implement policies and registration and voting procedures to increase electoral participation of women and marginalised groups	Dec 2010	Gender assessment and gender strategy to help achieve this objective.
#6. Train ECP officials with respect to participation of persons with disabilities in the electoral processes	Dec 2011	Six trainings have been conducted for ECP officials (2 for District Election Commissioners and 4 for Election Officers and Assistant Directors) in which 111 officials (33 DECs and 66 EOs and 12 Assistant Directors) participated - "Disability Equality i.e. inclusion of persons with disabilities in electoral process" at FEA.

**Goal # 15: Branding of the Election Commission of Pakistan**

<b>Objective</b>	<b>Completion Timelines</b>	<b>Latest Status</b>
Goal # 15: Branding of the Election Commission of Pakistan	Dec 2010	New designs were developed and presented in a meeting at the ECP. Comments were received and incorporated in the designs
#2. Develop and launch a media campaign around the vision and mission of the ECP	Dec 2014	It has already started with launching of the Strategic Plan.
#3. Develop an ECP branding using specific colour combinations for all items it uses	Dec 2010	New designs were developed and presented in a meeting at the ECP. Comments were received and incorporated in the designs.

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## Appendix E

### Rationale

#### Background

Pakistan has held 9 national and provincial general elections on the basis of adult franchise since its coming into existence in 1947. Eight of these general elections have been held after the 1973 Constitution was passed. In general, these elections have suffered from a low voter turn-out which has been steadily going down since 1970 election. The highest voter turn-out was in 1970 election which was recorded as 63.4 %. The lowest turn-out was in 1997 general election when only 35.4 % voters turned out to vote. The situation only marginally improved during the latest general election in 2008 when the voter turn-out was 44.4 %. The average voter turn-out for the last eight general elections (excluding 1977 election which was largely believed to be rigged) works out to be 46.12 % which makes Pakistan a country with the lowest voter turn-out among the countries of South Asia and sixth from the bottom among 169 countries whose average voter turn-out statistics were compiled by IIDEA, an international inter-government organization based in Sweden.

One of the possible explanations for this low voter turn-out is the voters' lack of trust in the electoral system. This weak credibility of the electoral system in general and the Election Commission of Pakistan in particular is at the heart of the weak political system in the country. In addition, electoral rolls are generally not trusted by voters, political parties and the candidates. Multiple voter registration is common and a large number of bogus votes are also included in the rolls. Powers of the Election Commission and limiting the selection of Chief Election Commissioner and the Election Commissioners to former judges are some of the other issues which need to be addressed and reformed. Inability of the Election Commission to enforce the election expenses limits is a major problem and a discouraging factor for the participation of a person of modest means in the electoral process. Election disputes resolution process is very lengthy and complicated and fails to discourage candidates to commit electoral irregularities. Questions are also raised about the impartiality and competence of Polling Staff. Senior government officials including Prime Ministers and Ministers generally use government resources to influence voters' choice in favour of their favourite candidates during by-election. In view of these key issues, electoral reforms are critical for democracy and peace of Pakistan. If credibility of electoral process is destroyed, it strengthens undemocratic forces and encourages extremism and violence. PILDAT has extensively worked on formulating proposals for Electoral Reforms since 2005.

Due to these and other efforts, the ECP has included many of these reform proposals in its *Five Year Strategic Plan 2010-2014*. Some of the targets set in the plan are already late and the process of electoral reforms is generally slow. The next general election can be called any time, like in any parliamentary democracy. In any case the next general election is to be held no later than May 2013. It is important that the citizens should monitor the implementation of the electoral reforms process using the ECP Strategic Plan as a tool. PILDAT has held two citizens workshops to discuss the progress on the ECP Strategic Plan and feels that a regular periodic review by the citizens and its dissemination through the media will speed up the reform process.

#### The Significance of the ECP Strategic Plan

The Election Commission of Pakistan prepared and unveiled a Five-Year Strategic Plan 2010-2014 on May 25, 2010. This was probably the first time in the history of Pakistan that the body constitutionally responsible for conducting elections in the country has taken a strategic view of the question of Electoral Reforms and documented its plans to introduce these reforms.

The ECP also detailed these reforms into objectives and set a deadline for realizing each of these objectives. It has therefore become possible to see the comprehensive picture of the Electoral Reforms in Pakistan and monitor the progress made and see what more needs to be done. The development, adoption and publicity of the Strategic Plan is an important landmark in the political and electoral history of Pakistan and the CEC, ECP members, Secretary and the staff should be complimented for not only developing such an important document but also for continuing to make efforts to implement it.

The ECP undertook consultations with Civil Society Organizations and Political Parties of Pakistan while finalizing the Strategic Plan. PILDAT was one of those organizations which actively participated in these consultations. The Strategic Plan, therefore, enjoys a societal ownership and it is the duty of the citizens to monitor its progress on implementation and make the findings of

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this exercise public so that the society as a whole may generate the required momentum for timely implementation of the strategic Plan.

Under the ECP 5-Year Strategic Plan, 15 Strategic Goals have been set by the ECP. The goals are multi-faceted and complex, and will require a high degree of commitment to realize them. The ECP has undertaken to deploy all possible efforts to achieve these goals. Each strategic goal is further sub-divided into a number of objectives and a deadline has been fixed for achieving each objective. A total of 129 objectives are listed under 15 strategic goals. The number of objectives under each strategic goal range from 3 to 19.

The ECP has estimated that the implementation of the entire 5-year Strategic Plan will require a funding of approximately US \$ 100 Million. The ECP is discussing the possibility of funding with a number of donors such as the USAID, the UNDP and the CIDA but no firm commitment is known to have been made so far except a commitment of US \$ 8.5 Million made by the USAID..

#### ECP Strategic Goals

##### **Strategic Goal No. 1: Improving Legal Framework for Elections (4 Objectives)**

To ensure that the laws governing functions of the ECP and conduct of elections meet international standards and are complete, clear and understandable, and are put together in a way that their usage becomes easier and productive.

##### **Strategic Goal No. 2: Improvement in the Registration of Voters and Preparation of Credible, Accurate, Up-to-date and Accessible Electoral Rolls (12 Objectives)**

To ensure that there is comprehensive voter registration and the electoral rolls are credible, accurate, fairly prepared and updated through annual revision according to the law by using modern technologies and other appropriate methods, and that the rolls are accessible to all stakeholders.

##### **Strategic Goal No. 3: Improving the Election Operations (19 Objectives)**

To enhance institutional capacity for managing election operations smoothly and efficiently, making them voter friendly, and reducing the number of complaints and disputes by increasing the level of credibility of the electoral process.

##### **Strategic Goal No. 4: Establishing an Effective and Transparent Election Complaints and Disputes Resolution Mechanism(4 Objectives)**

To establish an effective and transparent election complaints and disputes resolution mechanism that contributes towards strengthening the overall electoral system.

##### **Strategic Goal No. 5: Restructuring the Election Commission of Pakistan (7 Objectives)**

To re-organise the ECP structure in technical, legal, operational, administrative, and financial domains to enhance its effectiveness, ensure smooth operations and strengthen its professional capacity.

##### **Strategic Goal No. 6: Improving the Infrastructure, Logistics and Equipment for ECP Offices (11 Objectives)**

To improve the working environment for staff and provide relevant and needed support in terms of equipment and accommodation to support the ECP's efficient conduct of the electoral process, including its outreach to the public.

##### **Strategic Goal No. 7: Improving the Human Resources of the ECP (13 Objectives)**

To have a modern human resource management system for meeting current and future challenges, ensuring that staff are hired according to established policy, are well-compensated, are promoted on the basis of merit, and that staff composition is diverse and representative of the nation that the ECP serves.

##### **Strategic Goal No. 8: Attaining Complete Financial Autonomy and appropriate Funding for ECP (4 Objectives)**

To attain complete financial autonomy for the ECP and ensure sufficient funds on a regular basis to manage its functions effectively.

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#### **Strategic Goal No. 9: Institutionalizing Training, Research and Evaluation in ECP (17 Objectives)**

To institutionalize training, research and evaluation in order to strengthen the ECP's policy-making processes and build the capacity of the officers and staff leading to enhanced level of performance.

#### **Strategic Goal No. 10: Promoting the use of Information Technology in ECP operations (8 Objectives)**

To strengthen information technology as a strategic resource in the ECP's planning and decision-making functions with a view to improving efficiency and productivity in the electoral processes and also ensuring that public has access to the relevant electoral information.

#### **Strategic Goal No. 11: Improving Public Outreach and Interaction with Political Parties, Civil Society Organisations and the Media (5 Objectives)**

To reach out to key stakeholders including political parties, candidates, civil society organisations, the media and general public in order to strengthen their trust in the electoral processes and to increase their participation in the electoral matters through regular consultations.

#### **Strategic Goal No. 12: Strengthening of participation of Political Parties and Candidates (6 Objectives)**

To strengthen the informed and lawful participation of political parties and candidates in the electoral processes.

#### **Strategic Goal No. 13: Enhancing the Participation of Voters and improving the Civic and Voter Education (10 Objectives)**

To create awareness amongst voters of all ages and all sections of society in order to increase their full participation in the electoral process by undertaking civic and voter education.

#### **Strategic Goal No. 14: Improving the participation of Marginalized Groups including Women, Minorities and Persons with Disabilities in the Electoral Process (6 Objectives)**

To formulate laws and strictly implement them to ensure that marginalized groups including women, minorities and persons with disabilities are able to participate in the political and electoral processes.

#### **Strategic Goal No. 15: Creating a refreshing and dynamic branding of the Election Commission of Pakistan (3 Objectives)**

To create a refreshing and dynamic identity of the ECP leading to a change in the perception of the common people and public functionaries at all levels.

#### **Objective of the Citizens Monitoring Report**

The objectives of the Citizens Monitoring Report are manifold. The report is meant to enhance the public awareness about the pace and extent of implementation of Electoral Reforms and this, in turn, is expected to improve the involvement and ownership of the general public of the electoral process.

In addition, the regular and close monitoring of the progress of implementation will help ECP and other relevant institutions to be vigilant and careful about the timely implementation of the Plan.

The report will also help the media to accurately assess the progress on implementing Electoral Reforms in the country and highlight the issues and obstacles in time so that the decision-makers may be able to take timely action.

The report will also be disseminated to the parliamentarians and other decision-makers which will help them in engaging in informed and meaningful debate and reaching the right conclusions about electoral reforms.

The report is organized in such a way that it can highlight the key points and the most important issues relating to the implementation of Strategic Plan in an easy to understand and non-technical language. In addition to the concise presentation of key points, an appendix presents the detailed progress on each of the 127 objectives included in the strategic Plan.



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**Appendix F**

**IN THE SUPREME COURT OF PAKISTAN**  
[Original Jurisdiction]

**PRESENT:**

**MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, CJ MR. JUSTICE KHILJI ARIF HUSSAIN MR. JUSTICE TARIQ PARVEZ**

**Constitution Petition NO.87 of 2011**

[Constitution Petition challenging election campaigns expenses regulation case]

Workers Party Pakistan through Mr. Akhtar Hussain Advocate, General Secretary, 5 McLeod Road, Lahore & 6 others

	VERSUS	PETITIONERS
Federation of Pakistan & 2 others		RESPONDENTS
For the petitioners	:	Mr. Abid Hassan Minto, Sr. ASC. Mr. Bilal Hassan Minto, ASC. Mr. Mehmood A. Sheikh, AOR.
For Election Commission	:	Mr. Dil Muhammad Alizai, DAG. of Pakistan Syed Safdar Hussain Shah, AOR. Syed Sher Afgan, DG (Elections) Mr. M. Nawaz, Director.
For ANP	:	Mr. Khalid Khan, ASC.
For MQM	:	Dr. Farogh Naseem, Sr. ASC. For PML (Q)
	:	Dr. Khalid Ranjha, Sr. ASC.
For PML (N)	:	Syed Nayab H. Gardezi, ASC.
For PTI	:	Mr. M. Rafique Rajwana, ASC. Mr. Naseer Ahmed Bhutta, ASC.
	:	Mr. Hamid Khan, Sr. ASC.
	:	Mr. Waqar Rana, ASC.
	:	Mr. M.S. Khattak, AOR. For JI
For APP	:	Mr. Taufique Asif, ASC. Mr. Salman Akram Raja, ASC. assisted by M/s Malik Ghulam Sabir, Barrister Sahar Asif and Malik Ahsan Mehmood, Advocates.
For SUP	:	Mr. Abdul Wahab Baloch, ASC. Syed Jalal Shah, ASC.
Parties	:	Raja Abdul Ghafoor, AOR. Other Political Nemo.
On Court notice	:	Mr. Amir Ahmed Ali, DC, Ibd. Syed Muzaffar Ali, Manager (L) NADRA
Dates of hearing	:	9, 10, 11, 12, 16, 17, 18, 19 & 20th April, 2012

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**JUDGMENT**

**IFTIKHAR MUHAMMAD CHAUDHRY, CJ**

1. The titled petition has been instituted under Article 184(3) of the Constitution of the Islamic Republic of Pakistan on behalf of different segments of the society, which include, *inter alia*, certain political parties, representatives of the civil society and academicians with the following prayers: -
  - (a) Declaration that the prevailing electioneering practices involving wealth, power and influence are against the mandate of the Constitution regarding free, fair, just and honest elections on a level playing field and need to be remedied.
  - (b) Declaration that there cannot be a true and honest implementation of Article 218(3) if the current electioneering practices are not remedied in accordance with the mandate of the constitution.
  - (c) Declaration that implementation of the mandate of the Constitution for choosing true representatives of the people is the function of the Election Commission as mandated by Article 218(3) and that the Election Commission has the power, under the Constitution and the law to do all that is necessary in this regard including the powers of making rules, issuing orders and giving directions and that the powers of the Election Commission extend even to stopping an election if it is satisfied that due to the violation of the law including Section 49 it will not be possible to hold elections under the mandate of Article 218(3).
  - (d) Declare that the Constitution mandates compulsory voting.
  - (e) Declaration that the rule making powers as contained in section 107 of Representation of People Act, 1976 and section 9E of the Election Commission Order, 2002 are to be exercised by the Election Commission alone and the said sections are *ultra vires* to the extent that they require the approval of the President.
  - (f) Declaration that sections 41 and 71 regarding drawing of lots between candidates with equal votes are *ultra vires* the constitutional mandate and that section 20 providing for the election of an uncontested candidate without enabling the voters to reject that candidate at polls is also *ultra vires* the mandate of the Constitution requiring that true representatives of the people may be elected/chosen.
  - (g) Declaration that Section 83A (3) of the RPA in that it impliedly permits use of megaphones, loudspeakers, etc., on election day is *ultra vires* the mandate of the Constitution regarding free and fair elections and a level playing field.
  - (h) Direction to the Election Commission to make rules and do other necessary acts for implementation of the principles and mandate of the Constitution as determined by this Court and the parameters and guidelines set by this Court, in particular regarding: -
    - (i) Matters relating to election expenses.
    - (ii) Maintenance of separate bank accounts by candidates and political parties with proper audit of expenses incurred therefrom.
    - (iii) Regulation of election campaign activities in the context of expenses and in the light of the principles laid down by this Court as regards the purpose of elections and the purpose of an election campaign.
    - (iv) Appointment of Election Tribunals and prescription of their procedure in order to ensure that election disputes are decided expeditiously (Sections 57 and 62 of RPA).
    - (v) Complete ban on all modes of canvassing in the 48 hour period prior to polls including ban on election camps of candidates as well as removal of all hoardings, posters and banners.
    - (vi) Ban on private transport on election day except in respect of the disabled with prior permission and through a procedure devised for this purpose and also to requisition government transport, if necessary, for this purpose as well as increase in the number of polling under a rational formula sections to enable voters to walk to polls.
    - (vii) Supply of voting information to voters through the assistance of NADRA.
    - (viii) Take steps to implement Electronic Balloting (Para 31 of the Petition)
    - (ix) Improve voter awareness especially in regard to confidentiality and the procedure of voting (Para 33 of the Petition)
    - (x) Insistence by the Commission for proper disclosure regarding compliance of Section 8 of the Political Parties Order 2002.)

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- (i) Declaration that an election that does not provide the right to choose “None of the above” (NOTA) candidates is ultra vires, inter alia, sections 17, 51 (6), 106 (3) and 218 (3). Or in the alternative, hold as per prayers 'd' and 'e' in C.P87 of 2011.
  - (j) Direction that the Election Commission may take appropriate steps by framing rules, etc., to enable voters to use the NOTA option.
  - (k) Recommendations regarding following legislative changes:-
    - (i) Provision of procedure to implement the constitutionally mandated system of minimum threshold and 2<sup>nd</sup> Round/Run Off as opposed to the First Past the Post principle.
    - (ii) Provision of consequences for not voting in elections.
    - (iii) Provision of criteria for fixing a ceiling for expenses (Section 49 RPA).
    - (iv) To review and enhance punishments for offences contained in the RPA in order for them to act as deterrents.
2. After a preliminary hearing, notices were issued to the respondents to file replies to the petition. Accordingly, respondents No. 1 to 3, namely, Federation of Pakistan, Ministry of Law & Justice and the Election Commission of Pakistan filed their replies. Subsequently, *vide* order dated 13.02.2012, Awami National Party, Balochistan National Party, Jamhoori Watan Party, Labour Party Pakistan, Markazi Jamaat Ahle Hadieth (Zubair), Mohajir Qaumi Movement Pakistan, Muttahida Qaumi Movement Pakistan, Pakistan Awami tehreek, Pakistan Muslim League (N), Pashtoonkhwa Milli Awami Party, Pakistan Peoples Party (Shaheed Bhutto), Pakistan Peoples Party (Sherpao), Pakistan Peoples Party Parliamentarians, Pakistan Tehreek-e-Insaf, Jamiat Ulama-e-Islam (F), Jamiat Ulema-e-Pakistan (N), Jamat-e-Islami Pakistan, Markazi Jamiat Ahl-Hadith (Sajid Mir), Pakistan Muslim League (Q), Pakistan Muslim League (J), Pakistan Muslim League (F), Pakistan Muslim League (Z), National Party, Sindh United Party, Awami Party Pakistan and Sindh Taraqi Pasand Party were ordered to be impleaded as parties subject to all just exceptions. In pursuance of the said order, Awami National Party [ANP], Muttahida Qaumi Movement Pakistan [MQM], Pakistan Muslim League (N) [PML(N)], Pakistan Tehreek-e-Insaf [PTI], Jamat-e-Islami Pakistan [JIP], Pakistan Muslim League (Q) [PML(Q)], Sindh United Party [SUP] and Awami Party Pakistan [APP] appeared and filed concise statements. While the respondents concurred in principle with the petitioners' concerns, they differed in their approach to the issues highlighted by the petitioners.
3. Mr. Abid Hassan Minto, Sr. ASC appeared on behalf of the petitioners and argued that existing practices and processes of electioneering and campaigning deter the ordinary citizens from partaking in the political process on account of massive use of wealth by larger and wealthier political parties, and violate their fundamental rights enshrined in Articles 17 and 25 of the Constitution. The learned counsel has placed reliance on the judgments of this Court in *Ms. Benazir Bhutto v. Federation of Pakistan* (PLD 1988 SC 416) and *Mian Muhammad Nawaz Sharif v. President of Pakistan* (PLD 1993 SC 473) and contended that their right to *form a political party* includes the right to *participate in free and fair election* and to *form government* if such party is successful because '*participation*' in the electioneering process necessarily implies that "*every person and every group in society can genuinely take part in the process of elections, as voter and candidate, without constraint coercion and subjugation*". Consequently, any unconstitutional curtailment of their right to participate, and to form government, is tantamount to an abridgement of their right under Article 17(2) of the Constitution. Secondly, a combined reading of Article 17(2) and Article 25 of the Constitution mandates a 'level playing field' for electioneering purposes. It is argued that the impugned practices, and broadly speaking, the existing political culture further negates Article 51(6)(a), which mandates that members shall be elected by a 'free', and 'fair' vote 'in accordance with the law' because these practices do not permit the vote cast to be a '*free vote*', as mandated by Article 106(3)(a) either. The petitioners have identified following specific practices that they believe violate the Constitution and Representation of Peoples Act, 1976 (hereinafter referred to as 'ROPA'): -
- (i) Jalsa or political Rally and Jaloos or procession
  - (ii) Banners/posters/billboards/stickers
  - (iii) Use of loudspeakers
  - (iv) Car rallies Pamphleteering
  - (v) Setting up Camps

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(vi) Newspaper, TV or radio advertisements, press coverage and programs & surveys

These practices, according to the learned counsel, are carried out in blatant disregard of provisions of the ROPA, namely, section 48, 49 and 84. He has concurrently submitted that certain provisions of ROPA create a political arena that is structurally designed to guarantee the success of only the wealthier political parties and, by necessary implication, destroy the petitioners' prospects of success in the election.

4. The learned counsel for the petitioners has challenged the *vires* of section 49 of ROPA on the ground that the permissible ceiling of election expenses, i.e. 1.5 million for a National Assembly seat and 1 million for a Provincial Assembly seat creates an uneven playing field between moneyed people vis-à-vis persons with scant resources with the result that the latter are alienated from the political system and deprived of their right to participate in the governance of the country. The learned counsel has submitted that most parties and candidates fail to observe the said ceiling and incur election expenses far above the prescribed limit. He has further argued in favour of a broader interpretation of section 48 of ROPA so as to construe the word 'election' to begin from the time that the President fixes a date for election. To support such a reading, he has argued that the rule that the relevant time period 'for the purposes of elections' commences from the date of notification of the elections, as laid out in the *avaid Hashmi's case* (PLD 1989 SC 396) is not applicable to 'campaign finance' activities. It is further argued that the word 'before' mentioned in the section, ought to be read to include the period before the commencement of the election. This, according to the learned counsel, would have the effect of including those electioneering expenses that would have otherwise escaped the ceiling expense prescribed by section 49. Since ROPA does not define the word 'person', it is argued that it ought to be defined to include political party. It has been submitted that such a reading is in consonance with the spirit of the provision, which is to regulate and restrict election expenditure. Furthermore, such a reading of this provision would also ensure that candidates do not use their parties as a tool to exploit the spirit of this provision and that the election meets the requirements of Article 218(3) of the Constitution of Pakistan.
5. In the same line, the learned counsel for the petitioners argued that the punishment for violating section 49, should be levied against the candidate even when the party, and not the candidate, has exceeded the prescribed ceiling. This, it is argued, is possible if the phrase 'consent or connivance of that candidate' in the section is interpreted to mean that the candidate connived or consented to a section 49 violation, even if it was the party and not the candidate who violated it. This, according to him, would shift the burden onto the candidate to take into account his party's election expenses as well and ensure that no violation of section 49 takes place.
6. Mr. Minto has vehemently contended that section 49 of ROPA, which prescribes a limit on election expenses, is liable to be declared arbitrary and discriminatory in terms of Article 25, particularly, in view of the Election Commission's recommendation for enhancing it without considering the economic conditions of the overwhelming majority of the people who have a Fundamental Right to participate in the election process on a level playing field. Regardless of the fact whether the ceiling is high or low, the petitioner's have contended that it is arbitrary in nature and impossible to enforce, therefore, all elections must be regulated in a way that all election practices based on massive spending of money are banned.
7. The Election Commission of Pakistan (ECP), in its reply, raised a preliminary objection regarding maintainability of the petition on the ground that the conduct of election to the National Assembly and Provincial Assemblies is the exclusive jurisdiction of the Election Commission of Pakistan as mandated by the Constitution and the law. On merits, it was stated that the Election Commission is an independent constitutional body comprising a retired Judge of the Supreme Court of Pakistan as Chief Election Commissioner, who is Chairman of the Commission and four Members, who are retired Judges of the High Courts. The Election Commission has been constituted in accordance with the provisions of the Constitution and it is charged with the duty of organizing and conducting elections and to make such arrangements as are necessary to ensure that the elections are conducted honestly, justly, fairly and in accordance with law and that corrupt practices are guarded against. It is also the duty of the Election Commission to prepare electoral rolls for elections to the National and Provincial Assemblies and to revise such rolls annually; organize and conduct election to the Senate or to fill casual vacancies in a House or a Provincial Assembly; appoint Election Tribunals; hold local governments' elections and such other functions as may be specified by an Act of the Parliament. The Election Commission is not a law making body, rather it works within the limits of legal framework provided by the Parliament.
8. As regards the assertion of the petitioners relating to the huge expenditure incurred by a candidate in his election

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campaign and its overall impact on the electoral processes, it is pleaded on behalf of the Election Commission that the issue is required to be seen in the context of the existing provisions of the law. It is submitted that all electoral practices and processes currently employed by the Election Commission for the conduct of an election are based on constitutional or legal provisions, therefore, such practices and processes cannot be termed as 'unconstitutional' or 'unlawful' as asserted by the petitioners. It is further submitted that a provision of the Constitution or the law may be deficient, ineffective or susceptible to more than one interpretation or there may be some practical problems hindering its execution. It, however, cannot be termed as 'unlawful' as the same has been validly passed by the Legislature. It is also submitted that these provisions prescribe a ceiling, and spending money beyond the ceiling by a candidate on his election campaign would be an illegality, which would attract the penal provisions of the law. It is pleaded that these provisions, by restraining the richer people from spending money on their election campaigns beyond a certain limit, tend to provide a level playing field to all citizens of Pakistan rather than favouring a particular class of people. Similarly, the Election Commission states that the security deposit required to be made by a prospective candidate at the time of filing of his nomination papers is a nominal amount of Rs.2000/- for a National Assembly seat and Rs.1000/- for a Provincial Assembly or Senate seat, which is well within the reach of common citizens.

9. Mr. Khalid Khan, ASC has appeared on behalf of Awami National Party (ANP) and submitted that the goal of the ANP is to ensure the betterment and welfare of poor people of Pakistan representing their interests in all elected bodies. Therefore their party would welcome any change that advances the same whole-heartedly. ANP agrees with most of the submissions and suggestions made by the petitioners.
10. Dr. Muhammad Farogh Naseem, ASC has appeared on behalf of MQM and submitted that MQM, in principle, does not oppose the basis of the petition and fully subscribes to the idea that wealthier candidates and political parties may not be permitted to create an uneven playing fields. However, according to him some of the suggestions made by the petitioners were either too academic, or were incompatible with the ground realities. The learned counsel submitted that an almost similar legal framework is provided in India to regulate election expenses. Section 77 of the Representation of People Act, 1951 (hereinafter referred to as the Act, 1951) provides for keeping an account of election expenses whereas section 123 enumerates the acts and actions, which are to be deemed to be corrupt practices. However, subsection (7) of section 123 explains that in order to qualify as a corrupt practice the excess expenditure must be incurred or authorised by a candidate or his agent and the employment of extra persons must likewise be by a candidate or his agent. He referred to the case of *Rananjaya Singh v. Baijnath Singh* (AIR 1954 SC 749), wherein it was held that the expenses incurred by the father in connection with the election of his son without his consent were not to be included in the election expenses unless the employment of extra persons and the incurring or authorising of extra-expenditure is by the candidate or his agent. He also referred, concurrently with the learned counsel for the petitioners, to the case of *Kanwar Lal Gupta v. Amar Nath Chawla* (AIR 1975 SC 308) = [1975 SCR (2) 269], wherein it was held as under: -

- (1) The total expenditure proved to have been incurred or authorised by the first respondent exceeded the prescribed limit and therefore his election should be set aside on the ground of corrupt practice defined in section 123(6).
- (2) It is not uncommon to find that during elections, posters and handbills are printed without complying with the requirement of section 127A, and sometimes containing scandalous material about rival candidates. There should therefore be some independent semi-judicial instrumentality set up by law, which would immediately investigate, even while the election fever is on and propaganda and canvassing are in progress and the evidence is raw and fresh, how the offending handbills and posters have come into existence.

It was also observed that:-

It should be open to any individual or to any political party, howsoever small, to be able to contest an election on a footing of equality with any other individual or political party, howsoever rich and well financed it may be, and no individual or political party should be able to secure an advantage over others by reason of its superior financial strength. The democratic process can function efficiently and effectively, for the benefit of the common good and reach out the benefits of self-government to the common man only if it

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brings about a participatory democracy in which every man, howsoever low or humble he may be, should be able to participate on a footing of equality with others. Now money plays an important part in the successful prosecution of an election campaign by buying advertisement and canvassing facilities, by providing the means for quick and speedy communications and movements and sophisticated campaign techniques, and also by the employment of paid workers where volunteers are found to be insufficient. Therefore, if one political party or individual has larger resources available to it than another the former would certainly, under the present system of conducting elections, have an advantage over the latter in the electoral process. The other objective of limiting expenditure is to eliminate, as far as possible, the influence of big money in electoral process. If there were no limit on expenditure political parties would go all out for collecting contributions and obviously the largest contributions would be from the rich and the affluent who constitute but a fraction of the electorate. It is likely that some elected representatives would tend to share the views of the wealthy supporters of their political party, either because of shared background and association, increased access or subtle influences which condition their thinking. In such an event, the result would be that though ostensibly the political parties which receive such contributions may profess an ideology acceptable to the common man, they would in effect and substance be the representatives of a certain economic class, and their policies and decisions would be shaped by the interests of that economic class. Persons of a particular class who have exclusive governmental power, even if they tried to act objectively, would tend to overlook the interests of other classes or view those interests differently. To this natural tendency may be added the fact that office bearers and elected representatives may quite possibly be inclined, though unconsciously and imperceptibly, to espouse the policies and decisions that will attract campaign contributions from affluent individuals and groups. Pre-election donations would be Rely to operate as post-election promises resulting ultimately in the casualty of the interest of the common man. The small man's chance is the essence of Indian democracy and that would be stultified if large contributions from rich and affluent individuals or groups are not divorced from the electoral process. Under s, 123(6) not only is the incurring of expenditure in excess of the prescribed limit a corrupt practice but also the authorising of such expenditure. Authorising may be implied or express, and whether a particular expenditure was impliedly authorised by the candidate would depend upon the facts and circumstances of each case as appearing from the evidence adduced before the court. The reasonable interpretation of the provision, which would carry out its object and intendment and suppress the mischief and advance the remedy by purifying the election process and ridding it of the pernicious and baneful influence of big money, is, that the legislature could never have intended that what the individual candidate cannot do the political parties sponsoring him, or his friends and supporters, should be free to do. When a political party sponsoring a candidate incurs expenditure specifically in connection with his election, as distinguished from expenditure on general party propaganda, and the candidate knowingly takes advantage of it or participates in the programme or activity or consents to it or acquiesces in it, it would be reasonable to infer, save in special circumstances, that he impliedly authorised the political party to incur such expenditure; and he cannot escape the rigors of the ceiling by saying that he has not incurred expenditure but big political party has done so. The party candidate does not stand apart from his political party and if the political party does not want its candidate to incur the disqualification it must exercise control over the expenditure which may be incurred by it directly to promote the poll prospects of the candidate. The same proposition must hold good in case of expenditure incurred by friends and supporters directly in connection with the election of the candidate. If a candidate were to be subject to the limitation of the ceiling but the political party sponsoring him or his friends' and supporters were to be free to spend as much as they like in connection with his election, the object of imposing a ceiling would be completely frustrated and the beneficent provision enacted in the interest of purity and genuineness of the democratic process would be wholly emasculated.

11. Mr. Muhammad Rafiq Rajwana, ASC appeared on behalf of Pakistan Muslim League (Nawaz) and submitted that PML(N) agrees, in principle, with various points raised in the tilted petition especially towards the reduction of expenses and bringing further reforms to enable a common citizen to contest an election and to become a member of the Parliament. PML(N) does not challenge the maintainability or otherwise of the petition since a vocal deliberation on the subject of election in the country will bring about positive radical changes in the election

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culture and create a level playing field for the voters, supporters and electors for electing true representatives. However, PML (N) has following reservations on certain averments in the petition: -

- (i) The petitioners instead of criticizing the duly elected representatives should strive hard to create awareness amongst the people for election purpose and to fully participate in the elections; and
  - (ii) The elections were neither unconstitutional nor unlawful and, in any case, the returned candidates were duly elected.
12. Mr. Rajwana submitted that the constitutionality or otherwise of the election laws is not required to be gone into in these proceedings, rather strict implementation and reforms of the present laws is need of the hour. According to him, the existing laws, rules and orders have been promulgated to ensure a free and fair election, but the same have not been implemented in letter and in spirit. Therefore, it is emphasized that these laws be strictly enforced by the Election Commission in performing its constitutional duty under Article 218(3) of the Constitution, the Act, 1976 and other laws/rules. The Fundamental Rights cannot be denied to anybody subject to law and reasonable restrictions. An independent and authoritative Election Commission is necessary to hold elections justly, fairly, in a transparent manner and in accordance with the provisions of Constitution and the law. As such, the Election Commission is to be made fully empowered to actuate and effectuate the true spirit of the laws. In this regard, some of the initiatives have been taken in the 18th & 20th Constitutional Amendments.
13. The learned counsel has further submitted that the democratic culture has not taken roots in the society due to successive disruptions in the constitutional order, and there was no cavil with the propositions qua education of voters, the measures aimed at enhancing the turn out, and minimizing of election expenses. He has added that the present elected representatives enjoy the confidence of the people, but they will have to work harder to perform their responsibilities which they owe towards the people.
14. Dr. Khalid Ranjha, Sr. ASC appeared on behalf of Pakistan Muslim League (Quaid-e-Azam) [PML(Q)] and submitted that the Constitution of Pakistan and the election laws (viz. sections 48 to 51 of ROPA) provide an adequate mechanism for restricting election expenses. According to the learned counsel, Chapter VIII of ROPA provides for offences, penalties and procedure in case of breach of conditions relating to election expenses. It is further submitted that the primary problem with the electoral process is the lack of capacity of the Election Commission to attend to the same. As is the case in the neighbouring country, the Election Commission needs to undertake monitoring of the election expenses from the day the holding of election is notified. An election expenditure mechanism ought to be put in place in each constituency to monitor day-to-day election expenditure incurred by the candidate. Maintenance of day-to-day account of election expenditure by the candidate is required to be made mandatory. Though the account of election expenditure is required to be submitted within 30 days of the declaration of the result, the monitoring has to be done on a regular basis during the campaign period because after the campaign is over, it becomes difficult to get any evidence of election expenditure.
15. Mr. Hamid Khan, Sr. ASC appeared on behalf of Pakistan Tehreek-e-Insaf. He submitted that the PTI more or less agrees with the contents of paragraphs 1 to 23 of the petition, which takes into account various legal issues pertaining to the need to set a level playing field for all political parties during the elections, and promote democratic values and culture. The learned counsel submitted that PTI entirely agrees with the petitioners that there is a dire need to formulate and establish general principles for regulating the conduct of elections and for ensuring that the Election Commission and the Caretaker Government strictly abide by the same. He agreed with the petitioners that the Election Commission has failed to regulate expenditures made by the candidates on their election campaigns. According to him, the ceiling placed on election expenses under the election laws has become meaningless over the years because nobody abides by it and the Election Commission never enforced it. It is also the endeavor of PTI that huge expenditures incurred by the members of established political parties in Pakistan be somehow rendered ineffective and such electoral system be devised in which members of middle and working classes have a fair chance to compete against the moneyed people having large land holdings and other resources. PTI is of the opinion that a change in the political culture of electioneering will immensely help in reducing corruption and promoting competence and honesty in public affairs. The PTI has given following proposals to ensure free, fair and transparent

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elections: -

- (i) The District Returning Officers (DROs) and Returning Officers (ROs) of each constituency should be drawn from amongst the members of subordinate judiciary. If the DROs and ROs are nominated by the Government in office, the whole election process will be polluted and the Government in power, even if it is a caretaker one, would manipulate the results of the elections in favour of the parties that they, directly or indirectly, support. The persons drawn from the executive as DROs and ROs cannot be deemed to be neutral and there will be no free, fair and credible elections under their supervision.
- (ii) The Governments in the past had recruited their party members and favourites in the police force. They cannot be entrusted with maintaining law and order even handedly. It is, therefore, imperative that armed forces should be made responsible for maintaining law and order throughout the country during the general elections.
- (iii) The personnel belonging to armed forces should be stationed inside and outside every polling station to ensure maintenance of peace, avoidance of violence and holding of fair elections.
- (iv) The permanent polling scheme throughout the country should be formulated and circulated and be given wide publicity. Permanent polling stations should be notified throughout the country and no changes in the location of polling stations should ever be made. The polling scheme and permanent polling stations should be notified at least two months before the elections so that the candidates and voters may file objections well in advance.
- (v) The Presiding Officers and their assistants in the polling stations should preferably be drawn from federal rather than provincial government departments. The experience shows that the provincial government servants are more susceptible to the influence of the local *Zamindars*, feudals and men of influence.

In the end, it has been prayed that in addition to the grant of reliefs prayed for by the Petitioners in the petition, the above mentioned steps and reforms proposed by them for holding of free, fair and transparent elections be also considered and that directions to the Election Commission and other authorities concerned be issued throughout the country.

16. Mr. Taufique Asif, ASC has appeared on behalf of Jama'at- e-Islami Pakistan (JIP). He opened his arguments with the following verse of the Holy Quran: "A party amongst you must be there to promote the good and suppress the evil" [Surah Aal-e-Imran: 104] He submitted that the Muslims of the Sub-Continent dreamt of a separate independent state, which came true in 1947 with the creation of Pakistan in pursuance of their continued struggle and sacrifices. Therefore, it is the duty of every Pakistani citizen, especially Muslims, to pursue the path of their ancestors and carry on the struggle to transform the state of Pakistan into a truly Muslim country to ensure peace and prosperity, development and stability, welfare and responsibility. The learned counsel has submitted that JIP agrees with the petitioners on main issues. JIP has given following further proposals to ensure free, fair and transparent elections:-

- (i) Fair and transparent elections are not possible without genuine electoral lists;
- (ii) Voters must be enlisted at their present residential addresses;
- (iii) Preparation of electoral lists afresh on the basis of NADRA's lists; and
- (iv) Voter lists be placed on the internet and the SMS service recently introduced by the Election Commission for verification of votes be made toll-free.

17. Mr. Abdul Wahab Baloch, ASC appeared on behalf of Sindh United Party (SUP). He has vehemently supported the petition on maintainability as well as on merits and prayed that the same may be allowed in the interest of justice. SUP has made the following suggestions: -

- (i) Before the filing of nomination paper of the candidate, place of polling station must be finalized and published in a polling station manual.
- (ii) On each census block number, name of Deh/village/ward should be clearly printed.
- (iii) To ensure transparency in the process of casting of votes, signature/initial of the polling officer on the voters' list should be compulsorily affixed.
- (iv) For the identification of the candidate, specimen signature of the candidate should be supplied by



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- Returning Officer to the Presiding Officer along with the other polling material. Specimen signature of candidate verified by the returning officer must be filed on the day of candidature/ final list of candidates.
- (v) The candidature card should be issued by the Returning Officer with photograph and also card of Chief Polling Agent issued by the Returning Officer with photograph.
  - (vi) The unidentified person should not be allowed to enter the premises of the Polling Station.
  - (vii) For the reduction of expenses of the candidate, the total number of voters of a polling station should be between 700 and 1100 and the number of the voters at one polling booth should be 400 to 500 each. If the number of the voters is above 1100, polling station should be divided into two polling stations.
  - (viii) The fee for Nomination Form should not be more than Rs.1,000/-. The voters' list should be provided by the Election Commission.
  - (ix) The polling station of a census block should be on the basis of boundary wall and other utilities without any shortage of polling staff and polling material, there should be proper training of the polling staff for conducting the poll, the polling material should be evenly distributed polling stations wise, and the polling staff of each polling station must reach at least 12 hours before the election day and time.
  - (x) The payment for election duty to the returning officer should be made on daily basis from the day the procedural work starts.
  - (xi) Before poll/election, it is necessary to complete voters' list, which should be published according to new census block- wise of each year, e.g., 2011/2012 because the present constituencies are based upon the old census of 1998.
  - (x) The Government has completed one phase of census of the house counting, but public counting has not been completed as yet. It is necessary to complete the same. The new census number has been given to the voters in the voters' list. Now the population has increased. Therefore, the constituencies should be increased in accordance with law and regulations for the representation of the people.
  - (xi) To increase the turnout, the Polling Stations should be enhanced so that the voters can easily approach the same to cast votes.
  - (xii) In the year 2004, several Districts were bifurcated and new Districts created in various Provinces. As a result, many constituencies fall within different Districts, which is a violation of rules. Therefore, Election Commission should ensure that constituencies of both the National as well as Provincial Assemblies are in one district.
  - (xiii) Each party as well as each candidate should be provided equal time on media, particularly on the National TV Channel to express his view and manifesto.
18. Mr. Salman Akram Raja, ASC appeared on behalf of Awami Party Pakistan (APP). He submitted that the electoral process is integral to the discharge of the sacred trust reposed by the people of Pakistan in their representatives, as envisaged by Article 2A of the Constitution. This trust is to be discharged in a manner that fully observes the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam. Therefore, all actions and practices that interfere with, or distort the electoral exercise are to be seen as subversion of the sacred trust enshrined in the Constitution of Pakistan. All constituents of the State of Pakistan, including the judiciary, in the discharge of the sacred trust, are under an obligation to implement and interpret the Constitution and all other laws in a manner conducive to the freest and fairest conduct of the electoral exercise. The existing political culture is defeating the essence of Articles 17 and 25 of the Constitution. As a consequence, it is compromising the legitimate expectations of a vast majority of citizens by curtailing their social, economic and political rights guaranteed in the Constitution. The prevalent culture of election campaigning and electioneering has created hegemony of a few elite families over the politics of the country and has denied a majority of the people their right to meaningfully participate in election process. The learned counsel has made the following suggestions: -
- (I) The Constitution of Pakistan provides guarantee of dignity, freedom and equality to all citizens and forbid discrimination on the basis of sex etc. despite Article 34 as given in principles of policy that steps shall be taken to ensure full participation of women in all spheres of national life. Women and other marginalized segments of society are barred to meaningfully participate in election process. Women are under registered in electoral rolls, face opposition when going to vote and are often turned away from polling stations. In some constituencies, especially in Khyber Pakhtunkhwa and Balochistan, rival candidates and

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political parties entered into agreements to restrain women from casting votes. Election officials are also found being insensitive to the values, e.g., polling officers insist on veiled women showing their faces for identifications to male polling staff, which discourages some women from voting. Election Commission should be held accountable for ensuring political participation of women.

- (ii) Women turnout in each constituency must not be less than 25% of total votes cast otherwise results may be declared void and re-poll ordered. In addition, Election Commission, before every election, must conduct voters' education programmes, particularly for women and minorities. Finally, it is prayed on behalf of APP that the influence of money and administrative power in any manner whatsoever on election process is unlawful, thus, the same be declared unconstitutional, and Election Commission may be directed to make arrangements in this regard.
19. Another grievance of the petitioners pertains to existing election practices involving massive use of wealth by the bigger political parties as manifested by enormous '*Jalsa/political rallies*' and '*Jaloos/processions*', advertisements via banners, posters, billboards, stickers and other forms of media, use of loudspeakers, setting up election camps, and processions of car rallies, which deprive the ordinary citizens from partaking in the political process. It is argued that because only well-established and affluent political parties and politicians can afford to undertake such practices, a *Jalsa* and *Jaloos* has the effect of inhibiting ordinary persons from exercising their right under Article 17(2) of the Constitution. The petitioners have sought a complete ban on all these activities. Most of the respondent political parties have differed with the stance taken by the petitioners.
20. It is contended on behalf of the petitioners that *Jalsas* or political rallies and *Jaloos* or processions are not an effective means of communication for the purposes of campaigning. They have alleged that an election campaign is intended to educate the voters and share the manifesto and policies of the party or the candidate with the electorate. This object, it is argued, cannot be achieved by the aforesaid means. It is further argued that these practices are exorbitantly expensive and unfortunately have become the norm in the domestic political arena. Because only well-established and affluent political parties and politicians can afford to undertake such practices, a *Jalsa* and *Jaloos* has the effect of inhibiting ordinary persons from exercising their right under Article 17(2) of the Constitution. Because these practices are expensive and an unnecessary extravagance that serve to distort the political arena, the petitioners argue that these should be banned. On the other hand, it is argued by the learned counsel for MQM that MQM do not agree that all "*Jalsa*" or Political Rally and "*Jaloos*" or "Procession" should be prohibited during the election campaign, inasmuch as it would militate against Articles 16, 17 and 25 of the Constitution. It is submitted that a distinction is required to be drawn where the procession/jaloos takes the shape of a car rally as opposed to where people in a city are using vehicles to reach a particular place earmarked/notified for a procession. There would be a problem in stopping a car rally, *per se*, as this would be used to prevent people approaching a particular site meant for the procession. It is suggested that it would be better to regulate such rallies so that they do not take place on a random basis. Learned counsel appearing on behalf of Jamat-e-Islami Pakistan has also made a similar suggestion to avoid disturbance and inconvenience to the general public.
21. It is submitted on behalf of PML(N) that "*Jalsas*" or political rallies should be allowed insofar as they comply with the election laws. According to the learned counsel, public meetings, rallies or processions are the best modes of approaching the people, conveying to them the party manifesto and the party program for the betterment of the people, introducing the candidates, etc. According to him, political processes cannot take effect sitting in a room with the candidates, announcing their candidature and expecting voters to come at their own to cast votes. The scope of Article 17 has already been expanded by various judgments of this Court.
22. Mr. Hamid Khan, ASC has submitted that PTI is of the opinion that *Jalsas*, political rallies and *Jaloos/processions* are necessary part of election campaigns and integral to the creation of political awareness amongst the people at large. It is a right, which every political party enjoys under Article 17 of the Constitution. On the other hand, it is submitted by Mr. Salman Akram Raja, ASC, on behalf of APP that *Jalsas*, *Jaloos* or processions may be completely banned during the 60 days of election campaign. According to them, the Election Commission should designate a suitable place in each constituency where all candidates address the public at large and also hold discussion on their respective manifestos.

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23. The petitioners have submitted that the practice of advertising candidates and/or party via banners, posters, billboards and stickers is an 'utter waste of time and resources'. They have argued that these practices are not an important and effective means of communication, are aesthetically unpleasant and extremely costly. In light of these assertions, the petitioners have argued that because such practices have become a norm in election campaigns, in order to secure any chance of winning, most candidates end up employing these practices and consequently exceeding the ceiling amount prescribed for election expenditure by section 49 of ROPA. Therefore, the petitioners have submitted that in light of their arguments, these and other practices, like wall-chalking, etc., ought to be banned. Dr. Farogh Naseem has recommended that provisions should be made to ban the pasting of banners, posters or stickers on private or governmental properties. Mr. Muhammad Rafique Rajwana has, however, submitted that the billboards, banners, etc., should be permitted to be displayed within the four corners of the law. Similarly, Mr. Hamid Khan submitted that banners/posters/stickers are not necessarily expensive and are meant to spread the message of political parties during the election campaigns and to introduce the candidates to their electorate. However, he has argued that billboards are very expensive, which should be done away with in order to reduce election expenses. Mr. Salman Akram Raja submitted that display of banners, posters, billboards, stickers, etc., must be completely banned during 60 days of election campaign.
24. The petitioners have submitted that the purpose of an election campaign is not to overwhelm people by employing such means that have nothing to do with the actual dissemination of ideas. It is argued that the use of loudspeakers only serves the aforesaid purpose. Furthermore, it is contended that in addition to the abovementioned effect, the use of loudspeakers causes aural aggression and intrusion of privacy, and intimidates and imposes ideas on voters without their consent. Such means of overpowering and intimidating voters, which have the effect of curtailing their right to make a free choice, should be banned. On the contrary, Dr. Farogh Naseem has submitted that loudspeakers are not expensive and in fact constitute an important aid in the dissemination of information, especially with respect to the sharing of manifestoes of political parties and candidates. Political parties which are popular amongst the people at large are able to attract very large crowds. Therefore, any prohibition on loudspeakers, amplifiers or other such modern devices would be counter-productive. Mr. Muhammad Rafiq Rajwana has submitted that the use of loudspeakers in big gatherings and rallies is necessary to enable the people to hear the speakers, and to know the candidates, political parties and their manifestoes. Mr. Hamid Khan has submitted that PTI is not opposed to the use of loudspeakers and other amplifiers, which are not expensive instruments. Rather, these facilitate the reaching out to a large audience by the party candidates and the generation of healthy discussion and political activity. On the other hand, Mr. Salman Akram Raja, ASC, on behalf of APP has submitted that use of loudspeakers (otherwise permitted by law) may also be completely banned during 60 days of election campaign.
25. The petitioners have also argued that car rallies also qualify as displays of wealth, which have the effect of 'overawing' and consequently exploiting the voters. It is submitted that car rallies, and in particular those comprising of expensive cars cultivate a "mentality of supporting the perceived stronger or winning side regardless of what that side has to say on real issues." Since such a practice undermines the essence of voting, i.e. making an informed choice, the petitioners have sought that these car rallies be banned completely. In the context of car rallies, the viewpoint presented on behalf of PML(N) is that these rallies should be made subject to reform, but before that existing election laws are to be strictly implemented. Mr. Hamid Khan has submitted that PTI does not oppose car rallies, but agrees with the petitioners that the political parties should not use expensive cars, which qualify as display of wealth and substantially enhance the expenditure incurred by the candidates.
26. It is submitted on behalf of the petitioners that pamphleteering, as it is presently practiced, suffers from the same defects as the other impugned practices mentioned above. However, it has been argued that pamphleteering may be used for productive ends as well. The petitioners do not find issue with pamphleteering, so long as the distributed pamphlets contain the candidate's manifesto and concurrently seek a ban on all other forms of pamphleteering. Dr. Farogh Naseem has submitted that the distribution of pamphlets aids the dissemination of information regarding political parties and their candidates, but pamphlets should not serve to incite racial, ethnic, religious, parochial, provincial or even political hatred. Mr. Rafiq Rajwana has submitted that pamphlets containing unobjectionable contents for election purposes are the best and cheapest mode of communicating with the voters. Mr. Hamid Khan does not oppose the use of pamphlets during the election campaign provided the contents of the pamphlet are not

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inflammatory and do not promote hatred or prejudice in the society. However, pamphlets can be used to distribute manifestos of the political parties or to introduce candidates in their respective constituencies. Mr. Taufique Asif, learned counsel for JIP, has submitted that JIP does not agree with the petitioners.

27. The petitioners have contended that State and private TV channels must not televise or broadcast programs mentioning specific candidates and should not give coverage, negative or favourable, to any of the candidates by names or by obvious reference. This privilege, they believe, can only be availed by wealthier political parties and candidates, and is an advantage that compromises the rights of the petitioners. It is further argued that surveys carried out and published in newspapers declaring the rising or declining popularity of candidates or parties should also be disallowed during the relevant period since these tend to unreasonably influence and consequently sway voters' opinion. It is submitted that these surveys condition the electorate and compromise the objectivity with which they ought to cast their vote. Dr. Farogh Naseem has submitted that a complete ban in this regard would violate the freedom of press, which is also a fundamental right. According to him, the suggestion that the electronic and print media should not charge political parties or their candidates is too wide and blanket in nature. Firstly, the press/media cannot be stopped from charging for the advertisement, as this would violate the fundamental right of freedom of business of the media. Secondly, the prospects of propagating information using modern devices shall stand completely precluded in case any blanket order of the nature sought by the petitioners is passed. The correct approach, therefore, would be to opt for the regulation thereof. It is suggested that the Ministry of Communication may be directed to prescribe a cap/upper restriction on the size and frequency of such advertisements. Further, a code of conduct may be devised so that the information sought to be advertised is put through a system of preliminary checking to avoid disinformation. Mr. Hamid Khan has stated that PTI agrees with the petitioners that expensive newspaper, TV or Radio advertisements should not be allowed because it would substantially enhance the election expenses of the candidates. However, there will be no problem if the newspapers, TV or Radio programmes give coverage to activities of political parties and their candidates. Similarly, he has not taken any issue with the media carrying out surveys that project the popularity and acceptability of various political parties and their political leaders. Mr. Taufique Asif has submitted that JIP does not agree with the petitioners on this issue. Mr. Abdul Wahab Baloch, ASC, learned counsel for Sindh United Party has submitted that each party as well as each candidate should be provided equal time on the media, particularly on the National TV Channel to express their views and share their manifestos. Mr. Salman Akram Raja has submitted that the Election Commission should ensure that no candidate or political party reserves time on private TV channels and that adequate time should be given to each party to present their programme on State TV.
28. Learned counsel for the petitioners has submitted that there should be complete ban on the use of private vehicles for the purpose of transporting the voters to the polling station. The Election Commission should be ordered to increase the number of polling stations to enable the voters to cast their votes at shorter distances. A procedure should be devised for this purpose, by making regulations and issuing necessary orders, including requisitioning of government transport, if necessary, to carry the elderly or disabled persons to the polling stations, or to meet any other emergency needs. Mr. Salman Akram Raja, ASC has submitted that transportation of voters on the polling day may be completely banned. However, the Election Commission may collect funds from political parties in accordance with their number of candidates participating in elections and make arrangements for transportation of voters, but in no case should the candidates be allowed to hire/use private transport on election day. The routes of such transport should be widely advertised in the print and electronic media for information of the general public. Mr. Hamid Khan has submitted that it is well settled that the candidates are not allowed to transport voters to the polling stations on the election day. However, this principle and provision is openly flouted by political parties. Thousands of vehicles are deployed on the election day by the candidates to pick the voters from their homes to the polling stations. This exercise entails expenditure of millions of rupees that is incurred in one day. Such practices minimize the winning prospects of the political parties and candidates of modest means. It is submitted that a direction be issued that all private transport should cease to operate on election day so that the voters can reach the polling stations by themselves on foot, bicycles or motorbikes. He submitted that in India four-wheeler vehicles are not allowed to transport voters on the day of elections and the voters reach the polling stations on their own. This would ensure truly free and fair elections. However, to facilitate the voters, the number of polling stations ought to be raised by at least 50% throughout the country so that the polling stations are not at a distance of more than two kilometres from the

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place of residence of voters.

29. Learned counsel for the petitioners has submitted that the supply of *Perchi* containing particulars of voters, including name, parentage, polling station/booth, serial number of the voter in the electoral roll should be banned. These *Perchis* are tantamount to canvassing and, therefore, allegedly influence the mind of the voter. The respondent-political parties agree that the issuance of *Perchi* should be banned and arrangements made by the Election Commission in consultation with NADRA to provide said information to the voters by incorporating the same in NIC. It was informed that the Election Commission has started the service of providing information to the voters through SMS message service. For this purpose, a voter has to make a phone call or send an SMS on a given number and the relevant information is provided to him. A suggestion was made during hearing of the case that Election Commission should prepare a *Perchi*/card containing all the necessary information such as serial number, name of polling station, number of polling both, etc. In response, it was submitted on behalf of NADRA that voters card can be issued by the Authority at an approximate cost of Rs.100/- per card. It was further submitted that the card would contain an electronic chip having space/memory of 1 kb, which could be enhanced to 27 kb. Another suggestion was that the Election Commission may generate funds by allowing private/public companies to print these cards/*Perchis* with their monograms, logos, product signs or names, etc., for advertisement purposes on commercial basis. Such information can also be provided in the utility bills, bank accounts cards, etc.
30. The petitioners have submitted that the activities carried out at election camps are intended to, and have the effect of, overawing the electorate and breeding the impugned political culture. These activities reduce, what would otherwise serve as an occasion to educate the electorate, into a funfair, carnival or picnic. The “setting up of picnic opportunities and doling out free food to workers hardly corresponds to the idea of a serious office”. The petitioners have, therefore, submitted that the setting up of camps ought to be regulated. Their number, purpose, timing, their manner of conduct and the activities permitted to be carried out therein during the campaign and on election day ought to be monitored. It is only in such a setting that the petitioners believe, election camps would serve their required purpose. Dr. Farogh Naseem has submitted that camps should not be used as picnic spots, but can be used effectively to disseminate relevant information. Mr. Hamid Khan has stated that PTI agrees with the petitioners that election camps should not be set up to host extravagant indulgences. Activities conducted in these camps should be limited to distributing party manifestos and introducing candidates to their electorate. JIP, however, does not agree with the petitioners on this issue.
31. We have heard at length the learned counsel for the petitioners, learned Deputy Attorney General on behalf of the official respondents, namely, Federation of Pakistan, Ministry of Law, Justice & Parliamentary Affairs and the Election Commission and the learned counsel appearing for the respondent political parties, and have gone through the documents placed on record by the Election Commission as well as the case-law cited at the bar.
32. To begin with, the petitioners have invoked this Court's jurisdiction under Article 184(3) of the Constitution. In this behalf, the Federation of Pakistan through Ministry of Law and Justice Division and Election Commission have raised objection with respect to the maintainability of the instant petition. However, during arguments, none of the parties pressed the said objection, rather they requested the Court to issue certain directions to the concerned authorities. The Learned Deputy Attorney General, appearing on behalf of Federation, Ministry of Law & Justice and the Election Commission also prayed that appropriate orders may be passed on certain issues raised in the petition.
33. The scope of jurisdiction of this Court under Article 184(3) of the Constitution by now is fairly settled in a plethora of case law, therefore, there is no necessity to recapitulate the constitutional provision or to refer to the entire case-law for the purpose of deciding the question of maintainability of the instant petition. This Court, in the cases of *Ms. Benazir Bhutto v. Federation of Pakistan* (PLD 1988 SC 416), *Haji Muhammad Saifullah Khan v. Federation of Pakistan* (PLD 1989 SC 166) and *Mian Muhammad Nawaz Sharif v. President of Pakistan* (PLD 1993 SC 473) has already held that the right to form, or be a member of a political party guaranteed under Article 17 of the Constitution subsumes the right to participate or contest in the election, and to form government if successful. The petitioners have vehemently averred that the impugned practices violate the fundamental right of the citizenry at large guaranteed by Article 17 read with Article 25 of the Constitution. None of the respondents has rebutted the above

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assertion of the petitioners. Accordingly, the instant petition is held to be maintainable.

34. It may be mentioned here that the instant petition falls in the public interest litigation, which is not adversarial but inquisitorial in nature. In the cases of *Watan Party v. Federation of Pakistan* (PLD 2011 SC 997) and *All Pakistan Newspapers Society v. Federation of Pakistan* (PLD 2012 SC 1) referred to by Mr. Farogh Naseem, ASC, this Court has held that it has the jurisdiction to adjudicate upon a case if it falls within the ambit of inquisitorial proceedings. It is also well settled that while entertaining a direct petition under Article 184(3), this Court has ample power to examine the *vires* of laws, rules or regulations. Reference in this regard has been made to the cases of *Wukala Mahaz Barai Tahafaz Dastoor v. Federation of Pakistan* (PLD 1998 SC 1263), *Farooq Ahmad Khan Laghari v. Federation of Pakistan* (PLD 1999 SC 57), *Jalal Mehmood Shah v. Federation of Pakistan* (PLD 1999 SC 395), *Liaquat Hussain v. Federation of Pakistan* (PLD 1999 SC 504), *Dr. Mobashir Hassan v. Federation of Pakistan* (PLD 2010 SC 265) and *Muhammad Mubeen-us-Salaam v. Federation of Pakistan* (PLD 2006 SC 602).
35. Before dilating upon the issues agitated in this petition, it may be observed that the 1973 constitutional Order is a living manifestation of the will of the people of Pakistan. In this Order, the people have made clear that all authority to govern shall be exercised “*within the limits prescribed by (Allah)*”, and only by or on behalf of the people of Pakistan. This Order, therefore, rests on two fundamental precepts. Firstly, that the exercise of this authority shall be informed and circumscribed by the principles of Islam, and secondly, that the people of Pakistan shall play an integral role in the exercise thereof. Any action or inaction that contravenes these instructions is *ultra vires* of this authority, unconstitutional and void.
36. All constitutional mandates and prescriptions are deemed to have been issued in furtherance of these Islamic principles and within these prescribed parameters. Article 2A, therefore, expressly instructs that “*.principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed*” in the State of Pakistan. The protection and advancement of these principles is an integral objective and an essential feature of the Pakistani constitutional Order. In appreciation of the value accorded to Fundamental Rights by Islam, the same Article mandates that the State shall guarantee “*fundamental rights, including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality*”. The entire set of Chapter II of the constitution further reiterates the constitutional importance and manifests the realization of this objective. To that end, Article 8(1) enunciates the significance of these rights and the principles that they embody, by declaring, “*all law, or any custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by this Chapter, shall, to the extent of such inconsistency, be void*”. In effect these rights, as enunciated by Islam, have been placed on a higher pedestal and enshrined as a central feature of our constitutional framework.
37. This constitutional Order declares that “*the authority (is) to be exercised by the people of Pakistan*”. The vesting of this authority and entrusting the exercise thereof to the people, emphasizes the principle of self-government as the bedrock of our constitutional framework. By guaranteeing the observance of ‘*principles of democracy*’ in Pakistan and mandating that the “*State shall exercise its powers and authority through the chosen representatives of the people*” the Constitution instructs that this authority be exercised by and through a representative and democratic government. This constitutional order was framed with an ardent dedication ‘*to the preservation of democracy*’ and therefore encapsulates it as one of its core values. Furthermore, by establishing and enumerating the powers and manner in which the legislature is to function, Part II and III of the constitution cement ‘*democracy*’ as the chosen system of the people and a fundamental constitutional dictate. Therefore, it is patently clear that the constitutional imperative of ‘*advancing and protecting Fundamental Rights, as enunciated by Islam, through a democratic system of government*’ underpins the operation of our constitutional Order. This symbiotic relationship between ‘*democracy*’ as a governing system and the objective of ‘*advancing and protecting Fundamental Rights, as enunciated by Islam*’ preserves and reinforces both these constitutional dictates as cardinal features of our constitution. Various provisions of the constitution have been drafted to effectuate this imperative. The freedom of association, as enunciated by Article 17 of the constitution, confers a Fundamental right on every individual to partake in the political governance of the State, whilst concurrently reinforcing the constitutional mandate to protect and advance this right through a democratic state. Furthermore, the ‘*freedom of assembly*’ (Article 16) and ‘*freedom of speech*’ (Article 19)

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also serve to realize this constitutional imperative.

38. The Constitution provides a comprehensive mechanism to ensure minimal deviation from these dictates. It identifies and regulates one of the key aspects of democracy, the election process. In Article 218, the Constitution constitutes the Election Commission and empowers it to organize and oversee the election process and to ensure, *inter alia*, that it is conducted "*honestly, justly, fairly and in accordance with law and that corrupt practices are guarded against*". Article 218(3) of the Constitution enumerates the broad and overarching responsibility of the Election Commission and declares that: - "218. Election Commission.

- (1) For the purpose of election to both Houses of Majlis- e-Shoora (Parliament), Provincial Assemblies and for election to such other public offices as may be specified by law, a permanent Election Commission shall be constituted in accordance with this Article.
- (2) The Election Commission shall consist of-
  - (a) The Commissioner who shall be the Chairman of the Commission; and
  - (b) four members, each of whom has been a Judge of a High Court from each Province, appointed by the President in the manner provided for appointment of the Commissioner in clauses (2A) and (2B) of Article 213.
- (3) It shall be the duty of the Election Commission constituted in relation to an election to organize and conduct the election and to make such arrangements as are necessary to ensure that the election is conducted honestly, justly, fairly and in accordance with law, and that corrupt practices are guarded against."

39. The phrase "the election is conducted honestly, justly, fairly and in accordance with law, and that corrupt practices are guarded against" as used in Article 218(3) of the Constitution informs the content and scope of powers conferred by it on the Election Commission. It may be advantageous to refer to the meanings of the terms "honestly", "justly" and "fairly" as given in various legal instruments, which read as under: -

**"Honestly":**

- (i) '*honest*' means full of honour: just: fair dealing: upright: the opposite of thievish: free from fraud: candid: truthful: ingenious: seemly: respectable: chaste: honourable; '*honestly*' means in an honest way: in truth; '*honesty*' is the state of being honest: integrity: candour. [Chambers, 20th Century Dictionary, New Edition 1983 at page 601]
- (ii) '*honesty*' – "according to the best lexicographers the words 'truth' 'veracity' and 'honesty' are almost synonymous, very nearly the same definitions being given to each of the words". [P. Ramanatha Aiyar's "Advanced Law Lexicon", 2005 Edition, Vol. 2, at page 2153]
- (iii) Honesty is a thing deemed to be done in good faith, where it is in fact done honestly, whether it is done negligently or not. [*Fakhruddin v. A. Shah* (PLD 1982 Kar 790)]
- (iv) Honesty is state of mind which is psychological factor capable to prove or disprove only by a evidence or conduct. [*Amjad Khan v. Marium* (1993 CLC 175)]

**"Justly"**

- (i) '*just*' means "conforming to or consonant with, what is legal or lawful, legally right, lawful"; "The words 'just' and 'justly' do not always mean 'just' and 'justly' in a moral sense, but they not unfrequently, in their connection with other words in a sentence, where a very different signification. It is evident, however, that the word 'just' in the statute [requiring an affidavit for an attachment to State that Plaintiff's claim is just] means 'just' in a moral sense; and from its isolation, being made a separate sub- division of the section, it is intended to mean 'morally just' in the most emphatic terms. The claim must be morally just as well as the legally just in order to entitle a party to an attachment." *Robinson v. Burton* (5 Kan. 300.) [Black's Law Dictionary, Revised 4<sup>th</sup> Edition of 1968, at page 1001]

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- (ii) 'just' means righteous: fair: impartial: according to justice: due: in accordance with facts: well-grounded: accurately true: exact: normal: close-fitting: precisely: exactly: so much and no more: barely: only: merely: quite; 'justly' means in a just manner: equitably: accurately: by right; 'justness' means equity: fittingness: exactness. [Chambers, 20<sup>th</sup> Century Dictionary, New Edition 1983 at page 686]
- (iii) 'just'. As an adjective, fair; adequate; reasonable; probable; right in accordance with law and justice right in law or ethics; rightful; legitimate, well founded; conformable to laws; conforming to the requirements of right or positive law; conformed to rules or principle of justice. 2 Bom LR 845. As an adverb of time the word 'just' is equivalent to "at this moment," of the least possible time since" (Ame. Cyc.). The word 'just' is derived from the Latin 'justus' which is from the Latin 'jus' which means a right, and more technically a legal right--- a law. The word 'just' is defined by the Century Dictionary as conforming to the requirements of right or of positive law, and in Anderson's Law Dictionary as probable reasonable. Kinney's Law Dictionary defines 'just' as fair, adequate, reasonable, probable, and *justa causa* as a just case, a lawful ground. Being in conformity with justice [S.191, Expln. 2, ill. (a) IPC (45 of 1860) and Art 42, Const]; fair.

An allegation is an indictment that an offence has 'just' come to the knowledge of an officer having authority to prosecute is, by implication, a sufficient allegation that the offence had not previously come to the knowledge of any other public officer having authority to prosecute.

'JUST' as used in Laws providing that an affidavit for attachment shall show the nature of the plaintiffs claim, and that it is just, etc., should be construed to mean just in a moral sense. The claim must be morally just, as well as legally just in order to entitle a party to an attachment. "Shall have the power, if he shall think just, to order a new trial." in the County Courts Act, 1888 (51 & 52 Vict. c. 43), S.93. These words do not give a County court judge an absolute power of granting new trials. His power under the section is subject to the rules and limitations as to the granting of new trials which are binding upon the High Court, the Court of Appeal, and the House of Lords. *Murtagh v. Barry* (1890) 44 Ch D 632 (LORD COLERIDGE, C.J.). The crucial word in the phrase is "just" which imparts a judicial, and not an absolute power. (Craies St. Law).

The term 'just' is derived from the Latin word 'justus'. The word, 'just' connotes reasonableness and something conforming to rectitude and justice something requirable and fair. *M.A. Rahim and Another v. Sayari Bai*, AIR 1973 Mad 83,87. The word 'just' denotes equitability, fairness and reasonableness having a large peripheral field. *Helen C. Rebellor v. Maharashtra S.R.T.C.*, (1999) 1 SCC 90, para 28: AIR 1998 SC 3191. The word 'just' occurring in Section 168 of the Act means that the compensation must be just and it cannot be a bonanza; not a source of profit but same should not be a pittance. The expression 'just' denotes equitability, fairness and reasonableness and non- arbitrariness. *Divisional Controller KSRTC v. Mahadeva Shetty*, (2003) 7 SCC 197, para 15. [Motor Vehicles Act (59 of 1988), S. 168]. Reasonableness may be 'good cause' but it is not necessarily 'just cause'. If a person voluntarily retires on pension, he is getting a substantial financial benefit for himself, and it is not fair or just to the unemployment fund that he should also get unemployment benefit for the six weeks under the act. *Crewe v. Social Security Commissioner*, (1982) 2 All ER 745, 749. [Social Security Act, 1975, S.20(1)(a)]. The words 'just cause' in S. 263 are exhaustive and not merely illustrative. Merely the failure to fill an inventory or the account within the specified time is not sufficient. It must be established that the person to whom the grant has been made willfully and without reasonable cause omitted to exhibit them. In *Re. T. Arumuga Mudaliar*, AIR 1955 Mad 622. [Indian Succession Act (39 of 1925), S.263]. [P. Ramanatha Aiyar's "Advanced Law Lexicon", 2005 Edition, Vol. 3, at pages 2539 and 2540:]

- (iv) 'just' means according to law. [*Utility Stores Corporation of Pakistan Ltd v. Punjab Labour Appellate Tribunal* (PLD 1987 SC 447) and *Shahi Bottlers (Pvt) Ltd v. Punjab Appellate Tribunal* (1993 SCMR 1370)]

**"Fairly"**

- (i) 'fairly' means "equitably, honestly, impartially. Justly, rightly, with substantial correctness, reasonably". [Black's Law Dictionary, Revised 4<sup>th</sup> Edition of 1968, at page 719]



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- (ii) 'fairly' means beautifully: neatly: justly: reasonably: plainly: gently: fully: quite: tolerably. [Chambers, 20<sup>th</sup> Century Dictionary, New Edition 1983 at page 452]
- (iii) 'fair' --"the world conveys some idea of justice or equity in partial free from suspicion or bias; equitable; reasonable; honest; upright; and as applied to the weather, a fair weather is one free from clouds; not obscure"—'FAIR, HONEST, EQUITABLE, REASONABLE'—'fairness'" enters into every minute circumstance connected with the interest of the parties, and weights them alike for both; honestly is contended with a literal conformity to the law, it consults the interest of one party. An estimate is fair in which profit and loss, merit and demerit with every collateral circumstances is duly weighed; a judgment is equitable which decides suitably and advantageously for both parties; a price is reasonable which does not exceed the limits of reason or propriety. A decision may be either fair or equitable; but the former is said mostly in regard to trifling matters, and the latter in regard to the important rights of mankind. It is the business of the umpire to decide fairly between the combatants, it is the business of the Judge to decide equitably between men whose property is at issue." [P. Ramanatha Aiyar's "Advanced Law Lexicon", 2005 Edition, Vol. 2, at page 1761 and 1762] A perusal of the above shows that the words "justly", "fairly" and "honestly" have similar shades of meaning. As has been rightly submitted by Mr. Farogh Naseem, these words imply that the Election Commission is under a direct constitutional obligation to exercise all powers invested in it in a *bona fide* manner, meeting the highest of standards and norms. As a natural corollary, therefore, all discretionary power is also to be exercised and tested against these standards.
40. A bare reading of Article 218(3) makes it clear that the Election Commission is charged with the duty to 'organize' and 'conduct the election'. The language of the Article implies that the Election Commission is responsible not only for conducting the election itself, but also for making all necessary arrangements for the said purpose, prior to the Election Day. By conferring such responsibility on the Election Commission, the Constitution ensures that all activities both prior, on and subsequent to Election Day, that are carried out in anticipation thereof, adhere to standards of justness and fairness, are honest, in accordance with law and free from corrupt practices. This Court in *Election Commission of Pakistan v. Javaid Hashmi and others*, (PLD 1989 SC 396), observed that "(g)enerally speaking election is a process which starts with the issuance of the election programme and consists of the various links and stages in that behalf, as for example, filing of nomination papers, their scrutiny, the hearing of objections and the holding of actual polls. If any of these links is challenged it really (is) tantamount to challenging the said process of election". It interpreted that the phrase 'conduct the election' as having "wide import" and including all stages involved in the election process. These observations subject all election related activities that take place between the commencement and the end of the election process to the jurisdiction conferred on the Election Commission under Article 218(3). The Election Commission therefore has to test all election related activities that are carried out in the relevant period, both individually and collectively, against the standards enumerated therein
41. The Election Commission may also exercise its powers in anticipation of an ill that may have the effect of rendering the election unfair. In the case titled as *In Re: Petition filed by Syed Qaim Ali Shah Jellani* (PLD 1991 Jour. 41) the Elections Commission exercised its powers under Article 218(3) pre-emptively, by making all necessary arrangements to ensure that a certain class of people would be allowed to vote. This case implies that where a violation of the standards mentioned in Article 218(3) has not as yet taken place, the Election Commission is legally empowered under Article 218(3) to exercise its powers pre-emptively in order to avoid a violation of these standards. Furthermore, *Mst. Qamar Sultana v. Public at Large* (1989 MLD 360) and *In Re: Complaint of Malpractices in Constituency No. NA-57, Sargodha-V* (supra) both reinforce the argument that the Election Commission is fully empowered by Article 218(3) to make 'such orders as may in its opinion be necessary for ensuring that the election is fair, honest etc'. These decisions recognize that the Election Commission enjoys broad powers not only to take pre-emptive action but also to pass any and all orders necessary to ensure that the standards of 'honesty, justness and fairness' mentioned in Article 218(3) are met.
42. The Parliament has framed different laws to effectuate the above constitutional provision and to regulate elections to the National and Provincial Assemblies. ROPA reiterates and further vests the Election Commission with the responsibilities and powers to, *inter alia*, regulate and check intra-party affairs and actions taken by candidates and parties in anticipation of and on Election Day, resolve all election disputes, declare the election void and to award

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- punishments for violating relevant election laws. In appreciation of the arduousness of its task, section 5(2) of ROPA further empowers the Election Commission to “*require any person or authority to perform such functions or render such assistance for the purposes of this Act as...it may direct*”. The Election Commission may, under section 103(c) of ROPA also “*issue such instructions and exercise such powers, and make such consequential orders, as may in its opinion, be necessary for ensuring that an election is conducted honestly, justly and fairly, and in accordance with the provisions of this Act and the rules*”. Article 220 of the Constitution also directs the Federal and Provincial machinery to assist the Election Commission in fulfilling its constitutional responsibilities. The law, therefore, entrusts the Election Commission with exclusive, broad and extensive powers to attend to all issues related directly and ancillary to the election process.
43. Article 218(3) also empowers the Election Commission to ensure that the election process does not suffer from any corrupt and/or illegal practices. Sections 78, 79, 80, 80-A, 81 and 83 of ROPA comprehensively define the terms “corrupt practices” and “illegal practices”. ROPA in sections 82, 99 and 100 further elaborates the consequences of such practices and enunciate that the same form a sufficient basis for the Election Commission to, *inter alia*, imprison, fine and disqualify those who violate them. These provisions, therefore, subsume all those impugned activities as cognizable by the Election Commission. Similarly, Section 103(a) of ROPA instructs the Election Commission to ensure a “*fair election*”. In doing so it implies that “large scale malpractices including coercion, intimidation and pressures, prevailing at the election” would negate the ‘fairness’ elections are to embody. While sections 78, 79, 80, 80-A, 81 and 83 specify activities that the Election Commission can regulate and check under Article 218(3), section 103(a), substantially enhances this defined spectrum of cognizable activities and reinforces the obligation to check them. In section 103(c) section it empowers the Election Commission to issue instructions, exercise its powers and make orders to effectuate the said standard
44. While there is no cavil with the proposition that the Election Commission stands as an independent and fully empowered constitutional body, the 18<sup>th</sup> and 20<sup>th</sup> Constitutional Amendments, have substantially enhanced the degree of independence and the scope of powers enjoyed by the Election Commission. Prior to 18<sup>th</sup> Constitutional Amendment, the Commission comprised the Chief Election Commissioner and two retired Judges as members thereof. Vide the 18<sup>th</sup> Amendment, the strength of the members has been increased from two to four, with the additional requirement that each of the members be a Judge of High Court of each Province, duly appointed by the President as per prescribed procedure provided for appointment of the Commissioner in clauses (2)(a) & (b) of Article 218(1) of the Constitution. The entrustment of greater responsibility and the enhancement of its strength are part of an effort fully to equip the Commission to discharge its broad set of responsibilities. These also reflect a growing trust in the Commission to act independently and without influence in conducting and organizing elections “fairly, honestly, justly and in accordance with law”. In the parliamentary system of government a constitutionally independent and empowered Election Commission rests as one of the foundational stones of a democratic setup. In the past, the Election Commission has succumbed to external influence and failed to discharge its responsibilities successfully. The inadequacy of the Commission's effort in organizing and conducting the election to the above standards, has had detrimental repercussions for the democratic system in Pakistan. Not only has it undermined the legitimacy of the elections and the claim of the winning party to form government, but has also, by disregarding express constitutional dictates regulating the same, devastated the trust and faith reposed by the citizenry in the rule of law and supremacy of the Constitution. This is why Pakistan has witnessed political parties, individual candidates, as well as the citizenry, reject and denounce some of the election results. The rigging of elections was cited as a major ground for the imposition of martial law in the country in 1977, which was unfortunately validated by the Supreme Court. Consequently, an unconstitutional order was imposed on the people of Pakistan with the false hope of holding fair and free elections within 90 days. The solemn commitment made by General Ziaul Haq, Chief Martial Law Administrator, however, was never honoured and the people of Pakistan remained subject to an unconstitutional regime for nearly 11 years. In light of the powers and independence that the Election Commission enjoys today, such an unfortunate abuse of power and disregard of the constitutional dictate to establish and preserve democracy seems impossible.
45. Furthermore, under Article 221 of the Constitution, the Commission, with the approval of the President, is empowered to make rules providing for the appointment of its officers and servants. Similarly, under section 107 of

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ROPA, the Commission may, with the approval of the President, make rules for carrying out the purposes of this Act. These powers further reinforce the independence with which the Commission is to exercise its powers. Such conclusions have already been drawn and find support in the case of *Sh. Rashid Ahmed v. Federation of Pakistan* (PLD 2010 SC 573) relevant paragraph there from is reproduced hereunder: -

9. We have considered the above submissions and have also gone through the material placed before us and the relevant constitutional provisions. Part VIII of the Constitution comprising Articles 213 to 226 related to "Elections". Article 213 reflects that Chief Election Commissioner in this part shall be referred to as the Commissioner; whereas, Article 219(b) provides that "the Commissioner shall be charged with the duty of organizing and conducting election to the Senate or to fill casual vacancies in a House or a Provincial Assembly". Thus it is quite evident that the Constitution places upon the Chief Election Commissioner an obligation to organize the election. Article 220 of the Constitution provides that "it shall be the duty of all executive authorities in the Federation and in the Provinces to assist the Commissioner and the Election Commission in the discharge of his or their functions; conceptually placing the position of Commissioner and Election Commission upper most while discharge their functions requiring the executive authority to assist; in other words "to aid" the Commissioner and the Election Commission. In that course, the executive authority shall have no option but, to offer, unhesitatingly, its assistance to make the way for the Commissioner or the Election Commission smoother rather than to make it difficult; either to stop, postpone or slow down their pace in the discharge of duties, in this case holding election for seat to question. The provision of Article 220 of the Constitution also reflects to be in pari materia with the provision of Article 190 of the Constitution according to which "all executive and judicial authorities throughout Pakistan shall act in aid of Supreme Court"; which hold the Supreme Court upper most in the hierarchy of the judiciary for which the Constitution envisages that its independence shall be fully secured. Thus, to sum up, testing on the touchstone of afore-referred provisions of Constitution, the net result that comes out is that the Chief Election Commissioner and the Election Commission are absolutely independent with exclusive jurisdiction while performing duties within terms of Part-VIII of the Constitution in which no interference is allowable by any of the parties interested by resorting to any manner and mode, as was done in the present case. All the concerned quarters, namely Federal and Provincial Governments, the Law Enforcing Agencies as well, are under an obligation to ensure that Chief Election Commissioner/Election Commission function independently; and see that they are properly strengthened enabling them to discharge their constitutional commitments fairly, freely and without any hindrance and pressure of whatsoever nature. It may therefore be said that there is no restriction on the Commission to frame rules with the approval of President, to ensure that the elections are conducted fairly, honestly, justly and in accordance with law and that corrupt practices are guarded against. Under Article 222, Majlis-e-Shoora (Parliament), subject to the Constitution, is authorized to promulgate laws for following purposes: -

- (a) the allocation of seats in the National Assembly as required by clauses (3) and (4) of Article 51;
- (b) the delimitation of constituencies by the Election Commission;
- (c) the preparation of electoral rolls, the requirements as to residence in a constituency, the determination of objections pertaining to and the commencement of electoral rolls;
- (d) the conduct of elections and election petitions; the decision of doubts and disputes arising in connection with elections;
- (e) matters relating to corrupt practices and other offences in connection with elections; and
- (f) all other matters necessary for the due constitution of the two Houses and the Provincial Assemblies; While the Majlis-e-Shoora may promulgate law to regulate the same, any law which has the effect of abridging any of the powers of the Commissioner or the Commission would not find support in the law.

46. It is of utmost importance that the Election Commission executes its functions and discharges its responsibilities effectively, efficiently and in letter and in spirit. By declaring that the representatives of the people "*shall be elected by*

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*direct and free vote, in accordance with law*” in Article 51 (6)(a), the Constitution identifies 'elections' as the first and an integral step in effectuating the aforesaid constitutional dictates. At page 254 of the judgement given in the *Al-Jehad Trust v. Federation of Pakistan* (PLD 1997 SC 84), this Court commented on the important role of the Election Commission and observed that by fulfilling its mandated duties and responsibilities, the Election Commission essentially “*give(s) birth to a body/institution of the nation, called Parliament*”. The effective fulfilment and honest discharge of this tremendous responsibility would lend greater legitimacy to an elected democratic government and give effect to its constitutional mandate. It is, therefore, imperative that the Election Commission employs its extensive powers to regulate the election process. Any shortfall in the discharge of its responsibilities would violate express dictates of our Constitution, devastate the efficacy of our constitutional order and the envisioned operation of the State. Therefore, in appropriate circumstances, the Election Commission may be directed to fulfil its constitutional and legislative dictates by *inter alia* bringing all relevant political practices into conformity with the Constitution and the law.

47. We have examined this issue in the light of the provision of Article 218(3) as well as the relevant provisions of ROPA. It may be noted that all parties to the instant case concur that the law regulating election expenses and other election related activities is already present on the statute book. This mechanism of regulation finds meaning through the relevant Articles and provisions of the Constitution, ROPA as well as other laws for example, the Senate (Election) Act, 1975. It may be noted here that section 48 of ROPA defines 'election expenses' whereas section 49 *ibid* caps the campaign expenditure of the contesting candidate to one and a half million rupees for a seat in the Senate and a National Assembly seat and one million rupees for a Provincial Assembly seat. Section 68 of ROPA provides that the Tribunal shall declare the election of the returned candidate to be void if, *inter alia*, a *corrupt or illegal practice has been committed by the returned candidate or his election agent or by any other person with the connivance of the candidate or his election agent*. Subsection (2) of section 68 provides that the election of a returned candidate shall not be declared void on the ground *that any corrupt or illegal practice has been committed, if the Tribunal is satisfied that it was not committed by, or with the consent or connivance of that candidate or his election agent and that the candidate and the election agent took all reasonable precaution to prevent its commission*. Section 70 of the Act provides that the Tribunal shall declare the election as a whole to be void if, *inter alia*, it is satisfied that the result of the election has been materially affected by reason of the prevalence of extensive corrupt or illegal practice at the election. Section 78 of the Act, 1796 defines the corrupt practices which, *inter alia*, include contravention of the provisions of section 49. Section 82 provides that any person guilty of corrupt practice shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both. Section 99(1A) provides that a person shall be disqualified from being elected as, and from being, a member of an Assembly, if, *inter alia*, has been convicted by a court of competent jurisdiction on a charge of corrupt practice, moral turpitude or misuse of power or authority under any law for the time being in force; or he is found guilty of a corrupt or illegal practice under any law for the time being in force, unless a period of five years has elapsed from the date on which that order takes effect; or illegal practice. Considering the above provisions, we agree with the submission of Mr. Rafiq Rajwana, ASC that the strict implementation of the existing election laws is the need of the hour. We are also in agreement with the submission made by Dr. Khalid Ranjha, Sr.ASC that the Constitution and the election laws of Pakistan provide a comprehensive and adequate mechanism for regulating election expenses by enumerating different offences, penalties and procedures for a breach thereof. It is a matter of fact that the provisions and articles regulating the same are not adhered to, both in letter and in spirit. It is therefore emphasized that all these laws be strictly complied with by all relevant parties. It is also true that this mechanism for regulating the election process is concurrently, inadequately enforced. Poor enforcement thereof stems from a misconception regarding the capacity of the Election Commission to attend to the same. At this juncture, we reiterate that the Election Commission is fully empowered and independent to do all that is necessary to fulfil its constitutional mandate and instruct that it do so.
48. We would now propose to deal with specific practices identified by the petitioners. With respect to the financial accountability of the candidate, Section 50 of ROPA provides that every contesting candidate, other than the returned candidate, shall submit the return of his election expenses within thirty days of the publication of the name of the returned candidate. As per subsection (2) of section 50, the return of election expenses of the returned candidate and of every contesting candidate shall be submitted to the Returning Officer in the prescribed form containing (a) a

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statement of all payments made by him together with all bills and receipts; (b) a statement of all disputed claims; (c) a statement of all unpaid claims, if any; and (d) a statement of all moneys, securities or equivalent of money received from, or spent, by any person for the benefit of the candidate, specifying the name of every such person. As per subsection (3), the returns submitted under sub-section (2) shall be accompanied by an affidavit of the candidate in the prescribed form. As per section 51 of ROPA, the Returning Officer is bound to keep the returns and documents submitted under section 50 and to allow any person to inspect the same on payment of the prescribed fee, during a period of one year from the date of their receipt, or provide the copies if the same. Though the account of election expenditure is required to be submitted within 30 days of the declaration of the result, the monitoring has to be done on a regular basis during the campaign period because after the campaign is over, it becomes difficult to get any evidence of election expenditure.

49. Ch. Shujat Hussain and Mr. Mushahid Hussain Syed, President and Secretary General of PML(Q) appeared in Court on 28.03.2012, and submitted that the elected representatives of the people, immediately after taking oath, file false returns of election expenses before the Election. To overcome this phenomenon, in our view, the Election Commission must monitor election expenses from the day the holding of election is notified. All expenses incurred in carrying out any election related activity, are legally required to be accounted for. It is precisely because of the failure to account for the same that election expenses incurred by each candidate run into millions of rupees and exceed the prescribed ceiling. We reiterate that all expenditure over and above the prescribed ceiling qualifies as corrupt practice and direct the Election Commission to exercise its rule making power to formulate procedures to monitor election expenses and deal with the corrupt practices committed in the election process in accordance with law and ensure that the election is held justly, honestly and in accordance with law. An expenditure monitoring mechanism, i.e. monitoring cell, surveillance system, media certification, etc., should be devised to monitor the election expenses, be they for the National Assembly, Senate, Provincial Assemblies or the Local Bodies. The Election Commission must hold meetings with the candidates and apprise them of the relevant laws/rules, receive from them statements of expenses on weekly basis by engaging election staff, carry out inspection at random at different places. All transactions relating to election expenses should be entered into with GST registered firms/persons. Furthermore, a candidate must account for all the expenses immediately after the election is over. The Declaration Form should include the following further declarations: -

To meet election expenses, I have opened account No. \_\_\_\_\_ with \_\_\_\_\_ [name & branch of a scheduled bank] and the amount permissible for election expenses deposited therein.

All election expenditure shall be made out of the money already deposited in the aforesaid account.

No transaction towards the election expenses shall be made through an account other than the above account. [Copy of bank statement will be annexed with the Return.] Maintenance of day-to-day account of election expenditure by the candidate ought to be mandatory. In order to monitor day-to-day election expenditure incurred by the candidate, election expenditure monitoring centres/teams ought to be constituted in each constituency. The services of Returning Officers can also be availed in this regard. It is only through such a rigorous mechanism that the necessary culture of accountability within the political sphere.

50. In the course of electioneering and campaigning, most candidates and their supporters take out massive car rallies and use expensive vehicles for transporting the voters to and from the polling stations. In doing so these candidates and parties end up incurring exorbitant expenses and exceed the ceiling prescribed to section 49. This practice also creates a nuisance for the ordinary citizens and causes discomfort to the sick and students. Such rallies ought not to be allowed to travel long distances except if they have pre-arranged corner meetings at specific designated places. These meetings should be notified to the ordinary public by the local administration. The local administration must also ensure that all candidates are accommodated. Secondly, the substantial expenditure incurred in hiring and using transport has never been adequately monitored by the Election Commission. We, therefore, direct the Election Commission to take account of all expenditures incurred in the course of campaigning for activities that are directly and indirectly related and ancillary to the election process. Furthermore, to facilitate the voters, the number of polling stations may be increased appropriately throughout the country so that the polling stations are not at a distance of more than two kilometres from the place of residence of voters. In this regard, the Election Commission may take into

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consideration the suggestions made at the bar and ban all private transport on Election Day. Alternatively, the voters may be transported by vehicles, owned, rented or affiliated with the Election Commission. The routes of such vehicles should be widely advertised in the print and electronic media for information of the general public.

51. During hearing, *vide* order dated 17.04.2012, we instructed the relevant authority to submit a report regarding the sufficiency of the existing Polling Scheme and the number of Polling stations. The relevant portion wherefrom is reproduced hereunder: -“In compliance of directions of this Court, Syed Sher Afgan, DG (Elections), Election Commission of Pakistan has placed on record Election/Polling Scheme prepared in the year 2007 for the Elections of 2008 (33 books); he is directed to handover copy of this Election/Polling Scheme (33 books) for record of the Court; he is further directed to deliver a copy of the notification of the polling/election scheme for constituency of NA-49 to the Commissioner and Deputy Commissioner ICT, who on receipt of the same shall submit a report to the following effect:-
- i) whether the polling/election scheme prevailing for the last many years is sufficient to cater the requirement of the voters, so they may conveniently exercise their right of franchise without depending upon the arrangements made by the candidates contesting the elections qua transporting them from one place to another, etc.; and
  - ii) whether the number of polling stations are to be increased according to the latest electoral list.” Relevant Paras from the report received in pursuance of the aforesaid order read as follows: -“
3. Polling Scheme is prepared under Section 8 of the Representation of the People Act, 1976. Polling Stations established for General Elections-2008 relating to Constituency NA-49 were 197 while total registered voters were 242877. In line with the relevant law, all polling stations were set up in the government buildings. Each polling station covered radius of about 03 kilometer. At an average, 1500 to 2500 voters were facilitated to cast their vote in each polling station. And every polling station comprised of about 2 to 4 polling booths each.
  4. In pursuance of the Supreme Court Order and subsequent to the meeting presided over by the Acting Chief Election Commissioner of Pakistan consultations were held in the Deputy Commissioner's Office with the Federal Directorate of Education, District Election Commissioner Islamabad and the concerned Sub Divisional Magistrates. It has transpired that in comparison to year 2008, a total of 56,723 additional voters have been registered so far thereby increasing the total number of voters in NA-49 to low as compared to 242877. Thus there is a requirement to enhance the number of Polling Stations so that they are commensurate with the population/voters increased. In this proposed draft it is recommended that 50 new Polling Stations should be introduced thus raising the number to 247 as compared to 197 in the year 2008. By increasing the number of Polling Stations it is expected that twofold benefits will be accrued that is:-
    - (i) More Polling Stations will reduce the distance covered by the voters to cast their vote.
    - (ii) Pressure on Polling Stations will be eased thus resulting in quick turn over at each Polling Station.
  5. As a result of this exercise, the average number of voters per Polling Station is 1212 which is a manageable number. While determining the additional Polling Stations, the distance that a voter has to travel has been kept into consideration. There are 847 census blocks in NA 49 now. The polling stations have been established in such a way that a radius of 1.5 kilometers is covered compared to 3 kilometers of the scheme of general election of 2008.
  7. The addition of Polling Stations will require increased manpower and deployment of security apparatus. Islamabad has sufficient staff available, in the Federal Directorate of Education and the Capital Development Authority, which can perform such duties.”
52. Other electioneering practices like camping in the vicinity of the polling station and the handing over of *Perchis* to the voters are a cause of concern. By camping in the vicinity of the polling station and handing over of *Perchis* to the voters, the candidates, through their polling agents and supporters, influence the voters and compromise the objectivity with which they are to cast their vote. On polling day candidates establish their camps near the polling

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stations and spend substantial amounts to canvass the voters to vote for a particular candidate. Such action on the part of the candidates/supporters is clear violation of section 84 of ROPA. Section 84 of ROPA imposes restriction on election activity 48 hours before the polling. and specifically prohibits public meetings and promotion or participation in any procession . It clearly stipulates that the election campaign in all respects has come to an end 48 hours before the polling in order to enable the electorate to exercise their right of franchise freely and without influence. Similarly, section 85 prohibits canvassing for votes, soliciting of votes, persuading any elector not to vote at the election or for a particular candidate, or exhibiting any notice, sign, banner or flag designed to encourage the electors to vote or discourage the electors from voting for any contesting candidate within a radius of 400 yards of the polling station. It is common knowledge that different forms of electioneering activities continue through the prohibited period. Therefore, to ensure strict compliance with section 84 of ROPA, the Election Commission may manage to dispatch extracts from the voters' list in the name of one or more persons living in a house much before the polling day by post, or to save the postage by annexing such extracts with any of the utility bills. It is also suggested that NADRA may be deputed to furnish details of the voters at their residences. This exercise is required to be completed at least 7 days before the polling day, and this would facilitate a voter to exercise his right of franchise independently with full application of mind and without influence from the candidate or his supporters. A fair and transparent election rests at the heart of a democratic system. Therefore, any effort which cultivates a complimentary political culture should be encouraged. If need be, instead of involving the employees of the Provincial Governments, the employees of Federal Government/autonomous organizations/ agencies, including the armed and para-armed forces may be instructed to carry out stipulated functions at the polling stations.

53. Section 83A provides that no person or political party shall affix posters, hoardings or banners larger than the size prescribed by the Election Commission. It further provides that wall-chalking as part of an election campaign is prohibited in all forms and that loudspeakers shall not be used for election campaign except at the election meetings. Contravening these provisions is punishable with imprisonment up to one year or fine, or both. The Zila Nazim and the Returning Officer ought to ensure the effective implementation of these provisions. Section 83A(1) provides that the prescribed posters, hoardings or banners shall not be affixed nor parties' flags shall be hoisted on any public property or at any public place, except with the permission in writing from, and on payment of such fee or charges, as may be chargeable by the concerned local government or authorities. However, strangely, the concerned authorities have never taken any steps to enforce these provisions. The Election Commission should take all necessary steps to ensure compliance and enforcement thereof.
54. The petitioners have also recommended that certain election activities be introduced and actively encouraged – activities that, on the one hand, fulfil the purpose of the election campaign, and on the other, which a common man is able to engage in. The petitioners have identified door-to-door campaigning, formation and distribution of manifestos, equal opportunity to canvas on State television and radio, and candidate – voter interaction/debates, etc. The following details the petitioner's position on each of their recommendations and the respondents response to them It subsequently records our observations on the matter.
55. Door-to-door campaigning is an effective means of establishing communication between the candidate and the voter. Such a campaign strategy demonstrates the candidate's "*resolve, commitment and level of interest in his/her community*". According to the petitioners, door-to-door campaigning is the cheapest and most convenient method of communication for persons of modest means. The provisions of Articles 17, 25, 51 and 218(3) of the Constitution which mandate a fair and level playing field and require that the interests of persons of modest means be protected. The petitioners have also submitted that this method of communication is the least intrusive method of communication, since it involves direct contact between the candidate and the voter and leaves the decision to interact and receive information entirely on the voter. Finally, the petitioners have submitted that this recommendation, supplemented with a ban on political rallies, big luxurious vehicles, loudspeakers, banners, etc., would be the most effective way of reaching out to the electorate and creating a political culture, which is fair and open to individuals from all walks of life. Almost all of the respondents concur with this proposal of the petitioners. Dr. Farogh Naseem, on behalf of MQM, and Mr. Hamid Khan, on behalf of PTI have submitted that door- to-door campaigning is an effective means of communicating with the electorate. The political culture in developed countries also encourages door-to-door campaigning and other forms of personalized voter- candidate interaction.

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56. The petitioners have submitted that it should be mandatory for every political party and/or candidate to publish and distribute a manifesto containing a candidate's election promises and program. The petitioners believe that manifestoes are an essential component of an election campaign since they bind a candidate to his/her promises and the governing mandate enumerated therein. Furthermore, the publication and distribution of manifestos is a relatively cheap yet effective means of communication, especially in situations where mobility is limited. They have, therefore, argued that through a published manifesto, a new candidate has the opportunity of indirectly reaching out to voters, without having to expend too much on travel. The petitioners have also argued that the publication and distribution of the manifesto is a necessary expense that, owing to its utility, ought to be supported by the government. They have, however, conceded that strict conditions as to expenses relating to the publication, including those relating to the quality of paper and printing be employed. This initiative would, in the opinion of the petitioners, allow even those less advantaged individuals to participate in politics, who do not have the financial means to publish and distribute their manifestoes themselves. Such an initiative would pave way for free and fair elections and consequently towards progress and welfare via a true democracy. Dr Farogh Naseem, on behalf of MQM, agrees with the proposal of the petitioner. He has submitted that publishing and disseminating a party's manifesto is integral to any election campaign. Consequently, the State may assist in this regard by bearing the expense of publishing it. Advocate Hamid Khan has also submitted that PTI fully supports the initiative of the petitioners. He has submitted that the cost of printing a manifesto and supply of party flags is generally borne by political parties and not individual candidates. He has further submitted publishing of manifesto and disseminating it amongst the voters is a relatively less expensive method of campaigning and should be encouraged.
57. The petitioners have proposed that the State should provide a schedule delegating airtime to candidates on state television and radio. This facility, in their opinion, would serve as a unique opportunity for the candidate to share their election programs and manifestoes with the electorate. The petitioners have further reiterated their condemnation of the practice of allowing candidates airtime on private television channels to advertise their candidature as part of their election campaign. Mr. Rafique Rajwana has submitted on behalf of PML(N) that the State should not be seen discriminating against any candidate and/or any political party. Consequently, it should be duty of the government to provide air time for equal duration to all political parties and their candidates. Mr. Hamid Khan has concurred with the proposal of the petitioners. He has submitted that equal air time should be given to political parties that have fielded a large number of candidates in the general elections, on the State Television and Radio. Mr. Salman Raja, on behalf of APP, has submitted that the Election Commission should ensure that no candidate or political party should be allowed to reserve time on private TV channels and that adequate time should be given to each party to present their programme on State Television.
58. The petitioners have also proposed setting up forums that encourage candidate-voter interaction by allowing the voters the opportunity to put forward their questions to the candidates. An election campaign is a means for the candidate to communicate with the voters. The petitioners have proposed that the State should encourage candidates to present themselves to their voters and to actively address their questions and concerns through a direct platform. In this regard, they submit that the State should designate indoor venues according to a preplanned schedule duly published in and disseminated through newspapers. Dr Farogh Naseem has submitted that MQM has developed a detailed strategy for increasing interaction with voters, both at the party and the candidate level. They have submitted that the petitioners' proposal would have the effect of increasing the desired interaction between the electorate and the voter. Furthermore, Mr. Hamid Khan has also submitted that the voters should have an equal opportunity to reach the candidate during the election campaign. There should be debates between the candidates and voters which would enable them to understand one and another better. Appreciating the practical implications of such a proposal, Mr. Hamid Khan has observed that considering the large number of voters per constituency, there may be practical difficulties for the State to arrange such gathering, and fulfil the purpose of these gatherings.
59. The petitioners have submitted that voter awareness regarding his legal and constitutional rights and duties, is integral to the election process and, therefore, to the functioning of democracy. According to the petitioners, the prevalent political culture in Pakistan perpetuates power on the basis of feudal land holdings and other disenfranchising power centres. This is grossly apparent in the electioneering culture in such areas. Consequently, according to the petitioners, the ordinary voter is not always entirely aware of his/her rights and duties regarding the



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process of voting itself. They have, therefore, submitted that this Court may issue appropriate directions to the Election Commission to undertake an extensive and effective campaign through the media to educate voters about, inter alia, the necessity to vote and the procedure of voting. Furthermore, the petitioners have proposed that the Election Commission must concurrently assure the voters that their choice on the ballot would remain completely anonymous and that the exercise of their right of franchise should be carried out without fear. The Election Commission may designate an official at each polling station in order to ensure such a commitment is met and to provide guidance regarding voting procedure. Upon implementation, such a proposal would curtail the number of invalid votes. They have further argued that section 103 of the ROPA, imputes responsibility to ensure that the elections are conducted honestly, justly and fairly, squarely on the Election Commission. They have argued that by educating the voter about the procedure and importance of voting, the Election Commission would only be fulfilling its responsibility mandated by section 103 of ROPA. Dr. Farogh Naseem has submitted on behalf of MQM, that voter education can be undertaken effectively by political parties themselves. He has submitted that political parties, therefore, may be directed to conduct such seminars and others related activities. He has also suggested that necessary changes should be made to incorporate the said seminars as part of the secondary school curricula. He has further submitted that the government may also be directed to allocate funds for education of the voter. Mr. Rajwana, on behalf of PML(N), has expressed a similar concern regarding the need to educate the voter. This, he has observed may be achieved either through the parties or the government, or both. Mr. Hamid Khan has expressed PTI's support for this proposal. He has submitted that political parties should undertake the responsibility to educate the voters. It is one of the basic duties and obligations of the political parties to create voter awareness so that the voters can make intelligent and informed choice when casting their votes.

60. The petitioners have argued that sections 38 & 39 of ROPA read with Articles 17, 19-A and 51 of the Constitution mandate that the results of each polling station be announced at that polling station after a first count and a recount in the presence of the representatives of each candidate and by law consolidation of results be done on the basis of that count/recount. Dr. Farogh Naseem has not expressed any issue with the proposal of the petitioners. He has submitted on behalf of MQM that the results should be immediately announced in Form 14, which should contain the signatures and thumb impression of the Presiding Officer. He has argued that instead of involving government servants or bureaucrats, who allegedly act upon and are subservient to the dictates of the incumbent government, members of the lower judiciary and teachers should be involved in the process of tabulation as well as announcement. Mr Hamid Khan has submitted on behalf of PTI that, the results should be announced immediately after the count of votes at the end 'of the poll that day at each polling station. The results should be declared immediately and their certified copies should be supplied to the polling agents of all candidates after the count. He has further submitted that the result should also be affixed outside the polling station after due certification by the Presiding/Polling Officers at the polling station. This should be strictly enforced since it would minimize interference with the election process and the counting of votes.
61. We have considered the above suggestions of the petitioners as amplified by the submissions made on behalf of the respondent political parties. There is unanimity of view on various suggested courses of action. Therefore, we direct the Election Commission to frame rules and issue instructions to provide legal sanction to these measures, namely, door-to-door campaign, manifesto, canvassing on State television and radio, and candidate – voter interaction/debates, etc. as appropriate and implement the same to achieve the ultimate objective of fair, free, just and honest election.
62. There is divergence of opinion among the petitioners and the respondent political parties on the issue of computerized balloting. It is submitted on behalf of the petitioners that the existing system of balloting via paper votes is antiquated and suffers from severe defects. First and foremost, the petitioners have argued that this system is susceptible to rigging. They have further submitted that because of the system of casting votes by paper, most election disputes pertaining to balloting require a full-fledged trial for a resolution. They have submitted that India, with has a much larger voting population, has a computerized balloting system. In this regard, they have submitted a report drafted by PILDAT (Pakistan Institute of Legislative Development and Transparency) that has identified and recommended the relevant authorities to implement the system of computerized balloting in Pakistan. The petitioners have therefore sought “*appropriate directions from this Honourable Court to the Election Commission to*

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*take urgent steps to implement the; method of balloting as speedily as possible.*” Dr. Farogh Naseem has, however, submitted that the masses have not been sufficiently educated to deal with the complexities of a completely computerized overhaul. He has submitted that this suggestion is not suited to the present times. He has further argued that if computer balloting is introduced, there is a possibility that feudal lords may amass computer devices and use them to cast votes themselves to the complete exclusion of the voters. In this regard, he has submitted that political parties may be instructed to conduct seminars and other activities to educate the voters. He has also submitted that this education may be introduced at the secondary education level and taught as part of the syllabus to inculcate a sense of responsibility in the citizenry to cast votes. This process however, requires long term planning and should not be on the agenda of the Election Commission in the short run. Mr. Hamid Khan has, on behalf of PTI submitted that electronic voting should be introduced through Electronic Voting Machines (EVMs). He has however pointed out that the upcoming general elections may be too soon for this overhaul. Prior to the adoption of EVMs various laws need to be introduced in order to safeguard the system against electoral fraud. Furthermore, according to Mr. Hamid Khan, the system cannot work without the introduction of biometric voter identification system, which would indentify the voters at the polling stations. Since such pre-requisites are not in place, Mr. Hamid Khan has submitted that introducing electronic voting for the upcoming general elections would have the effect of throwing the entire vote-counting process into disarray. Mr. Taufique Asif has submitted that the JIP agrees in principle with the introduction of electronic voting and fully appreciates the merits of it. He has however submitted that the system must be fool-proof and should be introduced gradually on an experimental basis, and all the stake-holders must be consulted before finalizing this system. It was also submitted that the citizens must be provided with the facility to register, correct or transmit their votes through internet or telephone and system may also be installed (in due course of time) in the relevant government departments for the said purpose. The Federation has submitted that the Election Commission is in the process of introducing computerized balloting in the country.

63. Having considered the pros and cons of computerized balloting as highlighted by the petitioners as well as the respondents, we expect that the Election Commission, which has already commenced work on this issue, will take effective steps to introduce computerized balloting at an appropriate time.
64. The petitioners have raised another plea relating to intra-party elections. Dr. Farogh Naseem has submitted that a pertinent concern is the fact that the Election Tribunals fail to decide election disputes efficiently and at times with such time delay that election petitions become infructuous in the course of hearing. Mr. Hamid Khan has submitted that intra-party elections should be held at every level to promote democratic culture within the party. Such elections should be held with secret ballot and the political parties should not be fiefdoms of their leaders. By introducing electoral process within the political parties the democratic culture will be promoted. There will be greater opportunity for the parties to grow and develop leadership within their own ranks. The existing ruling elite has deliberately avoided holding of internal elections of their political parties and is running them arbitrarily at the will and whims of their leaders.
65. We have considered the issue in the light of the arguments made at the bar. The issue at hand, however, does not relate to this plea. We, therefore leave it to be taken up at the appropriate forum.
66. Article 222 of the Constitution provides that the Parliament may, by law, provide for allocation of seats in the National Assembly, delimitation of constituencies, preparation of electoral rolls, requirements as to residence in a constituency, determination of objections pertaining to and the commencement of electoral rolls, conduct of elections and election petitions, matters relating to corrupt practices and other offences, and all other matters necessary for the due Constitution of the two Houses and the Provincial Assemblies. Article 219(a) of the Constitution specifically provides that the Election Commission is charged with the duty of preparing electoral rolls for election to the National Assembly and the Provincial Assemblies, and revising such rolls annually. However, there have been widespread complaints that the electoral rolls are not revised annually and that they contain hundreds of thousands of bogus entries. It has been submitted that not only the General Elections of 2002, but also those of 2008 were held on the basis of electoral rolls based on the 1998 Census. In this behalf, Mr. Farogh Naseem, ASC has referred to the case of *Imran Khan v. Election Commission of Pakistan* (Constitution Petition No. 31 of 2011) and *Ms. Benazir Bhutto v. Federation of Pakistan* (Constitution Petition No. 45 of 2007) wherein the authenticity of electoral

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rolls has been questioned. In the said case, this Court has already taken certain corrective steps. In this behalf, it has been pleaded on behalf of the Awami Party Pakistan that women are under-registered in electoral rolls and the Election Commission has failed to ensure the political participation of the same in the electoral process. As a solution to the issue of bogus entries in the electoral rolls, Mr. Hamid Khan, Sr. ASC has suggested that the Army and Frontier Corps be instructed to be present not only at the stage of polling, but also at the time of preparation/revision of electoral rolls.

67. Fair, free, honest and just elections are *sine qua non* for strengthening of democracy. To achieve this goal, accurate preparation/revision of electoral roll is immediately required to be undertaken by the Election Commission through credible and independent agencies. In so doing, the conventional ways and means of merely depending upon NADRA alone or other similar bodies must be discontinued forthwith. Accordingly, we direct the Election Commission to undertake door-to-door checking of voters' lists and complete the process of updating/revision of the electoral rolls by engaging Army and the Frontier Corps, if need be. This exercise should be undertaken as early as possible and in accordance with the time limit fixed in *Imran Khans' case* (supra).
68. It is submitted on behalf of the petitioners that the election tribunals, which are mandated to resolve all election disputes, are over worked and cause severe delays in resolving disputes. It is submitted that "*the number of tribunals appointed should have a fair co-relation with the number and volume of disputes raised or petitions filed, and procedures ensuring speedy disposal*, therefore, this Court may issue appropriate directions to the Election Commission so that the election disputes are decided expeditiously. Such directions would ensure the speedy removal of an illegal office bearer and would avoid the situation wherein such an individual continues to hold the office illegally despite serious challenges to his election solely because the tribunals are overworked or existing procedures allow lingering of trials. On behalf of MQM, it is submitted that the Election Tribunals do not speedily decide election disputes and at times election petitions become infructuous due to efflux of time as they are not decided during the time in which an office is occupied by a candidate. Similar concerns have been agitated on behalf of PTI and APP and it has been submitted that the election tribunals keep delaying the disposal of petitions until the next elections so as not to get into "bad books" of winning candidates, who more often than not belong to the party in power. Section 67(1A) of ROPA mandates that a Tribunal must adjudicate a petition within 3 months. Unfortunately this provision is violated more often than not. Reliance has been placed on a report by European Union 2008 EOM on the 2008 elections, which found that 39 out of 221 petitions from 2002 elections remained unresolved after the Parliament's five-year term had expired. The petitioners have requested that while issuing the requisite directions, the following factors may be kept in mind: -
- (i) deeming an election petition and its reply to be the examination in chief of the parties;
  - (ii) examination in chief of witnesses by affidavit;
  - (iii) recording of evidence on commission; and
  - (iv) heavy costs for adjournments sought without good cause.

It is submitted on behalf of PTI that the procedure for resolving election disputes expeditiously should be provided under the law. There should be more election tribunals, which should speedily decide the cases of election disputes.

69. We have given anxious consideration to this issue. Since the purpose of this petition is to allow vast majority of Pakistani citizens to meaningfully participate in the election process, there is a need to adhere to the procedure laid down for resolving election disputes expeditiously and ensure completion of whole process including appeals within 120 days. Section 57 of ROPA empowers the Chief Election Commissioner to appoint as many Tribunals as may be necessary. Thus, corrective measures are required to be taken at their end to ensure that the election disputes are resolved at the earliest. The Election Commission may also consider establishing a panel of lawyers well conversant with election laws at the State expense to provide free legal services to the marginalized segments of society and take other steps it considers appropriate.
70. As it has been pointed out hereinabove that under the constitutional dispensation, Article 2A, etc., the country is to be governed by the chosen representatives of the people of Pakistan. There have been debates at different forums that, in

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view of the low turn out of the voters at election, a winning candidate does not qualify as a representative of the majority of the electorate of a constituency. There are cases in which a candidate has been returned despite the fact that the number of votes polled in his favour had not been more than 10 to 15 percent. These statistics and the phenomenon of low voter turn-out raise pertinent questions regarding the ownership of the winning candidates claim. They also shed light on a dire need to identify and address the key causes thereof.

71. Article 51 is an embodiment of the democratic spirit of our Constitution, wherein it prescribes the mechanism for the selection and establishment of a democratically elected government. This Article entitles every person to cast their vote if they meet the requirement mentioned therein. It therefore, enables all eligible individuals to participate in the political process of the country and to thereby, select as well as set a democratic government in motion. The aforementioned discussion has sufficiently addressed the Constitutional importance of democracy as a cardinal feature of our Constitutional Order and a prescribed system of government. Indeed, it is only through the operation of Article 51 that the Constitutional dictate of establishing a democratic government is realized. A failure or any shortfall in the operation thereof would substantially undermine the legitimacy of an elected democratic government. Furthermore, this would also have the effect of isolating the electorate from the democratic process and rendering the elected government, democratic in form, but not in spirit. Such a compromise, and especially of a fundamental tenet of our Constitution must be avoided. The parties have submitted that the electorate in Pakistan has, in almost all elections, failed to implement Article 51. They have submitted statistics which indicate that Pakistan has suffered from a glaringly low voter turnout in almost all national elections. In the National Elections of 2008, the total voter turnout, as recorded by the Election Commission, was 44.11 percent of the total registered voters. A meager 31.32 percent, 31.05 percent and 33.54 percent of total registered voters cast their votes in Balochistan, FATA and Khyber Pakhtunkhwa respectively. In Punjab and Sindh, 48.18 percent and 44.16 percent of the registered voters voted at the elections. During hearing of the case, the representatives of Election Commission were asked to share figures that demonstrated the percentage of votes secured by the winning candidate in a particular constituency. The results were perplexing. In NA-I, Peshawar, against total votes of 387083 only 88954 votes were polled (22.98% of the total votes). The candidate who secured 49.70% of the votes polled and a meager 11.42% of the total votes cast, was declared successful. It is to be noted that the individuals who stand elected by securing an insignificant majority of the votes cast, cannot legitimately claim to be the representative of the people. Furthermore, an election that suffers from such a poor voter turnout could not be said to be effectuating the true spirit of democracy, as envisioned by the Constitution. All necessary steps must be taken to ensure that this Constitutional dictate of nurturing and being governed by democratic ethos is honoured in letter and spirit.
72. Many countries have enacted laws, which make it compulsory for the electorate to participate in the election process. Compulsory voting is an age old practice that was adopted to counter anti-democratic practices and presently twenty three countries have adopted compulsory voting in their respective jurisdictions. In 1777, the State of Georgia enacted legislation to make voting compulsory and directed that *“every person absenting himself from an election, and shall neglect to give in his or their ballot at such election, shall be subject to a penalty not exceeding five pounds; the mode of recovery and also the appropriation thereof, to be pointed out and directed by act of the legislature: Provided, nevertheless, that a reasonable excuse shall be admitted”*. In Austria, compulsory voting was partially introduced in 1929 but extended to parliamentary elections in 1949. Netherlands also introduced compulsory voting in 1917 along with in Spain, Venezuela and Chile. Congo, Brazil and Argentina have also made voting compulsory for citizens between 18 and 70 years old. In primaries, the citizens under 70 years of age may refuse to vote, if they formally express their decision to the electoral authorities, at least 48 hours before the election. Ecuador has adopted a form of compulsory voting, which makes its obligatory on citizens between 18 and 65 years to vote in elections. It is, however, not compulsory for citizens aged 16–18, illiterate people, and those older than 65. In Singapore, voting is compulsory for citizens aged above 21 years on the 1st of January of the year of election. Non-voters are removed from the electoral register until they reapply, providing a reason for their abstention. Peru and Uruguay have also adopted compulsory voting to ensure that their democratic mandate is sufficiently and successfully met.
73. Some jurisdictions impose sanctions against individuals who violate the law by failing to vote. They, however, before levying a sanction, require the non-voting citizen to provide legitimate reasons for his/her abstention from

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voting, if any exist. These sanctions have taken different forms. Countries have also impressed fines against non-voters. The amount varies in different countries, e.g., 3 Swiss Francs in Switzerland, between 300 and 3000 ATS in Austria, 200 Cyprus Pounds in Cyprus, 10-20 Argentinean Pesos in Argentina, 20 Soles in Peru, etc. A non-voting citizen may also face imprisonment as a sanction. In cases where such a person refuses to pay the fine despite being reminded to do so, the courts impose a prison sentence. Countries like Belgium disenfranchise voters who fail to vote in elections consecutively for 15 years. In Singapore the voter is removed from the voter register until he/she reapplies to be included and submits a legitimate reason for not having voted. In Peru the voter has to carry a stamped voting card for a number of months after the election as a proof of having voted. This stamp is required in order to obtain some services and goods from some public offices. In Bolivia the voter is given a card when he/she has voted so that he/she can proof the participation. The voter would not be able to receive his/her salary from the bank if he/she cannot show the proof of voting during three months after the election. Australia introduced compulsory enrollment and voting in 1924, for both state and national elections. Some states have made voting in local council elections compulsory as well. Eligible voters who remain absent from the polling stations are liable to pay fines of 20-50 Australian Dollars and may also face imprisonment in case of non-payment of fines.

74. For reference, the relevant provisions of the Commonwealth Electoral Act 1924, whereby certain amendments were made in the Commonwealth Electoral Act 1918-1922 for the purpose of making provision for Compulsory Voting, are reproduced hereinbelow: -Compulsory voting. 128A.

- (1.) It shall be the duty of every elector to record his vote at each election.
- (2.) It shall be the duty of each Divisional Returning Officer at the close of each election to prepare a list (in duplicate) of the names and descriptions of the electors enrolled for his Division who have not voted at the election, and to certify the list by statutory declaration under his hand.
- (3.) The list so certified shall in all proceedings be prima facie evidence of the contents thereof and of the fact that the electors whose names appear therein did not vote at the election.
- (4.) Within the prescribed period after the close of each election the Divisional Returning Officer shall send by post to each elector whose name appears on the list prepared in accordance with sub-sections (1.) and (2.) of this section, at the address mentioned in that list, a notice, in the prescribed form, notifying the elector that he appears to have failed to vote at the election, and calling upon him to give a valid truthful and sufficient reason why he failed so to vote.
- (5.) Before sending any such notice, the Divisional Returning Officer shall insert therein a date, not being less than twenty-one days after the date of posting of the notice, on which the form attached to the notice, duly filled up and signed by the elector, is to be in the hands of the Divisional Returning Officer.
- (6.) Every elector to whom a notice under this section has been sent shall fill up the form at the foot of the notice by stating in it the true reason why he failed so to vote, sign the form, and post it so as to reach the Divisional Returning Officer not later than the date inserted in the notice.
- (7.) If any elector is unable, by reason of absence from his place of living or physical incapacity, to fill up, sign, and post the form, within the time allowed under sub-section (5.) of this section, any other elector who has personal knowledge of the facts may, subject to the regulations, fill up, sign, and post the form, duly witnessed within that time, and the filling up, signing, and posting of the form may be treated as compliance by the firstmentioned elector with the provisions of sub-section (6.) of this section.
- (8.) Upon receipt of a form referred to in either of the last two preceding sub-sections, the Divisional Returning Officer shall indorse on both copies of the list prepared in accordance with sub-section (2.) of this section, opposite the name of the elector, his opinion whether or not the reason contained in the form is a valid and sufficient reason for the failure of the elector to vote.
- (9.) The Divisional Returning Officer shall also indorse on both copies of the list, opposite the name of each elector to whom a notice under this section has been sent and from or on behalf of whom a form properly filled up signed and witnessed has not been received by him, a note to that effect.
- (10.) Within two months after the expiration of the period prescribed under sub-section (4.) of this section, the Divisional Returning Officer shall send to the Commonwealth Electoral Officer for the State one copy of the list, with his endorsements thereon, certified by statutory declaration under his hand. Each copy of the list prepared and indorsed by the Divisional Returning Officer, indicating

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- (a) the names of the electors who did not vote at the election;
  - (b) the names of the electors from whom or on whose behalf the Divisional Returning Officer received, within the time allowed under sub-section (5.) of this section, forms properly filled up and signed; and
  - (c) the names of the electors who failed to reply within that time, and any extract therefrom, certified by the Divisional Returning Officer under his hand, shall in all proceedings be prima facie evidence of the contents of such list or extract, and of the fact that the electors whose names appear therein did not vote at the election, and that the notice specified in sub-section (4.) of this section was received by those electors, and that those electors did, or did not (as the case may be), comply with the requisitions contained in the notice within the time allowed under sub-section (5.) of this section.
- (12.) Every elector who—
- (a) fails to vote at an election without a valid and sufficient reason for such failure; or
  - (b) on receipt of a notice in accordance with sub-section (4.) of this section, fails to fill up, sign, and post within the time allowed under sub-section (5.) of this section the form (duly witnessed) which is attached to the notice; or
  - (c) states in such form a false reason for not having voted, or, in the case of an elector filling up or purporting to fill up a form on behalf of any other elector, in pursuance of sub-section (7.) of this section, states in such a form a false reason why that other elector did not vote, shall be guilty of an offence. Penalty: Two pounds.
- (13.) Proceedings for an offence against this section shall not be instituted except by the Chief Electoral Officer or an officer thereto authorized in writing by the Chief Electoral Officer.
75. As has been discussed above, it is a constitutional imperative that a democratic government be established and nurtured in Pakistan and an obligation of all functionaries of the State, including the Election Commission, to ensure adherence thereto. Various provisions of the Constitution and other laws have fully empowered and legally equipped the Election Commission to ensure that the election, it is responsible to “*organize and conduct*”, establishes and achieves a true democratic government as envisioned by the Constitution. Therefore, the Election Commission is obliged to ensure that all elections witness a substantial participation of the electorate. By making voting compulsory and attaching sanctions for its violation, the Election Commission and/or the appropriate body can resolve a long standing problem, and bring existing election-related processes in line with the dictates of the Constitution. Therefore, all necessary steps must be taken to make voting compulsory in Pakistan as early as possible. This initiative would have the effect of strengthening democracy by giving effect to the constitutional mandate that the Government shall be run by the chosen representatives.
76. The petitioners have also proposed that the existing 'First Past the Post' (FPTP) system be scrutinized for its viability as an election system. They have questioned whether FPTP fulfills the constitutional mandate of ensuring true representation and free, fair and just elections and proposed that other systems be tested for their viability and considered as possible alternatives. They have argued that since the Constitution does not specifically endorse this particular system, it is permissible to consider and adopt an alternative system, that is better attuned to the spirit of democracy envisioned by the Constitution is permissible. Mr. Salman Akram Raja has submitted that to ensure meaningful participation and representation of all shades of classes and groups, it should be made mandatory that there should be mixed electoral system based on first-past-the-post and proportional representation as is prevalent in majority of countries. At least 10% of seats should be reserved for parties on proportional representation basis, if they obtain more than 2% of the total votes polled. The list of such candidates may be given in advance to Election Commission.
77. It may be noted that according to FPTP system of election, the candidate securing the highest number of votes is the winner. The winning candidate, however, does not necessarily receive an absolute majority of all votes cast. Thus, according to this voting system, the members of the Parliament who claim themselves to be representatives of people, may not command the majority of the votes registered and polled. Therefore, they may not genuinely represent their electorate. Such phenomenon is perpetuated by defective electoral laws, especially section 42 of the ROPA, which is based on FPTP. The said section provides that any contesting candidate who has secured the highest number of votes (not more than 50% of the polled votes) is declared to be elected. At this stage, reference may be

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made to the definition of the expression “majority votes” given in Black's Law Dictionary, 6th Edition, p. 955, which reads as under: -“Majority votes: Votes by more than half of votes for candidates or other matter on ballot. When there are only two candidates, he who receives the greater number of the votes cast is said to have a majority; when there are more than two competitors for the same office, the person who receives the greatest number of votes has a plurality, but he has not a majority unless he receives a greater number of votes than those cast for all his competitors combined.”

78. In the elections of 2008, the members of the Parliament/Assemblies were elected on the basis of system of 'first past the post'. In light of the above, most of them could not claim to be true representatives of the people of their respective constituencies, as they did not secure more than 50% of the votes polled. For example, in the case of the National Assembly out of 268 contested seats the winners in 108 seats secured less than 50% of the polled votes. Thus, more than 40% of the National Assembly seats lacked majority representation. In certain cases, it was even less than 30%. In order to make the electoral system democratic and representative the only remedy lies in the adoption of re-polling (runoff) in those electoral constituencies where there is no clear winner who has secured at least or more than 50% of the votes polled. In the fresh polling between the two leading candidates anybody who secures majority votes should be declared successful. This system is prevalent in many democratic countries. The same has been adopted in the Local Government Elections in Pakistan. This question arose especially on the observation of this Court that the 18<sup>th</sup> amendment to the Constitution has brought about a change in Article 91 (4) and introduced a second round/runoff election, if the candidate for Prime Minister is unable to secure a certain threshold number of votes from the total of the membership of the National Assembly, in the first round of voting. The said provision violates the principle of majority. Professor Bernard Crick, Emeritus professor of Politics, Birkbeck College, London, in his famous book 'Democracy', describes the FPTP as undemocratic and certainly unrepresentative. In the case of *Mir Salim Khan Khosa v. Chief Election Commissioner* (2002 SCMR 109) it was held that *under the unamended provisions* [section 16(3) read with section 37 Balochistan Local Government Election Ordinance, 2000] *the panel of candidates securing even a single vote more than the other contesting panel or panels of candidates was entitled to be declared elected but under the amended provisions securing of more than 50% of the total votes of the members of the Unions Councils in the District is mandatory and the candidates who fail to achieve the target are not to be notified as returned candidates even if they secure highest number of votes. The rationale and object of the amendment appears to be to ensure that the winning panel of candidates virtually represents the majority of the voters of the district and a panel of candidates out of three or four contesting panels does not win the election by securing 25% or 30% of votes. The amendments have redressed the possible anomaly under majority or plurality system where in the event of an election being contested by a large number of candidates one of them wins the election with a few votes and thereby represents only a small and not a large segment or the constituency.* However, as the respondents therein had secured more than 50% of total votes, the appeal was dismissed.
79. The petitioners have proposed that the electorate should be given the option of refusing to vote for candidates they do not support. It is for this reason that they have proposed that the ballot paper should have a 'none of the above' option. This option would, according to the petitioners, lend voice to those members of the electorate who do not support any of the candidates for the political office/seat. The fact that Pakistan suffers from a low voter turnout in elections, means that those who stand elected may not truly be the 'representative' of the people of Pakistan. If the vote is an expression of the electorate's choice, then the electorate ought to be given the option to express their dissatisfaction with the candidates, as well. A 'None of the above' option, therefore, would serve to give effect to this purpose. Furthermore, with this option, the electorate would be in a position to claim greater ownership of their constituencies and would be able to exercise their own decision-making powers by nominating appropriate candidates. To reinforce their point, the petitioners have also submitted that such a practice also exists in some parts of the world and has been proposed in others. They have sought a declaration that an election that does not provide the right to choose “None of the above Candidates” is ultra vires, inter alia, Articles 17, 51 (6), 106 (3) and 218 (3). Or in the alternative, hold as per prayers 'd' and 'e' in C.P87 of 2011. On behalf of the Federation, it was stated that the said runs contrary to the electoral laws in force. Mr. Salman Raja, ASC, on behalf of the APP agrees with the proposal of the petitioners. He has further submitted that if the number of votes casted in the 'None of the above' category are more than those casted in favour of other candidates, than those elections must be declared void and re-polling should be ordered.

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Mr. Taufique Asif has submitted that the JIP agrees in principle with the petitioners, but have alternatively proposed that proportional system should be considered as a viable alternative for the existing system of elections, which is better suited to attaining electoral justice and national harmony – a primary goal of the society that the majority system (presently prevalent in Pakistan) is incapable of attaining. It has been submitted that the proportional system has the following merits: -

- (a) Wider Representation;
- (b) Political Institutionalization;
- (c) Political Education;
- (d) Fair Elections;
- (e) Crystallization of Ideology;
- (f) Political Equations;
- (g) Sense of Participation and Confidence;
- (h) Tolerance for Disagreements; and
- (i) An Islamic Perspective.

In certain jurisdictions, voters have the option to vote 'none of the above' if they do not want to vote for any of the candidates to show dissatisfaction with the certain candidates instead of whole process. The same is, therefore, recommended to be considered for adoption by the concerned authority.

80. In the light of the above discussion, the titled petition is disposed of with the following observations, declarations and directions: -

- (1) The freedom of association, as enunciated by Article 17 of the Constitution, confers a Fundamental right on every individual to partake in the political governance of the State, whilst concurrently reinforcing the constitutional mandate to protect and advance this right through a democratic system. The 'freedom of assembly' (Article 16) and 'freedom of speech' (Article 19) also serve to realize this constitutional imperative;
- (2) By guaranteeing the observance of '*principles of democracy*' in Pakistan and mandating that the "*State shall exercise its powers and authority through the chosen representatives of the people*", the Constitution of Pakistan instructs that the authority to govern be exercised by and through a representative and democratic government. The conferment of this authority has been framed with an ardent dedication '*to the preservation of democracy*' and, therefore, encapsulates it as one of its core values. By establishing and enumerating the powers and manner in which the legislature is to function, Part II and III of the Constitution cement 'democracy' as the chosen system of the people and a fundamental constitutional dictate;
- (3) The Constitution of Pakistan mandates the Election Commission to organize and conduct the election and to make such arrangements as are necessary to ensure that the election is conducted honestly, justly, fairly and in accordance with law, and that corrupt practices are guarded against, but unfortunately the said mandate has not been properly fulfilled in the past;
- (4) The Representation of the People Act, 1976 vests the Election Commission with the responsibilities and powers to, *inter alia*, regulate election expenses, provide for offences, penalties and procedures in case of breach of conditions relating thereto, resolve all election disputes, declare the election void, etc. The constitutional requirement to hold elections fairly, freely, honestly, justly and in accordance with law obligates the Election Commission to exercise all powers vested in it to the best of standards and norms;
- (5) All public power is a sacred trust, which is to be exercised fairly, justly, honestly and in accordance with law; and wherever any discretionary power is vested in a public authority or functionary, that too, is to be exercised to achieve the goal of fair, free, honest and just discharge of this sacred trust; and
- (6) The impugned election practices and processes are cognizable by the Election Commission and are required to be dealt with in accordance with the Constitution and the law; therefore, the constitutionality or otherwise of the election laws is not a relevant question in the present proceedings, rather strict implementation is called for.



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81. In pursuance of the above, we hold and direct as under: -
- (a) All the election laws be strictly implemented by the Election Commission in the discharge of its constitutional mandate under Article 218(3) of the Constitution, Representation of the People Act and other laws/rules;
  - (b) The Election Commission is empowered to check not just illegal actions relating to the election (violating the limits set for campaign finance, etc.) or corrupt practices (bribery, etc.), but is also empowered to review all election activities, including *Jalsas*, *Jaloos*, use of loudspeakers, etc. for their effects on the standards of 'fairness, justness and honesty' that elections are expected to meet. The Election Commission is also empowered to take pre-emptive measures to ensure that the spirit of democracy and 'fairness, justness and honesty' of elections is fully observed. The Election Commission is, therefore, directed to take all necessary steps to ensure the same;
  - (c) The Election Commission must undertake monitoring of the election expenses from the day the holding of election is notified. A candidate must account for all the expenses immediately after the election is over. The Declaration Form should include the following further declarations: -
    - (i) To meet election expenses, I have opened account No. \_\_\_\_\_ with \_\_\_\_\_ [name & branch of a scheduled bank] and deposited therein the amount permissible for election expenses.
    - (ii) All election expenditure shall be made out of the money already deposited in the aforesaid account.
    - (iii) No transaction towards the election expenses shall be made through an account other than the above account. [Copy of bank statement will be annexed with the Return.];
  - (d) The Election Commission must hold meetings with the candidates and apprise them of the relevant laws/rules, receive from them statements of expenses on weekly basis by engaging election staff and carry out inspection at random at different places. All transactions relating to election expenses should be entered into with GST registered firms/persons;
  - (e) To facilitate the voters, the number of polling stations may be increased appropriately throughout the country so that the polling stations are not at a distance of more than two kilometres from the place of residence of voters. In this behalf, the Election Commission may take into consideration the suggestions made at the bar, including the provision of official transport to the voters, but in no case, shall it allow the candidates to hire/use private transport on election day. Where arrangement for transport is made by the Election Commission, the routes of such transport should be widely advertised in the print and electronic media for information of the general public;
  - (f) As regards the handing over of *Perchis* to the voters at election camps, the Election Commission must take steps to provide the requisite information to the voters by other means as discussed hereinabove. Therefore, to ensure strict compliance with section 84 of Representation of the People Act, 1976 in letter and in spirit, establishing of camps near the polling stations should be banned forthwith. The Election Commission may manage to dispatch extracts from the voters' list in the name of one or more persons living in a house at least 7 days before the polling day by post, or to save the postage by annexing such extracts with any of the utility bill;
  - (g) Only such election campaign activities ought to be permitted, which on the one hand fulfil the purpose of the election campaign, and on the other are within the reach of the common man. The petitioners have recommended certain activities, namely, door-to-door campaign, manifesto, canvassing on State television and radio, and candidate – voter interaction/debates, etc. ROPA and other relevant laws have held these activities to be permissible in the eyes of the law. These, therefore, ought to be encouraged by Election Commission on the basis of their merit;
  - (h) To ensure fair and transparent election, if need be, instead of involving the employees of the Provincial Governments, the employees of Federal Government/autonomous organizations/agencies, including the armed and para-armed forces may be instructed to carry out stipulated functions at the polling stations;
  - (i) As regards the introduction of computerized balloting, it is informed that the Election Commission has already undertaken work on it. We, therefore, expect that effective steps will be taken in this regard at an appropriate time;
  - (j) To achieve the goal of fair, free, honest and just elections, accurate preparation/revision of electoral roll is immediately required to be undertaken by the Election Commission through credible and independent

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- agencies. Accordingly, we direct the Election Commission to undertake door-to-door checking of voters' lists and complete the process of updating/revision of the electoral rolls by engaging Army and the Frontier Corps to ensure transparency, if need be;
- (k) Corrective measures are required to be taken by the Election Commission to ensure that the election disputes are resolved at the earliest. The Election Commission may also consider establishing a panel of lawyers well conversant with election laws at the State expense to provide free legal services to marginalized segments of society;
  - (l) The Election Commission is obliged to ensure that all elections witness a substantial participation of the electorate, therefore, all necessary steps must be taken to make voting compulsory in Pakistan as early as possible;
  - (m) In the 'First Past the Post' system of election, the winning candidate does not necessarily receive an absolute majority of all votes cast, therefore, such a candidate does not command the majority of the votes polled. As such, the system of 'First Past the Post' violates the principle of majority. The Election Commission may explore ways and means to introduce appropriate system of election including 'run off election' and 'none of the above options', in the light of the discussion made hereinabove, to ensure true representation of the people and rule of the majority; and
  - (n) The Election Commission is empowered to frame rules to ensure that the elections are conducted justly, fairly, honestly and in accordance with law and that corrupt practices are guarded against. There is unanimity of views on various suggested courses of action. Therefore, we direct the Election Commission to frame rules and issue instructions to provide legal sanction to these measures and implement the same to achieve the ultimate objective of fair, free, just and honest election.

CHIEF JUSTICE  
JUDGE JUDGE

Announced in open Court on 8<sup>th</sup> June, 2012 at Islamabad.

CHIEF JUSTICE

APPROVED FOR REPORTING

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**Appendix G**

**ELECTION COMMISSION OF PAKISTAN**  
**NOTIFICATION**

Islamabad, the 27<sup>th</sup> June, 2012

**No.F.8(12)/2012-Cord.** - WHEREAS, under Article 218(3) of the Constitution of the Islamic Republic of Pakistan it is the duty of the Election Commission to organize and conduct an election and to make such arrangements as are necessary to ensure that the election is conducted honestly, justly, fairly and in accordance with law and that the corrupt practices are guarded against;

AND WHEREAS, Article 220 of the Constitution read with Section 5 of the Representation of the People Act, 1976 (hereinafter called the Act) envisage that it shall be the duty of all executive authorities in the Federation and in the Provinces to assist the Chief Election Commissioner and the Election Commission in the discharge of his or their functions;

AND WHEREAS, Section 104 of the Act provides that anything required to be done for carrying out the purposes of the Act, for which no provision or no sufficient provision exists shall be done by such authority and in such manner as the Commission may direct;

AND WHEREAS the Hon'ble Supreme Court of Pakistan vide its Judgment dated 8<sup>th</sup> June, 2012 passed in Constitution Petition No. 87/2011 (Workers Party Pakistan and others vs. Federation of Pakistan and others) has observed that the Election Commission is empowered to check not just illegal action relating to the election (violating the limits set for campaign finance, etc.) or corrupt practices (bribery, etc), but is also empowered to review all election activities, including jalsas, Jaloos, use of loud speakers, etc. for their effects on the standard of 'fairness, justness and honesty' that elections are expected to meet and that the Commission is also empowered to take preemptive measures to ensure that the spirit of democracy and 'fairness, justness and honesty' of elections is fully observed;

AND WHEREAS bye-election in Constituency **No. NA-151 Multan-IV** is scheduled to be held on **19.07.2012** and it is expedient to issue the following Directive to ensure free, fair and transparent bye-election and to guard against corrupt practices;

NOW, THEREFORE, in exercise of the powers conferred upon it under Articles 218(3) and 220 of the Constitution read with Section 104 of the Act and pursuant to the directions of the Hon'ble Supreme Court in the judgment supra and all other powers enabling it in that behalf, the Election Commission is pleased to direct that:

**ELECTION EXPENSES**

- i) None of the contesting candidates shall exceed the limit of election expenses of Rs. 15,00,000/- (rupees one million and five hundred thousand) in terms of sub-section (2) of Section 49 of the Representation of the People Act 1976;
- ii) Each contesting candidate shall open an account with a scheduled bank on or before the 29<sup>th</sup> June, 2012 and deposit therein the amount not exceeding Rs. 15,00,000/- to meet the election expenses;
- iii) All election expenditures shall be made out of the amount deposited in the aforesaid account;
- iv) No transaction towards the election expenses shall be made through an account other than the account opened for the purpose;
- v) All transactions relating to the election expenses shall be entered with GST registered firms;
- vi) Each contesting candidate shall file a declaration (Annex-A) to the above effect on or before the 29<sup>th</sup> June, 2012 after issuance of this directive with the Returning Officer;
- vii) Every contesting candidate shall maintain his account of election expenditure on day-to-day basis;
- viii) Each contesting candidate shall submit to the District Returning Officer on every Thursday of the campaign period, a statement of election expenses made by him during the preceding week in terms of Section 50 of the said Act;

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#### ELECTION CAMPAIGN

- i) Car rallies are not allowed to travel long distances except if they have pre-arranged corner meetings at specific designated places. These meetings shall be notified to the ordinary public by the local administration. The local administration must also ensure that all candidates are accommodated indiscriminately.
- ii) No person or a political party shall affix posters, hoardings or banners larger than the sizes prescribed below:
  - (a) Posters 2-feet x 3-feet
  - (b) Hoardings 3-feet x 5-feet
  - (c) Banners 3-feet x 9-feet
  - (d) Leaflets/Handbills 9-inches x 6 inches
- iii) No person or a political party shall hoist or fix party flags on any public property or at any public place, except with the permission in writing from, and on payment of such fee or charges as may be chargeable by the concerned local government or authorities.
- iv) Wall chalking as part of an election campaign shall be prohibited in all forms.
- v) Loudspeakers shall not be used for election campaign except at the election meetings.
- vi) The political parties and candidates shall convey their schedule of meeting at least one week in advance to the local administration;
- vii) Local Administration shall be responsible for making appropriate security arrangements and regulating such meetings in such a manner that equal opportunities are provided to the contesting candidates interested in holding rallies and meetings;
- viii) The contesting candidates shall follow the Code of Conduct for the political parties and contesting candidates issued for General Elections, 2008 except in so far as it is inconsistent with this Directive and the aforesaid judgment of the Hon'ble Supreme Court of Pakistan.
- ix) The Election Commission shall review all election activities including Jalsas, Jaloos and use of Loudspeakers etc. in order to ensure the fairness, justness and the honesty of the election process.

#### CAMPS NEAR POLLING STATIONS

- i) Establishment of camps near the polling stations on the polling day in the aforesaid constituency by the political parties, the contesting candidates or their supporters is hereby banned in terms of Section 84 of the Act and the aforesaid judgment of the Hon'ble Supreme Court of Pakistan.
- ii) Canvassing for votes, soliciting of votes, persuading any elector not to vote at the election or for a particular candidate, or exhibiting any notice, sign, banner or flag designed to encourage the electors to vote or discourage the electors from voting for any contesting candidate is prohibited within a radius of 400 yards of the polling station in terms of Section 85 of the Act and the aforesaid judgment of the Hon'ble Supreme Court of Pakistan.
- iii) No political party or a contesting candidate or their supporters are allowed to distribute Perchis containing voters' details i.e. name, parentage, gharana number, serial number etc or any Perchis containing symbol of a political party or contesting candidate near or in the vicinity of polling station on the polling day i.e. within the radius of 400 yards of the polling station.

#### PROVISION OF TRANSPORT TO THE VOTERS

- i) No political party or a contesting candidate or an election agent or their supporters shall use any vehicle to convey to or from the polling station any elector except himself and members of his immediate family in terms of Section 78 (5) of the Representation of the People Act, 1976;
- ii) Any violation of the above directive is a corrupt practice under Section 78 of the said Act and punishable with imprisonment for a term which may extend to three years or with fine which may extend to five

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thousand rupees or with both within the meaning of Section 82 of the said Act.

**CONSTITUENCY MONITORS**

- i) Three members' teams, one of whom shall be a professional cameraman with a video camera, shall monitor the election process including campaign expenditure and observance of Code of Conduct by contesting candidates and political parties. The teams shall report to the Provincial Election Commissioner concerned on daily basis;
- ii) The Local Administration shall provide necessary security to each team during the duration of their monitoring in the constituency;
- iii) The District Returning Officer shall hold meetings with the candidates and apprise them of the relevant laws, rules and the aforesaid judgment of the Hon'ble Supreme Court of Pakistan pertaining to the code of conduct and election campaign expenses etc.

***All concerned are required to follow the aforesaid Directive in letter and spirit and any violation thereof shall be dealt with in accordance with the relevant provisions of the Constitution, the law and the aforesaid judgment of the Hon'ble Supreme Court of Pakistan.***

By order of the Election Commission of Pakistan.



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