



YOUTH PARLIAMENT PAKISTAN  
YOUTH PARLIAMENT PAKISTAN  
YOUTH PARLIAMENT PAKISTAN  
YOUTH PARLIAMENT PAKISTAN  
YOUTH PARLIAMENT PAKISTAN

YOUTH PARLIAMENT PAKISTAN  
YOUTH PARLIAMENT PAKISTAN  
YOUTH PARLIAMENT PAKISTAN  
YOUTH PARLIAMENT PAKISTAN  
YOUTH PARLIAMENT PAKISTAN

# 6th Youth Parliament Pakistan

**A Report on**

# **Electoral Reforms in Pakistan**

**March 2015**

**PILdAT**  
Pakistan Institute of  
Legislative Development  
And Transparency

Secretariat Youth Parliament Pakistan



YOUTH PARLIAMENT PAKISTAN  
YOUTH PARLIAMENT PAKISTAN  
YOUTH PARLIAMENT PAKISTAN  
YOUTH PARLIAMENT PAKISTAN  
YOUTH PARLIAMENT PAKISTAN

YOUTH PARLIAMENT PAKISTAN  
YOUTH PARLIAMENT PAKISTAN  
YOUTH PARLIAMENT PAKISTAN  
YOUTH PARLIAMENT PAKISTAN  
YOUTH PARLIAMENT PAKISTAN

# 6th Youth Parliament Pakistan

**A Report on**

# **Electoral Reforms in Pakistan**

**March 2015**

**PILdAT**  
Pakistan Institute of  
Legislative Development  
And Transparency

Secretariat Youth Parliament Pakistan

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. It also serves as Secretariat, Youth Parliament Pakistan.

PILDAT is a registered non-profit entity under the Societies Registration Act XXI of 1860, Pakistan.

Copyright © Pakistan Institute of Legislative Development And Transparency - PILDAT

All Rights Reserved

Printed in Pakistan

Published: March 2015

ISBN: 978-969-558-488-0

Any part of this publication can be used or cited with a clear reference to PILDAT.



**Secretariat, Youth Parliament Pakistan**

**Islamabad Office:** P. O. Box 278, F-8, Postal Code: 44220, Islamabad, Pakistan

**Lahore Office:** P. O. Box 11098, L.C.C.H.S, Postal Code: 54792, Lahore, Pakistan

E-mail: [info@youthparliament.pk](mailto:info@youthparliament.pk) | Website: [www.youthparliament.pk](http://www.youthparliament.pk)

# CONTENTS

*Preface*

Executive Summary

Members of Youth Parliament's Committee on Law, Justice and Human Rights

List of Acronyms

**Introduction**

12

**Part I—History of Electioneering in Pakistan**

12

**Part II—The Proposed Reforms**

12

i. Constitutional Amendments

14

ii. Improving the role of Returning Officers and Polling Staff

15

iii. Financial Campaign

16

iv. Election Dispute Resolutions (EDR) Processes

16

v. Installation of Biometric Devices

17

vi. Other Reforms

17

**Conclusion**

19

**Bibliography**

20



## PREFACE

After the successful completion of 5 terms since 2007, the 6th Youth Parliament Pakistan was launched in June 2014. The specific objectives of the Youth Parliament Pakistan (YPP) programme are to inculcate democratic culture and spirit of tolerance for others views among the youth; to expose them to the political and parliamentary processes; to facilitate youth to express their views on various national, international, regional and local issues thereby helping the government and society at large to better understand the concerns of the youth; to groom the leadership potential of the youth of Pakistan by exposing them to peaceful and democratic resolution of differences especially at a time when various parts of Pakistan are suffering from conflict and extremism. Finally this provides a forum to the youth of Pakistan to understand how the Parliament works as the supreme public representative institution in a democracy.

The Youth Parliament Standing Committees of the 6th Youth Parliament Pakistan (2014-2015), as a part of the learning process were tasked with conducting reviews of national policies through research-based analysis and with developing cogent policy alternatives for the Parliament and the Government of Pakistan. The six Youth Parliament Standing Committees for the current term are:

- Youth Parliament Standing Committee on National Security
- Youth Parliament Standing Committee on Foreign Affairs
- Youth Parliament Standing Committee on Energy
- Youth Parliament Standing Committee on Law, Justice & Human Rights
- Youth Parliament Standing Committee on Education & Youth Affairs
- Youth Parliament Standing Committee on Finance, Economic Affairs & Planning

The Committees have gone through a process of intensive research, consultations with policy experts and internal review within Committees before putting together their proposals. The initial findings were shared with the Secretariat Youth Parliament Pakistan and the Steering Committee Youth Parliament Pakistan who gave their comments on these drafts. After incorporating these inputs, the reports are finalised by individual Committees and thereafter presented on the floor of the House for further recommendations and feedback from the entire strength of the YPP. Going through this rigour the participants not only experienced the process of drafting policy in a democratic fashion but also formulated useful recommendation in the form of this report,

The reports are compiled and finally published for the purpose of dissemination through media briefing and report launch event at the closure of 5<sup>th</sup> and last YPP Session of the 6th YPP term. The reports are also available online at [www.youthparliament.pk](http://www.youthparliament.pk).

The 6th Youth Parliament Pakistan (2014-2015) is supported by the Danish International Development Agency, Government of Denmark, as recognition of the importance of young people's development in democracy and democratic practices.

### Disclaimer

The Secretariat of Youth Parliament Pakistan has provided unbiased feedback in a timely manner on the research reports and the scientific value of the work done by MYP's. The Secretariat has given guidance in ensuring the content is clear, concise, and relevant to the current pool of knowledge in regard to originality, and interest to the readers. The opinions, findings or recommendations expressed in this report belong to the authors and do not necessarily reflect the views of PILDAT or DANIDA.

Secretariat of the Youth Parliament Pakistan  
Pakistan Institute of Legislative Development and Transparency  
March 2015



## EXECUTIVE SUMMARY

The Youth Parliament Pakistan Standing Committee on Law, Justice and Human Rights has drafted its second report on the 'Electoral Reforms in Pakistan'. This is primarily a qualitative study for which both primary and secondary sources of data collection and analysis have been employed. The main objectives of this study were to: a). study the existing laws and policies related to the conduct of elections, dispute resolution, recruitment and training of electoral staff, finance campaigning and other related pertinent issues b). the effectiveness of those policies or laws c). to suggest new policy alternatives (where and if required). The committee is grateful to Muhammad Ibrahim Khan (YP17-KP05) who took personal interest in the preparation of this report and went an extra mile to collect primary data. The committee members for this purpose have done extensive primary research by conducting interviews with relevant personalities and members of the Parliament and Parliamentary Committees. Mr. Asad Umer (MNA), Mr. Omar Ayub Khan (MNA), Mr. Javed Jabbar (Former Senator), Mr Riaz Ahmed (Secretary National Assembly and Secretary Parliamentary Committee on Electoral Reforms), Secretary ECP Mr. Sher Afgan, Director General PR Mr. Raja Iftikhar and Mr. Ahmed Bilal Mehboob (President PILDAT) are amongst the others who were consulted and interviewed for understanding the status of existing electoral laws in Pakistan. For secondary data collection, different television talk shows and panel discussions were also used as the sources of data collection and analysis. The committee members also attended and participated in different round tables and seminars (arranged mainly by UNDP, PILDAT and HRCP) related to the electoral laws and reforms. The report has also taken in account the work that has already been done in suggesting the reforms in the current electoral laws and has extensively reviewed the reports and publications published by FAFEN, PILDAT, EU Election Commission Observer (2013) and UNDP Pakistan. The committee members have basically suggested reforms in the areas of electoral staff training and recruitment process, the age and qualifications for the office of Election Commissioner of Pakistan, installation of biometric devices, amendments in specific articles of the Representation of Peoples Act (1976), financial campaigning and election dispute resolution process. The committee has also suggested some recommendations for maximizing the voters turn out, how to facilitate the overseas Pakistanis during elections and on how to make the whole electioneering process more transparent, free and fair.





**Members of Youth Parliament Standing Committee on Law, Justice & Human Rights**



Maria Malik  
Chairperson  
(YP35-PUNJAB16)



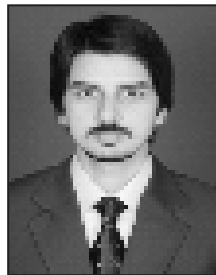
Waqas Ishtiaq  
Vice Chairperson  
(YP46-PUNJAB27)



Shazia Batool Hazara  
Secretary  
(YP06-BALUCHISTAN04)



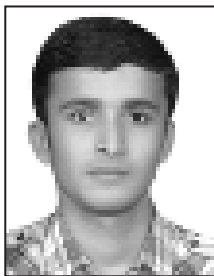
Naveed-ur-Rehman Anwar  
(YP18-KP06)



Hassan Masood  
(YP31-PUNJAB12)



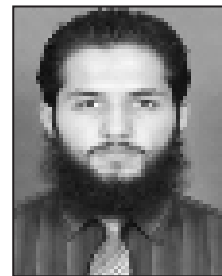
Irshad Ahmed  
(YP53-SINDH06)



Suneel Parwani  
(YP59-SINDH12)



Syed Muhammad Abdullah  
Youth Minister for Law, Justice & Human Rights  
(YP07-FATA01)



Muhammad Ibrahim Khan  
(YP17-KP05)



### **List of Acronyms**

BD	Basic Democracy
EC	Election Commission
ECE	Elections Commissioner of Pakistan
ECP	Election Commission of Pakistan
MNA	Member of National Assembly
MPA	Member of Provincial Assembly
MRD	Movement for Restoration of Democracy
NA	National Assembly
PA	Provincial Assembly
PM	Prime Minister
PML-N	Pakistan Muslim League (Nawaz)
PML	Pakistan Muslim League
PPC	Pakistan Penal Code
PPP	Pakistan Peoples Party
ROPA	Representation of Peoples Act

## Introduction

One of the basic features of democracy is to have free and fair elections after a regular interval. Pakistan was envisaged to be a federal and parliamentary democracy by its founding fathers. This vision was included in the Objectives Resolution (1949), which later became the preamble of all the three constitutions of Pakistan. The Objectives Resolution states that 'the state shall exercise its powers and authority through the chosen representatives of the people' (Constitution of Pakistan, 1973).

This report has been divided into two parts; Part I deals with the history of electioneering in Pakistan w.r.t what extent the elections in Pakistan have been conducted on regular basis and were free, fair and transparent. This part also highlights the structure, powers and functions of the Election Commission of Pakistan and shows to what extent the Constitution of Islamic Republic of Pakistan (1973) has empowered the Election Commission of Pakistan to conduct free and fair elections independently. The second part deals with the proposed Electoral Reforms, both in law and the constitution.

### Part I- History of Electioneering in Pakistan

Despite the obvious fact that 'elections' were the only mechanism to institutionalize the vision of Pakistan's founding fathers; Pakistan faced quite a lot of trouble for not being able to hold general elections at regular intervals. Even when elections were conducted- they lacked fairness and transparency thus putting a question mark on the legitimacy of the people who were returned to the Parliament. A chart is provided below with the details of elections held in the history of Pakistan.

Pakistan saw the biggest turn out of its electioneering history for the first time in 2013 General Elections. However, the results of the May 2013 Elections were not welcomed by many, especially by the Pakistan Tehreek e Insaaf (PTI) and its supporters. PPP, PML (Q) and Jamaat e Islami along with few other parties also had reservations. The PTI (that was returned to the parliament as the third largest political party in terms of seats and the second largest political party in terms of votes) for the first year after the elections kept demanding for recounting of votes particularly in four constituencies and also demanded for concrete electoral reforms. However, when the demands were not paid any heed the PTI and its supporters took the protest to roads and Pakistan saw the longest ever sit-in protests of its political history that lasted for more than four months. This protest was the first of its kind that

showed the distrust of people of Pakistan on its electoral system and ECP- its transparency, impartiality and independence.

The Speaker of National Assembly Sardar Ayaz Sadiq established a special parliamentary committee on Electoral Reforms in June 2014 when the protestor had taken the road. The committee has total of 33 members (22 MNA's and 11 Senators) in which all the Parliamentary political parties have been given representation and is chaired by Mr. Ishaq Dar. The mandate of the Committee was to evaluate the shortcomings of the previous elections and to suggest recommendations for holding free, fair and transparent elections in the future. The committee was supposed to submit its report after three months but after holding around 22 meetings (including those of its sub-committees) the committee has been unable to present the report in the Parliament, rather the committee has not held any meeting since last November. The secretary to the Committee on Electoral Reforms during an interview informed the Youth Parliament Standing Committee on Law, Justice & Human Rights that the committee has invited suggestions for the electoral reforms from all walks of the society and all the political parties have contributed into making the report which is expected to come out in next few months. Moreover, when asked about the implementation of those reforms, he said that it is going to be a lengthy process as the report is around few hundred pages and the parliament will decide upon which recommendations shall be incorporated in law and that may take a while. However, he was confident that before the next elections Pakistan will see a positive development with regard to the electoral reforms.

### Part II - The Proposed Reforms

The second part of the report is based on the suggested reforms in the areas of electoral staff training and recruitment process, the age and qualifications for the office of Election Commissioner of Pakistan, installation of biometric devices, amendments in specific articles of the Representation of Peoples Act (1976), financial campaigning and election dispute resolution process. The committee has also suggested some recommendations for maximizing the voters turn out, how to facilitate the overseas Pakistanis during elections and on how to make the whole electioneering process more transparent, free, fair and most importantly acceptable to all the parties.

**Table1: Electioneering History in Pakistan (Scott, n.d.)**

Elections	Year (Date/Month)	Turn out	Outcome/Analysis
First Direct elections for Punjab Assembly	10-20 March' 1951	Below 30%	939 Candidates contested for 189 seats. Not entirely free and fair.
Adult Franchise Elections for NWFP Assembly	8 March' 1951	--	Massively rigged
Elections for Sindh Assembly	May 1953	--	Massively rigged
Elections for East Pak Assembly	April 1954		Fall of Muslim League, rise of Bengali nationalism.
1st Elections for BD Members (Non-Party Basis)	1959-1960	50% in East and 75% in West Pakistan	----
NA Elections by BD Members <sup>1</sup> (Non-Party Basis)	1962	98.96 in NA and 97.8 in PA elections	95 contestants were in the field for 150 National Assembly seats and 1,862 candidates for 300 Provincial Assembly seats.
2nd Elections for BD Members (Party Basis)	October/ November 1964	--	These elected BD members formed an electoral college to elect the President of Pakistan in January 1965's presidential election.
Presidential Elections (Party Basis)	January 1965	--	Ayub Khan won the elections with 63.3% of all casted votes while Fatima Jinnah got only 36.36% of votes.
NA Elections by BD Members (Party Basis)	March 21' 1965		The PML (Convention) secured 120 seats; the opposition secured 16 seats. The rest of those elected were independents. In the elections to the PA (West Pakistan) the PML (Convention) won 96 seats, independents 49 seats and the Jamaat-e-Islami 1. In East Pakistan, the PML failed to secure an absolute majority secured only 66 seats while 58 went to the independents and 23 to the opposition parties.
First General Elections <sup>2</sup>	December 1970	63.4%	1500 candidates and 25 Political Parties contested for 300 seats. Maximum seats were secured by Awami League in East Pakistan and PPP in West Pakistan. Power was not transferred to the leading party i.e. Awami League which culminated in separation of East Pakistan.
Second General Elections	March 7 and 10' 1977	63%	PPP 58.1% (136/173 seats) of all the votes casted PNA 35.1% (36/173 seats) of the votes casted
Presidential Referendum	December 19' 1984	60%	Majority of votes were casted in favor of the Zia's Islamization Process

- General Ayub Khan imposed Martial Law in October 1958 and introduced an indirect method of elections thereafter. The indirect system of elections was known as the Basic Democracy (BD) system. According to this system, the voters had to elect 80,000 representatives who were called BD members (40,000 from East and 40,000 from West Pakistan). This number was later increased to 12,000, who formed the electorate for the election of members of the national and provincial assemblies and the President as well. Each of 80,000 BD constituencies consisted of 200-600 voters.
- It's an election in which every adult in the country can vote for the people who will represent them in parliament (McMillan Dictionary)

Non Party Elections	February 1985	52.93%	MRD boycotted the polls. Junejo was appointed PM and made a faction of Muslim League with in house. The constitution of 1973 was restored with amendments. Relatively fair elections.
General Elections	November 16 & 19' 1988	42%	PPP (93/207 seats) 38.5% of votes IJI (55/207 seats) 30.2% of votes G.I. Khan elected President dismissed the PPP government in August 1990.
General Elections	October 24' 1990	45%	IJI secured 105 seats while PPP led coalition (PDA) secured 45 NA seats. PPP alleged the elections were rigged.
General Elections	October 6 & 9' 1993		PPP won 86 NA seats, PML (N) won 73 NA seats. Relatively fair elections. The elected President Farooq Laghari dismissed the PPP government under 58 2(b) in November 1996.
General Elections	February 3' 1997	35.99%	PML (N) won 135/204 seats and PPP won just 18 NA seats. On 12 October' 1999 COAS Gen. Pervez Musharraf overthrew the government and took over as the Chief Executive of the Country.
Presidential Referendum	April 30' 2002	--	Held a referendum under the premise of reform and modernity and secured maximum of the votes.
General Elections	October 2002	41.80%	PML (Q) won 118 seats of NA while PPP won 80 seats od NA. Mir Zafar Ullah Khan Jamali was elected as PM who was succeeded by Ch. Shujahat Hussain and then by Shuakat Aziz.
General Elections	2008	44.55%	PPP secured maximum seats in NA and PML (N) sat on opposition benches. The first government to complete its 5 years tenure.
General Elections	May 2013	53.62%	PML (N) secured an overwhelming number of seats in NA and PPP is in opposition.

### 1. Constitutional Amendments

The Constitution of Pakistan 1973 has clearly specified the functions, responsibilities and powers of the ECP in its Chapter 8th. Under the constitution, the ECP has been given the exclusive responsibility of holding free, fair and impartial elections with regular intervals.

A constitution is a country's prescribed legal framework through which it basically conducts its affairs. It is that basic law, which is supposed to specify and guarantee the aspirations of a nation, its ideals and basic principles of governance. The constitution also has the task of establishing the key organs of state and defines their powers and responsibilities. A well-articulated constitution is required to keep a check on the arbitrary exercise of authority and to ensure harmony and coordination among different organs and

institutions of the state (Hussain, n.d.).

Where the Constitution shall not be abrogated and suspended it shall however be kept in mind that a constitution is an organic law. It evolves and grows, and in the process also transforms itself, in order to remain relevant so as to address the vicissitudes of an evolving society. This paper has made an attempt to seek changes (if required) in the constitutional laws related to the electoral process of Pakistan so that the country can keep pace with changing times and meet the challenges in way of democracy (Hussain, n.d.).

As per article 213 (1) of the Chapter 8 of the Constitution, the CEC is to be appointed by the President of Pakistan. The CEC is supposed to be a former judge of either Supreme Court or High Court. After the 18th Amendment the discretion of President

in appointing the CEC has been curtailed and replaced by a selection process through a Parliamentary Committee. The PM is now supposed to send three names (after consulting with the leader of opposition in NA) to the Parliamentary Committee for deciding upon one name. The Parliamentary Committee is constituted by the Speaker of National Assembly and shall have 50% of its members from treasury benches and 50% from the opposition parties (based on their strength in the Parliament). The total strength of the committee is to be 12 and one third of its members are supposed to be from the Senate (Constitution of Pakistan, 1973).

If there is no consensus between the PM and leader of Opposition then both can forward separate list of names to the parliamentary committee (Constitution of Pakistan, 1973).

The Commissioner is elected for a five years term. She/he can resign from the office but cannot be removed from the office 'except in the manner prescribed under article 209' for removal of judge. The commissioner cannot hold any other office of profit in the service of Pakistan. At the time when office of commissioner is vacant or commissioner is absent or unable to perform his/her functions due to any other reason than a judge of Supreme Court can nominated by Chief Justice of Pakistan shall act as commissioner (Constitution of Pakistan, 1973).

- i. The Youth Parliament Standing Committee has suggested that the Constitution shall be amended to remove the bar that the CEC must be from the judicial branch of the Government. Thus the article 213 (2) shall be repealed, thereby, leaving it unconditional for the CEC to be from one of the different branches of Government.
- ii. Secondly, a sub-clause shall be added in the Chapter 1 of part VIII of the Constitution that will set an age limit for a person to be appointed as a CEC of Pakistan. The age limit should be between 40-65 years of age. The rationale for age limit clause is to ensure effectiveness and efficiency of the office.
- iii. Thirdly, the Article 62 & 63 of the Constitution (dealing with the qualifications of the Membership of Parliament) either needs to be suitably amended by the popularly elected Parliament or else the Supreme Court that has the power to interpret the Constitution interpret these articles pertaining to the membership qualifications of the Parliamentarians. Another

way of avoiding the manipulation of these articles of ROs and DROs during the filing of nomination papers by candidates is to develop and then implement proper Standard Operating Procedures (SOPs) that will have detailed procedures for the management checks on returning officers' assessment of a candidates' nomination.<sup>3</sup>

## 2. Improving the Role of Returning Officers and Polling Staff

The ROs and DROs play a very prominent role in making the whole election process credible for the nation as well as for the political parties and individuals contesting the elections. In the last elections (May 2013), the Election Management Bodies (EBMs) followed the 'judicial model'<sup>4</sup> for appointing the ROs and DROs where the sitting judges were temporarily appointed as ROs and DROs. The executive model was applied by the ECP in 2013 local government elections of Balochistan where the returning officers were recruited from the provincial civil bureaucracy. This model was also criticized on the basis of the argument that it was easy for the candidates to influence the returning officers thus marking a question mark on the independent and impartial role of their office.

The committee critically evaluated the employment if a third model<sup>5</sup> i.e. the ECP model that calls for appointing the ROs and DROs from the permanent staff of the ECP. This model although has a positive side of impartiality attached to it but it is not only costly but will also render the permanent staff of ECP useless after the elections are over.

Thus the Committee, after consultation with different experts and review of different models, concluded that we should continue with the Executive Model for the appointment of returning officers with slight changes to it. For example, the DROs are the 19 scale civil servants that can be easily influenced by the candidates but if senior bureaucrats from above rank 20 are appointed it becomes difficult to manipulate them. Moreover, the RO's and DROs shall be properly trained for a week and shall be extensively briefed about the SOPs.

The second most critical role is that of the polling staff (presiding officers and polling agents etc.). The polling staff (for electoral duties) in Pakistan is traditionally appointed by the EBMs for short-term basis and is selected from the civil service (usually from the provincial education department).<sup>6</sup>

3. This suggestion was also proposed by the European Union Election Observer Mission of 2013.

4. Point 7 of the National Judicial Policy (2009) prohibits the involvement of judges in the conduct of elections. However, for the last elections (2013) the Chief Justice of Pakistan provided a waiver of this policy after a request in this regard from the CEC of that time.

5. Also suggested by UNDP and others

6. *Appointment and Role of District Returning Officers (DROs) and Returning Officers (ROs) in Elections*, Discussion Paper by UNDP Pakistan.



### Suggestions

- The Committee suggests that the appointment of teachers shall be purely based on merit so that when appointed as polling personals they are not under any obligation to pay back the favor.
- The polling officers belonging to one district shall be appointed in another district (if not province) so that the probability of manipulation is reduced.
- The Committee has observed that there is apparently no issues with the training courses designed for the polling staff yet two things shall be done
- It shall be ensured by the ECP that the people who have been appointed as polling personals are attending the course
- The enforceability of the SOPs shall be ensured by the ECP.
- The aforesaid point can only be workable if the ECP is made powerful i.e. by recruiting the right man as ECE and by giving ECP the direct powers to take action against the foul playing by the polling staff as well.

### 3. Financial Campaigning

Parties and individual candidates require monetary funds to run their election campaigns and that is why it is often said that 'money is the mothers' milk of politics'. The increased use of cell phone and social media and the spread of private television channels have opened new avenues for the political parties and candidates to reach out to voters. Worldwide, campaign finance laws are made so that the campaign funding and expenses are not left unregulated as they can significantly impact the outcome of an election.<sup>7</sup> In Pakistan, the ROPA (1976) and the Political Parties Order 2002<sup>8</sup> mainly deals with the campaign finance laws. ROPA (section 48 to 51) and the code of conduct by political parties and candidates (2013) issued by the ECP sets a limit on candidate spending i.e. 1 million rupees for provincial assembly seat and 1.5 million rupees for national assembly seat. Candidates are required to submit details of their election expenses after elections but the law doesn't provide for a defined procedure for scrutiny

of campaign finance.

The Youth Parliament Standing Committee on Law, Justice & Human Rights has critically analyzed the laws related to campaign finance and has observed that the bar of 1 million for PA and 1.5 million for NA seat is quite unrealistic and may encourage the candidates for a foul play or to face an electoral defeat otherwise.<sup>9</sup> There was a debate on giving ECP the power to decide what the limit shall be before each election but it was not agreed upon by the parliament. Moreover the Committee also observed that there are no clearer laws on party funds being spent on television advertisements as there was no proper mechanism to make the political parties (especially the ones sitting in government in center or provinces) accountable for the political campaigning through television ads.

This committee has identified two main areas for the likeable reforms in the laws related to campaign finance:

- The parliament shall decide upon this matter and should have a final say about what the limit of candidate spending shall be (for both PA and NA seat)
- There is a dire need for some clear laws for monitoring and auditing of the party funds that are spent on television advertisements.

### 4. Election Dispute Resolution (EDR) Processes

An effective election dispute resolution processes is integral to guarantee the integrity and legitimacy of an electoral system. Such an effective process can reduce campaign violations, ensure that voters' rights are protected and can also reduce post-electoral violence. UNDP has categorized the elections disputes into two categories; complaints (issues related to pre poll and polling day violations) and disputes (challenges the outcome of the elections).<sup>10</sup>

The Committee has agreed upon the following reforms in the area of EDR

7. *Political Finance*, Discussion Paper by UNDP Pakistan.

8. The article 13 of the Political Parties Act (2002) is related to the 'information about the sources of party's fund' and thus demands that "every political party shall, in such manner and in such form as may be prescribed or specified by the Chief Election Commissioner, submit to the Election Commission, within sixty days from the close of each financial year, a consolidated statement of accounts of the party audited by a Chartered Accountant containing- (a) annual income and expenses; (b) sources of its funds; and (c) assets and liabilities. Moreover, the statement referred above, shall be accompanied by a certificate signed by the party leader stating that- (a) no funds from any source prohibited under this Order were received by the party; and (b) the statement contains an accurate financial position of the party".

9. Some parties (like the Worker Party) believe that even the limit of 1/1.5 million is a lot and in a constitution petition no. 87 (2011) by Abid Hassan Minto it was declared 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'. However the court didn't suggest anything related to that and the issue was left open for debate.

10. This reform was also presented in form of a resolution in the YPP (Batch 6) session III and was unanimously adopted by the house.

- A 'single official process', for the management and resolution of electoral complaints by the citizens and candidates, regarding different phases and aspects of the electoral process (such as the conduct of the polling staff and public officials, location of the polling stations, violations of the code of conduct by candidates or/and political parties) shall be developed.
- Establish a clear system of filing administrative complaints to the ECP and petitions to Tribunals in order to avoid overlap of jurisdictions<sup>11</sup> and improve the clarity and predictability of access to remedy shall be incorporated in the Representatives of People Act (1976)".<sup>1</sup>

### <sup>25.</sup> Installation of Biometric Devices

Most of the times, the electoral technologies are seen as a 'magic bullet' for all electoral problems but no one can neglect the fact that a computer is hard to bribe, biometric data is seen to be objective, and spreadsheets rarely make mistakes in simple mathematics.<sup>13</sup>

The committee extensively reviewed and evaluated the pros and cons of the biometric devices and studied different case studies where they are being used. In Pakistan, NADRA databases the foundation of the electoral rolls and the ECP has already computerized the results process in general elections (2013).

The committee is of the view that it is true that the biometric devices (EVMs and EVIDS etc) can also be subject to abuse but it has now become inevitable to install the technology gradually i.e. in different phases (over the period of 4-5 years). The committee has suggested the following:

- Pakistan shall either go for installation of EVIDS before the next elections. The EVIDs identify the voters by scanning their fingerprints at the day of polling. This technology can help inhibit personation and multiple voting when it is used in a correct manner. Though the installation, storage, equipment, deployment and processing is costly it has successfully been employed in African countries like Ghana and Kenya. Moreover, the critics of the biometric devices argue that not all citizens' fingerprints can be scanned and biometric matching is based on probability and failures do

occur. However, since in Pakistan the question has been raised on the impartiality of the individual's performance as polling personals, the EVIDs might act as a tool to restore publics' confidence in the whole election system.

- Or else, we shall make ECP more powerful and ensure impartiality of the staff appointed for election process and shall give them proper training to make the whole process more effective, efficient and trustworthy but it definitely requires more time and a lot of political will from the leadership side and patience from nations side.

### 6. Other Reforms

- a. The committee after extensive review of literature and primary data collection has reached at a conclusion that the government must make serious efforts to hold a national census. It is only after census that we can move towards reviewing the delimitations of national constituencies. The whole process of census will last for approximately a year.<sup>14</sup>
- b. To maximize the voter turnout, ECP shall run voter awareness campaigns before every election (this was done in last elections and it actually helped in improving the turnout).
- c. In colleges and universities, a practice of mock elections shall be done before every election to make young people more aware of their right and duty of casting a vote.
- d. Overseas Pakistanis shall be facilitated by allowing them to vote through postal ballots or EVMs in their host countries (open to debate which is more suitable).
- e. Similarly, the citizens who are not residing in cities/towns where their votes are registered shall also be facilitated through postal ballots or EVMs (open to debate which is more suitable)
- f. All the electoral laws shall be brought together in form of one single official document.
- g. If a successful candidate in any constituency fails to get 51% of the votes there should be a run-off election between the two top candidates so that a candidate<sup>15</sup> with a real majority should be declared victorious.<sup>16</sup>
- h. Local Bodies Election shall be ensured by the ECP

11. At present the petitions are filed with the ECP first which then refer those petitions to the concerned tribunals.

12. This reform was proposed by the EU Election Observer 2013. This reform was also presented in form of a resolution in the YPP (Batch 6) session IV and was also unanimously adopted by the house.

13. As estimated by the secretary of National Assembly and secretary of Parliamentary Committee on Electoral Reforms Mr. Riaz Ahmed. Interviewed on 22 February' 2015, National Assembly of Pakistan.

14. Proportional Representation is not recommended as it only works in countries where Political Parties hold intra party elections. Otherwise, the method of proportional representation might make the hold of (hereditary) party leaders stronger as they get to select/nominate the candidates.

15. As suggested by the Workers Party Petition .....

16. Irfan Ghauri, Intra Party Election: 114 Parties fail to fulfill legalities before the polls, January 11, 2013, The Express Tribune, accessed on 15 March' 2015, accessed from <http://tribune.com.pk/story/492452/intra-party-elections-114-parties-fail-to-fulfill-legalities-before-polls/>.

in order to de-centralize power and to empower people at grass root levels.

- i. Holding intra party elections are not only part of different political parties' manifestos but also a legal requirement. The Political Parties' act 2002 requires the Political Parties to do two things in order to become eligible for contesting any elections. The parties have to i). submit a consolidated statement of accounts audited by a chartered accountant 60 days before the close of each financial year, and ii). To hold intra party elections and submit the results to ECP. <sup>17</sup>There is however no valid verification mechanism for ECP to evaluate the intra party elections. The committee thus suggests that ECP shall establish a special committee or a task force for evaluating the transparency of intra party elections. As it will be extremely difficult to evaluate all the registered political parties thus it is also suggested that to make this process more feasible and transparent a loose bi-party (or tri-party) system shall replace the multiple party system.
- j. In Pakistan, 60 seats in National Assembly and 137 seats in the four provincial assemblies are reserved for women legislators. These reserved seats are usually distributed amongst the female relatives of the prominent politicians. Our committee has thus suggested that instead of 33% reserved seats for women, there shall be a system of separate electorate i.e. some constituencies (in each province) shall be marked from where only women can contest and be truly representative of the people.

## Conclusion

Free, fair and transparent elections are an integral part to ensure democracy in any state of the world. However, the conduct of elections is closely linked to the electoral laws of the state. In Pakistan the EC is charged with the duty of conducting elections honestly, justly, fairly and in accordance with law Under the Article 219 of the Constitution 'the commission also has the duty of preparing and revising the electoral rolls for elections to the NA and PA. It is also its duty to organize and conduct election to the Senate or to fill the casual vacancies in a House or PA. The EC is also responsible for appointing the Election Tribunals, holding the elections to the NA, PA and the local bodies' (Constitution of Pakistan, 1973). Though, constitutionally the ECP Under the Article 220 of the Constitution has been granted with absolute power and autonomy by stating that 'it shall be the duty of all the executives' authorities in the Federation and the Provinces to assist the Commissioner and the EC in discharge of their functions' (Constitution of Pakistan, 1973) and by also giving the EC the power 'to make rules with approval from the President providing for the appointment of officers and servants to be employed in connection with the functions of the EC' (Article 221, Constitution of Pakistan, 1973). Apart from the constitutional provisions the Election Commission Order (2002), the Conduct of General Elections Order (2002), the Political Parties Order (2002), the Political Parties Rules (2002), the Allocation of Symbols Order (2002), the National Assembly and provincial Assemblies Allocation of Reserved seats for women and Non-Muslim Procedure Rules (2002), Procedure for Trial of Election Petitions relating to General Elections, the Presidential Election Rules (1988), the Representation of the People Act (1976), the Representation of the People (Conduct of Election) Rules (1977), the Representation of the People Act (1976) as made applicable to FATAs, the Electoral Rolls Act (1974), the Delimitation of Constituencies Act (1974) are the laws and rules pertaining to different aspects of the electoral system in Pakistan. After in depth study of primary and secondary sources of data, the committee has suggested some reforms in areas including electoral staff training and recruitment process, the age and qualifications for the office of Election Commissioner of Pakistan, installation of biometric devices, voters' education, amendments in specific articles of the Representation of Peoples Act (1976), financial campaigning and election dispute resolution process etc. Moreover, the committee has concluded that except of few areas where reforms are genuinely needed, Pakistan generally doesn't lack in electoral laws rather we have plenty of well thought and well drafted laws. The real problem lies in non-implementation of the already existing laws. For that we need to empower ECP in practice by making sure that the EC is an un-disputed, efficient and effective person who can enable the ECP to function independently and impartially thus delivering free, fair and transparent elections.



## **Bibliography**

### **Constitution of Pakistan, 1973.**

**Hussain, F., n.d. Electoral Laws Removing Anomalies in 'Transition to Democracy'.** Accessed from [www.jdhr.org/publications/books/Transition%20to%20Democracy.pdf](http://www.jdhr.org/publications/books/Transition%20to%20Democracy.pdf), accessed on December 10' 2014.

**Scott, P.D., n.d. Pakistan: What is wrong with Democracy? in 'Transition to Democracy'.** Accessed from [www.jdhr.org/publications/books/Transition%20to%20Democracy.pdf](http://www.jdhr.org/publications/books/Transition%20to%20Democracy.pdf), accessed on December 10' 2014.



**Secretariat, Youth Parliament Pakistan**

**Islamabad Office:** P. O. Box 278, F-8, Postal Code: 44220, Islamabad, Pakistan

**Lahore Office:** P. O. Box 11098, L.C.C.H.S, Postal Code: 54792, Lahore, Pakistan

E-mail: [info@youthparliament.pk](mailto:info@youthparliament.pk) | Website: [www.youthparliament.pk](http://www.youthparliament.pk)