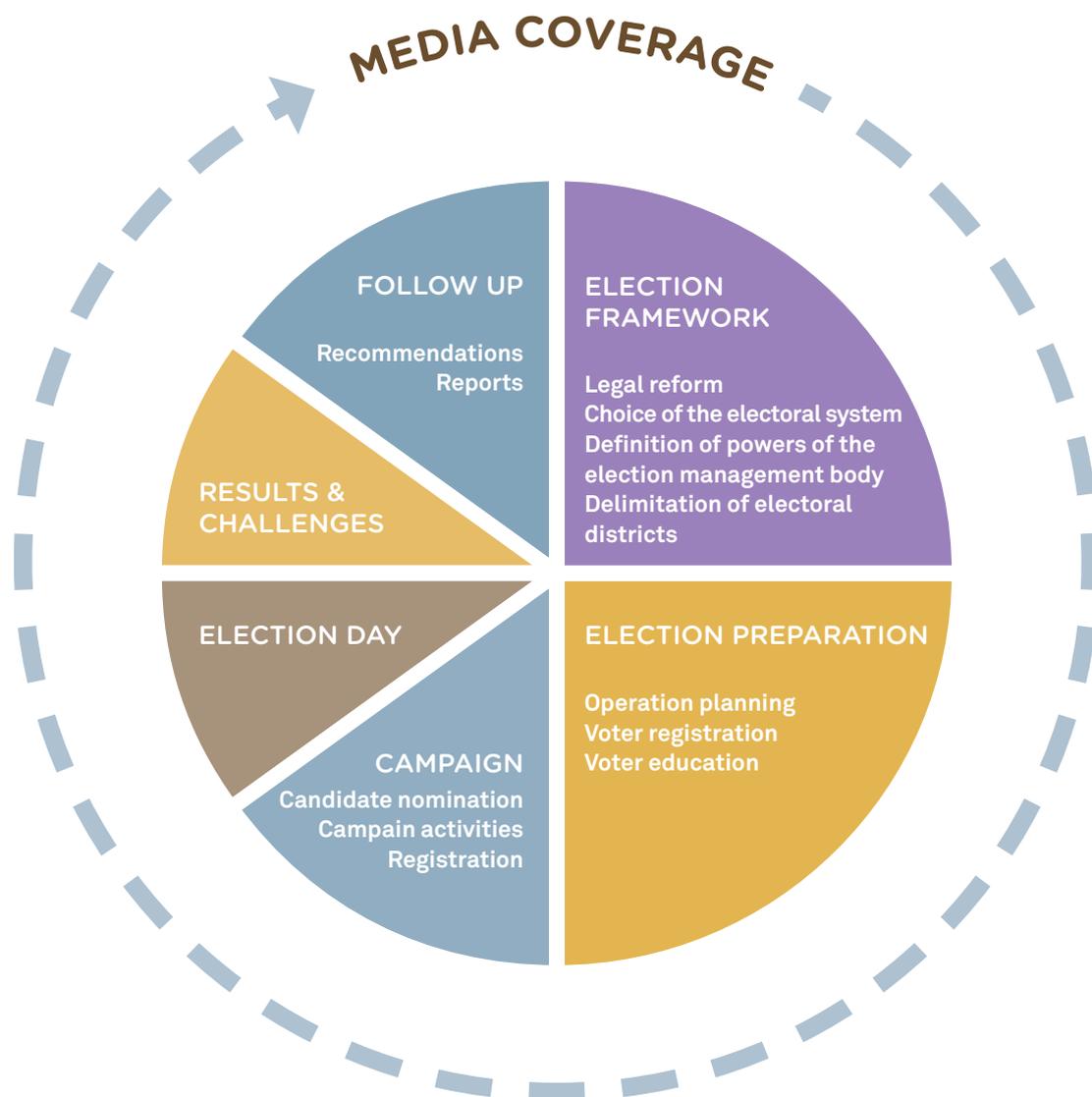


TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS



ABOUT DEMOCRACY REPORTING INTERNATIONAL

Democracy Reporting International is an independent, non-partisan and not-for-profit organisation which operates on the conviction that democratic, participatory governance is a human right and that governments need to be accountable to their citizens.

Through careful assessment of the institutional aspects of the democratic process such as elections, the role of parliaments and constitutional arrangements *Democracy Reporting International* seeks to provide citizens, legislators, the media, and the international community with specialist analysis. *Democracy Reporting International* also offers policy advice and recommendations on how improvements can be made in line with international standards and engages political actors to advocate for these reforms.

The project *Supporting advocacy for electoral reforms*, funded by the European Union, seeks to engage stakeholders in a debate for a more credible and inclusive electoral process in line with Pakistan's international obligations. DRI also works with the media to improve the quality of coverage on electoral reform.

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Schiffbauerdamm 15
10117 Berlin / Germany
T / +49 30 27 8773 00
F / +49 30 27 8773 00-10
info@democracy-reporting.org
www.democracy-reporting.org

Islamabad GPO-44000 / Pakistan
P.O. Box Nr. 1006
T / +92 51 8 35 79 72
F / +92 51 8 35 79 73
pakistan@democracy-reporting.org
www.democracy-reporting.org/pakistan



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INTRODUCTION

Election Day only tells part of the election story.

Political outcomes of elections are only known after all votes are counted. But many issues that arise on Election Day are the result of unresolved problems that have existed for weeks, months or even years.

Often they are rooted in legal, political, procedural and technical flaws. These are all elements of democratic reform processes that need close media scrutiny by a well-informed, critical and balanced media throughout the election cycle.

The chart given on the cover page of this guide highlights the different stages leading up to and following on from Election Day. It highlights that media need to exert scrutiny and to access information at all times to perform their role in a democratic society.

Building on Democracy Reporting International's in-depth analysis, this Toolkit for Reporting on Pakistan's 2013 Elections aims to offer a concise overview of the main issues. It puts the international commitments Pakistan has signed up to into the context of the key challenges of the upcoming elections.

This guide is designed in a way that it is user friendly and flexible for adding or removing various sheets as they suit the needs of the journalists. We will keep updating this guide by adding more briefing sheets to it. If you are interested in receiving the updates or have any feedback on this guide, please send an e mail at mediatoolkit@democracy-reporting.org.pk or call at 051-8357972.

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

CARETAKER GOVERNMENTS

OVERVIEW

Articles 48 (5b) 224 and 224A of the Constitution of Pakistan outline the appointment process of caretaker governments. The 18th and 20th amendments to the Constitution further establish a clear and inclusive process for appointing 'politically neutral' caretaker governments; barring members from taking part in political campaigning¹ and from standing as candidates, along with their spouses and children, in the subsequent election.² The appointment process of caretaker Prime Ministers and provincial Chief Ministers is also defined in these amendments.

Purpose of Caretaker Government

Pakistan adopted a 'neutral' model for caretaker governments to create an environment conducive to genuine elections that facilitates the smooth transfer of power between governments. While there are international examples of caretaker governments, Pakistan is unique in appointing entirely new officials to ensure political neutrality. In most countries, the sitting government acts as the caretaker during an election period, its powers limited to routine administration by constitutional conventions and guidelines³.

CHALLENGES

- Legally, Pakistan's caretaker government holds the same powers as the government it replaces with no limitations set by law.
- A new legal framework which clearly lays out the mandate of caretaker governments could close this legal gap.

Non-legally binding Guidelines

Caretaker governments should adhere to the ECP's Code of Conduct for Political Parties and Candidates 2013, which states:

The President, Prime Minister, Chairman/Deputy Chairman Senate, Speaker /Deputy Speaker of an Assembly, Federal Ministers, Ministers of State, Governors, Chief Ministers, Provincial Ministers and Advisors to the Prime Minister and the Chief Ministers, and other public office holders shall not participate in election campaign in any manner whatsoever. This provision will also be applicable to the Caretaker setup." (Section 30)

1 This partly addresses recommendation No. 47 of the EU EOM 2008 Final Report to this effect.

2 Art. 224 (1B) Constitution of Pakistan. Separately this raises the potential issue of relatives of members of the caretaker government being denied their political rights under ICCPR.

3 Australia applies the 'Australian Caretaker Convention 2012' which recognises that "following dissolution, there is no elected chamber to which the government can be held accountable." New Zealand applies its 'Cabinet Office Manual' limiting provisions. Malaysia is currently considering the introduction of a caretaker arrangement ahead of its elections. India applies a Code of Conduct and in Bangladesh political division over its caretaker system have recently heightened the country's political tensions.

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CARETAKER GOVERNMENTS

INTERNATIONAL COMMITMENTS

There is no requirement under international law to institute a caretaker government during election periods. However, caretaker governments are obliged to meet the same international standards and commitments as the elected government it replaces, including the Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights (ICCPR).

INTERNATIONAL MEDIA STANDARDS AND BEST PRACTICE

Pakistan's international obligations commit authorities to ensuring that voters are sufficiently informed about the election process to allow them the opportunity to vote or be elected (Art. 25 of the ICCPR).

Publicly owned media have a special responsibility to inform voters throughout the electoral process. International best practice suggests that this duty extends to privately owned media, especially in regards to reporting standards.

Public and private media guidelines include a duty to:

- inform voters
- provide balance and impartiality
- offer special information programmes for voters

An independent and impartial body is required to monitor media output and receive complaints⁴ to ensure citizens' rights are met and media guidelines are adhered to.

4 Guideline 13, "Reporting Elections – Broadcast Guidelines", Art. XIX

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

CARETAKER GOVERNMENTS

MEDIA STANDARDS AND BEST PRACTICE

Pakistan's Constitution and the Freedom of Information Ordinance 2002 create the citizens' right in principle to information. This right is subject to considerable limitations which fall short of Pakistan's international commitments (for further information, see section: Transparency of the Process).

ECP National Media Guidelines for Elections 2013

The ECP's code provides guidelines on election reporting for Pakistani media and foresees a suitable mechanism, yet to be established, headed by the ECP and including media representatives⁵.

ECP code stipulates:

- media have a duty to ensure that the public is properly informed about relevant electoral matters such as political parties, candidates, campaign issues, and voting processes (guideline 1)
- publicly owned media are obliged to broadcast voter education programmes and other media should endeavour to introduce such programmes as a matter of public service (guideline 12.1)

Key stakeholders

The Government of Pakistan, Political Parties, Election Commission of Pakistan, Pakistan's Judiciary, Civil Society Organisations, Citizens and the Media.

Useful links | www.ecp.gov.pk | www.supremecourt.gov.pk

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

CARETAKER GOVERNMENTS

INTERNATIONAL COMMITMENTS MET SINCE 2008

The 18th and 20th Amendments to Pakistan's Constitution have marked a significant step towards the consolidation of democracy in Pakistan by enshrining separation of powers and outlining an inclusive appointment process for a caretaker government.

Key challenges in meeting international commitments

Key questions remain on the effectiveness and structure of the caretaker government - the EU Election Observation Mission (EOM) final report in 2008 stated that "The mandate, functioning and neutrality of any future caretaker government should be more clearly defined in law."

The function and powers of caretaker governments remain largely undefined. The Constitution and the Code of Conduct for Political Parties⁶ indicate that its powers should be restricted, but no specific legal or regulatory framework exists.

CIVIL SOCIETY REPORTS AND RECOMMENDATIONS⁷

Centre for Civic Education (CCE) | www.civiceducation.org

Call to bring legislation in line with 18th and 20th Amendments.

PILDAT/CGEP Citizens' Group on Electoral Progress | www.pildat.org

Control by the ECP over potential government influence. Restrictions on partisan conduct of the President and Provincial Governors should be in force at least 6 months before the term of the National Assembly or President/Governors expires or following the dissolution of the National Assembly, whichever of the three occurs first.

6 Para. 31 Code of Conduct for Political Parties 2013

7 As presented to the public hearing by the Senate Special Committee to examine Election issues. 17 October 2012, Islamabad.

CANDIDATE NOMINATIONS AND COMPLAINTS

OVERVIEW

Any individual who meets the following criteria can file for nomination:

- 25+ years old and registered to vote
- citizen of Pakistan; dual citizenship not permitted
- must not have convictions or meet any other exclusion criteria under Art 63 of the Constitution¹
- must not be found 'dishonest' or of an 'unsound mind' by a court
- must not have 'acted against the integrity' of Pakistan²

The requirements to stand as candidate are far-reaching and some are vague. They require review as they could be a barrier to political rights under Pakistan's international commitments, including ICCPR General Comment No. 25, Para. 15: "any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria."

Deadlines

- Nominations to be filed by the candidate or by his/her nominee with the Returning Officer (RO) between³ 24 – 31 March 2013
- The ECP's review of nominations is scheduled for 1 - 7 April 2013
- Appeals against nomination reviews received until 10 April 2013
- Final decision from an Appellate Tribunal is due within 7 days of appealing, latest by 17 April 2013
- Nominations can be withdrawn until 18 April 2013

Nomination Review

Returning Officers received information on every candidate under the ECP's Candidate Assessment System (CAS) which includes the National Accountability Bureau (NAB), the Federal Board of Revenue (FBR) and the State Bank of Pakistan for potential debts.

Any citizen can file an objection against a candidate's nomination with the Returning Officer, who holds broad discretionary powers over whether or not a candidate qualifies. The Returning Officer is required to record the reasons for rejecting nomination papers.

1 See "Nomination Form Booklet" by ECP published on its website ecp.gov.pk

2 Art. 62 Constitution of Pakistan

3 Schedule according to ECP's election schedule announced on 23 March

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

CANDIDATE NOMINATIONS AND COMPLAINTS

APPELLATE TRIBUNAL APPEALS

A candidate, a person authorised by the candidate, or any voter who has previously filed an objection to the nomination of a candidate⁴ can appeal against the decision of the Returning Officer with the appropriate Appellate Tribunal, consisting of two or three High Court Judges. Nine Appellate Tribunals have been set up by the ECP with the approval of the President. High Courts and the Supreme Court can review decisions of the Appellate Tribunal. The candidate can continue to stand following receipt of an order of stay.

Key Stakeholders

Voters, Candidates and their Representatives, Political Parties, the Election Commission of Pakistan (ECP), Returning Officers (RO), Appellate Tribunals, Civil Society Organisations, the Supreme Court, National Accountability Bureau (NAB), the Federal Board of Revenue (FBR), and the State Bank of Pakistan.

Legal and Regulatory Framework

- Constitution of Pakistan, §62 and §63
- The Representation of the People's Act 1976 (ROPA)
- The Representation of the People's (Conduct of Election) Rules, 1977

Regulatory Provisions

- ECP Complaints Handbook 2008
- The ECP's Nominations Form Booklet⁵

International Obligations and Commitments

- International Covenant on Civil and Political Rights (ICCPR)⁶
- Universal Declaration of Human Rights

ECP'S MEDIA GUIDELINES FOR ELECTIONS 2013

Media Obligations

Guideline 1 | Duty to ensure public is informed
 Guideline 2.1 | Fairness and non-discrimination
 Guideline 2.1 | Accuracy, balance and impartiality
 Guideline 2.2 | Unbiased, media should "avoid rumour, speculation and disinformation"
 Guideline 8 | Any candidate/party victim of gross misrepresentation should be entitled to a correction and where appropriate granted an opportunity to a reply.

4 According to Art. 5, Representation of the People's Act Rules 1977

5 A concise summary of the process and its underlying legislation, available on the ECP website: ecp.gov.pk

6 ratified by Pakistan in June 2010

CANDIDATE NOMINATIONS AND COMPLAINTS

Obligations towards Media

Guideline 7 | Media should not be held responsible for unlawful statements made by candidates or party representatives.

While including other obligations for the authorities to protect the Media, the code does not include state obligations for media access to information and, more specifically, all procedures related to elections including candidate and other complaints.

Articles 19 and 19A of the Constitution and several provisions in the 2002 Freedom of Information Ordinance 2002 define the right to access of information.⁷ This right, however, is subject to a broad scope of exceptions and an application process which may include payable fees.

INTERNATIONAL MEDIA STANDARDS AND BEST PRACTICE

Access to information is key for fair, accurate and balanced reporting. Articles 19 and 25 of the International Covenant on Civil and Political Rights oblige state authorities to grant access to information. The General comment on Article 19 highlights the right of access to information on public affairs⁸.

Freedom of Expression and Freedom of the Media

International law attaches special importance to the right to Freedom of Expression in general, and specifically Freedom of the Media. It enshrines Freedom of Expression as the “basis for the enjoyment of a wide range of other human rights”⁹ and “one of the cornerstones of a democratic society”¹⁰. At the same time publicly owned media carry special responsibility for informing the public about the electoral process deriving from Pakistan’s International Human Rights commitments¹¹.

Pakistan’s international commitments oblige the state to ensure media freedom and limit potential restrictions to a narrow range¹². Pakistan’s Constitution broadens this scope allowing for further exceptions beyond limitations under international commitments.¹³

7 See this Toolkit chapter on Transparency

8 General Comment No. 34, Human Rights Committee, Para.19

9 UN Human Rights Committee General Comment No. 34 Para. 4

10 Human Rights Committee, General Comment No. 34, Para.13

11 Art. 25 International Covenant on Civil and Political Rights (ICCPR).

12 Article 19 of the Universal Declaration of Human Rights and Article 19 of the legally binding International Covenant on Civil and Political Rights (ICCPR)

13 Under Art. 19 ICCPR restrictions of Freedom of Expression must be “necessary: a) For respect of the rights or reputations of others; b) for the protection of national security, public order, public health or morals.” Art. 19 of Pakistan’s Constitution allows for several other exceptions including “friendly relations with foreign states.”

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

CANDIDATE NOMINATIONS AND COMPLAINTS

INTERNATIONAL COMMITMENTS MET SINCE 2008

The Election Laws (Amendment), 2009 eased the university or madrasa degree requirements for candidate nomination. The 18th Constitutional Amendment in 2010 elaborated upon other qualification requirements which leave room for interpretation, including being 'righteous' and 'honest,' are now assumed to be met, unless a court has ruled otherwise. These changes mark an important step towards removing barriers to meeting international standards relating to the right to stand for election.

The ECP Candidate Nominations appeals process provides a clear, transparent and timely process through Appellate Tribunals meeting international standards and obligations,¹⁴ including the right to effective remedy and standing for elections¹⁵. It allows for the Returning Officer's decision to be appealed by the Appellate Tribunals and allows complainants to take their appeal to the Supreme Court.

Key challenges in meeting international commitments

- The broad scope of requirements for candidates demands close scrutiny and justification. Pakistan's international commitments under ICCPR enshrine the right to stand for election under General Comment No. 25, Para. 15: "Any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria."
- The initial decision over whether a candidate is accepted is subject to broad interpretation depending on the individual discretion of any Returning Officer. This can lead to inconsistent application of existing standards. This is highlighted by the example of a candidate whose nomination was rejected on the basis that his journalistic work violated the ideology of Pakistan¹⁶.

CIVIL SOCIETY REPORTS AND RECOMMENDATIONS

Center for Civic Education (CCE) | www.civiceducation.org

Reform Political Parties Order 2002 to better facilitate development of democratic political culture in the country.

Pakistan Institute for Legislative Development And Transparency (PILDAT) | www.pildat.org

- Easy access to application documents of all candidates for public scrutiny online within 24 hours of filing nomination.
- ECP compliance with own strategic plan to publish financial statements of all MPs and political parties online.

¹⁴ See DRI Briefing Paper 35, "Status of Pakistan's Election Dispute Resolution Mechanisms" January 2013, democracy-reporting.org/pakistan

¹⁵ Art. 2 and 25 ICCPR

¹⁶ dawn.com/2013/04/04/ecp-rejects-ayaz-amirs-nomination-papers

PAKISTAN'S ELECTORAL ROLL

OVERVIEW

On 22 March 2013 the Election Commission of Pakistan (ECP) announced the election schedule, marking the closing of the electoral roll to further changes by law¹. The ECP's co-operation with the National Database and Registration Authority (NADRA) has significantly cut down the number of duplicate names compared to the 2008 electoral registry². Nevertheless, a timely and reliable system that consistently updates the electoral roll and reliably informs voters of their status on the list and the location of their polling station, as required by law,³ is still to be implemented.

Pakistan's electoral process does not permit unregistered eligible voters to vote by same-day registration (a common system that allows voters to register at the same time as voting). In absence of an ad-hoc solution, some central issues need to be resolved ahead of Election Day scheduled for 11 May to ensure that all voters will be registered and informed about the location of their polling station.

During the seven-week period between the closing of the electoral roll (22 March) and Election Day (11 May) the following corrections cannot be processed⁴:

- Enrolment of people who turned 18, but did not receive their CNIC⁵ before the electoral roll closed
- Data correction for voters migrating into another constituency
- Deletion of deceased voters
- Registration of previously unregistered voters or those with a still pending CNIC application.

Key Stakeholders

The Election Commission of Pakistan (ECP), National Database and Registration Authority (NADRA), civil society organisations, voters and political parties.

Pakistan's Legal Framework on the Electoral Roll

- Article 219 (a) of the constitution stipulates that the ECP is responsible for preparing the electoral roll and for revising it on an annual basis.
- The Electoral Rolls Act 1974 and The Electoral Rolls Rules 1974.

1 Section 20, Electoral Rolls Act

2 Qualification of a voter as specified in section 6(2) Electoral Rolls Act 1974: Citizen of Pak, 18 yrs, holding CNIC, not declared by a court to be of unsound mind, resident of an electoral area

3 As required by Art. 219 Constitution and Section 17 of the Electoral Rolls Act 1974

4 The electoral roll will reopen for corrections after Election Day. The ECP is obliged to update the register annually.

5 CNIC application usually takes 4 weeks.

PAKISTAN'S ELECTORAL ROLL

INTERNATIONAL COMMITMENTS

- Art 25 of the International Covenant on Civil and Political Rights (ICCPR) guarantees universal and equal suffrage.
- Universal Declaration of Human Rights (UDHR), primarily Art. 21 and 8.
- General Comment No. 25 of the UN Human Rights Committee obliges the State to “take effective measures to ensure that all persons entitled to vote are able to exercise that right.” and that registration of voters “should be facilitated and obstacles to such registration should not be imposed. If residence requirements apply to registration, they must be reasonable”⁶.

Pakistan's Media Guidelines for Elections 2013

Guideline 12 | obliges publicly owned media to broadcast voter education programmes commits broadcasters to accuracy and impartiality

The media should inform voters about the polling and voter registration process as well as their rights with a special view to targeting groups traditionally excluded from the political process such as women, the poor and minorities.

INTERNATIONAL MEDIA STANDARDS AND BEST PRACTICE

Pakistan's international obligations commit authorities to ensuring those eligible are sufficiently informed about the election process and have the opportunity to vote or be elected⁷. Publicly owned media have a special responsibility to inform voters throughout the electoral process. International best practice guidelines extend this duty to inform to privately owned media, advising that all media should act to provide special information on election procedures and balanced information on candidates and their political platforms⁸.

The Election Commission of Pakistan (ECP)

Action taken by the ECP:

- display of electoral rolls in 55,000 locations across the country to allow voters to verify their names on the voter lists
- nation-wide 'Voter Verification' process launched (August - November 2011)
- SMS verification service to tackle confusion over polling station allocation. The service provides information of the electoral area and will provide polling station information prior to the elections.

Useful links | www.ecp.gov.pk | www.nadra.gov.pk

⁶ General Comment No. 25 (57) of the UN Human Rights Committee. Para. 11

⁷ Art. 25 International Covenant on Civil and Political Rights (ICCPR)

⁸ Article 19, “Reporting Elections – Broadcast Guidelines”; Art IX, UNESCO, Reuters, INDEX, http://webworld.unesco.org/download/fed/iraq/english/broadcast_guidelines_en.pdf

PAKISTAN'S ELECTORAL ROLL

INTERNATIONAL COMMITMENTS MET SINCE 2008

Since 2008, the ECP has significantly improved the quality of the Electoral Roll, primarily through co-operation with the National Database Registration Authority (NADRA) and the process of cross-referencing with the civil registry CNIC database. However, the accuracy of the electoral roll remains a concern as there is no reliable and timely system in place to update the voters' list.

Key challenges in meeting international commitments

- While the ECP displayed the electoral roll in some 55,000 locations around the country, other options to make the list easily accessible by publishing online or supplying copies to civil society organisations were not explored.
- There is no definition or accessible system to update the electoral roll and allow for corrections, additions and deletion of deceased voters⁹.
- Confusion continues over which polling station voters can expect to be allocated to.
- Procedures for changes in the electoral roll as stipulated in Section 18 of the Electoral Rolls Act remain to be defined in terms of due process and scrutiny.
- Urgent measures are needed to secure the successful and timely enrolment of those turning 18, additional women voters and Internally Displaced People (IDPs).
- The Ahmadi community is still listed on a separate voter list, continuing unnecessary and unjustified discrimination¹⁰.

CIVIL SOCIETY REPORTS AND RECOMMENDATIONS¹¹

Aurat Foundation | www.af.org.pk

Finds major gender disparity between voters list and CNICS.

FAFEN | www.fafen.org

- FAFEN Observers report one in eight registered voters (13%) does not reside at the address listed on PER 2012, potentially leaving some 11 million voters unable to vote.
- reports an estimated 20 million adults are still not registered to vote at all, including 3.59m who already have CNICs.
- calls for all polling stations to be immediately selected and published online so voters can check where they need to go.

9 DRI Briefing Paper 30, "Key Reforms for General Elections in Pakistan", July 2012

10 As noted by the EU Election Observation Mission Final report 2008, In 2008 this led to a boycott by the Ahmadis.

11 As presented to the public hearing by the Senate Special Committee to examine Election issues. 17 October 2012, Islamabad.

PAKISTAN'S ELECTORAL ROLL

PAK Women

- lack of understanding of the election commission SMS service from illiterate and non-English speaking voters.
- voter education campaign to inform citizens of electoral issues, particularly for marginalised groups including women.
- Information campaign on electoral rolls, including how to make corrections, targeted at citizens in remote, rural areas (e.g. loudspeaker announcements and via the media, especially radio).

Pakistan Muslim League Women's Wing (PML) | www.pml.org.pk/pml-women.php

- NADRA to take stronger steps to issue CNICs to all citizens without delay and ensure easier access, especially for women – whose outreach will require extra efforts, such as mobile teams, in FATA, Balochistan, South Punjab, Khyber Pakhtunkhwa, and interior Sindh.

Federation of Pakistan Chambers of Commerce and Industry (FPCCI) | www.fpcci.org.pk

- calls for all stakeholders to have easy access to the register for verification.
- the ECP should increase transparency through online publication of decisions and voter lists.

Sungi Development Foundation | www.sungi.org

ECP to immediately establish accessible and reliable mechanism for updating and maintaining electoral roll.

Devcom: calls for wider voter registration, including youth and women, and the facilitation of women's candidature.

Pakistan Institute of Legislative Development and Transparency (PILDAT) | www.pildat.org

- Easy access to Final Electoral Rolls (FERs) for all stakeholders including publishing online (the ECP may arrange for third party validation of the rolls).
- CNIC Card issuance should automatically trigger a voter register update with NADRA.
- CNIC card registration should gather data like preferred voting location.

SAARC Chamber of Commerce and Industry | www.saarcchamber.org

- Error free computerisation of electoral rolls in collaboration with National Database and Registration Authority (NADRA).
- Timely update of election results to ensure credibility.

PAKISTAN'S CAMPAIGN REGULATIONS

OVERVIEW

The Election Commission of Pakistan has the legal authority to regulate all aspects of the Election Campaign “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” as prescribed by Article 218 (3) of the Constitution¹.

There is no official definition on when a campaign starts. However, there is no prescribed period for political parties and candidates on when they can launch the campaign. The restrictions related to campaign for candidates are applicable from the time when they file their nomination papers². As given in the Code of Conduct for Political Parties and Candidates, the campaign period ends 48 hours before the polling.

In absence of a detailed legal basis for regulating electoral offences during the campaign period, rallies, gatherings and other forms of outdoor campaigning, the ECP has issued the “Code of Conduct for Political Parties 2013”. It includes key provisions to ensure a peaceful and fair campaign environment, including a ban on incitement to violence, bribery of officials, campaign financing and fair conduct.

Media coverage is central to any political campaign. The ECP Code of Conduct regulates relations between parties/candidates and the media, obliging them to:

- Guideline 28 | “firmly restrain their workers from exerting undue pressure against the print and electronic media... or resorting to violence of any kind against the media³.”
- Guideline 16 | “refrain from deliberate dissemination of false and malicious information”
- Guideline 17 | Avoid “criticism (of other parties and opponents) based on unverified allegations and distortion of facts”
- Guideline 25 | Federal, provincial and local governments are banned from launching publicly funded partisan or other advertisements

These party obligations are also echoed in the “Media Guidelines for Elections 2013” approved by the ECP. After several media codes of conduct were tabled by different media organisations, the ECP agreed to endorse a set of guidelines which were negotiated between the ECP and most major public and private media organisations and their representative bodies, including All Pakistan Newspapers Society (APNS), Council of Pakistan Newspaper Editors (CPNE), Pakistan Federal Union of Journalists (PFUJ), Radio Pakistan, Pakistan Television, South Asia Free Media Association (SAFMA) and others.

Key Stakeholders

The Election Commission of Pakistan (ECP), the Media, Voters, Political Parties, and civil society organisations.

1 The ECP's duty and power to regulate are also affirmed by Section 104, ROPA, and Section 18 of the Political Parties Order 2002

2 IFES Pakistan Fact Sheet: 2013 Election Timeline

3 Art 28 Code of Conduct for Political Parties and Candidates, ECP 2013

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PAKISTAN'S CAMPAIGN REGULATIONS

Pakistan's Legal Framework on Campaign Regulations

Pakistan's Constitution:

- Art. 19 and 19 A on Freedom of Expression, Right to Information
- Art 218 (3), regulating ECP's power to make "necessary arrangements", including the Media and Political Parties Guidelines
- Freedom of Information Ordinance 2002

Legislation:

- The Representation of the People's Act, 1976, Section 104
- Political Parties Order 2002, Section 18
- The Representation of the People's Act (ROPA) 1976, Sections 78-98
- ROPA Section 49 contains detailed provision for a limit on election expenses
- Section 144 of the Code of Criminal Procedure empowers the authorities to ban a campaign in a certain location by invoking security concerns

ECP Guidelines:

- Code of Conduct for Political Parties 2013⁴
- Media Guidelines for Elections 2013⁵

INTERNATIONAL COMMITMENTS⁶

| International agreements ratified by Pakistan | Reference | Provision |
|---|------------|--|
| International Covenant on Civil and Political Rights (ICCPR) ⁷ | Article 19 | "Everyone shall have the right to freedom of expression. This right shall include freedom to seek, receive and impart information and ideas of all kinds (...)." |
| | Article 20 | "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law." |
| | Article 25 | Right to take part in public affairs, directly or through freely chosen representatives. Right to vote and be elected at genuine periodic elections. Right to access, on general terms of equality, to public service. |

⁴ The Code for Political Parties can be legally enforced as the ECP under PPO 2002 is legally empowered to issue this code.

⁵ Includes the requirement for the creation of an enforcement body, which is still to be established as of 11 April 2013

⁶ Documents attached.

⁷ www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx

PAKISTAN'S CAMPAIGN REGULATIONS

In the interpretation of the UN Human Rights Committee, as articulated in the General Comment on Article 25 of the ICCPR, Article 25 of the ICCPR is relevant to campaigning inasmuch as that:

- Conditions to nomination dates, fees and deposits should be reasonable and non-discriminatory.
- The right of persons to stand for elections should not be limited unreasonably by requiring candidates to be members of specific parties.
- Reasonable limitations on campaign expenditures may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process is not distorted by the disproportionate expenditure on behalf of any candidate or party.

Pakistan's Media Guidelines for the Elections 2013

Pakistan's Media Guidelines for Elections 2013 include key best practice provisions enshrining the media's duty to inform⁸ and to provide unbiased, accurate and balanced reporting before, during and after the campaign period⁹. It also includes key protections of media freedom through limits on prior restraint.

Guaranteeing Media Freedom

Guideline 7 | Media must not be held legally responsible for reporting false statements of candidates

Media Obligations

Guideline 1 | Duty to inform

Guideline 2 | Duty of accuracy, balance, impartiality, avoid rumour, speculation and disinformation, Discourages all forms of hate speech, Media should subject candidates to journalistic scrutiny, Candidates should receive appropriate coverage

Guideline 4 | Media duty to respect and promote tolerance

Guideline 9 | Media to clearly separate between editorial, news and paid content. Paid content must be clearly labelled as such

Guideline 10 | Publicly owned media are obliged to grant all parties/candidates air time/news space based on equal merit. Private media must offer direct access times at equal cost to all and should provide each with equal share of free time, advertising time should be given in a transparent manner

Guideline 11 | Media should provide opportunities for public to put questions directly to candidates during prime time

Guideline 12 | Public media obliged to conduct voter education programmes, while other media "should endeavour" to do so

⁸ As implied in Article 25 of the International Covenant on Civil and Political Rights (ICCPR), encoding the authorities' duty to inform the voters.

⁹ See Articles 2 and 19 of the ICCPR

PAKISTAN'S CAMPAIGN REGULATIONS

Media Rights

- Guideline 3 | Rights of journalists to report freely should be respected by all candidates and state authorities
- Guideline 5 | Authorities have special duty to punish violence and intimidation against media
- Guideline 6.1 | No censorship
- Guideline 6.2 | All parties and authorities must issue statement guaranteeing media will not be penalised for being critical
- Guideline 6.3 | Ban on interference with broadcast of election programmes

INTERNATIONAL MEDIA STANDARDS AND BEST PRACTICE

While the Media Guidelines mark a significant step towards creating transparent regulations to guide balanced reporting and fair access for parties and candidates, the measures stop short of clear and transparent regulations of the state media ¹⁰.

Art. 19 of the Pakistan's Constitution limits the freedom of expression, as it is subject to "any reasonable restrictions imposed by law the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court commission or incitement to an offence". This is non-compliant with the international commitments Pakistan has ratified. As opposed to the "reasonable" restrictions defined in Art. 19 of Pakistan's Constitution, the situations in which certain restrictions to the freedom of expression and information can be considered as being "necessary" are laid out in Art. 19 of the ICCPR:

"The exercise of the rights provided for in [paragraph 2 of] this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- A | For respect of the rights or reputations of others;
- B | For the protection of national security or of public order (ordre public), or of public health or morals.

While the Media Guidelines call on the media organisations themselves to allocate airtime and news space fairly amongst all parties and candidates, international best practice guidelines recommend that the allocation of airtime is carried out by an independent body on consultation of all parties¹¹.

The Media Guidelines for Elections foresee "a suitable mechanism for the implementation of the Media Code of Ethics". The details of the make-up and processes of the mechanism are still to be determined.

Useful links | www.ecp.gov.pk | www.radio.gov.pk/newsdetail-40654 | radio.gov.pk/newsdetail-40510 | www.ptv.com.pk

¹⁰ as recommended by the EU Observation Mission Report 2008

¹¹ Guideline 9.2, Art. IX, Reporting Elections, Broadcast Guidelines

PAKISTAN'S CAMPAIGN REGULATIONS

INTERNATIONAL COMMITMENTS MET SINCE 2008

The Election Commission of Pakistan promoted stakeholder inclusion in the formulation of the Code of Conduct for Political Parties and Candidates 2013¹², giving political parties the opportunity to comment and review the draft code, incorporating some of the recommendations made. In absence of specific legislation, the code provides acceptable foundations for free campaigning without undue restrictions.

Section 144 of the Code of Criminal procedures empowers authorities to ban any campaign in a certain location due to security concerns. This provision could lead to excessive restrictions on political campaigning, in conflict with articles 19 and 25 of the ICCPR.

With respect to the quality of media reporting, the media guidelines provide the most comprehensive regulation to date, calling on all media to strive for accuracy, unbiased and balanced reporting.¹³ Although this is a positive step, the implementation remains unclear in the absence of an independent monitoring body.

Key Challenges

Limits on campaign financing of one million rupees for a provincial assembly seat and 1.5 million rupees for a parliamentary seat have been criticised by several parties as being unrealistic. While the Party Code of Conduct limits the flow of finances to one account per candidate, there is no provision setting out a monitoring mechanism. Large scale campaign efforts already underway support the assumption that spending limits will not be adhered to.

The ECP has committed itself to the creation of a regulatory and complaints mechanism for the Media Guidelines for Elections¹⁴. This is yet to be formed and procedures are yet to be defined. The allocation of air time remains under the control of each individual media outlet. In the absence of transparency in allocations and with no media monitoring body, the code remains without a control and enforcement mechanism.

12 As recommended by the EU Observation Mission 2008

13 The EU final Observer Report 2008 calls for “professionalism and ethical standards” for the media. P. 63

14 As of 11 April 2013 still pending the ECP's approval.

PAKISTAN'S CAMPAIGN REGULATIONS

CIVIL SOCIETY REPORTS/RECOMMENDATIONS

Center for Civic Education | www.civiceducation.org

- Limits to, and increased transparency of, donations for political parties, revisit Political Party Order 2002
- Raise ceiling for election expenses to accommodate inflation and changes in campaign culture. Suggest the range of PKR 20-25 million for a national and PKR 12-15 million for a provincial constituency.
- Reverse ban on parties providing transport for voters as it disenfranchises those without transport.

Pattan | www.pattan.org

- Introduce official audits by the ECP of candidates and political party accounts and publish these online
- Ban donations by foreign individuals to candidates or political parties

PILDAT/CGEP Citizens' Group on Electoral Progress | www.pildat.org

- ECP to control government influence and apply realistic ceiling on maximum election expenses and application of electoral rules and laws on all.
- ECP to adapt effective mechanism to check misuse of government resources by all public officials including the President, Prime Minister, Governors and Chief Ministers, federal and provincial cabinet ministers, parliamentary secretaries and other officials for election campaigns for their party candidates.
- Election Commission should ensure strict compliance of laws relating to the maximum election expenses.

SAARC Chamber of Commerce and Industry | www.saarcchamber.org

- Proper utilization of donation money
- Party Manifesto: Declaration of party manifesto before elections

WOMEN IN THE POLITICAL PROCESS

OVERVIEW

Pakistan has enshrined its commitments to women's rights in its constitution and laws and has affirmed them in several policy strategies and codes of conduct. Article 34 of the Constitution creates an active obligation on the state:

“Steps shall be taken to ensure full participation of women in all spheres of public life.”

Additionally, article 25 of the Constitution calls for equality of all citizens without discrimination on the basis of sex. These constitutional requirements guaranteeing women's political rights¹ and equality between men and women and are supported by several legal codes (see below) and regulations like the ECP's Five Year Strategic plan, the Code of Conduct for Political Parties and the Media Guidelines for Elections 2013.

Women have some guaranteed access to exercising political power at the national level through the constitutional guarantee of 60 National Assembly and 17 Senate seats for women.²

The daily reality of women in Pakistan tells a different story, suggesting that the impact of these provisions has been extremely limited. Women continue to be underrepresented in all aspects of political life. The ECP itself has so far been unable to make significant progress on its own target of having 10% women representation among its own workforce by June 2013³.

In a cultural context unfavourable to women, the onus is on the state to ensure women's full participation. Based on the findings of its research, the UN⁴ has set a 30% target for women's participation. Evidence shows that this is the critical mass needed for women to have a real impact on society and its political context.

Only 26 out of 849 general seats in the previous National and Provincial Assemblies were held by women, which equals 3%⁵. Only 22% of the total members of the National Assembly and 18.6% of the Provincial Assembly were female. These figures fall significantly short of the universally recognized 30% threshold for effective representation of women mentioned above. Women in political parties are largely excluded from decision-making positions, and the electoral roll shows clear evidence that close to 11 million women will lose out on their right to vote in the 2013 general elections.

Key Stakeholders

ECP, Civil Society Groups, Media, Political Parties, Women Voters and Candidates, women parliamentarians, groups broadly representative of women's views.

1 Articles 25 and 34 of the Constitution

2 Article 51, Constitution of Pakistan

3 For more details see: DRI Briefing Paper No. 36 “Women's Participation in the upcoming 2013 Elections”, www.democracy-reporting.org

4 Beijing Platform for Action

5 For detailed statistics and analysis see DRI Briefing Paper No. 36 “Women's Participation in the upcoming 2013 elections”, www.democracy-reporting.org

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

WOMEN IN THE POLITICAL PROCESS

Pakistan's Legal Framework on Women's Rights

Constitution of Pakistan

- Art. 25: equality of men and women
- Art. 26: non-discrimination in access to public places
- Art: 34: ensure full participation of women
- Art. 59: Senate seats reserved for women
- Art. 51: National Assembly seats reserved for women
- Art. 106: Provincial Assembly seats reserved for women

Representation of the People's Act 1976 (ROPA)

ECP Five Year Strategic Plan (2010-2014)

- ECP commitment to create favourable conditions for women, minorities and persons with disabilities with regard to the electoral process.
- The ECP to establish a fair gender balance in its ranks

INTERNATIONAL COMMITMENTS

Pakistan acceded to the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW) in 1996, requiring Pakistan to:

- take all appropriate measures to eliminate discrimination⁶
- ensure equality for women in political life

Pakistan has not signed or acceded to the Optional Protocol of the CEDAW convention, hence violations of rights under the convention may only be challenged within the Pakistani legal system and not through the CEDAW Committee.

United Nations Resolution 66/130 March 2012 calls on:

- "all states to review the differential impact of their electoral system on the political participation of women and their representation in elected bodies and adjust or reform those systems where appropriate."

International Covenant on Civil and Political Rights (ICCPR):

- Article 2.1 guarantees: "the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."
- Similarly the article 3 obligates the state parties to "to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant."⁷

6 Art. 7 CEDAW

7 <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

WOMEN IN THE POLITICAL PROCESS

Convention on the Political Rights of Women (CPRW)

- Pakistan ratified the Convention in 1954⁸; articles 1 to 3 of the Convention safeguard the rights of women to vote and be elected on equal terms with men, without any discrimination.⁹

Pakistan's Media Guidelines for Elections 2013

Guideline 12.3 | Voter education programmes should be “targeting groups traditionally excluded from the political process, such as women, the under-privileged, and religious and ethnic minorities.”

INTERNATIONAL MEDIA STANDARDS AND BEST PRACTICE

- General Recommendation 23 of CEDAW states that the convention's obligations under Article 7 to “take all appropriate measures” extend to all areas of public and political life and covers all aspects of public administration. Thus the obligations apply to different state organs including state media.
- International best practice codes recommend that voter education programmes specifically target “groups traditionally excluded from the political process, such as women and indigenous groups”¹⁰ as participation in elections is generally understood to depend on knowing how to exercise one's rights.

Useful links | www.ecp.gov.pk | www.democracy-reporting.org

INTERNATIONAL COMMITMENTS MET SINCE 2008

Pakistan's legal framework contains a range of provisions on women's political rights. The evident gap between these laws and regulations and their enforcement has resulted in slow progress for the political participation of women. This situation could be improved by prescribing more specific action.

Key Challenges in meeting International Commitments

Pakistan's legal framework and international commitments require direct action by state actors to ensure women can exercise their civil and political rights. The measures to achieve this may include:

- Disaggregation of data by sex, broken down by administrative units, on electoral roll and all other official registers and statistics related to key components of the electoral process to enable analysis and evaluation of political participation of women relative to men.¹¹ This data should be publically accessible.
- Mandatory photographs on CNIC cards to reduce fraud¹²

⁸ http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVI-1&chapter=16&lang=en#EndDec

⁹ Pakistan submitted a reservation to article 3 of the Convention that states that the article is not applicable in services that require “maintenance of public order or unsuited to women because of the hazards involved”.

¹⁰ See Article X CEDAW

¹¹ As also required by CEDAW Recommendation 23 requiring states to provide “statistical data, disaggregated by sex, showing the percentage of women relative to men who enjoy those rights

¹² In parts of the country this remains contentious because of cultural sensitivities although photos are also required to issue a passport and visa for going to the Hajj.

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

WOMEN IN THE POLITICAL PROCESS

- Oblige political parties to provide gender information and implement a gender strategy
- Development and implementation of policies by state media that promote political participation of women.
- Legislation/amendment in laws by the Parliament in consultation with groups largely representative of women's view, in order to promote development of women's participation in the election process.
- Efforts to ensure de facto realization of women's political rights by all state actors.
- Enable greater access election dispute resolution to women

The ECP has the mandate and legal authority to implement measures to safeguard women's political rights, both as voters and as candidates. In the current context this requires promotion of de facto realization of political rights of women through swift and decisive action including :

- Continue to step up outreach efforts to register more female voters including through the use of female registration staff. (NADRA to do the same to improve registration of CNICs for women)
- Additional measures to safeguard the integrity and security of women's polling stations, accessibility of polling to for women (including through recruitment of female polling staff).
- Promote and facilitate scrutiny of women's polling stations by civil society and political parties; also encourage greater scrutiny by female observers and polling agents.
- Active measures to contain election fraud particularly affecting women voters including barring of women voters from polling.
- Consider strategy on how to deal with the low turnout of women
- Conduct specialized voter education targeted at women voters

By opting not to accede to the Optional Protocol to the CEDAW convention, Pakistan has opted against opening an avenue to seek remedy against the continuing climate of violations of women's rights outside the Pakistani legal System with the CEDAW Committee.

WOMEN IN THE POLITICAL PROCESS

CIVIL SOCIETY REPORTS AND RECOMMENDATIONS¹³

Aurat Foundation | www.af.org.pk

- Criticises lack of will/ no legal provision to penalise those violating women's basic electoral rights
- Major gender disparity in voters' lists and CNICs.
- No female representation at highest decision-making level of the ECP

FAFEN | www.fafen.org

- Calls to protect women's voting
- Parliament must pass ECP proposed law reforms to declare election results null and void for those constituencies where the turnout of women voters is lower than 10%
- Count and report number of ballots in each women's and men's polling booth

FPCCI | www.fpcci.org.pk

- Strengthen women's participation
- More direct seats for women and minorities
- Civic education at dedicated polling stations
- More female registration officers and polling staff

PAK Women

- Lack of information on electoral rolls, particularly rural areas of Khyber Pakhtunkhwa
- Lack of understanding of election laws and processes, public education needed to raise awareness of citizens' rights
- Stop practice of ban on women's voting by parties, religious leaders and Jirgas
- Make polling compulsory for all citizens, irrespective of gender

Pattan | www.pattan.org

- Mainstream women participation in elections, as voters and candidates introduce direct elections of women, minority seats and the Senate
- Increase the representation of women across parties' hierarchies

¹³ As presented to the public hearing by the Senate Special Committee to examine Election issues. 17 October 2012, Islamabad.

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

WOMEN IN THE POLITICAL PROCESS

PILDAT/CGEP | www.pildat.org

Gender disaggregated data of voters from each polling station

PML Women's Wing

- Compulsory for every polling station to have at least 10% of the total votes cast by women. Otherwise, the results from that specific station will be considered null and void
- Issuance of CNICs to women, particularly in FATA and Baluchistan, KhyberPakhtunkhwa, and the interior Sindh.
- Stop challenges women face as voters, candidates and women staff at polling stations
- Election dispute resolution system
- women candidates should be given police protection
- Free airtime for women candidates
- women voters' security - there should be more accessible polling stations and proper transportation should be provided
- Women police should be installed in polling stations to avoid any violence against the polling agents and officers especially at the time of counting votes
- The polling women staff must be provided transport and with proper security

Sungi Development Foundation | www.sungi.org

- ECP to provide gender disaggregated data,
- Recruit, train women polling staff
- Respond to women voters non-participation by declaring results void
- Elections to be declared void if votes cast for NA, PA, LG elections are below 25% per constituency
- 10% of this 25% votes cast must be women votes and if less results to be declared void
- 30% reserved seats for women to be elected directly

PREVENTING POLITICAL VIOLENCE

OVERVIEW

Preventing political violence during the election period can be a huge challenge for government, election authorities, political parties, security forces and the general public. Political violence not only intimidates people and prevents them from exercising their right to vote, it also affects the credibility of election results.

The Free and Fair Election Network (FAFEN) defines political violence as “any act or threat of violence – be it physical or psychological, explicit or implicit – that is aimed at any person or property involved in the political process.” This includes violence that targets state institutions or infrastructure; violence motivated by ethnic, religious, tribal, ideological, or other identities; violence based on organizational or professional affiliation; and violence based on political party affiliation¹.

Political violence is motivated by a variety of factors including ethnicity, religion/sect or political and tribal identity. Sometimes violence is specifically targeted at women, minorities and other vulnerable groups. Perpetrators of violence can be state or non-state actors; but the responsibility to protect citizens lies with the state and its law enforcement agencies. A lack of proper law enforcement exposes the process to violence, enabling perpetrators to gain undue advantage over their opponents and affect election outcomes through the use of force.

Key Stakeholders

Voters, ECP, political parties, candidates, civil society, and security forces.

1 www.fafen.org/site/v6/political-electoral-violence

PREVENTING POLITICAL VIOLENCE

Pakistan's Legal Framework

Political violence is punishable under the same legislation as other criminal acts of violence in Pakistan. The ECP Code of Conduct for Political Parties and Candidates prohibits the use of violence and refers to the offences under The Pakistan Penal Code (PPC)². This makes the Code of Conduct for Political Parties enforceable by law³. The ECP Code of Conduct for Media defines obligations on media action and interaction with the media, but is not legally binding. It states that the media have a duty to respect and promote tolerance and avoid all forms of expression that might be interpreted as incitement to violence or hatred on the basis of religion, creed, gender, or ethnicity⁴.

| Legislation | Reference | Provisions |
|--|-------------------------------|--|
| Representation of the People Act (ROPA) 1976 | Chapter VIII (Sections 78-98) | Offences, penalty and procedure Section 86 is on disorderly conduct near a polling station, which is an offence punishable with imprisonment and a fine. |
| ECP Code of Conduct for Political Parties and Candidates | Section 7 | Incitement or violence by candidates/their supporters during meetings, processions, or polling hours “They shall publicly condemn violence and intimidation and not use language that might lead to violence (...). No person shall in any manner cause injury to any person or damage to any property.” |
| | Section 28 | Undue influencing of the media “The Political Parties and candidates shall firmly restrain their workers from exerting undue pressure against the print and electronic media, including newspaper offices and printing presses, or resorting to violence of any kind against the media.” |
| Pakistan Penal Code (PPC) | Section 146 | Rioting Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting. |
| | Section 153-A | Inciting violence Promoting enmity between different groups and incitement to violence which is punishable with imprisonment for a term which may extend to five years and with fine. |

2 Sections 146 and Section 153-A of the Pakistan Penal Code

3 In case of violations of the CoC provisions related to preventing violence. Section 46 of the code of conduct and section 86A of the ROPA give powers of the first class magistrate to the District Returning Officer (DRO) who under section 190 of the Criminal Procedure Code to take cognizance of the code of conduct violations.

4 Guideline 4 : <http://ecp.gov.pk/misc/MediaCode.pdf>

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

PREVENTING POLITICAL VIOLENCE

INTERNATIONAL COMMITMENTS

| International agreements ratified by Pakistan | Reference | Provision |
|--|------------|---|
| International Covenant on Civil and Political Rights (ICCPR) ⁵ | Article 19 | "Everyone shall have the right to freedom of expression. This right shall include freedom to seek, receive and impart information and ideas of all kinds (...)." |
| | Article 20 | "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law." |
| | Article 25 | Right to take part in public affairs, directly or through freely chosen representatives. Right to vote and be elected at genuine periodic elections. Right to access, on general terms of equality, to public service. |
| Convention on Elimination of all Forms of Discrimination against Women (CEDAW) ⁶ | Article 7 | [Pakistan] shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies.(...) |
| International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) ⁷ | Article 4 | Pakistan is required to declare all acts of violence on racial grounds as punishable by law. |
| | Article 5 | State parties undertake to prohibit and to eliminate racial discrimination to guarantee the right of everyone in the enjoyment of its political rights, in particular the right to participate in elections and other civil rights, in particular the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association. |

5 www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx

6 www.un.org/womenwatch/daw/cedaw/text/econvention.htm

7 www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

PREVENTING POLITICAL VIOLENCE

Pakistan's Media Guidelines for Elections 2013

Media coverage of political, religious or sectarian disputes is a sensitive area of work for journalists. Journalists have a responsibility to report inflammatory comments by politicians in a manner that will not inflame tensions or aggravate the situation. At the same time, journalists need special protection from intimidation and interference.

The ECP has endorsed a code of conduct for the media for the upcoming elections, which includes the following provisions to prevent violence:

| ECP guideline | Subject area | Abstract |
|--------------------------|---|---|
| Guideline 2.2 a/b | Hate speech in the media | Media shall discourage "all forms of hate speech" and avoid "rumour, speculation... malicious intent." |
| Guideline 4 | Promoting tolerance/ incitement of hatred | The media has a "duty to respect and promote tolerance ...avoid incitement to violence or hatred on the basis of religion, creed, gender, or ethnicity." |
| Guideline 5 | Protection of media staff and property by law enforcers | "Authorities should make special efforts to investigate all acts of violence, intimidation or harassment directed against media personnel or the property or premises of any media outlet." |
| Guideline 6.3 | Authorities interfering with the media | There shall be no interference by authorities "unless there is a real danger or threat of imminent harm or violence." |
| Guideline 7 | Quoting candidates/ parties in the media | Media liability shall be limited in cases of unlawful statements by candidates/parties. This does "not apply to the repeat/recorded telecasts or publications." |

The Guideline 15 of the code states that the ECP will "evolve a suitable mechanism for the implementation of Media Code of Ethics" to be headed by the ECP. This Complaints Committee will include representatives from the following media stakeholders: PBA, APNS, PCP, CPNE, PTV, PBC, PFUJ, SAFMA and SAWN.

With the election campaign already underway, the exact powers, make-up and procedures of this body are still to be defined. An independent monitoring and complaints body is essential to track threats to journalists and provide a fast response mechanism to challenges the media faces before, during and after Election Day.

PREVENTING POLITICAL VIOLENCE

INTERNATIONAL MEDIA STANDARDS AND BEST PRACTICE

Threats and attacks against journalists and media facilities pose a significant risk to the freedom of expression. International guidelines condemn such attacks and call authorities to make “special efforts to investigate all acts of violence intimidation or harassment directed against media”.⁸

All media are bound by ethical standards and should avoid publishing hate speech or any gratuitously insulting and provocative material, unless it contains information of public interest. Media should be exempt from liability for unlawful statements unless they fail to avoid disseminating direct incitements to violence despite having had adequate opportunity to prevent it.⁹

There should be no censorship of any election programme. International media standards¹⁰ make exceptions when the following conditions apply:

- to prevent substantial harm such as an act of violence standards used... must not be vague or broadly defined
- any decision should be subject to ...prompt review by an independent body

Such interference in media content should be limited in scope and subject to judicial review. The formation of an effective independent monitoring and evaluation body is key for transparency and to counter violence.

Useful links | www.ecp.gov.pk | www.ecp.gov.pk/misc/MediaCode.pdf | www.ecp.gov.pk/ViewPressReleaseNotificDetail.aspx?ID=1841&TypeID=1 | www.pml.org.pk/pml-women.php

INTERNATIONAL COMMITMENTS MET SINCE 2008

Existing laws criminalize the use of violence against any person or group in Pakistan. Prohibiting the use of violence, the ECP Code of Conduct for Political Parties and Candidates refers to the offences under Pakistan Penal Code (PPC)¹¹ against the use of violence during elections. Section 46 of the Code of Conduct and section 86A of the ROPA give powers of the first class magistrate to the District Returning Officer (DRO), who under section 190 of the Criminal Procedure may take jurisdiction of the code of conduct violations.

8 Guideline 5, Reporting Elections Broadcast Guidelines, Art. XIX

9 Guideline 6, Reporting Elections Broadcast Guidelines, Art. XIX

10 Guideline 5, Reporting Elections Broadcast Guidelines, Art. XIX

11 Sections 146 and Section 153-A of the Pakistan Penal Code

PREVENTING POLITICAL VIOLENCE

Key Challenges in meeting International Commitments

The weak and inconsistent enforcement of the law remains a huge challenge in preventing violence in Pakistan.

Although most of the violence-related provisions of the ECP Code of Conduct are covered by law in Pakistan Penal Code or ROPA, the implementation of those that are not covered by law will be particularly difficult.

The presence of non-state armed actors, such as the militant groups, who have publicly expressed their willingness to resort to violence in order to achieve their political objectives, represents a particular challenge in Pakistan.

CIVIL SOCIETY REPORTS AND RECOMMENDATIONS¹²

UN WOMEN | www.unwomen.org.pk

UN Women demanded development of gender sensitive mechanisms for dealing with electoral violence.

Human Rights Commission of Pakistan (HRCP) | www.hrcp-web.org

The HRCP demanded safeguarding enfranchisement of women voters and taking measures to address security concerns during elections.

NATIONAL DEMOCRATIC INSTITUTE (NDI) | www.ndi.org

NDI recommended that the government take necessary measures to address security challenges during elections and to eliminate interference in the electoral process.

¹² As presented to the public hearing by the Senate Special Committee to examine Election issues. 17 October 2012, Islamabad.

TRANSPARENCY

OVERVIEW

Transparency is essential to the credibility of an electoral process. Transparent access to information should extend throughout the whole electoral cycle, in particular from the preparation of the electoral roll to the tabulation and announcement of results. Transparency promotes accountability and trust in the electoral process, encouraging greater awareness and participation of all stakeholders.

Transparency related to the right of access to information. It provides citizens, media, political parties, civil society and other stakeholders with an opportunity to scrutinise the conduct of elections, limiting the potential for electoral fraud. Access to information empowers people with the necessary knowledge to address issues and become active participants in the democratic and electoral process.

Key Stakeholders

Citizens, Media, Candidates, Political Parties, Election Observers, Party Poll Watchers, ECP, Federal and Provincial Governments

Pakistan's Legal Framework

The right of access to information is enshrined in Article 19-A of the Constitution of Pakistan, and equally applies to the right to election related information. There is only one federal supplementary law; the Freedom of Information Ordinance, 2002. The ordinance is only applicable to institutions and departments of the federal government - subject to several restrictions. A revised Freedom of Information Bill was drafted during the tenure of the last government, but could not be passed into law as it was referred to the relevant committee in 2011¹.

The right to access of information during elections is covered in some sections of the Representation of the People Act (ROPA) 1976. Provisions under sections 8(2), 11, 15 and 42 require the ECP to make public the list of polling stations, the election schedule and a list of candidate declarations of election results. There is also a legal requirement for candidates, lawmakers, and political parties to declare their assets.

Guideline 3 of the ECP Guidelines for Elections 2013 asserts the right of media and citizens to full access to information during the election period and afterwards². Clause 7 of the Code of Conduct for Observers issued by ECP says "the Observers will have the right to ask any question and to clear any query but they will not obstruct directly or indirectly in any pre-election, election and post election process"³. Clause 11 of the same code requires observers to share their findings, methodology and recommendations with the ECP⁴.

The Election Commission of Pakistan in its Five-year Strategic Plan 2010-2014 included a provision for the development of a civic and voter education strategy on information and outreach to all sections of society⁵. The same strategic plan also aims at enhancing access to the electoral process for election observers.

1 app.com.pk/en_/index.php?option=com_content&task=view&id=158785&Itemid=2

2 ecp.gov.pk/misc/MediaCode.pdf

3 ecp.gov.pk/ViewPressReleaseNotificDetail.aspx?ID=1879&TypeID=1

4 ecp.gov.pk/ViewPressReleaseNotificDetail.aspx?ID=1879&TypeID=1

5 ecp.gov.pk/Reports/SPProgd19_8thRep_May10-Dec12_2012-12-13.pdf

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

TRANSPARENCY

| | |
|--|--|
| Constitution of Pakistan, Article 19-A | Every citizen shall have the right to access “information in all matters of public importance subject to regulation and reasonable restrictions imposed by law”. The media along with the general public may refer to this legal principle in seeking access to information relating to transparency of the electoral process. |
| Pakistan's Freedom of Information Ordinance 2002: | Citizens' right to access of information and limitations - “Access to information not to be denied.” Public officials are required to provide access to public records, including meeting minutes, files and public decisions. |
| The Representation of the People Act (ROPA) 1976: | Several sections relating to public access to information - Section 8 (2) on lists of polling stations, Section 11 on publicising the election schedule, Section 15 on lists of candidates to be published and Section 42 on declaration of election results. |
| Political Party Order 2002: | Section 13 requires parties to disclose their annual income and expenses; sources of funds; assets and liabilities. |

INTERNATIONAL COMMITMENTS

Under Article 19 of the International Covenant on Civil and Political Rights (ICCPR), Pakistan is obliged to protect citizen's right to information. Article 19 ensures the citizen's right to “hold opinions without interference” and “the right to freedom of expression” including the freedom to “seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”⁶.

Other universal instruments, such as the Universal Declaration for Human Rights, include similar provisions: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

Pakistan's Media Guidelines for Elections 2013

Pakistan's media code of conduct states that all media have a duty to inform voters and calls on authorities to provide “full access to information during the election period and afterwards” (Guideline 3). The Guidelines provide for a supervisory body, and despite the ECP's commitment to form of such a body⁷, it is highly unlikely that a monitoring institution will be established ahead 2013 Elections.

Further obligations on the media:

Guideline 14 | Final results only from the Election Commission

The absence of a reference to reporting on polling, counting and aggregation of results may be perceived as limiting the scope of reporters in the dissemination of ECP information. At the same time, reporters are required to “prefer Polling Observers as interviewees” to ensure “transparency of polling”.

6 ICCPR Article 19

7 Guideline 15 Media Guidelines for Elections 2013

TRANSPARENCY

Draft Public Radio Code of Conduct for Elections 2013

State-owned media in Pakistan and around the world carry a special responsibility to inform voters at all stages of the electoral process. The recently published draft Public Radio Code⁸ provides guidance on the role of publicly funded radio in election reporting. The draft code⁹ obliges public radio to disseminate all ECP directives, including on “voter lists, submission and scrutiny of nomination papers, final lists of candidates” but does not call for direct access for journalists working for public radio to report on these processes.

Public Radio reporters are also called upon to “enhance the image of democracy in foreign language transmissions.” In the absence of any monitoring, this may be interpreted as a call for journalists to report positively about the election process.

According to the code, public radio has a duty to:

- assign reporters in each provincial headquarter of ECP
- air results as we get them from the polling stations and the ECP

INTERNATIONAL MEDIA STANDARDS AND BEST PRACTICE

The media have a duty to inform all stakeholders, primarily voters, of all matters relating to the technical, legal, procedural, campaign, polling, counting and results of elections. Transparency of the entire electoral process is key to credibility of its outcomes. Pakistan has committed to free public access to the process and information.

Interpreting Art. 19 ICCPR, HRC General Comment No. 34 obliges authorities to:

- ensure easy, prompt, effective and practical access to such information¹⁰
- arrange... for appeals from refusals to provide access to information

Therefore, journalists are to be given unhindered access at every stage of the election process. Pre-election preparations, voting, counting, tabulation and aggregation procedures gain credibility through public scrutiny. Complaint hearings should be public to ensure transparency.

The media are also obliged to observe transparency in the nature of media content, especially concerning the context of opinion polls and results¹¹.

Useful links | www.ecp.gov.pk | www.ecp.gov.pk/sp/introduction.html | www.ecp.gov.pk/ViewPressReleaseNotificDetail.aspx?ID=1879&TypeID=1 | www.ecp.gov.pk/misc/MediaCode.pdf | www.radio.gov.pk

8 <http://www.radio.gov.pk/newsdetail-40510>

9 <http://www.radio.gov.pk/newsdetail-40510>

10 International Covenant on Civil and Political Rights (ICCPR) §19 HRC Comment No. 34

11 Guideline 12, “Reporting elections: Broadcast Guidelines.”

TRANSPARENCY

INTERNATIONAL COMMITMENTS MET SINCE 2008

The 18th Amendment to the Constitution of Pakistan was a significant development which enshrined the right to information as a fundamental right. Article 19A on the right to information says "Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law."

Art. 19 of Pakistan's Constitution limits the freedom of expression, as it is subject to "any reasonable restrictions imposed by law, the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court commission or incitement to an offence". This is non-compliant with the international commitments Pakistan has ratified. As opposed to the "reasonable" restrictions defined in Art. 19 of Pakistan's Constitution, the situations in which certain restrictions to the freedom of expression and information can be considered as being "necessary" are laid out in Art. 19 of the ICCPR:

"The exercise of the rights provided for in [paragraph 2 of] this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- A | For respect of the rights or reputations of others;
- B | For the protection of national security or of public order (ordre public), or of public health or morals.

Key Challenges in meeting International Commitments

The current law on freedom of information is subject to substantial procedural and legal limitations stipulated within the ordinance. Information may be withheld if:

- it damages "the interests of Pakistan" in international relations¹²
- disclosure may be "harmful to law enforcement"¹³

A corresponding law to bring the Freedom of Information Ordinance 2002 in line with the provisions of 18th amendment could not be passed by the last parliament, despite a bill being introduced in 2011.

Little progress has been made introducing specific legislative requirements for electoral transparency, including immediate publication of polling station level results for both the National and Provincial assemblies' levels, provision of gender desegregated data on voter turnout, and full access for observers and party/candidate agents to the electoral processes.

Inconsistent and arbitrary functioning of the ECP limits transparency and therefore citizens, media and election observers lack uniform access to information related to electoral processes.

¹² Art. 15 Freedom of Information Ordinance 2002

¹³ Art. 16 Freedom of Information Ordinance 2002

TRANSPARENCY

CIVIL SOCIETY REPORTS AND RECOMMENDATIONS¹⁴

Center for Civic Education (CCE) | www.civiceducation.org

- The clause on Returning Officers' keeping election expenses for one year should be amended so that expenditure statements of winning candidates are available for a longer period from the ECP for analysis and scrutiny.
- A new National Democracy Commission could help address many issues pertaining to political finance in Pakistan

Devcom Pakistan

- Increased transparency of the electoral roll
- Neutrality of state and government
- Progress on the reforms package for election legislation should be announced and a stakeholder consultation convened

Free and Fair Elections Network (FAFEN) | www.fafen.org

- Immediate identification and publication of permanent polling stations with full local consultation
- Publish polling station list online well in advance, with no changes permitted
- Void vote count in any polling station with greater than 100% voter turnout or other clear anomalies
- Automatic recount at stations with margins less than 200 votes
- Publish polling station vote data immediately online
- Election Observer Code of Conduct must follow best international practice, based on full consultation
- Timely accreditation of all neutral observers

Federation of Pakistan Chamber of Commerce and Industry (FPCCI)

- ECP should increase transparency by publishing decisions, voter lists, education material, complaint tracking, and polling stations online
- Polling stations should be assigned earlier
- Counting procedures should be improved for transparency and speed
- Election results should be published outside every polling station and on the ECP website as soon as results become available

¹⁴ As presented to the public hearing by the Senate Special Committee to examine Election issues. 17th October 2012, Islamabad.

TRANSPARENCY

Institute of Regional Studies (IRS)

- Need for trainings on election observation for district level media representatives reporting on the election/broadcasting live from polling stations to help the media report accurately on polling malpractices.

Pak women

- Election Commission of Pakistan (ECP) should conduct an education campaign to educate voters on the importance of vote/polling information and provide citizen information on election laws and reforms.

Pattan | www.pattan.org

- Require and enforce reporting by candidates/political parties of all sources of income, both cash and in-kind related to campaigns

PILDAT/CGEP | www.pildat.org

- Live publishing of polling stations voting results on the ECP website
- Number of polling stations to be increased so that the distance from each registered voter is no more than 2km
- Polling staff should not work in their home district to avoid undue influence of local influential people
- CGEP system of Constituency Observers should be strengthened by appointing more senior observers and through extensive orientation/training for observers.
- Election Tribunals should be appointed in sufficient numbers so that election complaints are decided within the period of four months time limit
- Random checks of ballot thumb prints by the ECP following the election against NADRA records
- ECP should appoint Constituency Monitors to ensure political campaigns are conducted in accordance with the law

SAARC Chamber of Commerce and Industry

- Computerisation of electoral processes for fast and secure counting
- Additional assistance from judicious use of the Army, Rangers and Police to ensure transparency/prevention of forced voting
- Election expenses to be more strictly monitored

ELECTION DISPUTE RESOLUTION

OVERVIEW

A vital part of any credible election process is the opportunity for contesting candidates and citizens to seek resolution of complaints and disputes. Fairness, transparency and legitimacy of elections largely depend on a country's effective Election Dispute Resolution (EDR) processes. When a dispute arises, such as a candidate's eligibility to contest or if results are questioned, a credible, inclusive, transparent and speedy appeals process to resolve the issue is necessary to maintain trust in the system.

Key Stakeholders

ECP, Candidates, and political parties, Civil Society, voters

Pakistan's Legal Framework

Pakistan's election dispute resolution system is rooted both in law and in informal practices developed by the Election Commission of Pakistan (ECP). Formal dispute resolution mechanisms are laid out in the Constitution and the Representation of the People Act (ROPA), 1976. Informal mechanisms are derived from the ECP's practices and are highly informal, often providing no effective remedy.¹

Constitution of Pakistan Article 10-A provides for the right to a fair trial and Article 225 states that "no election to a House or a Provincial Assembly shall be called in question except by an election petition presented to such tribunal and in such manner as may be determined by Act of Majlis-e-Shoora (Parliament)".

Section 14 of the Representation of the People Act (ROPA), 1976 covers the resolution of disputes during the nomination stage and appeals to the Appellate Tribunals, while section 39 relates to counts and recounts of votes. Section 49 of ROPA sets limits on candidates' expenses on elections. Sections 52-77 are about post-election contests. An ECP notification² issued in 1985 lays out the procedure for trials of election petitions in the Election Tribunal. Section 103A of the law gives the Election Commission powers to declare a poll void on account of grave violations/illegalities.

Overview of sections covering electoral dispute resolution in the Representation of the People Act (ROPA), 1976:

- Section 14: scrutiny of nominations and appeals to Appellate Tribunals against acceptance or rejection of nomination papers
- Section 39: counts and recounts of votes
- Section 49: limits on candidates' expenses on elections
- Sections 52-77: post-election contests
- Section 103AA: gives the Election Commission powers to declare a poll void on account of grave violations/illegalities

1 DRI's briefing paper on Election Dispute Resolution: Analysis of Pakistan's Mechanisms Prior to the 2013 Parliamentary Elections, P.2

2 ECP notification No.F.1 (7)/85-Coord, issued on March 16, 1985.

ELECTION DISPUTE RESOLUTION

ECP notification No.F.1 (7)/85-Coord, issued on 16 March 1985, gives detailed procedures for trials of election petitions in Election Tribunals.

The current EDR mechanism allows for complaints against candidate nomination papers. Any person can challenge the eligibility of candidates to run for office. The Returning Officers (ROs) receive and review nomination papers before rejecting or accepting them. The RO's ruling may be challenged by filing an appeal to an Appellate Tribunal. An Appellate Tribunal consists of two or three judges of the High Court, nominated by the Election Commission with the approval of the President. At the post-result stage, the Constitution and ROPA provide that election results can only be challenged in an Election Tribunal. An Election Tribunal is headed by either a judge of the High Court or any person who would qualify for a position as judge of a High Court.

INTERNATIONAL COMMITMENTS

Pakistan ratified the International Covenant on Civil and Political Rights (ICCPR) in 2010, and is therefore committed to ensuring:

- Article 2: “rights without discrimination³”
- Article 14: all persons shall be equal before the courts and tribunals
- Article 25 and General Comment No 25: the “right to participate in public affairs, voting rights and the right of equal access to public service”
- General Comment No. 31, Paragraphs 15-17: remedies are provided expeditiously in order to be effective. “The timeliness of a dispute resolution mechanism in an electoral setting reinforces the fairness and legitimacy of the entire democratic process.”

ELECTION DISPUTE RESOLUTION

PAKISTAN'S MEDIA GUIDELINES FOR ELECTIONS 2013

Sound, transparent and inclusive complaint mechanisms are key to the peaceful resolution of electoral disputes. When disputes arise, they place an instant demand on the media to provide a public check and balance. Several guidelines in the ECP Media Guidelines for Elections 2013 apply:

- Guideline
- 1) Duty to inform about voting processes
 - 2) Obligation of accuracy, balance and impartiality
 - 6) Limits to media liability for carrying false statements
 - 9) Fair and balanced reporting
 - 11) Obligation to carry special programmes explaining proceedings
 - 13) Publish opinion poll results explaining scope and limits, data used including who paid for it.
 - 14) Media must not air results with disclaimer until declared final by ECP

Pakistan's Media Guidelines also require the ECP to set up an implementation mechanism for the code. With the election period well underway and no defined procedures, time is pressing for it to make an impact in safeguarding the public interest.

ELECTION DISPUTE RESOLUTION

INTERNATIONAL MEDIA STANDARDS AND BEST PRACTICE

When election disputes occur, as in any other aspect of the electoral process, international standards require that the “right of access includes that ... the media has access to information on public affairs and the right of the general public to receive media output”⁴

When aspects of the electoral process or results are challenged, access is key to allow media scrutiny of every part of the polls. Without access, the media cannot perform its key role to inform the public.⁵

Several International best practice guidelines apply, most prominently:

- Media’s duty to inform
- Balance and impartiality
- Media to be free from authorities’ or other interference
- To broadcast special programmes / publish special information
- Engage in voter education with special responsibility for state media
- Opinion polls should be published in context⁶

When doubt is cast on individual elements of the democratic process, an independent, fast and effective complaints mechanism is essential for maintaining public trust. This should be implemented speedily with the possibility of judicial review.

Useful links | www.ecp.gov.pk

4 General Comment No.34 on Article 19 of the International Covenant on Civil and Political Rights

5 Which also obliges the authorities under Art. 25 ICCPR to make sure the public is informed about all aspects of the election process.

6 Guidelines No: 1,2,4,5,8,10,12, Art.XIX Reporting Elections: Broadcast Guidelines

ELECTION DISPUTE RESOLUTION

INTERNATIONAL COMMITMENTS MET SINCE 2008

In October 2009, Parliament amended ROPA to prevent parties involved in cases before Election Tribunals from seeking adjournments or requests for more time merely to prepare their case, fixing four months for disposition of election related cases.

The ECP established teams to monitor election process and expenses in a by election in 2012. The Commission has also set up two-member teams with video cameras for every constituency to monitor the general elections in 2013. These teams are tasked with monitoring the election process, including campaign expenditure and observance of the Code of Conduct by Contesting Candidates and Political Parties⁷.

Key Challenges in meeting International Commitments

Pakistan's current electoral laws fail to provide a sound legal basis for effective EDR in key elements of the electoral process, including election campaigns, voter registration and boundary delimitations.

The current mechanisms derived from ill-defined ECP practices are highly informal, often providing no remedy at all.

No regulations or legal procedures providing formal mechanisms for the consistent application of the receipt, processing, handling, disposition and appeal of complaints at various phases of the election.

In 2008, the European Union Election Observation Mission (EU EOM) observed that "the existing [dispute resolution] framework fails to provide an effective mechanism for the remedy of violations of electoral rights."

⁷ ECP's notification issued on March 27, 2013, please see: ecp.gov.pk/ViewPressReleaseNotificDetail.aspx?ID=1906&TypeID=1

ELECTION DISPUTE RESOLUTION

CIVIL SOCIETY REPORTS AND RECOMMENDATIONS⁸

Center for Civic Education (CCE) | www.civiceducation.org

- The 18th Amendment Committee's recommendation to the Executive branch that Election Tribunals should complete electoral dispute trials within 90 days should be implemented.

Free and Fair Elections Network (FAFEN) | www.fafen.org

- Enforce time limitations for resolution of all electoral disputes after elections.

PAK Women

- No proper mechanism for pre, during and post poll complaints, particularly in rural areas, such as Khyber Pakhtunkhwa, and areas where women face problems voting.
- Proper legislation on EDR and an effective and transparent enforcement mechanism will create clarity for the public, the ECP, the government, political parties and candidates.

PILDAT/CGEP | www.pildat.org

- The ECP should develop a mechanism and appoint sufficient judges for Election Tribunals to decide petitions within four months, as prescribed by ROPA, Article 67 (1A). Tribunals should exclusively hear election petitions within this four month period and a time limit for appeal decisions should also be fixed.

SAARC Chamber of Commerce and Industry

- Creation of an Advisory Board / Think Tank directly under the Planning Division to highlight matters against the interest of the people
- True representation from all segments of society in the Chamber of Commerce and Industry and Supreme Court, as well as accountability across the board

Sungi Development Foundation | www.sungi.org

- The ECP must be a permanent, independent body, with no time limits on tenures in accordance with international best practice
- The ECP reforms require a clear legal framework based on an inclusive consultation process, constitutional requirements and international law

⁸ As presented to the public hearing by the Senate Special Committee to examine Election issues. 17th October 2012, Islamabad.

CHALLENGES FOR MEDIA COVERAGE

OVERVIEW

Journalists covering the upcoming elections in Pakistan are facing many challenges and great responsibility. They will provide the first draft of history on what could become a landmark poll on the country's path towards democracy.

The impulse from stakeholders to try to influence the media is greatest during election time. At the same time, all media carry the greatest responsibility to report impartially, fairly and accurately on all stages of the electoral process.

Legal provisions

Pakistan's Constitution enshrines the right to information: "Every citizen shall have the right to access of information in all matters of public importance subject to regulation and reasonable restrictions imposed by law¹." International commitments allow far fewer restrictions, only "as provided by law and necessary". Media along with every citizen may refer to this legal principle in seeking access to information relating to transparency of the electoral process.

International law attaches special importance to the right to Freedom of Expression in general, and specifically Freedom of the Media. It enshrines Freedom of Expression as the "basis for the enjoyment of a wide range of other human rights"² and specifically media freedom as "one of the cornerstones of a democratic society"³.

Working in combination with Pakistan's legal framework, the recently agreed "ECP Media Guidelines for Elections 2013" go some way in supporting the media's work as well as committing the media to a set of principles. The guidelines call for authorities to grant "full access to information during the election and afterwards"⁴. (Guideline 3)

1 Article 19, Constitution of Pakistan

2 UN Human Rights Committee general Comment No. 34 Para. 4

3 Human Rights Committee, General Comment No. 34, Para.13

4 Guideline 3, ECP Media Guidelines for Elections 2013

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

CHALLENGES FOR MEDIA COVERAGE

| Issue | Media rights | Media related Obligations |
|--------------------------------|---|--|
| Pressure / interference | <ul style="list-style-type: none"> Government actors banned from launching publicly funded partisan or other advertisements (G. 25 Political Parties Code of Conduct) Rights of Journalists to report freely to be respected by all candidates/state authorities (G. 3 Media Guidelines) | <ul style="list-style-type: none"> No pressure on media by candidates/ Parties (G. 28 Political Parties Code of Conduct) Ban on censorship (G. 6.1 Media Guidelines) All parties must issue statement guaranteeing media will not be penalised for being critical (G. 6.2 Media Guidelines) Ban on interference with broadcasters on election programmes |
| Violence | <ul style="list-style-type: none"> Parties/Candidates must not "resort to violence of any kind against the media (G.28 Political Parties code of Conduct) Authorities have special duty to punish violence and intimidation against media (G. 5 Media Guidelines for Elections, Art. 19 ICCPR⁵) | <ul style="list-style-type: none"> Media must not conduct or distribute incitement to hatred Discourage all forms of hate speech (G. 2.2 Media Guidelines for Elections 2013) Duty to respect and promote tolerance Avoid incitement to violence (G. 4 Media guidelines) "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law" (applies to all stakeholders. Art 20 ICCPR) |
| Accuracy | <ul style="list-style-type: none"> Parties must not deliberately disseminate false information (G 16 Political Parties Code of Conduct) Parties must avoid "distortion of facts" (G 17 Political Parties Code of Conduct) Media not to be held responsible for unlawful statements by parties/candidates (G. 7 Media Guidelines) Opinion polls only to be released with relevant context (G. 13.2 Media Guidelines) | <ul style="list-style-type: none"> Fairness, non-discrimination, accuracy, balance (G 2.1 Media Guidelines) Victim of gross representation entitled to correction/reply (G8 Media Guidelines) |

5 As stipulated in General Comment No.34 by the Human Rights Committee

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

CHALLENGES FOR MEDIA COVERAGE

| | | |
|--|--|--|
| <p>Access to information / transparency</p> | <ul style="list-style-type: none"> • “access to information not to be denied” (Freedom of Information Ordinance 2002) • Right to information, including access to public documents (limited by Freedom of Information Ordinance 2002) • “access of information in all matters of public importance” (guaranteed by Pakistan’s Constitution⁶) | <ul style="list-style-type: none"> • Duty to inform public (G 1 Media Guidelines) • Public media obliged to conduct voter education (G 12.1 Media Guideline, Art. 25 ICCPR) • Public media obliged to conduct voter education as other media “should endeavour” to do so (G. 12 Media Guidelines) • “Provision of full access to information during the election period and afterwards” (G.3 Media Guidelines) |
| <p>Bias / access to media</p> | <ul style="list-style-type: none"> • Federal, provincial, local governments banned from launching/financing partisan advertisements (Guideline 25, Political Parties Code of Conduct) | <ul style="list-style-type: none"> • Unbiased reporting, avoid rumour, speculation, disinformation (G. 2.2 Media Guidelines) • Media to subject candidates to scrutiny • Candidates to receive appropriate coverage (G. 2.3 Media Guidelines) • Ban on sponsored reporting, separation between editorial, news and paid content (G. 9.3 Media Guidelines) • Paid Content must be clearly labelled (9.4. Media Guidelines) • Public media must grant all parties incl. minority parties air time/news space (G. 10.1 and 10.2 Media Guidelines) • State/private media to allocate air time objectively • State media to broadcast direct access programmes. Broadcast times for all candidates/parties must be of equal merit (G. 10.4 Media Guidelines) • Private media must offer direct access programmes at equal cost in a transparent manner (G 10.6 Media Guidelines) • State media should provide each party with equal share of free time (G. 10.5 Media Guidelines) |

6 Although potentially broad limits “subject to regulation and reasonable restrictions imposed by law.” apply. International commitments require these limitations to be more narrowly defined, see sheet on “Transparency”.

CHALLENGES FOR MEDIA COVERAGE

Challenges in meeting international standards

Restrictions on access to information: Pakistan's international commitments oblige the state to ensure media freedom and to limit potential restrictions to a narrow range of exceptions⁷. Articles 19 and 25 of the ICCPR lay out the right of citizens to participate in public affairs and to access to information, laying out the situations in which restrictions are necessary, notably in cases in which the freedom of others can be limited or because of major security reasons:

"The exercise of the rights provided for in [paragraph 2 of] this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- A | For respect of the rights or reputations of others;
- B | For the protection of national security or of public order (ordre public), or of public health or morals.⁸;

This highlights a need for reform to limit exceptions to those stipulated in Art. 25 of the International Covenant on Civil and Political Rights (ICCPR).

Although the Constitution guarantees the media "access of information in all matters of public importance," there is a lack in detailed regulation. For example, there are no defined procedures guaranteeing access to public hearings, counting procedures or allocation of air time for candidates and parties during the election campaign. The Election Commission has discretion to limit media access to its deliberations and processes⁹. Media Guidelines for Elections 2013 contain no specific reference to the right to access information or the election process.

Limited media access to counting and aggregation of electoral results: The Media guidelines for Elections 2013 are silent on the publicity of counting process, but require media to "only declare final results once they have been formally announced by the ECP". (G. 14.1 Media Guidelines for Elections). While there is a notable absence of regulations guaranteeing media access, the Election Commission has discretion to limit media access to its deliberations and processes¹⁰. In line with the right to access to information, as enshrined in Pakistan's Constitution and Art. 19 of ICCPR, results counting and aggregation processes should be open to media scrutiny. Ahead of the next general elections, an option to improve transparency is to publicise the results for each polling station.

Lack of a supervisory body to ensure the implementation of the National Media Guidelines: National Media Guideline 15 commits the Election Commission to set up a regulatory and complaints mechanism, which has not been created. In the absence of a monitoring mechanism there is also no tracking of potential reporting bias and imbalances. The mechanisms set-up was not finalised and processes not yet defined one month ahead of the polls. This leaves little time for it to become effective.

Useful links | www.ecp.gov.pk | <http://www2.ohchr.org/english/bodies/hrc/comments.htm>

⁷ Article 19 of the Universal Declaration of Human rights and Article 19 of the legally binding International Covenant on Civil and Political Rights (ICCPR)

⁸ Under Art. 19 ICCPR restrictions of Freedom of Expression must be "necessary: a) For respect of the rights or reputations of others; b) For the protection of national security or of public order (ordre public), or of public health or morals." Art. 19 of Pakistan's Constitution allows for several other exceptions including "friendly relations with foreign states."

⁹ According to interviews this access has been denied in the past for "space reasons". Here there is a risk that practical arguments may be used to limit transparency.

¹⁰ According to interviews this access has been denied in the past for "space reasons". Here there is a risk that practical arguments may be used to limit transparency.

KEY DOCUMENTS

ECP CODE OF CONDUCT FOR POLITICAL PARTIES¹

ELECTION COMMISSION OF PAKISTAN

NOTIFICATION

Islamabad, the 28th January, 2013

No.F.2(1)/2013-Cord.— WHEREAS, for the purpose of effective and meaningful consultation with the political parties as required under Article 18 of the Political Parties Order 2002, the draft Code of Conduct for political parties and candidates for General Elections 2013 was shared with the major political parties inviting their suggestions.

AND WHEREAS the suggestions received from the political parties were incorporated and the amended draft Code was further shared with the Senate's Special Committee on Electoral Issues on the 7th January, 2013 and the draft code was then placed before the Election Commission in its meeting held on the 10th January, 2013 along with the suggestions given by the Senate's Special Committee.

AND WHEREAS after due consideration of all the suggestions received from political parties and the Special Committee of the Senate, the Election Commission has approved the Code of Conduct for political parties and candidates for General Elections 2013.

NOW THEREFORE, in pursuance of Article 218(3) of the Constitution of the Islamic Republic of Pakistan read with Article 6 of the Election Commission Order 2002 (Chief Executive's Order No.1 of 2002), Article 18 of the Political Parties Order, 2002 (Chief Executive's Order No.18 of 2002), the directions of the Supreme Court of Pakistan in Workers' Party Pakistan's case (C.P.No.87/2011) and all other powers enabling it in that behalf, the Election Commission is pleased to issue the following Code of Conduct for political parties and candidates for the forthcoming General Elections 2013 and all subsequent bye-elections:

General Conduct

1. The political parties and candidates shall not propagate any opinion, or act in any manner prejudicial to the ideology of Pakistan, or the sovereignty, integrity or security of Pakistan, or the integrity or independence of the judiciary of Pakistan, or which defames or brings into ridicule the judiciary or the Armed Forces of Pakistan, as provided under Article 63 of the Constitution.
2. The parties and candidates shall abide by all the laws, rules, regulations and directions issued by the Commission, from time to time, relating to smooth conduct of elections and the maintenance of public order
3. The political parties and candidates shall at all times uphold the rights and freedom of the people of Pakistan as guaranteed by the Constitution and law.
4. All contesting candidates and their supporters shall avoid scrupulously all activities which are offences under the election laws, such as bribing of voters, intimidation and personation, canvassing within 400 yards of a polling station including setting up of camps, and holding public meetings during the period of 48 hours ending at midnight following the conclusion of the poll for an election in the constituency, etc.

¹ <http://ecp.gov.pk/ViewPressReleaseNotificDetail.aspx?ID=1841&TypeID=1>

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

KEY DOCUMENTS

5. Canvassing for votes, soliciting of votes, persuading any elector not to vote at the election or for a particular candidate is prohibited within a radius of 400 yards of the polling station.
6. Exhibiting, except with the permission of the Returning Officer and at a place reserved for the candidate or his election agent beyond the radius of 100 yards of the polling station, 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.
7. Incitement to violence or resort to violence during meetings, processions, or during polling hours shall be strictly avoided by contesting candidates and their supporters. They shall publicly condemn violence and intimidation and not use language that might lead to violence or resort to violence during meetings, processions, or during polling hours. No person shall in any manner cause injury to any person or damage to any property.
8. Contesting candidates and their supporters shall not procure the support or assistance of any person in the service of Pakistan to promote or hinder the election of a contesting candidate.
9. Contesting candidates shall dissuade their workers or sympathizers from destroying any ballot paper or any official mark on the ballot paper.
10. No person or political party or a contesting candidate and their supporters shall hoist or fix party flags on any public property or at any public place, except with the permission in writing from local government or authorities and on payment of such fee or charges as may be chargeable. .
11. Wall chalking as part of an election campaign shall be prohibited in all forms. Similarly use of loudspeaker shall not be allowed for election campaign except at the election meetings.
12. No person or a political party shall affix posters, hoardings or banners larger than the sizes prescribed by the Election Commission as under:
 - 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

The Head of district administration / Political Agent and the District Returning Officer shall be responsible for the effective implementation of this provision.
13. The political parties, contesting candidates and their supporters shall not indulge in offering gifts or gratifications or inducements to any person to stand or not to stand as a candidate, or to withdraw or not to withdraw his candidature.
14. Political parties, contesting candidates and their supporters may announce their overall development programme, but after the announcement of the election schedule till the day of polling, no candidate or any person on his behalf shall, openly or in secret, give any subscription or donation, or make promise for giving such subscription or donation, to any institution of their respective constituency or to any other institution.
15. Contesting candidates and their supporters shall refrain from speeches calculated to arouse parochial and sectarian feelings and controversy of conflicts between genders, sects, communities and linguistic groups.

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

KEY DOCUMENTS

16. The political parties, contesting candidates and their supporters shall refrain from deliberate dissemination of false and malicious information and shall not indulge in forgeries and disinformation to defame other political parties / leaders. The use of abusive language against the leaders and candidates shall be avoided at all costs.
17. Criticism of other political parties and opponent candidates shall be confined to their policies and programmes, past record and work. Parties and candidates shall refrain from criticism of any aspect of private life, not connected with the public activities of the leaders or workers of other parties. Criticism based on unverified allegations and distortion of facts shall be avoided.
18. Political parties, contesting candidates and their supporters shall not use any vehicle to transport to or from the polling station any elector except himself and members of his immediate family.
19. Political parties contesting candidates and their supporters shall not propagate against the participation of any person in the elections on the basis of gender, ethnicity, religion or caste.
20. The political parties, contesting candidates and their supporters or other persons shall not encourage or enter into formal or informal agreement / arrangement / understanding debarring WOMEN from becoming candidate for an election or exercising their right of vote in an election. The Political Parties shall encourage the women to participate in election process.
21. No transaction towards the election expenses shall be made through an account other than the account opened for the purpose.
22. All transactions relating to the election expenses shall be entered into with GST registered firms / persons, wherever it is possible.
23. The political parties, contesting candidates and their supporters shall extend all necessary help to law enforcement agencies for purposes of ensuring the safety and security of election materials, election officials and polling agents on polling day.
24. The Political Parties shall endeavor to provide equal opportunity to its qualified members both men and women to participate in electoral process.
25. Issuing of advertisements at the cost of public exchequer in the newspapers and other media and misuse of official mass media during the election period for partisan coverage of political news and publicity by the Federal, Provincial and Local governments shall be prohibited.
26. The right of every individual for peaceful and undisturbed domestic life shall be respected, irrespective of any resentment that a political party or a candidate may have against such individual for his political opinion or activities. Organizing demonstrations or picketing before the house of such individual with a view to protest against his political opinion or activities shall be prohibited under all circumstances.
27. No political party or candidate shall permit its / his followers to make use of any individual's land, building, compound wall etc. without his permission for erecting flag-staffs, suspending banners, pasting notices, writing slogans etc.
28. The Political Parties and candidates shall firmly restrain their workers from exerting undue pressure against the print and electronic media, including newspaper offices and printing presses, or resorting to violence of any kind against the media.

TOOLKIT FOR REPORTING ON PAKISTAN'S 2013 ELECTIONS

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29. There will be a complete ban on carriage and display of all kinds of weapons and fire arms in public meetings and processions as well as on the polling day and till twenty four hours after the consolidation of official results by the Returning Officer and official regulations in respect thereof shall be strictly observed. Aerial firing, use of crackers and other explosives at public meetings and at or near the polling stations by any person shall not be allowed.
30. The President, Prime Minister, Chairman / Deputy Chairman Senate, Speaker / Deputy Speaker of an Assembly, , Federal Ministers, Ministers of State, Governors, Chief Ministers, Provincial Ministers and Advisors to the Prime Minister and the Chief Ministers, and other public office holders shall not participate in election campaign in any manner whatsoever. This provision will also be applicable to the Caretaker setup.
31. All Governments' functionaries / representatives, including local governments' functionaries / representatives shall not announce any development scheme or do anything which tends to influence the results of an election in favor of or against a particular candidate or political party.
32. The political parties shall endeavour to take necessary steps to instill discipline within the party, its candidates, employees and supporters and guide them to follow this Code, comply with laws and regulations, commit no election irregularities and adhere to election regulations.
33. Posters, hoardings and banners affixed by one party shall neither be removed nor distribution of handbills and leaflets be prevented by workers of another party.

Meetings | Processions | Rallies

34. The Political Parties and candidates shall hold public rallies and processions only at the place or places through the routes specified for the purpose. Such places and routes shall be pre-determined in every city and town by district / local administration in consultation with respective candidates or their authorized representatives and be notified for public information.
35. The political parties and candidates shall convey their schedule of public rallies / processions / public jalsas at least three days in advance. District / Local Administration shall be responsible for making appropriate security arrangements and regulating such public rallies / processions / public jalsas in such a manner that equal opportunities are provided to those interested in holding public rallies / processions / public jalsas.
36. The District Administration shall ensure that no public rallies / processions shall be taken out by one party along places at which meetings are being held by another party.
37. The political parties and candidates may hold corner meetings.
38. Car rallies are not allowed to travel long distances except if the political parties, candidates or their supporters have pre-arranged corner meetings at specific designated places.
39. The organizers in consultation with the District administration shall take steps in advance to arrange for passage of the procession so that there is no blockage of or hindrance to traffic. If the procession is very long, it shall be organized in segments of suitable lengths, so that at convenient intervals, especially at points where the procession has to pass road junctions, the passage of held up traffic could be allowed by stages thus avoiding heavy traffic congestion and inconvenience of the general public.

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Polling Day

40. The Political Parties and candidates shall:

A | Co-operate with the officers on election duty to ensure peaceful and orderly polling and complete freedom to the voters to exercise their franchise without being subjected to any annoyance or obstructions; and

B | Supply to their authorized polling agents badges or identity cards; and

C | Such authorized agents shall also carry their original NICs.

41. No candidate or any of his supporters or a polling agent shall interfere or create hindrance in any manner in official functioning of a presiding officer, assistant presiding officer, polling officer or security personnel appointed to perform duty at a polling station

42. No candidate or any of his supporters or a polling agent shall resort to violence in any form or manner against a presiding officer, assistant presiding officer, polling officer or security officials or any other person officially deputed to work at a polling station.

43. The Political Parties should carry out a comprehensive plan for voters' education regarding marking the ballot paper, casting of vote and while doing so voters shall be informed that the secrecy of ballot shall be maintained.

44. In no case the political parties, candidates or their supporters shall establish camps near the polling station on the polling day. However, the Election Commission will provide the SMS facility to the voters through which each voter can get the information regarding his serial number at the voters' list and name and location of the polling station.

45. Except the voters, candidates or duly authorized election agents, no one without a valid pass from the Election Commission or Provincial Election Commissioner, District Returning Officer or Returning officer concerned shall enter the polling station or a booth. Foreign / domestic observers and representatives of accredited bodies will also be provided access to witness the election process on production of the identification cards / passes issued to them by the aforesaid Election Commission authorities.

46. The District Returning Officer and Returning Officer shall be responsible to ensure implementation of the Code of Conduct, in their capacity as Magistrate First Class, through District / Local administration, district police or other law enforcing agencies, in the area of their jurisdictions, and violation thereof by any candidate or political party shall tantamount to malpractices as per law and rules and shall entail legal action as per law and rules including disqualification of the candidate.

By Order of the Election Commission of Pakistan.

(Ishtiaq Ahmad Khan)
Secretary
Election Commission of Pakistan

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ECP MEDIA GUIDELINES FOR ELECTIONS 2013²

Guideline 1: Duty to Inform the Public

During the election period all media have a duty to ensure that the public are properly informed about relevant electoral matters such as political parties, candidates, campaign issues, and voting processes.

Guideline 2: Duty of Balance and Impartiality

2.1. Publicly owned media have a specific mandate requiring fairness and non-discrimination in their election reporting and not to discriminate against any political party or candidate. All media houses should follow professional standards and strive for accuracy, balance and impartiality as far as possible.

2.2 News Media will try to the best of its ability that, news and current affairs, interviews, talk-shows, analyses and information programmes are not biased in favour of, or against, any party or candidate. In particular, media shall encourage journalism of the highest ethical standards in their election coverage and shall

a) Try to the best of its ability to avoid all forms of rumour, speculation and disinformation, particularly when these concern specific political parties or candidates and where malicious intent is demonstrated,

b) Discourage all forms of hate speech that can be interpreted as incitement to violence or has the effect of promoting public disorder.

2.3 While it is not always possible to cover all candidates in an election, the media should strive to ensure that all candidates/parties shall be subject to journalistic scrutiny and appropriate media coverage according to its area of target audience.

Guideline 3: Laws Restricting Freedom of Expression

Freedom of expression and the rights of journalists to report freely should be respected by all parties/candidates and state authorities during the election. There should be provision of full access to information during the elections period and afterwards.

Guideline 4: Duty to Respect and Promote Tolerance

The media have a duty to respect and promote tolerance and avoid all forms of expression that might be interpreted as incitement to violence or hatred on the basis of religion, creed, gender, or ethnicity.

Guideline 5: Duty to Punish Attacks against Media Personnel and Property

The authorities should make special efforts to investigate all acts of violence, intimidation or harassment directed against media personnel or the property or premises of a media outlet, and to bring those responsible to justice, particularly where the act was motivated by an intent to interfere with media freedom.

² ECP has publicly announced that these are approved guidelines. However official notification is not available yet

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Guideline 6: Limits on Prior Restraint

6.1. There should be no prior censorship of any election coverage/ programme.

6.2 All political parties and state institutions must issue a clear statement that the media will not be penalized for broadcasting/publishing programmes/Contents merely because they are critical of a certain party or a type of politics.

6.3 Neither the authorities nor media outlets should interfere with the broadcast of any election programme or election coverage unless there is a real danger or threat of imminent harm and violence.

Guideline 7 Limits on Media Liability

The media shall not be held responsible legally for unlawful statements made by candidates or party representatives and broadcast/printed during the course of election campaigns. This however will not apply to the repeat/recorded telecast or publications.

Guideline 8: Corrections and Replies

Any candidate/party which has been defamed or is a victim of gross misrepresentation or other illegal injury by broadcast or publication of information should be entitled to a correction and where appropriate granted an opportunity to reply.

Guideline 9 News Coverage: Fair and Balanced

9.1 All media should also be careful to comply with any obligations of balance and impartiality that the law may place on them.

9.2 The duty of balance requires that parties/candidates receive news coverage commensurate with their relative importance in the election and the extent of their potential electoral support.

9.3. State and private media are urged to keep a clear distinction between editorial/opinion, news and paid content. There will not be paid or sponsored news, election evaluation, analysis and editorial opinion.

9.4. All paid materials, media campaigns for elections paid by candidates or their supporters must be clearly shown as Paid advertisement/campaign/content and should be done in a transparent manner in accordance with the code of ethics for elections issued by ECP.

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Guideline 10 Direct Access Programmes

10.1 Publicly owned or funded media should grant all political parties/candidates airtime and news space for direct access programmes on a fair and non-discriminatory basis. Other broadcasters may also be required to provide such airtime.

10.2 Parties/candidates that represent minorities or special interest communities and groups and are formally registered should be granted access to some airtime and news space

10.3 State and private media will make every effort to ensure that space/airtime should be allocated on a relative, proportionate basis, according to objective criteria indicating general level of support for different parties. The registered parties that represent any section of people should normally receive some airtime. Airtime for parties that have been banned or are operating under new names and are publicly engaged in violent acts of opposed to the democratic process and constitutional framework should be avoided.

10.4 Direct access programmes should be aired at times when the broadcasts are likely to reach the largest audiences. The duty of balance would be deemed to have been breached if the programmes of some parties/candidates are aired at less favorable times than those of others.

10.5 Direct access slots should be made available by the private sector media on equitable financial terms for all parties/candidates. State media should provide all parties/candidates a reasonable amount of time free of charge.

10.6 A party/candidates are to be allowed to purchase airtime / space for political advertisements, they should have access to such time/space in a transparent manner in accordance with the Code of Ethics for political Parties.

Guideline 11 Special Information Programmes and voter access

11.1 During elections, the media should endeavor to provide special information programmes that provide an opportunity for members of the public to put questions directly to party leaders and candidates, and for candidates to debate with each other on policy matters and issues that are of great concern to the electorate.

11.2 Candidates standing for office should not, however, act as anchors or presenters during the election period.

11.3 Attempt to air special information programmes regarding policy matters and the issues of public importance should be aired during prime viewing or listening hours.

11.4 Broadcasters and publishers have greater editorial discretion in relation to such content than the news. But such discretion is subject to the general obligations of balance and impartiality.

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Guideline 12 Voter Education

12.1 Publicly owned are obliged to broadcast voter education programmes, at least to the extent that this is not already sufficiently covered by other information initiatives. Other media should also introduce such programmes as a matter of public service.

12.2 Voter education programmes must endeavor to be accurate and impartial and must effectively inform voters about the voting process, including how, when and where to vote, to register to vote and to verify proper registration, the secrecy of the ballot (and thus safety from retaliation), the importance of voting, the functions of the offices that are under contention, and similar matters.

12.3 These programmes should reach the greatest number of voters, including where most relevant, through programmes in regional languages and targeting groups traditionally excluded from the political process, such as women, the under-privileged, and religious and ethnic minorities.

Guideline 13 - Opinion Polls and Election Projections

13.1 If a broadcaster/newspaper publishes the results of an opinion poll or election projection, they should strive to report the results fairly and in a proper context explaining the scope and limits of such polls that have their own peculiar limitations.

13.2 Opinion polls should be accompanied by information to assist viewers/listeners/readers to understand the poll's significance, such as who conducted, commissioned and paid for the poll, the methodology used, the sample size, the margin of error, the fieldwork dates, and data used.

Guideline 14 - Announcement of Results

14.1 Broadcasters will not air any final, formal and definite results without the consent and or they will be aired only with clear disclaimer that they are unofficial, incomplete and partial results which should not be taken as final results until election commission has announced final results.

Guideline 15 - Regulatory and Complaints Mechanisms

15.1 The Election Commission of Pakistan will evolve a suitable mechanism for the implementation of Media Code of Ethics prepared by the representatives of various media organizations.

15.2 The Complaint Committee will be headed by Add. DG (PR), ECP and will comprise of representatives from PBA, APNS, PCP, CPNE, PTV, PBC, PFUJ, SAFMA and SAWN.

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INTRODUCTION TO THE HUMAN RIGHTS SYSTEM

The **Universal Declaration of Human Rights (UDHR)** is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in 1948 as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected. It is not legally binding. **The UDHR is a political commitment.**

A **treaty** is an agreement under international law entered into by sovereign states and international organizations. A treaty may also be known as an (international) agreement, protocol, covenant, or convention. Treaties can be loosely compared to contracts: both are means of willing parties assuming obligations among themselves, and a party to either that fails to live up to their obligations can be held liable under international law. Countries who have become party to a treaty are called States parties.

The **International Covenant on Civil and Political Rights (ICCPR)** is a treaty that contains obligations for fundamental freedoms (of association, assembly, expression) and the right of citizens to stand as candidates and to vote.

Upon ratification of an international treaty, a State is obliged to implement the treaty by making its **legislation and practice** compliant with the obligations contained in the treaty.

The Government of Pakistan **ratified the ICCPR in June 2010**. It made some sweeping reservations to the terms of the treaty but then limited these, so they were more specific. A reservation refers to a part of the treaty that the state has not agreed to be bound to. In terms of elections, there is a reservation to the effect that the constitutional requirements for the Prime Minister and President to be Muslim would remain.³

³ The reservation reads: "The Government of the Islamic Republic of Pakistan states that the application of Article 25 of the International Covenant on Civil and Political Rights shall be subject to the principle laid down in Article 41 (2) and Article 91 (3) of the Constitution of Pakistan." These articles in the Constitution refer to the requirement for the President and Prime Minister to be Muslim.

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The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted by the UN General Assembly in 1979. It is often described as an international bill of rights for women.

By accepting the Convention, States commit themselves to undertake a series of measures to end discrimination against women in all forms, including:

- to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women;
- to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and
- to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises.

187 countries are parties to the treaty. Pakistan acceded to CEDAW in 1996, but has not signed or acceded to the Optional Protocol to the Convention. If it had, the Committee would be mandated to: (1) receive communications from individuals or groups submitting claims of violations of rights protected under the Convention, and (2) initiate inquiries into situations of grave or systematic violations of women's rights in Pakistan.

Advantages of referring to international human rights obligations and commitments in our work:

They are written down and explained, so everyone knows in advance what the goal posts are.

They've been agreed by over 165 countries from around the world, so they have a lot of weight that can make our arguments seem more objective and authoritative.

They involve reporting so there can be public information and dialogue about making improvements.

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LIST OF KEY DOCUMENTS

PAKISTAN'S LEGAL AND REGULATORY FRAMEWORK ON ELECTIONS AND MEDIA

1. Constitution of Pakistan

Chapter 1 of Part I: Fundamental rights, specially Article 19 on Freedom of Speech and Article 19A on Right to information

Chapter 2 of Part III: The Majlis-e-Shoora (Parliament), specially Article 62, 63 and 63 (A) on qualifications and disqualifications for membership of the Majlis-e-Shoora (Parliament)

Chapter 1 and 2 of Part VIII: Article 213 to 226 about the Chief Election Commissioner and the Election Commission; and Electoral Laws and Conduct of Elections

Articles 48 (5b) 224 and 224A: The appointment process of caretaker governments

2. The Representation of the People's Act, 1976

3. Political Parties Order 2002

4. ECP's Media Guidelines

5. Code of Conduct for Political Parties 2013

6. Radio Pakistan Code of Ethics 2013

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International Human Rights Commitments, Declarations and Documents

1. The Universal Declaration of Human Rights, 1948

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 19

Everyone has the right to freedom of opinion and expression.

Article 20

Everyone has the right to peaceful assembly and association.

Article 21

- *Everyone has the right to take part in the government of his country, directly or through freely chosen representatives*
- *The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be held by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.*

2. International Covenant on Civil and Political Rights, 1966

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Each State Party to the present Covenant undertakes:

A | To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy...

Article 19

- 1. Everyone shall have the right to hold opinions without interference.*
- 2. Everyone shall have the right to freedom of expression...*

Article 21

The right of peaceful assembly shall be recognized...

Article 22

- 1. Everyone shall have the right to freedom of association with others...*

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Article 25

Every citizen shall have the right and the opportunity ... without unreasonable restrictions:

A | to take part in the conduct of public affairs, directly or through freely chosen representatives

B | to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

3. The Convention on the Political Rights of Women (CPRW)

Article 1

Women shall be entitled to vote in all elections on equal terms with men, without any discrimination.

Article 2

Women shall be eligible for election to all publicly elected bodies, established by national law, on equal terms with men, without any discrimination.

Article 3

Women shall be entitled to hold public office and to exercise all public functions, established by national law, on equal terms with men, without any discrimination.

4. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Article 7 (political and public life)

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

A | To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

B | To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

C | To participate in non-governmental organizations and associations concerned with the public and political life of the country. Additional Sources of Information

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ADDITIONAL SOURCES OF INFORMATION

Constitution of Pakistan

Urdu | http://www.na.gov.pk/en/report_detail.php?id=8

English | <http://www.pakistani.org/pakistan/constitution/part2.ch1.html>

Election Commission of Pakistan | www.ecp.gov.pk

ECP Code of Conduct for Political Parties |

<http://ecp.gov.pk/ViewPressReleaseNotificDetail.aspx?ID=1841&TypeID=1>

National Assembly of Pakistan | www.na.gov.pk

Senate of Pakistan | www.senate.gov.pk

Universal Declaration of Human Rights (UDHR) | www.un.org/en/documents/udhr

International Covenant on Civil and Political Rights (ICCPR) | www2.ohchr.org/english/law/ccpr.htm

UN Human Rights Committee (UN HRC) | <http://www2.ohchr.org/english/bodies/hrc>

UN HRC General Comments | <http://www2.ohchr.org/english/bodies/hrc/comments.htm>

General Comment 25 | <http://www.unhchr.ch/tbs/doc.nsf/0/d0b7f023e8d6d9898025651e004bc0eb>

General Comment 34 | <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

UN General Assembly Resolution 66/130 |

http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/66/130&Lang=E

CEDAW | <http://www2.ohchr.org/english/law/cedaw.htm>

CEDAW General Recommendation 23 |

<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom23>

CEDAW and Pakistan

54th session of the CEDAW committee (in which Pakistan is considered) |

<http://www2.ohchr.org/english/bodies/cedaw/cedaws54.htm>

NGO Alternative Report on CEDAW 2012, Aurat Foundation | <http://af.org.pk/latestPublications.htm>

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Convention on the Political Rights of Women |

http://treaties.un.org/doc/Treaties/1954/07/19540707%2000-40%20AM/Ch_XVI_1p.pdf

The Declaration of Global Principles for Non-Partisan Election Observation and Monitoring by Citizen Organizations and Code of Conduct | <http://www.gndem.org>

DRI Publications | Women's Participation in Upcoming Elections |

http://www.democracy-reporting.org/files/dri-pk_bp37_cedaw.pdf

No voice – the exclusion of women from voting | http://www.democracy-reporting.org/files/dri_briefing_paper_15-_no_voice-_the_exclusion_of_women_from_voting.pdf

Election Dispute Resolution | http://www.democracy-reporting.org/files/dri-pk_bp35_edr.pdf

Key Reforms for General Elections |

http://www.democracy-reporting.org/files/dri-pk_key_reforms_general_elections__bp-30_.pdf

Electoral Conditions in the Federal Administered Tribal Areas |

http://www.democracy-reporting.org/files/dri-pk_electoral_conditions_in_fata__april_2013_.pdf

Introduction to DRI Pakistan Programs |

<http://www.democracy-reporting.org/programmes/pakistan.html>.

Other DRI publications |

<http://www.democracy-reporting.org/publications/country-reports/pakistan.html>