

## Pakistani Elections: Troubled Legacy

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### Introduction

Fair, free and regular elections are one of the fundamental conditions for the development and growth of democracy in any country. Pakistan has a mix experience of both electoral politics and the quality of democracy. Frequent interventions by military in the politics of the country, authoritarian political culture of the society and lack of national consensus on basic political values are some of the factors that have hampered the development of democratic norms and institutions, including electoral politics. Failure to institutionalise electoral politics in return has adversely affected the democratic environment of Pakistan. Elections and democracy go together, support and reinforce each other. Elections are more than a procedural matter for democracy; they are its essence in providing a system of representation, which the democracy is all about. Flawed elections produce flawed results, rigging them to deny power to a group or changing the results to favour another diminishes the sanctity of the electoral process and undermines peoples' faith in them. Lack of transparency or credibility would make any electoral exercise futile, as it would fail to establish authenticity of representation or provide legitimacy to the group that would form the government. We are raising these points because not a single election in Pakistan since 1970 has been accepted as entirely fair and free or its outcome going uncontested.

In the light of cumulative electoral experience of Pakistan, one can discern five characteristics of elections. First and foremost is that the elections haven't been held when they were due. In the first phase of electoral politics (1947-58), Pakistan had two federal legislatures or assemblies, one elected before independence and the other after the creation of the country. Both these assemblies were indirectly elected by the members of the provincial assemblies. The members of the provincial assemblies after independence were elected on the basis of direct adult franchise before they were elected on a limited franchise. In the second phase (1958-69), there two elections of local governments or Basic Democracies (1962 and 1965), two elections of the unicameral Parliament or National Assembly and provincial assemblies of East and West Pakistan (1962 and 1965) one presidential referendum (1960), and one presidential election (1965). Third phase began (1971-77) after the break up of the country. Members elected from West Pakistan under the 1970 elections formed the National Assembly, which was given tenure of five years after the passage of the 1973 Constitution by the same Assembly. The 1985 party-less elections under the Martial Law regime marked the fourth phase of Pakistan's electoral politics, which ended in October 1999 with military take over. During this period, three elections were conducted for the local bodies (1979, 1983, 1987), and five for the Parliament—the Senate and the National Assembly, and five for the provincial assemblies of Balochistan, North-West Frontier Province, Punjab and Sindh in 1985, 1988, 1990, 1993 and 1997. The fifth or the new phase began with a presidential referendum in March 2002, and the elections for the National and provincial assemblies in October the same year.<sup>1</sup>

The first general elections in the country were held after 23 years of its independence in 1970 on the basis of direct adult franchise. Conducted under the Martial Law regime, the elections were free and without any interference by the government. But

unfortunately, the political outcome of the elections that gave majority to the Awami League party then East Pakistan, now Bangladesh was not accepted by the military and the Pakistan Peoples Party, the majority party in the West Pakistan. That resulted into a major political crisis leading to civil strife, crack down by the military authorities, breakdown of authority of the state of Pakistan and then to Indian military intervention and war between the two countries in 1971. The first ever general election ended up in dividing the country into two. The next elections conducted by a civilian government headed by Zulfikar Ali Bhutto in March-April 1977 were massively rigged, which provoked a joint opposition of nine political parties, Pakistan National Alliance to launch a nation-wide protest.<sup>2</sup> The agitation by the opposition paralysed the government, which created yet another opportunity for the military to takeover power on May 5, 1977. General Zia ul Haq, who later created a civilian facade through party-less elections in 1985, ruled the country for next eleven years. Since 1988, five general elections have been held, each after an elected government was dismissed through use of a controversial article 58, 2 (b) in the Constitution that General Zia had inserted in it to empower himself to dissolve an unwanted government. The last and fifth such dismissal was done by the military when the Chief of Army Staff, General Pervez Musharraf took over power on October 19, 1999. Interestingly, he captured power after Prime Minister Nawaz Sharif dismissed the General and tried to install another general as the army chief. The new government led by Musharraf justified take over on the same familiar grounds that other military leaders who took over power before him had given: that the politicians were corrupt, the elected government had failed to perform in public interest, economy was about to collapse, law and order situation was worsening and the regime was authoritarian and oppressive towards the opposition. Musharraf asserted that the country required structural reforms in all areas of national life that the previous government was incapable of devising and that wanted to replace the “sham democracy” with “true democracy”. He promised fresh elections after changes in the system of governance. Among other changes, he empowered himself with the same authority to dissolve governments under the controversial article 58 2(b) that he has brought back into the Constitution first by amending it through the executive power in the form of Legal Framework Order (LFO) that he claims was given to him by the Supreme Court of Pakistan when it validated his take over. Much of the LFO that in the opinion of mainstream political parties has changed the parliamentary character of the Constitution has been given legitimacy through the 17<sup>th</sup> Amendment that a big faction of the opposition represented by an alliance of religious political parties (MMA) supported. The last election 6<sup>th</sup> in less than 17 years was held on October 10, 2002.

### Electoral Legacy

In our judgement, there are some general characteristics that we find common about Pakistan’s electoral process in all the eight general elections since 1970. With the secession of East Pakistan, now Bangladesh, the electoral dynamics of Pakistani politics, the nature of issues, the political players, the ideological outlooks and much more has changed. But that election shares at least two common features with the other seven— rejection of results by the second largest party in the parliament and ensuing political polarisation. The Pakistan Peoples Party in the West Pakistan at that time though accepted the Awami League as the majority party, it refused to attend the first session of the newly elected National Assembly unless the central issues pertaining to the future

Constitution of the country was settled between the PPP as representing West Pakistan and the AL representing East Pakistan.<sup>3</sup> Because of the electoral concentration of the two major parties in two different wings of the country, the PPP rejected the AL as representing all provinces of Pakistan. But PPP itself had electoral plurality in only two provinces of West Pakistan, the Punjab and Sindh, and for the same logic couldn't claim representation for Balochistan and the North-West Frontier Province. Postponement of the Dhaka session of the National Assembly on the insistence of the PPP provoked agitation by the AL that had electoral majority to form the government in the context of united Pakistan. In the postponement of the session, the AL saw the traditional mechanisations of West Pakistani politicians and military to deny them power. We are familiar with what happened as a result of military operation against the AL. The results of other Pakistani elections after the separation of East Pakistan have equally been controversial. Rejecting of outcome by the losing party or parties remains the most enduring feature of the Pakistani elections. The defeated party has always claimed that elections were rigged in favour of the party that won. Alternatively, the two major parties at the electoral scene, the Muslim League and the PPP have made this claim during the past six elections, while all the opposition political parties in the 1977 elections had accused the PPP of changing the results in its own favour. Are such claims frivolous or have some validity? We don't think it is only a matter of political habit that the losing parties have rejected the electoral outcomes. There is lot of evidence to support the allegations that elections have rarely been free or fair in the history Pakistan except the 1970, but that as indicated above unleashed new political forces and ended in political polarisation and dismemberment. No elections ever since have been acclaimed as fair and its outcome accepted without questioning, doubts and reservations. However the intensity of the claim, as to how the elections were rigged, to what extent, and to favour whom have varied from elections to elections in Pakistan.

The question why the outcome of elections has been contested, leads to the second characteristic of the Pakistani elections, the mistrust of the electoral machinery of the country. The Election Commission of Pakistan, the organisation that conducts elections, lacks sufficient autonomy and independence from the executive branch of the government. Compared to a similar Commission in India or in other democracies, it lacks credibility that such an organisation must have to create genuine trust of the public. The Commission in Pakistan has a poor image and has failed to evolve as a national institution of any stature. This image is not entirely due to the cynical nature of Pakistani political culture and because of usual mudslinging of the political class that would target the Commission for its own failures. It is because the Commission has failed to cultivate impartiality and trust the two values that would be necessary to make any electoral exercise as successful. This begs another question; have the regimes in power used the electoral machinery to produce results to suit their interests?

The answer to this question leads to the third feature of the Pakistani elections—partiality of the executive branch of the government. Interestingly, seven out of eight general elections since 1970 have been conducted either by a military regime directly or by an interim government that it created under its supervision. Therein lies the real dilemma of Pakistan's electoral politics—the civil-military relations in Pakistan. Without understanding the nature of civil-military relations we cannot hope to understand why the electoral process looks so flawed or why questions have been raised about its

impartiality. Without taking a long detour, it would suffice to say the military in Pakistan has its own vision of good politics, good society, good economy and good democracy. It doesn't distrust the politicians, nor does it believe that they are genuine representatives of the people of Pakistan. All the military leaders who captured power have viewed free play of democratic forces as dangerous, anti-development, and pregnant with the potential of degenerating to lawlessness and anarchy. Considering itself as a modern, disciplined, organised and vital institution of the state, its leaders have tried to impose a different kind of political order. Its labels have varied from Basic Democracy under Ayub Khan, the first military ruler, to "true democracy" of the present ruler, President General Pervez Musharraf. But the content of such order, the intent of the those trying to establish the new political order and the direction of political change and economic reforms have unquestionably remained the same under all four military regimes. All in essence have been aimed at controlled, guided or graduated democracy. It is equally interesting, though a very sad reflection on the political class in Pakistan that each military government succeeded in co-opting a sizeable section of politicians usually those in the opposition. Frequent changing of political loyalties, more often for lucrative positions in the government or for evading accountability, has created a mixed political system—a partnership between the military leaders and the faction or factions of politicians from different political parties. The military in all instances has been in the driving seat, while the co-opted politicians playing a second fiddle and were dispensed with as eagerly as they are drafted to do the job. The most recent example is eviction of Prime Minister Zafarullah Khan Jamali from office.<sup>4</sup> How is this relevant to the holding of elections in Pakistan or what is its relationship to the electoral politics in the country? The answer to this kind of query is simple; The military governments assisted, aided and supported by political groups have a vested interest to maintain the same groups in power, while staying in the shadows, and if the need be, directly assuming control of the government. In military-dominated or military-directed political system, the electoral process loses its credibility, as it seen by the public as an exercise to bring into power the most favoured groups and route out those opposed to its interventions. The real value of the electoral process lies in facilitating a representative government, and not in being an instrument of political manipulation. Unfortunately, the later expression is true of the way elections have been conducted in Pakistan.<sup>5</sup> It is widely alleged and believed that through its intelligence agencies the military in the shadows or over the horizon has attempted to change the loyalties of politicians, has funded political campaigns of the favourite groups, and has used the Election Commission to change electoral results selectively, if not wholly.<sup>6</sup>

With low trust in the electoral process and frequent allegations of defrauding the opposition of its true electoral representation, the voter turnout in Pakistani elections has declined. It is also a reflection of distrust of the political class in Pakistan, particularly the two mainstream political parties, Muslim League (N) and the Pakistan Peoples Party. Stories of their corruption, nepotism, mismanagement of economy and general apathy toward the problems that the masses at the gross root level have faced have failed to instil any spirit or enthusiasm among the voters on elections day. Only 38 per cent of the registered voters cast their ballots in the 1997 elections. The figure for the October 2002 elections is a bit higher but below 50 percent. Low turnout in Pakistani elections can also be explained with reference to two other issues, de-politicisation and demise of ideology.

Because of long years of military rule and distrust of the politicians, interest in political participation, already low, has further declined. Elections offer a relatively and popular mode, but also the most authentic mode of political participation. By losing faith in their being an impartial means of ascertaining whom the people are with or which party do they support, the people lose an opportunity political participation.

One may also wonder, is the decline in popular participation due to the so-called demise of ideology? Political polarisation along ideological lines in the 1970s, which was three dimensional—ethnic nationalism, Islam and socialism, has changed. Ethnic nationalism and Islam are dominant issues but the ideological debate is no longer intense or it is in the mainstream of political discourse. Both the ethnic nationalists and Islamists have retained their appeal among their supporters, and as it is evident from the 2002 elections, the Islamists have increased their support base, the larger sections of the Pakistani society are no longer interested in old ideological debates. The political parties have failed to generate new ideas or debates about the plethora of problems that Pakistan faces. Almost all of them lack the intellectual content, quality of leadership and political capacity to interpret issues in any meaningful form and or present their solutions that would be popular but at the same time rational and workable. The result is a public that is uninterested in the political affairs of the country. Unfortunately this mind-set grown of dismal political process feeds back into authoritarianism and moves the country farther away from democratic destination.

Let us now turn to three key issues that we believe are central to our understanding of electoral politics of Pakistan. These are: what are the statutory and institutional arrangements for holding elections? What are the procedures and to what extent procedural other malpractices in elections take place? Is there any group discrimination in elections, if so, which groups are likely to be excluded and for what reasons? After answering these questions in three different sections of this paper, we also like to briefly examine the main features of the last elections in the country, the October 2002.

#### Institutional Arrangements

The 1973 Constitution has provisions for holding elections under the Election Commission of Pakistan that makes it a constitutional body.<sup>7</sup> Conduct of elections is a federal subject. The president of the country appoints the Chief Election Commissioner (CEC), the highest officer who is responsible for the free and fair electoral process. He is usually a retired or serving judge or chief justice of the Supreme Court of Pakistan. Ironically, while the tenure for the assemblies, national as well provincial is five years, the CEC is appointed for three years term. The term of an incumbent can be extended for one year by the national Parliament. Short term of office, and quite close to an election year doesn't allow the CEC time and opportunity to exercise sufficient degree of control and influence. The Constitution provided for two members of the Election Commission, which the military government of Pervez Musharraf increased to four. They are serving judges of the four respective High Courts of the four provinces. They are also appointed by the president after consulting the chief justices of the concerned high courts to which they might belong and the CEC. The members maintain their regular job as the judges and act as members of the Commission whenever it meets.

The CEC in theory has secure tenure, as he cannot be removed arbitrarily without completing his term. His removal by the government will require the same procedures

that are required for firing a sitting judge of a High or Supreme Court of Pakistan.<sup>8</sup> The controversies about the appointment of CEC have abounded in Pakistan. Very few CECs in the political history of Pakistan have earned the respect and trust of the political parties. It is largely due the process of appointing the CEC, which is the sole prerogative of the president of the country. Constitutionally, he is under no obligation to consult the Parliament, the Prime Minister or the opposition parties. The way this power in the past has been exercised and the quality of the individuals though from the highest court of the country picked up has raised many doubts about the integrity and impartiality of the CECs. For instance, there was a big hue and cry in the media, opposition political circles and more importantly, even the bar councils of Pakistan when retiring Chief Justice of Pakistan, Justice, Irshad Hasan Khan was appointed to this position for his controversial role in validating the suspension of the Constitution, dissolution of the assemblies and capture of power by Pervez Musharraf.<sup>9</sup> Another important office in the Election Commission is that of the Secretary who in theory would be appointed by the CEC. But the practice has varied over time. On many occasions, a sitting government sent a replacement from the civilian bureaucracy when a person retired. His rank and level is that of an additional secretary of the federal government. The civil bureaucrats who served in this position retained their original job to which they eventually returned. One wonders, doesn't the appointment of the Secretary give a government the lever to control the electoral machinery? The last time, now serving, a regular employee of the Election Commission was elevated to the position of the Secretary. If followed strictly, this practice would end the nexus between the Secretary and the executive, which in the past has damaged independence of the Election Commission. To add some prestige and strength, the Election Commission has been given the powers of contempt of court, which it can exercise the way any High Court of the country can for similar offences covered by the Contempt of Court Act of 1976.

The work of the Election Commission is very extensive. It ranges from registering voters, preparing voters lists on annual basis to drawing the territorial boundaries of electoral constituencies for the provincial and national assemblies, and making arrangements for the polling, be it regular elections or for seats becoming vacant for any reason. The electoral rolls prepared by the Election Commission are also used for the local government elections. The age limit for voters in the 1973 Constitution was 21 years, which now through an amendment in the article 51 (2) by the Musharraf regime has been reduced to 18 years. To prevent voter frauds, the Election Commission requires production of National Identity Cards for casting ballots. This has however not prevented malpractices by the individuals, groups and political parties. They have registered bogus voters in bloc and have acquired bogus ID cards for them from the now defunct national registration authority.<sup>10</sup> This problem in part can be addressed by the Election Commission using its own resources for registration and verification, which it used to do in the past. The interested individuals and parties have become more active in seeking registration because of closely contested elections in some constituencies, and also for the reason that all of them who did this couldn't be prosecuted because the Commission has already too much on its plate.

The delimitation of constituencies is loaded with political interest of the dominant groups and political parties. In theory, like anywhere else, the ethnic, regional and geographic proximity and administrative cohesion guide such can work and it has to be

done in a fashion that no party can take undue benefit.<sup>11</sup> There has been a major change in the number of constituencies both in the national and provincial assemblies since the promulgation of the Constitution. The Election Commission Order 2002, Election Commission (Amendment Order) 2002 and the Conduct of General Election Order 2002 have changed the number of seats for the National Assembly from 217 to 357.<sup>12</sup> It presented the Election Commission with a gigantic task of redrawing the constituencies. It however did it in a short period of time and used the 1998 census for this purpose. See tables numbers 1 and 2 below for the number of seats allocated to different provinces, regions, minorities and women in the national and provincial assemblies.

Table 1  
National Assembly

Province/Area	General Seats	Reserved for Women	Reserved for Technocrats	Total Seats
Balochistan	14	3	1	18
Federal Capital	2			2
FATA	12			12
NWFP	35	8	3	46
Punjab	148	35	15	198
Sindh	61	14	6	81
Total Seats	272	69	25	357

Table 2  
Provincial Assemblies

Province	General Seats	Reserved for Women	Reserved for Technocrats	Total Seats
Balochistan	51	11	5	67
NWFP	99	22	9	130
Punjab	297	66	27	390
Sindh	130	29	12	171
Total Seats	577	128	53	758

One can note drastic changes in the electoral system of Pakistan. The first and foremost is under the new system is elimination of separate electorates for the minorities that many civil society groups and the religious minorities had been demanding for the past decades. None of the civilian government ever attempted to undo that system fearing a backlash from the religious right that had argued that their own members should elect the minorities' representatives separately, a legacy of Muslim electoral politics in undivided India. But in practice, it had made genuine representation of the minorities an impossible task because they were scattered all over the country. Only the most resourceful of them could organise a campaign for the constituencies were geographically too large. The second welcome change is reserving 30 percent of the seats for women.

They are elected on the basis of proportional representation for which each province forms a single constituency. Each party wins a percentage of seats corresponding with popular vote count in its favour. Parties have to submit a preferential list of candidates to the Election Commission. Third important change as pointed out earlier is the increase in the total number of seats for the national and provincial assemblies. By all means these are positive changes and may over the years increase representation of women and other classes. But then representation of all sectors of the society wouldn't come about only by increasing number of seats alone. It would require sustained democracy, better party politics and social mobility. Otherwise, the traditional elite classes in the vast rural constituencies may continue to dominate the electoral arena, as it is obvious from the outcome of the 2002 elections.<sup>13</sup>

It would be important to show how elections are conducted. Administratively each province is divided into number of districts, an administrative tradition that goes back to the British days. Since independence more districts have been carved out because of manifold increase in population. The Chief Election Commissioner appoints District Returning Officers (DRO), one in each district. In recent elections, the DROs have been the District Sessions Judges who are obliged to perform this role during the election times. The DRO deals with the mechanics of holding elections, which includes accepting or rejecting nominations of the candidates, designating schools and other public buildings as polling stations and supervising the administrative machinery assigned to elections duty. Filing of nomination papers is the first step on the long road to the Elections day. Nomination papers of a candidate can be rejected on number of grounds, that he is not qualified, his signatures not genuine, has filed wrong declaration or the persons who have proposed him or seconded him are not genuine. Appeals against rejection of nomination papers can be filed in the Election Tribunal that the Election Commission nominates with the consent of the President from the relevant High Court Bench. Similarly, appeals can also be filed against acceptance of a candidate's paper in the Appellate Tribunal if he is defaulter of loans, has not paid taxes or other government dues. Decisions on these appeals have to be taken within a given time frame.

Each polling station has a presiding officer, deputy presiding officer and other staff to issue ballot papers, check the ID cards and make sure that the person is a registered voter. In case of irregularity and break down of order the presiding officer can stop the polling and report the matter to the DRO. Ballot papers, boxes and other stationary that comes under seal from the Elections Commission have to be accounted for. In the process of polling, each candidate can assign maximum of two polling agents who are supposed to guard against any irregularities by the staff or the rival candidates. At the end of the day ballot boxes that are sealed in front of the polling agents are opened in their presence, they are counted and the numbers matched against the ballots that were issued. After counting the ballots the presiding officer gets signatures of the polling agents representing different candidates and sends the lists to the Returning Officer who transmits results to the Election Commission. This process apparently looks flawless, but in practice it is not. The stronger candidates keep the polling agents of the weaker candidates out by intimidating them, polling staff in some places can be bought off, pressurised from the top to produce favourable results. The agents of the losing candidates refuse to certify or sign the results to kick up a political controversy and then claim that some fraud was committed. Let us now turn to the nature of malpractices that

are usually committed in the Pakistani elections at procedural and other level before and during the electoral exercise.

### Malpractices

The problem begins with the voters' lists. Never have they been free of errors or included entire population eligible to vote. Although voter registration is a universal problem in most of the democracies, it is more acute in countries like Pakistan where citizens are not registered for political reasons, bogus entries are made into the lists and the information given about individual is inaccurate. The task of registration is assigned to local schoolteachers or some other low-paid, ill-trained and likely to be influenced functionaries of the government at the local levels. Lists once prepared not updated well before well elections. Although official announcements are made over the media informing people to check if their names are in the registered voters' lists, it doesn't motivate whole lot of people to take time off from work and visits the designated offices for this purpose. If someone's name is missed out for some reason, the process to get his name in the lists is quite cumbersome which requires going before a judicial magistrate with a filled form signed by couple of witnesses to affirm the identity of the person and place of domicile to the satisfaction of the judge. The political parties could play some role in voter registration but they have generally left it to their prospective candidates in the constituencies to see that their peoples in their traditional vote banks are on this lists and they have acquired ID cards. Individual candidates use influence to get the opposition voters out of the lists or get entries of voters that don't exist. A poor process of verification of voters' lists has encouraged inaccuracy and malpractices at the registration stage. Sudden changes in the elections laws and a short time frame within which elections have to be held also contribute to the problems. For instance in the last elections, 2002 the age limit for voting was pushed down to 18 from 21. The time given for updating the rolls was not more than a month, which looking at the rural character of very large population was not enough to enrol new voters.

The delimitation of constituencies to the advantage of more powerful groups or individuals is not uncommon. The voting behaviour in Pakistan is seldom determined by individual choice. The interests of larger extended family, clan, tribe, caste and village coalitions, which in many cases cross the village boundaries, dictate it. Knowing past voting record of clans and village coalitions, the candidates running for the provincial and national assemblies try to influence the boundaries of the constituencies whenever they are redrawn. Particularly in constituencies where ethnic or caste divisions are sharp, the candidates attempt to get the villages belong to a supportive caste and ethnicity included. It is done ignoring the principles of geographical compactness and administrative unity. Gerrymandering is however not a major problem because the constituencies have been pretty static. Unlike in the US where after each census the movement of population from one state to another has to be accounted for and the fixed seats for the House of Representatives have to be reapportioned, in Pakistan only in 2002 the need for redrawing the constituencies arose because of increase in the number of seats for the assemblies. Before this exercise was done in 1970 and 1977. The real issue in delimitation is that it has never taken care of the movement of populations into the urban areas or their growth, or migration to other provinces. The last delimitation to create new constituencies for the October 2002 elections was done quite in haste ignoring some of the principles like compactness of populations.

One may also raise a question about lack of or weak and selective enforcement of rules and regulations governing the electoral process, or whether or not it contributes to the malpractices. There are three sets of rules that need to be mentioned. They relate to qualifications of the candidates under Articles 62 and 63 of the Constitutions, code of conduct by the candidates and parties during the campaign and proper accounting and auditing of expenses by the candidates. There is long list of qualifications that candidate must have in order to be eligible to contest elections—good character, doesn't violate Islamic rules, knows Islamic teaching and practices them, righteous, have not worked against the integrity and ideology of Pakistan, and not convicted for moral or other crimes. It would be impossible to either to establish or deny that candidates do or don't have these qualities, except conviction for a crime. It was on this insistence of religious parties that general Zia ul Haq in 1980s had inserted this list by amending the Constitution. The religious right quite often insists that the Elections Commission and Judiciary must ensure that the candidates righteous and practicing Muslims. We believe this is a very subjective list of requirements, it would be better if it is taken out or some practical criteria be established for compliance. The list can potentially be used to disqualify opposition candidates; but what guards against the misuse is the cumbersome, expensive and lengthy legal process that any party initiating a disqualification case will have to go through.

There is a limit on the money that a candidate can spend on the election campaign. The expense limit rule has never been observed by the candidates or applied by the governments in the past. The amount of money and how it is spend by candidates makes a big difference in the outcome of the elections. A candidate has to maintain a big pool of vehicles to travel from village to village and from one to town to another to speak in the gathering, canvass in the bazaars and meet key figures repeatedly to get them on his side. Transporting voters to the polling stations is a critical factor in determining defeat or victory. In the rural constituencies, voters have to be brought to the polling stations and have to be fed as well before or after they cast their ballots. Only very resourceful candidates can manage successful campaigns. Candidates also have to spend a lot on posters, billboards, and now increasingly on the private electronic media to publicise themselves, which is more about the person than the programme. Some very rich candidates and very often with black monies have been buying votes through locally influential figures, caste and tribe chiefs, and at a smaller level heads of the households. With declining trust in the political parties because of widespread corruption by their leaders, the poorer sections of the society have turned to use for vote for monetary gain. The rule is more you spend better are chances of your successes. Uncontrollable elections expenses have introduced a highly corrupting influence, as it doesn't allow a plain level field for all the candidates. The laws are there to check this practice, but the implementation is so poor that almost every candidate disregards them. The result is that good candidates with genuine credentials and capacity to serve in public offices are not willing to contest elections, or if they do so are easily defeated. Parties through their own resources could meet election expenses of their candidates, but very few of them have ability to mobilise resources or have organisational skills to run campaigns for their candidates. Two parties have demonstrated this capacity, MQM, an ethnic party based in Karachi and the Jamat-i-Islami, a religious political party.

Intervention by governments is sometime very subtle and sometimes it is pretty crude and one can easily see what is happening. Fairness of elections cannot be ensured unless the neutrality of an incumbent or an interim government created for the purpose of arranging elections is ensured. Pakistan's electoral history is replete with instances of government interventions from Ayub Khan's presidential elections to 1977 elections under an incumbent civilian government of Zulfikar Ali Bhutto, government openly used government facilities, departments, vehicles, funds and functionaries to defeat opponents. As already mentioned in above pages, the government's intelligence agencies secretly funded number of political parties to defeat PPP in the 1988 and 1990 elections. The use of electronic media controlled by the governments has been used as a political weapon to damage the standing and reputations of parties in the opposition. The political parties that have themselves been victim of government's manipulations haven't desisted using the same tools against their opponents once they were in power. The elected civilian governments have used relatively subtler means for electoral intervention. The most popular exercise is grant of funds to the sitting members of the national and provincial assemblies for development, which they use to benefit their own voting blocs and use projects as incentives to change loyalties of those who voted against them. This practice has gone under different names in different governments, which even the Musharraf government has allowed to continue. The previous governments allocated jobs to the elected members of their own parties to use them as political patronage to maintain and expand political influence. Access to power and exercise of governmental power in support of the political interests of the ruling party also interfere in the political process because the aim is to create effects on the electoral outcomes. Posting and transfers of schoolteachers, revenue officers, police, communication department or any other agency of the provincial and federal government are done on the recommendations of powerful members of assemblies or ministers. While this might increase political capital for the ruling party and increase its support base, as it obliges different segments of the society, it contributes to the institutional decline of the state and undermines autonomy of bureaucracy. These interventions though accepted somewhat in democracies, have often crossed the fine line between political patronage and corruption in Pakistan.

#### Monitoring Elections

In view of the electoral malpractices that are widely committed in the developing democracies, monitoring by independent foreign observer groups to judge fairness of elections and report about them has become an accepted form. Governments in Pakistan and elsewhere have welcome and greatly facilitated observers before and during the elections times to establish credibility of the electoral process. May be with intrusive international media it is a political necessity to invite foreign observers. Denying such groups access or creating difficulties in the way of their independent work, the governments know, would be counterproductive, as it would raise more doubts about their impartiality. In some quarters there is a feeling against having foreign monitors, for it hurts national pride, other judging the fairness of a purely domestic political affair. In our view this kind of criticism is not justified because as we have examined in this essay, elections have been controversial and almost every government has been accused of manipulating electoral machinery and using its resources to help its allies win and defeat the opponents. It hurts national prestige and standing of a government more it is reported in the international media that it committed an electoral fraud. The presence of and

reporting by the foreign observers works to the advantage of the government if it is honest and has conducted elections in free atmosphere and in a fair manner. Certification to that effect by the observers would improve its image and standing. If that is not the case, their presence would support the claim of the opposition parties that elections were stolen or government conducted them in a fashion that it gave undue advantage to its favourites, allies or groups supporting it.

It is a sign of acceptance of foreign monitors that their reports are now widely referred to both by the governments and the opposition in support of their respective claims but only when they favour them. Monitoring is a growing phenomenon that shows the regional as well as international community is interested in transparent elections and against abusing them as a tool of legitimising power. More monitors they are the better. In recent years, regional grouping of states, like Commonwealth, European Union, and South Asian countries have sent observers teams to monitor Pakistani elections. The National Democratic Institute is another credible institution that has observed elections the world over and has gained tremendous experience in reporting. Some critics argue that the foreign monitors descend on the Third World countries during elections times as extra-terrestrial entities, unfamiliar with peoples, cultures, institutions and the dynamics of politics. Could this be true that they have only superficial understanding of how elections are conducted? Not really. Through comparative observing and regular studies of elections, there are handy tools and checklists that one can use to ascertain to what extent elections are transparent. It doesn't require one to be an area expert. But observer teams do include individuals who are familiar with the society, history and politics or have dealt with that country in some professional capacity. The monitoring reports on Pakistan have generally been fair in assessing the institutional capacity of the Elections Commission, the procedures of elections, and at the same pretty open about the flaws of the exercise. The foreign observers have shown the Pakistani civil society the way to do monitoring by building their capacity and accumulating experience. The Human Rights Commission of Pakistan is one credible local institution that has credibility and respect of wider sections of the civil society of Pakistan that has been observing and reporting on elections. More of this kind of institutions can meaningfully supplement the work of the foreign observers by combing local knowledge with foreign experience.

#### Group discrimination

Three types of groups have been marginalized in the Pakistani electoral process. These are the religious minorities, women and lower castes. Discrimination against minorities has been both institutional as well non-formal that is at the level of society. Let us explain briefly how, why and when the minorities have been discriminated in the electoral process. Two schools have shaped the debates about the nature of Pakistani constitutions, liberal modernists and the religious right. The religious parties since the creation of the country has demanded establishment of an Islamic state where Islamic law will run supreme and the social, economic and political order will reflect the Islamic teachings. How the religious minorities that form a very small portion of the population would fare in the Islamic system in the vision of conservative religious parties can be gauged from their views about their participation in the electoral process. The marginalization of women and the lower castes is more due to the social hierarchies, social structures and the issue of power. Therefore, we will like to discuss their status in that light.

### *Religious minorities*

From the very beginning they demanded separate electorates for the minorities, meaning that their representation in the national and provincial legislatures will be fixed proportionate to their population and only the minorities would vote for their candidates. The 1956 Constitution that was aborted by Ayub Khan's Martial Law in October 1956 had left the issue unsettled but had referred the matter to the National Assembly at that which allowed West Pakistan, the present day Pakistan to apply separate electorate. East Pakistan that had more minorities had rejected the idea. The 1962 and 1973 Constitutions that had the imprints of secular modernists like Ayub Khan and Zulfikar Ali Bhutto adopted joint electorates. Under the military ruler Zia ul Haq, who had political interest in cultivating the religious constituency in the country amended the 1973 Constitutions under their pressure establishing separate electorates. On the face of it, separate electorates guaranteed elections of ten representatives of the minorities, but practically it excluded 3.78% of the population from voting in the elections.<sup>14</sup>

The religious minorities, mainly Hindus in Sindh and Christians largely in the Punjab are scattered all over the country without any major concentration except Hindus in the border district of Tharparkar in Sindh. Five elections starting with 1985 were held under the separate electorates in which religious minorities didn't vote for the mainstream candidates. Their votes in well-contested constituencies could make a real difference and tip the balance in favour one candidate or another. The Human Rights Commission of Pakistan, civil society groups and the representative associations of the minorities kept demanding repeal of the separate electorates, but the mainstream political parties fearing political attacks from the religious parties didn't respond. They could do it when they brought about the 13<sup>th</sup> Amendment in the Constitution in 1997 with unanimity. It goes to the credit of military regime General Pervez Musharraf for ending the system of electoral apartheid that treated the minorities differently. As far as voting is concerned, the minorities are now back in the mainstream politics of Pakistan and they voted like other common citizens in the October 2002 elections. However, they hardly have any representation in the assemblies with the ending of special seats for them. One suggestion that has been circulated is that they special seats in the assemblies be restored. In the three tiers of the new local government system, the minorities have been assured of representation on joint electorates basis.

### *Women and discrimination*

Pakistan is one of the traditional male-dominated societies where women have been widely discriminated against. They form the most oppressed social class. The status of women is better in literate and urban areas of the country but there too they suffer a variety of problems. There are many strands of the debate about why women are so backward. Is it because of the traditional nature of the society? Has religious got to do anything with their lower status? Is it because of lack of education? One may cast one's views with reference to any social or economic theory but would reach the same conclusion: women in Pakistan face too much discrimination in too many areas over too many issues.<sup>15</sup> Our own view regarding their subordinate status is rooted in sociological explanations. Underdevelopment of the society in general, agrarian economy, and feudal social relations are the primary reasons for their backwardness. Therefore, change in their status—respect, equality and empowerment—will largely be possible through policy intervention. Good laws ending institutionalised discrimination against women and

protection of their fundamental rights is the responsibility of the state. Empowerment of women is one of the central objectives of the feminist movement in Pakistan and in other societies. But this objective cannot be realised without political equality and participation by women in the political process. Elections are one of the primarily tools of political participation in which women can vote or contest for different offices.

The question is, do women exercise right to vote independent of the opinion of their male members? Do they contest elections? The answers to both the question is no. The Pakistani voters vote in blocs that are formed on the basis of caste, sub-castes, tribes and extended families. Even the male members of a community seldom cast their vote on the basis of individual preferences. Voting unlike in the mature democracies is a group decision, and unfortunately, women in the large sections of the rural population are excluded from its process. Very few women from the elite landowning families have been contesting elections, and in some cases have defeated their male opponents. But these are few examples. The political parties devised affirmative action for women representation by fixing 20 seats for women in the Parliament for 20 years in the 1973 Constitution. But the respective provincial assemblies forming an electoral college elected them. The Legal Framework Order issued by General Pervez Musharraf introduced a set of amendments in the Constitution, which have now been sanctified by the 17<sup>th</sup> amendment. Under these changes, the seats for women in the National Assembly have been raised to 60 (see table 1,2) with the same proportion in the provincial assemblies. This is a major change, but the seats have to be filled on the basis of proportional representation according the lists provided by the parties. This system do gets women in the assemblies but leaves them out of the electoral contest. The real decision on which women will represent the party in the assemblies rests with the party bosses, and they have sent mostly their own daughters, wives, sisters and other close relatives with few exceptions of party activists. Nonetheless this is good beginning toward giving voices to women in the legislatures. At least on pressing women issues, they can cross the party lines, but they have yet to demonstrate that capacity.

#### *Lower castes*

It is generally assumed that caste categories and social hierarchies based on them may not exist in Muslim societies that preach equality among the believers. That is not the case. In Pakistan, the country we are concerned with caste system runs quite deep in the social psychology of the peoples at every level. Some attributes this to the influence of Hinduism, as most of the populations in Pakistan are converts from Buddhism and Hinduism. Though conversions took place more than half a millennium back, the cultural influences on customs and caste identities are still visible. Castes in way are social markers and differentiate people on social grounds. The people who have traditionally adopted menial professions are generally considered in lower castes categories, like weavers, carpenters, shoemakers and hairdressers. Some workers in the agricultural sectors who perform domestic duties in the households of the landowning class may also fall in lower caste category. The bonded agricultural labour and domestic servants in the middle class household, a rising phenomenon due to increasing gap between the poor and the newly enriched classes has also created social and economic dependencies, thus lowering their status. The question is how political independent these communities are? Can they, or do they exercise right to vote freely? Work by this author on devolution in three villages of District Faisalabad reveals that political interests of the locally

influential figures largely determine how the lower castes in the neighbourhood are going to vote.<sup>16</sup>

In our view democratic freedoms, civic liberties and right to participate in the political process through elections or by means of civil society organizations is largely conditioned by one's place in the society, level of education and degree of economic independence. This is true of societies where democratic traditions are weak and the electoral processes have been disrupted as the case of Pakistan. Overtime however, the elections and democracy can prove to be essential tools of empowerment for the lower castes and other marginalized communities. Pakistani society has to travel long distances on this road before elections acquire that useful role for the lower castes.

### Conclusions

We may draw four brief conclusions from the study above. First, elections in Pakistan have been mostly controversial and have resulted sometimes in dangerous political polarisations, as losing parties raised serious doubts about their fairness. The trust in the Elections Commission is weak and its independence and integrity is doubted by most of the political parties. All governments, the elected civilian, interim and the military have all been invariably accused of manipulating elections to help win a particular group, party, or parties. The referendum on three occasions to legitimise three military generals with high vote percentage has further damaged the sanctity of voting and the ballot box. Some of the accusations are of course exaggerated, but the perceptions about lack of fairness and transparency remain quite strong in the public mind. It will take few credible electoral exercises with more autonomy to the Elections Commission to wash off the negative image.

Second, legal framework and procedures for conducting elections are quite elaborate and well practiced in Pakistan. They are now widely understood by the contestants, and overtime they have become institutionalised. The problem sometimes is sudden changes in the legal requirements and the short time frame within which the elections under new procedures have to be conducted.

Third, there are two kinds of malpractices at government and private levels. A government may change rules pertaining to elections to benefit a particular candidate or party. It may intervene covertly by influencing some critical decisions of the electoral machinery that may hurt those whom it wants to defeat or win. On private level, the malpractices abound. They include, intimidation of polling voters and polling agents of the opponents, faking identities, bogus entries in the voters' lists, bribing or threatening polling staff, stuffing ballot boxes with bogus votes and disrupting polling by violent means. Preventing these malpractices would require building stature, autonomy and capacity of the Elections Commission.

Lastly, group discrimination in elections against women, lower castes and until very recently against the minorities has been pervasive. Privileged classes, particularly big landlords in the rural areas of Pakistan, dominate electoral scene. In Pakistan, the emergence of new middle class and its social mobility has not translated into its political representation. It is largely due to weak political party system, disruption of democratic process and the elite networking that has shaped ruling partnerships. Women emancipation and empowerment is both a social and political issue. Likewise, the problem of political equality of lower classes falls in the same category. The solution lies in sustained democracy that will strengthen participation. And it is only through

participation that all the marginalized groups can empower themselves, effectively articulate their interests and influence public policy in their favour and end discrimination.

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### Notes and References

<sup>1</sup> For this information I have benefited from Dr. M. Rafique Afzal, “Elections procedures and Malpractices”, included as a chapter in this volume.

<sup>2</sup> Sharif al Mujahid, “The 1977 Pakistani Elections: An Analysis,” in ed., Manzooruddin Ahmad, *Contemporary Pakistan: Politics, Economy and Society* (Durham, North Carolina: Academic Press, 1980), pp. 63-91.

<sup>3</sup> Sharif al Mujahid, “Pakistan: First General Elections,” *Asian Survey*, Vol. 11, February 1971, pp. 159-171.

<sup>4</sup> After nearly 20 months in office, Jamali was forced to resign on June 6, 04 through behind the scene pressures. *Dawn* (Karachi) June 27, 04

<sup>5</sup> “Fair polling” (editorial) *Dawn*, July 7, 04.

<sup>6</sup> It is reported that the Inter-Services Intelligence (ISI) used tens of millions in putting together an alliance of parties opposed to the Pakistan Peoples Party in the 1988 elections. There is a case in this regard pending in the highest court of Pakistan. Some of the former top-level functionaries of the ISI have accepted reports about the distribution of funds as true.

<sup>7</sup> Articles 213 to 226 (Part VIII and Chapter 1 & 2) of the 1973 Constitution deal with the elections issues.

<sup>8</sup> High Court is the highest court in each province. The Supreme Court of Pakistan is a federal and apex court in the country.

<sup>9</sup> For a glimpse of the controversy see, *The News* (Rawalpindi), May 5, 2002.

<sup>10</sup> *Electoral Politics in Pakistan: National Assembly Elections 1993-* Report of SAARC-NGO Observers (New Delhi: Vikas Publishing House, 1993), p. 18.

<sup>11</sup> The creation, modification and drawing of constituencies are governed by the Section 10 (1) of *The Delimitation of Constituencies Act 1974 (Act No. XXXIV of 1974)*.

<sup>12</sup> Articles 51, 51 (4), and 106 of the Constitution had provisions for 207 general seats for the Muslim males, and 10 seats for the religious minorities. There was a provision for the 20 seats for Muslim females that was good for 20 years and it lapsed in 1993.

<sup>13</sup> *Elections Laws, General Elections, 2002*, vol. 1 (Islamabad: Election Commission of Pakistan, 2002).

<sup>14</sup> I A Rehman, “The Worse off Non-Muslim Voters,” *Dawn*, January 28, 1997.

<sup>15</sup> Khawar Mumtaz and Farida Shaheed, *Women of Pakistan: Two Steps Forward, One Step Back?* (Lahore: Vanguard Books, 1987).

<sup>16</sup> As a member of research team I visited three villages in Union Council 17, Tehsil Jaranwala, District Faisalabad, Punjab several times in four months and conducted surveys on responsiveness and participation in 2004.