

Election Law Reform Project

# Priorities for Reform to Laws Governing the Conduct of Elections in Pakistan

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December 14, 2009



**Free & Fair Election Network**



# CONTENTS

## TABLE OF CONTENTS

About FAFEN.....	i
Acknowledgements.....	iii
Executive Summary.....	v
Summary of Themes & Priorities for Election Law Reform.....	vii

### INTRODUCTION

FAFEN's Goals.....	1
Input for Standing Committee on Parliamentary Affairs.....	1
A Coordinated Effort.....	1
An Agenda for Reform – Election Law Reform Project.....	2
Paper Objective.....	2

### SECTION I – STRENGTHENING ELECTORAL STAKEHOLDERS

<b>Theme 1: Fortify the independence of the Election Commission of Pakistan.....</b>	<b>5</b>
<b>Priority 1.1.....</b>	<b>6</b>
<b>Priority 1.2.....</b>	<b>6</b>
<b>Priority 1.3.....</b>	<b>7</b>
<b>Priority 1.4.....</b>	<b>8</b>
<b>Priority 1.5.....</b>	<b>8</b>
<b>Theme 2: Increase transparency and accountability among political parties and candidates.....</b>	<b>9</b>
<b>Priority 2.1.....</b>	<b>9</b>
<b>Priority 2.2.....</b>	<b>10</b>
<b>Priority 2.3.....</b>	<b>11</b>
<b>Theme 3: Regularize access for election observers.....</b>	<b>11</b>
<b>Priority 3.1.....</b>	<b>12</b>
<b>Priority 3.2.....</b>	<b>12</b>
<b>Priority 3.3.....</b>	<b>13</b>

### SECTION II – IMPROVING ELECTORAL PROCESSES

<b>Theme 4: Reform rules for representation.....</b>	<b>15</b>
<b>Priority 4.1.....</b>	<b>15</b>
<b>Theme 5: Enhance quality of and access to electoral rolls.....</b>	<b>16</b>
<b>Priority 5.1.....</b>	<b>17</b>
<b>Priority 5.2.....</b>	<b>17</b>
<b>Priority 5.3.....</b>	<b>18</b>
<b>Theme 6: Revise process for establishing polling sites.....</b>	<b>18</b>
<b>Priority 6.1.....</b>	<b>19</b>
<b>Theme 7: Ensure polling station-wise results are publicly accessible.....</b>	<b>20</b>
<b>Priority 7.1.....</b>	<b>20</b>
<b>Priority 7.2.....</b>	<b>21</b>



# CONTENTS

## SECTION III - PROPOSED AMENDMENTS TO ELECTION LAW

<b>Theme 1: Fortify the independence of the Election Commission of Pakistan.....</b>	<b>23</b>
<b>Priority 1.1.....</b>	<b>23</b>
<b>Priority 1.2.....</b>	<b>24</b>
<b>Priority 1.3.....</b>	<b>26</b>
<b>Priority 1.4.....</b>	<b>27</b>
<b>Priority 1.5.....</b>	<b>28</b>
<b>Theme 2: Increase transparency and accountability among     political parties and candidates.....</b>	<b>32</b>
<b>Priority 2.1.....</b>	<b>32</b>
<b>Priority 2.2.....</b>	<b>34</b>
<b>Priority 2.3.....</b>	<b>35</b>
<b>Theme 3: Regularize access for election observers.....</b>	<b>37</b>
<b>Priority 3.1.....</b>	<b>37</b>
<b>Priority 3.2.....</b>	<b>37</b>
<b>Priority 3.3.....</b>	<b>37</b>
<b>Theme 4: Reform rules for representation.....</b>	<b>40</b>
<b>Priority 4.1.....</b>	<b>40</b>
<b>Theme 5: Enhance quality of and access to electoral rolls.....</b>	<b>46</b>
<b>Priority 5.1.....</b>	<b>46</b>
<b>Priority 5.2.....</b>	<b>47</b>
<b>Priority 5.3.....</b>	<b>51</b>
<b>Theme 6: Revise process for establishing polling sites.....</b>	<b>53</b>
<b>Priority 6.1.....</b>	<b>53</b>
<b>Theme 7: Ensure polling station-wise results are publicly accessible.....</b>	<b>55</b>
<b>Priority 7.1 .....</b>	<b>55</b>
<b>Priority 7.2.....</b>	<b>57</b>

## BIBLIOGRAPHY





## **About FAFEN**

Free and Fair Election Network (FAFEN) is a network of 30 civil society organizations working in various fields throughout Pakistan. FAFEN believes in a democratic and just society that guarantees rights, respect and dignity to all individuals.

It also believes that elections are necessary, though not sufficient, for democracy and is committed to supporting election monitoring and voter education in Pakistan that contribute to long-term civic engagement and democratic accountability.

FAFEN is run by a democratically elected, seven-member Executive Council (EC), which is responsible for policy direction, setting priorities and oversight. Its Secretariat, headed by National Coordinator, performs day-to-day functions and implements projects and initiatives approved by the EC.

The main objectives of FAFEN include:

- To observe national, provincial, and local elections nationwide during the pre-polling, polling, and post-polling periods and to report on electoral fraud, violence, and any other problems that disenfranchise voters and compromise the quality of elections;
- To monitor and report on violations of the law and electoral Code of Conduct for Political Parties and Contesting Candidates;
- To promote participation of marginalized people, including women and first-time voters in democratic processes;
- To reduce electoral violence by documenting incidents, raising awareness, and involving relevant stakeholders;
- To monitor and report on the post-election performance of elected representatives and institutions;
- To advocate for electoral and political reforms in support of democratic governance;
- To build the capacity of civil society organizations to promote democratic values.

Guiding principles for all initiatives and work by FAFEN include the following:

- *Inclusion:* All FAFEN activities aim to improve people's inclusion in electoral and political processes at local, provincial and national levels.
- *Integration:* All FAFEN activities seek to integrate the diverse voices of civil society together in order to build pressure for democratization.
- *Neutrality:* FAFEN is an independent and politically non-partisan Network.
- *Transparency:* All FAFEN activities are transparent and open to public scrutiny.
- *Robust methodology:* All FAFEN statements are based on facts and comprehensive analysis involving statistically-robust and scientifically-tested research methods.





### **Acknowledgements**

The advice offered within this discussion paper has been developed as part of the *Election Law Reform Project*, a FAFEN project established in 2009 with the aim of informing the debate around reforming the laws that govern electoral processes in Pakistan while seeking to implement a legislative framework that reflects best practice in election administration consistent with international standards.

The priorities for reform within the paper were established by FAFEN's Executive Council based on counsel from Mossarat Qadeem, Muddassir Rizvi, Zahid Islam, Peter Erben, and Ben Goldsmith and careful consideration of views offered by election-related institutions, both domestic and international, advocating for reform to Pakistan's electoral legal framework.

The paper was written by Dr. Michael Boda and Mohsin Abbas (Legal Advisors) with ongoing advice from Qazi Saleem Akhtar and Mukhtar Ahmad Ali (National Electoral Experts) and assistance from Haseeb Shakoor Paracha.

FAFEN gratefully acknowledges the work of all contributors in completing this discussion paper.





## **Executive Summary**

Under the chairmanship of Mr. S.A. Iqbal Qadri, the National Assembly’s Standing Committee on Parliamentary Affairs has requested public input on how Pakistan’s current election law might be reformed.

While FAFEN and other election-related institutions argue that wholesale election law reform is required—change that would lead to a legal framework that reflects best practices in election administration and is consistent with international standards—FAFEN has prioritized within this discussion paper the reforms that could have a timely and tangible impact within the law as it currently stands.

This discussion paper offers two overarching reform areas within which a number of reform “themes” are offered.

In the first section, the paper outlines specific priorities for strengthening the current institutional arrangement for three electoral stakeholders in Pakistan — the Election Commission, political parties, and election observers, arguing three themes for change within election law, including:

- *Fortifying* the independence of the Election Commission of Pakistan (ECP) (Theme 1);
- *Increasing* transparency and accountability among political parties and candidates (Theme 2);
- *Regularizing* access to electoral processes for election observers (Theme 3);

In the second section, the paper offers specific priorities for improving the country’s electoral processes in the context of polling stations, the electoral rolls, and election results, with four themes for change being considered, including:

- *Reforming* rules for representation (Theme 4);
- *Enhancing* the quality of and access to electoral rolls (Theme 5);
- *Revising* the process for establishing polling sites (Theme 6); and
- *Ensuring* polling station-wise results are publicly available in a timely manner (Theme 7).

The final section may be of greatest benefit to legislators as they consider how the reforms proposed in the first two sections might tangibly be instituted within the law. The paper offers cross-referenced tables that provide proposed amendments to the election law in its current form.





## *FAFEN's Election Law Reform Project*

### **Summary of Themes & Priorities for Election Law Reform**

for consideration by the  
Standing Committee on Parliamentary Affairs (December 2009)

#### **STRENGTHENING ELECTORAL STAKEHOLDERS**

##### **Theme 1: Fortify the independence of the Election Commission in Pakistan**

**Priority 1.1:** Appoint the Chief Election Commissioner and Election Commission members, selected on the basis of professional qualifications and experience, through a transparent and inclusive parliamentary process involving public hearings.

**Priority 1.2:** Provide the Election Commission of Pakistan with full authority over seconded staff to direct, sanction, and dismiss such staff while conducting elections on its behalf;

**Priority 1.3:** Empower the Chief Election Commissioner to grant final approval to rules and regulations for the conduct of election;

**Priority 1.4:** Allow the ECP financial autonomy to manage its own budget and organizational structure;

**Priority 1.5:** Offer legislative assurance that government entities will not become involved in electoral processes without specific direction from the Election Commission of Pakistan.

##### **Theme 2: Increase transparency and accountability among political parties and candidates**

**Priority 2.1:** Ensure that all asset disclosure statements are made available electronically upon submission;

**Priority 2.2:** Continue to prepare and publish a Code of Conduct in advance of each campaign period, but also establish it within the electoral regulations;

**Priority 2.3:** Direct that information on candidates be made available to the public in advance of electoral processes.

##### **Theme 3: Regularize access for election observers**

**Priority 3.1:** Provide legal recognition and mandate for domestic and international election observers;

**Priority 3.2:** Establish the process by which domestic and international election observers will be registered and accredited;

**Priority 3.3:** Determine the activities that election observers may or may not conduct during pre-election, election, and post-election periods.

#### **IMPROVING ELECTORAL PROCESSES**

##### **Theme 4: Reform rules for representation**

**Priority 4.1:** Establish that candidates for office must be registered voters in the constituency in which they seek election and specify that candidates must not be allowed to seek election in more than one constituency.

##### **Theme 5: Enhance quality of and access to electoral rolls**

**Priority 5.1:** Allow the Election Commission of Pakistan to engage outside organizations in preparing the electoral rolls;

**Priority 5.2:** Make CNICs a required form of identification for citizens registering to be included in the electoral rolls and requesting a ballot at polling stations;

**Priority 5.3:** Improve on access to the electoral rolls for all electoral stakeholders by posting polling station-wise voter lists.

##### **Theme 6: Revise process for establishing polling sites**

**Priority 6.1:** Establish a process that includes public inputs, resulting in a list of polling station sites within each electoral constituency that remains valid for three years and is revised through a consultative process after each three-year period.

##### **Theme 7: Ensure polling station-wise results are publicly accessible**

**Priority 7.1:** Direct that the "Statement of the Count" and "Ballot Paper Account" be made available for public inspection at each polling station immediately upon completion of the count;

**Priority 7.2:** Direct that both polling station-wise and constituency-level election results documents be provided to specific election stakeholders, including election observers, immediately upon completion of the count and after the consolidation process. These documents should also be placed on the Election Commission's website in advance of the returned candidate's name being published in the official Gazette.





## **INTRODUCTION**

### **FAFEN's Goals**

The Free and Fair Election Network (FAFEN) was established in 2006 with three principal goals, namely:

- *Observing* and evaluating electoral processes within Pakistan;
- *Educating* voters and motivating them to become involved in electoral processes; and,
- *Advocating* on behalf of citizens for electoral and democratic reform.

FAFEN is committed to advocating for both immediate and long-term democratic and electoral reform, making use of a variety of tools for achieving these ends, including private diplomacy with government institutions and political parties and making public statements that will encourage active citizen commitment to democratic ideas within Pakistan and engagement with democratic processes locally, provincially and nationally.

### **Input for Standing Committee on Parliamentary Affairs**

This discussion paper has been developed under the third mandate described above and with the aim of providing the Standing Committee on Parliamentary Affairs with timely advice vis-à-vis essential reform to electoral laws that guide electoral processes in Pakistan.

In recent months, the National Assembly's Standing Committee on Parliamentary Affairs has, under the chairmanship of Mr. S.A. Iqbal Qadri, expressed genuine interest in consulting with relevant stakeholders as to how current electoral legislation might be changed to better facilitate the rights and needs of citizens while ensuring greater consistency with international standards and best practices.

On 2 October 2009, Mr. Qadri invited FAFEN, along with other civil society organizations and election-related organizations, to offer practical input to the Standing Committee on these matters. At that time, Mr. Muddassir Rizvi, FAFEN's National Coordinator, offered an oral presentation before the Committee that described various priorities for reform within a number of overarching "Themes for Electoral Reform."

In a subsequent letter, FAFEN stated that it would submit a more comprehensive resource in support of the Standing Committee's ongoing work—a discussion paper that would build upon the "Themes" and "Priorities" presented during the 2 October meeting. Those themes and priorities have been refined and expanded upon in recent weeks.

The letter requested that the Committee accept and deliberate on the recommendations and resources presented within this discussion paper in the process of developing an electoral reform proposal that meets the needs of a more democratic Pakistan.

### **A Coordinated Effort**

While writing this paper, FAFEN has cooperated with and carefully considered the various election law reforms expressed and advocated for since 2008 by the Election Commission of Pakistan, various civil society organizational partners and other domestic and international organizations focused on Pakistan's electoral processes. Indeed, FAFEN would emphasize that it has drawn on and received support from various election-related institutions while drafting this discussion paper and that it will continue to solicit input from these institutions in the months ahead in seeking to affect change leading to election law in Pakistan that is more consistent with international standards. In turn, various institutions have given their support to the recommendations for reform that follow.

FAFEN has used many sources as a starting point for this work. In 2008, the organization conducted a comprehensive observation of Pakistan's General Elections. FAFEN has not only relied on the empirical data and conclusions reached during that assessment, but also considered a host of published documents that have focused on electoral reform in since the 18 February 2008 General Elections. These works have provided both context and a foundation on which the priorities within this paper have been constructed. Among the sources considered are:

- UNDP-SNEP . *Reports of Working Groups: A Summary of Recommendations (17 August 2008)*;
- Election Commission of Pakistan .*Proposed Electoral Reforms (March 2009)* ;
- FAFEN. *Pakistan General Elections 2008: Election Observation Summary & Recommendations for Electoral Reform (21 June 2008)* ;
- FAFEN. *Pakistan General Elections 2008: Election Results Analysis (April 2009)* ;
- FAFEN. *Commentary on ECP's Proposed Election Reforms (June 2009)* ;
- Election Support Group. *Summary of Electoral Reform Recommendation for Pakistan (January 2009)* ;
- Election Support Group. *Compendium of Electoral Reform Proposals (January 2009)* ;
- IFES Pakistan. *Commentary on ECP's Proposed Election Reforms (April 2009)* ;
- IFES Pakistan. *Constitution Reform Priorities: An Analysis of Key Electoral Components of the Constitution of Pakistan (4 May 2009)* ;
- IFES Pakistan. *Proposed Electoral Constitutional Reforms: A Discussion Paper on the Electoral Components of the Constitution of Pakistan with Concrete Proposals for Amendments (15 July 2009)*.
- FAFEN. *Consolidated Recommendations for Electoral Reforms (18 February 2009)*;and
- FAFEN. *Pakistan General Elections 2008; Election Day Process Analysis (April 2009)*.

### **An Agenda for Reform - Election Law Reform Project**

It is important to note that this discussion paper has been produced as part of a larger effort within FAFEN to inform electoral reform in Pakistan. Established in mid-2009, contributors to the *Election Law Reform Project* will continue their work over the course of 2010, aiming to influence change to the laws that govern electoral processes in Pakistan.

In the coming weeks, the project will launch an initiative to establish a model unified election code, combining the current components of the country's election law into one Act and offering recommendations for change beyond the limited scope of this current paper. The project seeks to implement a legislative framework in Pakistan that better reflects best practices in election administration and is consistent with international standards, aiming ultimately to facilitate a greater voice for the citizens of Pakistan through election law reform.

### **Paper Objective**

Both domestic and international institutions within Pakistan have devoted significant energy and resources to encouraging positive change to the country's election law since the last general election held in 2008. While the current discussion paper contributes to this larger endeavour, it has been written *specifically* to fulfil a request from the National Assembly's Standing Committee on Parliamentary Affairs for input into the Committee's consideration of reforms needed within Pakistan's election-related legislative framework.

The following pages thus offer a reform agenda within a limited spectrum—the election law of Pakistan in its current form. While FAFEN and other election-related institutions argue strongly that wholesale election law reform is required, it has—for the purposes of this paper—prioritized the reforms that could have a timely and tangible impact within the law as it currently exists.

- **Section I - Strengthening Electoral Stakeholders:** A first section offers priorities for strengthening the current institutional arrangement for three important electoral stakeholders in Pakistan—the Election Commission, political parties, and election observers—arguing three themes for change within election law, including:
  - *Fortifying* the independence of the Election Commission of Pakistan (ECP);
  - *Increasing* transparency and accountability among political parties and candidates; and
  - *Regularizing* access to electoral processes for election observers.
- **Section II - Improving Electoral Processes:** A second section focuses on priorities for improving the country's electoral processes in the context of polling stations; the electoral rolls; and election results. Four themes for change are considered here, including:
  - *Reforming* rules for representation;
  - *Enhancing* the quality of and access to electoral rolls;
  - *Revising* the process for establishing polling sites; and
  - *Ensuring* polling station-wise results are publicly accessible in a timely manner.
- **Section III - Proposed Amendments to Law:** A final section may, in fact, be of greatest benefit to legislators as they consider how the reforms proposed in Sections I and II might tangibly be instituted within the law. In offering this additional resource as part of this paper, FAFEN aims to facilitate timely reform of Pakistan's election legislation in its current form.



## **SECTION I – STRENGTHENING ELECTORAL STAKEHOLDERS**

While democracy involves much more than holding regular elections, electoral processes stand as perhaps the most important opportunity to reassert and re-establish the democratic values of any democratic State. In achieving these ends, States rely on electoral stakeholders—constituted of both institutions and individuals—to ensure that elections are conducted within the country's legal framework and according to international standards and best practices.

The cadre of electoral stakeholders varies little from country to country. First and foremost among them are the voters. In every democracy, they are mandated with periodically providing meaningful guidance through electoral processes that offer a genuine expression of the Will of the People. The importance of the fulfilment of the rights of voters cannot be over-emphasized. At the same time, other institutions and individuals, each with rights and obligations, must fulfil important tasks that lead to successfully planning, organizing, conducting and evaluating electoral events in a country. It is important that all electoral stakeholders are equipped with adequate resources, reliable access to relevant information and resources, and the appropriate authority that allows them to fulfil their specific mandate in the context of elections.

Within this section of the paper, FAFEN focuses on the rights, responsibilities and needs of some of these stakeholders—in this instance, the Election Commission, political parties and candidates, and election observers. In so doing, the section offers specific guidance as to how Pakistan's electoral laws can be reformed in a manner that strengthens the role of these electoral stakeholders in the context of elections.

### **Theme 1: Fortify the independence of the Election Commission of Pakistan**

Independence is an essential characteristic of any institution responsible for conducting elections. While the structure of election commissions varies from country to country, those commissions are considered most successful that offer both a perceived and real tradition of impartiality at all levels of the organization. “To establish the integrity and credibility of electoral processes and promote the widespread acceptance of election results, it is critical that an [election commission] not only conducts electoral events in a fearlessly independent manner, but that it is impartial in its actions,” states Allan Wall in International IDEA's important publication on this topic.<sup>1</sup> An exercise in strengthening the independence of an election commission is, unquestionably, a fundamental and essential starting point toward enhancing public confidence while offering greater assurances among both voters and candidates that their fundamental human rights are being protected.

The United Nations has stated clearly that in every country provisions of law should ensure that an “objective, unbiased, independent and effective administrative structure [for conducting elections] is in place.” In achieving this end, careful attention must be given to those provisions focusing on appointment, remuneration, duties and powers, qualifications, and reporting structures in the context of election administration.<sup>2</sup> Without a foundation of independence and unless election administrators are regarded as genuinely as fair arbiters, neither voters nor candidates can be entirely certain that the 'rules of the game' have been followed and that candidates selected by the people have won an election after all the ballots have been counted.

FAFEN has carefully assessed the current system of election administration in Pakistan. While the ECP has taken certain steps to demonstrate its independence, the system under which its members and officials are appointed and must operate requires changes in order to better meet the international standards that guide election administration around the globe. Five priorities that would further enhance the independence of the ECP within the country's existing election law are outlined below.

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<sup>1</sup> A Wall and others, *Electoral Management Design: The New International IDEA Handbook* (International IDEA, Stockholm 2005), p.23.

<sup>2</sup> United Nations, *Human Rights and Elections: A Handbook on the Legal, Technical, and Human Rights Aspects of Elections, Professional Training Series, No. 2* (United Nations Centre for Human Rights, New York 1994), para 101.

**Priority 1.1**

*Appoint the Chief Election Commissioner and Election Commission members, selected on the basis of professional qualifications and experience, through a transparent and inclusive parliamentary process involving public hearings.*

In signing the 2006 Charter of Democracy, the leaders of the Pakistan Peoples Party (PPP) and the Pakistan Muslim League (PML-N) established a framework for appointing Pakistan’s Chief Election Commissioner and Election Commission members that would allow the ECP to become more “independent, autonomous, and impartial.”<sup>3</sup> Consistent with international standards and best practices, the proposed process offers a more transparent and inclusive path by which those responsible for organizing, planning and implementing electoral processes could be appointed as independent arbiters and guardians of free and fair elections in Pakistan. Furthermore FAFEN believes that the Chief Election Commissioner and Members of the Election Commission should be selected on the basis of professional qualifications and experience, and that at least one of the Members should be a woman.

FAFEN argues that the process articulated in the Charter of Democracy should become law in Pakistan. This process is summarized as follows:

*The Prime Minister—in consultation with Leader of the Opposition—is to forward up to three names for each of the Chief Election Commission and the Members of the Election Commission to a Joint Parliamentary Committee. If there is no consensus between the Prime Minister and Leader of the Opposition, both of them must forward separate lists to the Joint Parliamentary Committee.*

*The Joint Parliamentary Committee is to be comprised of fifty percent of Members from the treasury benches and fifty percent from Opposition parties of both Houses, based on the strength of those parties in Parliament and nominated by respective parliamentary leaders. After public hearings, the Committee shall forward the name of person(s) recommended, a decision that will be expressed by a majority.*

*If the Joint Parliamentary Committee fails to decide in a reasonable time, Parliament in joint sitting will then decide.<sup>4</sup>*

*The Chief Election Commissioner and Members of the Election Commission should be selected on the basis of professional qualifications and experience, and female representation on the Election Commission should be guaranteed.*

**Priority 1.2**

*Provide the Election Commission of Pakistan with full authority over seconded staff to direct, sanction, and dismiss such staff while conducting elections on its behalf.*

An important indicator of independence is found in the extent to which an election commission has authority over the hiring and firing of its staff without interference from the government. Under Pakistan's current electoral legislation, all people who assist in implementing elections in Pakistan—including District Returning Officers, Returning Officers, and Presiding Officers—are appointed from among officers of the Federal government, provincial governments, and corporations controlled by any such government and local authorities.<sup>5</sup> Further, in making these appointments, the Election Commission does not command full

<sup>3</sup> Pakistan People’s Party and Pakistan Muslim League (PML-N), *Charter of Democracy* (signed 14 May 2006, London, United Kingdom), para 27.

<sup>4</sup> *Ibid.* The third bullet point described here is not found within the Charter of Democracy.

<sup>5</sup> Representation of the People Act, 1976. Section 7(1).

authority over them when they are engaged for electoral matters.<sup>6</sup> This arrangement does not provide the Election Commission with the flexibility it requires to properly fulfil its constitutional mandate in line with international standards.<sup>7</sup> First, it requires that the ECP rely only on officials appointed by the Executive and, second, it does not allow the Commission to discipline those who do not adequately fulfil their duties in an independent manner.

The system of appointment should be changed to allow the Election Commission to engage qualified and neutral election officials from among *all* citizens in Pakistan. With this goal in mind, FAFEN proposes that:

- *The law should allow for the “deputation” of staff seconded from governments and corporations as presently articulated in the law. However, such staff should—during the period of their deputation—be subject to the control, superintendence and discipline of the Election Commission;*
- *The law should also establish the Election Commission’s power both to recruit and to dismiss temporary staff, on terms and conditions to be determined by the Commission and as deemed necessary by it for the purposes of conducting an election.*

The Election Commission should be able to rely on either of these approaches in recruiting staff to implement electoral processes.

**[See proposed amendments to election law in Section III, p.24]**

**Priority 1.3**

*Empower the Chief Election Commissioner to grant final approval to rules and regulations for the conduct of elections.*

Legislation drives electoral processes, offering a basic framework for how elections should be conducted. Rules and regulations, in turn, provide essential detail that is not suitably contained within law but ensure that those implementing an election are better able to respect the principles found within the law while laying out clearly for all electoral stakeholders what they can (and should) expect over the course of an electoral cycle.

FAFEN views the ongoing development of election-related rules and regulations as essential to the success of elections in Pakistan. It has also found that international best practice often and correctly affords the head of the Election Commission with significant influence over those rules and regulations, given that the Commission must use those rules to meet the expectations of the law<sup>8</sup> thereby offering it greater independence. The current legislation fails to provide the ECP with this independent authority to establish electoral rules and regulations, while allowing for circumstances under which the Executive can influence the implementation of electoral processes.

With the Chief Election Commission having to seek approval for making electoral rules and regulations from the President or the Federal government, the existing provisions do not meet international best practice. The law should be changed, therefore to ensure that:

- *The Chief Election Commissioner, with the approval of the Election Commission, will have the power to make election-related rules and regulations that allow the Commission to carry out the dictates of election law.*

**[See proposed amendments to election law in Section III, p.26]**

<sup>6</sup> Further background found in Pakistan Institute of Legislative Development and Transparency (PILDAT), *How Independent is the Election Commission in Pakistan (Background Paper)* (Islamabad 2008), p.10-11.

<sup>7</sup> Constitution of Pakistan 1973, art 219.

<sup>8</sup> Wall and others, *Electoral Management Design*, p.43-44.

**Priority 1.4**

*Allow the ECP financial autonomy to manage its own budget and organizational structure.*

Another important pillar in establishing the independence of any election commission is to grant complete budgetary control to the administering body. The impartiality with which an election commission is expected to organize and conduct elections can be easily undermined when the financial resources allotted to it are not entirely under its own direction. The United Nations has increasingly found this lack of fiscal control to be problematic, noting what election commissions should avoid: “In budgetary matters, it should not become subservient, or under the control of the Executive which is providing it with its funds and which could make pliability a prerequisite for adequate funding.”<sup>9</sup>

In 2000, the federal government gave the Chief Election Commissioner power to manage its own budget through a Notification issued. That authority includes spending without limit, re-appropriating funds from one head to another, changing the nomenclature of any post in the Election Commission, and upgrading or downgrading any post.<sup>10</sup> A fundamental problem remains, however. The Notification issued in 2000 can be withdrawn by a government at any time, leading to circumstances under which the Executive ultimately has control over the ECP’s budgetary arrangement.

The current approach is unacceptable as it undermines the independence of the Election Commission. With this, FAFEN recommends that:

- *The financial autonomy of the Election Commission should be guaranteed in law, including that authority over approval of its budget, the maintenance of accounts, the creation of posts, and authority over supplementary grants.*

**[See proposed amendments to election law in Section III, p.27]**

**Priority 1.5**

*Offer legislative assurance that government entities will not become involved in electoral processes without specific direction from the Election Commission of Pakistan.*

The independence of the Election Commission of Pakistan is reinforced when it has the capacity to control all the constituent parts of an election and all actions that are taken as the election unfolds. To achieve this goal, the ECP requires a legislative mandate that ensures government entities, including government agencies and security forces, will not interfere with electoral processes for purposes of party control or for personal interests and that they will act only in a manner prescribed by the ECP. If government entities interfere inappropriately, the ECP should have the authority to initiate legal and/or disciplinary proceedings against any government official involved.

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<sup>9</sup> See R Lopez-Pintor, *Electoral Management Bodies as Institutions of Governance* (United Nations Development Programme, Bureau for Development Policy, New York 2000), p.105; Commonwealth Secretariat, *Let's Talk About Elections* (Commonwealth Secretariat, London 1997), p.210.

<sup>10</sup> Ministry of Finance’s OM NO F.3(7) Exp-III/2000 dated 25.7.2000. Further background found in Pakistan Institute of Legislative Development and Transparency (PILDAT), *How Independent is*, p.11.

To reinforce this authority, two important changes should be made to the country's election-related laws.

- *A constitutional provision should be added establishing that neutral and non-partisan caretaker governments, at the federal and in the provincial levels, will be appointed before every general election so that government agencies and security forces can be tasked to remain neutral, without interfering, throughout the election campaign and election process;*
- *The Election Commission should also be given specific powers and authority to address cases in a timely manner where interference by a government entity is evident. This power should also be provided in the Constitution.*

[See proposed amendments to election law in Section III, p.28]

## **Theme 2: Increase transparency and accountability among political parties and candidates**

As important stakeholders in electoral processes, political parties and their candidates must be able to exercise the fundamental right “to be elected” and, in doing so, must have access to a variety of other related rights, including the freedom to speak, to associate, and to assemble freely.<sup>11</sup> Indeed, they require unhindered access to these rights in order to conduct an effective campaign that is engaging, based on accurate information, and that leads voters into a meaningful discussion during the campaign period.

At the same time, however, the rights of voters must also be protected in the context of electoral processes. Fundamental to every election is the necessity that the Will of the People is genuinely expressed.<sup>12</sup> To make an informed choice, the electorate must maintain the right to seek information about the political parties and candidates among which they must choose.<sup>13</sup> Such information is required in order to make an informed and effective choice.

In striking a balance between the rights of candidates and the rights of voters, FAFEN finds that Pakistan must establish mechanisms in its electoral processes that will enhance transparency and accountability among political parties and candidates in a manner that ensures both the rights of candidates and of voters are fulfilled.

With this goal, FAFEN offers three tangible priorities for reform within the current election law:

### **Priority 2.1**

*Ensure that all asset disclosure statements are made available electronically upon submission.*

An initial priority involves improving access to information about the holdings and current financial responsibilities of electoral candidates and members elected to public office. Increased financial transparency, which leads to greater accountability, has been pursued consistently in other democracies around the globe. In Canada, to offer just one example, the Royal Commission on Electoral Reform and Party Financing has noted specific benefits to voters and to the electoral process as a whole in implementing this kind of transparency, determining that “full and timely disclosure requirements help remove suspicion about the financial activities of candidates and parties by opening the process to public scrutiny.”<sup>14</sup>

<sup>11</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art 25, 19, 21; Constitution of Pakistan 1973, art 16, 17, 19.

<sup>12</sup> ICCPR, art 25.

<sup>13</sup> Ibid, art 19(2).

<sup>14</sup> P Lortie (ed) *Reforming Electoral Democracy, Royal Commission on Electoral Reform and Party Financing - Volume 1 ("The Lortie Commission")* (Dundurn Press Toronto 1992), p.421-422.

Election law currently requires candidates wishing to compete in an election and members who have been elected to submit statements to provide voters with insight into their current assets and liabilities.<sup>15</sup> The law also states that candidates must submit a statement outlining their election expenditures.<sup>16</sup> Yet, these statements are not readily available to the public.

FAFEN believes that greater transparency should be established in this context in the following way:

- *Election law should be amended to ensure that all disclosure statements submitted by candidates and Members of Parliament should be publicly accessible immediately upon submission via the Election Commission's website.*<sup>17</sup>

**[See proposed amendments to election law in Section III, p.32]**

**Priority 2.2**

*Continue to prepare and publish a Code of Conduct in advance of each campaign period, but also establish it within the electoral regulations.*

While often voluntary, Codes of Conduct can be effective in encouraging political parties and candidates to remain within the boundaries of established laws, regulations, and other components to which they agree.<sup>18</sup> The law already dictates that such a code will be “prepared” and “published” in advance of each election.<sup>19</sup>

Having carefully observed electoral processes in Pakistan, FAFEN has concluded that the Code of Conduct for Political Parties and Contesting Candidates would best serve the rights of all electoral stakeholders if it were to become part of the country’s electoral regulations once agreed to by the Election Commission and the political parties and candidates contesting the specific election. In doing so, it becomes more likely that electoral candidates will follow the ‘rules of the game’.

FAFEN, therefore, believes that:

- *Election law should continue to stipulate that a Code of Conduct for Political Parties and Contesting Candidates will be “prepared” and “published” in advance of each election, following a regularized process of robust consultation with all political parties ;*
- *To encourage political parties and candidates to follow the Code of Conduct, election law should require that that the Code become part of the electoral regulations established by the Election Commission;*
- *Further, election law should direct the establishment of a complaints resolution committee at each constituency level, authorizing this body to report on any violations to the Code directly to the Election Commission. In turn, the Commission should be directed to assess whether the political parties or candidates involved have acted within those regulations.*

**[See proposed amendments to election law in Section III, p.34]**

<sup>15</sup> See Section III, Priority 2.1, p.32.

<sup>16</sup> Ibid.

<sup>17</sup> These statements are to include: The “Statement of Assets and Liabilities” (filed by all candidates at the time of filing a nomination, a hard copy of which is currently retained by the Returning Officer); a yearly “Statement of Assets and Liabilities” (filed by elected members each year; the ECP publishes these records in The Gazette); the “Return of Election Expenses” (filed by all contesting candidates; these records are retained by the Returning Officer);

<sup>18</sup> ACE Project, “Political Party Codes of Conduct” in *The Administration and Cost of Elections Project* (United Nations, International IDEA and IFES, New York 2009).

<sup>19</sup> See Section III, Priority 2.2, p.34.

**Priority 2.3**

*Direct that information on candidates be made available to the public in advance of electoral processes.*

A final priority for reform which would contribute to greater transparency in electoral processes involves providing voters with increased access to information about candidates seeking office. The information presently submitted by candidates—including information on loans, taxes paid, educational qualifications, and occupation<sup>20</sup>—during the nomination process cannot be widely accessed by the public. Further, the required information should go beyond what is currently required.

With this in mind, FAFEN recommends that:

- *Election law should direct that the current information collected as part of the nomination process be enhanced to include a requirement that all candidates submit details of all previous convictions against them;*
- *Election law should also direct that all candidate information submitted to the Election Commission be accessible publicly. This information should be published in the official Gazette. The Election Commission should also be required to publish the information on its website before the final list of candidates is posted. The methods by which the public may acquire this information should be advertised to the public.*

[See proposed amendments to election law in Section III, p.35]

**Theme 3: Regularize access for election observers**

Election observers are also important stakeholders in any electoral process, fulfilling a mandate that leads to greater protection of fundamental human rights of citizens—whether voters or candidates. Election observation “has the potential to enhance the integrity of election processes, by deterring and exposing irregularities and fraud and by providing recommendations for improving electoral processes. It can promote public confidence, as warranted, promote electoral participation and mitigate the potential for election-related conflict. It also serves to enhance international understanding through the sharing of experiences and information about democratic development.”<sup>21</sup>

In making this statement, the *Declaration of Principles for International Election Observation*, a document signed in 2005 by more than twenty international election-related organizations, including the United Nations, states clearly that a country's legal recognition of election observation reinforces and facilitates public support for elections conducted in a manner consistent with international standards. In turn, domestic election observers have already asserted similar views in a draft document prepared by FAFEN titled the *Declaration of Principles for Domestic Election Observation*, noting that “an election process, if not carried out as determined by the law, shall lead to outcomes that are not reflective of the Will of the People, thus blighting the spirit and purpose of democratic accountability.” It states further that “the role of civil society in monitoring election processes has become crucial for free and fair elections.”<sup>22</sup>

In offering guidance on what should be contained within Pakistan’s election laws, FAFEN argues that both domestic and international election observer organizations must be afforded the rights and privileges in Pakistan that are consistent with those accepted internationally. As a domestic election observation organization, FAFEN believes that the country’s election law should be changed and enhanced to facilitate this process. Three priorities are listed here:

<sup>20</sup> See current requirements in Section III, Priority 2.3, p.35.

<sup>21</sup> Declaration of Principles for International Election Observation (as commemorated October 27, 2005, at the United Nations, New York) (Declaration of Principles), preamble.

<sup>22</sup> FAFEN Declaration of Principles for Domestic Election Observation (Second Draft, January 2009).

**Priority 3.1**

*Provide legal recognition and mandate for domestic and international election observers to evaluate electoral processes.*

Genuine elections cannot be achieved without assurances that, through this process, various human rights can be exercised freely and the rule of law respected. The International Covenant on Civil and Political Rights offers clear direction in this respect, stating that every citizen has the right—without distinction based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, including among others disabilities—to vote and be elected in “genuine periodic elections which shall be held by universal and equal suffrage and shall be held by secret ballot.”<sup>23</sup>

Election observation is now widely accepted as an important mechanism for facilitating the implementation of genuine electoral processes. The inclusion of observers in electoral events provides for greater transparency that highlights electoral successes and shortcoming and often guidance that leads to improvement in the administration of subsequent electoral events.

FAFEN has thus made clear the importance that:

- *Election law should establish a legal mandate for both domestic and international election observers to assess electoral processes in Pakistan.*

**[See proposed amendments to election law in Section III, p.37]**

**Priority 3.2**

*Establish the process by which domestic and international election observers will be registered and accredited.*

Election law should also legitimize and regulate the participation of election observation organizations in a manner consistent with international best practice.<sup>24</sup> In this light, FAFEN states that:

- *Election law should provide clear and objective criteria for registration and accreditation of domestic election observation organizations, regularizing the manner by which domestic observers are to be accredited in order to observe electoral processes and the circumstances under which such status can be revoked;*
- *While recognizing Pakistan’s sovereignty, election law should also provide for the issuance of letters of invitation to accepted election observation organizations based outside the country, articulating the process by which international election observers are to be accredited to assess electoral processes and the circumstances under which such status can be revoked;*
- *Election law should also establish an accelerated process by which election observers may challenge a refusal to or revocation of an accreditation of either an organization or individual observers.*

**[See proposed amendments to election law in Section III, p.37]**

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<sup>23</sup> ICCPR, art 25, art 2.

<sup>24</sup> International IDEA, *International Electoral Standards: Guidelines for Reviewing the Legal Framework of Elections* (International IDEA, Stockholm 2002), p.90-91.

**Priority 3.3**

*Determine the activities that election observers may or may not conduct during pre-election, election, and post-election periods.*

Finally, the law should provide clear guidance with respect to the conduct of election observers. On the one hand, such guidance should ensure respect for the laws of the land and the important work of the Election Commission in planning, organizing, and implementing electoral processes in Pakistan; on the other hand, it should respect the mandate of observers to evaluate electoral processes in a thorough and impartial manner based on international law and best practices for full transparency of those processes.<sup>25</sup> It should not limit legitimate observation by diminishing the freedom of expression of election observers or preventing them from reporting on electoral events or releasing information collected or generated through their efforts.<sup>26</sup>

In order to achieve this goal, FAFEN has determined that:

- *Election law should provide clear guidance with respect to the activities that observers may conduct over the course of an electoral cycle, including: inspecting documents, attending Election Commission meetings, observing election activities and documents at all levels and at any time during the electoral cycle, including those that fall or are generated during a pre-election, election, and post-election period;*
- *Election law should also establish what activities observers may not conduct. Specifically, they may not interfere with voting, take direct part in the voting or counting processes, or attempt to determine how a voter will vote or has voted;*
- *Election law should determine that a Code of Conduct be established by the Election Commission, in consultation with domestic and international election observation organizations that is consistent with international election observation practices and guides the actions of observer organizations during the components of an electoral process.*

**[See proposed amendments to election law in Section III, p.37]**

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<sup>25</sup> Code of Conduct for International Election Observers (as commemorated October 27, 2005, at the United Nations, New York) (Code of Conduct).

<sup>26</sup> International IDEA, *International Electoral Standards*, p.90.



## **SECTION II – IMPROVING ELECTORAL PROCESSES**

The strength of electoral stakeholders in appropriate areas is an essential component of any successful electoral process. At the same time, the implementation of electoral processes in a manner consistent with international standards and best practices is just as important as ensuring that the Will of the People is fulfilled. Section II offers important advice on how Pakistan’s election laws might be reformed to ensure that the implementation of its elections better meets these standards.

As Pakistan’s largest organization for election observation and after soliciting significant input from other election-related institution in Pakistan, FAFEN offers a list of reforms that should be instituted with respect to elections and within this round of electoral reform. While certainly other suggestions for reform would necessarily be required as part of an overall process of reform, the guidance that follows here demonstrates those considerations that FAFEN views as most pressing.

### **Theme 4: Reform rules for representation**

An initial and integral theme related to improving electoral processes has to do with reforming Pakistan’s rules for representation. In any democracy, a principal concern relates to the extent to which the electoral system in place “delivers.” On the one hand, the electoral system must distribute seats to contest winners in such a way that the Will of the People is fairly represented. On the other hand, it must offer a framework that ensures a close and ongoing relationship between chosen representatives and the people within their constituencies.

Indeed, international best practice demonstrates that any system of representation must genuinely facilitate this relationship<sup>27</sup> and, in instances where it does not, system changes should be considered to re-establish the bond between representative and citizen. FAFEN argues that, in the future, greater attention must be paid to the manner by which representatives are elected to the Senate, National and Provincial Assemblies in order to better fulfil this goal. In particular, consideration should be given to how the country’s system for electing seats indirectly in the National Assembly and Senate could be reformed to ensure that the people have a direct say in selecting individuals who ultimately represent them in Pakistan’s elected houses. At this juncture, FAFEN believes that such changes should be more carefully considered as part of an overall electoral reform package and at a later date.

In the shorter term, however, FAFEN proposes one tangible change to election law that would have an immediate impact on representation.

#### **Priority 4.1**

*Establish that candidates for office must be registered voters in the constituency in which they seek election and specify that candidates must not be allowed to seek election in more than one constituency.*

Current electoral practice, which allows candidates to run for elections in more than one constituency, has become part of the electoral landscape in Pakistan. While political parties may have become accustomed to having such “options” available to them, the practice runs counter to international standards for electoral conduct.

“Double Candidating” (candidates running for office in multiple constituencies simultaneously) diminishes the impact of democracy in the context of a general election in that it reduces the number of candidates to which voters are exposed. A central concept within democracy is that of allowing for a diverse set of opinions among many

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<sup>27</sup> L Handley, “Guiding Principles of Boundary Delimitation” in *ACE Encyclopaedia - Boundary Delimitation* (United Nations, International Institute for Democracy and Electoral Assistance, International Foundation for Election Systems, New York 2006).

different candidates within a forum on which the public is closely focused.<sup>28</sup> When candidates are conducting a campaign in as many as five separate constituencies, the public discussion is limited as many candidates cannot participate fully in each constituency in this all-important first component of an electoral process. When bye-elections are finally held for constituencies where a candidate has won a second (or third, fourth, or fifth) constituency and resigned from it, the public is no longer paying attention to the race as it had been when general elections were being held to choose a new government.

“Double Candidating” also weighs heavily on the public purse. Without question, it is important to assign financial resources to sustaining and reinforcing democratic processes in Pakistan. It is not acceptable; however, to spend limited financial resources on unnecessary electoral processes (bye-elections), leading to circumstances in which other “vital and high-priority public goods and services, such as infrastructure development, health provision and national defence” must necessarily be assigned fewer resources.<sup>29</sup>

To overcome these problems and to reinforce the integral relationship between elected individuals and members of the constituency they represent, FAFEN argues that:

- *Electoral law should establish that a candidate seeking election must be registered as a voter in the constituency where he or she intends to become a candidate for office;*
- *Electoral law should also bar candidates from competing for office in more than one constituency. Under these circumstances, an individual could already hold an elected position at Provincial or National level and become engaged as a candidate in another electoral race. If that individual ultimately wins the electoral contest, he or she would be required to resign from the previously-held post.*

**[See proposed amendments to election law in Section III, p.40]**

#### **Theme 5: Enhance quality and access to electoral rolls**

A further improvement to the manner by which electoral processes are implemented is found in a pressing need to enhance the quality of the electoral rolls while establishing clear rules that will facilitate access to the list of voters by all election stakeholders. Citizens have a fundamental right to exercise their vote during electoral processes,<sup>30</sup> yet recent difficulties with the electoral rolls offer evidence that improvements are necessary so that this right can be fully guaranteed.

It is widely understood that the ability to vote is “premised on the existence of a comprehensive and inclusive electoral register...which is rigorously maintained to ensure, to the extent possible, that each eligible voter is listed once and only once on the register.”<sup>31</sup> Because establishing and maintaining a current and accurate electoral roll can be one of the most challenging elements of election administration,<sup>32</sup> FAFEN argues that improvements to the law with respect to the electoral rolls should be pursued as soon as possible so that Pakistan can meet its obligations to voting citizens.

In this context, three tangible priorities for reform to election law are offered below:

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<sup>28</sup> See Inter-Parliamentary Union, *Democracy: Its Principles and Achievement* (Inter-Parliamentary Union, Geneva 1998), 26, para 6.

<sup>29</sup> R Lopez-Pintor and J Fischer, “Getting to the CORE: A Global Survey on the Cost of Registration and Elections” (Bureau for Development Policy (UNDP) and Center for Transitional and Post-Conflict Governance (IFES), New York and Washington 2005), p.7.

<sup>30</sup> This fundamental right is articulated in Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217A (III)) (UDHR), art 21; ICCPR, art 25. The right is further articulated within the Constitution, per Constitution of Pakistan 1973, art 51; 106.

<sup>31</sup> K Archer, “Voter Registration” in H Alves *and others* (eds), *The Administration and Cost of Elections Project CD-ROM* (International Foundation for Election Systems, International Institute for Democracy and Electoral Assistance, United Nations, Washington, DC 1999), p.50.

<sup>32</sup> OSCE/ODIHR, *Election Observation Handbook (Fifth edition)* (Organization for Security and Cooperation in Europe, Warsaw 2005), p.41.

**Priority 5.1**

*Allow the Election Commission of Pakistan to engage outside organizations in preparing the electoral rolls.*

The Election Commission requires the authority to access both data and technology that will allow for the fulfilment of its mandate in election administration. In doing so, it should be given greater flexibility within the law to pursue a range of relationships with non-ECP entities.

While an agreement between the Election Commission and National Database and Registration Authority (NADRA) could lead to significant progress with respect to accumulating and managing accurate lists of voters, FAFEN argues that the law should provide the Commission with broader authority to establish partnerships with other government entities and private-sector companies that, in the Commission's view, would further facilitate the development of the Electoral Roll in the months and years ahead. At the same time, the law should clearly articulate the Election Commission's ongoing responsibility to accumulate and maintain a voters' list that reaches the highest standards in international best practice for election administration and ensure that the rights related to this exercise are upheld at all times.

With this, FAFEN states that:

- *Election laws should provide the Election Commission of Pakistan with the authority to engage organizations outside its institutional structure in discharging its responsibility to prepare and maintain a current, accurate and complete electoral roll in advance of electoral processes.*

**[See proposed amendments to election law in Section III, p.46]**

**Priority 5.2**

*Make CNICs a required form of identification for citizens registering to be included in the electoral rolls and requesting a ballot at polling stations.*

The Computerized National Identity Card (CNIC) has become the principal form of identification in Pakistan, with over 70 million cards being issued to citizens. NADRA, the government entity responsible for registering citizens and for printing and distributing these cards, continues to make significant progress toward issuing CNICs by establishing a network of fixed and mobile registration centres where citizens may register to receive these cards at any time.

Under current electoral legislation, citizens may present many kinds of identification in order to register to vote, while they are required to present one of two specific forms of identification before being issued a ballot paper at a polling station. The identification required at the polling station is either the CNIC or a National Identity Card (NIC) issued under the 1973 National Registration Act.

There are three principal reasons in making the case for using the CNIC as the sole piece of identification during both the voter registration process and at the polling station on Election Day. First, use of CNICs would allow voter registration and Election Day officials to more quickly locate the names of citizens on the electoral roll since the CNIC number represents a unique “identifier.” The electoral roll currently contains many duplicate voter

<sup>33</sup> National Database and Registration Authority (NADRA), *Profile* (National Database and Registration Authority, Islamabad 2009).

<sup>34</sup> See Section III, Priority 5.2, p.47.

<sup>35</sup> *Ibid.*

registrations without an NIC or CNIC number, making it difficult for officials to locate such names in an efficient manner. Second, use of CNICs would reduce the amount of electoral fraud as the unique “identifier” can be used by officials to better ensure that only genuine voters are allowed to register and vote during elections. Finally, use of CNICs would facilitate greater efficiency in completing both processes, allowing election administrators to focus on other important issues during the pre-election and Election Day periods.

Given this situation, FAFEN has determined that:

- *Election laws should require that CNICs be the only form of identification citizens may present when applying for inclusion on the electoral rolls. Further, they should establish CNICs as the only form of identification that citizens may use to identify themselves at polling stations on Election Day.*

**[See proposed amendments to election law in Section III, p.47]**

**Priority 5.3**

*Improve on access to the electoral rolls by posting polling station-wise voter lists.*

Transparency is widely viewed as fundamental to the fulfilment of the rights of candidates to compete in electoral processes and of voters to express their will.<sup>36</sup> Indeed, it would be “impossible to imagine how citizens could take part in government and public affairs...unless the processes surrounding government and public affairs [were deemed] open to public knowledge and scrutiny.”<sup>37</sup>

Presently, the Election Commission provides only limited access to the electoral rolls via its website and on a voter-by-voter basis. Improved transparency could be achieved by ensuring that all electoral stakeholders—including voters, candidates, political parties, and election observers—have ongoing access to accurate voter registration lists and in various forms.

In an effort to improve on transparency with respect to the voter list, FAFEN argues that:

- *The law should be altered to ensure that the electoral rolls are available to all electoral stakeholders on a polling station-by-polling station basis.*

**[See proposed amendments to election law in Section III, p.51]**

**Theme 6: Revise process for establishing polling sites**

The method by which polling stations are established has proven problematic in recent elections, with polling sites being altered in the days leading to the electoral process, leaving voters without any knowledge of the location where they are to cast their ballots and preventing candidate agents and election observers from monitoring the process. FAFEN argues that such practices necessitate a change in the law to ensure that the electorate's right to vote is not undermined. A change in the manner by which polling stations are established would have an immediate impact, resulting in improvements to electoral processes.

One change has been identified within the law that would lead to immediate improvement to both electoral representation and the conduct of election administration within the country.

<sup>36</sup> International IDEA, *Standards, Legal Framework*, p.45-47.

<sup>37</sup> P Merloe, *Promoting Legal Frameworks for Democratic Elections* (National Democratic Institute, Washington, DC 2008), p.13.

**Priority 6.1**

*Establish a process that includes public inputs, resulting in a list of polling station sites within each electoral constituency that remains valid for three years and is revised through a consultative process after each three-year period.*

Determining polling station sites is widely viewed as an essential step in conducting a transparent electoral process. Last-minute decisions with respect to boundaries for polling areas and the physical locations of polling stations lead only to confusion among registered voters who must locate polling sites and increased suspicion among voters and candidates that the electoral processes are being manipulated for political purposes. “Given the essential nature of voting site data for election planning, and for voter information purposes, the legal policy framework for determination of voting sites must be finalized as early as possible, and certainly before the election period commences.”<sup>38</sup>

The current election legislation allows the District Returning Officer to change the location of polling stations within fifteen days of polling day, well within the campaign period. It also allows for location changes in a manner that is inconsistent with international best practice as it fails to ensure any accountability for such a significant decision within the federal and provincial structure for election administration.

Various problems have been identified with respect to the manner by which polling sites have been chosen in Pakistan.<sup>39</sup> FAFEN finds that these problems could be overcome by establishing in legislation the following process:

- *Election law should stipulate that a Committee be established in each District with the responsibility to identify and recommend polling station sites. Through a process that allows for input from the public, the Committee should forward its recommendations to the Election Commission of Pakistan for consideration;*
- *The law should stipulate that if the ECP determines the polling site scheme should be revised, the Commission should constitute another Committee, which is to conduct a similar public exercise and make subsequent recommendations to be forwarded to the Commission;*
- *A final list of polling sites for each District should remain valid for three years, be re-considered on an ongoing basis every three years thereafter, and be available for public review on the Election Commission’s website;*
- *An “emergency” situation may arise under which a polling site location may need to be altered in advance of an election. Such changes should be permitted, but only with the approval of the Chief Election Commissioner, and should be published immediately on the Election Commission’s website.*

**[See proposed amendments to election law in Section III, p.53]**

<sup>38</sup> ACE Project, “Voting Sites: Basic Issues” in *ACE Encyclopaedia - Voting Operations* (United Nations, International Institute for Democracy and Electoral Assistance, International Foundation for Election Systems, New York 2009).

<sup>39</sup> FAFEN, *Pakistan General Elections 2008: Election Results Analysis, A Report Based on Parallel Vote Tabulations (PVTs) in 242 National Assembly Constituencies (Conducted on February 18, 2008)*, p.10 (Pre-Election Key Findings, 1.1).

## **Theme 7: Ensure polling station-wise results are publicly accessible**

Perhaps the most highly anticipated part of every election, the process of ballot counting can either reinforce the confidence of candidates and voters or undermine their belief that the election reflects the Will of the People. There are a number of important principles that should guide every counting process (including maintaining ballot secrecy, timeliness, accuracy, accountability), but transparency is particularly important to the success of any ballot counting process.<sup>40</sup>

Fundamental to fostering transparency is a globally accepted obligation involving the “right of freedom of expression” which includes the “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print...or through any other media...”<sup>41</sup> Such rights are certainly accessible to candidates and voters, both of which have a right to understand the processes behind the election. Yet these rights must also be available to individuals whose responsibility is to ensure and verify the integrity of electoral processes, including election observers.<sup>42</sup>

In an effort to improve on this component of electoral processes,<sup>43</sup> FAFEN offers two priorities for reform within Pakistan’s election law that will foster greater transparency:

### **Priority 7.1**

*Direct that the “Statement of the Count” and “Ballot Paper Account” be made available for public inspection at each polling station immediately upon completion of the count.*

It is essential that all electoral stakeholders—voters, candidates, and election observers among them—are given access to copies of results protocols produced by Presiding Officers at individual polling stations. A timely distribution of the results information is widely regarded as a best practice in election administration.<sup>44</sup> Further, the posting of polling stations results in a location accessible to the public outside the polling station is also considered effective among election practitioners.<sup>45</sup>

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<sup>40</sup> D-C Tremblay, “Vote Counting” in *The User's Guide to the ACE Project Electronic Resources (Version 0, April 1999)* (UN, International IDEA and IFES, New York 1999), p.70.

<sup>41</sup> ICCPR, art 19(2).

<sup>42</sup> Merloe, *Promoting Legal Frameworks*, p.14.

<sup>43</sup> FAFEN identified various problems vis-à-vis the vote counting process during its 2008 election observation of Pakistan’s General Election. See Free & Fair Election Network (FAFEN), *Pakistan General Elections 2008: Election Results Analysis, A Report Based on Parallel Vote Tabulations (PVTs) in 242 National Assembly Constituencies (Conducted on February 18, 2008)*, p.17-18 (especially Election Day Findings, 9-17).

<sup>44</sup> See CW Dundas, *Dimensions of Free and Fair Elections: Frameworks, Integrity, Transparency, Attributes, Monitoring* (Commonwealth Secretariat, London 1994), 47; International IDEA, *Standards, Legal Framework*, 79; SADC Parliamentary Forum, *Norms and Standards for Elections in the SADC Region (March 25, 2001)* (SADC Parliamentary Forum Plenary Assembly, Windhoek, Namibia 2001), p.23, rec ii.

<sup>45</sup> See International IDEA, *Standards, Legal Framework*, p.80; Electoral Institute of Southern Africa (EISA) and Electoral Commissions Forum of SADC Countries, *Principles for Election Management, Monitoring and Observation in the SADC Region (as adopted on 6 November 2003 at the Kopanong Hotel and Conference Centre, Benoni, Johannesburg)* (Electoral Institution of Southern Africa and the Electoral Commission Forum, Benoni, Johannesburg 2003), p.26, sec 5.4.

Current election regulations direct Presiding Officers to complete this task at the end of the vote counting process,<sup>46</sup> yet election observers have found that the instructions are not widely followed.<sup>47</sup> To ensure broad public access to polling station-by-polling station results, FAFEN maintains that:

- *Election law should direct that attested copies of the “Statement of the Count” and “Ballot Paper Account” be posted for public inspection outside each polling station immediately following the count.*<sup>48</sup>

**[See proposed amendments to election law in Section III, p.55]**

***Priority 7.2***

*Direct that both polling station-wise and constituency-level election results documents be provided to specific election stakeholders, including election observers, immediately upon completion of the count and after the consolidation process. These documents should also be placed on the Election Commission’s website in advance of the returned Candidate’s name being published in the official Gazette.*

It is also essential that certain electoral stakeholders have ready access to copies of various election results documents containing data generated by Presiding and Returning Officers during the vote counting process.<sup>49</sup> While it is accepted best practice to post result documents outside the polling station for public review, it is also widely accepted that copies of these documents be distributed to election candidates (or their representatives) and accredited election observers. This process is not only consistent with the rights that have been outlined above, but is also found within guidance offered by various election practitioner organizations around the world.<sup>50</sup>

FAFEN argues that small changes to election law in this context will lead to significantly greater transparency in the distribution of election results. It states:

- *Election law currently dictates that Presiding Officers provide an attested copy of the “Statement of the Count” and “Ballot Paper Count” forms at each polling station to candidates (or their polling/election agents) who are present. The practice should be expanded to include accredited election observers, but within the resources available to the Presiding Officer at the polling station;*
- *While election law currently dictates that Returning Officers provide an attested copy of the “Result of the Count” form at the constituency level to candidates (or their polling/election agents), the law should be changed to provide for distribution of the “Consolidation of the Count” form as well. The law should also ensure that accredited election observers receive copies of these forms. Further, the law should be changed to ensure all requests for copies of the “Statement of the Count,” “Ballot Paper Count” and all other forms prepared by Presiding Officers can be fulfilled by the Returning Officer at this point;*

<sup>46</sup> See Section III, Priority 5.1, p.44.

<sup>47</sup> Free & Fair Election Network (FAFEN), *Pakistan General Elections 2008: Election Results Analysis, A Report Based on Parallel Vote Tabulations (PVTs) in 242 National Assembly Constituencies (Conducted on February 18, 2008)*, p.18 (Electon Day Key Findings, 14).

<sup>48</sup> The “Statement of the Count” (Form XIV) and “Ballot Paper Account” (Form XV).

<sup>49</sup> These documents include the “Statement of the Count” (Form XIV), “Ballot Paper Account” (Form XV), “Tendered Votes List” (Form XII), and “Challenged Votes List” (Form XIII), and, all issued by Presiding Officers; and the “Consolidation Statement of the Results of the Count Furnished by the Presiding Officers” (Form XVI) and “Result of the Count” (Form XVII), issued by Returning Officers.

<sup>50</sup> See OSCE/ODIHR “Existing Commitments for Democratic Elections in OSCE Participating States, A Progress Report (October 2003),” p.84, para I; OSCE/ODIHR, *Handbook for Domestic Election Observers* (Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights, Warsaw 2003), p.112.

- *Because Presiding Officers and Returning Officers have regularly failed to fulfil their legal mandate in this regard, election law should be changed to introduce administrative penalties for instances in which access to attested copies is not provided;*
- *Election law should establish that copies of the “Statement of the Count,” “Ballot Paper Count,” “Consolidation of the Count” and “Result of the Count” forms must be made available on the Election Commission’s website before the name of the returned candidate is published in the official Gazette.*

**[See proposed amendments to election law in Section III, p.57]**

## SECTION III – PROPOSED AMENDMENTS TO ELECTION LAW<sup>51</sup>

### Theme 1: Fortify the independence of the Election Commission of Pakistan

#### **Priority 1.1**

*Appoint the Chief Election Commissioner and Election Commission members, selected on the basis of professional qualifications and experience, through a transparent and inclusive parliamentary process involving public hearings.*

Existing Provisions:	Proposed Amendments:
<i>(Constitution)</i>	<i>(Constitution)</i>
<p><b>213. Chief Election Commissioner.</b> - (1) There shall be a Chief Election Commissioner (in this part referred to as the Commissioner), who shall be appointed by the President in his discretion.</p> <p>(2) No person shall be appointed to be Commissioner unless he is, or has been, a Judge of the Supreme Court or is, or has been, a judge of a High Court and is qualified under paragraph (a) of clause (2) of Article 177 to be appointed a Judge of the Supreme Court.</p>	<p><b>213. Chief Election Commissioner and Members.</b> - (1) The President shall appoint the Commissioner and Members in accordance with the provisions of this Article.</p> <p>(2) The Prime Minister shall, in consultation with the Leader of Opposition, forward a panel of three persons for the post of the Commissioner or a Member to the Joint Parliamentary Committee.</p> <p>(3) The Leader of Opposition may, within three days from the date when the Prime Minister has forwarded a panel to the Joint Parliamentary Committee, forward his own panel of three persons to the Joint Parliamentary Committee for the post of the Commissioner or a Member.</p> <p>(4) The Joint Parliamentary Committee may, after inviting objections and public hearing, recommend to the President, the name of a person from any of the panels for appointment to the post of the Commissioner or a Member.</p> <p>(5) The Speaker of the National Assembly shall, in consultation with the parliamentary leaders, constitute the Joint Parliamentary Committee of both Houses consisting of sixteen members with equal representation to the Government and Opposition.</p> <p>(6) The Joint Parliamentary Committee shall make recommendation by majority of members present and voting.</p> <p>(7) The National Assembly may, by notification, make rules of procedure regulating the conduct of business of the Joint Parliamentary Committee.</p> <p>(8) If the Joint Parliamentary Committee fails to make recommendation for the post of the Commissioner or a Member within sixty days from the date when a panel for the post was forwarded to the Committee by the Prime Minister, the President may refer the matter to the Majlis-e-Shoora (Parliament) in joint sitting and the recommendation of the Majlis-e-Shoora (Parliament) shall be binding upon the President.</p> <p>(9) A person shall not be appointed as Commissioner unless he has minimum of twenty years experience:</p> <ul style="list-style-type: none"> <li>(a) in the service of Pakistan ; or</li> <li>(b) in legal or other prescribed profession; or</li> <li>(c) in the service of Pakistan and legal or other prescribed profession.</li> </ul> <p>(10) In this Part:</p> <ul style="list-style-type: none"> <li>(d) “Commissioner” means the Chief Election Commissioner</li> <li>(e) “Leader of Opposition” means the Leader of Opposition in the National Assembly;</li> <li>(f) “Member” means the Member of the Election Commission; and</li> <li>(g) “parliamentary leader” means an elected leader of a political party in the National Assembly with two or more seats and notified by the Speaker as a parliamentary leader.”</li> <li>(h) “prescribed profession” means a profession prescribed by an Act of the Majlis-e-Shoora (Parliament).</li> </ul>
<p><sup>51</sup> Highlighting denotes change to provision.</p>	

**215. Term of office of Commissioner.-** (1) The Commissioner shall, subject to this Article, hold office for a term of three years from the day he enters upon his office :

Provided that the National Assembly may by resolution extend the term of the Commissioner by a period not exceeding one year.

(2) The Commissioner shall not be removed from office except in the manner prescribed in Article 209 for the removal from office of a Judge and, in the application of the Article for the purpose of this clause, any reference in that Article to a Judge shall be construed as a reference to the Commissioner.

(3) The Commissioner may, by writing under his hand addressed to the President, resign his office.

**216. Commissioner not to hold office of profit. –** (1) The Commissioner shall not-

(a) hold any other office of profit in the service of Pakistan; or

(b) occupy any other position carrying the right to remuneration for the rendering of services.

(2) A person who has held office as Commissioner shall not hold any office of profit in the service of Pakistan before the expiration of two years after he has ceased to hold that office :

Provided that-

(a) this clause shall not be construed as preventing a person who was a Judge of the Supreme Court or of a High Court immediately before his appointment as Commissioner from resuming his duties as such Judge on the expiration of his term as Commissioner; and

(b) a person who has held office as Commissioner may, with the concurrence of both Houses, be reappointed to that office before the expiration of two years after he has ceased to hold that office.

**218. Election Commission. -** (1) For the Purpose of election to both Houses of Majlis-e-Shoora (Parliament), Provincial Assemblies and for election of such other public offices as may be specified by law or until such law is made by the Majlis-e-Shoora (Parliament) by Order of the President, a permanent Election Commission shall be constituted in accordance with this Article.

(2) The Election Commission shall consist of –

(a) the Commissioner, who shall be Chairman of the Commission; and

(b) four members, each of whom shall be a Judge of a High Court from each province, appointed by the President after consultation the High Court concerned and with the Commissioner.

**215. Term of office of Commissioner and Members.-** (1) The Commissioner shall, subject to this Article, hold office for a term of six years from the day he enters upon his office:

Provided that the National Assembly may by resolution extend the term of the Commissioner by a period not exceeding one year.

(2) The Members of the Commission shall, subject to this Article, hold office for a term of six years, with three of the Members being replaced every three years.

(3) The Commissioner or Members shall not be removed from office except in the manner prescribed in Article 209 for the removal from office of a Judge and, in the application of the Article for the purpose of this clause, any reference in that Article to a Judge shall be construed as a reference to the Commissioner or Members.

(4) The Commissioner or a Member may, by writing under his hand addressed to the President, resign his office.

**216. Commissioner and Members not to hold office of profit. –** (1) The Commissioner and Members shall not-

(a) hold any other office of profit in the service of Pakistan; or

(b) occupy any other position carrying the right to remuneration for the rendering of services.

(2) A person who has held office as Commissioner or Member shall not hold any office of profit in the service of Pakistan except the office of Commissioner or Member before the expiration of two years after he has ceased to hold that office :

Provided that-

(a) a person who has held office as Commissioner or Member may, with the concurrence of both Houses, be reappointed to that office before the expiration of two years after he has ceased to hold that office.

**218. Election Commission. -** (1) For the Purpose of election to both Houses of Majlis-e-Shoora (Parliament), Provincial Assemblies and for election of such other public offices as may be specified by law or until such law is made by the Majlis-e-Shoora (Parliament) by Order of the President, a permanent Election Commission shall be constituted in accordance with this Part.

(2) The Election Commission shall consist of –

(a) the Commissioner, who shall be Chairman of the Commission; and

(b) six Members, one Member from each Province, one member from the Federal Capital or the Federally Administered Tribal Areas and one woman Member.

(3) A person shall not be appointed as Member unless he has minimum of fifteen years experience:

(a) in the service of Pakistan ; or

(b) in legal or other prescribed profession; or

(c) in the service of Pakistan and legal or other prescribed profession.

**Repeal the Election Commission Order 2002 (Chief Executive's Order No. 1 of 2002)**

**Priority 1.2**

*Provide the Election Commission of Pakistan with full authority over seconded staff to direct, sanction, and dismiss such staff while conducting elections on its behalf.*

**Existing Provisions:**

*(ROPA 1976)*

**7. Appointment of District Returning Officer and Returning Officer.-** (1) The Commission shall appoint, from amongst the officers of the Federal Government, Provincial Governments, corporations controlled by any such Government and local authorities, a District Returning Officer for each District and a Returning Officer for each constituency.

Provided that a person may be appointed as Returning Officer for two or more constituencies.

**Proposed Amendments:**

*(ROPA 1976)*

**7. Appointment of District Returning Officers and Returning Officers.-** (1) The Commission shall appoint, from amongst the **officers of the Commission**, Federal Government, a Provincial Government, local government or any entity or corporation of any of these Governments, a District Returning Officer for a District and a Returning Officer for a constituency.

(2) The Commission may appoint a person as Returning Officer for two or more constituencies.

(2) The Commission may appoint, from amongst the officers of the Federal Government, Provincial Governments, corporations controlled by such Government and local authorities, as many Assistant Returning Officers as may be necessary.

(3) An Assistant Returning Officer shall assist the Returning Officer in the performance of his functions under this Act and may, subject to any condition imposed by the Commission, exercise and perform, under the control of the Returning Officer, the power and functions of the Returning Officer.

(4) It shall be duty of a Returning Officer to do all such acts and things as may be necessary for effectively conducting an election in accordance with the provisions of this Act and the rules.

(5) Subject to the superintendence and control of the Commission, the District Returning Officer shall coordinate and supervise all work in the district in connection with the conduct of elections and shall also perform such other duties and functions as may be entrusted to him by the commission.

(6) The Commission or the Commissioner may, at any time, for reasons to be recorded in writing, suspend any officer performing any duty in connection with an election, or any other public functionary, or any member of the police force or any other law enforcing agency who obstructs or prevents or attempts to obstruct or prevent the conduct of fair and impartial poll or interferes or attempts to interfere with the elector when he records his vote, or influences in any manner the polling staff or an elector or does any other act calculated to influence the result of election, and make such arrangements as it or he may consider necessary for the performance of the functions of the officer so suspended.

(7) Where the Commission or the Commissioner suspends any officer under sub-section (6), the Commission or the Commissioner shall refer the matter to the appropriate authority for taking disciplinary action against such officer.

**9. Presiding Officers and Polling Officer.**— (1) A Returning Officer shall appoint for each polling station a Presiding Officer and such number of Assistant Presiding officers and polling officers from amongst the officers of the Federal Government, Provincial Governments, local governments and corporations established and controlled by such Governments to assist the Presiding Officer as the Returning Officer may consider necessary:

Provided that a person who is, or has at any time been, in the employment of any candidate shall not be appointed as Presiding Officer, Assistant Presiding Officer or polling officer.

(2) A list of such Presiding Officers and polling officers shall be submitted to the District Returning Officer at least fifteen days before the polling day for its approval and no change in the personnel shall be made except with the approval of the Commission.

(3) A Presiding Officer shall conduct the poll in accordance with the provisions of this Act and the rules, shall be responsible for maintaining order at the polling station and shall report to the Returning Officer any act or incident which may, in his opinion, affect the fairness of the poll.

(3) The Commission may appoint, from amongst the officers of the Commission, Federal Government, a Provincial Government, local government or any entity or corporation of any of these Governments, Assistant Returning Officers.

(4) An Assistant Returning Officer shall assist the Returning Officer and may, subject to any condition imposed by the Commission and under the control of the Returning Officer, perform functions of the Returning Officer.

(5) A Returning Officer shall perform all functions as may be necessary for conducting free, fair and impartial election in accordance with the provisions of this Act, rules and instructions of the Commission.

(6) A District Returning Officer shall coordinate and supervise conduct of election in the District and perform functions in accordance with the provisions of this Act, rules and instructions of the Commission.

**7-A Subordination to the Commission.**— (1) A District Returning Officer, Returning Officer, Assistant Returning Officer, Presiding Officer, Polling Officer or any other official or person, who is for the time being performing a function relating to an election, shall act in accordance with the directions of the Commission.

(2) A District Returning Officer, Returning Officer, Presiding Officer, Polling Officer or any other official, who is not an employee of the Commission but appointed to performing function under this Act, shall be deemed to be on deputation with the Commission.

(3) The Commission may, if an officer or official is deemed to be on deputation with the Commission, take disciplinary action against the officer or official in the prescribed manner.

**7-B. Temporary employment.** - (1) The Commission may, for the purpose of conducting an election, create temporary posts and employ officers and servants on such posts in the prescribed manner.

(2) The Commission may determine the terms and conditions of service of the temporary employees including training and discipline."

**9. Presiding Officers and Polling Officers.**— (1) A Returning Officer shall, for each polling station, appoint a Presiding Officer, Assistant Presiding Officers and polling officers from amongst the officers of the Commission, Federal Government, a Provincial Government, local government or any entity or corporation of any of these Governments in the prescribed manner.

(1-a) The Returning Officer shall not appoint a person as Presiding Officer, Assistant Presiding Officer or polling officer if the person has, at any time, remained in the employment of a candidate or has any other personal or pecuniary interest common with the candidate as may be prescribed.

(2) A list of such Presiding Officers and polling officers shall be submitted to the District Returning Officer at least thirty days before the polling day for its approval and no change in the personnel shall be made except with the approval of the Commission.

(3) A Presiding Officer shall conduct the poll in accordance with the provisions of this Act and the rules, shall be responsible for maintaining order at the polling station and shall report to the Returning Officer any act or incident which may, in his opinion, affect the fairness of the poll.

(4) The Returning Officer shall authorise one of the Assistant Presiding Officers to act in place of the Presiding Officer if the Presiding Officer is, at any time during the poll, by reason, of illness or other cause, not present at the polling station, or is unable to perform his functions; and any absence of the Presiding Officer, and the reasons therefore, shall, as soon as possible after the close of the poll, be reported to the Returning Officer.

(5) The Returning Officer may, at any time during the poll, for reasons to be recorded in writing, suspend any Presiding Officer, Assistant Presiding Officer or polling officer and make such arrangements as he may consider necessary for the performance of the functions of the officer so suspended.

(4) The Returning Officer shall authorise one of the Assistant Presiding Officers to act in place of the Presiding Officer if the Presiding Officer is, at any time during the poll, by reason, of illness or other cause, not present at the polling station, or is unable to perform his functions; and any absence of the Presiding Officer, and the reasons therefore, shall, as soon as possible after the close of the poll, be reported to the Returning Officer.

(5) The Returning Officer may, at any time during the poll, for reasons to be recorded in writing, suspend any Presiding Officer, Assistant Presiding Officer or polling officer and make such arrangements as he may consider necessary for the performance of the functions of the officer so suspended.

**Priority 1.3**

*Empower the Chief Election Commissioner to grant final approval to rules and regulations for the conduct of elections.*

**Existing Provisions:**

*(Constitution)*

**221. Officers and servants.**— Until Majlis-e-Shoora (Parliament) by law otherwise provides, the Commissioner may, with the approval of the President, make rules providing for the appointment by the Commissioner of officers and servants to be employed in connection with the functions of the Commissioner or an Election Commission and for their terms and conditions of employment.

*(ROPA 1976)*

**107. Power to make rules.**—The Commission may with the approval of the president, make rules for carrying out the purposes of this Act.

*(The Political Parties Order 2002)*

**19. Rules.**— The Election Commission may, with approval of the president, make rules for carrying out the purposes of this order.

*(The Electoral Rolls Act 1974)*

**28. Power to make rules.**— (1) The Commissioner may, with the approval of the president and by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) Where a form has been prescribed for any of the purposes of this Act or the rules made there under, the Commissioner may, by notification in the official Gazette, make such modifications or additions in the form as in his opinion may be necessary:

Provided that validity of an electoral roll prepared in the prescribed form for time being in force shall not be affected by any modifications or additions made in the form subsequent to the preparing of the roll.

*(The Senate (Elections) Act 1975)*

**88. Power to make rules.**— (1) The Federal Government may, in consultation with the Commissioner, make rules for carrying out the purpose of this Act.

**Proposed Amendments:**

*(Constitution)*

**221. Officers and servants.**— The Commissioner may, with the approval of the Commission, make rules for creation of posts, recruitment, and other terms and conditions of service of officers and servants of the Commission.

*(ROPA 1976)*

**107. Power to make rules.**— The Commissioner may, with the approval of the Commission, make rules for carrying out the purposes of this Act.”

*(The Political Parties Order 2002)*

**19. Rules.**— The Chief Election Commissioner may, with the approval of the Election Commission, make rules for carrying out the purposes of this Order.

*(The Electoral Rolls Act 1974)*

**28. Power to make rules.**— (1) The Commissioner may, with the approval of the Election Commission, make rules for carrying out the purposes of this Act.

(2) Where a form has been prescribed for any of the purposes of this Act or the rules made there under, the Commissioner may, by notification in the official Gazette, make such modifications or additions in the form as in his opinion may be necessary:

Provided that validity of an electoral roll prepared in the prescribed form for time being in force shall not be affected by any modifications or additions made in the form subsequent to the preparing of the roll.

*(The Senate (Election) Act 1975)*

**88. Power to make rules.**— (1) The Commissioner may, with the approval of the Commission, make rules for carrying out the purposes of this Act.”

<p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-</p> <p>(a) the duties of Returning Officers and Polling Officers at polling stations;</p> <p>(b) the identification of voters;</p> <p>(c) the manner in which the votes are to be given both, generally and in the case of illiterate voters or voters under physical or other disability;</p> <p>(d) the procedure as to voting to be followed at elections held in accordance with the system of proportional representation be means of a single transferable vote;</p> <p>(e) the scrutiny and counting of votes, including cases in which a recounting of votes should be made before the declaration of result of election;</p> <p>(f) the safe custody of ballot boxes, ballot paper and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;</p> <p>(g) the appointment of agents and candidates; and</p> <p>(h) any other matter which is to be or may be prescribed under this Act.</p>	<p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-</p> <p>(a) the duties of Returning Officers and Polling Officers at polling stations;</p> <p>(b) the identification of voters;</p> <p>(c) the manner in which the votes are to be given both, generally and in the case of illiterate voters or voters under physical or other disability;</p> <p>(d) the procedure as to voting to be followed at elections held in accordance with the system of proportional representation be means of a single transferable vote;</p> <p>(e) the scrutiny and counting of votes, including cases in which a recounting of votes should be made before the declaration of result of election;</p> <p>(f) the safe custody of ballot boxes, ballot paper and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;</p> <p>(g) the appointment of agents and candidates; and</p> <p>(h) any other matter which is to be or may be prescribed under this Act.</p>
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**Priority 1.4**

*Allow the ECP financial autonomy to manage its own budget and organizational structure.*

<p><b>Existing Provisions:</b></p> <p>There is no existing provision in any law relating to financial autonomy of ECP.</p>	<p><b>Proposed Amendments:</b></p> <p><i>(ROPA 1976)</i></p> <p style="text-align: center;"><b>CHAPTER IX-A</b></p> <p style="text-align: center;"><b>BUDGET, ACCOUNTS AND AUDIT</b></p> <p><b>102. Budget and accounts.</b>– (1) The Federal Government shall annually provide funds to the Commission that are necessary for the performance of functions of the Commissioner and Commission.</p> <p>(2) The Commission shall approve its budget for each financial year starting from the 1<sup>st</sup> day of July and ending on 30<sup>th</sup> June of the succeeding year.</p> <p>(3) The Federal Government shall, on the recommendation of the Commission, provide supplementary grant to the Commission for the conduct of general election or bye-election.</p> <p>(4) The Commission may allow expenditures from its funds, create or abolish a post, and upgrade or downgrade a post.</p> <p>(5) The accounts of the Commission shall be maintained in such manner as may be prescribed.</p> <p><b>102-A. Audit.</b>– (1) The Auditor General of Pakistan shall conduct the annual audit of the accounts of the Commission.</p> <p>(2) The Auditor General shall submit the audit report to the President of Pakistan who shall cause to lay it before the National Assembly.</p>
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**Priority 1.5**

*Offer legislative assurance that government entities will not become involved in electoral processes without specific direction from the Election Commission of Pakistan.*

**Existing Provisions:**

***(Constitution)***

**48. President to act on advice etc.**– (1) In the exercise of his functions, the President shall act in accordance with the advice of the Cabinet or the Prime Minister:

Provided that the President may require the Cabinet or, as the case may be, the Prime Minister to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration.

(2) Notwithstanding anything contained in clause (1), the President shall act in his discretion in respect of any matter in respect of which he is empowered by the Constitution to do so and the validity of anything done by the President in his discretion shall not be called in question on any ground whatsoever.

(4) The question whether any, and if so what, advice was tendered to the President by the Cabinet, the Prime Minister, a Minister or Minister of State shall not be required into in, or by, any court, tribunal or other authority.

(5) Where the President dissolves the National Assembly, he shall, in his discretion,-

- (a) appoint a date, not later than ninety days from the date of the dissolution, for the holding of a general election to the assembly; and
- (b) appoint a care-taker cabinet.

(6) If, at any time, the President, in his discretion, or on the advice of the Prime Minister, considers that it is desirable that any matter of national importance should be referred to a referendum, the President may cause the matter to be referred to a referendum in the form of a question that is capable of being answer either by a “Yes” or “No”.

(7) An Act of Majlis-e-Shoora (Parliament) may lay down the procedure for holding of a referendum and the compiling of the result of the referendum.

**91. The Cabinet.**– (1) There shall be a Cabinet of Ministers, with the Prime Minister at its head, to aid and advise the President in the exercise of his functions.

(2) The President shall in his discretion appoint from amongst the members of the National Assembly a Prime Minister who, in his opinion, is most likely to command the confidence of the majority of the members of the National Assembly.

**Proposed Amendments:**

***(Constitution)***

**48. President to act on advice etc.**– (1) In the exercise of his functions, the President shall act in accordance with the advice of the Cabinet or the Prime Minister:

Provided that the President may require the Cabinet or, as the case may be, the Prime Minister to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration.

(2) Notwithstanding anything contained in clause (1), the President shall act in his discretion in respect of any matter in respect of which he is empowered by the Constitution to do so and the validity of anything done by the President in his discretion shall not be called in question on any ground whatsoever.

(4) The question whether any, and if so what, advice was tendered to the President by the Cabinet, the Prime Minister, a Minister or Minister of State shall not be required into in, or by, any court, tribunal or other authority.

**(5) If the National Assembly is dissolved, the President shall, in his discretion:**

- (C) appoint a date, not later than ninety days from the date of the dissolution, for the holding of a general election to the assembly, and
- (d) appoint a neutral care-taker Cabinet.**

**Explanation.**– In this clause “neutral care-taker Cabinet” means the Cabinet consisting of the Prime Minister and a Minister who:

- (iii) is not a member of a political party;**
- (iv) has not been an office bearer of a political party any time during one hundred and eighty days prior to the appointment; and**
- (v) or whose spouse, sibling, ascendant or descendant is not a candidate in the election being held during the tenure of the care-taker Government.**

(6) If, at any time, the President, in his discretion, or on the advice of the Prime Minister, considers that it is desirable that any matter of national importance should be referred to a referendum, the President may cause the matter to be referred to a referendum in the form of a question that is capable of being answer either by a “Yes” or “No”.

(7) An Act of Majlis-e-Shoora (Parliament) may lay down the procedure for holding of a referendum and the compiling of the result of the referendum.

**91. The Cabinet.**– (1) There shall be a Cabinet of Ministers, with the Prime Minister at its head, to aid and advise the President in the exercise of his functions.

(2) The President shall in his discretion appoint from amongst the members of the National Assembly a Prime Minister who, in his opinion, is most likely to command the confidence of the majority of the members of the National Assembly.

(2A) Notwithstanding anything contained in clause (2), after the twentieth day of March, one thousand nine hundred and ninety, the President shall invite the members of the National Assembly to be the Prime Minister who commands the confidence of the majority of the members of the National Assembly, as ascertained in a session of the Assembly summoned for the purpose in accordance with the provisions of the Constitution.

(3) The person appointed under clause (2) or, as the case may be, invited under clause (2A) shall, before entering upon the office, make before the President oath in the form set out in the Third Schedule and shall within a period of sixty days thereof obtain a vote of confidence from the National Assembly.

(4) The Cabinet, together with the Minister of State, shall be exclusively responsible to the National Assembly.

(5) The Prime Minister shall hold office during the pleasure of the President, but the President shall not exercise his powers under this clause unless he is satisfied that the Prime Minister does not command the confidence of the majority of the members of the National Assembly, in which case he shall summon the National

Assembly and require the Prime Minister to obtain a vote of confidence from the Assembly.

(6) The Prime Minister may, by writing under his hand addressed to the President, resign his office.

(7) A minister who for any period of six consecutive months is not a member of the National Assembly shall, at the expiration of that

period, cease to be a Minister and shall before the dissolution of that Assembly be again appointed a Minister unless he is elected a member of that Assembly

Provided that nothing contained in this clause shall apply to a Minister who is a member of the Senate.

(8) Nothing contained in this Article shall be construed as disqualifying the Prime Minister or any other Minister or a Minister of State for continuing in office during any period during which the National Assembly stands dissolved, or as preventing the appointment of any person as Prime Minister or other Minister or as Minister of State

**105. Governor to act on advise etc.-** (1) Subject to Constitution, in the performance of his functions, the Governor shall act in accordance with the advice of the Cabinet or the Chief Minister:

Provided that the Governor may require the Cabinet or, as the case may be, the Chief Minister to reconsider such advice, whether generally or otherwise, and the Governor shall act in accordance with the advice tendered after such reconsideration:

(2) The question whether any, and if so what, advice was tendered to the Governor by the Chief Minister or the Cabinet, shall not be required into in, or by, any court, tribunal or other authority.

(3) Where the Governor dissolves the Provincial Assembly, he shall appoint, in his discretion, but with the previous approval of the President a care-taker cabinet.

(2A) Notwithstanding anything contained in clause (2), after the twentieth day of March, one thousand nine hundred and ninety, the President shall invite the members of the National Assembly to be the Prime Minister who commands the confidence of the majority of the members of the National Assembly, as ascertained in a session of the Assembly summoned for the purpose in accordance with the provisions of the Constitution.

(3) The person appointed under clause (2) or, as the case may be, invited under clause (2A) shall, before entering upon the office, make before the President oath in the form set out in the Third Schedule and shall within a period of sixty days thereof obtain a vote of confidence from the National Assembly.

(4) The Cabinet, together with the Minister of State, shall be exclusively responsible to the National Assembly.

(5) The Prime Minister shall hold office during the pleasure of the President, but the President shall not exercise his powers under this clause unless he is satisfied that the Prime Minister does not command the confidence of the majority of the members of the National Assembly, in which case he shall summon the National Assembly and require the Prime Minister to obtain a vote of confidence from the Assembly.

(6) The Prime Minister may, by writing under his hand addressed to the President, resign his office.

(7) A minister who for any period of six consecutive months is not a member of the National Assembly shall, at the expiration of that period, cease to be a Minister and shall before the dissolution of that Assembly be again appointed a Minister unless he is elected a member of that Assembly

Provided that nothing contained in this clause shall apply to a Minister who is a member of the Senate.

(8) [Omitted]

**105. Governor to act on advice etc.-** (1) Subject to Constitution, in the performance of his functions, the Governor shall act in accordance with the advice of the Cabinet or the Chief Minister:

Provided that the Governor may require the Cabinet or, as the case may be, the Chief Minister to reconsider such advice, whether generally or otherwise, and the Governor shall act in accordance with the advice tendered after such reconsideration:

(2) The question whether any, and if so what, advice was tendered to the Governor by the Chief Minister or the Cabinet, shall not be required into in, or by, any court, tribunal or other authority.

(3) If the Provincial Assembly is dissolved, the Governor shall appoint, in his discretion but with the previous approval of the President, a neutral care-taker Cabinet.

**Explanation.-** In this clause "neutral care-taker Cabinet" means the Cabinet consisting of the Chief Minister and a Minister who:

- (i) is not a member of any political party;
- (ii) has not been an office bearer of a political party any time during one hundred and eighty days prior to the appointment; and
- (iii) or whose spouse, sibling, ascendant or descendant is not a candidate in the election being held during the tenure of the care-taker Government.

(4) The powers conferred by this Article on the President shall be exercised by him in his discretion.

(5) The Provisions of clause 2 of Article 48 shall have effect in relation to a Governor as if reference therein to “President” were reference to “Governor”.

**130. The Cabinet.**— (1) There shall be a Cabinet of Ministers, with the Chief Minister as its head, to aid and advise the Governor in the exercise of his functions.

(2) The Governor shall appoint from amongst the members of the Provincial Assembly a Chief Minister who, in his opinion, is likely to command the confidence of the majority of the members of the provincial assembly.

(2A) Notwithstanding anything contained in clause (2), after the twentieth day of march, one thousand nine hundred and eighty-eight, the Governor shall invite the member of the Provincial Assembly to be the Chief Minister who commands the confidence of the majority of the members of the Provincial Assembly, as ascertained in a session of the Assembly summoned for the purpose in accordance with the provisions of the Constitution.

(3) The person appointed under clause (2) or, as the case may be, invited under clause (2A) shall, before entering upon the office, make before the Governor oath in the form set out in the Third Schedule and shall within a period of sixty days thereof obtain a vote of confidence from the Provincial Assembly.

(4) The Cabinet shall be collectively responsible to the Provincial Assembly.

(5) The Chief Minister shall hold office during the pleasure of the Governor, but the Governor shall not exercise his powers under this clause unless he is satisfied that the Chief Minister does not command the confidence of the majority of the members of the Provincial Assembly, in which case he shall summon the Provincial Assembly and require the Chief Minister to obtain a vote of confidence from the Assembly.

(6) The Chief Minister may, by writing under his hand addressed to the Governor, resign his office.

(7) A Minister who for any period of six consecutive months is not a member of the Provincial Assembly shall, at the expiration of that period, cease to be a Minister, and shall not before the dissolution of that Assembly be again appointed a Minister unless he is elected a member of the that Assembly.

(8) Nothing contained in this Article shall be construed as disqualifying the Chief Minister or any other Minister for continuing in office during any period during which the provincial assembly stands dissolved, or as preventing the appointment of any person as Chief Minister or other Minister during any such period.

**220. Executive Authorities to assist Commission, etc.**— It shall be the duty of all executive authorities in the Federation and in the Provinces to assist the Commissioner and the Election Commission in the discharge of his or their functions.

(4) The powers conferred by this Article on the President shall be exercised by him in his discretion.

(5) The Provisions of clause 2 of Article 48 shall have effect in relation to a Governor as if reference therein to “President” were reference to “Governor”.

**130. The Cabinet.**— (1) There shall be a Cabinet of Ministers, with the Chief Minister as its head, to aid and advise the Governor in the exercise of his functions.

(2) The Governor shall appoint from amongst the members of the Provincial Assembly a Chief Minister who, in his opinion, is likely to command the confidence of the majority of the members of the provincial assembly.

(2A) Notwithstanding anything contained in clause (2), after the twentieth day of march, one thousand nine hundred and eighty-eight, the Governor shall invite the member of the Provincial Assembly to be the Chief Minister who commands the confidence of the majority of the members of the Provincial Assembly, as ascertained in a session of the Assembly summoned for the purpose in accordance with the provisions of the Constitution.

(3) The person appointed under clause (2) or, as the case may be, invited under clause (2A) shall, before entering upon the office, make before the Governor oath in the form set out in the Third Schedule and shall within a period of sixty days thereof obtain a vote of confidence from the Provincial Assembly.

(4) The Cabinet shall be collectively responsible to the Provincial Assembly.

(5) The Chief Minister shall hold office during the pleasure of the Governor, but the Governor shall not exercise his powers under this clause unless he is satisfied that the Chief Minister does not command the confidence of the majority of the members of the Provincial Assembly, in which case he shall summon the Provincial Assembly and require the Chief Minister to obtain a vote of confidence from the Assembly.

(6) The Chief Minister may, by writing under his hand addressed to the Governor, resign his office.

(7) A Minister who for any period of six consecutive months is not a member of the Provincial Assembly shall, at the expiration of that period, cease to be a Minister, and shall not before the dissolution of that Assembly be again appointed a Minister unless he is elected a member of the that Assembly.

(8) (Omitted).”

**220. Executive authorities to assist Commission, etc.**— (1) It shall be the duty of all executive authorities in the Federation and in the Provinces to assist the Commissioner and the Election Commission in the discharge of his or their functions.

(2) After the appointment of a date for holding general election for the National Assembly or a Provincial Assembly, or a general seat of an Assembly and till the holding of the election, the Commission may, for reasons to be recorded in writing, direct the Federal Government, a Provincial Government or an entity of any of the Governments to:

(a) place an officer of the Government or entity under suspension for interfering with holding of a free and fair election; and

**224. Time of Election and bye-election.** – (1) A general election to the National Assembly or a Provincial Assembly shall be held within a period of sixty days immediately following the day on which the term of the Assembly is due to expire, unless the Assembly has been sooner dissolved, and the results of the election shall be declared not later than fourteen days before that day.

Provided that on dissolution of an Assembly on completion of term, the President, in his discretion, or, as the case may be, the Governor, in his discretion but with the previous approval of the President, shall appoint a care-taker Cabinet.

(2) When the National Assembly or a Provincial Assembly is dissolved, a general election to the Assembly shall be held within a period of ninety days after the dissolution, and the results of the election shall be declared not later than fourteen days after the conclusion of the polls.

(3) An election to fill the seats in the Senate which are to become vacant on the expiration of the term of the members of the Senate shall be held not earlier than thirty days immediately preceding the day on which the vacancies are due to occur.

(4) When, except by dissolution of the National Assembly or a Provincial Assembly, a general seat in any such assembly has become vacant not later than one hundred and twenty days before the term of that Assembly is due to expire, an election to fill the seat shall be held within sixty days from the occurrence of the vacancy.

(5) When a seat in the Senate has become vacant, an election to fill the seat shall be held within thirty days from the occurrence of the vacancy.

(6) When a seat reserved for women or non-Muslim in the National Assembly or a Provincial Assembly falls vacant, for death, resignation or disqualification of a member, it shall be filled by the next person in order of precedence from the party list of the candidate submitted to the Election Commission for the last general election by the political party whose member has vacated such seat.

(7) When a care-taker Cabinet is appointed, on dissolution of the National Assembly under Article 58 or a Provincial Assembly under Article 112, or on dissolution of any such Assembly on completion of its term, the Prime Minister or, as the case may be, the Chief Minister of the care-taker Cabinet shall not be eligible to contest the immediately following election of such assembly.

(b) not to fill a post or transfer an officer without concurrence of the Commission.

**224. Time of Election and bye-election.** – (1) A general election to the National Assembly or a Provincial Assembly shall be held within a period of sixty days immediately following the day on which the term of the Assembly is due to expire, unless the assembly has been sooner dissolved, and the results of the election shall be declared not later than fourteen days before that day.

[Proviso omitted]

(2) When the National Assembly or a Provincial Assembly is dissolved, a general election to the Assembly shall be held within a period of ninety days after the dissolution, and the results of the election shall be declared not later than fourteen days after the conclusion of the polls.

(3) An election to fill the seats in the Senate which are to become vacant on the expiration of the term of the members of the Senate shall be held not earlier than thirty days immediately preceding the day on which the vacancies are due to occur.

(4) When, except by dissolution of the National Assembly or a Provincial Assembly, a general seat in any such assembly has become vacant not later than one hundred and twenty days before the term of that Assembly is due to expire, an election to fill the seat shall be held within sixty days from the occurrence of the vacancy.

(5) When a seat in the Senate has become vacant, an election to fill the seat shall be held within thirty days from the occurrence of the vacancy.

(6) When a seat reserved for women or non-Muslim in the National Assembly or a Provincial Assembly falls vacant, for death, resignation or disqualification of a member, it shall be filled by the next person in order of precedence from the party list of the candidate submitted to the Election Commission for the last general election by the political party whose member has vacated such seat.

(7) Immediately after the dissolution of the National Assembly or a Provincial Assembly, the President or the Governor shall appoint a neutral care-taker Cabinet in accordance with Article 48 or Article 105.

## **Theme 2: Increase transparency and accountability among political parties and candidates**

### **Priority 2.1**

*Ensure that all asset disclosure statements are made available electronically upon submission.*

<b>Existing Provisions:</b>	<b>Proposed Amendments:</b>
<p><b>(ROPA 1976)</b></p> <p><b>12. Nomination for election.</b>– (1) Any elector of a constituency may propose or second the name of any duly qualified person to be a member for that constituency.</p> <p>(2) Every nomination shall be made by a separate nomination paper in the prescribed form which shall be signed both by the proposer and the seconder and shall, on solemn affirmation made and signed by the candidate, accompany-</p> <ul style="list-style-type: none"><li>(a) a declaration that he has consented to the nomination and that he fulfills the qualification specified in Article 62 and is not subject to any of the disqualifications specified in Article 63 or any other law for time being in force for being elected as member;</li><li>(b) Omitted.</li><li>(c) a declaration that no loan for an amount of two million or more, obtained from any bank, financial institution, cooperative society or corporate body in his own name or in the name of his spouse or any of his dependants, or any business concern mainly owned by him or the aforesaid, stands unpaid for more than one year from the due date, or has got such loan written off;</li><li>(d) a declaration that he, his spouse or any of his dependants or a business concern mainly owned by him or the aforesaid, is not in default in payment of government dues or utility charges, including telephone, electricity, gas and water charges of an amount in excess of ten thousand rupees, for over six months, at the time of filling of nomination papers;</li><li>(e) a statement specifying his educational qualifications, occupation, National Identity Card Number and National Tax Number, if any, along with attested copies thereof; and</li><li>(f) a statement of his assets and liabilities and those of his spouse and dependants on the prescribed form as on the preceding thirtieth day of June;</li></ul> <p>Explanation.- For the purpose of this section, the expression-</p> <ul style="list-style-type: none"><li>(i) “loan” shall mean any loan, advance, credit or finance obtained or written off on or after the 31<sup>st</sup> day of December, 1985, but shall not include the loan the recovery of which has been stayed or suspended by any order of a court of tribunal, including the High Court and the Supreme Court;</li><li>(ii) “mainly owned” shall mean holding or controlling a majority interest in a business concern;</li></ul>	<p><b>(ROPA 1976)</b></p> <p><b>12. Nomination for election.</b>– (1) Any elector of a constituency may propose or second the name of any duly qualified person to be a member for that constituency.</p> <p>(2) Every nomination shall be made by a separate nomination paper in the prescribed form which shall be signed both by the proposer and the seconder and shall, on solemn affirmation made and signed by the candidate, accompany-</p> <ul style="list-style-type: none"><li>(a) a declaration that he has consented to the nomination and that he fulfills the qualification specified in Article 62 and is not subject to any of the disqualifications specified in Article 63 or any other law for time being in force for being elected as member;</li><li>(b) Omitted.</li><li>(c) a declaration that no loan for an amount of two million or more, obtained from any bank, financial institution, cooperative society or corporate body in his own name or in the name of his spouse or any of his dependants, or any business concern mainly owned by him or the aforesaid, stands unpaid for more than one year from the due date, or has got such loan written off;</li><li>(d) a declaration that he, his spouse or any of his dependants or a business concern mainly owned by him or the aforesaid, is not in default in payment of government dues or utility charges, including telephone, electricity, gas and water charges of an amount in excess of ten thousand rupees, for over six months, at the time of filling of nomination papers;</li><li>(e) a statement specifying his educational qualifications, occupation, National Identity Card Number and National Tax Number, if any, along with attested copies thereof; and</li><li>(f) a statement of his assets and liabilities and those of his spouse and dependants on the prescribed form as on the preceding thirtieth day of June;</li></ul> <p>Explanation.- For the purpose of this section, the expression-</p> <ul style="list-style-type: none"><li>(i) “loan” shall mean any loan, advance, credit or finance obtained or written off on or after the 31<sup>st</sup> day of December, 1985, but shall not include the loan the recovery of which has been stayed or suspended by any order of a court of tribunal, including the High Court and the Supreme Court;</li><li>(ii) “mainly owned” shall mean holding or controlling a majority interest in a business concern;</li></ul>

(iii) “taxes” include all taxes levied by Federal Government, Provincial Government or a local government, but shall not include taxes the recovery of which has been stayed or suspended by any order of a court or tribunal;

(iv) “government dues and utility charges” shall, inter alia, include rent, charges of rest houses or lodges owned by Federal Government, Provincial Governments, local governments or corporations established or controlled by such governments, but shall not include the government dues and utilities charges the recovery of which has been stayed or suspended by any order of a court or tribunal.

(3) Every nomination paper shall be delivered to the Returning Officer by the candidate in person and the Returning Officer shall acknowledge receipt of the nomination paper specifying the date and time of the receipt.

(4) A person may be nominated in the same constituency by not more than five nomination papers.

(5) Omitted

(6) The Returning Officer shall assign a serial number to every nomination paper and endorse thereon the name of the person presenting it, and the date and time of the receipt, and inform such person of the time and place at which he shall hold scrutiny.

(7) The Returning Officer shall cause to be affixed at a conspicuous place in his office a notice of every nomination paper received by him containing the particulars of the candidate as sown in the nomination paper.

(8) The nomination form and accompanying declarations and statements shall be open to inspection by public, and copies thereof may be made available by the Commission in such manner and on payment of such fee as may be prescribed.

**42A. Yearly Submission of statements of assets and liabilities –**

(1) Every member shall, on a form prescribed under clause f of sub-section 2 of section 12, submit a statement of assets and liabilities of his own, his spouse and dependents annually to the Commission by the thirtieth of September each year.

(2) The statement of assets and liabilities submitted under sub-section (1) shall be published in the official Gazette and copies thereof may be obtained on payment of prescribed fee.

(3) The Commissioner shall, by the fifteenth day of October each year, notify the names of the members who fail to file statements of assets and liabilities within the period specified in sub-section (1) and by an order, direct that such members shall cease to function till such statement is submitted.

(4) Where a member submits the statement of assets and liabilities under sub-section (1) which is found to be false in material particulars, he may be proceeded against under section 82 for committing the offence of corrupt practice.

**50. Return of election expenses.–** (1) Every contesting candidate, other than the returned candidate, shall submit the return of his election expenses within thirty days of the publication of the name of the returned candidate.

(iii) “taxes” include all taxes levied by Federal Government, Provincial Government or a local government, but shall not include taxes the recovery of which has been stayed or suspended by any order of a court or tribunal;

(iv) “government dues and utility charges” shall, inter alia, include rent, charges of rest houses or lodges owned by Federal Government, Provincial Governments, local governments or corporations established or controlled by such governments, but shall not include the government dues and utilities charges the recovery of which has been stayed or suspended by any order of a court or tribunal.

(3) Every nomination paper shall be delivered to the Returning Officer by the candidate in person and the Returning Officer shall acknowledge receipt of the nomination paper specifying the date and time of the receipt.

(4) A person may be nominated in the same constituency by not more than five nomination papers.

(5) Omitted

(6) The Returning Officer shall assign a serial number to every nomination paper and endorse thereon the name of the person presenting it, and the date and time of the receipt, and inform such person of the time and place at which he shall hold scrutiny.

(7) The Returning Officer shall cause to be affixed at a conspicuous place in his office a notice of every nomination paper received by him containing the particulars of the candidate as sown in the nomination paper.

(8) The nomination form and accompanying declarations and statements shall be open to inspection by public, and copies thereof may be made available by the Commission in such manner and on payment of such fee as may be prescribed.

**(9) The Commission shall, on its website, publish the nomination forms, declarations, statements and other documents delivered to the Returning Officer by the candidates.”**

**42A. Yearly submission of statements of assets and liabilities.–**

(1) Every member shall, on a form prescribed under clause f of sub-section 2 of section 12, submit a statement of assets and liabilities of his own, his spouse and dependents annually to the Commission by the thirtieth of September each year.

**(2) The Commission shall, by notification in the official Gazette and on its website, publish the statements of assets and liabilities submitted by a member.**

(3) The Commissioner shall, by the fifteenth day of October each year, notify the names of the members who fail to file statements of assets and liabilities within the period specified in sub-section (1) and by an order, direct that such members shall cease to function till such statement is submitted.

(4) Where a member submits the statement of assets and liabilities under sub-section (1) which is found to be false in material particulars, he may be proceeded against under section 82 for committing the offence of corrupt practice.

**50. Return of election expenses.–** (1) Every contesting candidate, other than the returned candidate, shall submit the return of his election expenses within thirty days of the publication of the name of the returned candidate.

<p>(2) The return of election expenses of the returned candidate referred to in sub-section (3A) of section 42 and of every contesting candidate referred to in sub-section (1) shall be submitted to the Returning Officer in the prescribed form containing-</p> <ul style="list-style-type: none"> <li>(a) statement of all payments made by him together with all bills and receipts;</li> <li>(b) a statement of all disputed claims;</li> <li>(c) a statement of all unpaid claims, if any; and</li> <li>(d) a statement of all moneys, securities or equivalent of money received from, or spent, by any person for the benefit of the candidate, specifying the name of every such person.</li> </ul> <p>(3) The return submitted under sub-section (2) shall be accompanied by an affidavit of the candidate in the prescribed form.</p>	<p>(2) The contesting candidates and returned candidate shall submit return of election expenses, in duplicate, to the Returning Officer in the prescribed form containing:</p> <ul style="list-style-type: none"> <li>(a) statement of all payments made by him together with all bills and receipts;</li> <li>(b) a statement of all disputed claims;</li> <li>(c) a statement of all unpaid claims, if any; and</li> <li>(d) a statement of all moneys, securities or equivalent of money received from, or spent, by any person for the benefit of the candidate, specifying the name of every such person.</li> </ul> <p>(3) The return submitted under sub-section (2) shall be accompanied by an affidavit of the candidate in the prescribed form.</p> <p>(4) The Returning Officer shall submit the counter originals of the returns of election expenses submitted by the returned and other contesting candidates to the Commission.</p> <p>(5) The Commission shall publish the returns of election expenses on the website of the Commission.”</p>
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**Priority 2.2**

*Continue to prepare and publish a Code of Conduct in advance of each campaign period, but also establish it within the electoral regulations.*

<p><b>Existing Provisions:</b></p> <p><i>(ROPA 1976)</i></p> <p><b>(No such provision exists in the ROPA 1976)</b></p>	<p><b>Proposed Amendments:</b></p> <p><i>(ROPA 1976)</i></p> <p><b>104-A. Code of conduct for elections.</b>– (1) Immediately after the appointment of a date for election, the Commission shall, in consultation with the political parties, issue the code of conduct for the political parties and contesting candidates.</p> <p>(2) The Commission shall publish the code of conduct in official Gazette and on its website.</p> <p>(3) The Commission shall constitute a complaints resolution committee for a constituency or a group of constituencies to receive and resolve complaint of any violation of the code of conduct by a political party or a contesting candidate.</p> <p>(4) If a political party or a contesting candidate fails to comply with any direction issued by the complaints resolution committee, the committee may refer the case to the Commission.</p> <p>(5) If the Commission, after affording an opportunity of hearing to a political party or a contesting candidate, is satisfied that the political party or contesting candidate has violated the code of conduct, it may take such action against the political party or contesting candidate as it deems appropriate.</p>
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**(6) In this section:**

- (a) “complaints resolution committee” means a committee constituted by the Commission to perform functions under the section and consisting of at least three persons who are not members of any political party; and
- (b) “political party” means a political party which has complied with the provisions of Articles 12 and 13 of the Political Parties Order 2002 (Order No. 18 of 2002).”

**Priority 2.3**

*Direct that information on candidates be made available to the public in advance of electoral processes.*

**Existing Provisions:**

**(ROPA 1976)**

**12. Nomination for election.-** (1) Any elector of a constituency may propose or second the name of any duly qualified person to be a member for that constituency.

(2) Every nomination shall be made by a separate nomination paper in the prescribed form which shall be signed both by the proposer and the seconder and shall, on solemn affirmation made and signed by the candidate, accompany-

- (a) a declaration that he has consented to the nomination and that he fulfills the qualification specified in Article 62 and is not subject to any of the disqualifications specified in Article 63 or any other law for time being in force for being elected as member;
- (b) Omitted.
- (c) a declaration that no loan for an amount of two million or more, obtained from any bank, financial institution, cooperative society or corporate body in his own name or in the name of his spouse or any of his dependants, or any business concern mainly owned by him or the aforesaid, stands unpaid for more than one year from the due date, or has got such loan written off;
- (d) a declaration that he, his spouse or any of his dependants or a business concern mainly owned by him or the aforesaid, is not in default in payment of government dues or utility charges, including telephone, electricity, gas and water charges of an amount in excess of ten thousand rupees, for over six months, at the time of filling of nomination papers;
- (e) a statement specifying his educational qualifications, occupation, National Identity Card Number and National Tax Number, if any, along with attested copies thereof; and
- (f) a statement of his assets and liabilities and those of his spouse and dependants on the prescribed form as on the preceding thirtieth day of June;

**Proposed Amendments:**

**(ROPA 1976)**

**12. Nomination for election.-** (1) Any elector of a constituency may propose or second the name of any duly qualified person to be a member for that constituency.

(2) Every nomination shall be made by a separate nomination paper in the prescribed form which shall be signed both by the proposer and the seconder and shall, on solemn affirmation made and signed by the candidate, accompany-

- (a) a declaration that he has consented to the nomination and that he fulfills the qualification specified in Article 62 and is not subject to any of the disqualifications specified in Article 63 or any other law for time being in force for being elected as member;
- (b) a statement containing detail of convictions of the candidate in which he has been sentenced to imprisonment or fine of more than fifty thousand rupees or both;
- (c) a statement containing detail of each case in which the candidate was acquitted or discharged from criminal liability on the basis of a compromise, plea bargain or composition including the amount or property transferred for affecting the compromise, plea bargain or composition of the offence;
- (d) a declaration that he, his spouse or any of his dependants or a business concern mainly owned by him or the aforesaid, is not in default in payment of government dues or utility charges, including telephone, electricity, gas and water charges of an amount in excess of ten thousand rupees, for over six months, at the time of filling of nomination papers;
- (e) a statement specifying his educational qualifications, occupation, National Identity Card Number and National Tax Number, if any, along with attested copies thereof; and
- (f) a statement of his assets and liabilities and those of his spouse and dependants on the prescribed form as on the preceding thirtieth day of June;

Explanation.- For the purpose of this section, the expression-

- (i) "loan" shall mean any loan, advance, credit or finance obtained or written off on or after the 31<sup>st</sup> day of December, 1985, but shall not include the loan the recovery of which has been stayed or suspended by any order of a court of tribunal, including the High Court and the Supreme Court;
- (ii) "mainly owned" shall mean holding or controlling a majority interest in a business concern;
- (iii) "taxes" include all taxes levied by Federal Government, Provincial Government or a local government, but shall not include taxes the recovery of which has been stayed or suspended by any order of a court or tribunal;
- (iv) "government dues and utility charges" shall, inter alia, include rent, charges of rest houses or lodges owned by Federal Government, Provincial Governments, local governments or corporations established or controlled by such governments, but shall not include the government dues and utilities charges the recovery of which has been stayed or suspended by any order of a court or tribunal.

(3) Every nomination paper shall be delivered to the Returning Officer by the candidate in person and the Returning Officer shall acknowledge receipt of the nomination paper specifying the date and time of the receipt.

(4) A person may be nominated in the same constituency by not more than five nomination papers.

(5) Omitted

(6) The Returning Officer shall assign a serial number to every nomination paper and endorse thereon the name of the person presenting it, and the date and time of the receipt, and inform such person of the time and place at which he shall hold scrutiny.

(7) The Returning Officer shall cause to be affixed at a conspicuous place in his office a notice of every nomination paper received by him containing the particulars of the candidate as sown in the nomination paper.

(8) The nomination form and accompanying declarations and statements shall be open to inspection by public, and copies thereof may be made available by the Commission in such manner and on payment of such fee as may be prescribed.

Explanation.- For the purpose of this section, the expression-

- (i) "loan" shall mean any loan, advance, credit or finance obtained or written off on or after the 31<sup>st</sup> day of December, 1985, but shall not include the loan the recovery of which has been stayed or suspended by any order of a court of tribunal, including the High Court and the Supreme Court;
- (ii) "mainly owned" shall mean holding or controlling a majority interest in a business concern;
- (iii) "taxes" include all taxes levied by Federal Government, Provincial Government or a local government, but shall not include taxes the recovery of which has been stayed or suspended by any order of a court or tribunal;
- (iv) "government dues and utility charges" shall, inter alia, include rent, charges of rest houses or lodges owned by Federal Government, Provincial Governments, local governments or corporations established or controlled by such governments, but shall not include the government dues and utilities charges the recovery of which has been stayed or suspended by any order of a court or tribunal.

(3) Every nomination paper shall be delivered to the Returning Officer by the candidate in person and the Returning Officer shall acknowledge receipt of the nomination paper specifying the date and time of the receipt.

(4) A person may be nominated in the same constituency by not more than five nomination papers.

(5) Omitted

(6) The Returning Officer shall assign a serial number to every nomination paper and endorse thereon the name of the person presenting it, and the date and time of the receipt, and inform such person of the time and place at which he shall hold scrutiny.

(7) The Returning Officer shall cause to be affixed at a conspicuous place in his office a notice of every nomination paper received by him containing the particulars of the candidate as sown in the nomination paper.

(8) The nomination form and accompanying declarations and statements shall be open to inspection by public, and copies thereof may be made available by the Commission in such manner and on payment of such fee as may be prescribed.

(9) Before the publication of the list of validly nominated candidates by the Returning Officer, the Commission shall, on its website, publish the nomination forms, declarations, statements and other documents delivered to the Returning Officer by the candidates.

(10) The Commission shall publish the nomination forms, declarations, and statements of the candidates in the official Gazette.

### **Theme 3: Regularize access for election observers**

#### **Priority 3.1**

*Provide legal recognition and mandate for domestic and international election observers to evaluate electoral processes.*

#### **Priority 3.2**

*Establish the process by which domestic and international election observers will be registered and accredited.*

#### **Priority 3.3**

*Determine the activities that election observers may or may not conduct during pre-election, election, and post-election periods.*

<b>Existing Provisions:</b>	<b>Proposed Amendments:</b>
<p>There is no provision in law, which provides for legal recognition to election observers.</p>	<p><b>(ROPA 1976)</b></p> <p style="text-align: center;"><b>“CHAPTER V-B ELECTION OBSERVERS</b></p> <p><b>47-B. Election observers.</b>– Independent and neutral observation of elections by domestic and international election observers is an effective mechanism of accountability and transparency in the conduct of election and other processes of election.</p> <p><b>47-C. Domestic observers.</b>– (1) The Commission may, on application of a not for profit association, register the association as domestic election observer.</p> <p>(2) The Commission shall not register an association as domestic election observer if:</p> <ul style="list-style-type: none"> <li>(a) the association is profit making entity;</li> <li>(b) the association fails to provide a detailed list of its members;</li> <li>(c) a member of the association is a member of a political party;</li> <li>(d) a member of the association is a previous convict under any election related offence or an offence involving moral turpitude;</li> <li>(e) a member of the association is not a citizen of Pakistan; or</li> <li>(f) the association fails to submit an undertaking of each of its members that the member of the association shall abide by the provisions of the election laws, code of conduct for election observers and shall not interfere or disrupt any election process.</li> </ul> <p>(3) A domestic election observer shall provide details of any change in its membership along with all the requisite details about a new member and undertaking of the member under subsection (2).</p>

(4) The Commission may, following warning to rectify a violation within 15 days, cancel registration of a domestic election observer if it is disqualified to be registered as domestic election observer or any of its members violate any provision of the undertaking.

(5) The Commission may, at any stage, review its decision made under this section, if it deems appropriate.

(6) Any person, aggrieved by an order of the Commission under subsection (5), may, within thirty days of the order, prefer an appeal against such order in the Supreme Court of Pakistan.

**47-D. International observers.**– (1) Before any general or bye-election, the Commission may invite an international association to observe the conduct of election and other related election processes as an international election observer.

(2) The Commission shall not invite an international association as international election observer if:

- (a) the association is not an internationally accepted election observation organization;
- (b) the association fails to provide a detailed list of its members who shall observe the election on behalf of the association (hereinafter mentioned as a member of association or international election observer);
- (c) a member of the association is a member of a political party of Pakistan;
- (d) the Federal Government, for reasons recorded in writing, requests the Commission not to invite the international association;
- (e) a member of the association is a previous convict under any election related offence or an offence involving moral turpitude; and
- (f) the association fails to submit an undertaking of each of its members that the member of the association shall abide by the provisions of the election laws of Pakistan, code of conduct for election observers and shall not interfere or disrupt any election process.

(3) The Commission may cancel an invitation to an international election observer if it is disqualified to be invited or any of its members violate any provision of the undertaking.

(4) Any person, aggrieved by an order of the Commission under this section, may, within thirty days, prefer an appeal against such order to the Federal Government whose decision thereon shall be final.

**47-E. Rights of election observers.**– (1) Notwithstanding anything contained in this Act or any other law, a member of domestic or international election observer may observe conduct of election or any election process including right to attend meeting, except a meeting declared as confidential, of the Commission or its officials relating to election, access to polling stations, counting of votes, tabulation and consolidation of results, process of declaration of polling stations and preparation of voter lists.

(2) A domestic or international election observer may submit its report to the Commission containing identification and explanation of a problem and preferred solution of the problem relating to any election process.

(3) A member of a domestic or international observer association may obtain copies of electoral rolls, notification of polling stations, statement of the count, ballot paper account, consolidated statement, return of election or any other document on payment of the prescribed fee.

**47-F. Code of conduct and identification.**– (1) The Commission shall, in consultation with domestic and international election observers, issue a code of conduct for the members of these observers regulating their conduct while observing an election or any process of an election.

(2) The Commission shall issue identification cards to the members of domestic and international election observers and the members shall prominently display such cards while performing their functions as election observers.

## **Theme 4: Reform rules for representation**

### **Priority 4.1**

*Establish that candidates for office must be registered voters in the constituency in which they seek election and specify that candidates must not be allowed to seek election in more than one constituency.*

<b>Existing Provisions:</b>	<b>Proposed Amendments:</b>
<p><i>(Constitution)</i></p> <p><b>62. Qualifications for membership of Majlis-e-Shoora (Parliament).</b>— A person shall not be qualified to be elected or chosen as a member of Majlis-e-Shoora (Parliament) unless-</p> <ul style="list-style-type: none"><li>(a) he is a citizen of Pakistan;</li><li>(b) he is, in case of National Assembly, not less than twenty-five years of age and is enrolled as a voter in any electoral roll in-<ul style="list-style-type: none"><li>(i) any part of Pakistan, for elections to general seat or a seat reserved for non-Muslims</li><li>(ii) any area in a province from which he seeks membership for election to a seat reserved for women.</li></ul></li><li>(c) he is, in the case of Senate, not less than thirty years of age and is enrolled as a voter in any area in a Province or, as the case may be, the Federal Capital or the Federally Administered Tribal Areas, from where he seeks membership;</li><li>(d) he is of good character and is not commonly known as one who violates Islamic Injunctions;</li><li>(e) he has adequate knowledge of Islamic teachings and practices obligatory duties prescribed by Islam as well as abstains from major sins;</li><li>(f) he is sagacious, righteous and non-profligate and honest and amen;</li><li>(g) he has not been convicted for a crime involving moral turpitude or for giving false evidence;</li><li>(h) he has not, after the establishment of Pakistan, worked against the integrity of the Country or opposed the ideology of Pakistan:<p style="text-align: center;">Provided that the disqualifications specified in Paragraph (d) and (e) shall not apply to a person who is a non-Muslim, but such a person shall have good moral turpitude; and</p></li><li>(i) he possesses such other qualifications as may be prescribed by Act of Majlis-e-Shoora (Parliament).</li></ul>	<p><i>(Constitution)</i></p> <p><b>62. Qualifications for membership of Majlis-e-Shoora (Parliament).</b>— A person shall not be qualified to be elected or chosen as a member of Majlis-e-Shoora (Parliament) unless-</p> <ul style="list-style-type: none"><li>(a) he is a citizen of Pakistan;</li><li>(b) he is, in case of National Assembly, not less than twenty-five years of age and is enrolled as a voter in any electoral roll in-<ul style="list-style-type: none"><li>(i) an area of the constituency from which he is candidate for election to a general seat;</li><li>(ii) any part of Pakistan for election to a seat reserved for a non-Muslim; and</li><li>(iii) any area in a Province from which she seeks membership for election to a seat reserved for women;</li></ul></li><li>(c) he is, in the case of Senate, not less than thirty years of age and is enrolled as a voter in any area in a Province or, as the case may be, the Federal Capital or the Federally Administered Tribal Areas, from where he seeks membership;</li><li>(d) he is of good character and is not commonly known as one who violates Islamic Injunctions;</li><li>(e) he has adequate knowledge of Islamic teachings and practices obligatory duties prescribed by Islam as well as abstains from major sins;</li><li>(f) he is sagacious, righteous and non-profligate and honest and amen;</li><li>(g) he has not been convicted for a crime involving moral turpitude or for giving false evidence;</li><li>(h) he has not, after the establishment of Pakistan, worked against the integrity of the Country or opposed the ideology of Pakistan:<p style="text-align: center;">Provided that the disqualifications specified in Paragraph (d) and (e) shall not apply to a person who is a non-Muslim, but such a person shall have good moral turpitude; and</p></li><li>(i) he possesses such other qualifications as may be prescribed by Act of Majlis-e-Shoora (Parliament).</li></ul>

**223. Bar against double membership.**– (1) No person shall, at the same time, be a member of –

- (a) both houses; or
- (b) a House and a provincial assembly; or
- (c) the assemblies of two or more provinces; or
- (d) a House or a Provincial Assembly in respect of more than one seat.

(2) Nothing in clause (1) shall prevent a person from being a candidate for two or more seats at the same time, whether in the same body or in different bodies, but if he is elected to more than one seat he shall, within a period of thirty days after the declaration of result for the last such seat, resign all but one of his seats, and if he does not so resign, all the seats to which he has been elected shall become vacant at the expiration of the said period of thirty days except the seat to which he has been elected last or, if he has been elected to more than one seat on the same day, the seat for election to which his nomination was filed last.

Explanation.- In this Clause, “body” means either House or a Provincial Assembly.

(3) A person to whom clause (2) applies shall not take a seat in either House or the Provincial Assembly to which he has been elected until he has resigned all but none of his seats.

(4) Subject to clause (2) if a member of either House or of a Provincial Assembly becomes a candidate for a second seat which, in accordance with clause (1), he may not hold concurrently with his first seat, then his first seat shall become vacant as soon as he is elected to the second seat.

*(ROPA 1976)*

**99. Qualifications and Disqualifications.**– (1) A person shall not be qualified to be elected or chosen as a member of an Assembly unless-

- (a) he is a citizen of Pakistan;
- (b) he is in the case of National Assembly, not less than twenty-five years of age and is enrolled as voter in any electoral roll:
  - (i) in any part of Pakistan, for election to a general seat and minority seat; and
  - (ii) in a province, from where such person seeks membership for election to a seat reserved for women;
- (c) he is in case of provincial assembly, not less than twenty five years of age and is enrolled as a voter in any electoral roll as a voter in any areas in any area in a province from where he seeks membership for that Assembly;

**223. Bar against double membership.**– (1) A person shall not, in the same election, be elected or chosen as a member of:

- (a) both Houses;
- (b) a House and a Provincial Assembly;
- (c) a House and a Provincial Assembly in respect of more than one seat.

(2) Subject to the Constitution, a member of a House or Provincial Assembly may be a candidate for a seat of a House or Provincial Assembly and if he is elected, his earlier seat as member of a House or Provincial Assembly shall become vacant on the day when he take oath of the seat of a House or Provincial Assembly.

(3) In this Article “same election” means general election or bye election of a House or Provincial Assembly scheduled to be held within thirty days of each election.”

**(4) {Omitted}**

*(ROPA 1976)*

**99. Qualifications and Disqualifications.**– (1) A person shall not be qualified to be elected or chosen as a member of an Assembly unless-

- (a) he is a citizen of Pakistan;
- (b) he is, in the case of National Assembly, not less than twenty-five years of age and is enrolled as an elector in any electoral roll in:
  - (i) an area of the constituency from which he is candidate for election to a general seat;
  - (ii) any part of Pakistan for election to a seat reserved for a non-Muslim; and
  - (iii) an area in a Province from which she is a candidate to a seat reserved for women
- (c) he is in case of provincial assembly, not less than twenty five years of age and is enrolled as an elector in any electoral roll in an area of the
  - (i) constituency from which he is candidate for election to a general seat; and
  - (ii) Province if he is candidate for election to a seat reserved for women or non-Muslim;

(cc) he is at least a graduate, possesses a bachelor's degree in any discipline or any degree recognized as equivalent thereto by the University Grants Commission under the University Grants Commission Act, 1974 (XXIII of 1974), or any other law for the time being in force;

(d) he is of good character and is not commonly known as one who violates Islamic Injunctions;

(e) he has adequate knowledge of Islamic teachings and practices obligatory duties prescribed by Islam as well as abstains from major sins;

(f) he is sagacious, righteous, and non-profligate and honest and amen;

(g) he has not been convicted for a crime involving moral turpitude or for giving false evidence; and

(h) he has not, after the establishment of Pakistan worked against the integrity of the country or opposed the ideology of Pakistan:

Provided that the disqualification specified in clauses (d) and (e) shall not apply to a person who is non-Muslim, but such a person shall have good moral turpitude.

(1A) A person shall be disqualified from being elected as, and from being, a member of an Assembly, if –

(a) he is of unsound mind and has been so declared by a competent court; or

(b) he is an undischarged insolvent; or

(c) he ceases to be a citizen of Pakistan, or acquires the citizenship of a foreign state; or

(d) he hold an office of profit in the service of Pakistan other than an office declared by law not to disqualify its holder; or

(e) he is in the service of any statutory body or any body which is owned or controlled by the Government or in which the Government has a controlling share or interest; or

(f) being a citizen of Pakistan by virtue of section 14B of the Pakistan Citizenship Act, 1951 (II of 1951), he is for the time being disqualified under any law in force in Azad Jammu and Kashmir from being elected as member of the Legislative Assembly of Azad Jammu and Kashmir; or

(g) he is propagating any opinion, or acting in any manner, prejudicial to the ideology of Pakistan, or the sovereignty, integrity or security of Pakistan, or morality, or the maintenance of public order, 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; or

(h) has been convicted by a court of competent jurisdiction on a charge of corrupt practice, moral turpitude or misuse of power or authority under any law for the time being in force; or

(cc) Omitted

(d) he is of good character and is not commonly known as one who violates Islamic Injunctions;

(e) he has adequate knowledge of Islamic teachings and practices obligatory duties prescribed by Islam as well as abstains from major sins;

(f) he is sagacious, righteous, and non-profligate and honest and amen;

(g) he has not been convicted for a crime involving moral turpitude or for giving false evidence; and

(h) he has not, after the establishment of Pakistan worked against the integrity of the country or opposed the ideology of Pakistan:

Provided that the disqualification specified in clauses (d) and (e) shall not apply to a person who is non-Muslim, but such a person shall have good moral turpitude.

(1A) A person shall be disqualified from being elected as, and from being, a member of an Assembly, if –

(a) he is of unsound mind and has been so declared by a competent court; or

(b) he is an undischarged insolvent; or

(c) he ceases to be a citizen of Pakistan, or acquires the citizenship of a foreign state; or

(d) he hold an office of profit in the service of Pakistan other than an office declared by law not to disqualify its holder; or

(e) he is in the service of any statutory body or any body which is owned or controlled by the Government or in which the Government has a controlling share or interest; or

(f) being a citizen of Pakistan by virtue of section 14B of the Pakistan Citizenship Act, 1951 (II of 1951), he is for the time being disqualified under any law in force in Azad Jammu and Kashmir from being elected as member of the Legislative Assembly of Azad Jammu and Kashmir; or

(g) he is propagating any opinion, or acting in any manner, prejudicial to the ideology of Pakistan, or the sovereignty, integrity or security of Pakistan, or morality, or the maintenance of public order, 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; or

(h) has been convicted by a court of competent jurisdiction on a charge of corrupt practice, moral turpitude or misuse of power or authority under any law for the time being in force; or

- (i) has been dismissed from the service of Pakistan or a service of a corporation or office controlled by the Federal Government, Provincial Government or a local government on grounds of misconduct or moral turpitude; or
- (j) has been removed or compulsorily retired from the service of Pakistan or office controlled by the Federal Government, Provincial Government or a local government on grounds of misconduct or moral turpitude; or
- (k) he has been in the service of Pakistan or of any statutory body or any body which is owned or controlled by the Government or in which the Government has the controlling share or interest, unless a period of two years has been elapsed since he ceased to be in such service; or
- (l) he is found guilty of a corrupt or illegal practice under any law for the time being in force, unless a period of five years has elapsed from the date on which that order takes effect; or
- (m) Omitted
- (n) he, whether by himself or by any person or body of persons in trust for him or for his benefit or on his account or as a member of a Hindu undivided family has any share or interest in a contract, not being a contract between a cooperative society and Government, for the supply of goods to, or for the execution of any contract or for the performance of any service undertaken by, Government:

Provided that the disqualification under this clause shall not apply to a person –

- (i) where the share or interest in contract devolves on him by inheritance or succession or as a legatee, executor or administrator, until the expiration of six months after it has so devolved on him;
- (ii) where the contract has been entered into by or on behalf of a public company as defined in Companies Ordinance, 1984 (XLVII of 1984), of which he is a shareholder but not a director holding an office of profit under the company; or
- (iii) where he is a member of a Hindu undivided family and the contract has been entered into by any other member of that family in course of carrying on a separate business in which he has no share or interest; or

*Explanation.-* In this Section “goods” does not include agricultural produce or commodity grown or produced by him or such goods as he is, under any directive of the Government or any law for the time being in force, under a duty or obligation to supply;

- (i) has been dismissed from the service of Pakistan or a service of a corporation or office controlled by the Federal Government, Provincial Government or a local government on grounds of misconduct or moral turpitude; or
- (j) has been removed or compulsorily retired from the service of Pakistan or office controlled by the Federal Government, Provincial Government or a local government on grounds of misconduct or moral turpitude; or
- (k) he has been in the service of Pakistan or of any statutory body or any body which is owned or controlled by the Government or in which the Government has the controlling share or interest, unless a period of two years has been elapsed since he ceased to be in such service; or
- (l) he is found guilty of a corrupt or illegal practice under any law for the time being in force, unless a period of five years has elapsed from the date on which that order takes effect; or
- (m) Omitted
- (n) he, whether by himself or by any person or body of persons in trust for him or for his benefit or on his account or as a member of a Hindu undivided family has any share or interest in a contract, not being a contract between a cooperative society and Government, for the supply of goods to, or for the execution of any contract or for the performance of any service undertaken by, Government:

Provided that the disqualification under this clause shall not apply to a person –

- (i) where the share or interest in contract devolves on him by inheritance or succession or as a legatee, executor or administrator, until the expiration of six months after it has so devolved on him;
- (ii) where the contract has been entered into by or on behalf of a public company as defined in Companies Ordinance, 1984 (XLVII of 1984), of which he is a shareholder but not a director holding an office of profit under the company; or
- (iii) where he is a member of a Hindu undivided family and the contract has been entered into by any other member of that family in course of carrying on a separate business in which he has no share or interest; or

*Explanation.-* In this Section “goods” does not include agricultural produce or commodity grown or produced by him or such goods as he is, under any directive of the Government or any law for the time being in force, under a duty or obligation to supply;

(o) he hold any office of profit in the service of Pakistan other than the following offices, namely:-

- (i) an office which is not whole time office enumerated either by salary or by fee;
- (ii) the office of Lumbardar, whether called by this or any other title;
- (iii) the Qaumi Razakars
- (iv) any office the holder whereof, by virtue of such office, is liable to be called up for military training or military service under any law providing for the constitution or raising of a force; or

(p) having, whether by himself or by any person in trust for him or for his benefit or on his account, any share or interest in a contract for-

- (i) the supply of goods to, or
- (ii) the execution of any work, or the performance of any service, undertaken by, the Government, or a local authority or an autonomous body in which the Government has a controlling share or interest, he does not, after his election as a member but within thirty days of his making oath as such make a declaration in writing to the Commission that he has such share or interest, unless a period of five years has elapsed since his failure to do so; or

(q) being a managing agent, manager or secretary of, or holding any other office carrying the right to remuneration in, any company or corporation (other than a cooperative society) in the capital of which the Government has not less than twenty-five percent share or which is managed by the Government, he does not, after his election as a member but within thirty days of his making oath as such, make a declaration in writing to the Commissioner that he is such managing agent, manager or secretary, or holds such office, unless a period of five years has elapsed since his failure to do so; or

(r) has been convicted and sentenced to imprisonment for having absconded by a competent court under any law for the time being in force; or

(s) has obtained a loan for an amount of two million rupees or more, from any bank, financial institution, cooperative society or cooperative body in his own name or in the name of his spouse or any of his dependents which remains unpaid for more than one year from the due date, or has had such loan written off; or

(o) he hold any office of profit in the service of Pakistan other than the following offices, namely:-

- (i) an office which is not whole time office enumerated either by salary or by fee;
- (ii) the office of Lumbardar, whether called by this or any other title;
- (iii) the Qaumi Razakars
- (iv) any office the holder whereof, by virtue of such office, is liable to be called up for military training or military service under any law providing for the constitution or raising of a force; or

(p) having, whether by himself or by any person in trust for him or for his benefit or on his account, any share or interest in a contract for-

- (i) the supply of goods to, or
- (ii) the execution of any work, or the performance of any service, undertaken by, the Government, or a local authority or an autonomous body in which the Government has a controlling share or interest, he does not, after his election as a member but within thirty days of his making oath as such make a declaration in writing to the Commission that he has such share or interest, unless a period of five years has elapsed since his failure to do so; or

(q) being a managing agent, manager or secretary of, or holding any other office carrying the right to remuneration in, any company or corporation (other than a cooperative society) in the capital of which the Government has not less than twenty-five percent share or which is managed by the Government, he does not, after his election as a member but within thirty days of his making oath as such, make a declaration in writing to the Commissioner that he is such managing agent, manager or secretary, or holds such office, unless a period of five years has elapsed since his failure to do so

(r) has been convicted and sentenced to imprisonment for having absconded by a competent court under any law for the time being in force; or

(s) has obtained a loan for an amount of two million rupees or more, from any bank, financial institution, cooperative society or cooperative body in his own name or in the name of his spouse or any of his dependents which remains unpaid for more than one year from the due date, or has had such loan written off; or

- (t) he or his spouse or any of his dependents is in default of payment of government dues or utility expenses, including telephone, electricity, gas and water charges of an amount in excess of ten thousand rupees, for over six months, at the time of filing of nomination papers of such person.

*Explanation 1.-* In this sub-section, service of Pakistan has the same meaning as in Article 260.

(2) Omitted.

*Conduct of General Election Order 2002 (Chief Executive Order No. 7 of 2002)*

- (t) he or his spouse or any of his dependents is in default of payment of government dues or utility expenses, including telephone, electricity, gas and water charges of an amount in excess of ten thousand rupees, for over six months, at the time of filing of nomination papers of such person.

*Explanation 1.-* In this sub-section, service of Pakistan has the same meaning as in Article 260.

(2) Omitted.

{Omitted}

## **Theme 5: Enhance quality and access to electoral rolls**

### **Priority 5.1**

*Allow the Election Commission of Pakistan to engage outside organizations in preparing the electoral rolls.*

<b>Existing Provisions:</b>	<b>Proposed Amendments:</b>
<p><b>(Constitution)</b></p> <p><b>219. Duties of Commissioner.</b>– The Commissioner shall be charged with the duty of –</p> <ul style="list-style-type: none"><li>(a) preparing electoral rolls for election to the National Assembly and the Provincial Assemblies, and revising such rolls annually;</li><li>(b) organizing and conducting elections to the Senate or to fill casual vacancies in a House or a Provincial Assembly; and</li><li>(c) appointing Election Tribunals.</li></ul>	<p><b>(Constitution)</b></p> <p><b>219. Duties of Commissioner.</b>– <b>The Commissioner shall:</b></p> <ul style="list-style-type: none"><li>(a) prepare or cause to be prepared electoral rolls for election to the National Assembly and Provincial Assemblies, and revise or cause to be revised such rolls annually;</li><li>(b) organize and conduct election to the Senate or to fill a casual vacancy in a House or Provincial Assembly; and</li><li>(c) appoint an Election Tribunal.</li></ul>
<p><b>(Electoral Rolls Act 1974)</b></p> <p><b>6. Preparation of preliminary electoral rolls, etc.</b>– (1) Subject to the superintendence, directions and control of the Commissioner, the Registration Officer shall prepare the electoral rolls by including therein the name of every person entitled to be enrolled as voter in the electoral area under this Act.</p> <p>(2) A person shall be entitled to be enrolled as a voter in an electoral area if he-</p> <ul style="list-style-type: none"><li>(a) is a citizen of Pakistan;</li><li>(b) is not less than eighteen years of age on the first day of January in the year in which the preparation or revision of the electoral rolls commences under this Act;</li><li>(c) is not declared by a competent court to be of unsound mind; and</li><li>(d) is, or is deemed under section 7 to be, resident in the electoral area.</li></ul>	<p><b>(Electoral Rolls Act 1974)</b></p> <p><b>6. Preparation of electoral rolls.</b>– (1) The Commissioner shall prepare or cause to be prepared the electoral rolls for an electoral area with details of persons entitled to vote in the electoral area by:</p> <ul style="list-style-type: none"><li>(a) directing the Registration Officer to prepare such rolls within the specified time; or</li><li>(b) assigning whole or part of the function to an organization which has, in the opinion of the Commissioner, the capacity to undertake the function within the specified time.</li></ul> <p>(2) If the Commissioner assigns the function of preparation of the electoral rolls to an organization, the organization shall, subject to the general control of the Commissioner, be bound by the directions of the Registration Officer and Revising Authority.</p> <p>(3) A person shall be entitled to be enrolled as a voter in an electoral area if he-</p> <ul style="list-style-type: none"><li>(a) is a citizen of Pakistan;</li><li>(b) is not less than eighteen years of age on the first day of January in the year in which the preparation or revision of the electoral rolls commences under this Act;</li><li>(c) is not declared by a competent court to be of unsound mind; and</li><li>(d) is or is deemed under section 7 to be resident in the electoral area.</li></ul>

**Priority 5.2**

*Make CNICs a required form of identification for citizens registering to be included in the electoral rolls and requesting a ballot at polling stations.*

<b>Existing Provisions:</b>	<b>Proposed Amendments:</b>																																																																
<p><b>(Constitution)</b></p> <p><b>51. 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(4) For the Purpose of election to the National Assembly,-

- (a) the constituencies for the general seat shall be single member territorial constituencies and the members to fill such seats shall be elected by direct and free vote in accordance with law;
- (b) each province shall be a single constituency for all seats reserved for women which are allocated to the respective provinces under clause (1A)
- (c) the constituency for all seats reserved for non-Muslims shall be the whole country;
- (d) members to the seats reserved for women which are allocated to a province under clause (1A) shall be elected in accordance with law through proportional representation system of political parties lists of candidates on the basis of total numbers of general seats secured by each political party from the province concerned in the National Assembly:

Provided that for the purpose of this sub-clause the total number of general seats won by a political party shall include the independent returned candidate or candidates who may duly join such political party within three days of the publication in the official Gazette of the names of the returned candidates;

- (e) members to the seats reserved for non-Muslims shall be elected in accordance with law through proportional representation system of political parties lists of candidates on the basis of total number of general seats won by each political party in the National Assembly:

Provided that for the purpose of this sub-clause the total number of general seats won by a political party shall include the independent returned candidate or candidates who may duly join such political party within three days of the publication in the official Gazette of the names of the returned candidates.

**106. Constitution of Provincial Assemblies.**– (1) Each Provincial Assembly shall consist of general seats and seats reserved for women and non-Muslims as specified herein below:

	General Seats	Women	Non-Muslims	Total
Balochistan	51	11	3	65
The North-West Frontier Province	99	22	3	124
The Punjab	297	66	8	371
Sindh	130	29	9	168

(2) A person shall be entitled to vote if-

- (a) he is a citizen of Pakistan;
- (b) he is not less than eighteen years of age;
- (c) his name appears on the electoral roll of any area in the Province; and
- (d) he is not declared by a competent court to be of unsound mind

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Sindh	130	29	9	168

(2) A person shall be entitled to vote in an election for a general seat of a Provincial Assembly if:

- (a) he is a citizen of Pakistan;
- (b) he is not less than eighteen years of age;
- (c) his name appears on the electoral roll of the electoral area;
- (d) he is in immediate possession of the valid national identity card issued under the law for the time being in force;

(3) For the purpose of election to a Provincial Assembly,-

- (a) the constituencies for the general seats shall be single member territorial constituencies and the members to fill such seats shall be elected by direct and free vote;
- (b) each province shall be a single constituency for all seats reserved for women and non-Muslims allocated to the respective Provinces under clause (1)
- (c) the members to fill seats reserved for women and non-Muslims allocated to a Province under clause (1) shall be elected in accordance with law through proportional representation system of political parties lists of candidates on the basis of total number of general seats secured by each political party in the Provincial Assembly:

Provided that for the purposes of this sub-clause, the total number of general seats won by a political party shall include the independent returned candidate or candidates who may duly join such political party within three days of the publication in the official Gazette of the names of the returned candidates.

*(Electoral Rolls Act 1974)*

**6. Preparation of preliminary electoral rolls, etc.**— (1) Subject to the superintendence, directions and control of the Commissioner, the Registration Officer shall prepare the electoral rolls by including therein the name of every person entitled to be enrolled as voter in the electoral area under this Act.

(2) A person shall be entitled to be enrolled as a voter in an electoral area if he-

- (a) is a citizen of Pakistan;
- (b) is not less than eighteen years of age on the first day of January in the year in which the preparation or revision of the electoral rolls commences under this Act;
- (c) is not declared by a competent court to be of unsound mind; and
- (d) is, or is deemed under section 7 to be, resident in the electoral area.

*(ROPA 1976)*

**33. Voting Procedure.**— (1) Where an elector presents himself at the polling station to vote, the Presiding Officer shall issue a ballot paper to the elector after satisfying him about the identity of the elector and shall, for that purpose, require the elector to produce his identity card provided for in the National Registration Act, 1973 (LVI of 1973) or issued under the National Database and Registration Authority Ordinance, 2000 (VIII of 2000).

(2) Before a ballot paper is issued to an elector-

- (a) \*\*\*\*
- (b) the number and name of the elector as entered in the electoral roll shall be called out;

(e) he is not declared by a competent court to be of unsound mind.

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(2) A person shall be entitled to be enrolled as an elector in an electoral area if he is:

- (a) citizen of Pakistan;
- (b) not less than eighteen years of age on the first day of January in the year in which the electoral roll is prepared or revised;
- (c) resident in the electoral area under section 7;
- (d) holder of the valid national identity card issued under the National Database and Registration Authority Ordinance 2000 (VIII of 2000); and
- (e) not declared by a competent court to be of unsound mind.

*(ROPA 1976)*

**33. Voting procedure.**— (1) If an elector presents himself at the polling station to vote, the Presiding Officer shall issue a ballot paper to the elector after confirming the identity of the elector from the valid national identity card issued under the National Database and Registration Authority Ordinance 2000 (VIII of 2000).

(2) Before a ballot paper is issued to an elector-

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- (b) the number and name of the elector as entered in the electoral roll shall be called out;

<p>(c) the entry relating to the elector on the electoral roll shall be struck off to indicate that a ballot paper has been issued to him;</p> <p>(cc) he shall be required to receive a personal mark, made with indelible ink, on any finger of either hand as indicated by the Commission</p> <p>(d) the ballot paper shall be stamped on its back with the official mark and signed by the Presiding Officer; and</p> <p>(e) the Presiding Officer shall record on the counterfoil of the ballot paper the number of the elector on the electoral roll, the number of the National Identity Card of the elector, stamp it with official mark, sign it and obtain on it the thumb impression of the elector.</p> <p>(3) A ballot paper shall not be issued to a person who-</p> <p>(a) fails or refuses to produce his identity card provided for in the National Registration Act, 1973 or issued under the National Database and Registration Authority Ordinance, 2000.</p> <p>(b) [ ]</p> <p>(c) refuses to put his thumb impression on the counter foil or whose thumb bears traces of its having already been used for putting an impression; or</p> <p>(d) refuses to receive the personal mark with indelible ink or who already bears such a mark .</p> <p>(4) If a contesting candidate or his election agent or polling agent alleges that an elector to whom a ballot paper is about to be issued already has one or more ballot papers in his possession, the Presiding Officer may require the elector satisfy him that he does not have any other ballot paper in his possession and may also take such measures as he thinks fit to ensure that such elector does not insert more than one ballot paper in the box.</p> <p>(5) On receiving the ballot paper, the elector shall-</p> <p>(a) forthwith proceed to the place reserved for marking the ballot paper;</p> <p>(b) put the prescribed mark on the ballot paper at any place within the space containing the name and symbol of the contesting candidate for whom he wishes to vote; and</p> <p>(c) after he has so marked the ballot paper, fold and insert it in the ballot box.</p> <p>(6) The elector shall vote without undue delay and shall leave the polling station immediately after he has inserted his ballot paper in the ballot box.</p> <p>(7) Where an elector is blind or is otherwise so incapacitated that he cannot vote without the assistance of a companion, the Presiding Officer shall allow him such assistance and thereupon such elector may do with such assistance any thing which an elector is required or permitted to do under this Act.</p>	<p>(c) the entry relating to the elector on the electoral roll shall be struck off to indicate that a ballot paper has been issued to him;</p> <p>(cc) he shall be required to receive a personal mark, made with indelible ink, on any finger of either hand as indicated by the Commission</p> <p>(d) the ballot paper shall be stamped on its back with the official mark and signed by the Presiding Officer; 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**Priority 5.3**

*Improve on access to the electoral rolls by posting polling station-wise voters lists.*

Existing Provisions:	Proposed Amendments:
<p><i>(Electoral Rolls Act, 1974)</i></p> <p><b>2. Definitions.-</b> In this Act, unless there is anything repugnant in the subject or context.-</p> <p>(1) “Commissioner” means the Chief Election Commissioner appointed under the Constitution and includes-</p> <ul style="list-style-type: none"> <li>(i) the person continuing in the office of Chief Election Commissioner by virtue of Article 275 of the Constitution; and</li> <li>(ii) a Judge of the Supreme Court nominated under Article 217 of the Constitution to act as Chief Election Commissioner.</li> </ul> <p>(2) “electoral area” means-</p> <ul style="list-style-type: none"> <li>(a) in rural areas, a village or a census block; and</li> <li>(b) in urban areas,- <ul style="list-style-type: none"> <li>(i) where there is a municipal ward or census block, such ward or census block;</li> <li>(ii) where there is no municipal ward or a census block, a well-defined Mohallah or a street; and</li> <li>(iii) where the ward or census block, Mohallah or street is too big, a well defined part thereof; or</li> </ul> </li> <li>(c) such other areas as may be determined by the Commissioner;</li> </ul> <p>(3) “prescribed” means prescribed by rules made under this Act;</p> <p>(4) “Registration Officer” means a Registration Officer appointed under Section 5, and includes an Assistant Registration Officer performing the functions of a Registration Officer; and</p> <p>(5) “Revising Authority” means a person appointed under section 9 to hear and dispose of claims and objections and applications for corrections relating to the electoral rolls.</p> <p><b>8. Preliminary Publication.-</b> The preliminary electoral rolls prepared under section 6, together with a notice inviting claims and objections and applications for corrections, if any, with respect thereto, shall be published and displayed in such manner and form as may be prescribed.</p> <p><b>16. Final Publication.-</b> After making additions, deletions, modifications, or corrections, if any, under Section 15, the Registration Officer shall publish in the prescribed manner and form the final electoral roll for each electoral area.</p> <p><b>17. Annual Revision of electoral roll.-</b> An electoral roll shall be revised and corrected annually in the prescribed manner and form-</p>	<p><i>(Electoral Rolls Act, 1974)</i></p> <p><b>2. Definitions.-</b> <b>In this Act:</b></p> <p>(a) “Commissioner” means the Chief Election Commissioner appointed under the Constitution and includes-</p> <ul style="list-style-type: none"> <li>(i) the person continuing in the office of Chief Election Commissioner by virtue of Article 275 of the Constitution; and</li> <li>(ii) a Judge of the Supreme Court nominated under Article 217 of the Constitution to act as Chief Election Commissioner.</li> </ul> <p><b>(b) “Election Commission” mean the Election Commission of Pakistan;</b></p> <p>(c) “electoral area” means-</p> <ul style="list-style-type: none"> <li>(i) in rural areas, a village or a census block; and</li> <li>(ii) in urban areas,- <ul style="list-style-type: none"> <li>a. where there is a municipal ward or census block, such ward or census block;</li> <li>b. where there is no municipal ward or a census block, a well-defined Mohallah or a street; and</li> <li>c. where the ward or census block, Mohallah or street is too big, a well defined part thereof; or</li> </ul> </li> <li>(iii) such other areas as may be determined by the Commissioner;</li> </ul> <p>(d) “prescribed” means prescribed by rules made under this Act</p> <p>(e) “Registration Officer” means a Registration Officer appointed under Section 5, and includes an Assistant Registration Officer performing the functions of a Registration Officer; and</p> <p>(f) “Revising Authority” means a person appointed under section 9 to hear and dispose of claims and objections and applications for corrections relating to the electoral rolls.</p> <p><b>8. Preliminary publication.-</b> <b>The Registration Officer shall publish the preliminary electoral roll, prepared under section 6, at his office, if possible on the website of the Election Commission, and in such other manner to enhance public access, as the Commissioner may direct, inviting claims, objections and applications for correction till the specified date.</b></p> <p><b>16. Final publication.-</b> <b>After correction of the electoral roll under section 15, the Registration Officer shall publish the final electoral rolls at his office, on the website of the Election Commission and in such other manner to enhance public access, as the Commissioner may direct.”</b></p> <p><b>17. Annual revision of electoral roll.-</b> <b>(1) The Commissioner shall annually revise or cause to be revised an electoral roll for:</b></p>

- (a) so as to include the name of any qualified person whose name does not appear in such roll, or
- (b) so as to delete the name of any person who has died or who is or has become qualified for enrolment, or
- (c) for correction any entry or for supplying any omission in such roll:

Provided that, if, for any reason, the electoral roll for any electoral area is not revised, the validity or continued operation of the electoral roll shall not thereby be affected.

**21. Maintenance of electoral rolls.**— An electoral roll as revised and corrected shall be maintained in the prescribed manner and shall be kept open to public inspection; and copies of such roll shall be supplied to any person applying therefore, on payment of such fee as may be prescribed.

(a) including the name of a person who has become entitled to be enrolled as elector of the electoral area;

(b) omitting the name of a person who has died or disentitled to be enrolled as elector of the electoral area; or

(c) correcting any entry, error or omission in the electoral rolls.

(2) For the purpose of revision of an electoral roll, the Registration Officer or organization shall follow the procedure for preparation of electoral roll prescribed under the Act including publication of the revised final electoral rolls at the office of the Registration Officer, on the website of the Election Commission and in such other manner as the Commissioner may direct.

**21. Access to electoral rolls.**— (1) The Commissioner shall maintain the electoral roll prepared or revised under the Act in the book and electronic form in the office of the Registration Officer and on the website of the Election Commission.

(2) A person may obtain a copy of an electoral roll or a part of it from the:

(a) website of the Election Commission free of cost; or

(b) Registration Officer on payment of a prescribed fee.

## **Theme 6: Revise process for establishing polling sites**

### **Priority 6.1**

*Establish a process that includes public inputs, resulting in a list of polling station sites within each electoral constituency that remains valid for three years and is revised through a consultative process after each three-year period.*

Existing Provisions:	Proposed Amendments:
<p><b>(ROPA 1976)</b></p> <p><b>8. Polling Stations.</b>– (1) The Returning officer shall, before such time as the Commission may fix, submit to the District Returning Officer a list of polling stations he proposes to provide in a constituency for the purpose of election of a member for that Constituency.</p> <p>(2) Subject to the direction of the Commission, the District Returning Officer may make such alterations in the list of polling stations submitted under sub-section (1) as he deems necessary and shall, at least fifteen days before the polling day, publish in the official Gazette the final list of polling stations specifying the electoral area whereof will be entitled to vote at each polling station.</p> <p>(3) The Returning Officer shall establish in each constituency polling stations according to the final list published under sub-section (2).</p> <p>(4) A polling station shall be situated in a Government building for the constituency and, where no Government building is available for the purpose, an improvised polling station shall be set up on public property.</p> <p>Provided that no polling station shall be located in any premises which belong to, or are under the direct or indirect control of, any candidate.</p>	<p><b>(ROPA 1976)</b></p> <p><b>8. Polling stations.</b>– (1) The Commission shall constitute a committee in each District consisting of an officer of the Commission and two other persons appointed by the Commission to identify and recommend polling stations.</p> <p>(2) The committee shall draw a preliminary list of polling stations specifying the proposed electoral area, or electoral areas, of each polling station.</p> <p>(3) The officer of the Commission shall publish the preliminary list of polling stations with all the details in at least two newspapers of wide circulation in the District and invite objections and suggestions from electors of the District to be submitted within thirty days of the publication of the list.</p> <p>(4) The Committee shall, after taking into consideration the objections and suggestions and for reasons to be recorded in writing, recommend the list of polling stations to the Commission along with the details of electoral area, or electoral areas, of each polling station.</p> <p>(5) The Commission shall, by notification in the official Gazette and on the website of the Commission, publish the list of polling stations of a District along with all the details as recommended by the Committee.</p> <p>(6) The Commission may, for reasons to be recorded in writing and published in the official Gazette and on the website of the Commission, set aside or modify the recommendation of a committee constituted under this section.</p> <p>(7) If the Commission set aside the recommendations of a committee, it shall constitute another committee for the purpose, and the committee and Commission shall fulfil all the requirements of this section for finalizing the list of polling stations in a District.</p> <p>(8) A list of polling stations published by the Commission under this section shall remain valid for three years and such list shall be revised every three years in accordance with the provision of this section.</p> <p>(9) The Commission shall not modify or change a polling station or area which a polling station shall cover after the Commission, by notification, calls upon a constituency to elect a representative.</p>

(10) Notwithstanding anything contained in this section, in case of any emergent situation warranting immediate action any time before an election, the Commissioner may, for reasons to be recorded in writing, change location of a polling station.

(11) If the Commissioner changes the location of a polling station under sub-section (10), the Commission shall immediately publish the information on its website and in such other manner as the Commissioner directs, enabling the electors of the electoral area to know the change of location of the polling station.

**Theme 7: Ensure polling station-wise results are publicly accessible**

**Priority 7.1**

*Direct that election result protocols be made available for public inspection at each polling station immediately upon completion of the count.*

Existing Provisions:	Proposed Amendments:
<p><i>(ROPA 1976)</i></p> <p><b>38. Proceedings at the close of poll.</b>– (1) The Presiding Officer shall count the votes immediately after the close of the poll in the presence of such of the contesting candidate, election agents and polling agents as may be present.</p> <p>(2) The Presiding Officer shall give such of the contesting candidates, election agents and polling agents as may be present reasonable facility of observing the count and give them such information with respect thereto as can be given consistent with the orderly conduct of the count and the discharge of his duties in connection therewith.</p> <p>(3) No person other than the Presiding Officer, the Polling Officer, any other person on duty in connection with the poll, the contesting candidates, their election agents and polling agents shall be present at the count.</p> <p>(4) The Presiding Officer shall-</p> <ul style="list-style-type: none"> <li>(a) open the used ballot box or ballot boxes and count the entire lot of ballot paper taken out therefrom;</li> <li>(b) open the packets bearing the label “ Challenged Ballot Papers” and count them;</li> <li>(c) count, in such manner as may be prescribed, the votes cast in favour of each contesting candidate excluding from the count the ballot paper which bear- <ul style="list-style-type: none"> <li>(i) no official mark and signature of the Presiding Officer;</li> <li>(ii) any writing or any mark other than the official mark, the signature of the Presiding Officer and the prescribed mark or to which a piece of paper or any other object of any kind has been attached;</li> <li>(iii) no prescribed mark to indicate the contesting candidate for whom the elector has voted; or</li> <li>(iv) any mark from which it is not clear for whom the elector has voted:</li> </ul> </li> </ul> <p>Provided that a ballot paper shall be deemed to have been marked in favour of a candidate if the whole or more than half of the area of the prescribed mark appears clearly within the space containing the name and symbol of the candidate and, where the prescribed mark is divided equally between two such spaces, the ballot paper shall be deemed invalid</p>	<p><i>(ROPA 1976)</i></p> <p><b>38. Proceedings at the close of poll.</b>– (1) The Presiding Officer shall count the votes immediately after the close of the poll in the presence of such of the contesting candidate, election agents and polling agents as may be present.</p> <p>(2) The Presiding Officer shall give such of the contesting candidates, election agents and polling agents as may be present reasonable facility of observing the count and give them such information with respect thereto as can be given consistent with the orderly conduct of the count and the discharge of his duties in connection therewith.</p> <p>(3) No person other than the Presiding Officer, the Polling Officer, any other person on duty in connection with the poll, the contesting candidates, their election agents and polling agents shall be present at the count.</p> <p>(4) The Presiding Officer shall-</p> <ul style="list-style-type: none"> <li>(a) open the used ballot box or ballot boxes and count the entire lot of ballot paper taken out therefrom;</li> <li>(b) open the packets bearing the label “ Challenged Ballot Papers” and count them;</li> <li>(c) count, in such manner as may be prescribed, the votes cast in favour of each contesting candidate excluding from the count the ballot paper which bear- <ul style="list-style-type: none"> <li>(i) no official mark and signature of the Presiding Officer;</li> <li>(ii) any writing or any mark other than the official mark, the signature of the Presiding Officer and the prescribed mark or to which a piece of paper or any other object of any kind has been attached;</li> <li>(iii) no prescribed mark to indicate the contesting candidate for whom the elector has voted; or</li> <li>(iv) any mark from which it is not clear for whom the elector has voted:</li> </ul> </li> </ul> <p>Provided that a ballot paper shall be deemed to have been marked in favour of a candidate if the whole or more than half of the area of the prescribed mark appears clearly within the space containing the name and symbol of the candidate and, where the prescribed mark is divided equally between two such spaces, the ballot paper shall be deemed invalid</p>

(5) The Presiding Officer may recount the votes-

- (a) of his own motion if he considers it necessary; or
- (b) upon the request of the contesting candidate or an election agent present if, in his opinion, the request is not unreasonable.

(6) The valid ballot paper cast in favour of each contesting candidate shall be put in separate packets and each such packet shall be sealed and shall contain a certificate as to the number, both in letters and figures, of the ballot papers put in it and shall also indicate the nature of the contents thereof, specifying the name and symbol of the contesting candidate to whom the packet relates.

(7) The ballot paper excluded from the count shall be put in separate packet indicating thereon the total number both in letters and figures of the ballot papers, contained therein.

(8) The packets mention in sub-section (6) and (7) shall be put in a principal packet which shall be sealed by the Presiding Officer.

(9) The Presiding Officer shall, immediately after the count, prepare a statement of count in such form as may be prescribed showing therein the number of valid votes polled by each contesting candidate and the ballot paper excluded from the count.

10) The Presiding Officer shall also prepare in the prescribed form a ballot paper count showing separately-

- (a) the number of ballot papers entrusted to him;
- (b) the number of un-issued ballot papers;
- (c) the number of ballot papers taken out of the ballot box or boxes and counted;
- (d) the number of tendered ballot papers;
- (e) the number of challenged ballot papers; and
- (f) the number of spoilt ballot papers.

(11) The Presiding Officer shall give a certified copy of the Statement of Count and the ballot paper account to such of the candidates, their election agents or polling agents as may be present and obtain a receipt for such copy.

(12) The Presiding Officer shall seal in the separate packets-

- (a) the un-issued ballot papers;
- (b) the spoilt ballot papers;
- (c) the tendered ballot papers;
- (d) the challenged ballot papers;
- (e) the marked copies of the electoral rolls;
- (f) the counterfoils of used ballot papers;
- (g) the tendered voters list;
- (h) the challenged votes list; and
- (i) such other papers as the Returning Officer may direct.

(5) The Presiding Officer may recount the votes-

- (a) of his own motion if he considers it necessary; or
- (b) upon the request of the contesting candidate or an election agent present if, in his opinion, the request is not unreasonable.

(6) The valid ballot paper cast in favour of each contesting candidate shall be put in separate packets and each such packet shall be sealed and shall contain a certificate as to the number, both in letters and figures, of the ballot papers put in it and shall also indicate the nature of the contents thereof, specifying the name and symbol of the contesting candidate to whom the packet relates.

(7) The ballot paper excluded from the count shall be put in separate packet indicating thereon the total number both in letters and figures of the ballot papers, contained therein.

(8) The packets mention in sub-section (6) and (7) shall be put in a principal packet which shall be sealed by the Presiding Officer.

(9) The Presiding Officer shall, immediately after the count, prepare a statement of count in such form as may be prescribed showing therein the number of valid votes polled by each contesting candidate and the ballot paper excluded from the count.

10) The Presiding Officer shall also prepare in the prescribed form a ballot paper count showing separately-

- (a) the number of ballot papers entrusted to him;
- (b) the number of un-issued ballot papers;
- (c) the number of ballot papers taken out of the ballot box or boxes and counted;
- (d) the number of tendered ballot papers;
- (e) the number of challenged ballot papers; and
- (f) the number of spoilt ballot papers.

(11) The Presiding Officer shall give a certified copy of the Statement of Count and the ballot paper account to such of the candidates, their election agents or polling agents as may be present and obtain a receipt for such copy.

(11-a) The Presiding Officer shall publish the statement of the count and ballot paper account by affixing certified copies at the polling station for public inspection.

(12) The Presiding Officer shall seal in the separate packets-

- (a) the un-issued ballot papers;
- (b) the spoilt ballot papers;
- (c) the tendered ballot papers;
- (d) the challenged ballot papers;
- (e) the marked copies of the electoral rolls;
- (f) the counterfoils of used ballot papers;
- (g) the tendered voters list;
- (h) the challenged votes list; and
- (i) such other papers as the Returning Officer may direct.

<p>(13) The Presiding Officer shall obtain in each statement and packets prepared under this section the signature of such of the contesting candidate or their election agents or polling agents as may be present and, if any such person refuses to sign, the Presiding Officer shall record that fact.</p> <p>(14) A person required to sign a packet or statement under sub-section (13) may, if he so desires, also affix his seal to it.</p> <p>(15) After the close of the proceedings under the foregoing sub-sections, the Presiding Officer shall, in compliance with such instructions as may be given by the Commission in this behalf cause the packets, the statement of count and the ballot paper account prepared by him to be sent to the Returning Officer together with such other records as the Commission may direct.</p> <p><b>42. Declaration of Results.</b>– (1) The Returning Officer shall, after obtaining the result of the count under section 39 or of the drawal of the lots under section 41, intimate the results of the count to the Commission which shall declare by public notice the contesting candidate who has or is deemed to have received the highest number of votes to be elected.</p> <p>(2) The public notice shall contain the name of, and the total number of votes received by, each contesting candidate as a result of consolidation under section 39 or as a result of drawal of lots under section 41.</p> <p>(3) The Returning Officer shall, immediately after the count, submit to the Commission a copy of the consolidated statement in the prescribed form.</p> <p>(3A) Every returned candidate shall, within ten days from the poll of an election, submit a return of election expenses in accordance with the provisions of section 50.</p> <p>(4) The Commission shall publish in the official Gazette the name of the returned candidate.</p> <p>Provided that the result of a returned candidate shall not be published who fails to submit the return of expenses specified in sub-section (3A).</p>	<p>(13) The Presiding Officer shall obtain in each statement and packets prepared under this section the signature of such of the contesting candidate or their election agents or polling agents as may be present and, if any such person refuses to sign, the Presiding Officer shall record that fact.</p> <p>(14) A person required to sign a packet or statement under sub-section (13) may, if he so desires, also affix his seal to it.</p> <p>(15) After the close of the proceedings under the foregoing sub-sections, the Presiding Officer shall, in compliance with such instructions as may be given by the Commission in this behalf cause the packets, the statement of count and the ballot paper account prepared by him to be sent to the Returning Officer together with such other records as the Commission may direct.</p> <p><b>42. Declaration of results.</b>– (1) The Returning Officer shall, immediately after obtaining the result of the count under section 39 or draw of lots under section 41, submit the statements of the count of every polling station of the constituency, consolidated statement and the result of the count to the Commission.</p> <p>(2) The Commission shall, by public notice on its website, publish the name of the returned candidate, statements of the count of every polling station of the constituency, consolidated statement, result of the count and result of draw of lots, if any.</p> <p>(3) A returned candidate shall, within ten days from the polling day, submit a return of election expenses in accordance with the provisions of section 50.</p> <p>(4) If a returned candidate has submitted the return of election expenses, the Commission shall, by notification in the official Gazette, publish the name of the returned candidate.”</p>
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**Priority 7.2**  
*Direct that both polling station-wise and constituency-level election results documents be provided to specific election stakeholders, including election observers, immediately upon completion of the count and after the consolidation process. These documents should also be placed on the Election Commission’s website in advance of the returned candidate’s name being published in the official Gazette.*

<p><b>Existing Provisions:</b></p> <p><i>(ROPA 1976)</i></p> <p><b>38. Proceedings at the close of poll.</b>– (1) The Presiding Officer shall count the votes immediately after the close of the poll in the presence of such of the contesting candidate, election agents and polling agents as may be present.</p> <p>(2) The Presiding Officer shall give such of the contesting candidates, election agents and polling agents as may be present reasonable facility of observing the count and give them such information with respect thereto as can be given consistent with the orderly conduct of the count and the discharge of his duties in connection therewith.</p>	<p><b>Proposed Amendments:</b></p> <p><i>(ROPA 1976)</i></p> <p><b>38. Proceedings at the close of poll.</b>– (1) The Presiding Officer shall count the votes immediately after the close of the poll in the presence of such of the contesting candidate, election agents and polling agents as may be present.</p> <p>(2) The Presiding Officer shall give such of the contesting candidates, election agents and polling agents as may be present reasonable facility of observing the count and give them such information with respect thereto as can be given consistent with the orderly conduct of the count and the discharge of his duties in connection therewith.</p>
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(3) No person other than the Presiding Officer, the Polling Officer, any other person on duty in connection with the poll, the contesting candidates, their election agents and polling agents shall be present at the count.

(4) The Presiding Officer shall-

- (a) open the used ballot box or ballot boxes and count the entire lot of ballot paper taken out therefrom;
- (b) open the packets bearing the label “ Challenged Ballot Papers” and count them;
- (c) count, in such manner as may be prescribed, the votes cast in favour of each contesting candidate excluding from the count the ballot paper which bear-
  - (i) no official mark and signature of the Presiding Officer;
  - (ii) any writing or any mark other than the official mark, the signature of the Presiding Officer and the prescribed mark or to which a piece of paper or any other object of any kind has been attached;
  - (iii) no prescribed mark to indicate the contesting candidate for whom the elector has voted; or
  - (iv) any mark from which it is not clear for whom the elector has voted:

Provided that a ballot paper shall be deemed to have been marked in favour of a candidate if the whole or more than half of the area of the prescribed mark appears clearly within the space containing the name and symbol of the candidate and, where the prescribed mark is divided equally between two such spaces, the ballot paper shall be deemed invalid

(5) The Presiding Officer may recount the votes-

- (a) of his own motion if he considers it necessary; or
- (b) upon the request of the contesting candidate or an election agent present if, in his opinion, the request is not unreasonable.

(6) The valid ballot paper cast in favour of each contesting candidate shall be put in separate packets and each such packet shall be sealed and shall contain a certificate as to the number, both in letters and figures, of the ballot papers put in it and shall also indicate the nature of the contents thereof, specifying the name and symbol of the contesting candidate to whom the packet relates.

(7) The ballot paper excluded from the count shall be put in separate packet indicating thereon the total number both in letters and figures of the ballot papers, contained therein.

(8) The packets mention in sub-section (6) and (7) shall be put in a principal packet which shall be sealed by the Presiding Officer.

(9) The Presiding Officer shall, immediately after the count, prepare a statement of count in such form as may be prescribed showing therein the number of valid votes polled by each contesting candidate and the ballot paper excluded from the count.

(10) The Presiding Officer shall also prepare in the prescribed form a ballot paper count showing separately-

(3) No person other than the Presiding Officer, the Polling Officer, any other person on duty in connection with the poll, the contesting candidates, their election agents and polling agents shall be present at the count.

(4) The Presiding Officer shall-

- (a) open the used ballot box or ballot boxes and count the entire lot of ballot paper taken out therefrom;
- (b) open the packets bearing the label “ Challenged Ballot Papers” and count them;
- (c) count, in such manner as may be prescribed, the votes cast in favour of each contesting candidate excluding from the count the ballot paper which bear-
  - (i) no official mark and signature of the Presiding Officer;
  - (ii) any writing or any mark other than the official mark, the signature of the Presiding Officer and the prescribed mark or to which a piece of paper or any other object of any kind has been attached;
  - (iii) no prescribed mark to indicate the contesting candidate for whom the elector has voted; or
  - (iv) any mark from which it is not clear for whom the elector has voted:

Provided that a ballot paper shall be deemed to have been marked in favour of a candidate if the whole or more than half of the area of the prescribed mark appears clearly within the space containing the name and symbol of the candidate and, where the prescribed mark is divided equally between two such spaces, the ballot paper shall be deemed invalid

(5) The Presiding Officer may recount the votes-

- (a) of his own motion if he considers it necessary; or
- (b) upon the request of the contesting candidate or an election agent present if, in his opinion, the request is not unreasonable.

(6) The valid ballot paper cast in favour of each contesting candidate shall be put in separate packets and each such packet shall be sealed and shall contain a certificate as to the number, both in letters and figures, of the ballot papers put in it and shall also indicate the nature of the contents thereof, specifying the name and symbol of the contesting candidate to whom the packet relates.

(7) The ballot paper excluded from the count shall be put in separate packet indicating thereon the total number both in letters and figures of the ballot papers, contained therein.

(8) The packets mention in sub-section (6) and (7) shall be put in a principal packet which shall be sealed by the Presiding Officer.

(9) The Presiding Officer shall, immediately after the count, prepare a statement of count in such form as may be prescribed showing therein the number of valid votes polled by each contesting candidate and the ballot paper excluded from the count.

(10) The Presiding Officer shall also prepare in the prescribed form a ballot paper count showing separately-

- (a) the number of ballot papers entrusted to him;
- (b) the number of un-issued ballot papers;
- (c) the number of ballot papers taken out of the ballot box or boxes and counted;
- (d) the number of tendered ballot papers;
- (e) the number of challenged ballot papers; and
- (f) the number of spoilt ballot papers.

(11) The Presiding Officer shall give a certified copy of the Statement of Count and the ballot paper account to such of the candidates, their election agents or polling agents as may be present and obtain a receipt for such copy.

(12) The Presiding Officer shall seal in the separate packets-

- (a) the un-issued ballot papers;
- (b) the spoilt ballot papers;
- (c) the tendered ballot papers;
- (d) the challenged ballot papers;
- (e) the marked copies of the electoral rolls;
- (f) the counterfoils of used ballot papers;
- (g) the tendered voters list;
- (h) the challenged votes list; and
- (i) such other papers as the Returning Officer may direct.

(13) The Presiding Officer shall obtain on each statement and packets prepared under this section the signature of such of the contesting candidate or their election agents or polling agents as may be present and, if any such person refuses to sign, the Presiding Officer shall record that fact.

(14) A person required to sign a packet or statement under subsection (13) may, if he so desires, also affix his seal to it.

(15) After the close of the proceedings under the foregoing subsections, the Presiding Officer shall, in compliance with such instructions as may be given by the Commission in this behalf cause the packets, the statement of count and the ballot paper account prepared by him to be sent to the Returning Officer together with such other records as the Commission may direct.

**39. Consolidation of Results.**– (1) The Returning Officer shall give the contesting candidate and their election agents a notice in writing of the day, time and place fixed for the consolidation of the results, and, in the presence of such of the contesting candidates and election agents as may be present consolidate in the prescribed manner the results of the count furnished by the Presiding Officers, including therein the postal ballots received by him before the time aforesaid.

- (a) the number of ballot papers entrusted to him;
- (b) the number of un-issued ballot papers;
- (c) the number of ballot papers taken out of the ballot box or boxes and counted;
- (d) the number of tendered ballot papers;
- (e) the number of challenged ballot papers; and
- (f) the number of spoilt ballot papers.

(11) The Presiding Officer shall, subject to receipt, provide certified copies of the statement of the count and ballot paper account to the contesting candidates, election or polling agents and any other person who is entitled to obtain copies of these documents.

(11-a) If the Presiding Officer, without any reasonable cause, fails to provide the certified copies under subsection (11), he shall be deemed to have committed gross misconduct and the Commission may take any disciplinary action against the Presiding Officer.

(12) The Presiding Officer shall seal in the separate packets-

- (a) the un-issued ballot papers;
- (b) the spoilt ballot papers;
- (c) the tendered ballot papers;
- (d) the challenged ballot papers;
- (e) the marked copies of the electoral rolls;
- (f) the counterfoils of used ballot papers;
- (g) the tendered voters list;
- (h) the challenged votes list; and
- (i) such other papers as the Returning Officer may direct.

(13) The Presiding Officer shall obtain on each statement and packets prepared under this section the signature of such of the contesting candidate or their election agents or polling agents as may be present and, if any such person refuses to sign, the Presiding Officer shall record that fact.

(14) A person required to sign a packet or statement under subsection (13) may, if he so desires, also affix his seal to it.

(15) After the close of the proceedings under the foregoing subsections, the Presiding Officer shall, in compliance with such instructions as may be given by the Commission in this behalf cause the packets, the statement of count and the ballot paper account prepared by him to be sent to the Returning Officer together with such other records as the Commission may direct.

**39. Consolidation of Results.**– (1) The Returning Officer shall give the contesting candidate and their election agents a notice in writing of the day, time and place fixed for the consolidation of the results, and, in the presence of such of the contesting candidates and election agents as may be present consolidate in the prescribed manner the results of the count furnished by the Presiding Officers, including therein the postal ballots received by him before the time aforesaid.

(2) The consolidation proceedings shall be held without any avoidable delay as soon as possible after the polling day.

(3) Before consolidating the results of the count, the Returning Officer shall examine the ballot papers excluded from the count by the Presiding Officer and, if he finds that any such ballot paper should not have been so excluded, count it as a ballot paper cast in favour of the contesting candidate for whom the vote has been cast thereby.

(4) The Returning Officer shall also count the ballot papers received by him by post in such manner as may be prescribed and include the votes cast in favour of each contesting candidate in the consolidated statement except those which he may reject on any of the grounds mentioned in sub-section (4) of section 38.

(5) The ballot papers rejected by the Returning Officer under sub-section (4) shall be shown separately in the consolidated statement.

(6) The Returning Officer may recount the ballot papers-

- (a) Upon the request of, or challenge in writing made by, a contesting candidate or his election agent, if the Returning Officer is satisfied that the request or the challenge is reasonable; or
- (b) If so directed by the Commission, in which case the recount shall be held in such manner and at such place as may be directed by the Commission.

(7) After consolidation of results the Returning Officer shall give to such contesting candidates and their election agents as are present during the consolidation proceedings, a copy of the result of the count notified to the Commission immediately against proper receipt and shall also post a copy thereof to the other candidates and election agents.

**40. Resealing of Packets and supply of copies.**— The Returning Officer shall-

- (1) immediately after preparing the consolidated statement and the return of election, reseal in the prescribed manner the packets and statements opened by him for the purpose of consolidation, permitting such of the candidate and their election agents as may be present to sign the packets and affix their seals to such packets; and
- (2) supply duly attested copies of the consolidated statement and the return of election to such of the candidates and their election agents as may be present.

(2) The consolidation proceedings shall be held without any avoidable delay as soon as possible after the polling day.

(3) Before consolidating the results of the count, the Returning Officer shall examine the ballot papers excluded from the count by the Presiding Officer and, if he finds that any such ballot paper should not have been so excluded, count it as a ballot paper cast in favour of the contesting candidate for whom the vote has been cast thereby.

(4) The Returning Officer shall also count the ballot papers received by him by post in such manner as may be prescribed and include the votes cast in favour of each contesting candidate in the consolidated statement except those which he may reject on any of the grounds mentioned in sub-section (4) of section 38.

(5) The ballot papers rejected by the Returning Officer under sub-section (4) shall be shown separately in the consolidated statement.

(6) The Returning Officer may recount the ballot papers-

- (a) Upon the request of, or challenge in writing made by, a contesting candidate or his election agent, if the Returning Officer is satisfied that the request or the challenge is reasonable; or
- (b) If so directed by the Commission, in which case the recount shall be held in such manner and at such place as may be directed by the Commission.

(7) After consolidation of results, the Returning Officer shall, subject to receipt, provide certified copies of the consolidated statement and result of the count to the contesting candidates, election or polling agents and any other person who is entitled to obtain copies of these documents.

(8) The Returning Officer shall post copies of the consolidated statement and result of the count to the contesting candidates and their election agents.

(9) If a contesting candidate or election observer makes an application in writing before re-sealing of packets, the Returning Officer shall provide a certified copy of the statement of the count, ballot paper account or any other document prepared by a Presiding Officer.

(10) If the Returning Officer, without any reasonable cause, fails to provide the copies under this section, he shall be deemed to have committed gross misconduct and the Commission may take any disciplinary action against the Returning Officer.

**40. Resealing of packets.**— The Returning Officer shall, immediately after preparing the consolidated statement and return of election, in the prescribed manner reseal the packets, statements of the count and ballot paper accounts opened for the purpose of consolidation and may permit the contesting candidates and election agents to sign the packets and affix their seals to such packets.



## **BIBLIOGRAPHY**

### **International and Domestic Law Sources**

Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217A (III)) (UDHR).

International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR).

Constitution of Pakistan 1973.

Electoral Rolls Act 1974.

Representation of the People Act 1976.

Senate (Elections) Act 1975 (no. LI of 1975).

Election Commission Order 2002.

Political Parties Order 2002 (Chief Executive's Order No. 18 of 2002).

### **Electoral Reform Sources (Pakistan)**

Election Commission of Pakistan (ECP), *Proposed Electoral Reforms - Presented by Kanwar Muhammad Dilshad - Secretary, Election Commission of Pakistan and Chairman, Electoral Reforms Committee [No.F. 12 (3)/2008-Research]* (Election Commission of Pakistan, Islamabad 2008).

Election Support Group, *Compendium of Electoral Reform Proposals* (IFES Pakistan, Islamabad 2009).

Election Support Group, *Summary of Electoral Reform Recommendations for Pakistan 2009* (IFES Pakistan, Islamabad 2009).

Free & Fair Election Network (FAFEN), *Pakistan General Elections 2008: Election Observation Summary & Recommendations for Electoral Reforms (Submitted to the Electoral Reforms Committee (June 21, 2008))* (Free & Fair Election Network, Islamabad 2008).

Free & Fair Election Network (FAFEN), *FAFEN Commentary on ECP's Proposed Election Reforms (June 2009)* (Free & Fair Election Network (FAFEN), Islamabad 2009).

Free & Fair Election Network (FAFEN), *Pakistan General Elections 2008: Election Results Analysis, A Report Based on Parallel Vote Tabulations (PVTs) in 242 National Assembly Constituencies (Conducted on February 18, 2008)* (Free & Fair Election Network, Islamabad March 2009).

IFES Pakistan, *Constitution Reform Priorities: An Analysis of Key Electoral Components of the Constitution of Pakistan (4 May 2009)* (International Foundation for Electoral Systems (Pakistan), Islamabad 2009).

IFES Pakistan, *IFES Commentary on ECP's Proposed Election Reforms (April 2009)* (International Foundation for Electoral Systems (Pakistan), Islamabad 2009).

IFES Pakistan, *Proposed Electoral Constitutional Reforms: A Discussion Paper on the Electoral Components of the Constitution of Pakistan with Concrete Proposals for Amendments (15 July 2009)* (International Foundation for Electoral Systems (Pakistan), Islamabad 2009).

UNDP Support to National Elections in Pakistan (SNEP) Project, *Reports of Working Groups: A Summary of Recommendations (17 August 2008)* (UNDP Pakistan, Islamabad 2008).

## Other Sources

ACE Project, "Political Party Codes of Conduct" in *The Administration and Cost of Elections Project* (United Nations, International IDEA and IFES, New York 2009) <<http://aceproject.org/ace-en/topics/pc/pcc/pcc01/default>> 3 November 2009.

ACE Project, "Voting Sites: Basic Issues" in *ACE Encyclopaedia - Voting Operations* (United Nations, International Institute for Democracy and Electoral Assistance, International Foundation for Election Systems, New York 2009) <<http://aceproject.org/ace-en/topics/vo/vof>> accessed 31 October 2009.

H Alves, M Boda, L Handley and T Laanela (eds) *The User's Guide to the ACE [Administration and Cost of Elections] Project Electronic Resources* (Version 0, April 1999 edn IFES, International IDEA, United Nations Washington, DC 1999).

H Alves, M Boda, T Laanela and H Neufeld (eds) *The Administration and Cost of Elections Encyclopedia* (United Nations, International IDEA and IFES New York 1998).

K Archer, "Voter Registration" in H Alves, M Boda, T Laanela and H Neufeld (eds), *The Administration and Cost of Elections Project CD-ROM* (International Foundation for Election Systems, International Institute for Democracy and Electoral Assistance, United Nations, Washington, DC 1999).

MD Boda (ed) *Revisiting Free and Fair: An International Roundtable on Election Standards* (Inter-Parliamentary Union Geneva 2005).

Code of Conduct for International Election Observers (as commemorated October 27, 2005, at the United Nations, New York) (Code of Conduct).

Commonwealth Secretariat, *Let's Talk About Elections* (Commonwealth Secretariat, London 1997)  
Declaration of Principles for Domestic Election Observation (Second Draft).

Declaration of Principles for International Election Observation (as commemorated October 27, 2005 at the United Nations, New York).

CW Dundas, *Dimensions of Free and Fair Elections: Frameworks, Integrity, Transparency, Attributes, Monitoring* (Commonwealth Secretariat, London 1994).

Electoral Institute of Southern Africa (EISA) and Electoral Commissions Forum of SADC Countries, *Principles for Election Management, Monitoring and Observation in the SADC Region (as adopted on 6 November 2003 at the Kopanong Hotel and Conference Centre, Benoni, Johannesburg)* (Electoral Institution of Southern Africa and the Electoral Commission Forum, Benoni, Johannesburg 2003).

GS Goodwin-Gill, *Free and Fair Elections: International Law and Practice* (Inter-Parliamentary Union, Geneva 2006).

L Handley, "Guiding Principles of Boundary Delimitation" in *ACE Encyclopaedia - Boundary Delimitation* (United Nations, International Institute for Democracy and Electoral Assistance, International Foundation for Election Systems, New York 2006) <<http://ace.at.org/ace-en/topics/bd/bd20>> accessed 19 May 2006.

Inter-Parliamentary Union, *Democracy: Its Principles and Achievement* (Inter-Parliamentary Union, Geneva 1998).

International IDEA, *International Electoral Standards: Guidelines for Reviewing the Legal Framework of Elections* (International IDEA, Stockholm 2002).

R Lopez-Pintor, *Electoral Management Bodies as Institutions of Governance* (United Nations Development Programme, Bureau for Development Policy, New York 2000).



### **Other Sources (cont...)**

R Lopez-Pintor and J Fischer, "Getting to the CORE: A Global Survey on the Cost of Registration and Elections" (Bureau for Development Policy (UNDP) and Center for Transitional and Post-Conflict Governance (IFES), New York and Washington 2005).

P Lortie (ed) *Reforming Electoral Democracy, Royal Commission on Electoral Reform and Party Financing - Volume 1 ("The Lortie Commission")* (Dundurn Press Toronto 1992).

P Merloe, *Promoting Legal Frameworks for Democratic Elections* (National Democratic Institute, Washington, DC 2008).

National Database and Registration Authority (NADRA), *Profile* (National Database and Registration Authority, Islamabad 2009).

OSCE/ODIHR Existing Commitments for Democratic Elections in OSCE Participating States, A Progress Report (October 2003).

OSCE/ODIHR, *Handbook for Domestic Election Observers* (Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights, Warsaw 2003).

OSCE/ODIHR, *Election Observation Handbook (Fifth edition)* (Organization for Security and Cooperation in Europe, Warsaw 2005).

Pakistan Institute of Legislative Development and Transparency (PILDAT), *How Independent is the Election Commission in Pakistan (Background Paper)* (Pakistan Institute of Legislative Development and Transparency, Islamabad 2008).

Pakistan Peoples Party and National Muslim League (PML-N), *Charter of Democracy (signed 14 May 2006, London, United Kingdom)* (London 2006).

SADC Parliamentary Forum, *Norms and Standards for Elections in the SADC Region (March 25, 2001)* (SADC Parliamentary Forum Plenary Assembly, Windhoek, Namibia 2001).

D-C Tremblay, "Vote Counting" in *The User's Guide to the ACE Project Electronic Resources (Version 0, April 1999)* (UN, International IDEA and IFES, New York 1999) 69-75.

United Nations, *Human Rights and Elections: A Handbook on the Legal, Technical, and Human Rights Aspects of Elections, Professional Training Series, No. 2* (United Nations Centre for Human Rights, New York 1994).

A Wall, A Ellis, A Ayoub, CW Dundas, J Rukambe and S Staino, *Electoral Management Design: The New International IDEA Handbook* (International IDEA, Stockholm 2005).