



FINAL REPORT

February 2016

EUROPEAN UNION ELECTION FOLLOW-UP MISSION TO PAKISTAN

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EU Electoral Follow-up Mission, Pakistan

Final Report, February 2016

TABLE OF CONTENTS

Executive summary	2
Introduction to the Electoral Follow-up Mission (EFM)	4
Electoral context and update	4
Political protests and the Judicial Commission	4
Election tribunals	4
Local government elections (LGEs)	5
EU involvement	7
Current reform initiatives	7
Status of EU EOM recommendations	7
The Parliamentary Committee on Electoral Reforms (PCER)	8
The Election Commission of Pakistan (ECP)	9
Current controversies	11
Appointment of new ECP Members	11
Delimitation	12
Voter registration	13
Electronic voting machines (EVMs) and biometric voter verification (BVV)	14
Out of country voting (OCV)	15
Electoral support	16
Annex 1: List of EU EOM 2013 recommendations and status of implementation	18
Annex 2: EFM press release	26
Annex 3: List of meetings held	27
Annex 4: List of acronyms	28

EXECUTIVE SUMMARY

*Election Follow-Up Mission (EFM)
Honduras - December 2015
FINAL REPORT*

- The EU Electoral Follow-up Mission (EFM) was deployed to assess electoral reform processes in Pakistan and the extent to which previous EU election-related concerns and recommendations have been addressed. The findings of the EFM will also be considered when deciding future EU support and activities in Pakistan. The EFM was led by Michael Gahler, Member of the European Parliament, and Chief Observer for the EU election observation missions (EOMs) 2008 and 2013. Mr Gahler was in Pakistan from 7 - 10 February 2016 during which time he and colleagues met with a range of stakeholders, held a round-table and issued a press release.
- Following the 2013 general elections there was extended political controversy spearheaded by the Pakistan Tehreek-e-Insaf (PTI) party, which resulted in establishment of a Judicial Commission which concluded that there was no evidence of systematic manipulation, however many shortcomings in the process were identified.
- Tribunals from the general elections were due to adjudicate within 120 days on the 411 petitions filed. However the leading citizen observation organisation, the Free and Fair Election Network (FAFEN), report that 12 cases are still outstanding. Identified problems include: a lack of time-limits for ECP submission of petitions to tribunals, frequent adjournments, variation in transparency and accessibility, inconsistencies in application of procedures and law (attributed in part to be due to a lack of training and instructions). The National Database and Registration Authority (NADRA) assessed Computerized National Identity Card (CNIC) and biometric data in various cases, as requested and paid for by petitioners. NADRA findings document concentrations of problems such as fingerprints that can't be read, incorrect CNIC numbers, and duplicate voting, thereby demonstrating that fraudulent activities took place.
- Overdue local government elections (LGEs) are currently being completed. These were competitive and the ECP recently took initiatives to develop practices. However assessments by Democracy Reporting International (DRI) also note *"legal frameworks were inadequate, not sufficiently publicly available and gave excessive discretion to provincial governments. Delimitation was problematic, returning officers were insufficiently managed, there was a lack of transparency and inadequate opportunity for remedy. Results data was not made available and there was weak provision for scrutiny. Women and minority communities remain under-represented, with problematic reserved seat arrangements."* In some regards the LGEs were a step back from the general elections, with more criticism of returning officers (ROs), reduced public information from the ECP (with for example a lack of postelection day schedules and no results data at all being centrally available), and a less effective tribunal system.
- Assessment of implementation of EU EOM 2013 recommendations shows only very limited progress to date. Out of the 50 recommendations made none have been totally implemented, 2 were mostly implemented, 13 minimally, and 35 were not implemented at all. Out of 15 recommendations for which the Election Commission of Pakistan (ECP) has responsibility for implementation, 10 were minimally implemented and 5 were not implemented at all. The assessment involves judgement answers, and is therefore indicative rather than categorical.
- A cross-chamber multi-party Parliamentary Committee on Electoral Reforms (PCER) was established in July 2014. It began by inviting public opinion, which reportedly resulted in over 1,200 proposals. While draft legislation is not available for review, reported reforms are all positive and consistent with EU EOM recommendations, including most of the priority issues identified. Reportedly there is 100% consensus on agreed reforms, but three issues remain unresolved relating to biometric voter verification (BVV), electronic voting machines (EVMs), and out of country voting (OCV). These have all been strongly advocated for by PTI but other stakeholders are predominantly skeptical about the risks and costs involved. Use of technology in results management would be a stronger, more economical and more sustainable contribution to electoral integrity. There is concern about whether there will be a public consultation process and if the legal reform will be passed before the budget (in

May/June 2016), with consequent delay jeopardizing time for sound implementation of reforms before the next general elections.

- The new ECP leadership has been positive in accepting identified shortcomings and taking initiatives to improve practices. Improvements include steps towards a complaints system, internal monitoring and taking responsibility for training. The ECP also took the unprecedented step of annulling results in a by-election in which women were barred from voting. Reform of the ECP is challenging given the entrenched organizational culture and the capacity of its staff. While the lack of legal reform to date does not preclude the ECP from taking initiative for administrative reform measures, an uncertain legal environment, and no explicit legal requirement for reforms, risks controversy over ECP actions.
- The new appointment of ECP Members, due in June 2016, will be sensitive, given their responsibility, the heightened pressure on the ECP, and PTI's vociferous criticism of the sitting Members. There is a risk that the appointment process will take place before the electoral reform legislation has passed, which is due to include a widening of the qualification criteria for ECP Members. Stakeholders had varying opinions about the possibility of advancing one constitutional amendment to allow for full ECP composition in keeping with the reform process underway.
- Delimitation should take place on the basis of the last preceding census officially published. The ECP believes that sufficient provisional census data will be available in mid-2017 for delimitation to be completed by the end of 2017, i.e. around seven months before the latest date the general elections can be held. Late delimitation is likely to be of heightened sensitivity, with unofficial campaigning already in progress. Census data would likely indicate changes in the proportions of seats for each province. Such changes have obvious political sensitivities that would make passing of the necessary constitutional amendments potentially highly problematic. Without updated census data, it is very likely that constituencies will remain unchanged, with inequalities continuing.
- Traditionally support to the ECP was large-scale assistance on election implementation, which may be seen as fulfilling ECP immediate responsibilities rather than reforming the institution or developing its capacities. ECP development of practices has been partly attributed to the increased demands that have been made of the organization through higher levels of scrutiny and awareness. The current combination of high-level pressure on the ECP to reform and the more positive ECP leadership gives more potential for institutional reform than has been seen in previous decades.
- The EU has increased potential for influence given its demonstrated long-term commitment to democratic rule in Pakistan and Pakistan's commitments under Generalized System of Preferences Plus (GSP+), which required ratification of 27 core international conventions. While the recent first GSP+ compliance assessment report notes various outstanding issues, additional references could be made to various matters related to elections.

INTRODUCTION TO THE ELECTORAL FOLLOW-UP MISSION (EFM)

The EU Electoral Follow-up Mission (EFM) was deployed to assess electoral reform processes in Pakistan and the extent to which previous EU election-related concerns and recommendations have been addressed. The findings of the EFM will also be considered when deciding future EU support and activities in Pakistan, including potential deployment of an Election Observation Mission (EOM) for the next general elections, scheduled to be held by the end of July 2018.

The EFM was led by Michael Gahler, Member of the European Parliament, and Chief Observer for the EU EOMs 2008 and 2013. Mr Gahler was in Pakistan from 7 - 10 February 2016, accompanied by Lora Borissova, Deputy Head of Division Election Observation and Democracy (European External Action Services), and Apostolos Aravanis Policy Officer from the Directorate-General for International Cooperation and Development (European Commission). In addition two experts were deployed in Pakistan from 2 - 17 February 2016 (Hannah Roberts, Electoral/Political Expert, and Alexander Matus, Legal Expert).

The EFM met with Members of the Parliamentary Committee on Electoral Reforms, the Chief Election Commissioner and Secretary of the Election Commission of Pakistan (ECP), the Chair of the Senate, the Chief Justice of Pakistan, the Ministry of Foreign Affairs, the Ministry of Interior, the Chair of the National Database and Registration Authority (NADRA), political party leaders, civil society representatives and technical assistance providers. A round-table was also held with over 25 participants. The EFM gave a de-briefing for EU Heads of Mission and later with members of the Election Support Group. A press release was issued (see annex two) and a small press point held with some media coverage in English and Urdu outlets.

ELECTORAL CONTEXT AND UPDATE

Political protests and the Judicial Commission

Following the 2013 general elections there was extended political controversy spearheaded by Imran Khan's Pakistan Tehreek-e-Insaf (PTI) party, which was very prominent in political discourse detracting from other issues and increasing uncertainty. Consequently a Judicial Commission was established, which in July 2015 concluded that there was not evidence of systematic manipulation, however many shortcomings in the process were identified. In particular poor planning, weak oversight of compliance with centrally issued instructions, ineffective results management, inadequate training of returning officers (ROs) and polling personnel, and insufficient coordination among election officials. Such criticisms are consistent with previous EU EOM findings, but miss some key issues, in particular related to transparency. Some commentary has been made that the Judicial Commission was adversarial in answering specific points raised, rather than comprehensive in addressing election reform. Also in response to pressure from PTI, a cross-chamber multi-party Parliamentary Committee on Electoral Reforms was established in July 2014 (see below).

Election tribunals

Tribunals from the general elections were due to adjudicate within 120 days on the 411 petitions filed, however cases remain outstanding. Reportedly the vast majority of cases were not decided within the 120 days limit, and the leading citizen observation organisation, the Free and Fair Election Network (FAFEN), currently report that 399 cases out of 411 have been decided¹, with four tribunals continuing to operate for the remaining 12 cases.² Fifty-eight cases (14.1%)³ were upheld resulting in a change of the returned candidate and/or re-polling. Information is not available on the status of appeals to the Supreme Court, or constitutional rights writ petitions related to the 2013 elections (submitted to the higher judiciary).

FAFEN observers identify various problems with the process. The lack of time limits resulted in some petitions being forwarded very late by the ECP to the tribunals. In two cases the ECP only forwarded petitions to the Lahore tribunal on 14 January 2014, more than six months after the deadline for filing petitions (6 July 2013). There have been frequent adjournments of cases for longer than legally allowed periods, thereby extending the time and costs of cases.⁴ There has been variation in transparency and

¹ The ECP dismissed 26 cases without forwarding them to the tribunals. Out of 373 cases forwarded to the tribunals 315 were rejected on various grounds such as withdrawal, no merit, incomplete submission, formal grounds etc.. Out of the 315 rejected cases 128 went through the complete trial.

² One tribunal continues in Khyber Pakhtunkhwa (KP), two in Punjab and one in Sindh.

³ Out 58 upheld petitions 23 were filed by PML-N candidates, 17 by independent candidates, 9 by PPP, 4 by PTI, 2 by JUI-F and 4 by smaller parties.

⁴ For example FAFEN reports 2,653 adjournments for more than seven days (the maximum allowed) as of 30 September 2013.

accessibility, with restricted and denied access to some tribunal proceedings and documentation.⁵ FAFEN report some variation in application of procedures and law, attributed in part to be due to a lack of training and instructions for tribunal judges.⁶ There appear to have been no referrals for prosecution for election offences. Despite these problems FAFEN sees marked improvement in the work of election tribunals compared to previous elections, with for example some cases from the 2008 elections still outstanding at the time of the 2013 elections. Further improvements could encourage aggrieved candidates to seek electoral justice through court processes.

Some petition processes have involved the National Database and Registration Authority (NADRA) in assessing Computerized National Identity Card (CNIC) and biometric data, as requested and paid for by petitioners.⁷ NADRA findings from different constituencies document problems such as concentrations in certain polling stations of missing counterfoils, fingerprints that can't be read, incorrect CNIC numbers, and duplicate voting. Such findings clearly demonstrate that fraudulent practices occurred in various polling stations and constituencies. The political sensitivity of such rigorous documentation and findings was intensified by the controversial overnight removal from office of the NADRA chair in December 2013.⁸

Local government elections (LGEs)

Overdue local government elections (LGEs) were held in all the provinces, the Islamabad Capital Territory (ICT), as well as cantonment boards. Provincial governments were criticised for delaying the needed legislation, resulting in Supreme Court directions to the provinces and the ECP. Local elections were held in Balochistan over two years ago, in KP last summer and in Punjab and Sindh in November/December 2015.⁹

Democracy Reporting International (DRI)¹⁰ assessed all of the provincial local elections, and FAFEN observed election day in all but Balochistan, as did the Human Rights Commission of Pakistan. DRI note: *“Positively, the elections were competitive and recently the ECP took some initiative to develop electoral practices. However legal frameworks were inadequate, not sufficiently publicly available and gave excessive discretion to provincial governments. Delimitation was problematic, returning officers were insufficiently managed, there was a lack of transparency and inadequate opportunity for remedy. Results data was not made available and there was weak provision for scrutiny. Women and minority communities remain underrepresented, with problematic reserved seat arrangements”*¹¹

⁵ The Karachi Election Tribunal stood out in making public all of its proceedings, the call list and timings and judgements, including on a Facebook page (<https://www.facebook.com/electiontribunal/>).

⁶ It has been argued that training and instructions are not needed given judges prior experience, however most election cases are heard by the higher judiciary and tribunals are staffed by session (district-level) judges.

⁷ The total number of such orders is unknown. Reportedly the petitioner requesting verification of voters' fingerprints is required to pay NADRA two Pakistani rupees (approximately €0.017) for each verified fingerprint. Therefore full verification within a constituency would involve considerable expense.

⁸ NADRA comes under the Ministry of Interior with the Federal Government approving the appointment of the NADRA Authority Board, including the chair.

⁹ There is a lack of centralized results data for the local elections, hence overall outcomes are taken from media reporting. In Balochistan the ECP reported 39% turnout but did not release party affiliations for the official results. It appears that the ruling coalition partners (NP, PML-N, PKMAP) won the majority of seats followed by independent candidates (who then typically join a party). KP elections had a turnout 40.5% with PTI winning the majority of seats, followed by independent candidates and then ANP, PML-N and JUI-F. In Punjab no turnout data is available, PML-N appears to have consolidated its position. In Sindh there was a turnout of 36-58% (over the three phases) with PPP winning in rural areas and MQM in urban areas.

¹⁰ Funded in part by the EU.

¹¹ DRI *“Fix it before it breaks: what the local elections tell us for the 2018 General Election”*, 2016.

Such local elections are complicated to administer, with for example over 240,000 candidates across the four provinces, and at times are undertaken in very difficult security conditions. However, overall opportunities for reform appear to have been largely missed and in some regards the local elections were a step back from the general elections. There was more criticism of ROs (responsible for the election process in a given constituency) who were predominantly from the local administration and were therefore seen as biased in favor of incumbent provincial governments.¹² A challenging delimitation process was made more controversial by reliance on the local administration, inadequate appeals mechanisms and a lack of publicly available information leaving aspirant candidates uncertain where constituencies were and therefore where to lodge their nomination.¹³ The ECP gave less public information, with for example no post-election day schedules given for the Punjab and Sindh LGEs, and no results data at all being centrally available or gazetted, only the name of candidates, thereby precluding checking of announced winners. In some cases the systems used for the reserved seats were more restricting than for the general elections (which is already criticized for being a proportional system which makes reserved seat representatives accountable to parties rather than the electorate). For example in requiring nomination and seconding by those directly elected, thereby reducing opportunity to stand.¹⁴ Tribunals appear to be less effective, with for example

¹² For the local elections, positively some ROs were from the ECP. For the 2013 general elections, the judiciary had made an exception and agreed for their staff to work as ROs.

¹³ For example a Sindh High Court order on 18 September 2015 criticised the ECP for not upholding its constitutional obligation to guard against corrupt practices, by failing to undo delimitation “*manoeuvring*,” noting that “*under the law the [ECP] can take note of and undo any notification by the Government [...] if it is done to gain some advantage in the elections. It can certainly make necessary amendments in the constituencies*”. The Sindh High Court also found that “*the functionaries of the [ECP] did not adhere to the guidelines with regard to the territorial unity, and did not appreciate distinction between urban and rural areas in several constituencies. Apparently the whole process appears to have been done in an arbitrary manner and its purpose could not be but gerrymandering*”. SHC short order, 18 September 2015.

¹⁴ Furthermore there were consistent reports of parties telling women to run for their reserved seat rather than to take up a man’s (general) seat, thereby putting women off and perpetuating need for a supposedly temporary special measure to increase women’s participation, as provided for under the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).

tribunals established by the ECP for delimitation in Sindh staffed by ECP employees and therefore lacking independence.

EU involvement

The EU has continued its support to the election process through assessment of the local elections and technical assistance programmes. Given the EU's observation of the three previous general elections, there is an expectation of future EU observation.¹⁵ Since the last elections Pakistan has obtained Generalized System of Preferences Plus (GSP+) status, which required ratification of 27 core international conventions. The first compliance assessment report, released on 28 January 2016, notes various outstanding issues. However additional references could be made to various matters related to elections and fulfillment of treaty commitments under the International Covenant on Civil and Political Rights (ICCPR) and Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).

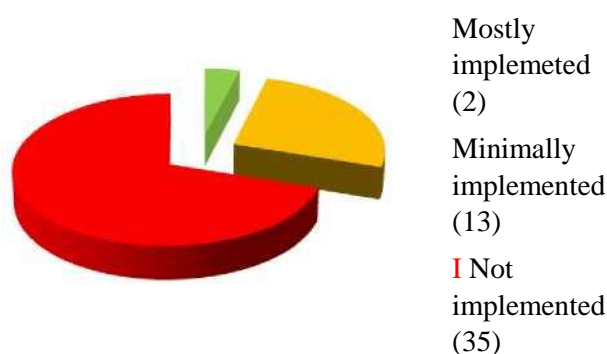
CURRENT REFORM INITIATIVES

Status of EU EOM recommendations

A mid-term assessment of implementation of EU EOM 2013 recommendations shows only very limited progress to date. The assessment is based on practices undertaken during the local elections and by-elections as well as stakeholder interviews. The assessment involves judgement, and is therefore indicative rather than categorical. It is also not exhaustive. Although improved fulfilment of EU EOM 2013 recommendations is anticipated with the upcoming legal reform, the current status of implementation of recommendations raises questions about the probability of improved general elections in 2018.

To date out of the 50 recommendations made by the EU EOM 2013, none have been totally implemented, 2 were mostly implemented,¹⁶ 13 minimally,¹⁷ and 35 were not implemented at all (at least 6 of these 40 are quite likely to be somehow addressed in the electoral reform package). Out of seven EU EOM 2013 priority recommendations, none was totally implemented, one was mostly

Status of implementation of the EU EOM 2013 recommendations (as of February 2016)



¹⁵ One condition to be considered in assessing whether an EU EOM would be useful and advisable, is whether there has been implementation of previous EU EOM recommendations.

¹⁶ Recommendation 1 (on formation of a special Parliamentary Committee on elections/electoral reforms) and recommendation 36 (on citizen observer groups continuing to develop in organisational capacity, advocate for electoral reform, and undertake scrutiny of by-elections and local elections).

¹⁷ Recommendations 5, 6, 7, 8, 10, 11, 17, 25, 27, 28, 29, 37 and 39.

implemented,¹⁸ two minimally¹⁹ and four were not implemented. See annex one for information on the status of implementation of each EU EOM 2013 recommendation.

Out of 24 recommendations requiring legislative changes either in the Constitution (7 cases) or primary legislation (17 cases), none have been implemented to date. This clearly demonstrates the importance of the proposed legislative amendments and their timely adoption by the Parliament.²⁰ Out of 15 recommendations for which ECP has responsibility for implementation, 10 were minimally implemented and 5 were not implemented at all.

The Parliamentary Committee on Electoral Reforms (PCER)

The Parliamentary Committee on Electoral Reforms (PCER) is a cross-chamber multi-party committee composed of 34 members, headed by Ishaq Dar, Minister of Finance. Within the PCER, a sub-committee chaired by Mr Zahid Hamid, Minister of Climate Change and Human Rights, is preparing constitutional amendments (approximately ten) and a unified electoral law (UEL), which combines multiple pieces of legislation. In addition election rules are being devised by the sub-committee for elaboration of the law. The sub-committee was open to all PCER members to join with no limitation on numbers. The PCER was established in July 2014, since when the sub-committee has met some 50 times.

The PCER began its work by inviting public opinion, which reportedly resulted in over 1,200 proposals. In addition observer findings, including from the EU EOM 2013, were referred to. Reportedly the sub-committee used a draft UEL as had been previously prepared by the ECP as a basis for their work. There has been close cooperation with the ECP, with proposed legislative changes referred to the ECP's Legal Framework Committee, which responds to issues and prepares draft text. Various international organisations, including with EU funding, have been supporting the process.²¹

While draft proposals are not available for review, reported reforms are all positive and consistent with EU EOM recommendations, including most of the priority issues identified. The proposed reforms include: requirements for full polling station results information to be put on the ECP website, ECP routine reporting to parliament and election planning reports required in advance, a broadening of qualification criteria for the Chief Election Commissioner (CEC) and ECP Members, ECP powers to take disciplinary measures against temporary seconded staff, a doubling of the number of polling booths, provisions for observers, an administrative complaints mechanism (albeit only for issues before election day), expedited tribunal processes, a requirement for gender-disaggregated data and ECP action in cases of women's nonparticipation. Positively, the chair of the sub-committee reports 100% consensus on agreed issues.

Other issues discussed but apparently lacking in consensus resulting in their removal from the proposal include: the possible direct election of women on reserved seats and Senators, change in the candidate dis/qualification requirements (with no agreement on removal of the "good Muslim" criterion), and use of voter registration data should there be no updated census data available. It appears that the issue of separate electoral rolls for Ahmadis was not discussed. Three other issues remain unresolved: biometric

¹⁸ Priority recommendation 1 (on formation of a special Parliamentary Committee on elections).

¹⁹ Priority recommendation 2 (on the ECP taking full responsibility for the administration of the elections) and priority recommendation 6 (on further measures be taken to promote the participation of women in the electoral process).

²⁰ Out of 26 recommendations not requiring legislative changes (i.e. those that can be implemented through administrative action and/or self-initiative, finances permitting), two were mostly implemented (recommendations 1 and 36), 13 minimally and 11 were not implemented at all.

²¹ Specifically DRI with input to the committee, and UNDP and International Foundation for Electoral Systems (IFES) with the ECP Legal Framework Committee.

voter verification (BVV), electronic voting machines (EVMs), and out of country voting (OCV), all of which have been strongly advocated for by PTI. The three issues have recently been referred to a further sub-committee, chaired by PTI. If such issues are not resolved and included in the UEL, they may be left to ECP discretion, putting further pressure on the election administration.

The sub-committee chair has regularly reported that the full draft proposals will be ready for submission to the main committee within two to three weeks, and is confident that the high level of consensus means that the proposals will pass speedily through the main committee and the two chambers. However others are skeptical, given that the committee has taken 20 months to date.²² Furthermore during the EFM one party, the Muttahida Quami Movement (MQM), referred to not being satisfied with the proposals to date in particular in regards to campaign finance, the scrutiny period for candidate nomination and candidate dis/qualification criteria. Thus further political deliberations may prevail. While there does not need to be total consensus, the process would be strengthened by unanimity (as there was for the ground-breaking 18th amendment to the Constitution), and particularly the inclusion of the main protagonist, PTI. Furthermore currently the incumbent Pakistan Muslim League-Nawaz (PML-N) does not have a majority in the Senate, with the Pakistan Peoples Party (PPP) having the largest number of seats. Various stakeholders foresee the reform package not being ready before the budget in May/June and therefore not being passed until the summer or autumn of 2016. However there is consistent confidence that some reform package will be passed, given the political pressure there has been around elections.

A delay in reform legislation is particularly problematic for appointment of the new ECP Members due in June (see below). While the lack of legal reform does not preclude the ECP taking initiative for administrative reform measures, an uncertain legal environment, and no explicit legal requirement for reforms, risks controversy over ECP actions. Good electoral practice refers to all legal reforms being passed not less than one year before an election.²³ Protracted legal uncertainty around elections therefore risks losing time in the implantation of reforms and reduced confidence in the electoral process.

A further issue of concern is what opportunity there will be, if any, for public commentary and input into the process. While stakeholder consultation is important in any legal process, it is particularly important in regards to elections, given that parties may have collective vested interests that may hinder reform, and an election management body may not want to take extra responsibility in politically-sensitive environments.

The Election Commission of Pakistan (ECP)

Following the 2013 elections, the then CEC resigned and for more than a year and a half there was no permanent replacement until, after pressure from the Supreme Court, a new CEC was sworn in at the end of 2014. The new CEC, Mr Justice Sardar Raza, is thus just over a year into his term that runs until December 2017. The four ECP Members, who have been in post since the last election, and are politically very controversial, complete their terms in June 2016. The Constitution specifies that the ECP is composed of the CEC and four Members²⁴ and thus the new Members are crucial to ECP functioning, and therefore reform, as well as to stakeholder confidence in the institution. A further change in ECP leadership came with the appointment in April 2015 of the new Secretary, Mr Babar Yaqoob Fateh Muhammad.

Since the general elections, the ECP has been under increased pressure. There has been high profile

²² NB The rules of procedure for the committee refer to the Committee presenting its report to Parliament within three months.

²³ The internationally widely respected Venice Commission, which has 60 Member States from 4 continents, notes that the fundamental elements of electoral law should not be open to amendment less than one year before an election. Venice Commission Code of Good Practice in Electoral Matters.

²⁴ Constitution of Pakistan, article 218.

criticism in particular from PTI with consequent effects on the national debate. The Commission's findings identified multiple shortcomings in the administration of the 2013 elections. The Supreme Court has had increased focus on deficiencies in election schedules and processes. There has also been higher-level exposure of shortcomings in the general elections with NADRA verification processes for tribunals categorically exposing malpractices.

From the 2013 elections until very recently the ECP did not seize opportunities for reform, despite having no legal bar from making needed innovations. For example of the nine EU EOM 2013 recommendations related to improving the independence and effectiveness of the election administration, only one requires legal reform (relating to presidential powers for removal of difficulty and acting CECs),²⁵ and all other recommendations related to the election administration can be undertaken without a change in the legislative framework. As noted in the EU EOM 2013 report, it would be desirable for improved practices to be secured in law so that the ECP does not have discretionary powers not to implement, especially important given that the ECP does not have a history of going beyond the minimum requirements of the law. Securing reform in law will also give the ECP leadership increased authority with legal cover for reforms that may not always be popular within the organization and with parties and candidates. Reportedly the proposed legal reform will be most useful in giving the ECP sanctioning powers over temporary seconded staff (who serve as ROs and polling workers).

The ECP's lack of reform in previous years was evident in the LGEs. However under the new leadership of the ECP has been positive in accepting identified shortcomings and taking initiatives to improve practices. Improvements include steps towards a complaints system, internal monitoring and taking responsibility for training. The ECP also took the unprecedented step of annulling results in a by-election in which women were barred from voting.²⁶ These initiatives are consistent with EU EOM 2013 recommendations.²⁷ The ECP has also recently asserted its independence in challenging incumbent representatives and governments in regards to campaign violations.²⁸ The ECP Secretary positively emphasises the need for not just an independent ECP, but a strong ECP that is able to effectively stand up to political parties.

Reform of the ECP is challenging given the entrenched organizational culture and the capacity of its staff.²⁹ Initiatives for reform will likely therefore take time to develop and operationalize, making ECP reform actions a matter of urgency. Such reform initiatives need to go beyond the ECP five-year strategic plan 2014-2018 developed under the previous leadership. While the plan's 122 objectives are predominantly positive, it also includes highly questionable objectives, such as use of EVMs and BVV for the 2018 elections. It does not include reforms related to priority EU EOM 2013 recommendations, with for example no objectives committing to polling station results transparency, increased ECP regulation of key aspects of the process, increased checks on the polling procedures, or resolute actions being taken when women have been barred.

CURRENT CONTROVERSIES

²⁵ EU EOM 2013 recommendation 4.

²⁶ The ECP's annulment is under judicial challenge in the Peshawar High Court, which has in an interim order referred to women having the opportunity to vote and not being barred, however the High Court's judgement is thought likely to be challenged in the Supreme Court.

²⁷ See EU EOM 2013 recommendation 32 (on an administrative system for complaints), 28 (on training), and 39 (on resolute actions agreements that prohibit women from voting).

²⁸ For example the announcement by the Prime Minister on 15 September 2015 of a large-scale agricultural relief programme (the Kissan Package) was challenged by the ECP for being in violation of the Code of Conduct (for the LGEs). However, the Islamabad High Court later ruled that the programme could move forward as planned.

²⁹ The ECP Secretary reports that ECP staff are typically on 20% less salary than other equivalent state employees, deterring good personnel from working at the ECP.

Appointment of new ECP Members

Article 218 of the Constitution notes that the Election Commission consists of the Commissioner and four Members. The term of the four ECP Members, who have all been in place since June 2011, expires in June 2016. The new appointments will likely be sensitive, given their responsibility, the heightened pressure on the Commission, and PTI's vociferous criticism of the sitting Members. The new Members will have a potentially key role in the upcoming reform process.

The proposed legal reform amendments reportedly includes a widening of the qualification criteria for ECP Members, no longer limiting eligibility to those who have served as a judge in a high court. This is consistent with an EU EOM 2008 recommendation that appointment of the Commissioner and Members be based on stakeholder consultation and broad political consensus. There is reported consensus on the proposed reform.

The appointment mechanism involves the Prime Minister in consultation with the Leader of the Opposition in the National Assembly forwarding three names for hearing and confirmation to a cross-chamber parliamentary committee composed of 50% treasury and 50% opposition members.³⁰ Currently the National Assembly website states that the parliamentary committee for appointment of the CEC and ECP Members has only 9 members (from PML-N, PPP, PTI and MQM) out of 12, and no chair. There are no requirements related to the orientation of new ECP Members, or tradition of substantive induction.

There is a risk that the appointment process for the new Members is required before the electoral reform legislation has passed. The required parliamentary process around the time of the expiry of the Members' term in June 2016 will be further challenging given the pressure of the budget discussions taking place at that time. Leaving the ECP without Members would give the organisation a highly questionable legal status, which risks undermining its reform plans and paralyzing its activities. Appointing Members under the current legal framework risks political controversy and undermining future reforms. Stakeholders had varying opinions about the possibility of advancing one constitutional amendment of the electoral reform proposals, on the appointment of the new Members, to allow for full ECP composition in keeping with the reform process underway. Political consensus will be essential for securing an arrangement that provides for confidence in the ECP leadership and progression towards reform.

Delimitation

The Constitution specifies that delimitation should take place on the basis of the last preceding census officially published. Current constituencies were delimited using 1998 census data. The upcoming census is due to start in late March 2016, which if it proceeds according to schedule, leaves little time for subsequent delimitation. Any delimitation exercise is likely to be highly controversial and late in the electoral process.

The population and housing census is due to start on 28 March 2016, with enumeration completed in 19 days, and publication of reports by December 2017.³¹ Security provision for more than 200,000 enumerators is a significant challenge,³² and there is some skepticism about whether the census will be

³⁰ Article 213 of the Constitution specifies that the Prime Minister in consultation with the Leader of the Opposition in the National Assembly forward three names to a parliamentary committee for hearing and confirmation, and if they cannot agree then each may forward three names. The committee of 12 members, one third of whom are from the Senate, with 50% treasury and 50% opposition members "*based on their strength in Parliament, to be nominated by the respective parliamentary leaders*".

³¹ District census reports are planned to be published from January to December 2017, and provincial and national census reports from August to December 2017.

³² Media reported on 5 February 2016 that the military can only provide 100,000 troops for the census instead of the required 375,000.

undertaken as planned (with current activities are already eight years overdue). Thus there is a significant risk that updated census data may not be published in time for delimitation for the next general elections, meaning that the current constituencies will very likely remain unchanged and existing inequalities will stay unaddressed. The PCER subcommittee has indicated that they will not propose use of voter registration data should updated census data not be available (as was referred to by the EU EOM 2013).³³

Should the census data become available then changes in the proportions of seats for each province would be implicated. Such changes require a change in the Constitution, which specifies the number of seats per province. Changes in the number of seats in each province has obvious political sensitivities in the federation that would make passing of the necessary constitutional changes through the two chambers potentially highly problematic.³⁴ This could result in constituency boundary changes only being made within provinces rather than across the country as a whole, which would be less politically controversial but would not address inequality of the vote issues.

A sense of the changes potentially involved may be gathered by looking at voter registration data (as of 14 January 2016). Numerically speaking, if equality of the vote is respected in seat allocation, then Punjab and Khyber Pakhtunkhwa (KP) would gain extra seats while Sindh, Balochistan and the Federally Administered Tribal Areas (FATA) would lose some seats, with ICT seats remaining unchanged.

³³ EU EOM 2013 recommendation 14 “*Legislation for delimitation be reviewed to explicitly provide for nationwide delimitation possibly using voter registration figures in the absence of updated census data. Timely delimitation be undertaken, allowing for consultation and complaints.*”

³⁴ The ruling PML-N do not have a majority in both houses, with PPP having the majority in the Senate.

National Assembly actual and potential seat allocation

Administrative unit	Current numbers of seats: Total (general + women's reserved seats)	Potential seat numbers using 2016 Electoral Roll data: Total (general + women's reserved seats)	Balance + / -
Punjab	183 (148 + 35)	193 (157 + 36)	+10
Sindh	75 (61 + 14)	72 (59 + 13)	- 3
Khyber Pakhtunkhwa	43 (35 + 8)	48 (39 + 9)	+ 5
Balochistan	17 (14 + 3)	12 (10 + 2)	- 5
FATA	12 (12 + 0)	5 (5 + 0)	- 7
ICT	2 (2 + 0)	2 (2 + 0)	0
TOTAL³⁵	332 (272 + 60)	332 (272 + 60)	0

Implementation of delimitation would be challenging for the ECP, with changes in boundaries being highly sensitive, as was demonstrated in the recent LGEs and the last general elections. The ECP believes that sufficient provisional census data will be available in mid-2017 to start the constituency delimitation process with completion foreseen within six months by the end of 2017, i.e. around seven months before the latest date for the 2018 general elections to be held. Consequent legal challenges could further extend controversies and uncertainties. For example in the recent LGEs, high court cases on delimitation resulted in elections cancelled days before voting was due to take place. Furthermore such late delimitation is likely to be of heightened sensitivity given that unofficial election campaigning in Pakistan traditionally starts around one year before elections. No time limit is specified in the legal framework for the latest time that delimitation can take place before an election.

Voter registration

The EU EOM 2013 noted “*The National Database and Registration Authority (NADRA) has been instrumental in the formation of a markedly improved Electoral Roll, which provided a strong safeguard in the electoral process*” However NADRA’s role is unregulated and the extent of its future involvement is unclear. Reportedly NADRA has reputational risk concerns about being connected with the election process (which could jeopardise international contracts). There are concerns among some stakeholders about the ECP’s capacity to run a complex electoral roll operation in-house, and therefore NADRA’s continued involvement is seen as critical.³⁶

The ECP has legal responsibility for the electoral roll³⁷ and the ECP’s strategic plan 2014-2018 foresees establishment of a computerized electoral rolls system at the ECP, with a new deadline of the end of 2016.³⁸ Positively the ECP plans for future electoral rolls to be based on the NADRA CNIC database. A commercial agreement with NADRA is anticipated for initial assistance in transferring the database and technical support during a transition period. Afterwards, NADRA’s involvement is foreseen to be limited to providing periodic updates on

³⁵ There are 342 seats in the National Assembly, but 10 reserved seats for non-Muslims are not affected by the delimitation as the whole country serves as one constituency.

³⁶ Prior to the 2008 election an electoral roll was produced by the ECP that was missing approximately 25 million people, resulting in entries from the flawed 2002 list being added after much political discord and a Supreme Court order.

³⁷ Constitution of Pakistan article 219(a).

³⁸

Objective 1 of strategic goal 6 “*Establish computerized electoral rolls system (CERS) at the ECP Secretariat and PEC offices and have it operationalized by NADRA along with source code, system documentation and Management Information System, etc.*” This objective was due to be accomplished by September 2014.

new entries and deletions in the CNIC database. The ECP would be responsible for changes (deletions, additions and transfers) and for printing. The ECP anticipate that full ECP responsibility for the electoral rolls could facilitate addressing electoral roll controversies, as for example has arisen in the recent NA-122 by-elections during which PTI claimed there were mass unwarranted transfers of voters.

As of 14 January 2016, the total number of registered voters has increased from 86.2 million in 2013 to 93.1 million in 2016 (an 8% increase). However there is no reliable system in place for removing deceased people from the electoral roll, thus there is a risk that the roll becomes increasingly seen as lacking in reliability. Similar to 2013, nationwide there are over 11.7 million more men on the electoral roll than women.³⁹ According to the 1998 census the sex ratio in Pakistan was 108.5, i.e. there were 108.5 men per 100 women (or 52.04% of population were male and 47.96% female) therefore, assuming that the census data is accurate and the ratio has not changed significantly since 1998, the difference in number of registered men and women should not exceed 3.8 million.⁴⁰

Electronic voting machines (EVMs) and biometric voter verification (BVV)

PTI appears to be currently the only electoral stakeholder strongly advocating for introduction of new technologies to solve electoral problems, in particular the use of EVMs and BVV.⁴¹ The EFM and other stakeholders are generally more critical of the considerable risks and costs involved. Decisions on the use of EVMs and BVV risk holding up the legal reform process and/or putting increased pressure on the ECP.

EVMs have the potential to lower the number of invalid ballots, and reduce opportunity for human error, malpractice and some types of fraud such as ballot box stuffing. Similarly BVV can limit multiple voting and voter impersonation, through for example mechanisms for fingerprint recognition in polling stations.

However, EVMs bring significant problems related to transparency and secrecy of the vote. Recognition of integrity problems has resulted in apparent agreement on the need to have a paper trail with any EVM used, however this has further cost implications. The PCER subcommittee has asked the ECP to undertake a pilot testing of EVMs. In response to this request the ECP is planning to procure 300-400 EVMs by October 2016 and start testing afterwards in up-coming by-elections.⁴² Use of EVMs with a paper trail for the forecast 600,000 polling booths planned for the next elections would likely require a more than a ten-times increase in an election budget.⁴³

BVV devices are also costly and recent problematic experiences with BVV at polling stations in Kenya, Ghana and Nigeria show the difficulty of implementing such technology.⁴⁴ The ECP conducted a pilot

³⁹ Women comprised 43.62% of the roll in 2013 and 43.74% in 2016. Likewise in all four provinces, FATA and ICT the male/female ratio of registered voters has not changed between 2013 and 2016, and varies between 54.11%/45.89% in ICT and 65.56%/34.44% in FATA.

⁴⁰ According to other sources the sex ratio in Pakistan stands at 106 (The CIA World Factbook, 2015 estimate), 105.7 (UN Data, 2015) and 51.4% of men and 48.6% of women (The World Bank, 2014).

⁴¹ BVV processes at a polling station includes: 1) voter identification (locating the voter on the electoral roll), and 2) voter authentication (confirmation of voter's identity based on biometric data).

⁴² Reportedly only three countries in the world currently use only EVMs for nation-wide elections (India, Brazil and Venezuela).

⁴³ An optimistic price estimate by a UNDP expert on EVMs and BVV is 1,000 USD (approximately €893) for an EVM with a paper trail (the preferred option in Pakistan). Around 300,000 polling booths were set up during the 2013 general elections and therefore total cost for hardware only could reach 300 million USD (approximately €268 million). Additional costs would be needed for training, technical support, maintenance and storage. Furthermore the PCER sub-committee is reportedly recommending to double the number of polling booths for the 2018 general elections. The total ECP budget for the 2013 general elections was reportedly around 60 million USD (approximately €54 million).

⁴⁴ Problems included controversial procurement process, staff not adequately trained on use of the BVV devices, low success rate of fingerprint recognition due to the poor quality of people's fingertips (particularly in rural areas), and connectivity difficulties.

testing of on-line BVV devices (rented from one of the local mobile network operators) in a by-election in August 2015 with poor results.⁴⁵ So far there has been no pilot testing of an offline BVV system as NADRA reportedly refuses the offline use of its data (to avoid personal data getting compromised).

The ECP, other key political parties, FAFEN and international assistance partners have expressed their reservations about the feasibility and added value of introducing EVMs and BVV for the 2018 general elections. The prevailing opinion of stakeholders is that more critical reform can be more easily realised through simpler changes. Following the recently conducted ECP/ United Nations Development Program (UNDP) seminar “*Use of technology in elections*”⁴⁶ there are some indications that PTI may be prepared to reconsider its position on introduction of EVMs and BVV. Some stakeholders commented that some form of OCV could be introduced as a concession to PTI.

Out of country voting (OCV)

PTI and MQM are the main advocates for OCV for Pakistani citizens living abroad, with both parties thought able to mobilise substantial support among the diaspora. Introducing OCV could enfranchise over six million adult Pakistanis living abroad who are holders of the National Identity Card for Overseas Pakistanis (NICOPs) issued by NADRA. However, any form of OCV involves a significant financial, administrative and operational challenge and Pakistan’s electoral system (first-past-the-post, single member constituencies) further complicates implementation. Even small-scale irregularities in OCV risk compromising the credibility of the whole election process.

In late 2015 the ECP conducted mock postal balloting for staff in seven Pakistani diplomatic missions in four countries. Results were less than encouraging with ballots arriving late in Pakistan despite using diplomatic pouches for transportation. Upon ECP request, UNDP is currently conducting a feasibility study to review the range of potential OCV implementation options.⁴⁷ The most likely practical choice is postal balloting, albeit without guarantees for secrecy of marking ballot papers, for newly created OCV constituencies. In-person OCV would be complicated to implement, in part because the diaspora live in at least 95 countries, not all of which may be fully supportive of holding Pakistani electoral operations.⁴⁸ The ECP appears to be understandably cautious about undertaking OCV, similarly other political parties, civil society and international assistance partners have questioned the merits of OCV.

ELECTORAL SUPPORT

The donors have provided substantial electoral support to Pakistan throughout the various cycles of elections, with primary focus on the ECP. This has been undertaken through the UNDP and the International Foundation for Electoral Systems (IFES) as implementing partners. Following the 2008 elections, development partners have diversified their support to electoral processes, in particular supporting legislative reforms (through DRI), media training and greater support to citizen observation (in particular FAFEN). The US has undertaken a large programme to support development of political parties, with an upcoming focus on elections.

Traditionally support to the ECP involved large-scale election implementation assistance, which primarily helped fulfill ECP immediate responsibilities rather than reforming the institution or developing its

⁴⁵ Online BVV devices were pilot-tested in 30 polling stations during the NA-19 Haripur by-elections on 16 August 2015. According to FAFEN, in 13 out of 30 polling stations the BVV devices did not work properly.

⁴⁶ The seminar took place on 10 February 2016, with a leading global expert on EVMs and BVV who strongly recommended extensive testing of different equipment with the aim of potentially introducing EVMs and BVV in the 2023 general elections.

⁴⁷ Other organisations, such as DRI have also produced papers on OCV, EVMs and BVV that have been shared with the PCER and ECP.

⁴⁸ The countries with largest overseas Pakistani diaspora are Saudi Arabia, the UK, the United Arab Emirates and the US.

capacities. For example training for temporary election staff was essentially run by technical assistance partners. While such support served a political imperative for delivery of elections, it did not strengthen capacity for improved future elections, thereby raising sustainability issues. Improvements prior to the 2013 elections may be seen as primarily due to other agencies, in particular constitutional change providing for an improved process for appointment of the ECP leadership and NADRA's involvement in the electoral roll. What change there was within the ECP may be seen as resulting from the increased demands that have been made of the organization, in particular through increased scrutiny and advocacy from an expanded media and civil society.

However under the current ECP leadership, there is a demonstrated commitment to reform. In particular the ECP has taken initiative in running its own training and monitoring of the performance of its staff. During EFM meetings the ECP Secretary spoke positively about the value of donor assistance for building ECP accountability through development of ECP internal monitoring. The ECP's five-year strategic plan includes references to positive actions including stakeholder outreach and internal organizational development (for example on human resources management and financial autonomy), however it does not commit to certain key measures such as results transparency. The current combination of high-level pressure on the ECP to reform and the more positive ECP leadership gives more potential for institutional reform than has been seen previously.⁴⁹

Scrutiny and advocacy have been undertaken from FAFEN (the largest citizen observation network), as well as other Pakistani organisations such as the Pakistani Institute of Legislative Development and Transparency (PILDAT) and the Human Rights Commission of Pakistan. DRI has provided specialized advocacy briefings, LGE assessments, legal reviews and support to the PCER. Citizen observation has been praised for being widespread, but also subject to criticism by some for being overly-concentrated and focused on election day (without making sufficient distinctions between the severity of irregularities).

A coordination mechanism is established through the Election Support Group (ESG) that meets monthly, providing opportunity for exchange of information from implementing partners, donors and political counselors. A joint results framework⁵⁰ was developed in the past between the participating donors, which may now have to be revised as at least one of donors seems to have scaled down its financial resources for electoral assistance.⁵¹ This results framework may well lead to greater harmonization and complementarity, as well as stronger donor leverage. The joint results framework followed on from a joint EU and UK Department for International Development (DFID) evaluation of election programming and scoping mission.

Some delays to major donors' programme planning and approval is leaving implementing partners with a lack of funding beyond their immediate short-term activities, resulting in some organisations having to lay off key staff. Such gaps in funding are particularly unfortunate given that 1) the period between elections is recognized as core to effective election development and implementation, 2) considerable reform is needed, and 3) there is currently more demonstrated interest in reform from Parliament and the ECP than there has been in recent decades (or ever). Lack of interim funding leaves organisations at risk of losing key staff, thereby complicating future activities, and does not demonstrate international support to the reform process.

Support to the electoral reform in Pakistan may be considered as a high priority by international donors. The EU in particular, has increased potential for influence at the policy level, given its demonstrated long-

⁴⁹ Prior to the EU EOM 2008 there had not been implementation of EU EOM 2002 recommendations.

⁵⁰ The joint results framework includes five outputs: 1) strengthened ECP planning and management capability, with improved transparency, 2) Enhanced capacity and accountability of other state institutions involved in the electoral process, including NADRA, the police and the judiciary, 3) Improved accountability of Pakistan's political parties and Parliament, and 4) Strengthened citizen capacity and participation, and 5) Strengthened cooperation amongst all electoral stakeholders. Outputs are consistent with EU EOM recommendations.

term commitment to democratic rule in Pakistan and GSP+ interest and requirements.

Election Follow-Up Mission (EFM)
Honduras - December 2015
FINAL REPORT

ANNEX 1: LIST OF EU EOM 2013 RECOMMENDATIONS AND STATUS OF IMPLEMENTATION

EU ELECTION OBSERVATION MISSION RECOMMENDATIONS - STATUS OF IMPLEMENTATION OF RECOMMENDATIONS			
No	Recommendation	Status of implementation	Comment
DEVELOP A FRAMEWORK FOR ELECTORAL REFORM			
1	Formation of a special Parliamentary Committee on elections/electoral reforms for timely review of legislation, based on international law commitments and a consultative process. Also for undertaking scrutiny of election preparations and processes, thereby increasing accountability and showing parliament's commitment to improved democratic processes.	Mostly	A dedicated Parliamentary Committee on Electoral Reforms (PCER) has been established. Its legislative proposals reportedly include requiring the Election Commission of Pakistan (ECP) to report to parliament. To date there has been limited consultation with stakeholders.
STRENGTHEN THE OVERALL LEGAL FRAMEWORK			
2	The electoral legislation be consolidated so that repetitions and inconsistencies are avoided, and the legal framework is made more accessible to stakeholders.	Not	A draft unified electoral law (UEL) is currently being prepared by the PCER.
3	The Freedom of Information Ordinance be amended to require State parties to proactively put in the public domain state information of public interest. Reduction of the Federal Government's powers to decline disclosure, and provincial Governments and constitutionally independent bodies such as the ECP be explicitly placed under the Ordinance's jurisdiction.	Not	No amendments have taken place to date and there does not appear to have been discussion on the matter.
DEVELOP THE INDEPENDENCE AND EFFECTIVENESS OF THE ELECTION ADMINISTRATION			
4	Removal of presidential powers in regards to approval of rules, removal of difficulty, and approval of Appellate Tribunals, in order to strengthen the independence of the election administration. Removal of the constitutional provision for a judge of the Supreme Court to act as Commissioner in the absence of the Chief Election Commissioner.	Not	Nothing to date reported on such reforms being part of the proposed new legislative amendments.
5	The ECP fully implement and review its Five Year Strategic Plan. The ECP use the opportunity of each upcoming by-election to demonstrate its commitment to implement improved practices.	Minimal	The ECP reported 80% fulfilment of their first strategic plan. A second strategic plan for 2014-2018 has been developed. However the plan was prepared under the previous leadership and contains some unrealistic objectives, such as full

	The ECP submit regular public reports to Parliament.		electronic voting for 2018. While some improved practices have been recently demonstrated in the LGEs and by-elections, many other opportunities for improvement have not been taken up (for example in increasing transparency). ECP reporting to parliament is allegedly included in the proposed legislative changes.
6	The ECP promote voter engagement, including by publically demonstrating measures it is taking to mitigate against malpractices so that there can be increased stakeholder confidence in the process. Also by undertaking further voter education at the appropriate time, with a particular focus on marginalised groups.	Minimal	One initiative the ECP has taken is publishing polling station data on an interactive map, to mitigate against ghost polling stations. However other measures have not been undertaken to date (for example in regards to Returning Officer (RO) accountability and transparency). During the local elections with UNDP the ECP was involved in voter education targeted at women particularly in constituencies with low female turnout in previous elections.
7	The ECP regulate for key aspects of the process so far unaddressed, including provisions for administrative complaints, transparency and observers.	Minimal	During the local government elections (LGEs) the ECP recently took the positive steps of initiating consultations with observers for accreditation procedures, and established a mechanism for some opportunity for lodging complaints.
8	The ECP take full management responsibility for the work of ROs. ROs be full-time dedicated to their task. ROs not be wholly drawn from the judiciary to avoid conflict of interest, and instead could be partially or totally from the ECP permanent staff base, other branches of the civil service, or be selected through an open recruitment process.	Minimal	During the LGEs, one instruction was issued to ROs on candidacy nomination, some monitoring was established and a removed a few ROs from post due to their performance being seen as problematic. However other aspects of ROs' work remain unregulated and are not checked. Some permanent staff were used as ROs and District Returning Officers (DROs) during LGEs and by-elections. Following the National Judicial Policy Committee's decision not to have its ranks serve as ROs, the ECP used local administration officers as ROs and DROs. This was controversial due to their perceived bias in favour of provincial incumbents.
9	The ECP work with full transparency, making all information of public interest immediately and easily accessible, including ECP decisions, notifications, polling and results data.	Not	There has been an overall deterioration in transparency. During the LGEs, no results numbers at all were published. While results data was due to be locally displayed, this did not always happen in practice. There was also a severe lack of information on delimitation with ECP staff, the public and aspirant candidates not knowing boundaries and therefore where to nominate themselves. There was also a lack of information on the number of registered voters. In Punjab and Sindh the ECP did not publicly announce post-election day schedules. Positively very recently the ECP has published the polling station scheme on line for some by-elections.
10	The ECP work in a fully consultative manner through with regular meetings with political parties and civil society organisations.	Minimal	There is no regular mechanism in use for meeting with parties and civil society. However individual meetings have taken place and the ECP has attended and co-organised <i>ad hoc</i> multi-stakeholder events.
11	The ECP develop codes of conduct through a consultative process, with focus on establishing realistic enforcement mechanisms.	Minimal	There does not appear to have been a consultative process for Codes of Conduct (CoCs) used in the local elections. Responsibility for enforcement of codes of conduct was as usual deferred primarily to ROs without corresponding

			transparency or checking/supervisory provisions.
12	The Code of Conduct for observers include provisions for the rights of observers, accreditation be issued for the entire process (not one day), and the ECP develop its own capacity for timely and convenient issuing of accreditation.	Not	The CoC still includes no provision for the rights of observers. Accreditation during the LGEs was highly problematic, coming very late and being excessively burdensome for citizen observer organisations, and when issued was for just one day.
MAINTAIN THE ELECTORAL ROLL (ER)			
13	A strong system be established for updating the ER, to remove the deceased, register new voters, and provide for people to be registered at the location of their convenience.	Not	There is still no legally-regulated system for the ECP and NADRA's respective responsibilities for maintenance and production of the ER. During the LGEs there was a lack of information about registration services.
EQUALISE CONSTITUENCIES			
14	Legislation for delimitation be reviewed to explicitly provide for nation-wide delimitation possibly using voter registration figures in the absence of updated census data. Timely de-limitation be undertaken, allowing for consultation and complaints.	Not	Reportedly consideration was given by the PCER to use of ER data for delimitation (in the absence of an updated census), however the draft UEL apparently does not include this provision. Delimitation is likely to be problematic given the likelihood of delayed census activities and results.
STRENGTHEN CANDIDATE NOMINATION PROVISIONS AND PROCESSES			
15	Candidacy requirements be amended to remove vague moral conditions open to subjective interpretation, and so that the right to stand is not contingent on another person's financial standing or behaviour.	Not	There does not appear to be political consensus around the removal of requirements related to being a good Muslim and having good character.
16	Candidates be limited to running in only one constituency in any election, for clarity to voters and to remove the need for subsequent by-elections.	Not	No reference has been made to such a change in legislation.
17	Procedures for and management checks on RO's assessment of candidate nominations be developed, so that all candidates are treated equally and fairly and there is no assumption of guilt prior to a conviction.	Minimal	During the most recent LGEs the ECP did issue an instruction to ROs to promote consistency in nomination procedures.
DEVELOP CAMPAIGN FINANCE PROVISIONS			
18	The financial limitation on election expenses of candidates be reviewed, together with the financing provisions for political parties, in order to enhance transparency and accountability. The financial monitoring and enforcement capacity of the ECP be developed.	Not	Reportedly the proposed UEL contains a chapter on campaign finance, including limits for parties (as well as candidates) and increased more realistic limits. There has been no change in the ECP's monitoring and enforcement capacity.

STRENGTHEN THE FREEDOM AND RANGE OF THE MEDIA			
19	Freedom of expression be subject to "necessary" rather than "any reasonable restrictions imposed by law" through amendment of article 19 of the Constitution.	Not	There has been no such amendment.
20	The legal framework for media be revised so that it supports editorial independence and eliminates opportunities for censorship. The Pakistan Electronic Media Regulatory Authority (PEMRA) Ordinance 2007; Press, Newspapers, News Agencies and Books Registration Ordinance 2007; Defamation Ordinance and number of PEMRA regulations be amended in line with Pakistan's international commitments and best practice in journalism.	Not	No amendment of the legal framework for the media has taken place to date.
21	State authorities take strong measures to promote a safe and enabling environment for journalists to perform their work independently and without undue interference. The measures taken be narrowly tailored to avoid compromising editorial independence and autonomy or journalists' ability to work.	Not	Improved measures to protect journalists' safety have not been reported. Reporters Without Borders ranks Pakistan as 159 out of 180 countries in its 2015 World Press Freedom Index.
22	In close cooperation with the ECP, PEMRA establish efficient media monitoring units in all provinces and introduce a quantitative media monitoring methodology that meets international standards, and provides the regulatory bodies with legitimate and accurate information, in order to monitor broadcasters' compliance with legal and regulatory provisions.	Not	Reportedly some monitoring has been conducted by PEMRA, but this has not been effective.
23	Jurisdiction and supervision over the state-owned media be transferred from Ministry of Information and Broadcasting to PEMRA. State-owned broadcasters' financial autonomy be sustained and editorial independence further fostered by amending relevant legislation.	Not	In 2013 the Supreme Court established a Media Commission which made 35 recommendations to which the Ministry of Information, Broadcasting and National Heritage has submitted two reports. Reportedly till now the Ministry has not committed to taking further steps to promote the independence of state-owned broadcasters.
24	To increase the range of information and campaign and debate platforms available to voters and candidates, undertake further liberalization of the broadcasting sector, in particular in regards to terrestrial and radio services. Also by facilitating the licensing of community radio stations in rural areas and tasking such stations with some public service duties like provision of free air time to local candidates and voter education programmes in vernacular languages.	Not	Further liberalisation has reportedly not taken place.

Election Follow-Up Mission (EEM)

25	Conduct professional capacity building training at various levels, from editorial board members to reporters, on pre-election programme planning, investigative journalism, conducting political debates, reporting and use of various journalistic techniques.	Minimal	Some capacity building has taken place, but this does not appear to be election-specific.
DEVELOP SAFEGUARDS IN THE POLLING AND COUNTING PROCESS			
26	The ECP review and develop its procedures to increase checks in the polling process, such as requiring staff to count and record the number of voters who've voted according to the marked ER, and requiring form 16 to record the number of registered voters per polling station. The ECP to develop procedures for RO actions in case of inconsistencies in forms 14 and 15.	Not	No such improvements have been made to date in the LGEs or by-elections.
27	The polling scheme to be finalised as per the law, with any subsequent alterations such as may be necessary due to court decisions, being made immediately publicly available locally and on the ECP website.	Minimal	During local elections polling schemes continued to be problematic and controversial. Positively the ECP has published an on-line interactive map with polling stations for one by-election and the LGE in Islamabad Capital Territory.
28	All polling staff be trained. Any last minute changes in polling staff be minimal, the ECP be fully informed, and new staff be drawn from trained reserve staff and/or given training. More extensive training be undertaken by all personnel involved, including ROs and polling staff, for consistent and correct implementation of procedures. Emphasis to include counting, completion of forms and the results process.	Minimal	During the most recent LGEs the ECP has taken initiative for training (previously it was undertaken by UNDP and IFES). The ECP reports increasing rates of polling staff having been trained, going up to 90% in the last phase of LGE polling. The ECP is planning development a training academy and reports wanting to start training a year in advance of the elections.
29	A results management system be further developed so that all polling station and constituency forms are swiftly transmitted to the ECP and are promptly displayed on the ECP website, as well as being displayed locally at the constituency level.	Minimal	The Results Management System (RMS) used for the general elections has not been used for by-elections or the LGEs. The same basic results system is being used as had been used in previous elections, lacking checks and transparency. However there has been testing of an android based system for staff to email photographs of polling station results forms.
30	Political parties train and organise party agents more effectively so they can play a stronger scrutiny and safeguard role in the electoral process.	Not	PTI reported training their agents for the LGEs. There was no evident improvement in the quality of agents' performance.
ESTABLISH STRONGER SYSTEMS FOR ELECTORAL DISPUTE RESOLUTION			
31	Establishment in law of a clear system for filing administrative complaints to the ECP and petitions to Tribunals, to avoid overlapping jurisdictions and improve clarity and predictability of access to remedy.	Not	Some changes to electoral dispute resolution (EDR) are anticipated in the legislative reforms. It is not clear if there will be requirements for a system for administrative complaints.
32	In order to improve access to timely remedy and reduce the need	Not	During the most recent LGEs the ECP took initiative to institute a complaints

	for judicial proceedings, a system be established for administrative complaints to ECP bodies, with information given on how, where and when to complain, and also on how and when decisions are reached, and complaints tracking.		cell system, including law enforcement representatives, at different levels of the organisation. However this appeared to be under-regulated and did not include challenges to results which were essentially deferred to petitions to tribunals.
33	The independence of Appellate and Election Tribunals be strengthened, through judicial appointment and orientation/training of judges and staff working on Tribunals. Resourcing and training of Tribunal staff be increased to speed the process and provide for consistent implementation of due process.	Not	For the LGEs there has not been increased independence of tribunals. For some tribunals for delimitation, ECP staff were appointed (instead of members of the judiciary).
34	Expand the group of those that can file petitions to Election Tribunals, to include political parties, civil society organisations and voters.	Not	This does appear to be part of the proposed legal reform.
35	The legislative framework for electoral offences and penalties be reviewed to remove any unwarranted clauses, such as boycotting, and sanctions made reasonable and proportionate to the offences. Alleged offences be subject to investigation and due process.	Not	This does appear to be part of the proposed legal reform. There continues to be no prosecution of electoral offences.
FURTHER DEVELOP CITIZEN OBSERVATION			
36	Citizen observer groups, including FAFEN, continue to develop in organisational capacity, advocate for electoral reform, and undertake scrutiny of by-elections and local elections.	Mostly	FAFEN has continued to advocate on electoral reform and scrutinised the LGEs (except for Balochistan) and by-elections, albeit primarily focusing on election day observation. Future activities of FAFEN are uncertain, with current donor funding gaps.
PROMOTE THE PARTICIPATION OF WOMEN			
37	Special efforts be undertaken to secure CNIC registration for women, targeting especially women in rural and conservative areas and young women, to increase the number of women on the electoral roll. Photographs be included on all CNICs as an antifraud measure. Awareness raising on the usefulness of having photographs on CNIC.	Minimal	NADRA reports having women only centres, registration days and mobile teams. However there are still more than 11 million fewer women on the electoral roll than men. As of March 2014 NADRA has made photos on CNICs mandatory for women. It reports that there are “very few” entries left without photographs.
38	Polling stations be established in accessible locations with adequate conditions for women, including suitable facilities and female staff. Sufficient number of female polling stations be established in areas where separate polling stations are appropriate to the local cultural norm.	Not	During the LGEs increased problems were reported by observers (FAFEN, HRCP and DRI) in female booths and stations, including over-crowding and reduced levels of staff competency.
39	Resolute actions to be taken against agreements that prohibit women from voting. ROPA be amended to explicitly provide for the ECP and Tribunals to disqualify a returned candidate if there	Minimal	During the LGEs women were barred from voting in certain locations in three provinces. After a by-election, in Lower Dir in Khyber Pakhtunkhwa the ECP, for the first time ever, ordered re-polling because of an alleged ban on women’s

Election Follow-Up Mission (EEM)

	is evidence that the candidate, or their election agent or any other person with their connivance, participated in an agreement banning women from voting or standing as candidates.		participation. An initial judgement of the Peshawar High Court stayed the ECP's order. The case is on-going.
40	Election-related gender-disaggregated data be maintained, with information published regularly and promptly on the websites of the ECP and NADRA.	Not	The ECP has continued to attempt collect gender-disaggregated polling data. Gender-disaggregated voter turnout for the LGEs was only provided for KP which showed 28% of women voted and 50% of men.
41	Political parties be required to have policies and provide information on women's participation within the party, and to take additional measures to promote women's participation. Political parties be encouraged to nominate an increased number of women candidates for general seats.	Not	This does appear to be part of the proposed legal reform. No gender-disaggregated candidate data is available for the LGEs but there are consistent reports of very few women running for general seats.
42	A review be undertaken of the system of reserved seats for women, in line with UN General Assembly resolution 66/130 which calls on countries to review the differential impact on their electoral systems on the political participation of women.	Not	Reportedly this will not be included in the proposed legal reform. The LGEs had similar problematic arrangements for reserved seats, which were predominantly indirectly elected with nomination at times restricted to those on general seats. This compromised the ability of women to stand and is counterproductive to the aim of temporary special measures. Parties reportedly discouraged women from running for general seats.
43	State media take actions to promote women's participation in the electoral process, such as including women candidates in their election programming, asking parties about their policies related to women's participation and undertaking debates on gender issues.	Not	There are no reports of this having been undertaken for the LGEs.
PROMOTE THE PARTICIPATION OF MINORITIES			
44	The separate list for Ahmadi voters be abolished, so that all voters are on one unified electoral roll, according to requirements for age and Pakistani citizenship.	Not	This is not part of the proposed legal reform. Ahmadis continue to be on a separate electoral roll, which resulted in their continued electoral boycott of the LGEs.
45	Consideration to be given to reviewing the system for allocating the reserved seats, for example so that they are directly elected and such representatives have a constituency to respond to.	Not	This does appear to be part of the proposed legal reform. The LGEs had similar problematic arrangements for reserved seats, which were predominantly indirectly elected with nomination at times restricted to those on general seats. This compromised the ability of minorities to stand and is counter-productive to the aim of temporary special measures. Parties reportedly discouraged minorities from running for general seats.
46	Special measures be taken to provide for effective electoral participation by persons with disabilities, such as facilitating CNIC registration, making postal voting possible if needed, specialised voter education activities, and sensitisation of the polling staff.	Not	Civil society organisations broadly representing persons with disabilities (PWD) have not been consulted by the PCER and reported problems with accessing documentation, CNICs and polling. The ECP is in the process of establishing a forum for discussing PWD inclusion. According to the five year strategic plan (2014-2018), it appears that the ECP does not have a single staff member with disabilities (as of 2014).

47	State media take actions to increase substantially the visibility of candidates from minority and vulnerable groups. ECP and state media provide free voter education spots for minority and vulnerable groups.	Not	There are no reports of this having been undertaken for the LGEs. According to the five year strategic plan (2014-2018), it appears that the ECP does not have a single staff member from a minority community (as of 2014).
UNDERTAKE POLITICAL REFORM			
48	The mandate, functioning and neutrality of future caretaker governments be more clearly defined in law.	Not	Reportedly some regulation of caretaker governments is included in the planned legal amendments.
49	Further internal party democratisation processes be required and enforcement mechanisms developed, to enhance participation and accountability, including in regards to candidate nomination.	Not	Legal requirements for internal party democracy do not appear to be part of the proposed legal amendments. JI and PTI report holding intra-party elections.
50	Further constitutional reforms be undertaken to enable FATA residents to enjoy fundamental political freedoms and civil rights as other citizens of Pakistan do. The 12 National Assembly representatives of FATA be able to legislate for FATA.	Not	Not undertaken to date. In November 2015 the Prime Minister constituted a committee on political reforms in FATA.

ANNEX 2: EFM PRESS RELEASE

EU ELECTORAL FOLLOW-UP MISSION TO PAKISTAN

PRESS RELEASE

Now is the Time for Transparent and Inclusive Electoral Reform

The European Union (EU) has deployed an Electoral Follow-up Mission to Pakistan to assess the current electoral reform process and the extent to which previous EU election-related recommendations have been addressed. The findings of the Mission will also be considered when deciding future EU support and activities in Pakistan, including potential support to the electoral reform process and deployment of an Election Observation Mission (EOM) for the next general elections. The deployment of the Electoral Follow-up Mission demonstrates the EU's strong commitment to support implementation of EOM recommendations for more inclusive, credible and transparent elections.

The Electoral Follow-up Mission is led by Michael Gahler, Member of the European Parliament, who also led the 2008 and 2013 EU EOMs to Pakistan. The Mission met with the Parliamentary Committee on Electoral Reforms, the Chief Election Commissioner, the Chair of the Senate, the Chief Justice of Pakistan, the Ministry of Foreign Affairs, the Ministry of Interior, the Chair of NADRA, political party leaders and civil society representatives.

The Mission welcomes the establishment and the ongoing work of a parliamentary committee dedicated to reforming election legislation. It also appreciates the increasing initiatives made by the Election Commission of Pakistan (ECP), including with regards to training, monitoring and promoting women's participation. The Mission is also encouraged to see that competitive local elections have been held.

However the Mission is aware of a number of shortcomings in the local elections including inadequate legal frameworks, reduced transparency, lack of confidence in the work of returning officers, and weak mechanisms for legal remedy. Such problems show the urgent need for election reform to avoid uncertainty, conflict or instability in the next general elections.

"For election reform to be effective, time is needed for implementation that begins well before the next election is called. Inclusive and transparent reform processes help build confidence in elections and their results. Well run elections are in everyone's interest and can only help Pakistan's prosperity", said Michael Gahler.

The EU's GSP+ agreement with Pakistan for preferential trade arrangements requires implementation of international conventions, which include *inter alia* obligations regarding electoral processes. The EU therefore trusts that Pakistani authorities will fulfill their commitments to improving elections and political participation. This includes adequate legal reform, stronger ECP performance and transparency, improved opportunities for legal remedy, and increased participation of women and minorities.

Michael Gahler emphasised *"Now is the time for reform decisions and actions. Further delays to reform risk problems recurring and undermining the next general elections. These problems can be avoided if parties and institutions show decisive leadership at this crucial time."*

**Islamabad, Pakistan
10 February 2016**

ANNEX 4: LIST OF ACRONYMS

SN	Date	Interlocutor	Designation	Organisation
1.	02.02.2016	Mr Stefano Gatto	Deputy Head	EU Delegation
		Mr Johan Sorensen	Head of Political Section	
		Ms Danuta El Ghuff	Programme Manager	
2.	03.02.2016	Mr Shahid Fiaz	Chief Executive	FAFEN
3.	03.02.2016	Mr Shabir Ahmed	Deputy Country Director	IFES
4.	04.02.2016	Mr Hassan Nasir Mirbahar	Team Leader	DRI
5.	04.02.2016	Mr Skye Christensen	Election Specialist	UNDP
6.	04.02.2016	Ms Sandra Houston	Country Director	NDI
7.	07.02.2016	Mr Shabir Ahmed	Deputy country Director	IFES
		Mr Shahid Fiaz	Chief Executive	FAFEN
		Mr Hassan Nasir Mirbahar	Team Leader	DRI
8.	07.02.2016	Mr Naeem Mirza	Chief Executive	Aurat Foundation
		Mr M Atif Sheikh	Chief Executive	STEP
9.	07.02.2016	Mr Shahid Attaullah	Representatives	Ahmadi community
		Mr Mujeeb-ur-Rehman		
		Mr Rehman Waqas		
10.	7.02.2016	Mr Marc-André Franche	Country Director	UNDP
		Mr Skye Christensen	Election Specialist	
11.	08.02.2016	Mr Justice Sardar Raza	Chief Election Commissioner	ECP
		Mr Babar Yaqoob	Secretary	
12.	08.02.2016	Mr Zahid Hamid	PCER Sub-committee Chair, Minister	NA/Fed. Gov.
13.	08.02.2016	Ms Tasnim Aslam	Additional Secretary	MoFA
14.	09.02.2016	Mr Farooq Sattar	Member NA	MQM
15.	09.02.2016	Mr Shahid Khan	Secretary	MoI
16.	09.02.2016	Mr Usman Y. Mubin	Chairman	NADRA
17.	09.02.2016	Round-table on implementation of the EU EOM 2013 recommendations		
18.	10.02.2016	Mr Siraj Ul Haq	Emir	Jamiat-e-Islami
19.	10.02.2016	Mr Mian Raza Rabbani	Chairman	Senate
20.	10.02.2016	Mr Shah M. Qureshi	Vice-Chairman	PTI
21.	10.02.2016	Mr Anwar Zaheer Jamali	Chief Justice	Supreme Court
22.	10.02.2016	Debriefing with EU HoMs		
23.	10.02.2016	Interviews with selected journalists		
24.	11.02.2016	Mr Zafarullah Khan	Barrister-at-Law	PCER
25.	12.02.2016	Mr Babar Yaqoob	Secretary	ECP
26.	12.02.2016	Mr Sirmed Manzoor	General Secretary	SAFMA
27.	15.02.2016	Mr Akram Kullam	Election tribunal observer	FAFEN
28.	16.02.2016	Debriefing with the Election Support Group		

ANNEX 3: LIST OF MEETINGS HELD

BVV	Biometric voter verification Chief Election
CEC	Commissioner
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CNIC	Computerized National Identity Card Code of Conduct
CoC	Department for International Development
DFID	Democracy Reporting International
DRI	District Returning Officer
DRO	Electoral dispute resolution
EDR	Electoral Follow-up Mission
EFM	Election Observation Mission
EOM	Election Support Group
ESG	Electronic voting machine
EVM	Free and Fair Election Network
FAFEN	Federally Administered Tribal Areas
FATA	Generalized System of Preferences Plus
GSP+	International Covenant on Civil and Political Rights
ICCPR	Islamabad Capital Territory
ICT	International Foundation for Electoral Systems
IFES	Khyber Pakhtunkhwa
KP	Local government election
LGE	Muttahida Quami Movement
MQM	National Database and Registration Authority
NADRA	National Identity Cards for Overseas Pakistanis
NICOP	Out of country voting
OCV	Parliamentary Committee on Electoral Reforms
PCER	Pakistan Muslim League-Nawaz
PML-N	Pakistan Peoples Party
PPP	Pakistan Tehreek-e-Insaf
PTI	Results management system
RMS	Returning Officer
RO	Unified Electoral Law
UEL	United Nations Development Program
UNDP	