

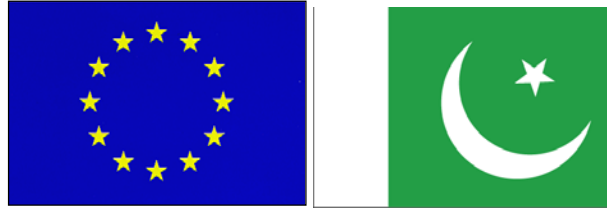
European Union Election Observation Mission



Final Report **Pakistan 2013**



General Elections



ISLAMIC REPUBLIC OF PAKISTAN

FINAL REPORT

General Elections 11 May 2013

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**EUROPEAN UNION
ELECTION OBSERVATION MISSION**

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This report was produced by the EU Election Observation Mission (EOM) and presents the EU EOM's findings on the General Elections May 11 2013 in Pakistan. These views have not been adopted or in any way approved by the European Commission and should not be relied upon as a statement of the Commission. The European Commission does not guarantee the accuracy of the data included in this report, nor does it accept responsibility for any use made thereof.

TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY	3
II.	INTRODUCTION TO THE MISSION	7
III.	POLITICAL BACKGROUND	7
IV.	LEGAL FRAMEWORK	10
V.	ELECTION ADMINISTRATION	14
VI.	DELIMITATION OF CONSTITUENCIES.....	17
VII.	VOTER REGISTRATION	18
VIII.	ELECTORAL DISPUTE RESOLUTION (EDR).....	20
IX.	REGISTRATION OF CANDIDATES.....	21
X.	ELECTION CAMPAIGN	24
XI.	MEDIA AND ELECTIONS	27
XII.	PREPARATIONS FOR POLLING AND ELECTION DAY	31
XIII.	RESULTS PROCESS	35
XIV.	RESULTS DISPUTE RESOLUTION AND ELECTION OFFENCES	39
XV.	RESULTS AND THE POST ELECTION DAY POLITICAL ENVIRONMENT	41
XVI.	CITIZEN OBSERVATION	42
XVII.	PARTICIPATION OF WOMEN	44
XVIII.	PARTICIPATION OF MINORITIES AND VULNERABLE GROUPS.....	46
	ANNEX 1 – EU EOM RECOMMENDATIONS	49
	ANNEX 2 – NATIONAL ASSEMBLY ELECTION RESULTS	72
	ANNEX 3 – PRE ELECTION DAY VIOLENCE BY PARTY	73
	ANNEX 4 – ELECTION DAY VIOLENCE	74
	ANNEX 5 – EU EOM MEDIA MONITORING RESULTS.....	75
	ANNEX 6 – LIST OF ABBREVIATIONS	86

I. EXECUTIVE SUMMARY

A strong democratic commitment was demonstrated in the 2013 elections, by the state authorities of Pakistan, civil society, political parties and voters. Despite escalating militant attacks, and procedural shortcomings, the electoral process progressed with high levels of competition, a marked increase in voter participation, and overall acceptance of the outcome. The electoral reform undertaken in the last few years, particularly in regards to the leadership of the Election Commission of Pakistan (ECP) and the electoral roll, provided for a significantly improved process. However fundamental problems remain with the legal framework and the implementation of certain provisions, leaving future processes vulnerable to malpractice and Pakistan not fully meeting its obligations to provide citizens the right and opportunity to stand as candidates and to vote.

Pakistan ratified the UN International Covenant on Civil and Political Rights (ICCPR) in 2010, making these the first national elections to be held under the legal obligations of the treaty. Pakistan's legislative framework largely provides for ICCPR election-related rights. However some aspects of the current legislation, such as the subjective candidacy requirements, are not consistent with the ICCPR. Furthermore there are some omissions, specifically in regards to access to administrative remedy in case of dispute, and a lack of provisions for transparency.

The legal framework has been improved through various amendments to the Constitution. These established a parliamentary process for the appointment of the Caretaker Prime Minister, Chief Ministers, and the ECP leadership, as well as collective decision-making by the ECP Members and Chief Election Commissioner (CEC). These improved mechanisms contributed to enhanced confidence in the institutions and reduced allegations of bias compared to 2008. However further legislative reform for elections was not significantly achieved.

The ECP has undertaken some consultation with political parties and civil society, which has contributed to increased confidence in and performance by the institution. However the ECP has not used its broad powers to establish a complete regulatory framework, leaving critical aspects of the election open to discretion. The ECP has also not taken full responsibility for all aspects of the election administration, instead deferring some key matters to temporarily appointed Returning Officers (ROs) without sufficient regulation or central oversight.

Requirements for transparency were not met. For example the legislation does not provide for observer access and for results information to be made publicly accessible. Furthermore the ECP did not always make information of public interest easily available and in a timely manner. For example notifications of ECP decisions, data on changes to the polling station scheme, and results records.

The National Database and Registration Authority (NADRA) has been instrumental in the formation of a markedly improved Electoral Roll (ER), which provided a strong safeguard in the electoral process. However the universality of the franchise continues to be undermined by the under-registration of women compared to men. In addition equality of the vote is compromised by the large variation in constituency sizes.

The elections were undertaken in a difficult security environment that affected voters, political parties, candidates, the election administration, observers and the media. Despite militant threats, a high number of citizens contested, with a total of 16,692 candidacies accepted, of which 5,000 were for the 342 National Assembly (NA) seats (272 general seats, 60 reserved for women and 10 for non-Muslims), and 11,692 for the 728 Provincial Assembly (PA) seats. There was an average of 17.2 candidates per NA constituency, a doubling from 8.3 in 2008. All those parties that boycotted the 2008 elections chose to participate in 2013, and only one party declared a boycott before election day.

The right to stand as a candidate was not evenly provided for. The process of candidate registration was made problematic and unnecessarily burdensome by the vague and moral candidacy requirements that were unevenly applied, hence there were cases of the same candidate being accepted in one constituency and rejected in another. In some cases there was an assumption of guilt and consequent rejection of candidacy for people who had been charged but not tried.

During the last four weeks of the campaign, there were a reported 130 security incidents resulting in more than 150 people killed. Most of the attacks were directed against candidates and supporters of parties identified as secular, in particular the Awami National Party (ANP) in Khyber Pakhtunkwa (KPK) and the Muttahida Quami Movement (MQM) in Sindh, two of the three political parties the Tehreek-e Taleban Pakistan (TTP) had threatened, the third being the Pakistan Peoples Party (PPP). However, the last two weeks of the campaign saw an increasing number of attacks against other parties and independent candidates in all four provinces and the Federally Administered Tribal Areas (FATA). The federal and provincial caretaker Governments took, in varying degrees, security measures and made protection arrangements for candidates.

The high number of attacks affected campaigning and unbalanced the playing field, in particular in KPK, Balochistan and Karachi. In contrast, in vast parts of the country the pre-electoral environment was generally vibrant with a lively campaign period, notably in all Punjab and central and interior Sindh. While some parties were able to undertake large-scale campaign events, overall the campaign was largely characterized by small-to-medium sized rallies, corner meetings and door-to-door activities. EU Election Observation Mission (EOM) Long-Term Observers (LTOs) reported isolated cases of violent clashes between party supporters.

No grave violations of the ECP's Code of Conduct for Political Parties and Candidates were directly observed by EU EOM LTOs. Further analysis is hampered by the lack of a systematic mechanism for addressing violations, and a lack of information from the ECP on breaches and responses to breaches of the Code of Conduct.

The media provided a range of viewpoints, as well as scrutiny of the election process. Although the media generally enjoys freedom of speech, journalists and editors were targeted by militant or other groups in Karachi, some other parts of Sindh, Balochistan and FATA, and the state authorities took insufficient measures to protect.

In the absence of a transparent and efficient enforcement mechanism for the otherwise sound Code of Conduct for the Media, state and privately owned broadcasters did not provide the main contestants with equitable coverage. For example the six TV channels monitored by the EU EOM broadcasted numerous Pakistan Muslim League-Nawaz (PML-N) publicity events granting the party a total of nearly 16 hours of live coverage, while MQM, Pakistan Tehreek-e Insaf (PTI) and PPP had a total of 9, 5 and 4 hours respectively.

Election day proceeded more smoothly than anticipated with a large-scale security effort in place, although still there were reportedly 62 violent incidents resulting in at least 64 election-related deaths and 225 people injured. Over 140 EU EOM observers scrutinized polling, counting and the compilation of results in 140 constituencies in 3 provinces. Security conditions precluded EU EOM observation in Balochistan and FATA. Most of the polling booths observed were rated as satisfactory or good. However 9% were rated as poor or inadequate. In some cases serious problems were seen, including in Karachi, where overall polling stations were more negatively rated.

Counting was more problematic, with 9 out of 64 stations rated as poor or inadequate. In 17 cases results forms were not correctly filled in, and in half of the observations the results forms were not displayed. Similar transparency problems were also found in consolidation at the constituency level, when only in 14 cases, out of 39 observed, did EU EOM observers see full results displayed with a polling station breakdown that allows for checking the veracity of the announced totals.

Post election day there were a number of allegations of “rigging”, and thus the electoral process was challenged, although the federal and provincial outcomes were clearly accepted, with strong margins of victory contributing to the recognition of overall mandates. The lack of availability of crucial data from the ECP on polling stations, numbers of registered voters, and individual polling station results, reduced confidence in the process and opportunity for complaints to be lodged and addressed in a speedy manner. Furthermore it prevents full analysis of results and rigging allegations, thereby precluding full identification of issues arising. EU EOM observers noted shortcomings in the completion of results forms and some polling stations with questionably high levels of invalid ballots.

It appears that ROs made some last minute changes to the polling station scheme and polling staff, and that the ECP has no central record of the changes or final lists of actual stations and staff used on election day. This is problematic in regards to ballot accountability, implementation of procedures as untrained staff were used, and the organisation of voters, agents and observers. Such unaccounted for changes can result in suspicions about possible motivations.

The ECP didn’t regulate for the resolution of complaints, and instead its various offices and ROs used *ad hoc* procedures, resulting in some re-polling and recounting being undertaken in a number of stations and constituencies. The lack of a central record-keeping system and routine publication of decisions, makes it difficult to assess the extent to which there was consistent opportunity for effective remedy.

The number of women elected to NA general seats dropped to only 6 (2%), although with the reserved seats there are a total of 66 (19.3%) women in the assembly. Despite a two-fold increase in the number of female candidates, the majority of parties awarded tickets to three or fewer women. In the media, women candidates were hardly visible. Despite a significant increase in the number of registered women, there were some 11 million fewer registered female than male voters. Women-only polling stations were more negatively assessed by EU EOM observers.

The Ahmadi community continues to be discriminated against as, unlike other minority groups, they are registered on a separate ER. Even though the Code of Conduct for the Media tasks broadcasters to air programmes targeting “groups traditionally excluded from the political process”, voter education spots promoting non-Muslim participation in the elections were not aired on state-owned broadcasters.

At the time of finalisation of this report, 19 June 2013, the election process remains incomplete. Some constituencies are still to hold polling, and some cases are outstanding at Election Tribunals and Superior Courts. Improvements to the overall election process could still be made through the publication of the polling station scheme used on election day and results data, as well as by consistent and efficient handling of petitions and investigation of alleged election offences.

Fifty recommendations for election reform are included at the end of this report (page 49), which follow on from the recommendations made by the 2008 EU EOM. Seven of these are assessed to require constitutional change, and 17 are considered to require changes in the primary legislation. The following are priority key recommendations crucial for reform:

1. Formation of a special parliamentary committee on elections to review related legislation within a framework of international law commitments. Key issues to address for compliance with Pakistan's international commitments include: candidacy criteria, transparency requirements, and mechanisms for effective remedy.
2. The ECP take full responsibility for the administration of the elections, including through management control of the work of ROs. The ECP fully implement its five-year strategic plan, using the opportunity of any upcoming by-elections and local elections to implement improved practices.
3. The ECP establish a clear regulatory framework for all aspects of the election, including in regards to results management, observation and scrutiny, and complaints. The ECP review and develop procedures to increase checks in the polling and results process, and develop practices to improve the quality of completed results forms.
4. The ECP introduce strong transparency measures including making all notifications, decisions and election related information immediately and easily available to the public. All polling and results information be swiftly publicly available on the ECP website.
5. The legal framework for media be revised so that it fully supports editorial independence and eliminates opportunities for censorship. The Code of Conduct for the Media be enforced, so that equitable opportunities are given to candidates and parties by the state and private media.
6. Further measures be taken to promote the participation of women in the electoral process, through for example: further Computerized National Identity Card (CNIC) drives, requirements for parties to have publicly available policies and information on women's participation within the party, and greater coverage of women in politics in the state media. Resolute actions be taken against agreements that prohibit women from voting.
7. 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.

By-elections and the likely upcoming local elections give Pakistani institutions an opportunity to demonstrate reform commitment and to pilot new practices. Law makers could promptly begin developing the legal framework for elections, allowing time for consultation and then for implementation. Reform initiatives could help mitigate the frustrations of the current 2013 process, reduce risks for future elections, and demonstrate the commitment of Pakistani institutions and politicians to accountable democratic government.

II. INTRODUCTION TO THE MISSION

The EU EOM was present in the Islamic Republic of Pakistan from 3 April – 4 June 2013 following an invitation from the Ministry of Foreign Affairs. The Mission was led by Chief Observer, Michael Gahler, Member of the European Parliament. Fifty two EU EOM LTOs, working in teams of 2, covered 184 constituencies from 16 April to 20 May. On election day, the EU EOM deployed 144 observers from 24 EU Member States, as well as Canada, Norway and Switzerland to different parts of the country, again working in international teams of 2. Security conditions precluded observation in Balochistan and FATA, limited some of the campaign activities that observers could attend, and meant that observation was predominantly undertaken with a police escort.

The mission released a Preliminary Statement two days after election day, available in English and Urdu on the mission website (www.eueom.eu/eu-eom-pakistan-2013). A delegation of Members of the European Parliament, headed by Richard Howitt, joined the mission over the election day period and fully endorsed the Preliminary Statement. The results of the EU EOM media monitoring can also be found on the mission's website.

The mission assessed the electoral process for accordance with Pakistan's international law commitments for elections as well as the laws of Pakistan. The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation established at the United Nations in October 2005.

Fifty recommendations are made. These follow on from 83 recommendations made by the 2008 EU EOM. This is not an exhaustive list, but rather identifies the most important reforms for elections in Pakistan to meet with both Pakistan's constitutional provisions and international obligations and commitments, for improved opportunities for the right to stand and to vote to be fulfilled, and thus for democracy to be strengthened. Priority recommendations crucial for reform are identified in the executive summary of this report. The recommendations are stated once in a list format and repeated in a table format with some accompanying related information.

The EU EOM wishes to express its appreciation for the cooperation and assistance it received during the course of its work from the federal and provincial caretaker Governments, the ECP, the Ministry of Foreign Affairs, the Ministry of the Interior, the Ministry of Information and Broadcasting, political parties, civil society organisations, international organisations, the European Union Delegation in Pakistan, and representatives of EU Member States, Canada, Norway, Switzerland and other Embassies.

III. POLITICAL BACKGROUND

Elected Institutions

The federation of Pakistan includes four provinces (Balochistan, KPK, Punjab and Sindh), FATA¹, the Federal Capital of Islamabad, the Gilgit-Baltistan and the Pakistan-controlled part of Kashmir (Azad Jammu and Kashmir). Each of the four provinces has an elected PA and an elected Chief Minister, as well as a Provincial Governor appointed by the President.

¹ FATA is comprised of seven semi-autonomous Agencies and six Frontier Regions.

The Parliament (*Majlis-e-Shoora*) is bicameral, composed of the NA and the Senate, whose 104 members² are intended to provide equal representation to all the units of the federation. Following the recent amendments to the Constitution, the President has reduced powers, serving as the head of state, representing the unity of the republic. The President is indirectly elected for a term of five years.

FATA has a different legal structure, and as it is federally administered, its elected representatives are in the NA but have a limited role in governance of the territory. Gilgit-Baltistan, and Azad Jammu and Kashmir are not represented in the federal parliament. These areas have their own constitution and elected assemblies, however they still remain under *de facto* Pakistani rule.

Local government elections have been outstanding since 2009, despite constitutional requirements for each province to “establish a local government system and devolve political, administrative and financial responsibility and authority to the elected representatives of the local governments.”³ Since 2010 the four provinces have initiated legislation for local government elections in one form or another, which Article 219 of the Constitution specifies that the ECP is responsible for implementing.

Political context

For the first time in Pakistan’s history, the people of Pakistan experienced in these elections a civilian government completing its five-year term and handing over power to a civilian successor through the electoral process as provided for in the Constitution. Following a turbulent transition from military to civilian rule a Government initially led by the PPP and the PML-N took office after the last general elections. However, the PML-N withdrew from the coalition in May 2008, leading to the creation of a PPP-led Government with varying coalition partners that remained in place – sometimes precariously – until the declaration of the 2013 elections. Various other coalitions were also formed at the provincial level.

President General Musharraf, who had hoped to stay on as a “civilian president” stood down in August 2008 to be replaced through an indirect election process by Benazir Bhutto’s widower Asif Ali Zardari, whose term in office will end in September 2013. A 2012 Supreme Court decision clarified that the Head of State should not support any candidate or political party and should be a neutral position, but only just prior to these elections, in March 2013, did President Zardari resign as Co-Chair of the PPP⁴.

The outgoing Government made numerous landmark agreements furthering the democratisation process since the 2008 elections, such as the passage of the 18th, 19th and 20th Amendments to the Constitution which reduced presidential powers and strengthened parliamentary democracy, the liberalisation of the media landscape, and the passage of key human and women’s rights legislation. However critical issues remain such as economic and governance reforms, terrorism, militancy and sectarian violence, and relationships with Pakistan’s neighbours and the broader region.

The Government has faced internal security threats caused by terrorism and militancy, forcing the state to respond with military operations notably in Swat and several FATA agencies, and also

² Fifty six are elected by the PAs (14 from each). There are four seats reserved for women and four for technocrats/Islamic scholars for each province, eight for FATA and two for the Federal Capital of Islamabad along with one woman and one technocrat/Islamic scholar. There is also one reserved seat for non-Muslims for each province.

³ Constitution article 140A, introduced by the 18th Amendment in 2010.

⁴ There was a Lahore High Court ruling in May 2011, which declared that the President could not hold dual offices, followed by a Supreme Court decision (see Asghar Khan Case reported as Pakistan Law Decisions, PLD, 2013 SC1). There was also a contempt of court case pending against President Zardari prior to his resignation in March 2013.

extremism and sectarian violence. Devastating floods in three consecutive years between 2010 and 2012, and the resulting humanitarian crisis in many parts of rural Pakistan, further challenged the Government's capacities to address urgently needed economic reforms, the absence of which has left the country on the brink of a serious economic and fiscal crisis.

A lack of political will, power struggles within the political class and between the democratic institutions, notably the executive and the judiciary, and a deepening crisis of governance including wide-spread allegations of corrupt practices, have severely hampered the resolution of many of these challenges facing Pakistan. This has generated some discussion about the credibility of the ruling political class.

During its tenure the PPP-led Government has faced the emergence of a new, or newly popular, political movement, led by Imran Khan, leader since 1996 of the PTI party. He re-emerged on the political scene in late 2011 with an "agenda of change", promising to combat corruption and put an end to the perceived mismanagement of the country undertaken by the PPP and the PML-N at the federal and Punjab provincial levels respectively. The party's "tsunami" campaign peaked with large-scale public rallies in Lahore and Karachi in late 2011, mostly attracting the urban youth. Throughout 2012 the party seemed to lose some traction until the beginning of the election campaign period when tens of thousands of enthusiastic supporters turned up at numerous rallies in major urban centres of the country. PTI's anti-corruption position has influenced the mainstream parties to adopt good governance as part of their campaign agendas.

Pakistan's system of political parties is often regarded as insufficiently serving of the population. This is partly a result of more than 30 years of military rule, but is also often attributed to the personality-centric organisational structures of the vast majority of the parties across the political landscape. With very few exceptions, political parties lack internal democratic structures, despite legal requirements for party leaders and other office bearers at federal, provincial and local levels to be elected periodically⁵. Instead, there is a strong reliance on both a charismatic party leadership and electoral heavyweights at the local level, which largely build on traditional societal structures and personal sources of wealth to mobilise supporters⁶.

There have been two parliamentary initiatives regarding electoral law reform during the last tenure⁷. The first, in the NA, was a sub-committee of the Law, Justice and Parliamentary Affairs Committee. This undertook very minimal consultation, did not produce public report, and what recommendations it made did not provide for full compliance with international commitments (for example not covering a strengthened mechanism for electoral dispute resolution) or take up many recommendations made by the ECP amongst others. Late in the process, in August 2012, the Senate established a Special Committee on Elections Issues, which undertook public hearings with a variety of civil society organisations, reviewed ECP suggested legislative amendments, and came up with draft legislative

⁵ Political Parties Order 2002, articles 11 and 12.

⁶ In contrast, the UN Human Rights Committee notes that "States should ensure that, in their internal management, political parties respect the applicable provisions of article 25 in order to enable citizens to exercise their rights thereunder." ICCPR General Comment 25, paragraph 26.

⁷ Thus there has been partial but not sufficient fulfillment of key recommendation 3 of the 2008 EU EOM "Election legislation should be reviewed in a consultative manner, for example through an all-party constitutional review committee. Specific issues to be addressed include the independence and transparency of the election administration, complaints and appeals procedures and candidacy requirements."

reform proposals which were accepted by the chamber. However ultimately the Special Committee's work was too late in the process⁸.

In accordance with the Constitution, the NA was dissolved at the end of its five-year term on 16 March 2013 and NA elections were announced to take place on 11 May, followed by a consensus to hold PA elections in all four provinces on the same date. On 24 March, retired Justice Mir Hazar Khoso was appointed as Caretaker Prime Minister (PM) upon recommendation by the ECP. This was after the outgoing PM Ashraf and the NA Leader of the Opposition, and an eight-member Parliamentary Committee, had failed to agree on a Caretaker PM. During this period, PM Khoso's primary role, together with a small 14-member caretaker cabinet that he appointed, was to ensure the continuity of the routine functions of government and to support the ECP in holding the elections. Equivalent caretaker Governments were installed in all four provinces. There continues to be a lack of legal specification on the limits and functioning of caretaker administration, although the ECP's Code of Conduct for Political Parties does require the caretaker set up to abstain from campaigning.

The TTP and other militant groups initially targeted certain political parties in three provinces in particular and then an increased number of parties across the country⁹. This deliberate attempt to disrupt the democratic process as a whole affected parties and candidates, voters, the election administration, the media and civil society. The TTP distributed leaflets in various districts of KPK, Sindh and Punjab¹⁰, declaring the democratic system "un-Islamic" and calling on voters and polling staff not to participate in the elections stating that the TTP would target all the places where electoral activities take place.

IV. LEGAL FRAMEWORK

Pakistan ratified the UN ICCPR on 23 June 2010¹¹. Therefore, the 2013 general elections were the first to be held under a framework of international law commitments relating to civil and political rights. Originally, the Government of Pakistan entered a number of reservations to the Covenant¹², including to Article 25¹³ on participation in public affairs and voting rights¹⁴. The reservations drew criticism from several international actors, including the EU, since they were so extensive and

⁸ Good practice in electoral legislative reform includes harmonisation with international law, a consultative process, and changes to be made at least one year before an election. See for example The internationally widely respected Venice Commission's Code of Good Practice in Electoral Matters "The fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election, or should be written in the constitution or at a level higher than ordinary law." Section II2(b). The Venice Commission, formally called the European Commission for Democracy Through Law, has 59 Member States from 4 continents.

⁹ See Annex 3 Pre Election Day Violence.

¹⁰ EU EOM LTOs reported on such leaflets in Multan (Punjab), and Dara Adam Khel (KPK).

¹¹ Currently 167 countries are State Party to the ICCPR.

¹² Initial reservations related to article 3 (equal rights of men and women), article 6 (right to life), article 7 (protection of torture and cruel punishment), article 12 (liberty of movement), article 13 (expulsion of aliens), and article 18 (freedom of thought, conscience and religion).

¹³ ICCPR article 25 "Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country."

¹⁴ Originally, the reservation to article 25, in keeping with many of the other sweeping reservations, stated: "The Islamic Republic of Pakistan declares that the provisions of Article 25 shall be so applied to the extent that they are not repugnant to the Provisions of the Constitution of Pakistan."

nonspecific that they were incompatible with the object and purpose of the treaty¹⁵. In 2011, Pakistan withdrew or narrowed down most of the reservations. The reservation to Article 25 now restricts the eligibility of candidates for the Presidency and for the selection of the PM by the NA to Muslims¹⁶.

Pakistan has also ratified or acceded to the International Convention on the Elimination of Racial Discrimination (ICERD), the Convention on the Political Rights of Women (CPRW), the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)¹⁷ and the recent Convention on the Rights of Persons with Disabilities (CRPD). All of these conventions contain legally binding provisions pertaining to a wide range of civil rights and freedoms. Pakistan has also ratified the Convention Against Corruption, in 2007, which includes commitments related to the transparency of government.

The Constitution of Pakistan, 1973, was modified most recently by the 18th, 19th, and 20th Amendments in 2010, 2011 and 2012 respectively. It guarantees the fundamental rights of freedom of movement, assembly, association, expression, speech and of the press. It also guarantees the equality of citizens as well as universal suffrage, the full participation of women in all aspects of national life and the protection of minorities.

The primary legislation regulating the electoral process consists of a plethora of laws, the most significant of which are: The Representation of People Act (ROPA) of 1976, the Representation of the People (Conduct of Election) Rules of 1977, the Electoral Rolls Act of 1977, the Electoral Rolls Rules of 1974, the Delimitation of Constituencies Act of 1974, the Election Commission Order of 2002, the Conduct of General Elections Order of 2002, the Political Parties Order of 2002, the Political Parties Rules of 2002, the Allocation of Symbols Order of 2002, the National Assembly and Provincial Assemblies Allocation of Reserved seats for Women and Non-Muslims Rules of 2002. Certain provisions of the Penal Code of 1860, the Code of Criminal Procedure of 1898, and the Code of Civil Procedure of 1908 are also relevant.

The recent Constitutional amendments have brought about significant changes in several election-related provisions. They have *inter alia* enhanced ECP independence, through making the appointment of the CEC and ECP Members¹⁸, as well as the Caretaker PM and provincial Chief Ministers, a parliamentary process. These amendments and some changes to the primary legislation overall constitute an improvement to the 2008 electoral legal framework. However the legislation still contains provisions that are at odds with international obligations, in particular subjective candidacy requirements¹⁹ and requirements for Ahmadis to be on a separate electoral roll²⁰. There are also

¹⁵ In General Comment 24, the UN's Human Rights Committee has established general rules on incompatibility of reservations with the ICCPR. See:

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/69c55b086f72957ec12563ed004ecf7a?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/69c55b086f72957ec12563ed004ecf7a?Opendocument)

¹⁶ The reservation to ICCPR article 25 states: "The Islamic Republic of Pakistan states that the application of Article 25 of the ICCPR shall be subject to the principle laid down in Article 41 (2) and Article 91 (3) of the Constitution of Pakistan". http://treaties.un.org/Pages/ViewDetails.aspx?mtidsg_no=IV-4&chapter=4&lang=en#EndDec

¹⁷ With regards to CEDAW, Pakistan has declared that its accession to the convention is subject to the provisions of the Constitution. See: <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>

¹⁸ In addition to the CEC there are four ECP Members, each one representing a respective province.

¹⁹ UN Human Rights Committee, ICCPR General Comment 25, paragraph 4, in regard to the right to stand "The exercise of these rights by citizens may not be suspended or excluded except on grounds which are established by law and which are objective and reasonable."

²⁰ ICCPR article 2 "Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

compliance gaps with a lack of provisions for administrative opportunities for remedy²¹ and for information of public interest being made easily and promptly available²².

Although the constitutional powers of the President have been reduced, some articles of the primary legislation continue to provide for discretionary presidential powers in regards to approval of rules, removal of difficulty and approval of Appellate Tribunals²³. Such powers are not in keeping with the spirit of the 18th Amendment which reduced the presidential mandate, or an independent election administration as referred to in the UN Human Right Committee's²⁴ authoritative interpretation of ICCPR article 25 provisions relating to the right to participate in public affairs and voting rights²⁵.

Certain legislative instruments have yet to be updated to be consistent in letter with the Constitution including its recent amendments. For example the Election Commission Order 2002, section 2, still refers to the CEC being "appointed by the President for a term of three years". The Conduct of General Elections Order 2002, section 8A, available on the ECP website²⁶, still refers to a requirement for candidates to have a degree, even though this condition was removed some years ago. Thus the law is not harmonised and fully-accurate information on the legislative framework is not easy to access.

In August 2011, the Political Parties Order 2002 was extended to FATA, allowing for parties for the first time to have the legal right to organise and field candidates in the tribal areas²⁷. FATA continues to have a different legal structure to the rest of the country, one that is criticised for not being consistent with other provisions of Pakistan's Constitution and Pakistan's human rights commitments²⁸.

The 18th Amendment to the Constitution established the right to information through Article 19A which states that "Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law." However the Freedom of Information Ordinance (2002), while requiring "any office of any Board, Commission, Council or other body established by, or under, a Federal law" to comply, gives the Federal

²¹ UN Human Rights Committee, ICCPR General Comment 31, paragraph 15 requires States "to ensure that individuals have accessible and effective remedies... Administrative mechanisms are particularly required to give effect to the general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies."

²² UN Human Rights Committee, ICCPR General Comment 34, paragraph 19 "States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information."

²³ For example, article 221 of the Constitution specifies that "the Election Commission may, with the approval of the President, make rules providing for the appointment by the Election Commission of officers and servants to be employed in connection with the functions of the Election Commission and for their terms and conditions of employment." Articles 9E and 9F of The Election Commission Order also state that "The Commissioner may, with the approval of the President, make rules for carrying out the purposes of this Order... If any difficulty arises in giving effect to any of the provisions of this Order, the President may make such provision for the removal of the difficulty as he may deem fit." Similar provisions exist in the Conduct of General Elections Order (section 9.1), Political Parties Order (section 19), ROPA (section 107), and Electoral Rolls Act (section 28). Section 14 (5) ROPA gives Presidential powers of approval of Tribunals.

²⁴ The UN Human Rights Committee is the official treaty body for the ICCPR.

²⁵ UN Human Rights Committee, ICCPR General Comment 25, paragraph 19 "An independent electoral authority should be established". The right to remedy is enshrined in ICCPR article 3(a).

²⁶ <http://ecp.gov.pk/ElectionLaws/Volume-I.pdf>.

²⁷ The population of FATA was given universal franchise in 1996.

²⁸ For example, there is a lack of separation of powers with Political Agents (the main administrator for an Agency appointed by the KPK Governor) having executive and judicial authority which compromises opportunity for independent review and remedy.

Government the ultimate power to decline the disclosure of any records if it is deemed in the “public interest”²⁹ and Provincial Governments do not come under Ordinance’s jurisdiction. Furthermore the Ordinance does not require government bodies to take a proactive approach to making information of public interest easily available. This unreasonably curbs the ability of the public, the media, and civil society to gain information.

Thus the Freedom of Information Ordinance provides a relatively weak basis for electoral transparency and lacks consistency with the spirit of the 18th Amendment and also the UN Human Rights Committee’s General Comment 34, which stipulates disclosure of information held by “all branches of the State (executive, legislative and judicial) and other public or governmental authorities, at whatever level - national, regional or local”³⁰. The General Comment prescribes that arrangements for appeals should be put in place and there be a proactive approach with state agencies putting information of public interest in the public domain without first receiving specific requests. Similarly the Convention Against Corruption refers to “Ensuring that the public has effective access to information”³¹.

The Electoral System

The Constitution of Pakistan establishes a parliamentary system of government with the President as the Head of State and the PM as the Head of Government. The Parliament is bicameral, consisting of the Senate and the NA. The Senate members, 104 in total, are elected indirectly by the NA and the PAs for a term of 6 years³².

The members of the NA, 342 in total, are elected for a five-year term. General seats (272) are contested in single-member constituencies by a simple majority system (first-past-the-post). Reserved seats for women (60) and non-Muslims (10) are filled through a proportional representation system with closed lists submitted by political parties. The allocation of reserved seats for women is made in proportion to the number of general seats each party has gained in each of the provinces. Non-Muslim seats are allocated to political parties in proportion to the country-wide number of general seats gained, with the whole country therefore serving as one constituency.

The electoral system for the PA general seats is also of simple majority (first-past-the-post). In a similar manner to that of the NA, seats reserved for women and non-Muslims in the PAs are also filled through a proportional system with closed party lists.

²⁹ Freedom of Information Ordinance, article 8(i) “Any other record which the Federal Government may, in public interest, exclude from the purview of this Ordinance.”

³⁰ UN Human Rights Committee, ICCPR General Comment 34, paragraph 7.

³¹ Convention Against Corruption, article 13.1(b).

³² Members of the National Assembly (MNAs) elect four Senators for Islamabad. Twelve FATA MNAs elect the eight Senators from FATA. Members of the Provincial Assemblies (MPAs) elect 23 Senators each from their respective provinces.

V. ELECTION ADMINISTRATION

The Election Commission of Pakistan (ECP)

The ECP is a constitutionally independent body with wide-reaching responsibilities and powers³³. Its independence was significantly strengthened under the 18th Amendment, with requirements for collective decision-making, and appointment of its leadership no longer being entirely a matter of presidential discretion but instead requiring a parliamentary process involving the opposition³⁴. Furthermore the CEC and the four Members (one representing each province), are now retired members of the senior judiciary, and thus no longer having competing commitments.

However the ECP's independence is undermined by various requirements of the constitution and primary legislation that give powers to the President and the judiciary. Presidential powers of approval of rules and removal of difficulties continue (see above). Furthermore the Constitution³⁵ stipulates that in the CEC's absence, a judge of the Supreme Court nominated by the Chief Justice acts as the Commissioner, rather than ECP members taking on this role. This blurring of executive (ECP) and judicial functioning can be seen in the leading role played by the Supreme Court, which gave various judgements relating to the administration of elections. For example a June 2012 decision on a case brought by the Worker's Party gave 87 pages of judgement on various aspects of how elections should be implemented. Amongst other matters this referred to the ECP's powers and responsibility to take pre-emptive actions, to regulate and check intra-party affairs, and to take corrective measures to ensure that election disputes are resolved at the earliest. It also somewhat unrealistically stated that polling stations should not be more than two kilometres from voters' residences, and that in no case should the ECP allow candidates to hire or use private transport³⁶ on election day. Overall the ECP accepted numerous Supreme Court interventions, including in areas that are regarded by some as beyond the jurisdiction of the courts.

The ECP has taken various positive measures since the 2008 elections, including committing to a reform-orientated Five Year Strategic Plan 2010-2014, which although not sufficiently implemented does provide a basis for electoral improvement. Some consultation with political parties and civil society has been undertaken, which has resulted in improved ECP actions and confidence in the institution, but could be further enhanced and systematised to improve practices and for full compliance with provisions under the Convention Against Corruption³⁷. Confidence in the institution was enhanced by the positive reputation of the CEC appointed in July 2012.

However the ECP has not used its broad powers to provide a full regulatory framework for the elections, instead relying on *ad hoc* measures. The ECP has not taken sufficient responsibility for key aspects of the election process, and its actions continue to lack transparency³⁸. These shortcomings weaken the electoral process and risk diminished confidence in the ECP and the outcome of elections.

³³ The ECP is responsible for running elections and appointing the Caretaker PM and provincial Chief Ministers if required. All federal and provincial executive authorities are required to assist the ECP under article 220 of the Constitution.

³⁴ These improvements are consistent with key recommendation 2 of the 2008 EU EOM was that "The appointment of the CEC and ECP Members should be subject to stakeholder consultation and should provide for independence."

³⁵ Constitution article 217.

³⁶ Section 78.5 of the ROPA states that it is a corrupt practice to "knowingly, in order to support or oppose a candidate, lends, employs, hires, borrows or uses any vehicle or vessel for the purposes of conveying to or from the polling"

³⁷ Convention Against Corruption article 13A refers to "Enhancing the transparency of and promoting the contribution of the public to decision-making processes".

³⁸ Thus there has not been fulfillment of key recommendation 2 of the 2008 EU EOM that "The ECP... take full responsibility for its mandated tasks. The election administration should operate in a transparent and consultative manner."

The ECP has full regulatory powers, but these have been under-used, with significant parts of the electoral process going unregulated and therefore vulnerable to a lack of or varied implementation. This does not help fulfilment of the ECP's stated objectives in its Five Year Strategic Plan. Obvious gaps include regulation of a complaints mechanism, provision for transparency and scrutiny by observers, and results management. What notifications the ECP did make were not always available on their website.

Although the ECP has a numerically strong secretariat staff base, it is missing capacity for certain key functions. The secretariat is composed of multiple layers of permanent staff, including four Provincial Election Commissioners, 28 Regional Election Commissioners and 124 District Election Commissioners (DECs). However the ECP has insufficient human resources, lacks capacity within its legal department and has no training or political/campaign finances department³⁹. Instead international donor support is routinely turned to, in a way that to date has been more focused on immediate service delivery than the ECP developing its own capacity.

The ECP continues not to directly manage key aspects of election administration. Most notably delegating essentially unchecked authority to ROs, who have lead responsibility for the elections at the constituency level. The ECP continues to recruit ROs for general elections from other state agencies, rather than from its own ranks⁴⁰. This time, despite the 2009 decision of the National Judicial Policy Committee not to again have its ranks serve as ROs, the ECP made a specific request which was agreed to, citing mistrust amongst the political parties of the alternative of ROs coming from civil administration. ROs however were essentially seen as judicial officers, rather than as an integral part of the election management body. For example the Chief Justice of Pakistan referred to directing ROs to “discharge their responsibilities in accordance with law to strengthen the perception of people in the independence of Judiciary.”⁴¹ The ECP also admitted to a lack of control over ROs, for example during the controversial candidate nomination process⁴². Thus the ECP facilitated rather than managed the work of the temporarily appointed 425 ROs and 126 District Returning Officers (DROs)⁴³. The ECP did not establish sufficient guidance or checking mechanisms, instead deferring to ROs' high judicial status, thus leaving ROs' work liable to variation in implementation.

The ECP continues to lack transparency in its actions. Although the ECP did regularly meet with the media, this does not substitute for information being made comprehensively and easily available. The meetings of the CEC and Members are closed and there is no system of routinely making public deliberations or decisions. Information was not always speedily, easily and fully available on the ECP website, for example not all notifications, or full information on ECP systems and practices were provided. This goes against the spirit of article 19A of the Constitution which refers to “access to information in all matters of public importance”, the UN Human Rights Committee's comments on giving effect to the right of access to information⁴⁴, and also the Convention Against Corruption

³⁹ The 2008 EU EOM had noted in key recommendation 2 that “The ECP should be restructured, and should take full responsibility for its mandated tasks.”

⁴⁰ For by-elections the ECP has used its own staff as ROs.

⁴¹ “I also personally met with DROs and ROs to enlighten them about the importance of task and its far reaching impact on the future destination of our beloved country. They were clearly directed to discharge their responsibilities in accordance with law to strengthen the perception of people in the independence of Judiciary.” Chief Justice Chaudhry. 8 June 2013. <http://www.supremecourt.gov.pk/web/page.asp?id=1508>

⁴² ECP press release, 4 April 2013 “Returning Officers are members of Pakistan's Judiciary. They are carrying out their duties as Returning Officers independently. The ECP does not instruct or direct the Returning Officers how to decide the fate of nomination forms.”

⁴³ ROs and DROs were performing their duties part-time as they had concurrent judicial responsibilities.

⁴⁴ UN Human Rights Committee, ICCPR General Comment 34, paragraph 19.

which notes that “each State Party shall... take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes”⁴⁵.

ECP 2013 pre-election activities and overall preparations

The ECP has undertaken many NA and PA by-elections in the last five years, nearly 60 in the last three years alone, giving it opportunity to pilot and develop practices⁴⁶. These included piloting use of electronic voting machines (EVMs), which while offering potential for efficiency and reliability, could also be problematic given the associated practical challenges and reduced opportunity for transparency and therefore trust.

Based on varying levels of consultation, the ECP issued five codes of conduct regulating the activities of polling staff, security personnel, political parties and candidates, observers and the media. These served as a form of regulatory framework, but were limited in their lack of clear legal status and provision for enforcement mechanisms, with discretion typically left to ROs and DROs. Shortcomings in some of the codes might have been prevented by more substantial consultation. For instance the Code of Conduct for Observers has little provision for the rights of observers, and instead contains a clause that if not followed in full good faith, could compromise observers’ independence (“Observers shall follow instructions issued from the Election Commission and State authorities including security officials and maintain a respectful attitude towards them”⁴⁷).

The ECP established that accreditation would be issued to observers for just one day, election day. While verbal assurances were made that observers would be able to see tabulation, in previous elections and in practice in the 2013 election, access to tabulation was not always given to citizen and/or international observers (see section XIII Results Process). Restricting observation to one day reduces observers’ ability to fully scrutinise and therefore for the public to have full information on the process. Such restriction is counter to transparency commitments referred to in the Convention Against Corruption and also by the UN Human Rights Committee in General Comment 34⁴⁸.

The ECP, with substantial support from international and national organizations and in consultation with civil society groups, developed a voter education plan, which included innovations such as an active social media presence⁴⁹, making materials available for use by others, and substantially higher levels of active outreach. However the ECP carried out a sparse voter education campaign in the audio-visual media and placed only a limited number of public service announcements (PSAs) in newspapers. Specific messages on voting procedures and establishing one’s exact polling station by SMS were conveyed only four days before election day (although other electoral roll information was available earlier by SMS). In acknowledgement of the ECP’s scanty contribution, some state and private broadcasters⁵⁰ took the initiative to produce their own voter education spots containing more

⁴⁵ Convention Against Corruption, article 10.

⁴⁶ These included ECP staff serving as ROs, and providing ECP transport to voters.

⁴⁷ Code of Conduct for Observers, clause 4.

⁴⁸ Convention Against Corruption, article 10 “each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration”. UN Human Rights Committee, ICCPR General Comment 34, paragraph 19 “States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information”.

⁴⁹ <https://www.facebook.com/BulaRahaHaiPak>.

⁵⁰ State owned Pakistan Television Corporation (PTV) and Pakistan Broadcasting Corporation (PBC), semi-private ATV, and commercial broadcasters ARY TV, Dawn, Express News and GEO TV.

generic “go out and vote” messages targeting different social groups, first time voters in particular. Exemplary measures were taken by the Pakistan Broadcasting Corporation (PBC) who aired 200 PSAs produced in-house during the campaign period. By comparison the ECP placed only 22 voter education spots on PBC. While PBC commendably devoted 24% of its prime time programming to voter education, the Pakistan Television Corporation (PTV) granted only 2%. Out of 142 PSAs aired by PTV, 60 were produced by the PTV itself, rather than the ECP.

The Supreme Court gave strong directions to the ECP on provision of voting opportunities for the estimated 4.5 million Pakistanis living abroad (“overseas voters”), to which the ECP cited challenges and implementation obstacles at such a late stage in the process⁵¹. Ultimately when the President signed an ordinance⁵² on overseas voting two days before the election, it was of course not possible to implement the contents of the ordinance in the current electoral process. Such a fundamental decision on the composition of the electorate and the rules of the game should involve political discussion, in order for there to be broad agreement and so that those elected are exercising real governmental power⁵³. However there was no such parliamentary process. There is no international commitment requiring countries to provide opportunities for citizens living in other countries to vote.

VI. DELIMITATION OF CONSTITUENCIES

ICCPR article 25 refers to equal suffrage⁵⁴, which requires equal weighting of votes, and therefore approximately equal numbers of voters in different constituencies. However equality of the vote is currently undermined by the large discrepancies in the size of constituencies.

Article 51 of the Constitution requires delimitation of NA and PA constituencies to be carried out “on the basis of population in accordance with the last preceding census officially published.” The Delimitation of Constituencies Act of 1974 elaborates somewhat on the process, but is limited, for example in not establishing a strong mechanism for consultation (which is of heightened importance in such a politically sensitive matter) and still providing for Presidential powers for the removal of difficulties “as he may deem fit”. The law states that “As far as may be the constituencies for election to the same Assembly shall be equal among themselves in population.”

However delimitation of constituencies last took place in 2002 based upon the official results of the last census, which was undertaken in 1998. In the 15 intervening years there has been population growth and movement, which impacts on relative constituency sizes. Although reliable census data is not available, voter registration data indicates levels of variation between constituencies that undermine equality of the vote, with some constituencies having more than double the population

⁵¹ Overseas voting first appeared as a request in a constitutional petition before the Supreme Court in 1993. Requests were included in constitutional petitions 39/2011 and 90/2011 filed with the Supreme Court by Imran Khan and other individuals versus the Federation of Pakistan. The Supreme Court issued multiple orders - also during early 2013 - first asking the ECP to look into implementation. The ECP submitted a report citing the challenges and obstacles regarding implementation at such late a stage. See <http://ecp.gov.pk/Reports/Minutes%20Overseas%20Pakistanis-6-1-10.pdf>

⁵² Article 89 of the Constitution confers upon the President the power to promulgate ordinances - except when the parliament is in session - if satisfied that such circumstances exist which render it necessary to take immediate action. Ordinances are temporary and must be presented before the NA. As a rule Ordinances expire 120 days after their promulgation, unless the Assembly decides to repeal sooner.

⁵³ UN Human Rights Committee, ICCPR General Comment 34, paragraph 7 “Where citizens participate in the conduct of public affairs through freely chosen representatives, it is implicit in article 25 that those representatives do in fact exercise governmental power.”

⁵⁴ ICCPR article 25 “genuine periodic elections which shall be by universal and equal suffrage”.

than another. For example in Sindh in NA 203 the number of registered voters is only 228,663 while in NA 253 it is more than double at 519,854⁵⁵.

In December 2011 the Supreme Court⁵⁶ ordered a review of the electoral boundaries of some parts of Karachi to tackle polarization in view of the troubled law and order situation. This was despite the absence of new census data, as the ECP was deemed to have legal authority to undertake delimitation at any time. The ECP undertook a re-description based on administrative changes and on 22 March 2013 the ECP issued a notification stating the new boundaries of 11 constituencies. This was announced on the same day, as the 2013 election schedule⁵⁷. Various stakeholders⁵⁸ questioned the principle of delimiting just one part of the country, the timing, and the appropriateness of the new boundaries.

For FATA the Delimitation of Constituencies Act states that “two or more separate areas may be grouped into one constituency”⁵⁹. FATA constituency NA 47 covers six Frontier Regions which are not all interconnected, making it more difficult for candidates to campaign effectively.

VII. VOTER REGISTRATION

Eligibility criteria for being included on the electoral roll (ER), and therefore to vote, are to be a citizen of Pakistan, to be at least 18 years old, to have a National Identification Card (NIC) issued by NADRA, and to be a resident of the electoral area (with no minimum time required)⁶⁰. There is a further requirement not to be declared by a competent court of unsound mind. This condition raises questions of compliance with Pakistan’s commitments under the Convention on the Rights of Persons with Disabilities (CRPD), which refers to State Parties “ensur[ing] that persons with disabilities can effectively and fully participate in political and public life”⁶¹

NADRA has been instrumental in the formation of a markedly improved ER. In July 2011 NADRA and the ECP signed a cooperative agreement so that the ECP could use NADRA civil registry data as the basis of the ER⁶². NADRA, a division of the Ministry of Interior, is responsible for the issuance

⁵⁵ Similarly, in Balochistan NA 267 there are 147,595 registered voters while in NA 266 there are 409,664. In Punjab in NA 115 there are 247,582 registered voters while in NA 106 there are 413,565.

⁵⁶ PLD 2011 SC 997 and PLD 2013 SC 120.

⁵⁷ NB The internationally widely respected Venice Commission’s Code of Good Practice in Electoral Matters refers to the drawing of constituency boundaries not being “open to amendment less than one year before an election”, section II2(b).

⁵⁸ Including MQM who took a petition to the Sindh High Court.

⁵⁹ The Delimitation of Constituencies Act, 1974, section 9.1.

⁶⁰ Electoral Rolls Act, section 6.

⁶¹ ICCPR General Comment 25 (of 1996) notes that “established mental incapacity may be a ground for denying a person the right to vote or to hold office” (paragraph 4). However subsequently the 2008 CRPD obliges State Parties to “undertake to ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, (...), including the right (...) to vote and be elected” (article 29). The CRPD has been ratified by 132 countries to date. More recently the CRPD Committee recommended that Tunisia adopt “legislative measures to ensure that persons with disabilities, including persons who are currently under guardianship or trusteeship, can exercise their right to vote and participate in public life, on an equal basis with others”. Also the widely respected Venice Commission has noted that “People with disabilities may not be discriminated against in this regard, in conformity with Article 29 of the Convention of the UN on the Rights of Persons with Disabilities and the case law of the European Court of Human Rights”.

⁶² Thus there was substantial fulfillment of key recommendation 6 of the 2008 EU EOM that “The ECP should take full responsibility for the production of an accurate and complete electoral roll. It should work with NADRA to incorporate

of Computerized National Identification Cards (CNICs), which became a legal prerequisite for registration in May 2011.

The collaboration provided access to a more reliable database, given that NADRA registration requires biometric data collection that precludes duplicate entries. In principle such biometric data also gives the possibility of retrospective forensic checking of polling records, although it is not clear how easily this can be accomplished in practice. Use of the NADRA database also allowed photographs to be included on the ER, a strong check against impersonation⁶³.

NADRA has increased the issuance of CNICs through the use of various measures including the removal of a fee, using mobile registration teams, and working with civil society organisations⁶⁴. While this NADRA outreach allowed for increased enfranchisement in principle, the ECP still faced the challenge of providing for increased enfranchisement in practice, which requires voters to be registered at a location convenient to them for casting their ballot.

The ECP therefore undertook a door-to-door exercise in order for registrants to be allocated to their preferred voting location, followed by a display period in March 2012 for 21 days, and additional some opportunity for registrants to request a change in address through ECP offices. This was supported by an SMS-based verification system, which in total was reportedly used approximately 50 million times. However the exercise was subject to criticism of incompleteness from the leading citizen observer group, the Free and Fair Elections Network (FAFEN), amongst others. There was also a questioning of the appropriateness of the ECP using NADRA “permanent” address records, as opposed to “temporary” address records, as the default. There was opportunity for updates to be made up till the announcement of the election schedule when there is a legal requirement for the list to be closed. Thus on 16 March, there were 86,189,802 million voters registered with no further changes possible.

In addition to the criticism that some registrants continued to be recorded at the wrong address, ER shortcomings include having 11 million less women registered than men and Ahmadis remaining on a separate list as non-Muslims (see later Sections XVII and XVIII). Also that the ER was ordered numerically, rather than alphabetically or by CNIC number, and therefore it was not obvious where on the list a voter would be. The ECP did not compensate for this with additional information for voters or staff, but rather relied on parties and candidates providing information to voters on election day. A Supreme Court ruling⁶⁵ requiring re-verification of voters in Karachi resulted in an additional 180,000 voters being registered in the affected constituencies (and therefore removed from other constituencies).

The current legal framework and implementation practices do not provide for a robust consistent mechanism for maintaining and updating the ER. A system, as opposed to *ad hoc* arrangements are needed for ensuring that new CNIC registrants are on the ER, removing the deceased, and providing for people to be registered at the location of their convenience.

any entries not captured through its own enumeration (either from a new enumeration or the one undertaken for the ER 2007). The data captured should be subject to a comprehensive nationwide check for duplicates.”

⁶³ However this has not been possible for all voters, given that there are approximately 2.7 million women without photos on their CNICs according to NADRA.

⁶⁴ This is consistent with key recommendation 7 of the 2008 EU EOM that “If only Computerised / National Identity Cards (C/NICs) are permissible for registration and/or voting, acquisition of a CNIC must be facilitated so that there is no barrier to participation.”

⁶⁵ PLD 2013 SC 120.

VIII. ELECTORAL DISPUTE RESOLUTION (EDR)

ICCPR obligations require states parties “to ensure that any person whose rights or freedoms... are violated shall have an effective remedy.”⁶⁶ The UN Human Rights Committee has also stipulated that “there should be... access to judicial review or other equivalent process.”⁶⁷

However there is insufficient legislative provision for administrative remedy and the ECP did not use its powers to establish a system for complaints⁶⁸. Instead *ad hoc* informal arrangements were apparently made by the ECP in Islamabad, the lower tiers of ECP offices, and by ROs. The ECP did not issue instructions, monitor or supervise processes or outcomes, or collect information centrally on decisions. This lack of tracking also meant that there was a deficit of available public information on the process. As a consequence it is not possible to know if fair decisions were reached and if the law was consistently applied. This diminishes confidence in the process and is not consistent with ICCPR commitments⁶⁹. Furthermore, lack of information on complaints prohibits analysis of problems in the electoral process and identification of possible mitigating measures.

Hundreds of complaints were reportedly lodged with the election administration relating to polling station locations, polling station staff, alleged violations of the Code of Conduct, and interference of public officials, including police and ROs, in the electoral process. For most of the pre-election period, the ECP did not receive any information and did not compile any statistics on complaints filed at provincial and district level. Only on 6 May, did the ECP create an online portal on its website but this was limited to complaints on polling station locations.

The electoral legislation provides for dedicated Tribunals to adjudicate only on challenges to candidacy (Appellate Tribunals) and results (Election Tribunals). Appellate Tribunals’ decisions are final, but the decisions of Election Tribunals can be further challenged to the Supreme Court the decision of which is final. Tribunals are composed of members of the judiciary, but are appointed and administratively provided for by the ECP⁷⁰. This blurring of executive and judicial roles does not provide for an independent tribunal and review process⁷¹.

⁶⁶ ICCPR article 2(3)(a) “To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.”

⁶⁷ UN Human Rights Committee, ICCPR General Comment 25 paragraph 20 “there should be ... access to judicial review or other equivalent process that electors have confidence in the security of the ballot and the counting of the votes.”

⁶⁸ For example there is no regulation on how election administration bodies will receive, hear, investigate and resolve complaints, and what burdens of proof are required.

⁶⁹ UN Human Rights Committee, ICCPR General Comment 31, paragraph 15 requires States “to ensure that individuals have accessible and effective remedies... Administrative mechanisms are particularly required to give effect to the general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies.”

⁷⁰ Thus there has not been fulfillment of key recommendation 4 of the 2008 EU EOM that “Election appeals should be dealt with in a timely manner by judges who are independently appointed. Petitions should be permissible from a wider range of election stakeholders.” However the timing of dealing with 2013 petitions cannot be assessed at this point, as this stage of the process is outstanding at the time of writing.

⁷¹ ICCPR GC32 paragraph 19 “A situation where the functions and competencies of the judiciary and the executive are not clearly distinguishable or where the latter is able to control or direct the former is incompatible with the notion of an independent tribunal.” ICCPR GC25 paragraph 20 states that “there should be ... access to judicial review or other equivalent process that electors have confidence in the security of the ballot and the counting of the votes.”

Historically Election Tribunals relating to results have been ineffective, taking excessive time-periods, sometimes an entire parliamentary term, rendering worthless any decision. However in 2009 adjournments for more than seven days were prohibited and a cost was introduced. Also the adjudication period was reduced to four months (120 days). In June 2012 the Supreme Court ordered the ECP to take “corrective measures” to improve the Election Tribunals process⁷². Petitions to Election Tribunals over results are restricted to candidates, thereby limiting the right of voters to seek remedy⁷³.

As a result of shortcomings in the administrative and tribunal mechanisms, candidates and voters used their right to file writ/constitutional petitions before the Superior Courts, for enforcement of fundamental rights⁷⁴. Although the writ petitions are not time-bound, High Courts appear to have prioritised election-related cases. The pre-condition of “no adequate remedy” must be satisfied, therefore writ petitions cannot be lodged simultaneously with petitions to Tribunals. However complaints to the election administration can be filed concurrently with writ petitions. There are no legal time limits specified for adjudication of writ petitions.

IX. REGISTRATION OF CANDIDATES

Legal requirements

Requirements for candidacy are laid out in the Constitution and the ROPA⁷⁵. Any citizen who is at least 25 years old and enrolled as a voter anywhere in Pakistan or anywhere in a province can contest a seat in the NA or respective PA. Independent candidates can contest general seats, but not reserved ones. The provision that required candidates to hold a university degree (which excluded an estimated 95% of the population) was struck down by the Supreme Court in 2008 followed by an amendment passed by the parliament in October 2009⁷⁶, thereby allowing more citizens to contest.

Although the 18th Amendment to the Constitution introduced some additional objectivity to candidacy requirements, by requiring declarations through court decisions, other constitutional requirements remain vague and moral. For instance, candidates must be “of good character and not commonly known as persons who violate Islamic injunctions”, must have “adequate knowledge of Islamic teachings and practice obligatory duties prescribed by Islam” and “abstain from major sins”⁷⁷. Candidates must have “not worked against the integrity of the country or opposed the ideology of

⁷² http://www.supremecourt.gov.pk/web/user_files/File/Const.P.87of2011.pdf

⁷³ This contrasts with the widely respected Venice Commission “Code of Good Practice in Electoral Matters” which states that “If the electoral law provisions are to be more than just words on a page, failure to comply with the electoral law must be open to challenge before an appeal body. This applies in particular to the election results: individual citizens may challenge them on the grounds of irregularities in the voting procedures... Standing in such appeals must be granted as widely as possible. It must be open to every elector in the constituency and to every candidate standing for election there to lodge an appeal. A reasonable quorum may, however, be imposed for appeals by voters on the results of elections.” Sections 92 and 99.

⁷⁴ Article 199 of the Constitution refers to writ petitions being filed to High Courts for matters that fall within their territorial jurisdiction. Article 184.3 also empowers the Supreme Court of Pakistan to deal with constitutional petitions, and includes use of *suo moto* powers.

⁷⁵ Article 99 of the ROPA and Articles 62 and 63 of the Constitution.

⁷⁶ http://www.na.gov.pk/uploads/documents/1300927320_443.pdf.

⁷⁷ The above requirements do not apply to non-Muslim candidates who must nevertheless have a “good moral reputation”.

Pakistan”. Such vague requirements are not consistent with Pakistan’s ICCPR commitments, with the authoritative interpretation of the treaty referring to “objective and reasonable criteria”⁷⁸.

Potential candidates are also disqualified if they, their spouses or dependents, have outstanding unpaid loans or outstanding unpaid utility bills. These provisions make candidacy contingent to other people’s financial status or behaviour and are thus not consistent with article 25 of the ICCPR which refers to the individual right to stand. Pakistanis with dual nationality are also excluded from contesting. Such a limitation may be regarded as unduly restrictive of voting rights, especially given that Pakistan accepts the right to dual nationality⁷⁹.

The constitutional provision⁸⁰ criticized by the 2008 EU EOM for candidates to be able to contest elections in multiple constituencies, continues. While this practice benefits individual candidates in having more assurance of winning a seat, it means that in some way voters are misled as they are voting for candidates that may not take up their seat, and it presents a burden on voters, other candidates and the exchequer. It also delays the formation of a full parliament.

Few criteria are prescribed in the law on the mechanism for nomination. A candidate needs to submit nomination papers signed by two persons, one proposer and one seconder, who are required to be on the ER in the constituency. A deposit of 4,000 PKRs (approximately 32 Euro) is required for NA seats and 2,000 PKRs for PA seats. There are no requirements for further signature collection. Following a March 2013 amendment to the legislation, aspirant candidates no longer needed to submit their papers in person.

ECP candidate application mechanism

Aspirant candidates submitted their applications to ROs, who bore total authority for accepting or rejecting applications⁸¹. The ECP did not issue specific instructions or guidelines to the ROs on how to undertake this process, but instead referred to ROs’ judicial competence as reason for deferring responsibility⁸². In contrast the Chief Justice was active in meeting and speaking with those serving as ROs, encouraging fulfilment of responsibilities according to the Constitution.

There were widespread media and anecdotal reports on the controversies of the nomination process⁸³, with varying and inconsistent interpretations of the nomination criteria being applied. Media reports have also referred to diverse methods applied by ROs to ascertain whether a candidate met the legal criteria, for example asking women if they are married, asking male candidates how many wives they have, and asking for recitals of the Quran. The Lahore High Court on 5 April 2013 ordered ROs to

⁷⁸ UN Human Rights Committee, ICCPR General Comment 25, paragraph 4 “The exercise of these rights by citizens may not be suspended or excluded except on grounds which are established by law and which are objective and reasonable.”

⁷⁹ See for example see the European Court of Human Rights, *Tănase v. Moldova* 2008 and 2010. The court found the provisions of the relevant laws of Moldova that prevented elected MPs with multiple nationalities from taking seats in Parliament to be disproportionate and in violation of Article 3 (which refers to the right to free elections) of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms.

⁸⁰ Constitution, article 223.

⁸¹ ROPA article 14.

⁸² ECP press release, 4 April 2013: “Returning Officers are members of Pakistan’s Judiciary. They are carrying out their duties as Returning Officers independently. The ECP does not instruct or direct the Returning Officers how to decide the fate of nomination forms.”

⁸³ Many cases have been widely reported in the media, for example the well-known journalist, Ayaz Mir, was rejected by an RO in Punjab who accused him of being too “liberal” in his articles.

refrain from asking candidates unnecessary questions that do not pertain to the information contained in nomination papers or to objections raised.

There were examples of the same person being rejected by one RO while having candidacy accepted in another constituency. This has included high profile candidates such as the former President Musharraf who in one constituency was assumed innocent of charges pending against him, while in other constituencies there was an assumption of guilt and therefore his candidacy was refused. Thus the candidate nomination process was compromised by uneven application of the law, assumption of guilt⁸⁴ and lack of due process, which undermined fulfilment of the right to stand as a candidate⁸⁵. Over 4,000 applications were reportedly rejected by ROs.

The ECP attempted to increase the information available to the public on candidates' financial circumstances, given the constitutional requirements for candidates, their spouses or dependents, not to have defaulted on loans or government dues. The ECP endeavoured to obtain and make public records of the State Bank of Pakistan (SBP), the Federal Board of Revenue (FBR), the National Accountability Bureau (NAB) and NADRA. However the system broke down, thus information was inconsistently available. The ECP has since announced that scrutiny will continue of those elected⁸⁶. Thus representatives who are deemed not to comply with pre-election candidacy requirements or disqualification criteria could be subject to removal from office by an Election Tribunal⁸⁷ or the ECP.

Challenges to RO decisions on candidacy

Ten Appellate Tribunals were established by the ECP for adjudication of 1,714 appeals against RO decisions on either acceptance or rejection of candidate nomination papers, with decisions of the Appellate Tribunals being final. Of these, 997 appeals were rejected, or deemed rejected, with reference made to the need to adhere to the timing of the election schedule and possible use of the post-election Tribunals⁸⁸.

The EU EOM is aware that in addition some 200 constitutional petitions related to candidate nomination were submitted to High Courts. These petitions were prioritized and in general have resulted in decisions that allowed candidates to run⁸⁹. In cases of petitions challenging acceptance of nominations, High Courts have refrained from judging cases on their merits, referring instead the petitioner to seek redress either from the ECP or to seek disqualification after the election on the grounds that any action by the Court would affect the elections schedule.

In total the decisions of the Appellate Tribunals and High Courts resulted in 59 nominations being rejected and 635 candidates being accepted to run. Thus there appears to have been an erring on the

⁸⁴ ICCPR article 14.2 "Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law."

⁸⁵ ICCPR article 25: "Every citizen shall have the right and the opportunity... without unreasonable restriction... to be elected".

⁸⁶ See media reports following ECP interviews on 7 April 2013. ROPA section 76a gives powers to Election Tribunals to remove returned candidates from office on the basis of pre-election disqualification. The inherent powers of the ECP are seen as giving it authority to further scrutinize returned candidates.

⁸⁷ ROPA section 76A.

⁸⁸ ROPA section 14(6).

⁸⁹ In one such case, the Lahore High Court overturned the RO rejection of nomination of former PM Raja Pervez Ashraf. On 30 April, the Peshawar High Court in the course of a petition related to rejection of Pervez Musharraf's nomination, banned the former PM from contesting elections for life.

side of providing for the opportunity to stand. However going through such a process of petition placed an unnecessary burden on candidates.

Final number and party affiliation of candidates

There are weak unenforced legal requirements for democratic procedures within parties regarding the selection of candidates⁹⁰. While this is not a breach of ICCPR article 25 obligations, stronger measures could be taken for compliance with the spirit of the convention, given that the authoritative interpretation of the treaty notes that “States should ensure that, in their internal management, political parties respect the applicable provisions of article 25 in order to enable citizens to exercise their rights thereunder.”⁹¹

At the end of the candidate nomination process on 10 April, there were a total of 23,079⁹² candidacies accepted (6,850 for the NA, and 16,229 for the PAs), but by the time of the finalisation of the list of candidates, on 24 April, there were a total of 16,692 candidates. This is a more than 30% reduction from the number of candidacies accepted. This is a result of candidates jostling over party tickets⁹³, and negotiations between parties, which leads to a very large number of candidate withdrawals as so-called “seat adjustments” are undertaken. Financial pay-offs during this part of the process are widely commented on.

Finally there were exactly 5,000 candidates contesting NA seats (of which 4,671 were for the general seats), and 11,692 candidates contesting PA seats (of which 10,958 were for the general seats). The ECP did not provide clear information on the number of candidates running in multiple seats for the NA and/or PA races.

X. ELECTION CAMPAIGN

Competitiveness

On average there were 17.17 candidates per NA constituency, an increase from 8.28 in 2008⁹⁴. This included 339 candidates contesting for 12 NA seats in FATA, of which 266 (78%) were running on party tickets, permissible for the first time.

All those parties that boycotted the 2008 elections chose to participate in 2013, including PTI, Jamaat-e-Islami (JI), Pakhtunkhwa Milli Awami Party and Baloch nationalist parties. In total the ECP allotted symbols to 148 contesting parties. The All Pakistan Muslim League (APML), of former President Musharraf, was the only party to declare a boycott before election day, although still some APML candidates participated⁹⁵.

⁹⁰ Political Parties Order, article 8 “Selection for elective offices. The political parties shall make the selection of candidates for elective offices, including the membership of the Majlis-e-Shoora (Parliament) and Provincial Assemblies, through a transparent democratic procedure.”

⁹¹ UN Human Rights Committee, ICCPR General Comment 25, paragraph 26.

⁹² The ECP website on 24 April showed 24,569 candidates having had their nominations accepted for general and reserved seats. Previously on 10 April the ECP website had shown a total of 23,079 candidates.

⁹³ Certification of candidates’ party status comes unusually late in the nomination process. Section 21 of ROPA refers to allotment of symbols, based on party tickets, after the list of contesting candidates is issued.

⁹⁴ EU EOM 2008 Final Report, page 31.

⁹⁵ NA 32 and PAs 89 and 90.

Election related violence in the campaign

Attacks on the campaigns of political parties, candidates, party supporters, party premises and electoral locations increased significantly as the election date approached. In the media there were a reported 130 attacks resulting in more than 150 people killed during the last four weeks before 11 May. The majority of the targeted attacks took place in KPK and Balochistan, followed by Sindh (Karachi) and Punjab. Most of the attacks were directed against candidates and supporters of parties identified as secular, in particular the ANP in KPK and the MQM in Sindh, two of the three political parties the TTP had threatened to attack, the third being the PPP⁹⁶.

However, the last two weeks of the campaign saw an increasing number of attacks against other parties including JI, JUI-F, PTI, the Baloch parties Balochistan National Party-Mengal (BNP) and National Party (NP), and independent candidates in all four provinces and FATA. In most cases the perpetrators of these other attacks remained unknown. The security environment of the elections in Balochistan was seemingly aggravated by widespread threats issued by militant groups in particular in the Baloch parts of the province against the electoral process as a whole.

With increasing levels of election-related violence by non-state actors, security considerations and the law and order situation became the caretaker Governments' primary concern. While the caretakers were widely perceived as non-partisan by political parties and candidates, they came under some criticism for not providing for an adequate security environment for the campaign to take place with a level playing field, for not providing for equitable protection of candidates, notably for those affiliated with the three political parties under explicit attack from the TTP. All Party Conferences in both KPK and Sindh as well as increased levels of security arrangements at the federal level and in Punjab were undertaken to address the criticism. Public statements were made by the Caretaker PM, the ECP, the three parties under explicit threat from the TTP, as well as leaders from PML-N and PTI, religious leaders under the auspices of the Pakistan Ulema Council, civil society and the Chief of Army Staff. These statements condemned the violence on the democratic process and emphasised commitment to the electoral timetable, thereby helping diffuse fears of a postponement of the elections.

Despite these efforts, the high number of attacks affected campaigning and unbalanced the playing field, in particular in KPK, Balochistan and Karachi, where targeted parties could not engage in larger scale rallies for fear of attacks. As a consequence, mainstream media as well as social media became an even more important source of information for voters in affected areas (see Section XI Media and Elections).

While election related violence against specific parties overshadowed the campaign period particularly in Balochistan, Karachi and KPK, in vast parts of the country the pre-electoral environment was generally vibrant. In such areas there was a lively campaign period particularly during the last two weeks before election day, notably in all Punjab and central and interior Sindh as observed by EU EOM LTOs. While some parties were able to undertake large-scale rallies mostly in bigger cities, overall, the campaign was largely characterized by conventional small-to-medium size rallies, corner meetings and door-to-door activities. All major political parties issued manifestos prior to the elections.

⁹⁶ Since 11 April, there were 41 attacks in KPK and another 41 in Balochistan, as well as 26 attacks in Sindh, 9 in Punjab and 6 in FATA. ANP suffered 34 attacks, followed by MQM with 17 attacks. There were 14 on independent candidates, while PML-N was targeted 12 times, PPP 8 times, and JUI-F 6 times. Numerous other parties including NP, JI or PTI had five or fewer attacks.

Although EU EOM LTOs reported cases of violent clashes between party supporters - for example in Islamabad, Mirpur Khas and Sheikhpura – these appear to be isolated and not on the scale seen in previous elections.

Regulatory framework for the campaign

The election campaign is regulated by the ROPA and further substantiated by both the Code of Conduct for Political Parties and Candidates as notified by the ECP on 28 January 2013 and the Code of Conduct for the Media of April 2013⁹⁷. The ROPA primarily determines actual campaigning modalities, including prohibitions of wall-chalking or loudspeakers under certain circumstances and instructs the campaign silence to start 48 hours before election day. The Code of Conduct for Political Parties and Candidates contains a mixture of the ROPA regulations and criminal offences which include the banning of hate speech, incitement of violence, false accusations against other candidates, compromising the ideology and sovereignty of Pakistan, and ridiculing the judiciary or the Armed Forces. The Code of Conduct for Political Parties and Candidates also contains specific provisions regarding the organization and location of rallies and the placing and sizes of campaign material. It upholds the neutrality of the Caretaker Governments by requiring officials to abstain from campaigning. Government officials are further specified not to announce any development scheme or do anything which could influence the results of an election in favour of a particular candidate or political party.

The ECP delegated resolution of issues related to compliance with the Code of Conduct to the DROs and ROs in their capacity as First Class Magistrates, with the cooperation of local administrations and enforcement agencies. The ECP did not establish a clearly defined mechanism or guidelines for the resolution of such complaints. ROs and DROs were to be supported by 500 monitoring teams which the ECP reportedly deployed in total to all constituencies with the task of reporting on violations of the code to respective ROs.

However the enforcement record of the Code of Conduct largely lacked transparency throughout the campaign period, mainly because of the ECP's lack of systematic oversight over violations and respective measures undertaken by the DROs and ROs. The absence of both a central tracking system at federal and provincial level, and of a detailed sanction mechanism in case of violations of the code, did not allow the ECP to ensure coherent and consistent enforcement across the constituencies, instead leaving decisions entirely to the DRO and ROs.

No grave violations of the Code of Conduct were noted by EU EOM observers. Information gathered from some DROs indicated that violations mainly related to sizes of banners, illegal use of loudspeakers and unauthorized rallies. However further analysis is hampered by the lack of systematic information on breaches of the code's provisions.

Campaign expenses

Campaign expenses are regulated by the ROPA Chapter VI which details that the maximum ceiling for candidates' expenses must not exceed 1.5 million Pakistani Rupees (approximately €11,700) for NA candidates and one million Pakistan Rupees (approximately €7,820) for PA candidates. Successful candidates were required to submit expenses information to the ROs within ten days of election day, while unsuccessful candidates had up to 30 days⁹⁸. For the first time, candidates were required under the

⁹⁷ See ROPA 1976, Section 83A and ECP Code of Conduct for Political Parties and Candidates.

⁹⁸ ROPA, sections 42(3A) and 50.

Code of Conduct to channel campaign expenses through a separate bank account. This attempt at stronger transparency in campaign funding is consistent with the Convention Against Corruption which refers to “enhance[ing] transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.”⁹⁹

However the expense ceiling was considered by many political parties as out-dated and unrealistically low. Also there is neither an enforcement nor a sanction mechanism in place to establish breaches of the respective provision or charge violators. Transparency is compromised by delegating responsibility to the ROs with no proper oversight by the ECP. This lack of enforcement and transparency undermines the accountability function of the campaign financing provision. Furthermore as political parties under the Political Party Order of 2002 are not subject to adherence to a campaign finance ceiling, the regulation regarding candidates’ expenditures has little significance.

XI. MEDIA AND ELECTIONS

Media Landscape

Since 2008 the level of freedom media has grown substantially. There has been further liberalization, as well as greater diversification in audience reach, editorial lines followed and ownership. In this vibrant, highly competitive, and marketing-driven media landscape, the broadcast media have emerged as the primary source of information, including in regards to elections. Countrywide, there are 89 TV channels and 166 FM radio stations. The state-owned PTV and PBC have a near-monopolistic provision of terrestrial services and FM/AM frequencies. PTV’s and PBC’s position has been further reinforced by their ability to broadcast generic news and infotainment programmes countrywide in a plethora of languages, and by legal constraints that commercial broadcasters, radio stations in particular, are facing.

In the print media privately owned press prevails. To date there are more than 200 privately owned daily newspapers. The English-language media are more liberal and quality-oriented, mainly targeting the urban elite and opinion leaders. In contrast the Urdu press with its habitual sensationalist reporting appeals to the middle class and rural population. The estimated total daily distribution of newspapers is up to 6.2 million copies.

The relative freedom of speech enjoyed was curtailed in early April 2013 when numerous media houses, and their individual editors and journalists, received threats from various militant or other groups who demanded printing/broadcasting of their anti-elections messages without editing and/or critical analysis. Prior to election day such intimidation was experienced by staff at Dawn, Daily Jang, *Mashriq*, GEO TV, Express TV, ARY TV, Waqt TV and various less prominent media outlets in Karachi and some other parts of Sindh, Balochistan and FATA. The most popular commercial TV channels were taken off air in parts of Balochistan before the elections, due to pressure put on cable TV operators, which further limited access to information¹⁰⁰. State authorities did not take sufficient measures to protect media practitioners¹⁰¹. Moreover, further pressure was put on outlets following a

⁹⁹ Convention Against Corruption, article 3.

¹⁰⁰ Dawn TV and GEO TV were not available in the areas around Kharan, Khuzdar, Gwadar, Panjung and Kech due to the technical constraints on cable TV operators, initiated by militant groups. Cable TV operators were threatened and forced to “move” those television channels from the priority list to the list with a limited access.

¹⁰¹ Such as genuine police investigation of intimidation cases, physical security of media houses in particular areas, and political support from regulatory authorities. For further information see the UN Human Rights Council Resolution on the safety of journalists, 21 September 2012, particularly paragraphs 7 and 8. ICCPR GC 34, paragraph 23 also notes

ruling on 16 April from the Balochistan High Court, in which the Pakistan Electronic Media Authority (PEMRA) fined four TV stations for broadcasting election-related messages from banned organizations, despite the media houses claims that these news items were aired under a direct threat from the authoring organizations, the TTP in particular.

Freedom of speech and quality reporting are also undermined by outlets potentially facing negative consequences for making certain types of criticisms, thereby increasing the likelihood of self-censorship. This was shown on 18 April when Islamabad-based TV station Capital TV was taken off air briefly after a late-night talk show guest criticized the Chief of Army Staff¹⁰². The channel did not receive any notification or warning prior to being cut off which raises issues regarding compliance with national legislation¹⁰³ and international commitments regarding freedom of expression¹⁰⁴.

Internet penetration has grown substantially over the last decade¹⁰⁵ and social media plays a significant role in Pakistan's media scene, also in regards to elections. News websites and blogs contributed to the pre-election debate. Parties' *Twitter* accounts were widely used to address the urban youth and mobilize supporters for action. On *Facebook* campaign messages appeared to be conveyed more openly including on controversial issues that would be avoided first hand by mainstream media¹⁰⁶. However, the *YouTube* has been blocked since December 2012 for various reasons.

The Legal Framework for Media

Article 19 of the Constitution provides for freedom of expression: "every citizen shall have the right to freedom of speech and expression, and there shall be freedom of press, subject to any reasonable restrictions imposed by law". By subjecting freedom of expression to "any reasonable" restrictions rather than "necessary" restrictions, as set out in the UN Human Rights Committee's General Comment 34¹⁰⁷, Pakistan is not fulfilling the spirit of article 19 of the ICCPR¹⁰⁸. Furthermore there is no primary legislation that supports freedom of expression.

that "States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression."

¹⁰² Alongside other accusations the guest used a strong insult term to characterize the Chief of Army Staff. This was interpreted as a breach of the Code of Conduct for Media Broadcasters and Cable TV operators (Schedule A), article 1 (g), "No programme shall be aired which – contains aspersions against the Judiciary and integrity of the Armed Forces of Pakistan".

¹⁰³ PEMRA Ordinance (2002), article 27, "The Authority shall by order in writing, giving reasons therefore, prohibit any broadcast media or distribution service operator from (a) broadcasting.... any programme...against the ideology of Pakistan...or endangers national security".

¹⁰⁴ ICCPR article 19 "1) Everyone shall have the right to hold opinions without interference. 2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

¹⁰⁵ From 0.1% of the population in 2000 to 15.3% of the population at the end of 2012.

<http://www.internetworldstats.com/stats3.htm#asia>

¹⁰⁶ For example PTI leader Imran Khan released a video message on 2 May 2013 on PTI's Facebook page clarifying his stance on the Ahmadi community by stating that they are non-Muslims and he has no plans to amend legislation in order to alter their status. Also, PPP's leader Bilawal Bhutto used Facebook and the party's website as his primary platform for campaigning.

¹⁰⁷ ICCPR, article 19. UN Human Rights Committee, ICCPR General Comment 34, paragraph 22 "Restrictions may be imposed: the restrictions must be 'provided by law'; they may only be imposed for one of the grounds set out in subparagraphs (a) and (b) of paragraph 3; and they must confirm to the strict tests of necessity and proportionality".

¹⁰⁸ Thus there has not been fulfillment of key recommendation 8 of the 2008 EU EOM that "Freedom of expression should be subject to 'necessary' restrictions, rather than 'any reasonable restrictions' (Constitution, Article 19) and reform of the legal framework regulating media activities should be undertaken. Restrictions on media content should be reduced, and clear-cut definitions should be introduced."

There are two main regulatory bodies for the broadcast media: the Ministry of Information and Broadcasting and PEMRA. While the ministry directly governs the state-owned PTV and PBC, PEMRA has jurisdiction over private broadcasters. PTV and PBC are administrated under distinct legal regimes while commercial broadcasters have a legal framework tailored by PEMRA. The mandate of PEMRA includes the licensing of privately owned audio-visual media, closure/suspension of media outlets and the revocation of licenses, imposition fines on broadcasters and confiscation of equipment, drafting a general Code of Conduct for Media Broadcasters and establishing Councils of Complaints in Islamabad and in the provincial capitals.

The Press, Newspapers, News Agencies and Books Registration Ordinance (2002) determines the legal framework for print media. The ordinance requires all print media outlets to register with local or provincial authorities, and among other documents to submit a guarantee from the editor to abide by the Ethical Code of Practice, issued by the Press Council of Pakistan (PCP), which is a semi-autonomous regulatory body, established under a respective Ordinance. Similar to PEMRA's Councils of Complaints, PCP Complaint Committees are responsible for reviewing complaints.

The Legal Framework for Election Coverage

The electoral legislation does not stipulate particular requirements for the campaign period and election day. In late April, after discussions with state institutions and various media associations, the ECP issued a Code of Conduct for the Media that, in line with good practice, stipulates requirements for equal and equitable coverage of candidates and parties. However, this provision for a level playing field in the media was compromised by the ECP not establishing an efficient and transparent enforcement mechanism. PEMRA and the PCP only responded to complaints, rather than monitoring how and if media outlets abided by the code.

Whilst political parties and candidates are not entitled to free airtime or space, they can place advertisements in print and broadcast media. The Code clearly distinguishes between paid-for and editorial content. In this regard media have met legal requirements. However neither PEMRA nor the ECP has a convincing mechanism for verifying or crosschecking the amount of money parties were spending on the campaign in the media and who was actually undertaking the financing¹⁰⁹.

Even though the Code of Conduct for the Media prescribes a reasonably transparent resolution mechanism for media-related complaints and conflicts, this was not exercised. This was reportedly because of political parties' mistrust in the capacity of PEMRA and the ECP to examine the performance of media outlets on their merits. For example, in the first instance the PML-N filed a writ petition regarding the PPP's negative campaigning to the Lahore High Court, not to the ECP or PEMRA. Moreover, as the Court states in its 3 May ruling "the ECP and PEMRA have failed to do what they are by law required to do", and ordered the concerned institutions to take immediate actions.

None of the legally binding documents defines the period of the campaign silence in the media. Only on 6 May did the ECP issue a press release somewhat clarifying the subject by giving direction, albeit vague, to end broadcasting and printing of campaign-related materials "from midnight between the 9 May and 10 May". No reports on breaches of the campaign silence period were received by regulatory bodies, nor noted by the EU EOM's media monitoring unit.

¹⁰⁹ Political Parties Order (2002), article 13, "Every political party shall ... submit to the Election Commission, within sixty days from the close of each financial year, a consolidate statement of accounts audited by Chartered Accountant."

Monitoring of Media Coverage¹¹⁰

Over the electoral period the media provided the Pakistani electorate with a range of viewpoints and scrutiny of the election process. On average the television stations monitored devoted 39% of prime time programming to political communication, the radio 5%, and newspapers 13%. The news proportion within the political communication was fairly high: from 23% in television to 54% in newspapers. The time granted for the paid-for content was extremely high, far exceeding the time allocated to election-related debate programmes and even news on two of the TV channels monitored by the EU EOM. This, coupled with TV channels' telecasting of long-lasting live rallies, only benefited a few parties that had the opportunity to convey their campaign messages without being subjected to critical analysis. The six TV channels monitored by the EU EOM broadcasted numerous PML-N publicity events granting the party a total of nearly 16 hours of live coverage. MQM, PTI and PPP also profited from this kind of programming by gaining a total of nine, five and four hours respectively. This clearly contradicts the Code of Conduct for the Media. Moreover, as it left little space for others, in particular the ANP (who were also unable to undertake physical campaign activities) and independent candidates.

The state-owned PTV News and the PBC 101 FM failed to comply with the Code of Conduct for the Media and to fulfil specific duties as publicly owned broadcasters. Only one quarter of the parties who obtained their respective symbols from the ECP were mentioned during the broadcasters' primetime programming. PTV and PBC covered the candidates of 35 and 22 parties respectively, out of a total of 148. During PTV's primetime programming, time was quite equitably allotted to PML-N (23%), PTI (17%) and PPP (16%). PBC focused on MQM (21%), ANP (18%) and JI (17%). However in news programmes PML-N and PTI were obviously favoured with half of the time granted for their direct speech on PTV's news; on PBC's news the vast majority of direct speech was allotted to JI¹¹¹.

The balance of electoral coverage in the privately owned media varied according to the editorial preferences that were evident from larger time/space shares given to one of the three major contestants. Time/space shares preferences were also influenced by the particular provincial interest of the outlet. For example, the Lahore-based Express News devoted nearly 50% of its prime time programming to PML-N and PTI, but Karachi-based stations granted proportionally larger shares to MQM as compared to PTV or its only competitor in the terrestrial services, the semi-private¹¹² ATV. Among the broadcasters the most balanced coverage was offered by the Dubai-based ARY TV. Commercial broadcasters' news programmes were similarly composed with regards to the allocation of time. However, PML-N was afforded with the most direct speech on the majority of channels' news (68% on ATV, 47% on Express News, 27% on Geo TV and ARY TV). On the privately owned

¹¹⁰ From 8 April to 9 May 2013 the EU EOM monitored a selected sample of media outlets reflecting the diversity of Pakistan's media landscape. The methodology employed for the media monitoring was both quantitative and qualitative. The sample of media outlets was: six TV channels (state owned PTV News, semi-private ATV, and commercial broadcasters ARY TV, Dawn News, Express News and GEO News); two radio stations (state owned PBC 101FM and commercial radio station Power Radio 99 FM); four newspapers (Urdu language dailies Daily Jang and *Nawa-i-Waqt* and English language dailies Dawn and Express Tribune). TV stations were monitored daily from 18:00 to 24:00, radio stations daily from 7:00 to 12:00 and from 18:00 to 24:00, newspapers were coded on a daily basis. See Annex 5 EU EOM Media Monitoring Results.

¹¹¹ Thus there has not been fulfillment of key recommendation 9 of the 2008 EU EOM that "State media should institute clear and transparent procedures to ensure its news and public affairs broadcasts during an election campaign are impartial."

¹¹² Terrestrial television network that is owned by the Government, yet rented to the privately owned Shalimar Television Network Channel.

Power Radio 99 a great majority of political actors quoted were representing MQM (87% of direct speech).

The majority of privately owned newspapers monitored by the EU EOM granted the main contestants with a fairly balanced coverage and provided the electorate with a great variety of opinions through the coverage of 86 parties. Only the Urdu language newspaper *Nawa-i-Waqt* expressed visibly its editorial preference by devoting 37% of the space allocated to political actors to the PPP. Moreover, in the news PPP gained 44% of the coverage, leaving other parties far behind. The visual coverage given to the aspirants corresponded to the overall editorial line.

The tone of the political communication in the media outlets monitored by the EU EOM was mainly positive or neutral, with the exception of a negative attitude towards the APML. Intermittently negative tones were used also towards PPP, ANP and PTI. The tone of news bulletins was mainly neutral on all media outlets monitored by the EU EOM. The nominal proportion of critical reporting played into the hands of incumbent candidates, PML-N in Punjab in particular, whose performance in office was barely scrutinized.

XII. PREPARATIONS FOR POLLING AND ELECTION DAY

Preparations for polling

Administering the 2013 elections in Pakistan was a challenging undertaking given the size of the operation, geographical and infrastructure conditions, and the security environment. The increased scrutiny from a greater number of observers and Pakistani media meant increased exposure of accomplishments and also shortcomings. While the ECP had problems with accreditation (see Section XVI Citizen Observation), it did overall support scrutiny and engage with the media, thereby allowing there to be increased information available to stakeholders compared to previous years.

The ECP, with assistance from its international partners, undertook various improved measures for election day. These included: training of all polling station staff (644,970 in total), use of tamper-evident bags for the transportation of sensitive materials, and introducing on form 14¹¹³ a record of the number of registered voters at the station (an important accountability check). Such measures were positive steps, but further ECP management measures are needed for realisation of their benefits.

The increased training was positive, but was essentially outsourced to other organisations. Therefore changes in policy are needed to incorporate training, an essential component of any election process, into ECP practices and thereby to be sustained. Furthermore, there was a lack of ECP management control over polling staff, with ROs making changes so those who worked on election day were not necessarily those who had been trained. FAFEN, amongst others, noted that such last minute changes were made to polling staff, resulting in untrained staff working in polling stations. These late changes without Commission approval are in contradiction to the law¹¹⁴, lacked transparency and risk raising stakeholder suspicions about why such changes were made¹¹⁵. Such last minute changes also risk

¹¹³ Form 14 is the polling station Statement of the Count. Form 15 is the polling station Ballot Paper Account.

¹¹⁴ ROPA section 9(2) states that “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.”

¹¹⁵ This appears to be a recurring problem as the 2008 EU EOM to Pakistan noted “some last minute changes in polling staff meant that the benefit of such training and manuals was at times not utilized and some polling stations were still being managed by untrained workers.” EU EOM 2008 Final Report, page 24.

polling staff being disenfranchised if they were appointed after the 3 May deadline for postal ballots¹¹⁶. Without centralised information made available on these changes in staff it is not possible to assess the scale or impact of these alterations. Full information gathering by the ECP on the extent and reasons for all change in polling staff would help determine the magnitude, nature and possible impact of this problem, as well as identification of possible mitigating measures for the future. Some changes in staff may have been due to staff concerns about the personal security risks involved in working in polling stations, for example teachers in Balochistan¹¹⁷ reportedly initially refused to work¹¹⁸.

RO directed changes to the polling scheme, which lists all stations and numbers of registered voters, were also undertaken at the last moment contrary to the law, which requires finalisation of polling stations 15 days before election day¹¹⁹. This is problematic in a number of ways, including in regards to ballot accountability, for provision of a means to examine turnout and for organisation of agents, observers and voters. It is not clear how voters were informed of such alterations to their polling venue; the ECP SMS system did not incorporate the last minute changes of polling locations, thus some voters may have been misinformed. These changes, and lack of ECP central information on the matter, meant that the ECP was not in full control and there was room for mistrust over why and for whose benefit changes were being made. Neither did the ECP appear able to retrospectively gather full information on where polling took place.

Without centralised information made available on these changes it is not possible to assess the scale or impact of the alterations to the polling scheme¹²⁰. The ECP announced total number of polling stations was 69,801, an increase of 8,407 compared to 2008. No final Polling Scheme for Balochistan is listed on the ECP's website¹²¹.

The operational preparations for election day were predominantly successful, with materials having been organised and distributed as required by the ECP, with the support of security forces including the military. Overall EU EOM teams reported that essential election material was missing in 5% of booths¹²² observed¹²³. The printing and distribution of ballot papers was accomplished, albeit with some last-minute efforts. For example ballot papers for parts of Karachi were printed with significant delays because of an order of the High Court of Sindh relating to litigation over delimitation of 11 constituencies in Karachi. However ballot papers lacked security features that reduce risk of counterfeiting and increase accountability.

On 9 May the TTP announced that there would be attacks against the electoral process in all four provinces on election day, and distributed leaflets declaring the democratic system “un-Islamic” calling on voters and polling staff not to participate in the elections as the TTP would target all the

¹¹⁶ <http://ecp.gov.pk/ViewPressReleaseNotificDetail.aspx?ID=1990&TypeID=0>

¹¹⁷ The ECP can ask anyone in the service of Pakistan for assistance (ROPA sections 5 and 7). Education department staff (teachers) have traditionally been used as polling staff.

¹¹⁸ The ECP, security agencies and the Caretaker Government of Balochistan took additional measures to provide security to the teachers in Balochistan who initially refused to take up positions as polling staff.

¹¹⁹ ROPA section 8.2.

¹²⁰ FAFEN noted in its “Key Findings and Recommendations” paper, 22 May, that “incomplete data suggests that a significant 4.2% of the polling scheme might have been altered immediately prior to election day.” [http://www.electionpakistan.org/assets/publication/bb90e-FAFEN-Election-Observation-Report---Key-Findings-and-Recommendations-\(22-May-2013\).pdf](http://www.electionpakistan.org/assets/publication/bb90e-FAFEN-Election-Observation-Report---Key-Findings-and-Recommendations-(22-May-2013).pdf)

¹²¹ <http://ecp.gov.pk/PollingScheme.aspx>

¹²² Each polling station is made up of several polling booths. Polling booths are either for men or for women. A station may be for men or for women or “combined” (containing separate booths for both men and women).

¹²³ Most commonly envelopes were missing. In four cases the ER, in four cases the seals, and in two cases ballot papers were missing. Other stations had missing ink, voter screens, ballot boxes and forms.

locations where electoral activities take place. The Pakistani security forces took a resolute response to such threats, undertaking a large-scale effort incorporating multiple agencies.

EU EOM observation of election day

Over 140 EU EOM observers were deployed on election day, scrutinizing polling, counting and the compilation of results, covering in total 679 polling stations in 140 constituencies in 3 provinces (KPK, Punjab and Sindh) and Islamabad. However security conditions restricted the locations in which the EU EOM could observe. Furthermore in a few cases security staff or election administration personnel limited EU EOM observer access. The sample of polling stations visited is not overall representative, but rather a sample of various types of typical stations within the areas of the country where observation was deemed possible. The EU EOM observed 64 counts, and thus the findings of counting should be seen as indicative rather than representative.

Election day

Although election day was less marred by violence than anticipated, there was a reported total of 62 election related security incidents, including some serious explosions, that affected all the provinces. These mostly took place at polling stations, and appear to be due to a mixture of terrorist and inter-party violence. The incidents resulted in at least 64 deaths and 225 people injured (see Annex 4 Election Day Violence). Only in one NA constituency, in FATA (Kurram Agency) were elections cancelled for security reasons.

Almost half of the polling stations observed by the EU EOM opened up to an hour late, but procedures were largely followed. Those stations visited by the EU EOM were mostly rated by observer teams as satisfactory or good. Observers reported that voting procedures were mostly followed and in the vast majority of stations visited. Candidates and party agents, an essential check in the process, were present in 93% of observed booths, with two or more present in 85%. National observers were present in 24% of booths observed.

However 9% of booths visited were rated as poor or inadequate. Negative ratings were higher in Sindh at 21%. They were also higher in women's polling booths and stations at 15%. Observers and agents were not able to follow the proceedings unhindered in 10% of booths. Unauthorised people were present in one in five polling stations. Mostly these were police and were not interfering in the work of the polling staff. However there were 10 cases when unauthorised persons present were intimidating voters and/or polling officials, more than 10 cases where they were interfering, and another 15 cases where they were creating confusion. Observers also reported cases of agents going beyond their role and remit in their activities in the stations. The secrecy of the vote was not sufficiently protected in 20% of booths observed, mostly because of the layout of the polling booth, overcrowding, and more than one person going behind the screen. However there was also open voting in 22 booths observed, interference by polling staff in 16 cases and abusive voter assistance in 8 cases.

The integrity of the vote was assessed not to be sufficiently protected in 7% of booths observed. Overall, ink was not checked for in 9% of booths and only inconsistently checked for in a further 6% of booths. Additionally ink was only erratically applied in 7%. Voter identification checks were not consistently made in 3% of booths and thumb prints were not always undertaken in 4% of observations. In six cases there was unrest at polling stations and intimidation in nine cases. More serious problems observed include multiple voting seen three times, ballot box stuffing also seen three times, bias by polling staff seen six times, and proxy voting three times.

In Karachi EU EOM observers undertook limited observation, during which they saw some serious problems in polling and were also restricted in their activities. One third of polling booths were assessed by EU EOM observers as poor or inadequate. For example out of 28 EU EOM observations ink was not always checked in 11 cases, and not always applied in 9 cases, NICs weren't always checked in 8 cases, and thumb prints not always taken in 9 cases. In NA 247 (Karachi), EU EOM observers saw ballot papers having been removed from the counterfoils without the required due process, agents *de facto* controlling the "polling" while voters were being turned away.

The ECP extended polling by three hours in seven constituencies in Karachi and declared that re-polling would be held in 43 stations in NA 250¹²⁴. The ECP commented that "Presiding Officers and Polling Staff... were threatened and the election material was stolen by criminal elements. Substitutes appointed by the DRO were also threatened and therefore refused to perform election duty. The office of the CEC was also fired upon. In these circumstances, polling was substantially delayed throughout NA-250 and could not take place at all in 43 polling stations."¹²⁵ The ECP's decision to only conduct re-polling in certain stations rather than the whole constituency, and not to undertake re-polling in other constituencies was controversial.

The ECP's very late decision, some minutes before the scheduled close of polling, to extend voting by one hour to allow more opportunity to voters, caused confusion and was not announced on the ECP website. EU EOM observers saw inconsistent application with some stations staying open, while others closed, some of which then re-opened.

Counting was more negatively assessed, with 9 out of 64 stations rated as poor or inadequate. There were insufficient reconciliation procedures, for example there is no requirement for counting the number of voter marks on the ER¹²⁶, a basic check on the number of ballots issued. EU EOM observers reported problems with completion of results forms, including 17 cases in which the forms were not fully completed. In 16 cases party agents did not receive a copy of the results form¹²⁷. In half of the stations (33), the results form was not displayed for public scrutiny as was procedurally required¹²⁸.

Polling station presiding officers are vested with magisterial powers¹²⁹ that can be used upon receiving a complaint or based on his/her own knowledge or suspicion that a civil and/or criminal offence has been committed. Thus instead of following judicial procedure, an order can be passed without taking any witnesses into account, which can result in a punishment being decided and arrest of the "criminal". Similarly the ECP can vest officers of the armed forces with powers of a magistrate of the first class for certain offences. Attribution of such powers of criminal jurisdiction to non-judicial officers, including members of the armed forces, raises questions of due process and division of powers. However in practice, use of such magisterial powers appears to be negligible.

¹²⁴ Re-polling for the 43 polling stations was held on Sunday 19 May, with additional security forces presence outside and inside polling stations. MQM and PPP announced a boycott saying that re-polling should have been wider.

¹²⁵ ECP press release 12 May 2013.

¹²⁶ When a registrant comes to vote a straight line should be put across their name in the ER.

¹²⁷ On 11 May the ECP issued a press release stating that "The ECP has directed all the presiding officers to provide a 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" with reference made to ROPA section 38(11) which states that "The Presiding officers 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]."

¹²⁸ The Handbook for Presiding Officers, page 54, requires Presiding Officers to "Affix one copy outside the polling station at any prominent place and announce the result".

¹²⁹ ROPA section 86(a) and Handbook for Presiding Officers, page 40.

On election day, the ECP established a 24 hour Complaint Cell in Islamabad, with most complaints forwarded to provincial and district levels for investigation and resolution. No comprehensive record was kept of complaints received or consequent responses made.

The EU EOM did not observe in Balochistan or FATA, for reasons of security. Subsequent interviews with stakeholders from these areas indicate significant problems on election day. In FATA polling station accessibility was difficult with a lack of availability of government buildings, harsh geographical conditions and long distances reportedly resulting in challenging journeys of up to 1.5 hours. In Balochistan, in the southern Baloch dominated districts there was reported to be very low turnouts of less than 10%, in part due to blockades, while there were much higher turnouts in Pakhtun areas. Some parties in the province referred to fearful atmospheres referencing target killings, intimidation, and rigging.

XIII. RESULTS PROCESS

Compilation and consolidation of results at the constituency level

Polling station result forms and materials are taken to ROs' offices where there is a tabulation process known as compilation that takes place immediately. Consolidation is a legally-mandated second stage of tabulation that takes place as soon as possible after compilation. It involves adding in postal ballots received by each candidate and examination of ballot papers excluded from the count (invalid ballots) and "challenged" ballots¹³⁰. Although the ECP has not provided public information on of the total number of postal ballots received, constituency results data seen by the EU EOM indicates that postal ballots continue to be underutilised, given all those who are eligible¹³¹.

EU EOM observers followed compilation and consolidation in constituencies in Islamabad, KPK, Punjab and Sindh. In three centres EU EOM observers were not given access to the process, and in six centres, access was only partial¹³². Out of 45 observations, 7 compilations were assessed as poor or inadequate (4 of these observations were from Sindh). Gaps in procedures were evident from the ROs' varied handling of polling station results forms containing inaccuracies and anomalies.

The transparency of the process and results information availability at the constituency level was problematic. Party and candidate agents were not always present and citizen observers were only present in 12 cases. In 15 centres agents and observers were not able to follow the proceedings unhindered. Agents were not always there to take, or did always get given, copies of the results¹³³. Only in half the cases observed were the overall constituency results displayed (19 out of 39 observations), and only in 14 cases was a full breakdown by polling station given. Thus parties, candidates, voters and civil society did not have consistent access at the constituency level, to detailed results information that allows for checking the veracity of the announced results totals.

As is consistent with other parts of the election process, there was not an established system for management of complaints. EU EOM observers reported eight cases of complaints of one type or

¹³⁰ Challenged ballots are issued to those who turn up at a polling station and their identity or eligibility is challenged by a polling agent.

¹³¹ Persons in government service, polling staff, election security workers, and people detained in prison. ROPA section 29.

¹³² No access was given to EU EOM observers in NAs 120, 257 and 258. Only partial access was given in NAs 65, 136, 198, 215, 245 and 253.

¹³³ In the 21 end of compilations observed by EU EOM observers, copies of results forms were only given out in 13 cases.

other, with no consistent system for lodging, recording or managing complaints. This reduces opportunity for early remedy, thereby increasing the risk of dissatisfaction and lack of confidence in the administration of the election.

ECP central tabulation and publication of results

In 2008 and subsequent by-elections, the ECP has published results with a breakdown by polling station but often after considerable delay. For example the 2008 polling station results were released after the deadline for lodging petitions, thereby compromising candidates' ability to seek remedy. For these elections, the ECP took steps to improve the process through the introduction of the net-based Results Management System (RMS). This for the first time provided a standard tool for tabulation, which enabled electronic record keeping of individual and tabulated polling station results forms and data, that would all be sent through to the ECP in Islamabad for easy searching, checking and publication¹³⁴. This attempt at a central collection of copies of polling station results forms in Islamabad was positive in potentially making the ROs' actions more subject to check.

However the ECP did not sufficiently promote or enforce use of the RMS. Thus some ROs reverted to old *ad hoc* means of recording and/or transmitting results data to the ECP. The lack of comprehensive ECP established procedures perpetuated use of alternative mechanisms. For example EU EOM observers noted that rather than dealing with anomalies in polling station results data that flagged up in the RMS system, ROs in some cases reverted to more manual aggregation and faxing of results to the ECP. In total, the ECP reported that the RMS was used in some way in 70-80% of results recording and/or transmission.

Through the RMS, the ECP in Islamabad had access to results records from polling stations (forms 14 and 15) and tabulation centres (forms 16 and 17). However, while the ECP announced constituency results, it did not make polling station data available centrally. This perpetuated an post-election-day increasing questioning of the process, and again reduced opportunity for complaints to be lodged and addressed in a speedy manner.

Following calls from civil society, the ECP did issue a press release on 11 June, stating that "in line with its policy of transparency and openness" it had directed all ROs to provide certified copies of forms 14, 15, 16 and 17 to any individuals, NGOs, media representatives etc.. The extent of demand for such copies, and practical fulfillment of this order, is not clear at the time of writing

Form 16, which contains the breakdown of constituency results by polling station, are one of the easiest form sets to scan and upload. Scanning was undertaken with the assistance of UNDP. However the ECP has not to date made these public on its website, thus candidates were returned without readily available information on how announced totals were reached. Furthermore the information available on forms 16 is insufficient as it does not contain the number of registered voters at each polling station, thereby preventing opportunity for checking turnout. This lack of results information is not consistent with Pakistan's international commitments¹³⁵. Specifically the Convention Against Corruption refers to "Ensuring that the public has effective access to information"¹³⁶, and the ICCPR treaty body have stated that "States parties should proactively put in the public domain government

¹³⁴ The RMS provided for the scanning and transmitting of all individual polling station and constituency results forms.

¹³⁵ Thus there has not been fulfillment of key recommendation 5 of the 2008 EU EOM was that "The law should be amended, and the ECP should issue and enforce instructions, to ensure that all counting and aggregation processes are fully open to scrutiny. This should include detailed polling station results being swiftly displayed at the constituency and on the internet."

¹³⁶ Convention Against Corruption, article 13(b).

information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information.”¹³⁷

In principle information on the number of registered voters could be gathered from checking of the polling scheme, which gave details on each polling station. However in practice the last minute changes by ROs to the polling scheme and the lack of any ECP central record of the changes prevented effective examination of turnouts.

Responses to the results data

Following election day, although there was an overall acceptance of the national and provincial outcomes, there were allegations of and concerns about “rigging” in all of the provinces. The clear margins of victory mitigated against these various allegations disrupting the formation of government.

The scale, seriousness and credibility of the alleged problems are hard to assess because of the lack of a complaints tracking system and ECP transparency in this regard. The allegations appeared to refer to minor irregularities and more serious questioning of mandates. The numerous allegations were notably against the winning parties in Punjab (PML-N) and Sindh (PPP and MQM). Problems were concentrated in some geographical areas, in particular Karachi, parts of Balochistan where unusually high voter turnouts in particular in the Baloch areas raise questions, some FATA agencies and parts of Punjab.

All major parties met with by the EU EOM referred to the lack of a fair process in some parts of the country. One party admitted that “every party is involved in false votes” and that it is necessary to keep pace with rigging by opponents. The PPP and PTI referred to acceptance of results and not wanting to disrupt the process overall, but undertaking preparation of white papers on rigging.

Sit-ins were organised by various parties and candidates in all four provinces and FATA about individual cases of alleged rigging. The media also showed examples of problems, including stray ballots and ballot stuffing. FAFEN and other civil society organisations called for full publication of results and polling station data¹³⁸.

While the ECP was seen to respond to some complaints and did order re-counting and re-polling based on complaints received (see below), it did not take its own initiative in following up on questionable results data and other possible indicators of rigging. Overall there appeared to be some loss of confidence in the work of the election administration at this stage of the process, as it was seen not to have prevented such problems and its response, or lack of sufficient response, was contentious. For example ECP decisions regarding holding re-polling in just 43 polling stations of NA 250 in Karachi¹³⁹, and 6 stations in provincial assembly Sindh 128 led various parties to announce boycotts (PPP, MQM, and ANP respectively).

The EU EOM was unable to undertake much results analysis because of a lack of results data and an accurate polling scheme. However examination of a limited number of results forms accessed by the EU EOM show a concerning level of invalid ballots in some polling stations, with several stations in

¹³⁷ UN Human Rights Committee, ICCPR General Comment 34, paragraph 19.

¹³⁸ The EU EOM also called for polling station scheme and results data to be made public, in a press release dated 21 May 2013 (“EU EOM Chief Observer calls for transparency and due process”).

¹³⁹ The EU EOM observed re-polling on 19 May in 43 polling stations in Karachi.

each province showing 18% or more ballots cast being invalid¹⁴⁰. In the case of NA 263 (Balochistan), there were 12 stations (out of 299) having 20 - 38% invalid ballots, while overall in the constituency there was a rate of 7% of invalid ballots¹⁴¹. Such figures indicate possible problems including a lack of voter understanding, polling station staff malpractices, and/or possible attempts to distort the process/outcome (particularly if such high numbers of invalid ballots are concentrated in a limited number of stations). Whatever the causes, it is concerning to have so many votes wasted. The ECP has not issued figures on the number of invalid ballots, which would assist in analysis and identification of possible future improvements.

EU EOM analysis of a limited number of results forms collected by observers found some cases of forms with missing or obviously incorrect records of the number of voters assigned to a polling station, missing polling station numbers, and blank paper being used (with official stamps) rather than official results forms¹⁴².

Results announcement

The ECP notified and announced returned candidates of NA general seats on 22 May 2013¹⁴³. Independent candidates then had three days to declare if they would join a political party. After this, the allocation of reserved seats took place. This was complicated by the PML-N having an insufficient number of women on its reserved list and therefore candidate nomination needing to be reopened. On 28 May the ECP announced a schedule for the new nominations but this omitted opportunity for appeals, and was later revised on 31 May to include two days for filing appeals¹⁴⁴.

The NA was convened on 5 June, although not in its final formation given the poll postponement in one constituency for reasons of law and order, fresh elections in two constituencies following the death of a candidate, and re-polling in some constituencies. Furthermore NA returned candidates who won more than one NA and/or PA seat are constitutionally provided up to 30 days to renounce all but one of their seats¹⁴⁵, in this case by 10 June, resulting in subsequent NA and PA by-elections. In 2013 this will reportedly result in by-elections in 16 NA and 22 PA constituencies with polling due after Eid-ul-Fitr (approximately 7-8 August).

¹⁴⁰ NA constituencies 1, 18, 104, 194, 263, 267, and 270.

¹⁴¹ The returned candidate was announced on schedule on 22 May with other candidates, thus there does not appear to have been follow-up by the ECP to the high levels invalid ballots.

¹⁴² This may have in part been caused by the results form containing an insufficient number of lines for all the candidates.

¹⁴³ In this 22 May notification of NA returned candidates on general seats, it was noted that no announcement could be made in regards to one constituency for reasons of law and order, fresh elections would take place in two constituencies (following the death of a candidate), re-polling at some polling stations in three constituencies, re-counting at one constituency, and that one notification was stopped on the order of the Sindh High Court.

¹⁴⁴ The 31 May revised schedule was published on a press release, but no corresponding notification was put on the ECP website. The 31 May press release provided for nine vacancies, as opposed to eight (no explanation given).

¹⁴⁵ Article 223 of the Constitution states that “if he is elected to more than one seat he shall, within a period of thirty days after the declaration of the result for the last such seat, resign all but one of his seats”.

XIV. RESULTS DISPUTE RESOLUTION AND ELECTION OFFENCES

Results dispute resolution

The ECP has up to 60 days after the publication of the name of a returned candidate in the official gazette, to receive and decide on complaints regarding recounting or declaring a poll void in case of grave illegalities or violations of the legal provisions¹⁴⁶. In 2008 the ECP apparently made sweeping rejection of complaints. In contrast, in these elections the ECP made some attempts to address complaints and thereby provide opportunity for early remedy. However the diverse points of entry (ECP, ROs, DROs, DEC's etc.), and lack of system for application, processing and disposition, meant that there was unlikely to have been consistent implementation of the legal provisions.

The ECP reported receiving over 450 post-election day complaints. The ECP Members themselves undertook summary proceedings, on accounts of reports from ROs, which did not require pro and contra evidence from the candidates. For the first time, the ECP ordered recounts after consolidation was completed (fifteen in total). Re-polling was also ordered in a few constituencies, reportedly upon report of the RO confirming that malpractices happened and re-polling was necessary and could affect the outcome. As of 7 June, the ECP report that of the 454 complaints received, 335 were dismissed and/or given directions to approach Election Tribunals for the redressal of grievances and 119 were pending.

After the notification of results and the publication of the names of the returned candidates, petitions can be filed, but only by candidates, to Election Tribunals within 45 days. Petitions must be lodged at the ECP, either in person or through registered post along with receipt of a fee payment¹⁴⁷. Upon receipt of the petition, the ECP is required to forward it to an Election Tribunal, assuming it meets administrative preconditions, and if not the petition is dismissed. No legal deadlines are specified for how long the ECP has for such decisions. Election Tribunals must resolve cases within 120 days from receipt. The decisions of Election Tribunals' are not final, as they can be further challenged within 30 days to the Supreme Court, who have 30 days to decide the case, and their decision is final¹⁴⁸. Thus in total, if the ECP takes a minimum time period to decide on forwarding a case to an Election Tribunal, and if deadlines are adhered to, a case should be finalized within seven months. In addition Election Tribunals may use *suo moto* powers to declare the election of a returned candidate to be void and any other contesting candidate to have been duly elected¹⁴⁹.

In an attempt to avoid the excessive delays in adjudication of petitions in previous elections, the ECP appointed retired judges, to avoid diminished productivity due to other simultaneous responsibilities. On 5, 8 and 13 May 2013 the ECP notified the judges of the Election Tribunals. It also prepared premises and four staff for each Election Tribunal. However on 27 May the Sindh High Court cancelled the Election Tribunal appointments on the basis of a lack of consultation with the Sindh Chief Justice¹⁵⁰. The ECP then undertook consultation with all the High Courts and appointed 14 new names on 28 May. This resulted in some delay to the petitions process, with notification of Election Tribunals being made on 3 June and predominantly new judges being appointed and also some consequent changes in staffing.

¹⁴⁶ ROPA sections 39(6)(b) and 103AA respectively.

¹⁴⁷ ROPA section 56. Also see required conditions in sections 52, 53 and 54.

¹⁴⁸ The insertion of ROPA section 67(3) in 2009 imposed a time line with the Supreme Courts to decide such appeals within 30 days.

¹⁴⁹ ROPA section 76A.

¹⁵⁰ Sindh High Court Constitutional Petition reported PLD 2011 Karachi 451 and Supreme Court Constitutional Petitions 53/2007 and 83/2012.

During the CEC's absence in the week of 27 May, a judge of the Supreme Court, who was serving as the Acting CEC¹⁵¹, expressed interest in increasing the number of Election Tribunals. However this presented some practical problems given that each Election Tribunal was being equipped with premises and four staff, and such seats require Ministry of Finance approval. This highlights the lack of a clear and independent system for electoral dispute resolution, with the judiciary, the ECP and the administration having ill-defined roles.

Some ECP orientation and training was scheduled, particularly for the staff of the Election Tribunals, but the extent to which this provided for full and consistent implementation of the law was not clear. For the 2013 general elections, the ECP report that as of 19 June, 40 election petitions were received and would be subject to preliminary checks taking typically 7-10 days before being transmitted to the Election Tribunals for adjudication.

Election offences

The ROPA and the Pakistan Penal Code establish certain "corrupt and illegal practices" committed by candidates, agents and election administration staff, as election offences. These include the transportation of voters, campaigning in religious places, undue influence, vote buying, capture of polling booths, multiple voting, impersonation etc.¹⁵². The penalties for such offences may be regarded as somewhat excessive with some incurring imprisonment of up to five years and disqualification for up to seven years.

The Pakistan Penal Code stipulates that encouraging people to boycott an election is an offence, carrying penalties of up to three years imprisonment and seven years disqualification for candidates.¹⁵³ While the EU EOM was not aware of any such attempts at prosecution, it remains an unnecessary limit on the right to freedom of expression.

The Constitution states that it is "the duty of the Election Commission... to ensure that... corrupt practices are guarded against."¹⁵⁴ To date the ECP has not substantially taken up its powers to pursue charges of electoral offences, reportedly for reasons of lack of evidence. There have been minimal attempts at prosecution in the last few years, with the notable exception of the case of the candidate Syeda Waheeda Shah who slapped a polling officer during 2012 by-elections, resulting in the ECP bringing a case against her and a by-election being held¹⁵⁵. During the 2013 election process no cases appear to have been pursued, despite the many allegations of rigging that have been made particularly since election day.

However the introduction of the possibility of finger-print comparisons through NADRA¹⁵⁶ resulted in elevated stakeholder expectation of punitive and corrective measures being taken. The ECP also expressed interest in pursuing such cases, in making an example to serve as a deterrent to future

¹⁵¹ Article 212 of the Constitution specifies that "a Judge of the Supreme Court nominated by the Chief Justice of Pakistan shall Act as Commissioner"

¹⁵² Sections 78 to 92 of ROPA and sections 171A-J of the Pakistan Penal Code.

¹⁵³ Pakistan Penal Code, section 171J and ROPA section 100(2).

¹⁵⁴ Constitution article 218(3).

¹⁵⁵ Under ROPA section 103AA, the election was declared void and Syeda Waheeda Shah was charged under ROPA section 86(3)(b). However Syeda Waheeda Shah filed a writ petition to the Sindh High Court, which upheld the ECP orders but quashed her disqualification.

¹⁵⁶ Comparisons could be made between finger prints given in polling and NADRA's CNIC database, thereby allowing for a checking of the authenticity of voters.

attempts. However no mechanism was established in advance with NADRA, resulting in a delay in any such actions. Practical challenges include the institutional arrangements between the ECP and NADRA, and the quality of the finger prints obtainable from the polling records. EU EOM observers reported that frequently the incorrect ink (i.e. not the magnetic ink) was used for ER finger-prints during polling, thus the prints may not be of the necessary quality.

XV. RESULTS AND THE POST ELECTION DAY POLITICAL ENVIRONMENT

The ECP reports that a total of 46,217,482 voters cast their ballots on 11 May, which makes a turnout of 55% as compared to 35,637,072 million votes cast in the 2008 elections¹⁵⁷. This is an increase of 30%, over 10 million. However, turnout varied considerably with Islamabad leading with 62%, followed by Punjab with 60%, Sindh 54%, KPK 45%, Balochistan 43%, and lastly FATA with 36%.

Balochistan is the only province where turnout dropped in 2013, by 66,373¹⁵⁸. There were also some very varied levels of turnout, particularly in areas affected by violence. In an extreme case for PA 41 (Awaran, Balochistan), there was a turnout of just 1.18% (out of 57,656 registered voters), with the winning candidate securing just 544 votes. In NA 42 South Waziristan in FATA the turnout was 11.6% (out of 108,056 registered voters), with the winning candidate securing 3,468 votes.

Pakistan's voters clearly opted for a political change by, firstly, mandating the PML-N at federal level to form a coalition Government which it can lead with a solid majority of 185 NA seats, and, secondly by PTI becoming the second strongest party in terms of vote shares across the country¹⁵⁹. PML-N received the vast majority of votes in its traditional homeland Punjab, Pakistan's most populous province, where the party won 169 NA seats, mainly benefitting from an unprecedented loss for both PML (formerly PML-Q) and the PPP. PML-N has further been able to form the provincial Government of Punjab with a large majority of 304 out of a total of 357¹⁶⁰, while it will govern as part of an NP-led coalition Government in Balochistan. Only in KPK and Sindh, will PML-N sit on the opposition benches, with PPP in power in Sindh and the PTI-led coalition in KPK. Even though PPP managed to largely maintain its traditional vote bank in rural Sindh winning 37 NA and 90 PA seats respectively, enabling the party to form a Government in the province, PPP has been clearly defeated in these elections. PML-N party leader Nawaz Sharif was elected as PM by the newly elected NA on 5 June.

The emergence of PTI as a serious political force showed the genuine opportunity and competition there was in these elections. PTI made inroads into all provinces except Balochistan, and is leading the coalition Government of KPK in Peshawar, giving the newly emerged political force a chance to gain government experience. Also, PTI contributed to a modest break-up of traditional voting patterns¹⁶¹, which gave an increased sense of the accountability function of elections. While JI has emerged as a coalition member in KPK, the Islamist parties did not gain significant support in these elections.

¹⁵⁷ http://ecp.gov.pk/Misc/GE-2013-Graphs/02_votes_polled_comparison.png.

¹⁵⁸ The ECP reports the 2013 turnout in Balochistan to be 1,300,628, and the 2008 turnout to be 1,367,001.

¹⁵⁹ PML-N received 14.8 million votes, followed by PTI with 7.6 million and PPP with 6.8 million votes in the NA elections. See ECP http://ecp.gov.pk/Misc/GE-2013-Graphs/05_party_wise_votebank.jpg.

¹⁶⁰ <http://ecp.gov.pk/overallpartypositionPA07-06-2013.pdf>.

¹⁶¹ See for example the defeat of the former PMs Gilani and Ashraf and their families, or the family of former Foreign Minister Hina Rabbani Khar.

In total there were eight independent candidates who won NA general seats and stayed independent. A further 19 won as independent candidates but joined a political party, in all cases the PML-N¹⁶². Similar patterns were found at the provincial level, for example in Punjab there were 5 candidates who stayed independent and 35 who joined a party (all joined PML-N)¹⁶³. Thus overall there was some sense that candidates although running as “independent”, were liable to join a party (and likely the winning one), and that therefore independent candidates had a strong post election day bargaining position.

XVI. CITIZEN OBSERVATION

Various citizen observer initiatives contributed in different ways to a sense of scrutiny, the importance of the process (not just the outcome), and the need for electoral developments. These included: the Aurat Foundation (with Gender Concerns International), the Free and Fair Elections Network (FAFEN), the Human Rights Commission of Pakistan (HRCP), the Pakistan Bar Council, the South Asia Free Media Association (SAFMA), and the Special Talent Exchange Programme (STEP). FAFEN, the Aurat Foundation, the HRCP and STEP all committed to professional standards as established in the Declaration of Global Principles for Non-Partisan Election Observation and Monitoring by Citizen Organisations.

Having not established a system for accreditation of observers, approximately one month before election day, ECP staff asserted that there were changed arrangements for citizen observer groups, reportedly including drastically limiting the number of observers and requiring observers to individually sign pledge forms and be vouched for. However a CEC intervention resulted in a retraction of the limit on the number of citizen observers.

Nevertheless the requirement for signed pledge forms placed an unnecessary and excessive burden on citizen groups at a critical point in the election. Furthermore the ECP's lack of preparedness for undertaking large-scale accreditation, resulted in an unusual arrangement whereby FAFEN undertook lead responsibility for production of accreditation cards at the ECP for all citizen observer groups, international observers and journalists. This enabled accreditation to proceed, but required extensive FAFEN input to the detriment of FAFEN's own internal preparations, and delayed distribution of accreditation cards to FAFEN observers (as these were the last to be processed).

FAFEN, a network of 42 organisations, undertook long-term observation starting 1 February 2013¹⁶⁴, which was augmented to have a planned total of 43,000 observers on election day. FAFEN's methodological approach placed emphasis on constructive engagement whereby they informed state authorities of shortcomings observed, to give opportunity for correction. FAFEN reported that more than 4,000 FAFEN requests for corrective action were generally positively taken up. FAFEN developed an IT infrastructure for reporting by observers, including use of qualitative and quantitative indicators, and reporting on polling results.

FAFEN's ambitious plans were in some aspects difficult to implement. In particular the security situation in parts of the country and the accreditation complications meant that mobilising observers was problematic, in particular in Balochistan, FATA and Karachi, and it was especially difficult to

¹⁶² <http://www.ecp.gov.pk/overallpartyposition07-06-2013.pdf>.

¹⁶³ In Sindh PA there was 1 candidate who stayed independent and 3 who joined a party (2 joined PML-N and 1 joined PPP). In Balochistan there were 2 candidates who stayed independent and 5 who joined a party (all joined PML-N). However in KPK there were 12 candidates who stayed independent and only 2 who joined a party (1 joined PML-N and 1 joined QWP).

¹⁶⁴ FAFEN long-term observation was funded by the EU's Fund for Diversification.

deploy female observers for coverage of female booths and stations. By comparison to FAFEN's LTOs, EU EOM observers noted a significant reduction in professionalism in FAFEN's election day observers.

The credibility of FAFEN's election work was somewhat marred by their 13 May citing of 49 polling stations with more than a 100% turnout, based on the ECP's supposedly final scheme of polling stations (which includes the number of registered voters). The lack of updated information on any changes in the polling scheme, fundamentally compromise observers' ability to provide meaningful scrutiny and analysis. FAFEN then retracted its statement on the 49 stations and instead issued strong indictments of the ROs' changes to the polling scheme and called for transparency in ECP election results management. The ECP then issued a press release on 11 June directing all ROs to provide certified copies of forms 14, 15, 16 and 17 to NGOs and other stakeholders.

FAFEN reported receiving threatening messages from winning candidates and 16 First Information Reports (FIRs)¹⁶⁵ being filed against the Executive Director using standardised text, some being sent by ROs¹⁶⁶. The personal risk associated with citizen observation work was also evidenced by 30 FAFEN observers having been assaulted during the course of their work on election day¹⁶⁷, and one being abducted for several days. Such personal negative repercussions for citizen observers does not support civil society engagement and contribution, and fulfilment of citizen's right to take part in the conduct of public affairs¹⁶⁸.

The Aurat Foundation's 60 observers monitored throughout the country, focusing on women's participation, female candidates, recruitment of female polling staff and other gender specific aspects of the election campaign. The HRCP carried out detailed observation in 57 NA constituencies before and on election day, including a focus on the participation of minorities.

There appears to be stakeholder interest in scrutiny of the process by FAFEN and other groups, and their analysis and advocacy for improved practices during this and for future election processes. FAFEN is continuing its large-scale analyses of the election process to date and the on-going electoral dispute resolution mechanisms.

¹⁶⁵ First Information Reports are a document drafted by the police when they receive information on a cognizable offence (a cognizable offence being an offence when the police can act, begin a criminal investigation and even arrest without a court warrant according to the Code of Criminal Procedures of 1898).

¹⁶⁶ The Pakistan Penal Code in Section 505(b) was referred to "Statements conducing to public mischief: (1) Whoever makes, publishes, or circulates any statement, rumour or report... (b) with intent to cause, or which is likely to cause, fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility."

¹⁶⁷ FAFEN press release 11 May 2013 "Mostly Peaceful, Historic Elections Marred in Part by Blocked Observers and Barred Women" which states that "One of many examples of violence against FAFEN observers around the country is in NA-51 Rawalpindi-II where Pakistan Peoples Party (PPP) activists have beaten up and verbally threatened both FAFEN observers and their Constituency Supervisor. They are threatening that if their party is not successful in the constituency, they will hold FAFEN observers responsible."

¹⁶⁸ ICCPR article 25. Also UN Human Rights Committee, ICCPR General Comment 25, paragraph 8 "Citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation is supported by ensuring freedom of expression, assembly and association."

XVII. PARTICIPATION OF WOMEN

The Constitution guarantees the equality of all citizens and prohibits discrimination including on the basis of sex and further stipulates that “Steps shall be taken to ensure full participation of women in all spheres of national life”¹⁶⁹. Pakistan ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)¹⁷⁰ in 1996, which establishes international legal obligations for the country to take all appropriate measures to eliminate discrimination against women, including in regards to participation in elections and public life on equal terms with men. However, despite some improvements, women continue to be underrepresented as voters, candidates, in elected office and in the campaign¹⁷¹.

Women as voters

There continues to be a significant gender gap in the number of registered women voters, the final ER had some 11 million fewer female than male voters, raising questions about the universality of the franchise¹⁷². Furthermore a breakdown by district shows notable differences between localities, e.g. in North Waziristan, FATA, women represent just 7% of the total number of the voters whereas in Wazhuk, Balochistan they are 48% of the total. This discrepancy is attributed to difficult cultural and practical circumstances and consequent lower numbers of women with CNICs, obligatory for voter registration¹⁷³. NADRA has made considerable efforts to provide CNICs to women¹⁷⁴, and the total number of women on the ER has significantly increased.

Some 2.7 million women voters do not have photographs on their CNICs and the ER, which leaves their votes vulnerable to attempt at impersonation¹⁷⁵. Another challenge to the integrity of women’s participation is the reduced quality of the polling process. Women’s polling booths were more negatively assessed by EU EOM observers, with 15% rated as poor or inadequate (compared to a 9% overall average for male, female and combined stations)¹⁷⁶. Of the 231 female polling booths observed by the EU EOM, more than 20% had one or more male staff members and in over 10% there were no female staff at all¹⁷⁷. Secrecy of the vote was not sufficiently protected in 25% of women’s booths (compared to a 20% overall average).

Factors that reportedly negatively impacted on female voter turnout include the distance to polling stations and inadequate conditions, with for example a lack of toilet facilities. Depending on the local

¹⁶⁹ Constitution, articles 25 and 34.

¹⁷⁰ Currently 187 countries are State Parties to CEDAW.

¹⁷¹ Thus there has not been fulfillment of key recommendation 10 of the 2008 EU EOM that “The government should intensify its efforts to reduce women’s severe under-representation in the electoral process, in accordance with its international commitments under CEDAW and CPRW. Political parties also have a significant role through their internal practices, policy agenda, candidate nomination, and voter awareness.”

¹⁷² The difference is largest in FATA where women constitute 34% of the total number of the voters, while in Islamabad female voters’ share of total voters is 46%. In Balochistan and in KPK women form 42% of the total voters, in Punjab 44% and in Sindh 45%.

¹⁷³ *Pakistan Votes*, produced by NADRA and the ECP, page 40.

¹⁷⁴ NADRA reports that 53.3 million men and 41.1 million women currently have CNICs compared to 33.3 and 20.8 million respectively in 2008.

¹⁷⁵ This is attributed to cultural reasons. However photographs are achieved for women going to Hajji (in passports and for visas), also for receiving benefits from the Benazir Income Support Programme.

¹⁷⁶ EU EOM observers found that women’s polling stations were very often smaller, and thus more crowded, and in general had worse conditions than male or combined ones.

¹⁷⁷ A lack of female police was also reported as an issue, as male police would not intervene easily with women in the polling stations.

cultural norm, lack of either separate or combined polling stations may have formed an obstacle for women to cast their vote¹⁷⁸.

For the first time the ECP attempted to gather gender-disaggregated voter turnout data through the separate counting of ballots from female booths at combined stations. However EU EOM observers report that in practice this counting typically didn't take place, and these questions weren't completed on the results forms.

As in previous elections, there were credible reports of alleged agreements by political parties, candidates, jirgas and/or local leaders trying to prevent women from voting, mainly in certain parts of KPK and also in Punjab¹⁷⁹. Prompted by media accounts prior to election day indicating that women would be banned from voting in the village of Mateela (Punjab), the Ministry of Human Rights requested the DRO to take necessary actions to prevent violations of women's right to vote¹⁸⁰. The intervention proved successful, although, in several other nearby villages female turnout was zero¹⁸¹.

The KPK Caretaker Government issued a directive publicly encouraging women to vote and the Pakistan Ulema Council stressed the right of women to vote as being in line with Islam. To date, the ECP has ordered re-polling in two polling stations in Battagram (KPK) following women being banned from voting. However again there was a 0% female turnout during the 23 May re-polling¹⁸².

Women as candidates

The number of successful women candidates on NA general seats dropped from 16 in 2008 to only 6 in 2013. These figures fall far short of the 30% Beijing Declaration and Platform for Action target for women's participation in positions at decision-making level. Including the reserved seats, there are now 66 women representatives in the NA, 19.3% of the total assembly.

The Constitution provides for 60 NA reserved seats for women, divided between the four provinces, indirectly elected using a proportional system based on the number of general seats won by each party, calculated on a provincial basis¹⁸³. While this special measure of reserved seats increases the number of women in the NA and PAs, it is criticized for not providing a link between the electorate and the representative¹⁸⁴. Women on reserved seats are often perceived as not having a popular

¹⁷⁸ Women vote either at a female polling station or at a female polling booth in a combined polling station. The ECP has not published nationwide figures of the numbers of each of these types of polling station. In KPK of the 9,306 polling stations, 2,187 were female and 4,704 combined. In FATA, of the 1,208 stations, 166 were female and 811 combined.

¹⁷⁹ Two written agreements have surfaced, allegedly signed by representatives of political parties, to prevent women from voting in Lower Dir, KPK. Verbal pacts by jirgas (an informal body of male elders, usually tribal, formed for purposes of resolving disputes and deciding social problems) or community elders reportedly existed in locations such as Upper Dir, Buner, Mardan, Nowshera, D.I.Khan, Battagram, Malakand, Mianwali and Sarghoda. In contrast to 2008, the reasoning for not letting women vote is no longer based on religion (anti-sharia or sin) but rather on traditional and cultural factors.

¹⁸⁰ CEDAW, Article 2b requires State Parties to adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women. ICCPR, Article 2 stipulates State Parties to "ensure to all individuals...the rights...without any distinction of any kind, such as race, colour, sex"

¹⁸¹ EU EOM observers informed by respective ROs.

¹⁸² The ECP reports that it ordered re-polling to test whether such re-polling would result in a different level of turnout.

¹⁸³ Constitution, articles 51(6) and 106 (3) (c).

¹⁸⁴ The choice of an electoral system is a sovereign matter. However UN General Assembly Resolution 66/130 6(a) "urges all States... to review the differential impact on their electoral systems on the political participation of women and their representation in elected bodies and to adjust or reform those systems where appropriate."

mandate as they are not elected, and are thus considered inferior to their male counterparts¹⁸⁵. Furthermore the lists of candidates for the female reserved seats was not made fully public by the ECP¹⁸⁶, thereby reducing voters' connection with women on reserved seats and ability to make fully-informed choices. The lists were also subject to post-election day withdrawals and substitutions¹⁸⁷.

The number of female candidates contesting NA general seats, particularly on party tickets, remained very low¹⁸⁸. Of the 4,671 candidates, 158 were women, 3.4%. Of these, 95 stood independently and 66 were nominated by political parties. In total 1.4% of party nominated candidates were female. PPP awarded the same number of party tickets to women for the 2013 general elections as it did in 2008 (15), while the PML-N increased from 6 to 8, MQM from 5 to 8, and PTI granted 6 tickets to women. The majority of the parties awarded tickets to three or fewer women, and five parties had no women candidates on NA general seats at all¹⁸⁹. For the first time in a general election, there was a woman candidate from FATA¹⁹⁰.

Women in the campaign and the election administration

Women candidates were hardly visible in the media¹⁹¹, EU EOM LTOs reported only infrequent female speakers at campaign events, and there was a lack of political debate on gender issues and topics of interest to women. Within the election administration women are very poorly represented, particularly at higher levels. The CEC and the four ECP Members are all men. There is one woman among the 126 DROs, 10 women among the 272 ROs, and one among 709 Assistant ROs for the NA¹⁹².

XVIII. PARTICIPATION OF MINORITIES AND VULNERABLE GROUPS

The Constitution provides for freedom of religion and protection of minorities, requiring the state to safeguard minorities' rights and interests¹⁹³. Pakistan is a State Party to the International Convention on the Elimination of Racial Discrimination (ICERD) and, although religious minorities do not as such fall under the Convention, has reported on the status of religious minorities under the treaty's auspices. However Pakistan has a history of violence regularly targeted at Shias and Christians

¹⁸⁵ Women's groups expressed dissatisfaction also about the nomination of candidates for the reserved seats favoring wealthy, well-connected women from influential families instead of party workers and issue-oriented activists who would be seen as closer to the electorate.

¹⁸⁶ Only for Punjab NA and PA.

¹⁸⁷ Parties routinely submit short priority lists before election day as no changes are permissible, however if a list is then exhausted, the party can submit a new list. The ECP issued a notification on 10 June about the schedule to fill a vacant reserved seat in the NA and nine vacant seats in the Punjab PA due to exhaustion of the list earlier provided by the PML-N, according to which the publication of the revised list of the candidates was due on 22 June.

¹⁸⁸ Notwithstanding that the number of women candidates for NA general seats more than doubled compared to 2008 from 64 to 161. For the PAs, there was a small increase from 10 elected members to 12 while the number of candidates almost tripled from 116 in 2008 to 298 in 2013.

¹⁸⁹ Jamaat-e-Islami, Jamiat Ulema-e Islam-Fazl, Mutahida Deeni Mahaz, National Party and Qaumi Watan Party.

¹⁹⁰ There was a second female candidate from FATA who reportedly resigned due to intimidation.

¹⁹¹ PTV devoted 4% of its election related prime-time programming to female actors, ATV – 5%, PBC – 6%, Power Radio 99 FM – 2%, ARY TV – 5%, Dawn News – 6%, Express News – 8% and Geo TV – 3%.

¹⁹² The ECP Five Year Strategic Plan includes an objective of increasing the number of women staff at the ECP to at least 10% but the level of employment is not specified. For the PAs, there were 10 female ROs out of 161 ROs, and one female ARO out of 709.

¹⁹³ Constitution articles 20, 21, 22, and 36. The Constitution also establishes Islam as a state religion, and that the President and PM shall be Muslim, and that freedom of speech and expression is subject to any reasonable restrictions imposed by law in the interest of the glory of Islam. Articles 2, 41 and 19 respectively.

amongst other minority groups. According to the 1998 census, religious minorities account for some 3.7% of the total population. The main minorities include Hindus, Christians, Sikhs, Parsis and Ahmadis.

The number of registered non-Muslim voters was some 2.7 million, 3.2% of the total number of registered voters, composed of approximately 1.4 million registered Hindu and 1.2 million Christian voters¹⁹⁴. Very few non-Muslim candidates ran on general NA and PA seats, especially on party tickets¹⁹⁵. Of these one Hindu candidate was elected to the NA.

Non-Muslim communities have voiced strong reservations about the existing system of NA and PA representation for non-Muslim minorities. Currently, parties submit priority lists of candidates to the ECP and the seats are allocated based on the number of general seats secured by each party at the national level. This system is criticized for leaving the respective communities virtually out of the decision-making process about their own representatives, raising questions about effective representation and participation¹⁹⁶.

Even though the Code of Conduct for the Media tasks broadcasters to air programmes targeting “groups traditionally excluded from the political process”, the voter education spots promoting non-Muslim participation in the elections were all marked as paid content and were not aired on state-owned broadcasters PTV and PBC. Consequently extra measures were not taken by the state media to promote the participation of minorities.

The EU EOM received some reports of intimidation. For example the leader of the Hazara Democratic Party (HDP) was attacked on 23 April in Quetta but was unharmed¹⁹⁷. The EU EOM was also informed about allegations of a number of Hindu voters not being allowed to vote¹⁹⁸.

In contradiction of article two of the ICCPR¹⁹⁹, the Ahmadi²⁰⁰ community continues to be discriminated against as, unlike other minority groups, Ahmadis are registered on a separate ER. While the Constitution foresees Pakistani citizenship and an age of 18 as the requirements for the right to vote, and the Conduct of General Elections Order 2002 establishes a unified ER, subsequent amendments, notably section 7b and 7c, discriminate against Ahmadis. NADRA has actively extracted 115,095 Ahmadis from the list of CNIC cardholders and registered them on a supplementary list. Ahmadi representatives therefore announced that they would not participate in these elections.

¹⁹⁴ *Pakistan Votes*, produced by NADRA and the ECP, page 34

¹⁹⁵ The ECP does not produce such statistics, thus this is based on the limited information available to the EU EOM.

¹⁹⁶ Representatives of minority groups expressed concerns over arbitrary granting of party tickets to candidates with very little interest or understanding of the situation and problems of minority groups, underrepresentation of women on the party lists, and about the low number of the reserved seats seen as no longer reflective of the size of minority populations.

¹⁹⁷ The militant group Lashkar-e-Jhangvi (LeJ) claimed responsibility. Apart from HDP and independent candidates, PML-Q, MQM, MWM, PkMAP and PPP nominated Hazara candidates for PA and NA races.

¹⁹⁸ In PS 50 where a Hindu (Dalit or scheduled caste) woman candidate was running independently, reportedly some factory and agricultural workers were told not to vote and were threatened with losing their jobs.

¹⁹⁹ ICCPR article 2 “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

²⁰⁰ Ahmadis are defined as non-Muslims in the Constitution, Article 260(3). The Pakistan Penal Code makes it a criminal offence for an Ahmadi to call or pose himself directly or indirectly as a Muslim, to preach or propagate his faith or in any manner whatsoever outrage the religious feelings of Muslims, to refer or call his place of worship as Masjid, to call people to prayer by reciting Azan to refer to his mode or form or call to prayer as Azan, among others. Ahmadis have been target of violent attacks.

Pakistan ratified the Convention on the Rights of Persons with Disabilities (CRPD) in July 2011²⁰¹. Organizations representing persons with disabilities raised concerns about the poor participation in elections by persons with disabilities, for example according to an online election survey conducted by STEP, only 83 out of 1,000 disabled voters cast their ballot in the 2008 general elections²⁰².

Of the officially registered 165,427 IDP families from FATA, some 10% live in camps and the rest stay with relatives or host communities²⁰³. Following an order from the Peshawar High Court in January 2013, the ECP started arrangements to facilitate IDP voting. The number of the registered IDP voters was 345, 293 of which some 81,440 cast their votes on 11 May²⁰⁴. In Jalozei camp, only some 900 voters were able to cast their votes for various reasons²⁰⁵.

In principle prisoners can vote using postal ballots²⁰⁶. The Supreme Court of Pakistan while deciding a constitutional petition observed that any person whose name is registered on the ER is eligible to vote, and consequently those prisoners whose names are on the rolls should also be entitled to vote. The extent to which this has happened in practice is not clear²⁰⁷.

Bonded or forced labour prevails in some industries often involving workers from marginalized groups, including minorities²⁰⁸. Several civil society organizations working in Sindh and Punjab report that bonded labourers often lack proper identity documents or they have been retained by landlords or factory owners who may not return them to the workers on election day, and that undue influence may also be exercised on workers²⁰⁹.

²⁰¹ The Convention requires the State Parties to “ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others” CRPD, Article 29.

²⁰² Accessibility, lack of awareness among persons with disabilities, societal attitudes and lack of CNICs have been indicated as impediments to participation. The EU EOM observation on election day found that 15% of the observed polling stations were assessed as not fully accessible for persons with disabilities.

²⁰³ UNHCR, April 2013. IDPs are registered by the head of the family.

²⁰⁴ From four Agencies and seven constituencies from FATA. Re-polling has been ordered for two Khyber Agency constituencies and elections were postponed in Kurram Agency.

²⁰⁵ Such as ER inaccuracies, lack of awareness among off-camp voters. Re-polling was ordered in two Khyber Agency constituencies (including in Jalozei camp).

²⁰⁶ There are reported to be some 75,000 prisoners in the country.

²⁰⁷ Several EU EOM LTOs reported low number of requests from inmates, and one case where applications were not accepted due to application faults by the Superintendent.

²⁰⁸ Particularly among agricultural and brick kiln workers. Pakistan has ratified the International Labour Organization (ILO) Abolition of Forced Labour Convention, February 1960. ILO indicators for forced labour include signs of vulnerability, debt bondage, intimidation and threats, restriction of movement, sexual abuse, and retention of identity documents. HRCP and Pakistan Labour Education and Research (PLIER) assess that the number of bonded labourers runs in to millions.

²⁰⁹ EU EOM met with several such organizations, other interlocutors have also indicated the need to address the situation of bonded labourers.

ANNEX 1 – EU EOM RECOMMENDATIONS

The following 50 recommendations address various Pakistani institutions, but primarily Parliament and the ECP. All branches of the state (the Parliament, executive offices and the judiciary) need to work together each within their constitutional competencies to support election reform. Such reform, based on consensus, takes time for a consultation, deliberation and implementation, therefore prompt attention is warranted.

Of the 50 recommendations made, 7 are assessed to require a change in the Constitution, and 17 are considered to require changes in the primary legislation. For a further 13 recommendations it would be desirable to have the suggested changes secured in law. Priority recommendations crucial for reform are identified in the executive summary. The recommendations are stated once in a list format and repeated in a table format with some related information.

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.

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.
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.

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.
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. The ECP submit regular public reports to Parliament.
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.
7. The ECP regulate for key aspects of the process so far unaddressed, including provisions for administrative complaints, transparency and observers.

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.
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.
10. The ECP work in a fully consultative manner through with regular meetings with political parties and civil society organisations.
11. The ECP develop codes of conduct through a consultative process, with focus on establishing realistic enforcement mechanisms.
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.

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.

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 delimitation be undertaken, allowing for consultation and complaints.

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.
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.
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.

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.

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.
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.
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.
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.
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.
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.
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.

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.
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.
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.

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.
30. Political parties train and organise party agents more effectively so they can play a stronger scrutiny and safeguard role in the electoral process.

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.
32. In order to improve access to timely remedy and reduce the need 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.
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.
34. Expand the group of those that can file petitions to Election Tribunals, to include political parties, civil society organisations and voters.
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.

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.

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 anti-fraud measure. Awareness raising on the usefulness of having photographs on CNIC.
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.
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 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.

40. Election-related gender-disaggregated data be maintained, with information published regularly and promptly on the websites of the ECP and NADRA.
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.
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.
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.

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.
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.
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.
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.

Undertake political reform

48. The mandate, functioning and neutrality of future caretaker governments be more clearly defined in law.
49. Further internal party democratisation processes be required and enforcement mechanisms developed, to enhance participation and accountability, including in regards to candidate nomination.
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.

RECOMMENDATIONS TABLE (CONTAINING ADDITIONAL RELATED INFORMATION)						
No	Key specific principle	Recommendation	Change in legislation required <i>C = constitutional change required</i> <i>PL = primary legislation change required</i> <i>D = desirable to be secured in law</i>	Related international obligations and commitments	Primary responsibility for implementation	Context
DEVELOP A FRAMEWORK FOR ELECTORAL REFORM						
1	Guaranteeing the free expression of the will of the electors	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.		ICCPR article 25 "Every citizen shall have the right and the opportunity... To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors". ICCPR GC 25, paragraph 20 "The allocation of powers and the means by which individual citizens exercise the right to participate in the conduct of public affairs protected by article 25 should be established by the constitution and other laws." ICCPR GC 34, paragraph 3 "the principles of transparency and accountability... are... essential for the promotion and protection of human rights."	Parliament	The Senate Special Committee on Election Issues began a consultative process for election law reform. Timely legislative reform is required and therefore a strong inclusive parliamentary mechanism would be advantageous.
STRENGTHEN THE OVERALL LEGAL FRAMEWORK						

2	Right to information	The electoral legislation be consolidated so that repetitions and inconsistencies are avoided, and the legal framework is made more accessible to stakeholders.	PL	ICCPR GC34 paragraph 19 "To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information."	Parliament	Currently there are inconsistencies and repetitions across different legal acts, making the law hard to understand.
3	Right to information	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.	PL	ICCPR article 19 "freedom to seek, receive and impart information". ICCPR GC 34, article 19 "State parties should proactively put in the public domain Government information on public interest... States parties should also enact the necessary procedures, whereby one may gain access to information, such as by means of freedom of information legislation."	Parliament	The right of access to information is not fully provided for under the current legislation.
DEVELOP THE INDEPENDENCE AND EFFECTIVENESS OF THE ELECTION ADMINISTRATION						
4	Independent electoral authority	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.	C	ICCPR GC 25, paragraph 20: "An independent electoral authority should be established... there should be...access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes."	Parliament	Currently there is a risk of actual or perceived presidential involvement in the election administration and petitions process. The Constitution stipulates that in the CEC's absence, a judge of the Supreme Court acts as the Commissioner, rather than ECP Members taking on this role.

5	Independent electoral authority	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. The ECP submit regular public reports to Parliament.		ICCPR article 25 "Every citizen shall have the right and the opportunity... To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors". ICCPR GC 34, paragraph 3 "the principles of transparency and accountability... are... essential for the promotion and protection of human rights."	ECP	Currently much of the reform-orientated ECP Five Year Strategic Plan remains to be implemented. The ECP is currently missing capacity for certain key functions of an election management body. The ECP develop its accountability in line with its independence.
6	Universal suffrage	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.		ICCPR article 25 "Every citizen shall have the right and the opportunity... To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors". ICCPR GC 25, paragraph 11 "Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community."	ECP	Post election day there were many allegations of malpractice ("rigging") and loss of confidence in the work of the election administration at this stage of the process. The ECP carried out a sparse voter education campaign in the audio-visual media and placed only a limited number of public service announcements in the newspapers.
7	Rule of law	The ECP regulate for key aspects of the process so far unaddressed, including provisions for administrative complaints, transparency and observers.		ICCPR GC 25, paragraph 20 "An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant."	ECP	Currently <i>ad hoc</i> arrangements are undertaken, with discretion resulting in inconsistent implementation.
8	Independent electoral authority	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	D	ICCPR GC 25, paragraph 20: "An independent electoral authority should be established"	ECP	Despite the 2009 decision of the National Judicial Policy Committee's not to again have its ranks serve as ROs, the ECP made a specific request which was agreed to, citing mistrust amongst the political parties of the alternative of ROs coming from civil administration. The ECP admits to a

		branches of the civil service, or be selected through an open recruitment process.				lack of control over ROs. ROs implemented their responsibilities inconsistently and some undertook actions that the ECP was not aware of, for example making changes to the polling scheme and polling staff.
9	Transparency	The ECP work with full transparency, making all information of public interest immediately and easily accessible, including ECP decisions, notifications, polling and results data.	D	CAC article 7.4 “Each State Party shall... endeavor to adopt, maintain and strengthen systems that promote transparency”. CAC article 10 “Taking into account the need to combat corruption, each State Party shall ... take such measures as may be necessary to enhance transparency in its public administration”. ICCPR GC34 paragraph 19 “To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest.”	ECP	Currently there are transparency gaps including in regards to ECP decisions, polling scheme data, and results information.
10	Contribution of the public	The ECP work in a fully consultative manner through with regular meetings with political parties and civil society organisations.	D	CAC article 13A “Enhancing the transparency of and promoting the contribution of the public to decision-making processes”.	ECP	Some consultation with political parties and civil society has been undertaken but this could be could be further enhanced and systematised.
11	Rule of law	The ECP develop codes of conduct through a consultative process, with focus on establishing realistic enforcement mechanisms.	D	ICCPR GC 25, paragraph 20 "An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant."	ECP	Codes of conduct were developed based on varying levels of consultation. The codes of conduct have lacked established mechanisms for enforcement, with resolution of complaints largely being <i>ad hoc</i> .

12	Transparency	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.	D	ICCPR GC 25, paragraph 20 "There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes." CAC article 13 "Each State Party shall take appropriate measures... to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption".	ECP	Accreditation was just for one day. The code of conduct for observers had weak provision for the rights of observers. The ECP lacked a system for issuing accreditation to observers and media representatives.
MAINTAIN THE ELECTORAL ROLL (ER)						
13	Universal suffrage	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.	PL	ICCPR article 25 "elections which shall be by universal and equal suffrage". ICCPR GC25 paragraph 11 "States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed... Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community."	ECP, NADRA	The current legal framework and implementation practices do not provide for a robust consistent mechanism for maintaining and updating the ER.
EQUALISE CONSTITUENCIES						

18	Will of the electors	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.	PL	ICCPR GC25 paragraph 19 "Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party." CAC article 7.3 "Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties."	Parliament, ECP	The expense ceiling was considered by many political parties as out-dated and unrealistically low. Also there is neither an enforcement nor a sanction mechanism, and a lack of transparency. Furthermore, political parties are not subject to adherence to a campaign finance ceiling.
STRENGTHEN THE FREEDOM AND RANGE OF THE MEDIA						
19	Freedom of expression	Freedom of expression be subject to "necessary" rather than "any reasonable restrictions imposed by law" through amendment of article 19 of the Constitution.	C	ICCPR, article 19 "Everyone shall have the right to freedom of expression... The exercise of the rights... may... be subject to certain restrictions, but these shall only be such as are provided by law and are necessary". ICCPR GC 34, paragraph 22 "Restrictions may be imposed: the restrictions must be 'provided by law'; they may only be imposed for one of the grounds set out in subparagraphs (a) and (b) of paragraph 3; and they must confirm to the strict tests of necessity and proportionality".	Parliament	Currently freedom of expression is unnecessarily restricted in the Constitution.

20	Freedom of expression	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.	PL	ICCPR article 19 "Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." ICCPR GC 25, paragraph 25 "In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion."	Parliament, PEMRA	The legal framework for the media is out-dated and does not provide for a satisfactory level of editorial independence and does not eliminate censorship.
21	Freedom of expression	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.	D	ICCPR, article 19. ICCPR GC 34, paragraph 23 "States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression." ICCPR GC 34, paragraph 13 "A free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights. It constitutes one of the cornerstones of a democratic society."	Law enforcement agencies, PEMRA, Ministry of Information and Broadcasting	Pakistan is listed among the world's deadliest countries for journalists. Repressive methods were used against the media houses that were under direct threat from the TTP during the elections.

22	Will of the electors	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.	D	ICCPR GC 25, paragraph 25 "In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential."	ECP, PEMRA, PCP	Provision for a level playing field in the media was compromised by the ECP not establishing an efficient and transparent enforcement mechanism. PEMRA and the PCP only responded to complaints, rather than monitoring if and how media outlets abided by the code.
23	Right to information	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.	PL	ICCPR, article 19. ICCPR GC 34, paragraph 16 "State parties should ensure that public broadcasting services operate in and independent manner. In this regard, States parties should guarantee their independence and editorial freedom. They should provide funding in the manner that does not undermine their independence."	Parliament, Ministry of Information and Broadcasting	State-owned media houses are not fulfilling their specific obligations as publicly owned broadcasters.
24	Right to information	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.	PL	ICCPR article 19 "Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." ICCPR GC 25, paragraph 25 "In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without	Ministry of Information and Broadcasting, PEMRA	The terrestrial service is closed to competition. Radios are restricted to local proximities.

				censorship or restraint and to inform public opinion."		
25	Right to information	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.		ICCPR GC 25, paragraph 25 "In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential."	PEMRA, press clubs, media practitioners associations	Low quality reporting undermines the electorate's ability to gain comprehensive and knowledge-based information on various topics prior to elections, curbing voters' ability to make an informed choice.
DEVELOP SAFEGUARDS IN THE POLLING AND COUNTING PROCESS						
26	Security of the ballot and the counting of the votes	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.	D	ICCPR GC 25, paragraph 20 "An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant."	ECP	Such safeguards are currently missing, leaving the process vulnerable to malpractice.
27	Security of the ballot and the counting of the votes	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.		ICCPR GC 25, paragraph 20 "An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant."	ECP	In contradiction to the law, ROs made last minute changes to the polling scheme and the ECP had no central record of the changes or final list of polling stations.
28	Security of the ballot and the counting of the votes	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		ICCPR GC 25, paragraph 20 "An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant."	ECP	Last-minute changes in polling personnel resulting in untrained staff being used. ROs worked in inconsistent ways. There were problems with the completion of results forms.

		and polling staff, for consistent and correct implementation of procedures. Emphasis to include counting, completion of forms and the results process.				
29	Transparency	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.	D	CAC article 7.4 “Each State Party shall... endeavor to adopt, maintain and strengthen systems that promote transparency”. CAC article 10 “Taking into account the need to combat corruption, each State Party shall ... take such measures as may be necessary to enhance transparency in its public administration”. ICCPR GC34 paragraph 19 “To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest.”	ECP	Polling station results information was only inconsistently available at polling stations and at ROs' offices. The ECP did not make polling station results information swiftly publicly available. The current results management system was not fully used.
30	Security of the ballot and the counting of the votes	Political parties train and organise party agents more effectively so they can play a stronger scrutiny and safeguard role in the electoral process.		ICCPR GC 25, paragraph 20 "The security of ballot boxes must be guaranteed and votes should be counted in the presence of the candidates or their agents."	Political Parties	Observers reported cases of agents going beyond their role and remit in their activities in polling stations and also not collecting copies of results forms.

ESTABLISH STRONGER SYSTEMS FOR ELECTORAL DISPUTE RESOLUTION

31	Access to remedy	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.	PL	ICCPR article 2(3)(a) “To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.” ICCPR GC32 paragraph 19 “A situation where the functions and competencies of the judiciary and the executive are not clearly distinguishable or where the latter is able to control or direct the former is incompatible with the notion of an independent tribunal.” ICCPR GC25 paragraph 20 states that “there should be ... access to judicial review or other equivalent process that electors have confidence in the security of the ballot and the counting of the votes.”	Parliament	Complaints were filed to various forums simultaneously within ECP structures and also in parallel to a superior court or to an Election Tribunal (after results announcement).
32	Access to remedy	In order to improve access to timely remedy and reduce the need 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.	D	ICCPR article 2(3)(a) “To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.” GC 31, paragraph 15 requires States “to ensure that individuals have accessible and effective remedies... Administrative mechanisms are particularly required to give effect to the general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies.” ICCPR GC34 paragraph 19 “To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest.”	ECP	For nearly all parts of the process, <i>ad hoc</i> arrangements were used by the ECP for management of administrative complaints.

36	Contribution of the public	Citizen observer groups, including FAFEN, continue to develop in organisational capacity, advocate for electoral reform, and undertake scrutiny of by-elections and local elections.		ICCPR GC 25, paragraph 20 "There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes." CAC article 13 "Each State Party shall take appropriate measures... to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption".	FAFEN and other citizen observer groups	Citizen observer initiatives contributed in various ways to a sense of the importance of the process not just the outcome, and the need for developments in electoral practice. However there was some variation in quality, with EU EOM observers noting a significant reduction in professionalism in FAFEN's election day observers.
PROMOTE THE PARTICIPATION OF WOMEN						
37	Women's participation in political life	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 anti-fraud measure. Awareness raising on the usefulness of having photographs on CNIC.	D	CEDAW article 7 "States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country". ICCPR article 25 "Every citizen shall have the right and the opportunity... To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors".	NADRA	There are some 11 million less women registered in the ER than men, with the difference being highest in FATA. Women are significantly less likely to have CNICs than men, with the difference being particularly marked in KPK and Punjab and amongst 18-24 year olds. Photographs on CNICs are not obligatory for women, which leaves room for manipulation. Photographs are required for going to Hajji (in passports and for visas), also for the Benazir Income Support Programme).

38	Women's participation in political life	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.		CEDAW article 7 "States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right... To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies". CEDAW GR 23 paragraph 18 "The Convention obliges States parties in constitutions or legislation to take appropriate steps to ensure that women, on the basis of equality with men, enjoy the right to vote in all elections and referendums, and to be elected. These rights must be enjoyed both <i>de jure</i> and <i>de facto</i> ".	ECP	Female polling stations were observed to frequently lack female staff and to be often smaller and with poorer facilities than male stations.
39	Women's participation in political life	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 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.	PL	CEDAW articles 7 "States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life", 2b "to adopt appropriate legislative and other measures, including sanctions where appropriate, prohibit all discrimination against women", 2e "to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise", 5a "to modify the social and cultural patterns of conduct or men and women, with a view to achieving the elimination of prejudices and customary and all other practises which are based on the idea of inferiority or superiority of either of the sexes or on stereotyped roles on men and women."	ECP, Parliament	During the 2013 election there were credible reports of alleged agreements by political parties, candidates, jirgas and/or local leaders trying to prevent women from voting.

40	Women's participation in political life	Election-related gender-disaggregated data be maintained, with information published regularly and promptly on the websites of the ECP and NADRA.	D	CEDAW GR 23, paragraph 48d, requires states to report "statistical data, disaggregated by sex, showing the percentage of women relative to men who enjoy those rights".	ECP, NADRA	Although some attempts were made, there continues to be a lack of gender-disaggregated data in regards to women as voters, candidates, in parties, and in the election administration.
41	Women's participation in political life	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.	PL	Beijing Declaration and Platform for Action. CEDAW article 7 and GR23, paragraph 34 "Political parties have an obligation to demonstrate their commitment to the principle of gender equality in their constitutions, in the application of those rules on their executive boards so that these bodies may benefit from the full and equal participation... by both sexes." Paragraph 22 "Political parties must endeavour to balance the number of male and female candidates". Paragraph 28 "Political parties have a responsibility to ensure that women are.. nominated in areas where they have a likelihood of electoral success."	Parties	Women poorly represented in the assemblies. Currently only a very small number of women are awarded party tickets.
42	Women's participation in political life	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.	C	UN General Assembly Resolution 66/130 6(a) "to review the differential impact on their electoral systems on the political participation of women and their representation in elected bodies and to adjust or reform those systems where appropriate."	Parliament	Without having been directly elected, the assembly members on reserved seats for women are often perceived as lacking a popular mandate.
43	Women's participation in political life	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.		CEDAW article 7 "States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country"	State media	There was a negligible visibility of women candidates during the election campaign. Lack of public debate on gender issues.

PROMOTE THE PARTICIPATION OF MINORITIES

48	Rule of law	The mandate, functioning and neutrality of future caretaker governments be more clearly defined in law.	PL	ICCPR GC 25, paragraph 19 "Persons entitled to vote must be free to vote for any candidate for election... and free to support or to oppose government, without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector's will. Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind."	Parliament	While the caretakers largely complied with the condition of neutrality which was a provision of the ECP's Code of Conduct for Political Parties and Candidates for these elections, there is a lack of legal specification on the limits and functioning of caretaker administration.
49	Genuine election	Further internal party democratisation processes be required and enforcement mechanisms developed, to enhance participation and accountability, including in regards to candidate nomination.	PL	ICCPR GC25 paragraph 26 "Political parties and membership in parties play a significant role in the conduct of public affairs and the election process. States should ensure that, in their internal management, political parties respect the applicable provisions of article 25 in order to enable citizens to exercise their rights thereunder."	Political parties	With very few exceptions, political parties lack internal democratic structures, despite legal requirements for party leaders and other office bearers to be elected periodically. There are weak unenforced legal requirements for democratic procedures within parties regarding the selection of candidates.
50	Genuine election	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.	C	ICCPR article 25b "To vote and to be elected at genuine periodic elections". ICCPR GC 25, paragraph 7: "Where citizens participate in the conduct of public affairs through freely chosen representatives, it is implicit in article 25 that those representatives do in fact exercise governmental power and they are accountable through the electoral process for their exercise of that power."	Parliament	FATA NA representatives are not entitled to legislate for FATA since legislative and executive powers lie with the President and, per extension, his representative, the Governor of KPK, and the Political Agents.

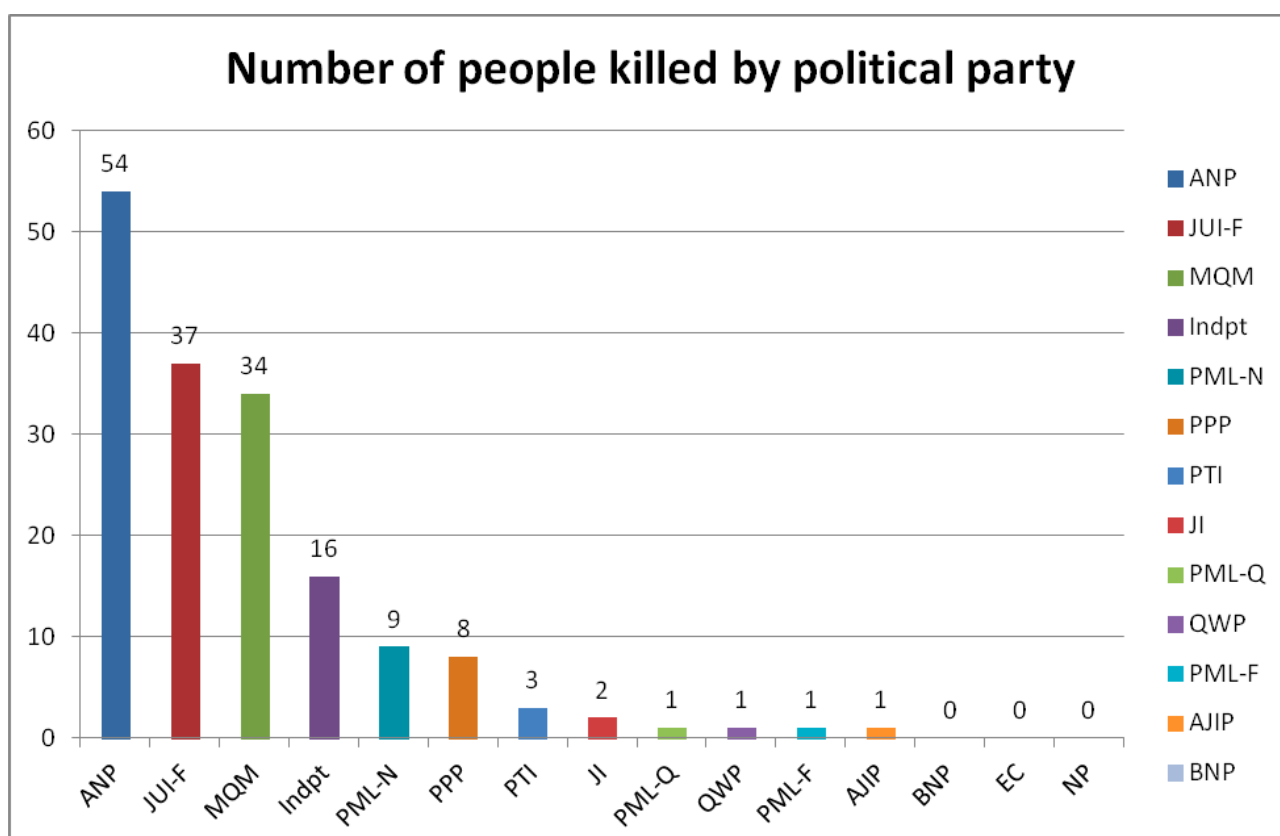
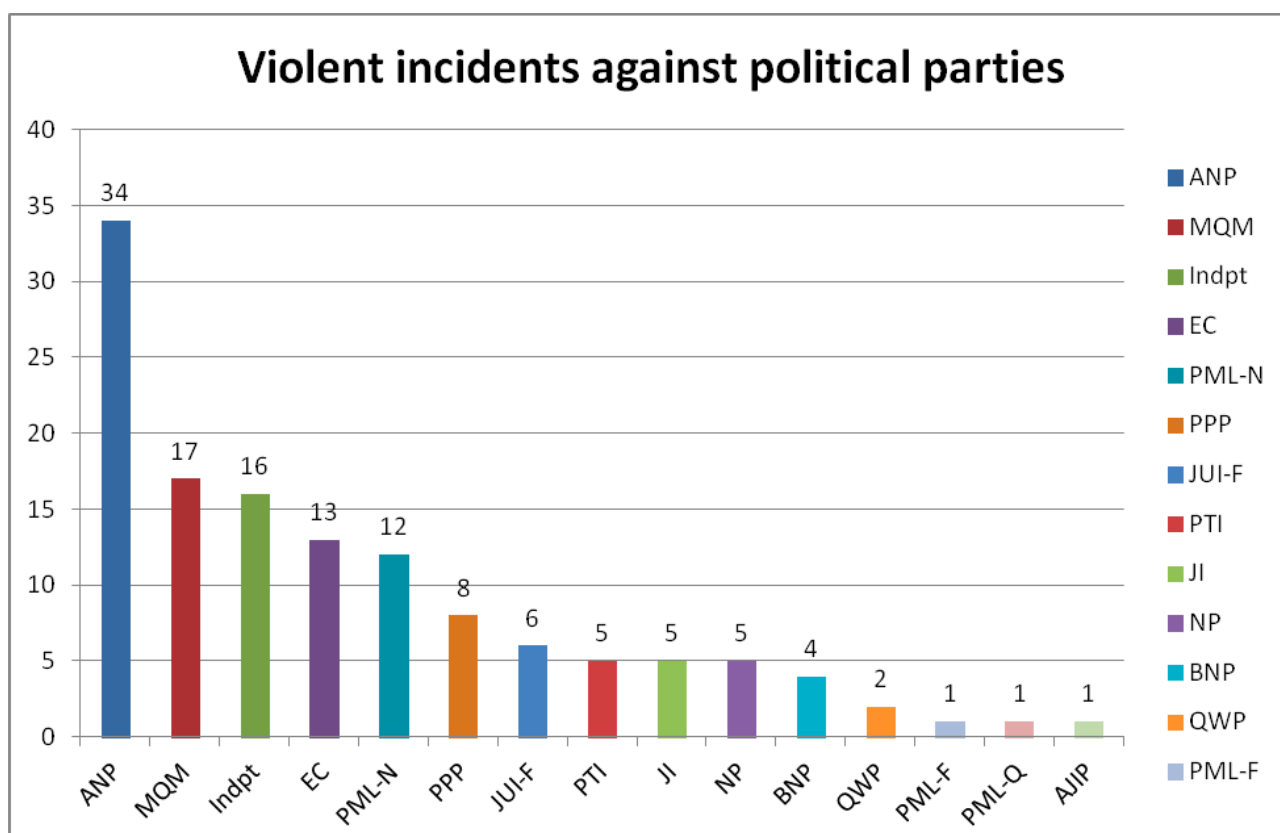
ANNEX 2 – NATIONAL ASSEMBLY ELECTION RESULTS

ECP, as of 13 June 2013

Province		FATA		Federal Capital		Khyber Pakhtunkhwa				Punjab				Sindh				Balochistan				Total General Seats	Total Ind. Joined Party	Total Non Muslims Reserved	Total Women Reserved	Grand Total
S#	Party Name	General Seats	Ind	General Seats	Ind	General Seats	Ind	women	Total	General Seats	Ind	women	Total	General Seats	Ind	women	Total	General Seats	Ind	women	Total					
		12		2		35		8	43	148		35	183	61		14	75	14		3	17	272		10	60	342
1	PML-N	2	1	1	0	4	1	1	6	117	12	31	160	1	1	1	3	1	4	1	6	126	19	6	34	185
2	PPPP	0	0	0	0	0	0	0	0	2	0	1	3	31	0	6	37	0	0	0	0	33	0	1	7	41
3	PTI	1	0	1	0	17	0	4	21	8	0	2	10	1	0	0	1	0	0	0	0	28	0	1	6	35
4	MQM	0	0	0	0	0	0	0	0	0	0	0	0	18	0	4	22	0	0	0	0	18	0	1	4	23
5	JUI-F	1	0	0	0	6	0	1	7	0	0	0	0	0	0	0	0	4	0	1	5	11	0	1	2	14
6	PML-F	0	0	0	0	0	0	0	0	0	0	0	0	5	0	1	6	0	0	0	0	5	0	0	1	6
7	PMAP	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	0	1	4	3	0	0	1	4
8	JI	0	0	0	0	3	0	1	4	0	0	0	0	0	0	0	0	0	0	0	0	3	0	0	1	4
9	NPP	0	0	0	0	0	0	0	0	0	0	0	0	2	0	1	3	0	0	0	0	2	0	0	1	3
10	PML	0	0	0	0	0	0	0	0	2	0	0	2	0	0	0	0	0	0	0	0	2	0	0	0	2
11	ANP	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1
12	BNP	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1	1	0	0	0	1
13	QWP-S	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1
14	PML-Z	0	0	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	1	0	0	0	1
15	NP	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1	1	0	0	0	1
16	AML	0	0	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	1	0	0	0	1
17	AJIP	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1
18	APML	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1
19	IND	6	0	0	0	0	0	0	0	3	0	0	3	0	0	0	0	0	0	0	0	9	0	0	0	9
Total		10	1	2	0	34	1	7	42	134	12	34	180	58	1	13	72	10	4	3	17	248	19	10	57	334

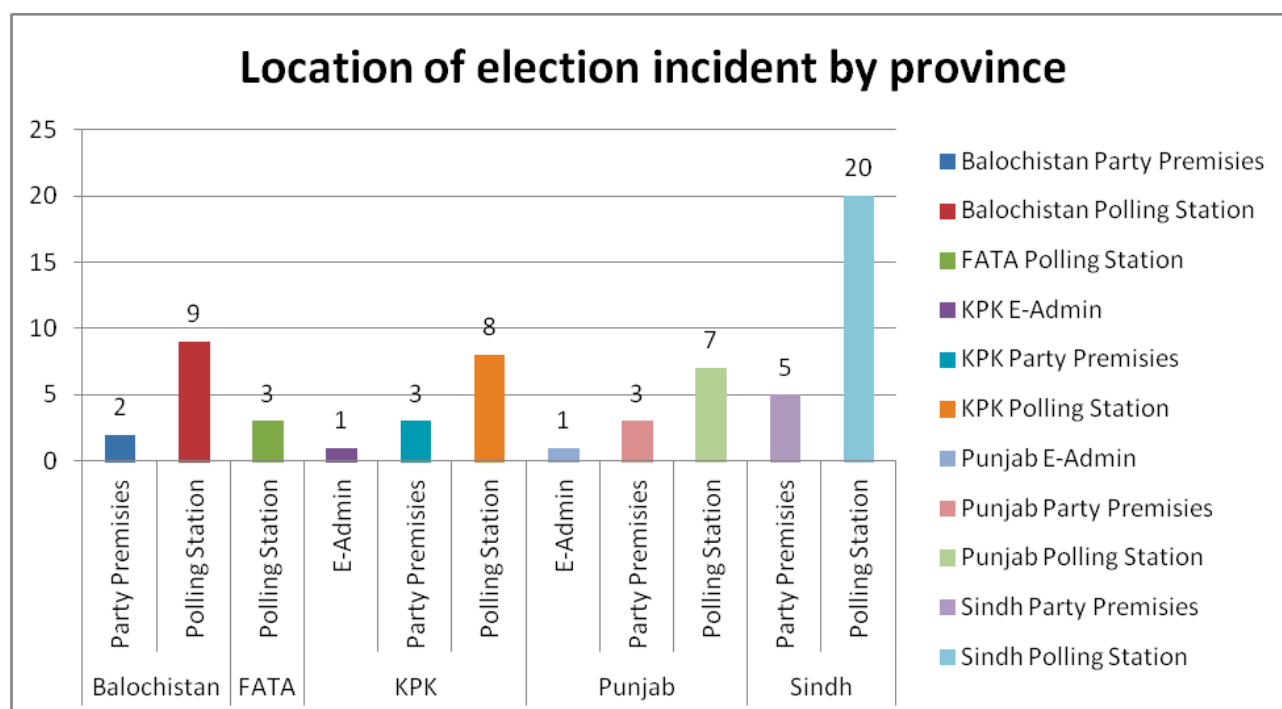
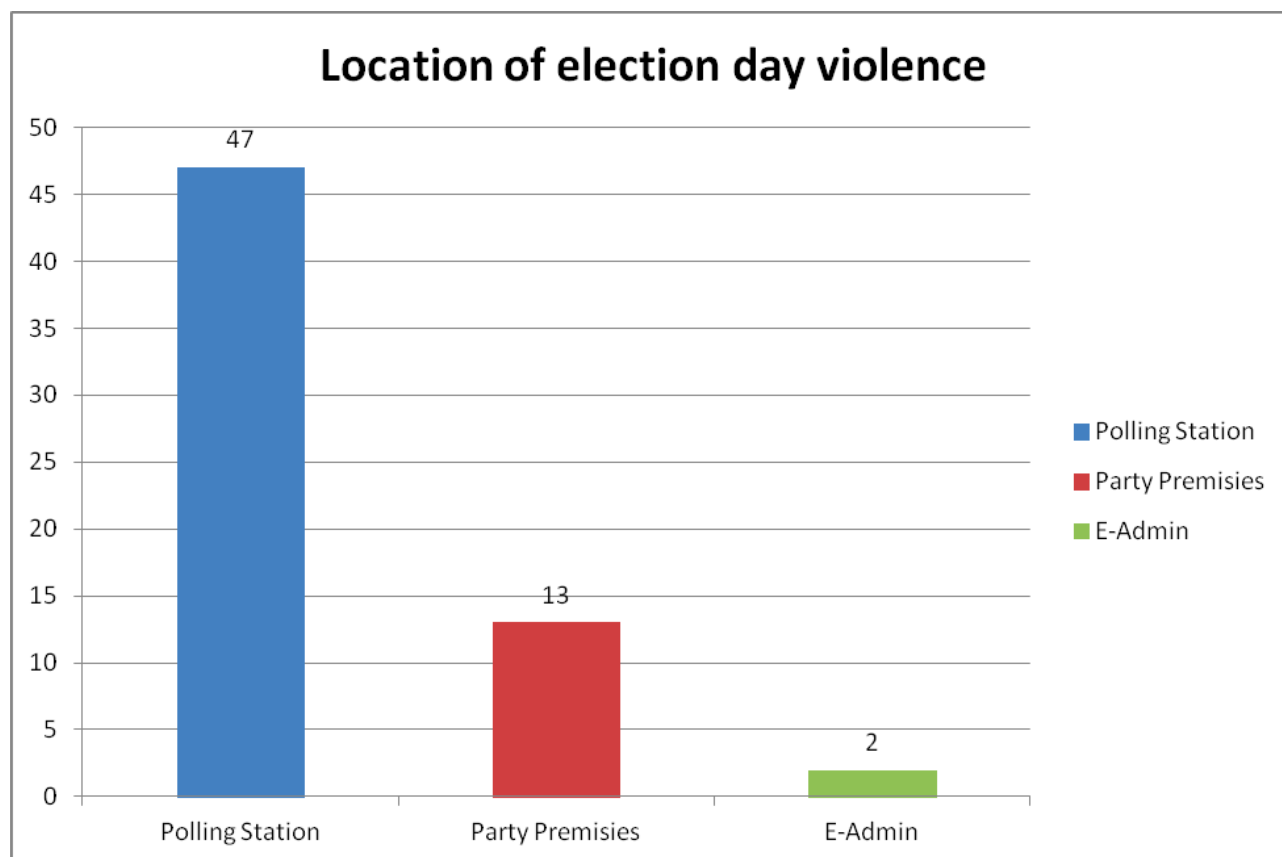
ANNEX 3 – PRE ELECTION DAY VIOLENCE BY PARTY

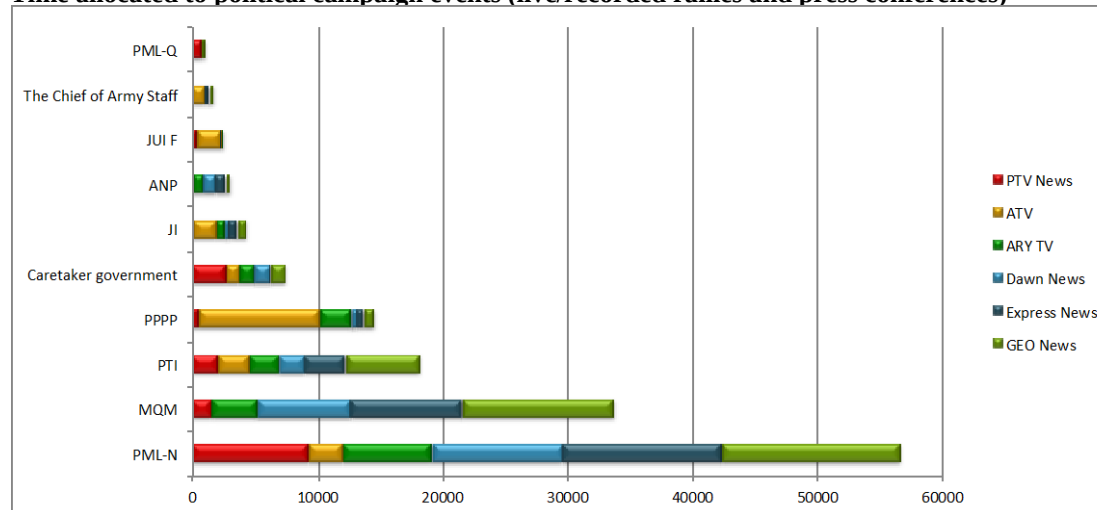
Data gathered indirectly through media reporting from 11 April to 10 May 2013.



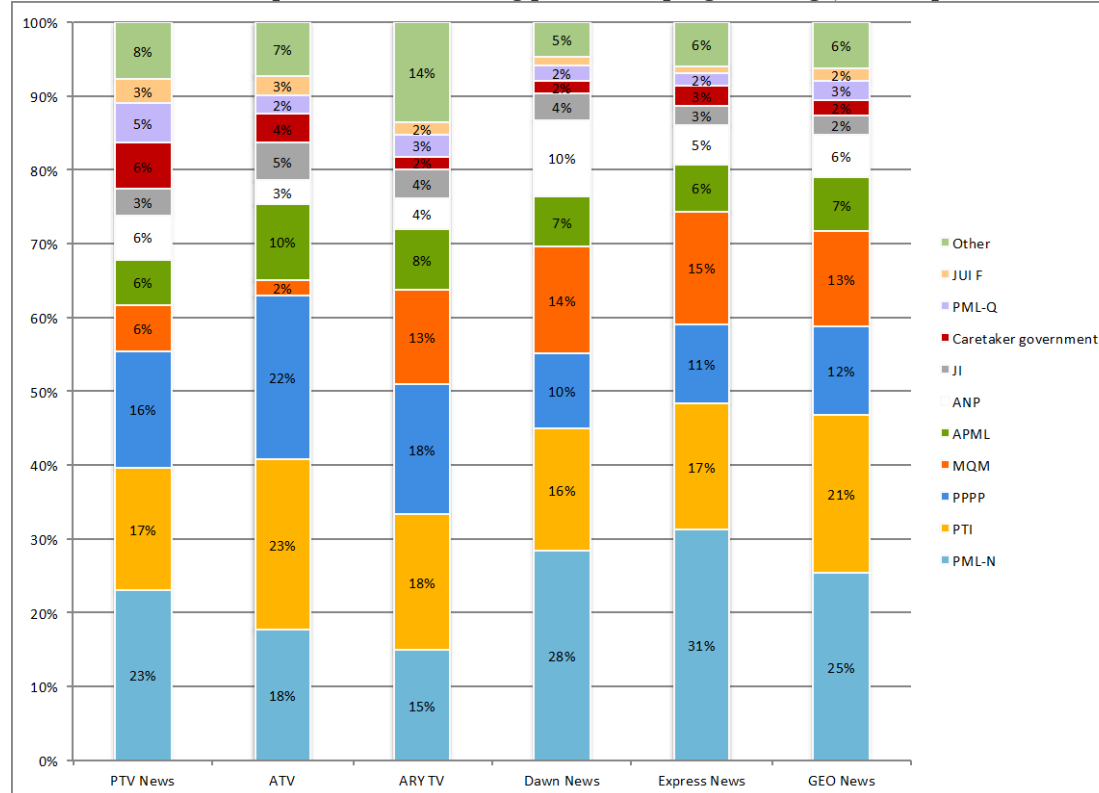
ANNEX 4 – ELECTION DAY VIOLENCE

Data gathered indirectly through media reporting.





Total time allocated to political actors during prime time programming (without political advertisement)

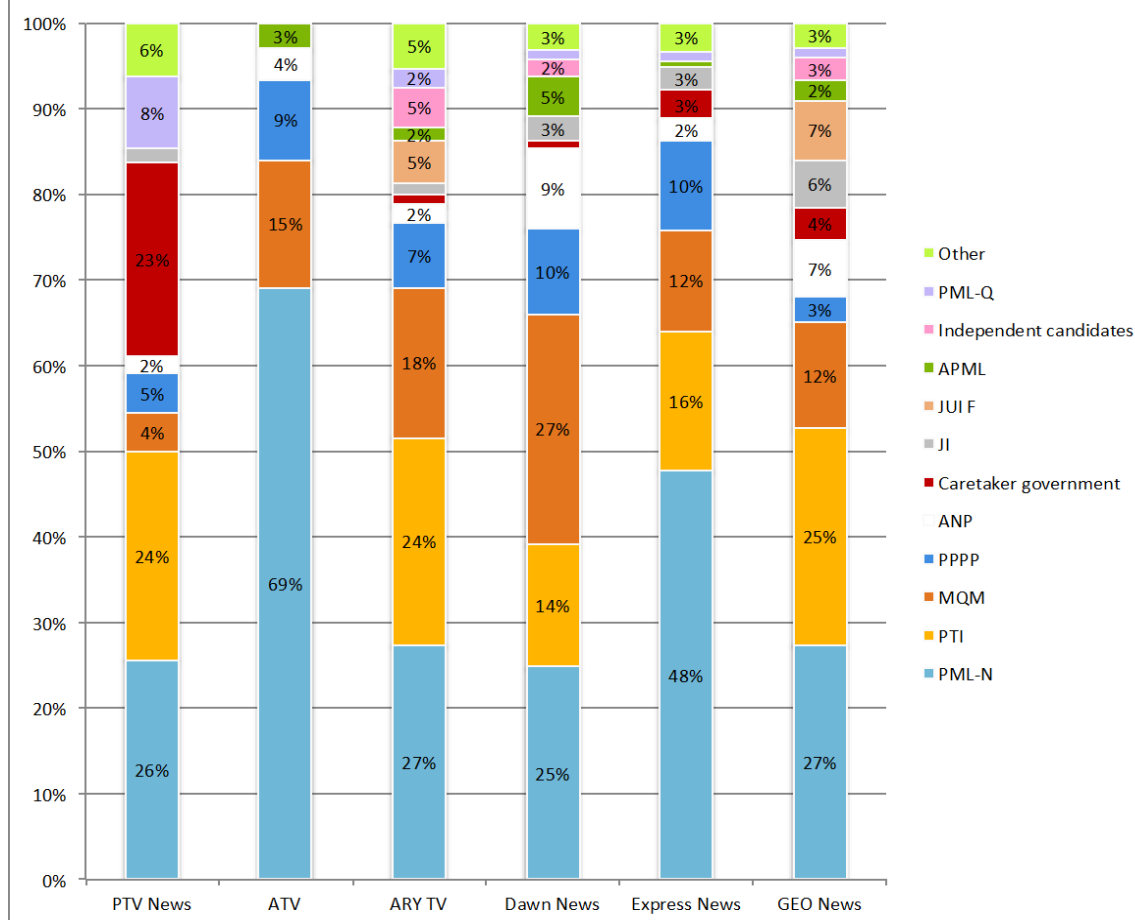


	PTV News	ATV	ARY TV	Dawn News	Express News	Geo News
base	82h 35min	32h 4min	59h 55min	59h 25min	58h 3min	69h 55min

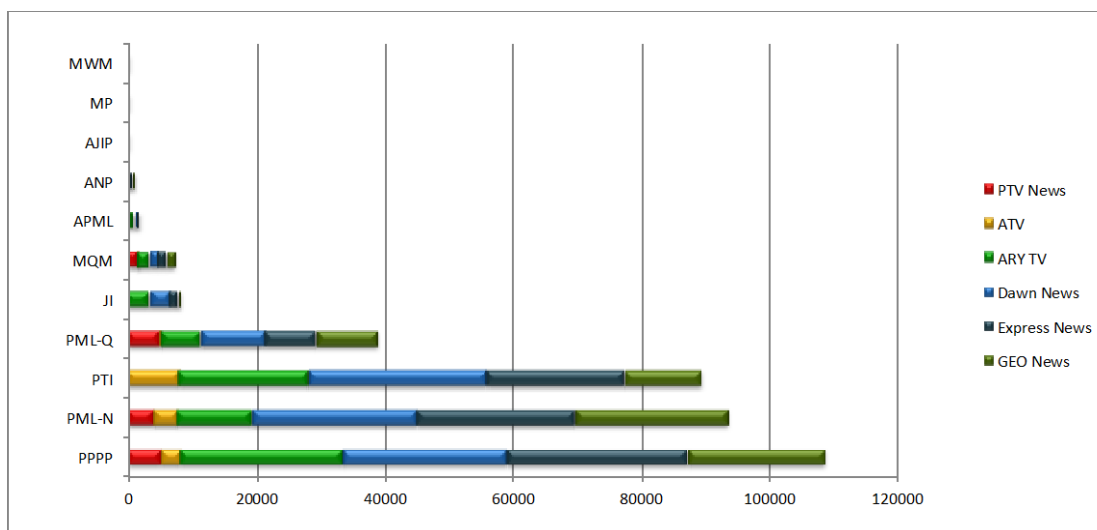
Total time allocated to political actors in the news

	PTV News	ATV	ARY TV	Dawn News	Express News	GEO News
PML-N	21%	24%	17%	16%	27%	19%
PTI	17%	17%	19%	16%	16%	32%
PPP	14%	9%	11%	13%	11%	6%
Caretaker government	14%	6%	4%	2%	3%	2%
APML	7%	12%	8%	12%	12%	7%
PML-Q	5%	3%	3%	1%	3%	2%
MQM	4%	5%	17%	22%	16%	13%
ANP	3%	5%	9%	10%	6%	7%
JI	3%	2%	2%	2%	2%	3%
JUI F	3%	3%	2%	1%	1%	3%
Independent candidates	1%	2%	3%	2%	1%	2%
Others	8%	12%	5%	3%	2%	4%

Direct speech within the news – time allotted to the quotes from particular political actors representing respective political parties or institutions



Time allocated to paid-for content



	PTV News	ATV	ARY TV	Dawn News	Express News	Geo News
base	6h 18min	4h 45min	19h 49min	26h 29min	24h 36 min	19h 25min

Radio

Media outlets monitored by the EU EOM – state-owned PBC 101FM and commercial radio station Power Radio 99FM

Monitoring period – from 8 April to 9 May from 7:00 to 12:00 and from 18:00 to 24:00 daily

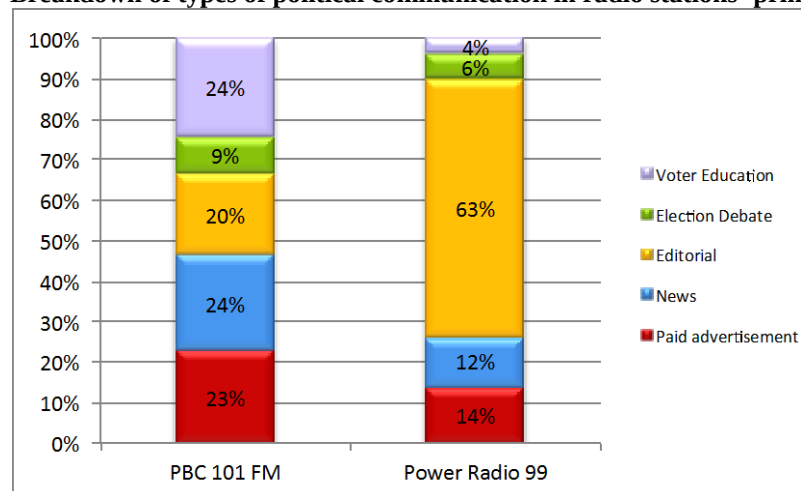
Total time coded – 620 hours

Total time allocated to political communication – 26 hours 38 minutes

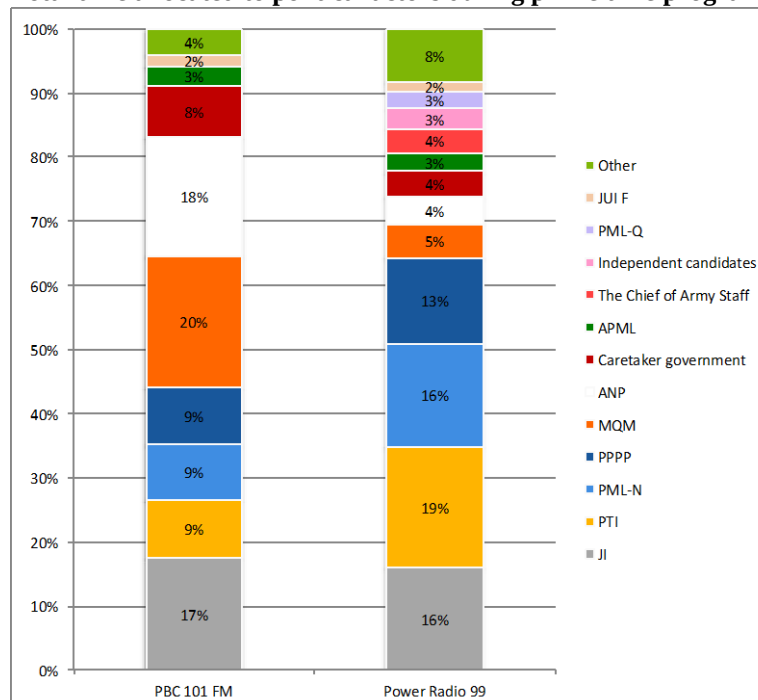
Total time allocated to political communication in radio stations' prime time programming

	Percentage	Time
PBC 101FM	5%	12h 5min
Power Radio 99 FM	4%	14h 33min

Breakdown of types of political communication in radio stations' prime time programming



Total time allocated to political actors during prime time programming (without political advertisement)

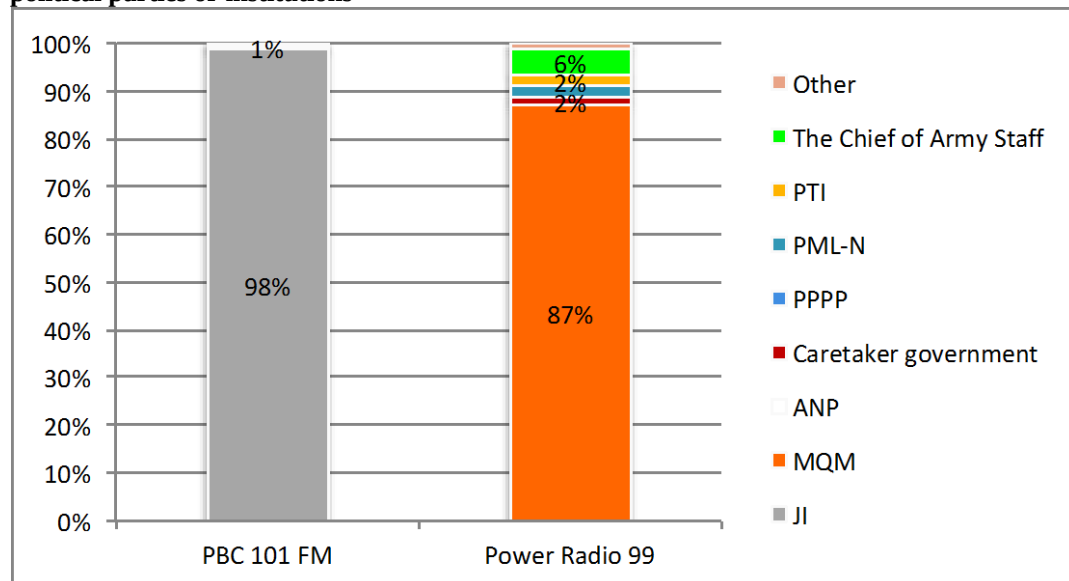


	PBC 101 FM	Power Radio 99
base	6h 24min	11h 54min

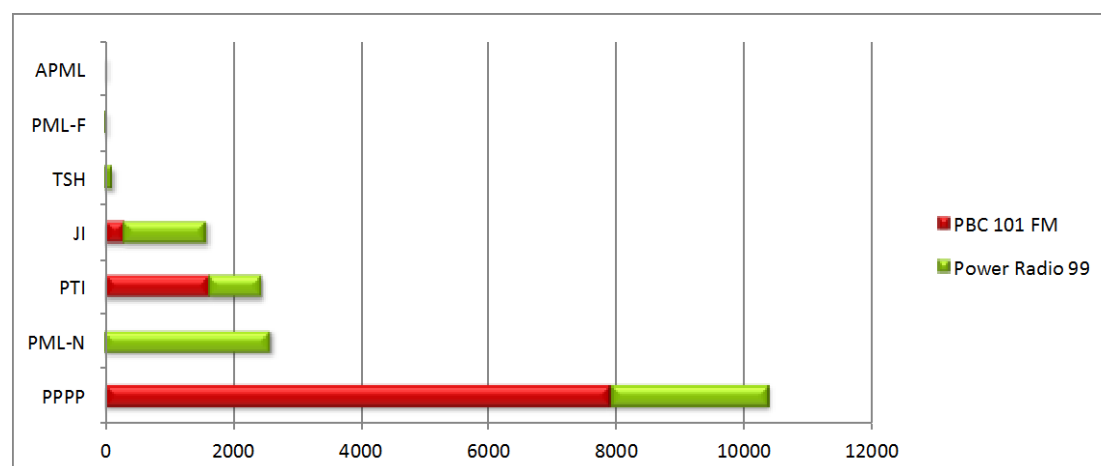
Total time allocated to political actors in the news

	PBC 101 FM	Power Radio 99FM
APML	21%	4%
JI	15%	39%
PTI	14%	9%
BNP	14%	1%
MQM	11%	11%
PML-N	8%	11%
Caretaker government	5%	7%
JUI F	5%	2%
PPP	4%	6%
ANP	2%	7%
Others	1%	3%

Direct speech within the news – time allotted to the quotes from particular political actors representing respective political parties or institutions



Time allocated to paid-for content



	PBC 101 FM	Power Radio 99
base	2h 44min	2h 3min

Newspapers

Media outlets monitored by the EU EOM – Daily Jang, Nawa-i-Waqt, Dawn, Express Tribune

Monitoring period – from 8 April to 9 May daily

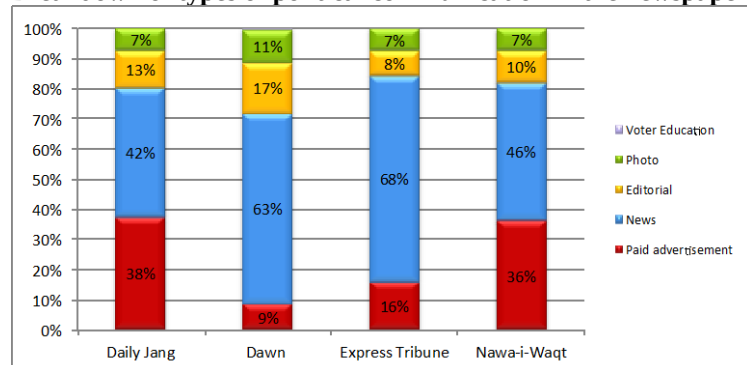
Total space coded – 513 square meters

Total space allocated to political communication – 68.8 square meters

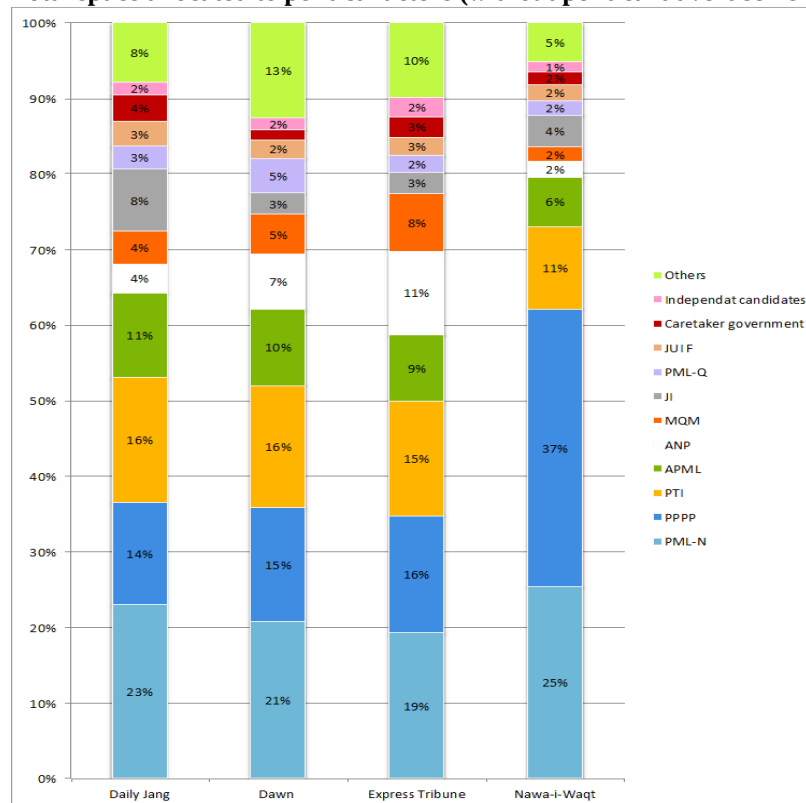
Total space allocated to political communication in the newspapers

	Percentage	Space
Daily Jang	14%	174 027cm ²
Nawa-i-Waqt	14%	148 508 cm ²
Dawn	8%	120 609 cm ²
Express Tribune	19%	245 418 cm ²

Breakdown of types of political communication in the newspapers



Total space allocated to political actors (without political advertisement)

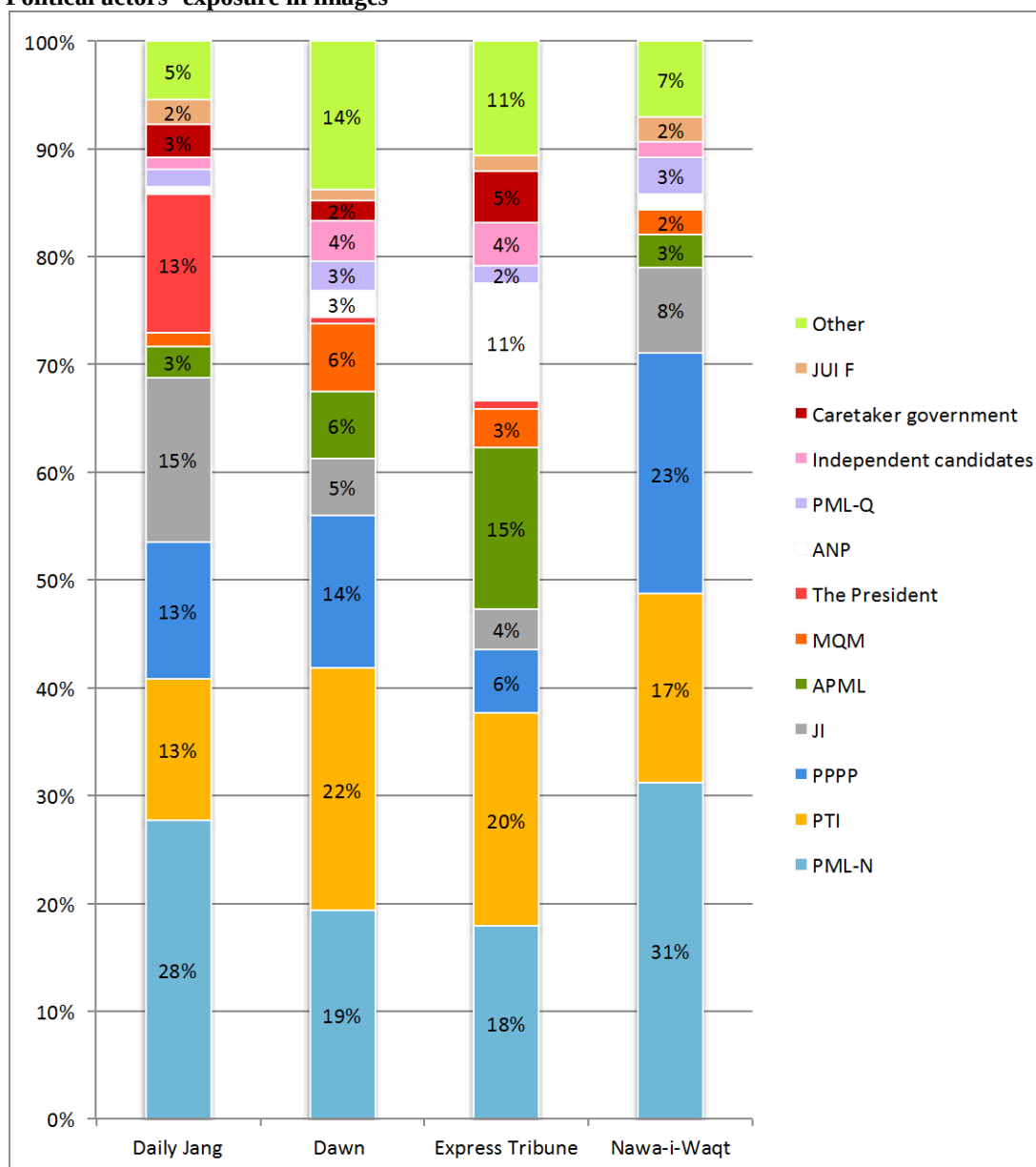


	Daily Jang	Dawn	Express Tribune	Nawa-i-Waqt
base	108 475cm ²	135 152cm ²	100 621cm ²	156 728cm ²

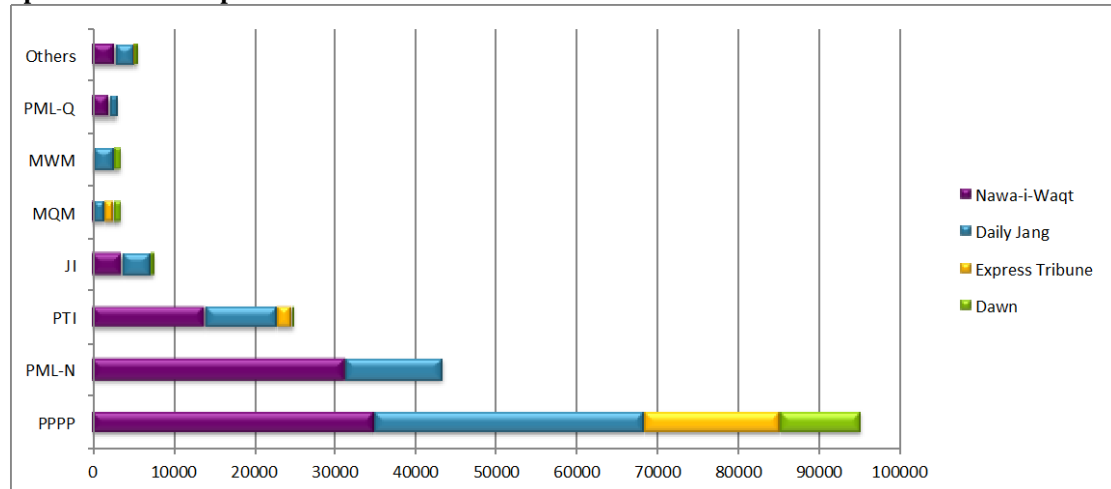
Space allocated to political actors in the news

	Daily Jang	Dawn	Express Tribune	Nawa-i-Waqt
PPP	14%	14%	17%	44%
PML-N	21%	21%	20%	23%
PTI	15%	15%	14%	9%
APML	11%	9%	8%	5%
ANP	4%	8%	11%	1%
MQM	5%	5%	8%	1%
JI	8%	3%	3%	4%
PML-Q	3%	5%	2%	2%
JUI F	4%	3%	3%	3%
Caretaker government	5%	1%	3%	2%
PMAP	<1%	7%	<1%	<1%
Independent candidates	2%	1%	3%	1%
Other	8%	8%	9%	4%

Political actors' exposure in images

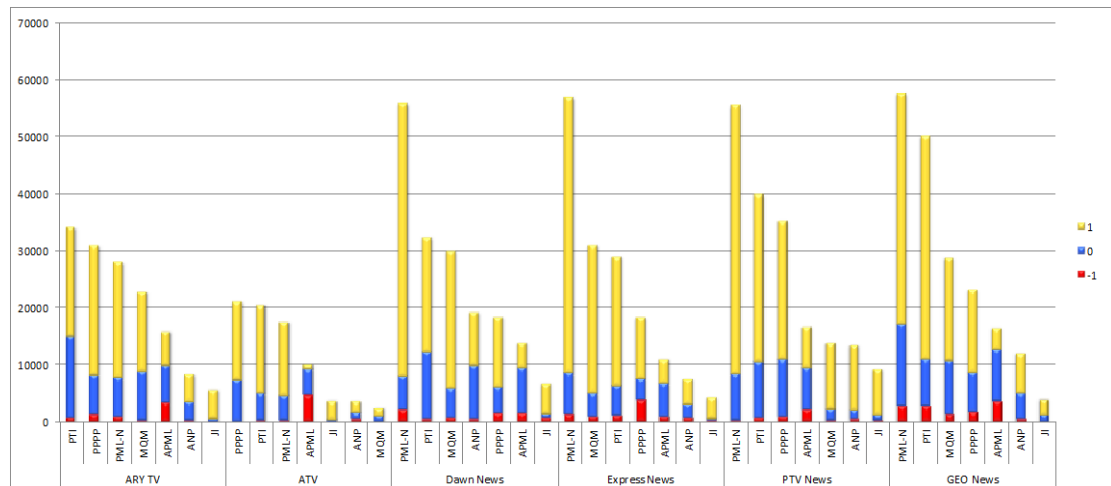


Space allocated to paid-for content



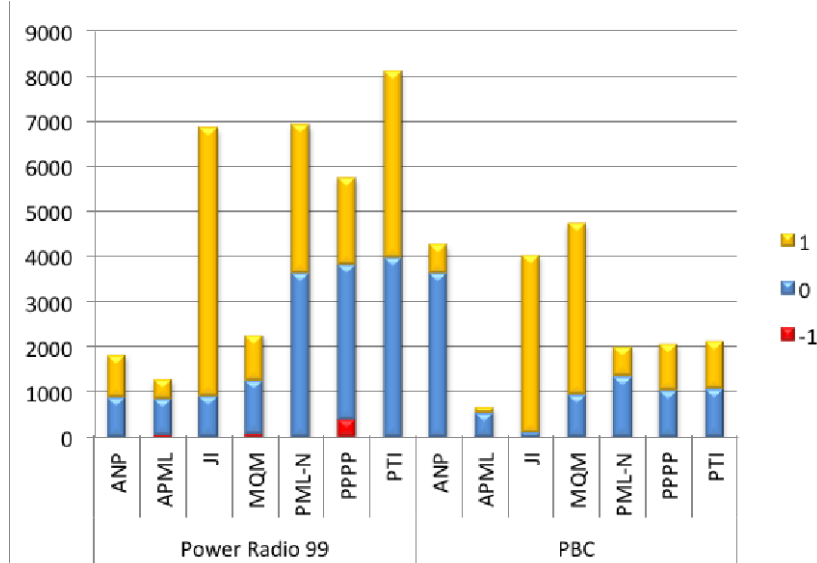
	Daily Jang	Dawn	Express Tribune	Nawa-i-Waqt
base	65 552cm2	12 708cm2	19 730cm2	88 690cm2

Tone of the coverage across the media landscape monitored by the EU EOM Television



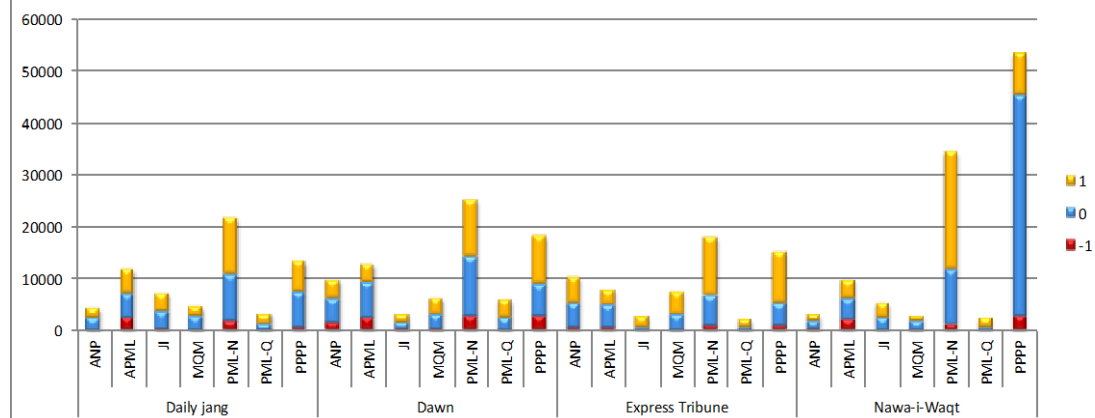
- 1 = the tone is positive towards the subject; 0 = the tone is neutral towards the subject; -1 = the tone is negative towards the subject.
- Time measured in seconds.

Radio



- 1 = the tone is positive towards the subject; 0 = the tone is neutral towards the subject; -1 = the tone is negative towards the subject.
- Time measured in seconds.

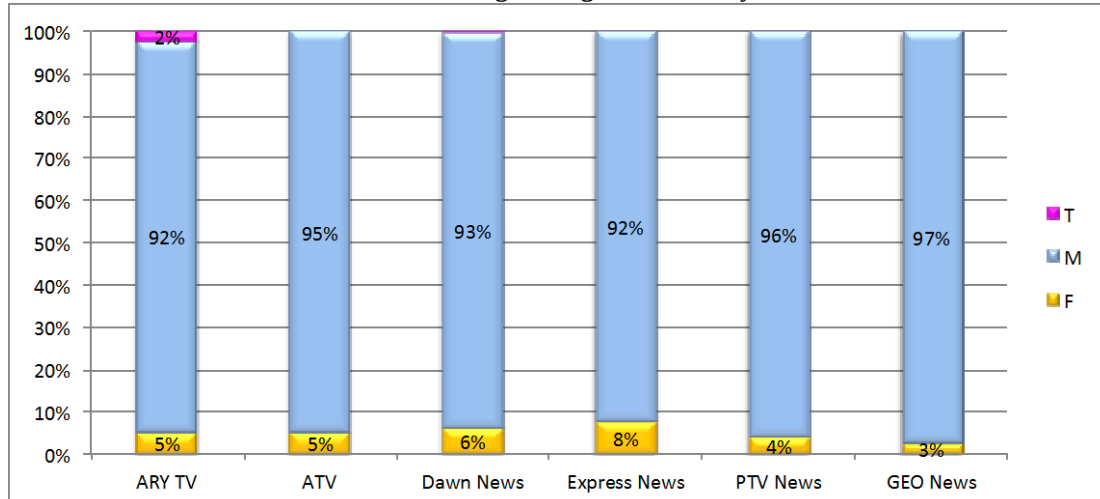
Newspapers



- 1 = the tone is positive towards the subject; 0 = the tone is neutral towards the subject; -1 = the tone is negative towards the subject.
- Space measured in square centimetres.

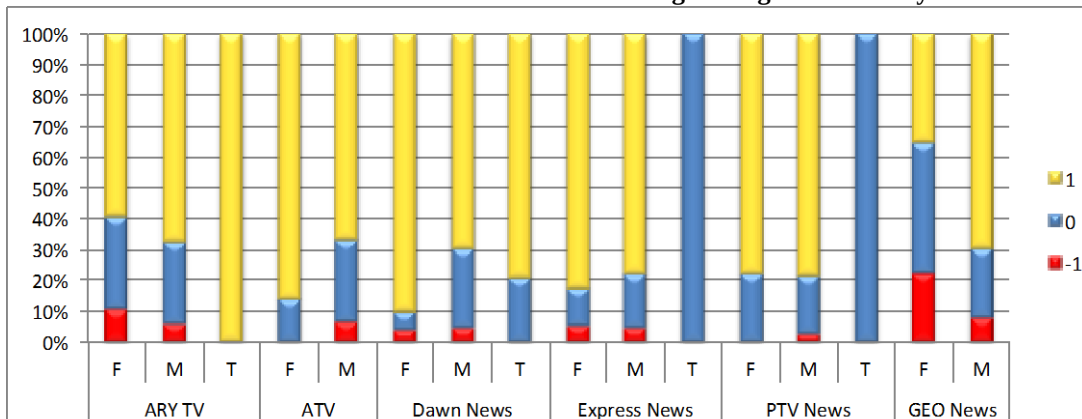
Gender balance across the media landscape monitored by the EU EOM Television

Time allotted to candidates on the bases of gender/gender identity



*T – transgender candidates; M- male candidates; F-female candidates.

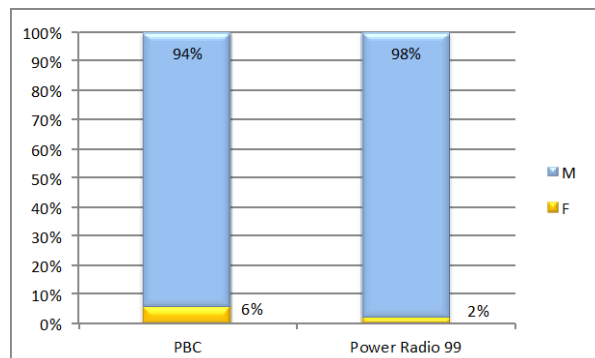
Breakdown of the tone towards candidates on the bases of gender/gender identity



*1 = the tone is positive towards the subject; 0 = the tone is neutral towards the subject; -1 = the tone is negative towards the subject.

Radio

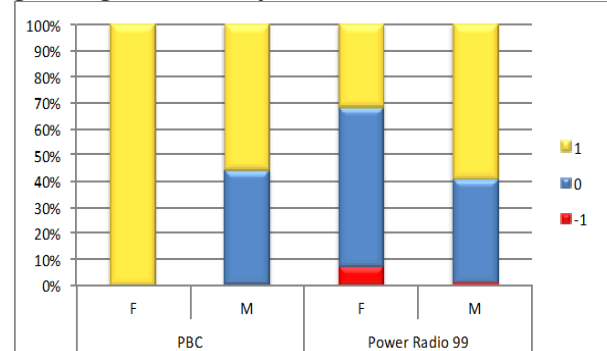
Time allotted to candidates on the bases of gender



*Transgender candidates were not mentioned during programming.

M – male candidates; F-female candidates.

Breakdown of the tone towards candidates on the bases of gender/gender identity

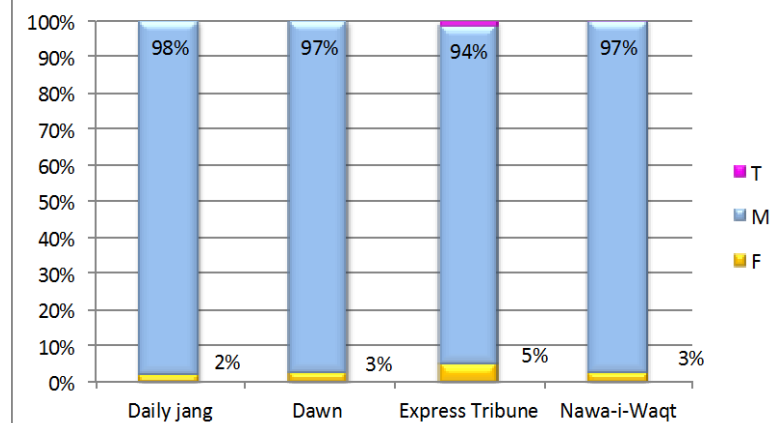


*1 = the tone is positive towards the subject; radios' prime time
0 = the tone is neutral towards the subject;

-1 = the tone is negative towards the subject.

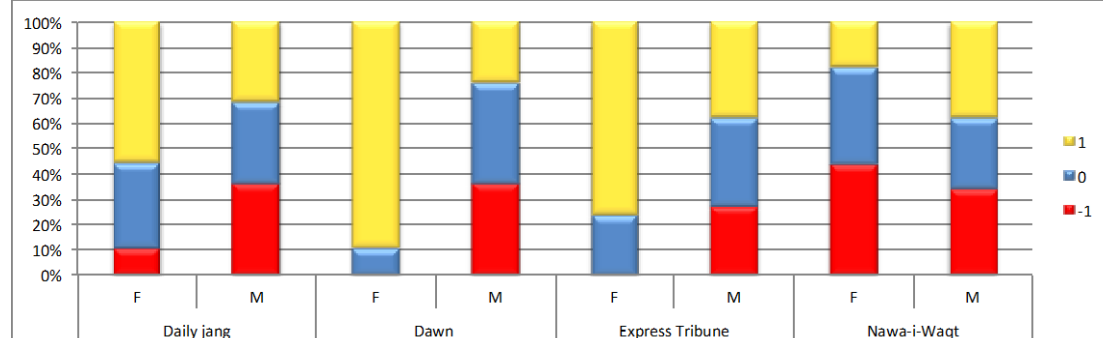
Newspapers

Space allotted to candidates on the bases of gender/gender identity



*T – transgender candidates; M- male candidates; F-female candidates.

Breakdown of the tone towards candidates on the bases of gender/gender identity



*1 = the tone is positive towards the subject; 0 = the tone is neutral towards the subject; -1 = the tone is negative towards the subject.

ANNEX 6 – LIST OF ABBREVIATIONS

ANP	Awami National Party
APML	All Pakistan Muslim League
BNP	Balochistan National Party
CEC	Chief Election Commissioner
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CJ	Chief Justice
CNIC	Computerized National Identity Card
COAS	Chief Of Army Staff
CRPD	Convention on the Rights of Persons with Disabilities
CPRW	Convention on the Political Rights of Women
CRPD	Convention on the Rights of Person with Disabilities
CSO	Civil Society Organization
DEC	District Election Commissioner
DRO	District Returning Officer
ECP	Election Commission of Pakistan
EU EOM	European Union Election Observation Mission
ER	Electoral Roll
EVMs	Electronic Voting Machines
FAFEN	Free And Fair Election Network
FATA	Federally Administered Tribal Areas
FIR	First Information Report
FBR	Federal Bureau of Revenue
FER	Final Electoral Roll
GC	General Comment (ICCPR)
GR	General Recommendation (CEDAW)
HC	High Court
HDP	Hazara Democratic Party
HRCP	Human Rights Commission of Pakistan
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of Racial Discrimination
ICT	Islamabad Capital Territory
IFES	International Foundation for Electoral Systems
JI	Jamaat-e-Islami
JUI-F	Jamiat-e-Ulema Islam-Fazl
KPK	Khyber Pakhtunkhwa
LTO	Long Term Observer
MNA	Member of the National Assembly
MPA	Member of a Provincial Assembly
MQM	Muttahida Quami Movement
NA	National Assembly
NAB	National Accountability Bureau
NADRA	National Database and Registration Authority
NP	National Party
OCV	Out-of-Country Voter
PA	Provincial Assembly
PBC	Pakistan Broadcasting Corporation
PCP	Press Council of Pakistan
PEMRA	Pakistan Electronic Media Regulatory Authority

PLD	Pakistan Law Decisions
PM	Prime Minister
PML-N	Pakistan Muslim League-Nawaz
PML-Q	Pakistan Muslim League-Quaid-e-Azam
PPP	Pakistan Peoples Party
PrO	Presiding Officer
PS	Polling Station
PSA	Public Service Announcement
PTI	Pakistan Tehreek-e-Insaf
PTV	Pakistan Television Corporation
PVT	Parallel Vote Tabulation
RO	Returning Officer
ROPA	Representation of People Act
SBP	State Bank of Pakistan
SC	Supreme Court
STEP	Special Talent Exchange Programme
STO	Short Term Observer
TTP	Tehreek-e-Taleban Pakistan
UNDP	United Nations Development Program

