European Union Election Observation Mission
Islamic Republic of Pakistan
General elections – 25 July 2018

PRELIMINARY STATEMENT

Positive changes to the legal framework were overshadowed by restrictions on freedom of expression and unequal campaign opportunities

Islamabad, 27 July 2018

The preliminary statement of the EU EOM to Pakistan is delivered before the completion of the entire electoral process. Crucial stages remain, including the completion of the tabulation, the announcement of results, and the adjudication of petitions. The EU EOM is now only in a position to comment on observation undertaken to date. It will later publish a final report, including full analysis and recommendations for future elections. The EU EOM may also make additional statements on election-related matters if necessary. The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005.

Summary

- The 25 July 2018 general elections followed, for the first time in Pakistan's history, two elected civilian governments completing their full terms. The elections took place against a background of allegations of interference in the electoral process by the military-led establishment and the role of the judiciary as a political actor. Media outlets and journalists suffer from severe restrictions and curtailment on freedom of expression, which has resulted in extraordinary levels of self-censorship.

- A number of violent attacks, targeting political parties, party leaders, candidates and election officials, affected the campaign environment. Most interlocutors acknowledged a systematic effort to undermine the former ruling party through cases of corruption, contempt of court and terrorist charges against its leaders and candidates. The electorally sensitive timing, as well as the content of decisions of courts investigating or adjudicating on matters related to high-profile Pakistan Muslim League-Nawaz (PML-N) candidates, were perceived by several stakeholders as an indication of the politicisation of the judiciary. These cases reshaped the political environment ahead of the elections. Of further concern was the emergence of extremist parties with affiliations either to terrorist groups, or individuals linked to organisations that have used, incited or advocated violence.

- Election day was orderly with a preliminary turnout of 52 per cent despite two deadly attacks on polling stations in Balochistan, and regional clashes between party supporters. EU observers noted the presence of security personnel inside and outside the polling stations in the polling stations observed. At times, they checked voter ID cards and directed voters to the right queue. During counting, they recorded and transmitted the results, giving the impression of an ongoing parallel tabulation. Party agents were present in almost all polling stations observed unlike citizen observers. Voting was assessed as well-conducted and transparent. However, counting was sometimes problematic, with staff not always following procedures and difficulties were observed in completing the results' forms. The Result Transmission System (RTS) system encountered serious technical problems in submission of results from polling stations and thus returning officers were not able to receive original result forms and report in a timely manner to the Election Commission of Pakistan (ECP) on the progress of results. The ECP explained that the RTS had not been tested in Pakistan before. The ECP did not meet the legal deadline to announce provisional results received via RMS by 2:00.

- The legal framework provides an adequate basis for the conduct of elections in line with international standards for elections. Pakistan is state party to key international human rights treaties and conventions related to democratic elections such as the International Covenant on Civil and Political Rights. The 2017 Elections Act has significantly improved the legal framework particularly by increasing powers for the ECP, introducing greater transparency requirements and measures aimed at enhancing women's participation. However, the legal framework still contains significant gaps. Requirements for candidacy with regards to knowledge of Islam and character are subjective and were implemented in an inconsistent manner. Sanctions for parties that fail to submit the required five per cent female candidates are not clearly articulated in the law.

- The ECP is an independent constitutional body with powers and responsibility to conduct elections. In the last two years, its leadership has undertaken initiatives to improve the ECP's capacity, transparency and accountability. Level of confidence in the institution has increased due to regular consultations with political parties and civil society organisations (CSOs), the adoption of innovative methods to improve women and minority participation in the electoral process, and the introduction of new technologies to improve public outreach.

- Technical aspects of the election process were well-administered. The ECP met key operational deadlines. However, due to court decisions on the validity of candidate nomination forms, the ECP twice extended candidate nomination and scrutiny deadlines. Petitions to higher courts relating to candidacy resulted in delayed printing of ballot papers in some 100 constituencies.

- There are 105,955,407 voters on the electoral roll, an increase of 23 per cent from 2013. The gap between the male and female electorate has been slightly reduced, with women making up 44 per cent of the electorate. In the Federally Administered Tribal Areas (FATA), the registration of women increased by 66 per cent.

- The legal requirement to nominate at least five per cent of female candidates was not met by 7.4 per cent of parties. However, due to unclear provisions on sanctions, the ECP took no action. Women were reportedly restricted from voting in at least eight constituencies in Khyber Pakhtunkhwa and Punjab upon agreements between local elders and political parties. Female candidates were largely invisible in the media. Of the 3.3 million persons with disabilities, only 165,927 were registered to vote. Only three disabled candidates contested the elections.

- Although steps were taken to ensure participation of minorities in the electoral process, the situation of the Ahmadi community remains unchanged. They are still registered on a separate electoral roll, contrary to constitutional provisions on the equality of citizens and against international law.

- A total of 11,855 candidates contested the elections, of which 55 per cent stood as independents. Eight per cent of candidates were supported by extremist parties. Some 4.8 per cent of candidates were women. Although the nomination process was inclusive, wide-ranging and inconsistent interpretations of the nomination criteria were applied.

- Despite a deteriorating security situation, the campaign was competitive with party leaders travelling throughout the country. However, some restrictions were imposed for security reasons in various locations, thus limiting public assembly. Notwithstanding several legal provisions aiming to ensure a level playing field, there was a notable lack in equality of opportunity. According to several interlocutors, the campaign was often dominated by candidates with large political appeal and financial means, the so-called "electables". Uneven rules on campaign spending further undermined candidates' equal opportunity to campaign. Political parties used paid advertising, live broadcasts from party events, as well as social media to criticise political opponents.

- The legal framework unduly restricts freedom of expression. Concerted efforts by state and non-state actors to stifle the reporting environment were evident. Consequently, editorial self-censorship was widespread, producing election coverage without impartial editorial scrutiny. Paid-for content and partisan debate shows overshadowed news programmes. The PTI, PML-N and PPP joint share of exposure in the news reached 81 per cent, hindering voters in making an informed choice.

- Unlike previous election observation missions to Pakistan, the EU EOM faced unprecedented delay in the deployment of its observers. EU observation methodology focuses on comprehensive observation, with long-term observers deployed four to five weeks before election day in order to cover all stages of an election process. However, due to a series of bureaucratic delays, the mission's LTOs were deployed to districts only one week, sometimes less, before election day. This has had serious repercussions on the mission's ability to observe and thoroughly assess some fundamental areas of the electoral process. These include the candidate nomination process, the campaign environment, as well as the work of the election administration at local level. Furthermore, last-minute cancellation by the ECP of accreditation that had already been issued to the mission's national staff meant that on election day the majority of teams observed voting and counting without the assistance of an interpreter.

The European Union Election Observation Mission (EU EOM) has been in Pakistan since 24 June, after the Election Commission of Pakistan welcomed a mission for the general elections. The mission is led by Chief Observer, Michael Gahler, a Member of the European Parliament from Germany. It comprises a core team of analysts in Islamabad and 60 long-term observers (LTOs) deployed in districts across Pakistan. An additional 41 observers from the diplomatic staff of EU member state embassies, plus those of Norway, Switzerland and Canada, joined the mission on election day. A delegation of seven Members of the European Parliament, led by Jean Lambert from the UK, also joined the EU EOM and fully endorses this statement. On election day over 120 EU observers visited 582 polling stations in 113 constituencies in Punjab, Sindh, Khyber Pakhtunkhwa and Islamabad Capital Territory.

Preliminary Findings

Background

The 25 July 2018 general elections followed, for the first time in Pakistan's history, two terms of continuous civilian rule with two elected governments completing their terms. The elections took place against a background of allegations of interference in the electoral process by the military-led establishment and the role of the judiciary as a political actor mainly through its special *suo moto* jurisdiction.[1]

The key contenders for the 2018 general elections were the Pakistan Muslim League-Nawaz (PML-N), the Pakistan Peoples Party (PPP), the Pakistan Tehreek-e-Insaf (PTI), an alliance of religious parties, the Muttahida Majlis-e-Amal (MMA) and the Muttahida Qaumi Movement Pakistan (MQM-P). In total 11,855 candidates contested for 830 seats in the National Assembly and the four provincial assemblies. Despite a decrease of 24 per cent in the total number of candidates compared with 2013, the general elections were still highly competitive with 95 political parties and hundreds of independent candidates taking part.
An increase in violent attacks and threats, targeting political parties, party leaders, candidates and election officials, severely affected the campaign environment in the two weeks before election day. The bomb attack targeting a Balochistan Awami Party (BAP) campaign event in Mastung district, Balochistan, killed 149 people and injured over 200. Among those killed in various terrorist attacks

[1] **Suo moto** "on its own motion" describes an act of authority taken without formal prompting from another party. The term is usually applied to **actions** by a judge taken without a prior motion or request from the parties.

were leaders and candidates of the BAP, the Awami National Party (ANP), and Pakistan Tehreek-e-Insaf (PTI). A candidate from the Jamiat Ulema-e-Islam (JUI-F) survived two attacks. Several other candidates and hundreds of campaigners, party workers and citizens were injured. The ECP underlined the need to increase security across the country after the National Counter Terrorism Authority (NACTA) informed it of threats to political leaders and candidates. An attack near a polling station in Quetta on election day killed over 30 people, including children. Another attack in a polling station in Baleeda, Balochistan, killed four poll workers and injured others. Numerous clashes were reported between party supporters, at times disrupting voting.

The dismissal of former Prime Minister, Nawaz Sharif, in July 2017; his disqualification for life from holding public office for financial malfeasance in April 2018; and his arrest for an eleven-year imprisonment sentence after the verdict of the Accountability Court on 6 July 2018, reshaped the political environment ahead of the elections. Most interlocutors acknowledged a systematic effort to undermine the former ruling party through cases of corruption, contempt of court and terrorist charges against its leaders and candidates. During the candidate nomination period Nazrul Islam, a PML-N candidate, was arrested on corruption charges and disqualified as a candidate. Another PML-N candidate, Hanif Abbasi, was sentenced to life imprisonment on 21 July by the Control of Narcotic Substances Court on a case pending in court since 2014. The ECP postponed the elections in his constituency. PML-N leaders reported excessive use of force by security personnel and that hundreds of its supporters were injured and detained, while senior party leaders were placed under house arrest.

Media outlets and journalists suffer from undue restrictions on freedom of expression which has resulted in widespread self-censorship across the media landscape. For example, the distribution of Dawn was disrupted in May 2018 following an interview with Nawaz Sharif. In March 2018, GEO TV was taken off air across most of the country and was not available on cable networks in cantonment areas throughout the campaign period. Several key broadcast media editors received phone calls from state actors advising not to live broadcast the return of Nawaz Sharif on 13 July. Media were also asked to mute any statement that might contain "anti-judiciary" speech. In addition, media did not air interviews conducted with the Sharifs prior to their return, or PML-N and PPP leaders' accusations against the military of engineering the elections. Media referred to the Lahore High Court ruling from 16 April 2018 that upheld the ban on "anti-judiciary speeches", based on Article 19 and 68 of the Constitution. An exclusive interview with Nawaz Sharif before he left London for Pakistan, conducted by a prominent Pakistani journalist, was not aired on any of the domestic channels. On election day, the statement given by Shebaz Sharif after he voted was muted on all TV channels.

Of concern was the emergence of extremist religious parties with affiliations either to terrorist groups, or individuals linked to organisations that have used, incited or advocated violence.[2] The ECP included some 925 extremist linked candidates in the final candidate list. Several interlocutors and media reports commented on how the ECP implemented the scrutiny procedures on candidate nomination and accepted those candidates. On 24 July, the ECP allowed three Allah-o-Akbar Tehreek (AAT) candidates on the UN sanctions list to compete in the elections stating that, were they to win, they would be disqualified if found ineligible.

Legal Framework and Electoral System

An improved legal framework, but with significant gaps, requires further transparency measures

The legal framework provides an adequate basis for the conduct of elections in line with international standards for elections.[3] Pakistan is state party to key international human rights treaties and

[2] Allah-o-Akhbar Tehreek (AAT), the Pakistan Rah-e-Haq Party (PRHP) and the Tehreek-e-Labbaik Pakistan (TLP)

[3] Key legal instruments in the national legal framework include, the Constitution of the Islamic Republic of Pakistan, 1973 (as amended), Elections Act, 2017 (as amended), Election Rules, 2017, 6 Codes of Conduct for Media, National Observers, International Observers and Media, Security Personnel, Polling Staff and Political Parties, Candidates

conventions related to democratic elections.[4] The Constitution largely provides for fundamental freedoms and rights of assembly, association, movement and expression, and guarantees the right to vote and stand. However, restrictions to freedom of expression and the right to stand based on vague moral and ethical requirements, do not accord with international standards.[5]

The 2017 Elections Act has significantly improved the legal framework, specifically including greater powers for the ECP to make orders to give effect to the law. However, several ECP notifications on campaigning, security and observation by party agents were issued very late in the process, raising uncertainty about the law.[6] The new law also includes transparency requirements for various stages of the process, measures aimed at enhancing women's participation, clearer directions on dispute resolution timelines and the handling of complaints. It regulates the scope of activities of caretaker governments and includes some provisions for observers.[7] The new law was the basis for the 2017 Election Rules and six Codes of Conduct.[8] The new legal framework addresses to various degrees 37 of 50 recommendations of the 2013 EU EOM.[9]

However, the legal framework still contains significant gaps. Some of the new transparency provisions are incomplete e.g. the required publication of rulings on complaints submitted to the ECP is not time-limited and, to date, none have been published. The lack of deadlines for appeals to the High Courts on candidates' scrutiny and acceptance, as well as constituency delimitation cases, affected the implementation of the election schedule and placed extra pressure on the ECP. Requirements for candidacy with regards to character and knowledge of Islam are subjective and were implemented in an inconsistent manner. A number of candidates were enlisted in some constituencies but rejected in others during the initial scrutiny process.[10] Sanctions for the parties that fail to submit the required five per cent female candidates are not clearly articulated in the law.

The 342 members of the National Assembly are elected for a five-year term. There are 272 general seats and 70 reserved seats of which 60 are for women and 10 for non-Muslims. The 272 members are directly elected in single-member constituencies under the first-past-the-post system. Members for reserved seats are elected through an indirect proportional representation closed party list system. During the nomination period, political parties must submit to the ECP a list with their candidates for reserved and general seats. After the election results for the general seats are finalised, reserved seats for women are distributed to parties in proportion to the number of general seats won in each of the provinces. Non-Muslim seats are allocated in proportion to the overall number of general seats gained by parties. The electoral formula for the allocation of reserved seats is not elaborated in the Elections Act or the rules. The manner of distributing reserved seats can contribute to a disproportional representation of parties,

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and their Agents. Excerpts of the Penal Code and Code of Criminal Procedure and Election Commission Notifications.

4 International Covenant on Civil and Political Rights (ICCPR) (2010), United Nations Convention Against Corruption (UNCAC) (2012), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (1966), Convention on the Elimination of All forms of Discrimination against Women (CEDAW) (1996), Convention on the Rights of Persons with Disabilities (CRPD) (2011), Convention on the Political Rights of Women (CPRW) (1954). Monitoring of the implementation of many of those international conventions is also undertaken under the EU's preferential trade GSP+ agreement, of which Pakistan is a beneficiary.

5 As regards freedom of expression, the United Nations Human Right Committee (HRC) has stated in General Comment (GC) 34 at par. 22 "Restrictions may be imposed and […] must conform to the strict tests of necessity and proportionality". With regard to the right to stand HRC GC 25 at par. 4 restrictions should be "objective and reasonable".

6 Election Commission notifications have force of law. There were at least 6 notifications issued since May, including with regard to election day which was issued on 10 July.

7 Constitution article 48 requires the appointment of a caretaker cabinet and prime minister upon the dissolution of parliament and until the installation of a newly elected government. The new Elections Act 2017 sets out the limits of the competency of such interim governments. Among other matters they may not take major policy decisions or decisions likely to cause political controversy.

8 The Codes of Conduct developed by the Election Commission applied to a) security personnel) polling staff, c) political parties, candidates and election agents, d) national observers e) national media and f) international observers and media.

9 Four recommendations were fully implemented and 33 partly.

10 Candidates initially impacted included Farooq Sattar, MQM-P, and Imran Khan, PTI.

especially those whose candidates win general seats by a low margin. Provincial assemblies are elected in the same way as the National Assembly.

Independent candidates winning National and provincial assembly seats can join a political party within three days of the announcement of official results. Those who do are included in the total number of seats won by each party, which is used to calculate the allocation of reserved seats for women and non-Muslims.

Electoral Administration

The implementation of the new legal framework reveals significant weaknesses and challenges in the administration of elections

Over the last two years the current ECP leadership, including its first woman Commissioner, has taken a series of reform initiatives to improve the ECP's capacity, transparency and accountability. The level of confidence in the institution has increased due to regular consultations with political parties and civil society organisations (CSOs), adoption of innovative methods to improve women's and minorities' participation in the electoral process and introduction of new technologies to improve public outreach.

The Election Commission met key operational deadlines. Technical aspects of the election process were well-administered. Interlocutors in various regions expressed an increased level of confidence in ECP's technical preparations. Because of court decisions on the validity of candidate nomination forms, the Commission twice extended the candidate nomination and scrutiny deadlines. Petitions to higher courts relating to candidacy resulted in delayed printing of ballot papers in some 100 constituencies. Training of 800,000 polling staff started in March and was completed by 20 July. Of 85,307 polling stations, 20,831 were categorised as "highly sensitive" due to security concerns and equipped with CCTV cameras.

The ECP asked the army to provide security for the distribution of election materials and allowed their deployment outside and inside polling stations. [11] There were 370,000 army personnel deployed on election day, many from the reserves, as compared to 70,000 in 2013 when the security situation was worse. In addition to the army, 450,000 police officers were deployed. The Code of Conduct for security personnel issued by the ECP increased the powers and role of security personnel posted at polling stations by giving them powers of Magistrate First Class (lower court judge) and providing them a parallel structure to report irregularities if the presiding officer does not take action. Various EU EOM interlocutors raised concern over the unclear role of military inside the polling stations on election day. While a secure environment for voters, candidates and polling staff is essential, the deployment of large numbers of soldiers, and their presence inside polling stations with expanded powers could raise voter intimidation.[12]

Advanced postal voting was available for people in the service of Pakistan residing outside the area where they are registered, polling staff and security personnel on election duty, voters with physical disabilities, prisoners and detainees. However, procedures for application and voting with postal ballots lack safeguards against possible fraud and violate the secrecy of vote. Polling staff reported that they had not been duly informed of deadlines for such application and consequently could not cast their vote. The postal ballot paper contains unique serial number, which appears also on the counterfoil and voter's declaration along with the voter's name. Thus, the secrecy of the postal votes is compromised as the

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[11] There is no specific provision in the Elections Act or Rules for deployment of security personnel within a polling station. Section 233 of the Elections Act requires that security personnel abide by the applicable Code of Conduct, which was issued on 6 July and provides for deployment of army personnel both inside and outside all the polling stations.

[12] Human Rights Committee (HRC), GC 25 at par. 19 "Persons entitled to vote […] without undue influence, or coercion of any kind which may distort or inhibit the free expression of the will of the voter".

voter's choice on a ballot and his or her identity can be easily traced back and linked. In addition, there is a lack of instructions for returning officers on recording applications and issuing postal ballots.[13]

The ECP maintains a website which contributed, to some extent, to the transparency of the electoral process. However, information of public interest, notably on constituency delimitation, candidate scrutiny and the outcome of complaints, is published in an inconsistent manner, or available only in a non-user-friendly format either absent.[14] The ECP failed to provide timely information to voters and clear instructions to stakeholders on important aspects of the electoral process. This included information on polling station locations, candidates, postal voting arrangements,[15] accreditation procedures for observers, polling agents at female polling stations and a ban on mobile phones inside polling stations. The ECP voter information campaign on television and in the printed media started only on 11 July, while civil society and media played a more significant role in raising awareness of the electoral process.[16]

Voter Registration

Inclusive voter registration efforts for women

The Constitution and the Elections Act grant the right to vote to every citizen at least 18 years old,[17] who holds a national identity card and has not been adjudicated of "unsound mind" by a competent court.[18] There were 105,955,407 voters on the final electoral roll, an increase of 23 per cent from 2013. The gap between the male and female electorate has been slightly reduced, with women making up 44 per cent of the electorate.[19] In co-operation with UNDP, civil society organisations and NADRA, the ECP launched a campaign in 79 districts to increase female voter registration. In the Federally Administered Tribal Areas, the registration of women increased by 66 per cent. The level of confidence in voter registration has increased due to the ECP's efforts.

Although steps were taken to ensure participation of minorities in the electoral process, the situation of the Ahmadi community remains unchanged. They are still registered on a separate electoral roll, contrary to constitutional provisions on the equality of citizens and against international law.[20] Although the new Elections Act initially included Ahmadis in the electoral roll, after protests they were inserted in a separate electoral roll by an amendment to the Elections Act on 23 November 2017.

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13 ICCPR, HRC, GC 25 para 20 "States should take measures to guarantee the requirement of the secrecy of the vote during elections, including absentee voting, where such a system exists […]

14 As part of the scrutiny process, replies to ECP enquiries from various state institutions (e.g. the State Bank of Pakistan, the Federal Intelligence Agency and the NAB) concerning nominated candidates' financial affairs, citizenship status, or records of convictions are numerically coded and cannot be readily cross-referenced to specific candidates.

15 Persons with disabilities, prisoners, polling staff and security personnel on election duty.

16 CSOs and media started their campaigns at the end of June. During the monitoring period there were 30 clips from the ECP, while 237 from *Alif Alaan* foundation.

17 The cut-off date for the closing of electoral rolls was 30 April 2018. Pakistani citizens who turned 18 afterwards could not be added and were thus disenfranchised.

18 While UN HRC, GC 25 par 4 cites mental disability as a possible basis for exclusion, more recent practice suggests otherwise e.g. CPRD, article 29. See also UN General Assembly Resolution A/RES/46/119 (1991).

19 The provisional results of the 2017 census indicate women make up a 48.8 per cent of the population. In 2013, women were 43.6 per cent of the electorate.

20 The Constitution, article 25, guarantees equal treatment before the law, but also denies Ahmadis on the electoral role the rights to profess their religious self-identity contrary to articles 18 ICCPR and UDHR. The separate treatment of Ahmadis is an arbitrary administrative practice, without a formal legal basis, and part of the voting process not provided by law (UN HRC GC par. 4).

Constituency Delimitation

A complex process undertaken in a short timeframe leaves issues unaddressed

Based on provisional results of the 2017 census, the ECP conducted the first delimitation exercise since 2002 for National and provincial assembly constituencies. According to the Elections Act, the variation in constituency population size should, to the extent possible, not exceed ten per cent. However, one third of National Assembly constituencies and one sixth of provincial assembly constituencies have exceeded the ten per cent variation limit.[21] For example, population and number of registered voters in constituency NA-37 (Tank) is one third of the population and electorate of constituency NA-35 (Bannu). Hence, the delimitation carried out within existing district boundaries does not respect the principle of equality of the vote.[22]

Registration of Candidates and Political Parties

Nominations process results in inclusivity among candidates although appeals to superior courts contributed to delays and postponements

Any non-dual citizen who is at least 25 years old and registered as a voter has the right to stand. However, additional requirements for candidacy linked to vague moral criteria are inconsistent with international standards as only "objective and reasonable" criteria should be required.[23] Candidacy was also subject to a deposit fee of PKR 30,000 and 20,000 for National and provincial assembly seats, an almost eight-fold increase since 2013.[24] The deposit is refundable only if the candidate obtains more than 25 per cent of the votes in the constituency.

Candidates could either be nominated by political parties or stand as an independent. Ninety-five of 122 registered political parties contested the elections. Although the Elections Act says party constitutions must provide for internal democracy and transparent procedures on candidate selection, the lack of minimum standards with clear oversight mechanisms means such requirements are not guaranteed.[25] Candidates could be nominated multiple times and stand in multiple constituencies simultaneously. The arbitrary allocation of party tickets to contest elections increased the space for intra-party conflicts[26] and exposed some candidates to political pressures.[27]

The nomination process was inclusive, but wide-ranging and inconsistent interpretations of the nomination criteria were applied. Several candidates were for instance were rejected in one constituency and accepted in other.[28] A revised nominations process and designated Appellate Tribunals aimed to reduce the space for incoherence at the scrutiny stages. Nonetheless, decisions by Appellate Tribunals,

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21 FAFEN's Preliminary Delimitation Proposals and Analysis for Provincial Assemblies' Constituencies, DRI's Report on Pakistan's 2018 Delimitation of Electoral Districts and Analysis of Preliminary Results.

22 ICCPR, HRC GC 25, par 21: "The principle of one person, one vote, must apply, and within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another. The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely".

23 Candidates are required, among other matters, to be of "good character" and "good moral reputation" (Constitution, article 62). HRC GC 25 at par. 4 "The exercise of these rights by citizens may not be suspended or eluded except on grounds which are established by law and which are objective and reasonable".

24 EURO 1 = PKR 113.75 is the official exchange rate as of 25 July 2018.

25 The Elections Act. S.201(f). United Nations HRC GC 25 at par. 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".

26 The distribution of tickets to "electables" led to PTI party workers protesting at Imran Khan's Bani Gala residence in June 2018.

27 The ECP heard a petition against the PTI for seeking 'loyalty' affidavits from applicants for party tickets, which stated they would not leave the party or stand as independents if they weren't selected. In other instances, the appointment of "electables" to party tickets forced others to run as independents.
Among such candidates were Imran Khan (PTI), Shaheed Khaqan Abbasi (PML-N), and Farooq Sattar (MQM-P).

in which the rationale for the acceptance or rejection of candidates is articulated, have not been made widely accessible. Many stakeholders resorted to superior courts to air grievances about decisions related to nominations. A total of 11,855 candidates contested the elections, of which 55 per cent stood as independents.[29] Political parties nominated 172 women and 44 non-Muslims for reserved seats in the National Assembly, and 386 women and 113 non-Muslims in the provincial assemblies. The Elections Act prohibits parties bearing names suggesting leadership of armed groups. However, it is silent on members' affiliations to such groups. Eight per cent of candidates were supported by parties that are considered extremist.[30]

Several candidates of the PML-N and PPP defected to other parties (mostly to PTI) or registered as independent candidates.[31] EU EOM interlocutors attributed the particularly high number of independent candidates as an attempt by the military establishment to weaken political parties. According to PML-N and PPP officials, there was a systematic effort to undermine the PML-N in particular through cases of corruption, coercion of candidates to change parties, contempt of court and terrorist charges against PML-N leaders and candidates. In addition, court decisions disqualifying candidates late in the process were detrimental to a level playing field.

Campaign Environment

A competitive campaign marred by violent attacks contributed to some restrictions on assembly

Despite a deteriorating security situation and serious attacks on campaign activities and candidates, the campaign was competitive with party leaders travelling throughout the country. However, due to security threats, some restrictions were imposed in various locations for security reasons, somewhat limiting public assembly, including in Islamabad.[32] The Code of Conduct for Political Parties, Contesting Candidates and Election Agents obliges parties to coordinate their meetings and rallies with the authorities, which, in turn, must ensure adequate security. Some political parties complained to the EU EOM that this seriously hampered their campaigns.[33] However the restrictions on the scope of long term observation imposed by the delayed visas and accreditation process for the EU's observers meant that the mission's ability to verify the numerous allegations on campaign limitations was limited.

Despite several legal provisions aiming to ensure a level playing field, there was a notable lack in equality of opportunity. Several interlocutors pointed out that the campaign was dominated by candidates with large political appeal and financial means, the so called "electables".[34] Smaller parties complained they could not keep pace with large national parties, especially regarding expensive political advertising, even if the law sought to curtail unfair advantages.

The role of media in the last two weeks of the campaign became more prominent due to an escalation in violence that limited candidates' direct engagement with voters.[35] Paid advertising, alongside live broadcasts from parties' publicity events, reached large audiences. However, the media regulator

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29 In comparison to 2013, there was a 24 per cent decrease in the total number of candidates, possibly due to the almost an eightfold increase in deposits.

30 925 candidates as of 6 July from Allah-o-Akhbar Tehreek, Tehreek Labbaik Pakistan and Pak Rah-e-Haq Party.

31 Some 54 per cent of PML-N and 12 per cent of PPP candidates elected in 2013 left the party, became independent or decided not to run. 119 candidates across Pakistan registered under the "jeep" symbol.

32 Code of Criminal Procedure (1898) (as amended) s.144.

33 On 1 July, the convoy of the chairman of the PPP, Bilawal Bhutto Zardari, was stoned in Lyari Town, Karachi. On 7 July, his convoy was prevented by security agencies from entering Uch Sharif village in south Punjab. The PPP suspended campaigning for two days in Khyber Pakhtunkhwa following the terrorist attacks. The PML-N stopped campaigning in Punjab for five days after the return of Nawaz Sharif and the arrest of PML-N workers in Lahore and other cities in Punjab.

34 An electable is a holder of a significant number of votes. In principle, he has already been elected to office or belongs to an influential family.

35 There were seven attacks targeting campaign events. Further, the National Counter Terrorism Agency publicly warned of terrorist threats ahead of elections.

influenced the paid-for campaign on television by banning three PML-N and one PTI advertisement[36] and by placing restrictions on live broadcasts. Social media was used extensively, including to discredit political rivals and to capitalise on terrorist attacks.[37] There were 11,472 cases of negative campaigning recorded by the ECP.[38]

Campaign Finance

Uneven rules on campaign spending undermine level playing field

The Elections Act regulates elements of party and campaign finance. Campaign spending limits, however, apply only to candidates. The rules for oversight of political and campaign financing do not ensure a level playing field for either parties or candidates. Key beneficiaries of campaign spending, such as media houses, were not subject to disclosure requirements.[39] This diminished transparency and is at odds with international standards.[40] Returns of spending were required every two weeks from the publication of the final list of candidates. The ECP has not yet made public the level of compliance with this requirement.

Media Environment

Undue restrictions on freedom of expression led to self-censorship across the media landscape and election coverage without editorial scrutiny

At first glance, Pakistan's media appears vibrant, seemingly offering a platform for a free and pluralistic exchange of ideas.[41] Comprehensive analysis of the media's output, however, reveals that editorial policies were carefully calibrated to downplay issues relating to the army, state security structures and the judiciary. Concerted efforts to stifle the reporting environment were observed, and included intimidating phone calls to senior editors, the disruption and hindrance of distribution of broadcast and print outlets, and harassment of individual journalists. In such environment, severe self-censorship is the safest option to continue publication.

Most of the content restrictions that affected election coverage stem from the Constitution. Article 19 subjects freedom of expression to "any reasonable restrictions imposed by law", which diverges from international standards.[42] Excessive content limitations, citing security, religious and moral concerns, are scattered through the legal framework for media, resulting in a catalogue of issues on which media

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36 The PEMRA cited unlawful language used in the respective spots (not hate speech). Any live coverage had to be delayed by 180 seconds and media had to mute any political statement that might contain undesirable language. HRC, GC 34 at par.13 "The free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential".

37 The PTI, PML-N and PPP enjoyed greater online presence. However, apart from prominent political figureheads, few candidates used the internet for campaigning. The EU EOM assessed 158 constituencies where 1,659 candidates from 70 political parties, as well as independents, contested the elections. Thirty-six per cent of candidates have a dedicated Facebook page or Twitter account. Of the female candidates assessed, six per cent used social media. The PTI leader on his official Twitter account linked the terrorist attacks with the Sharifs' return to Pakistan. This statement was later used by the PTI-leaning TV channels.

38 According to the ECP, as of 23 July 2018, 2,480 notices and 435 warnings were issued regarding negative campaign.

39 The Pakistan Electronic Media Authority (PEMRA), on 12 July, requested all commercial broadcasters to submit reports on income from political advertising despite there being no legal provision to do so or providing an approved financial account form. Reports were not made public, raising doubts about the purpose of the order and its relevance to enhanced campaign financing transparency.

40 Article 7.3 of the United Nations Convention Against Corruption obliges states to "consider taking appropriate legislative and administrative measures, (...) to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties".

41 Television is the principal news medium in cities. Radio is key to reach the rural electorate. Investment in IT infrastructure and steady consumption in growth has elevated online media to an important communication channel. There are 100 TV channels, 160 radio stations and 200 newspapers.

42 HRC, GC 34 at par. 22 "Restrictions may be imposed and […] must conform to the strict tests of necessity and proportionality".

cannot report. Consequently, Article 19 and various regulatory instruments were cited to prevent media from comprehensively covering selected political parties. Primarily it marred coverage of the PML-N and PPP, obstructing voters from making a fully informed choice.

The Pakistan Electronic Media Regulatory Authority (PEMRA) lacks genuine independence and transparency, as its members are appointed by the president, its yearly budget depends on the government, and rulings on complaints, including on election-related matters, are not made public at odds with basic principles of public access to information.[43] PEMRA's directives to the broadcast media contained vaguely defined prohibitions, making commercial media vulnerable to institutionalised pressure and self-censorship.[44]

Media coverage of the elections, as monitored by the EU EOM,[45] was extensive, but devoid of editorial scrutiny.[46] Controversial decisions by state institutions including the Election Commission, that had an impact on the elections, were not publicly examined. Paid-for content and partisan discussion programmes prevailed, and a substantial share of news was devoted to discontented voters and quotes from party leaders criticising each other, leaving little space for non-partisan coverage of elections.[47]

There was no level playing field for electoral contestants, including on the state-run TV.[48] The media featured the three-horse race between the PTI, PML-N and PPP, coverage of which was tainted by corruption scandals and driven by court decisions. The PTI, PML-N and PPP joint share of exposure in all media was 81 per cent. The PTI leader was by far the most quoted political figure across the media landscape.[49] Up to two-thirds of the PML-N's coverage was negative in tone, while the PTI was featured either in a neutral or positive manner. Partisan social media sites deepened public disenchantment by reproducing videos of disappointed voters from across the country.

Despite the restrictions, some journalists and rights activists used online and social media to sustain debate on candidates, their manifestos and the conduct of state institutions during the electoral process.

Electoral Disputes

Court petitions remain key feature of pre - election disputes

Voters had the opportunity to raise complaints with the ECP on administrative actions, breaches of codes of conduct and candidacy nominations. Although, the publication of ECP decisions is mandatory, there are no specific timeframes, and, to date, no decision has been published. Decisions of Appellate Tribunals on candidacy nomination appeals were not subject to publication requirements. Despite the absence of rules for the appeal of such matters to the higher courts, numerous actions were filed in

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43 For example, the PPP complaint about unequal media coverage. The decision is not published on PEMRA's website. The EU EOM was informed that such documents are "confidential". HRC GC 34 at par. 39 stipulates a regulatory framework that respects freedom of expression, "a necessary condition for […] transparency and accountability". See also par.19 "[…] States parties should proactively put in the public domain Government information of public interest".

44 On 12 July, PEMRA issued an *ad hoc* warning stipulating the suspension of broadcasts "without any notice or further opportunity of hearing" if a TV channel airs content that "might likely undermine the sanctity of judiciary, armed forces, other institutions, individuals, political parties or electoral process".

45 The EU EOM conducted media monitoring using international methodological standards for quantitative and qualitative analysis. The sample of media monitored comprises nine broadcasts and four print outlets, including the state-owned broadcaster.

46 Up to 56 per cent of TV channels' primetime programming was devoted to election-related matters. Newscasts constituted up to 20 per cent of programming, while paid-for airtime reached 37 per cent.

47 Direct speech constituted 33 per cent of election-related editorial programming. On the state-run PTV the direct quotes from political actors reached 41 per cent.

48 Out of 95 political parties contesting elections, only 12 gained meaningful exposure on state-run PTV and 9 on commercial TVs.

49 During the monitoring period, Imran Khan was granted more than seven hours of direct speech within the TV channels primetime newscasts, while Shebaz Sharif and Bilawal Bhutto Zardari received only four and three hours each.

provincial High Courts on delimitation and candidacy.[50] The non-publication of ECP decisions on various complaints deprived stakeholders of information on dispute outcomes.[51]

Decisions of courts investigating or adjudicating on matters related to high-profile PML-N candidates were perceived among some stakeholders as an indication of the politicisation of the judiciary.[52] The courts, however, did make disqualification rulings against other party candidates.[53]

Numerous decisions on candidate scrutiny were appealed to Appellate Tribunals. While that process ended on 29 June, many petitions were also raised in the Supreme Court and provincial High Courts.[54] These cases impeded the timely preparation of candidate lists in various constituencies.

Participation of Women

More women candidates but an under-representation of female voters

Although there was a nine per cent increase in female candidates for National Assembly seats compared to 2013, parties put forward many women in seemingly unwinnable constituencies. Women were reportedly restricted from voting in at least eight constituencies in Khyber Pakhtunkhwa and Punjab upon agreements between local elders and political parties.[55] The Elections Act foresees the cancellation of elections in a constituency if female turnout is less than ten per cent.[56] Several female candidates reported very serious allegations of physical harassment and verbal abuse during the campaign period.[57] Female candidates were to a large degree invisible in the media.[58] Neither political parties nor media, including state-run, explicitly encouraged the equality of women's participation in public and political life. Full implementation of international standards fostering a level playing field for women in elections is yet to be realised.[59]

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50 Appeals to the Supreme Court are only specified in relation to ECP orders voiding a poll, refusals to enlist and dissolution of parties and results challenges. Constitution, articles 184(3) and 199 provide for court petitions related to fundamental rights.

51 ICCPR, article 14 par. 1 All persons […] In the determination of any […] of his rights and obligations in a suit at law […] any judgement rendered […] in a suit at law shall be made public…"

52 Prominent aspiring PML-N candidates disqualified within a month of the election included Daniyal Aziz, Maryam Nawaz and Hanif Abbasi.

53 As late as 19 July, the Supreme Court confirmed the disqualification for life of PTI member, Rai Hassan Nawaz.

54 The ECP was noting some 108 actions in the various provincial High courts still pending on July 10. Most were ultimately dismissed.

55 In Upper Dir, Lower dir, Bajaur, Malakand and Lakki Marwat districts in (KP), Chakwal, Mandi Bahauddin and Sargodha (Punjab). No reports of such agreements in Balochistan.

56 During the May 2015 by-elections, the ECP decided to declare null and void the elections in Lower Dir (PK-95) as none of the 53,000 women voters had turned up to vote. This was the first case whereby the ECP had annulled election results and ordered re-polling.

57 Five female candidates in various locations (Haripur, Sukkur and Karachi) reported very serious threats of physical harassment (kidnapping, acid attacks, death threats) and verbal abuse from rival party agents, requesting they withdraw from the elections. A female candidate in Karachi belonging to an ethnic minority reported destruction of her campaign material and derogatory messages on social media about her ethnic community, labelling her as an enemy of Islam.

58 On average, broadcast media devoted 13 per cent of time allotted to electoral contestants to female candidates. This limited coverage was shared among a few women from politically influential families.

59 ICCPR, article 3, CEDAW, article 7, CPRW, article 3, Beijing Declaration and Platform for Action for women's participation in decision-making positions.

Participation of Religious Minorities and other under-represented groups

Despite positive measures taken by ECP and civil society, minorities, persons with disabilities and transgender persons are still largely hampered from participating in the electoral process

Despite a 30 per cent increase in non-Muslim voters (3.63 million against 2.7 million in 2013), only 44 candidates contested the ten National Assembly seats for non-Muslims.[60] The system of allocating seats does not enable effective representation of non-Muslims if their elected representative is not linked to a constituency. Ahmadis are still registered on a separate electoral roll, a clear disenfranchisement of the 167,500 Ahmadi voters in an environment of widespread sectarian violence.[61] Pakistan is yet to fulfil its international obligations regarding equality of electoral rights to all minority citizens.[62]

Persons with disabilities face major obstacles participating in the elections. Of the 3.3 million persons with disabilities, only 165,927 are registered as voters. There are lengthy CNIC registration procedures, inadequate access to postal voting and difficulties in accessing polling stations. The ECP with the support of civil society organisations carried out an audit of polling premises and produced tailored voter information for persons with disabilities, including voter material in braille which was tested in 300 polling stations. Only three disabled candidates contested the elections. International standards related to persons with disabilities are not yet enshrined in domestic law.[63]

Since May 2018, the Transgender Persons (Protection of Rights) Act has guaranteed transgender people the right to participate in the elections. However, they still face social stigma and significant financial obstacles to their full participation in the elections. Only four transgender candidates competed in the elections and faced fierce competition, as well as serious harassment.[64]

Citizen Observation

Active but less visible citizen observation on election day

The Free and Fair Election Network (FAFEN) deployed long-term observers in 130 districts and deployed 19,000 short-term observers on election day, covering 80 per cent of polling stations. FAFEN also conducted parallel vote tabulation (PVT). In addition, there were several civil society organisations observing the participation of women, people with disabilities and transgender people.

Polling and Counting

Polling and counting under the watch of security

Election day was orderly with a preliminary turnout of 52 per cent, despite two deadly attacks on polling stations in Balochistan where 37 people were killed and several injured, as well as clashes between party supporters. Overall, broadcast media reports on election-related incidents were subdued, as PEMRA requested all TV channels to "act prudently" and safeguard public order.

EU observers assessed positively opening procedures despite voting starting late in more than half of the polling stations observed due to the unpreparedness of polling staff. Voting was assessed as well-conducted and transparent in the majority of the 446 polling stations observed. Polling procedures were

60 There are 27 Christians, 16 Hindu and 1 Parsi. Out of 44 candidates, seven were women.

61 Jibran Nasir (NA-247, independent candidate) was physically and verbally harassed several times when he refused to label Ahmadis as non-Muslims.

62 ICCPR, article 2, ensures equality of rights to all citizens "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".

63 Article 29 of the CRPD requires the State Parties to "ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis […], including the right and opportunity for persons with disabilities to vote and be elected".

64 The transgender community reported physical harassment against two transgender candidates in Khyber Pakhtunkhwa and Okara, including death threats by political agents.

generally followed; however, secrecy of voting was not respected in three per cent of observations. Long queues of voters and overcrowding were reported in one quarter of polling stations observed. EU observers noted campaign activities or campaign material near polling station in 15 per cent of observations.

Security personnel were present inside and outside all polling stations observed. In almost one third of polling stations observed they checked voter ID cards or *perchees* and directed voters to the right queue. EU observers reported on few cases where the security personnel interfered in polling proceedings or directed party agents to stay outside the polling stations. Party agents were present at almost all polling stations observed, mainly PTI followed by PML-N and PPP. Citizen observers were present in 15 per cent of the polling stations observed. Sixty per cent of the observed polling stations were accessible for voters with reduced mobility, while ramps and additional measures to facilitate access for persons with disabilities were noted only in 13 per cent.

Counting was sometimes problematic, with EU observers assessing as positive the counting process in two thirds of the observations. Polling staff did not always follow procedures and had difficulties completing the result forms. During counting, security personnel recorded and transmitted the results, giving the impression of a parallel tabulation. The results were posted outside in only half of the observed polling stations, which didn't enhance the transparency of the process.

A total of 560 complaints were filed with the ECP.[65] The PML-N and four other parties[66] requested a voting extension by one hour, citing the lengthy ID checking procedures that delayed voters from casting ballots. All requests were rejected.

The ECP did not publish voter turnout data on election day. However, one hour after the close of polls, the state-run PTV started to broadcast "progressive results", as provided by the ECP via the RTS application. However, the mode of publication did not help transparency or raise public confidence in the integrity of these results. The RTS system encountered serious technical problems in the submission of results from polling stations and thus returning officers were not able to receive original result forms and report to the ECP on results' progress on time. The ECP explained that RTS was not tested in Pakistan before. On 26 July, the ECP started to post on its website provisional consolidated results for National and provincial assembly constituencies. These were generated by the Results Management System (RMS), which is based on data entered from original result forms collected from polling stations. The ECP did not meet the legal deadline to announce provisional results received via RMS by 2:00.

The EU EOM continues to observe the tabulation process.

This preliminary statement is available at www.eueompaksitan2018.eu and on social media: Facebook EUEOMPakistan2018 and Twitter @EUEOMPakl2018.

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65 The ECP did not publicise any data concerning complaints and decisions.
66 The PPP, ANP, AML and MQM-P