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## A Critical and Reformative Study of Legal Framework of Electionism in Pakistan

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### Article Details

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### ABSTRACT

Pakistan got independence from British in 1947 and emerged as an independent nation on the map of the world. The political framework that Pakistan got inherited from the British had numerous problems. One of the key problem was forming a stable political democratic system, which entailed sculpting the electoral process. The electoral process repetitively fallen short of the expectations of the general masses due to three protracted military authoritarian regimes, frequent accusations of enormous rigging of elections, dynastic parties, and an ever-expanding state with little class mobility. It's been seventy years for the rulers and political parties to overcome the perennial problem of the country and constitute a stable political framework. The Parliament after consolidating the eight previous legislations regarding elections passed "The Election Act, 2017 to overcome the longstanding demand of election reforms. This research paper will critically analyze the election legal framework particularly Election Act 2017, the drawbacks in the electoral process of Pakistan and the steps that should be taken to systematize the electoral system.

## 1.1 INTRODUCTION

The constitutional period of 1973 was an important phase witnessed in the history of Pakistan regarding redesigning the structure of organized electoral system. After getting independence from East Pakistan and formation of new nation Bangladesh in 1971, the Constitution aimed to bring back the political stability again to conduct factional and fair election.

The Constitution has brought some significant changes into the legal field. One of these was the guarantee of vote by every citizen when they get to the voting age with no discrimination on sexual and other diversions. This for us was a step towards democratization, especially for women who has some challenges voting before.<sup>1</sup>

The other major improvement was the formation of the Election Commission of Pakistan ECP which became an independent body to conduct elections of Pakistan. The ECP was given the responsibility that was to include supervising and overseeing the preparation of the electoral rolls, supervising, and overseeing the registration of political parties. A similar problem was experienced by the ECP, which was formally empowered to execute these functions amid meager resources and political independence during its early years. Electoral democracy in Pakistan was duly practiced when the Constitution provided for Direct Elections to the National Assembly and the Provincial Assemblies. One of such ambitious reforms sought to guarantee that the director's accountability post was only occupied by persons who were directly accountable to the electorate unlike in the colonial days when such was mostly done indirectly.<sup>2</sup>

### **The Representation of the Peoples Act, 1976**

The democratic parliamentary act of Conduct of Elections to the National Assembly and Provincial Assemblies was first completed in the year 1976 through the enactment of Representation of the Peoples Act. This Act concerned fundamental procedures of electoral processes including voters registration, procedures for nominations of candidates for election, and means of solving election disputes.

The Act provided for filing of nomination papers for scrutiny in an effort to make all contestants meet the electoral laws. It also set rules on the voter registration where it insisted on correct registration of voters adding that the registration of voters must be updated. Furthermore, the Act provided for the various electoral offenses including bribery, impersonation and undue influence and their Penalties.

As for national legislation, the Act of 1976 became a solid foundation, but many complained it did not stop various election-related vices, to include fraud at the polling stations and voter suppression. Experience during the politically sensitive elections of the

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<sup>1</sup> *Constitution of Pakistan 1973, Article 51*

<sup>2</sup> *Muhammad Ibrahim, 'Constitutional Basis for Electoral Reforms in Pakistan' [2022] Pakistani Law Review 14*

1990s demonstrated the weaknesses of the act, which included rampant cases of vote-rigging, ballot-stuffing through which the public confidence in the electoral process was eroded. Later, most provisions of the Act were grafted into the Election Act of 2017 with the intended legal instruments for enforcing the law adapted to overcome some of these weaknesses.<sup>3</sup>

## 1.2 Elections of 1977 and Zia-ul-Haq's Military Coup

It is noteworthy that both the general elections of 1977 were the first on the basis of 1973 Constitution. But the said elections were accompanied by severe electoral irregularity claims, which led to a Military takeover.

It was said that the election was a complete fraud and all the opposition parties, including Pakistan National Party, Pakistan People's Party (PPP) led by Zulfikar Ali Bhutto used government machinery to pressurize people to vote. Lack of proper supervision, ill-functioning and weak electoral monitoring systems, the overall process was shaped as highly non-transparent resulting in serious doubts.<sup>4</sup>

These accusations, and protest that followed, made it necessary for General Zia-ul-Haq to conduct a military coup in 1977 to depose the civil government. This military intervention made people realize some vices inherent in Pakistan's electoral process as well as the level of infiltration of political processes by extra constitutional actors.<sup>5</sup>

## 1.3 The Non-Party Elections of 1985 During Zia-ul-Haq's Regime

In the wake of taking power in 1977 General Zia-ul-Haq sought to give the non-party elections of 1985 a façade of legitimacy. These elections were held without interference of political parties, however, independents could present their candidature. That was a strategic plan to demoralize political parties and ensure continued military influence in the politics of the country.<sup>6</sup>

The 1985 polls were termed as being very credible. Most people regarded them as rigged for the purpose of guaranteeing victory for the candidates loyal to Zia's governments.

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<sup>3</sup> Hassan Khan, 'Analyzing the Historical Impact of the Representation of the People Act, 1976' (2022) *South Asia Journal* <https://southasiajournal.net> accessed 15 December 2024

<sup>4</sup> Ayesha Jalal, *Democracy and Authoritarianism in South Asia* (Cambridge University Press 1995)

<sup>5</sup> Hassan Khan, 'Electoral Reform Challenges in Pakistan's Military Regimes' (2021) *South Asia Journal* <https://southasiajournal.net/> accessed 15 December 2024

<sup>6</sup> Zulfikar H. Ali, *Pakistan: Electoral History and the Challenges of Military Influence* (2020)

Lack of political party participation coupled with continued political assertiveness of military establishment compounded the lack of political legitimacy of the electoral process in Pakistan.<sup>7</sup>

#### 1.4 The 1990s: Electoral Challenges and Ongoing Political Instability

Restoration of civilian rule came in the 1990s, but Pakistan elections this period were still experiencing challenges. Reports of electoral malpractice were rife and specific tags of vote tampering, ballot box stuffing's and voter intimidation were more expressed in rural areas.

The greatest and most significant political movement in 1990s saw the PPP and PML, the two parties interchangeably in power.<sup>8</sup> This instability combined with political interference in the electoral process clearly called for massive electoral reforms because elections as they were could not be trusted.

In this period ECP fails to manage the legislative elections imposed by international pressures on Pakistan. Its lack of funding, organizational independence and political influence prevented it from providing sufficient public guarantees for the electoral process.<sup>9</sup>

#### 1.5 The Political Parties Order, 2002.

Swept under the glaring rescue radar of General Pervez Musharraf in 2002 as the Political Parties Order, 2002, the rules aimed at regulating the political parties' activities and enhancing the transparency of their internal structure. This legislation was a result of demands for audibility amplified by despotic politicized rule within Pakistan and more so by dynastic politicized rule pervasiveness that was and still is characteristic of the region. The Order bound all political parties to be registered with the Election Commission of Pakistan (ECP) and also perform bound by certain rules and regulation. It required political parties to file forms on annual financial reporting on the resources they have received and used. The Order also insisted on periodic internal polls for electing officials in an effort to decentralize internal operations, and minimize the power of the oligarchy.

At the same time, several problems arose for the implementation of the Order, which in its liberal agenda was created. In practice, many political parties made no attempts to hold proper internal elections or provide actual and transparent financial statements,

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<sup>7</sup> *International Foundation for Electoral Systems, Pakistan's Electoral Framework under Non-Party Systems (2018)*

<sup>8</sup> *Election Commission of Pakistan, Post-Zia Era Electoral Trends in Pakistan (ECP 2000)*

<sup>9</sup> *Hassan Khan, 'Electoral Instability in Pakistan's Political History' (2022)*

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which is against the purpose of the legislation. These provisions were then put in the Election Act of 2017 where ECP received more powers to enforce and punish noncompliance.<sup>10</sup>

## 1.6 The Election Act of 2017: An In-Depth Reform

The Election Act of 2017 was of the kind that if it aimed to upgrade, regularize, and computerize the electoral system of Pakistan that has been bogged down by the problems of fraudulence, inefficiency and transparency for the last many decades. This bill of law compiled many of the electoral laws into one for the purpose of removing duplications and patchy laws.

The Act enacted following electoral reforms, which among them was the use of Electronic Voting Machines (EVMs) in the hope of minimizing fraudulences and easy tallying procedure. However, because of technical and political factors the use of EVMs also posed some problems that led to a delay in installation of EVMs.<sup>11</sup>

Yet another major provision of the Act was to further autonomy of the Election Commission of Pakistan (ECP). The ECP was empowered for further probing electoral violations, fixing accountability mechanisms and checking compliance with the electoral laws. Although, scope of the program will for evermore remain its best quality because of resource constraints and political resistances that slowed its full operation.

It was also achieved by increasing the use of biometric voter registration to ensure genuine voter lists were developed to avoid fraudulent registrations. To enhance the rolls and increase the effectiveness of voting more limitations were put in place to strictly reduce the voter's errors as well as increasing the effectiveness of voting limitation to only eligible voters.

The Act also provided increased financial accountability and reporting of political parties, to avail funding source of details concerning any campaigning expenses. To get rid of corruption and mal Governance in the political arena of Pakistan this move was initiated.<sup>12</sup>

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<sup>10</sup> PILDAT, 'The Evolution of Political Party Regulations in Pakistan: An Analysis of the Political Parties Order, 2002' (2020)

<sup>11</sup> PILDAT, 'The Elections Act 2017: An Overview' (2018)

<sup>12</sup> FAFEN, 'Legal Framework of Elections in Pakistan' (2019)

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## PART II

### PRESENT LEGAL FRAMEWORK OF ELECTION LAWS:

#### 1.7 INTRODUCTION:

The constitution and electoral practices of Pakistan were provided by the constitution of 1973. It sets out key guidelines on how to prosecute, support and conduct elections, democracy as well as independence of electoral ushers.<sup>13</sup> This section looks at the constitutional provisions for elections, the Election Commission of Pakistan (ECP) and measures towards giving election's aspects of transparency, free and fair as well as accountability.<sup>14</sup>

#### 1.8 Assurance of Universal Voting Rights

A major principle under the Constitution is the right to vote in any general election or referendum to vote by any adult citizen of Pakistan without discrimination as to sex, color, race, religion or property. This principle is provided under article 51 which emphasizes on universal vote regime. Free access to information is preserved by this right in order to represent people's will and to build a democratic state.<sup>15</sup>

However, for a long time several factors have hampered this provision of universal suffrage. Special emphasis has been placed on voter exclusion which is usually a result of incorrect voters' registries. Low-income groups and those in the rural areas have also been most affected, and many of them are not allowed by the law to vote. Physical obstructions such as distances to polling stations have also made it even difficult for women and minority group to vote. These challenges are in variance with the aim and spirit of article 51 and also make it imperative to call for specific amendments to enhance the participation of larger section of the community in the voting exercise<sup>16</sup>.

#### 1.9 Role and Authority of the Election Commission of Pakistan

The Election Commission of Pakistan ECP is the foundation of Pakistan electoral structure that has been constituted as per the Articles 213 to 226 of the constitution. To serve this purpose, it is mainly responsible for the fair, free and transparent elections of

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<sup>13</sup> *Constitution of Pakistan 1973, Article 218(3)*

<sup>14</sup> *Muhammad Asif Iqbal, 'The Evolution of Electoral Integrity under Pakistan's Constitution' (2022) CSCR <https://cscr.pk/> accessed 15 December 2024*

<sup>15</sup> *Constitution of Pakistan 1973, Article 51(1): Universal suffrage for all adults*

<sup>16</sup> *Free and Fair Election Network (FAFEN), 'Barriers to Universal Suffrage in Rural Areas: A Legal Analysis' (2020) <https://fafen.org/> accessed 15 December 2024*

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the National Assembly, Provincial Assemblies, Local Bodies, and Presidential.<sup>17</sup>

Some of the constitutional provisions outlines the ECP as follows; Article 218(3) requires the ECP to oversee and supervise the elections in a manner that brings about fair and impartial election whose results citizens will have confidence in. For their part, the ECP said, shall largely be included in article 219 that entails its functions as the preparation and revision of the electoral rolls and the handling of all discrepancies with regards to the voter registration. Article 220 obliges all the powers federal and provincial to help the ECP in performing its functions, which ensures the operational independence of the organization. In spite of these provisions, however, the ECP has been experiencing a number of difficulties regarding its mandate.<sup>18</sup> Like various other electoral commissions it has been encountered with tests such as shortage of funds, political influence and bureaucratic barriers that have sometimes hindered its capacity to efficiently administer electoral process. Improving the autonomy and capability of the ECP has consistently been a paramount objective of improving electoral governance in Pakistan.<sup>19</sup>

## 1.10 Election Procedures:

The regulation of holding elections is provided for within Article 224 of the Constitution. The definitive theme of this article focuses on the proper outcomes of an election, and how these Caretaker Governments aids the process.<sup>20</sup>

Caretaker governments need to allow no one side preference and this include providing an equal playing ground for all political parties during the election time. This provision has been made with the intention of avoiding travail by the outgoing government and to ensure the free and fair election. Moreover, Article 224 requires the holding of the elections within a given period to prevent there being extended political crises through which governance is disrupted.<sup>21</sup>

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<sup>17</sup> *Constitution of Pakistan 1973, Article 218(3): Mandate of ECP*

<sup>18</sup> *Election Act 2017, ss 3–6: Establishment and functions of the Election Commission*

<sup>19</sup> Hassan Khan, 'The Autonomy of the Election Commission in Pakistan: Constitutional and Practical Challenges' (2022) *South Asia Journal* <https://southasiajournal.net/> accessed 15 December 2024

<sup>20</sup> *Constitution of Pakistan 1973, Article 224: Electoral timeframes and caretaker governments*

<sup>21</sup> *Election Commission of Pakistan, Guidelines for Polling Procedures and Administration (ECP 2019)*

## 1.11 Candidate Qualifications and Disqualifications

According to Article 62 and 63 of the Constitution, there are qualifications and where, an individual may not be qualified to be an electoral candidate. To ensure that elected representatives meet these standards of ethical and professional conduct these provisions are provided.<sup>22</sup>

According to article 62 that spells out the requirement of the candidates it is very clear that one has to be honest and integral and be able to respect Islamic standards. As the following criteria are an attempt to ensure that only morally sane persons are elected into various positions, their vagueness and subjectivity have elicited much controversy and arbitrary implementation.

Article 63 specifies conditions that bar candidates from a poll, charges and convictions of criminal offenses and cases of economic corruption, dual citizenship among others. These measures are meant to keep individuals of doubtful character or with one form of conflict of interest out of any political office. However, the execution of these sections is in the same way politically motivated and selective and this has raised a lot of eyebrows on the conduct of the electoral process.<sup>23</sup>

## 1.12 Judicial Oversight and Dispute Resolution:

Election tribunals provide the constitutional courts oversight for elections and come under the ECP. These tribunals deal with election matters including cases of misconduct, fraud or violation of election laws.<sup>24</sup>

The election management tribunals are undeniably an important check and balance since they check electoral malpractices. They offer an interface through which candidates and political parties may seek review of an election outcome or report as having been marred by irregularities. Nevertheless, these tribunals have been hindered by inefficient decision making and complaint of bias which in turn reduces the public's confidence in the delivery of electoral justice.<sup>25</sup>

## 1.13 Critical Examination

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<sup>22</sup> *Constitution of Pakistan 1973, Articles 62–63: Criteria for qualification and disqualification*

<sup>23</sup> Moosvi P, 'Interpreting Articles 62 and 63: Ethical Standards for Pakistani Legislators' (2021) *Pakistan Institute of Development Economic*

<sup>24</sup> *The Elections (Amendment) Act, 2021, s 142: Judicial consultation in tribunal appointments*

<sup>25</sup> Muhammad Ibrahim, 'Judicial Oversight in Electoral Disputes: Lessons from Pakistan' (2021) *Pakistani Law Review* 25



Despite the fact that the 1973 Constitution establishes comprehensive legal bases for electoral processes its practical application has encountered numerous difficulties. While the ECP has been prescribed the autonomy by constitution it often lacks the ability to perform its task in an independent way due to political interference. People have argued that by allowing for the selection of certain qualifications under article 62 the elections lack authenticity.<sup>26</sup> Another reason which made some people to question the neutrality of caretaker governments which is meant to facilitate free and fair elections include biased in appointments.

From the above challenges, it becomes clear that it is only realistic for Uganda to transform its constitutional provisions into a transparent, inclusive and credible electoral system for all citizens of this country.<sup>27</sup>

## 1.14 The Election Act of 2017

It would be relevant to note that the Election Act of 2017 has a very profound place in the Pakistan's electoral history. This legislation aimed at amending and updating this country's electoral system and solve some old problems like the falsification of votes, the slowness and opaqueness of the voting process. When seeking to adopt the basic electoral laws in a single act, the government intended to improve and expedite the electoral process and the general credibility of elections in Pakistan.<sup>28</sup>

## 1.15 Simplification of Electoral Laws

More specifically, according to the Election Act, 2017, that was one of the key objectives of the law to harmonize various electoral laws in one code. Before, the electoral governance in Pakistan was regulated by several legislations among which the Representation of the People Act, 1976 and the Political Parties Order, 2002.<sup>29</sup> Such separate laws often led to the logical contradictions and an obscure wording which contributed to an aggravation of the election legislation. These problems did not exist after the unification by the Election Act that gave stakeholders a legal basis to follow. This consolidation not only facilitated the process but also helped participants, including

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<sup>26</sup> Ayesha Jalal, *Democracy and Authoritarianism in South Asia: A Comparative Study* (Cambridge University Press 1995)

<sup>27</sup> PILDAT, 'Critical Review of the Electoral Framework in Pakistan' (2019)

<sup>28</sup> Election Act 2017, s 107: Consolidation of election laws

<sup>29</sup> Election Act 2017, Preamble

voters, candidates and electoral commissioners among others, get a clearer perception of their roles and responsibilities; hence enhancing the electrical procedures.<sup>30</sup>

## 1.16 Strengthening the Performance of the Election Commission of Pakistan

Section 4 of the Election Act 2017 has particularly granted enhanced autonomy to the Election Commission of Pakistan (ECP). The ECP was empowered to exercise its mandate more effectively in the capacity of monitoring, investigating complaints of malpractice and punishing those who violated the electoral laws. These reforms were meant to fix valid concerns regarding the ECP's abilities to function autonomously in a manner that it has not been able to in the numerous political situations.

Moreover, the Act provided for other measures in regard to the accountability and transparency of or relating to political parties. Drawing from the 2002 amendments to the PJO Estates, the ECP was responsible for supervising party funds, scrutinizing the campaign expenses and receiving and reviewing the annual accounts. Also, the Act directly and indirectly supported the political parties and electoral process by insisting that political parties hold frequent internal elections, subsequently ensuring internal democracy within the Pakistan's hierarchal, dynastic parties.<sup>31</sup>

## 1.17 Technological Reforms: EVMs and Biometric Systems

The Election Act, 2017 was more innovative in the following ways: Electronic Voting Machines (EVMs) and biometric voter verification systems. These technologies were designed to help improve the efficiency, and increase the clarity of the voting process, to decrease the impact of human mistakes, and decrease chances of cheating.

However, the technological reforms in these areas encountered several challenges in its implementation. They recognized that the problems of EVMs have been technical, infrastructural and political and thus EVMs were rolled out with lots of resistance. While biometric systems seemed feasible on paper, their implementation in practice proved problematic, especially in the country: network and Internet connection problems rendered them nearly useless, and illiteracy added to their drawback. However, the introduction of technology helped in the bringing the electoral system and the people of Pakistan in the process more than anything else.<sup>32</sup>

## 1.18 Improving Voters Registers and Inclusiveness

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<sup>30</sup> Election Commission of Pakistan, *Simplified Voting Procedures under the 2017 Act (ECP 2021)*

<sup>31</sup> Hassan Khan, 'Evaluating the Role of the Election Commission in Ensuring Transparency' (2023)

<sup>32</sup> Free and Fair Election Network (FAFEN), 'Challenges in Implementing EVMs: A Case Study of Pakistan' (2020)

The Act put emphasis on the use of database of NADRA in election rolls so as to maintain clean lists of electorate. This envisaged intervention was intended to remove multiple registrations, curb vote racketeering, and ensure that every voter registered for the election. These lists were required to be updated periodically to capture new and eligible voters as well as persons, who died.

Another of the Election Act, 2017's priorities was inclusion. One of which was, the legislation that forced political parties into providing not less than five percent of their candidate tickets to women for the overall enhancement of women participation in politics. Also, new provisions were also provided to ensure that anyone with disability could be able to easily attend the polling stations and therefore any group of persons in the society that is struggling to be liberated from the barriers to the electoral process found some hope in the Act.<sup>33</sup>

## 1.19 Transparency and Accountability in Political Party Financing

New reforms include information on sources of party funding, openness in party accounting, reforms in political party financing which have been championed by the Election Act of 2017. The parties needed to reveal sources of their campaign financing, provide detailed balance sheets covering year expenditure, and operate under various spending limits. These features were intended to fight corruption, minimize uncontrolled financial sources, and uphold the principles of electoral purity.

The candidates if not parties would campaign within the spending limits that the Act put in place and report on their spending too. The ECP was given the authority to scrutinize these reports and punish noncompliance, which was a huge leap toward minimizing most inefficiency in campaign expenditure and profile imbalance among the participants.<sup>34</sup>

## 1.20 Challenges in Implementation

Nonetheless, the current paper will demonstrate that the implementation of the Election Act, 2017, has its challenges. There has been controversy over the feasibility and reliability of incorporating EVMs and the biometric systems in the poll to deliver to the ECP because of the problems associated with its poor technical base. These technologies have not been adopted due to political parties' opposition, with message boards and consensus-building and capacity development remaining an important consideration.<sup>35</sup>

<sup>33</sup> Muhammad Ibrahim, *'Inclusiveness in Electoral Laws: Addressing Disparities in Voter Registration'* (2021)

<sup>34</sup> Election Commission of Pakistan, *Annual Report on Campaign Finance Oversight* (2023)

<sup>35</sup> Moosvi P, *'Barriers to Implementation of Electoral Reforms in Pakistan'* (2021)

Likewise, efforts to increase diversity – the part regarding gender quotas and access to people with certain disabilities – has faced both cultural and practical challenges. Due to cultural opposition in the conservative areas, the gender quotas have been ironically hampered through denying women a chance to participate in politics, not mentioning the failure of monitoring in making needed reforms on physical accessibility.<sup>36</sup>

## 1.21 Influence and Future Outlook

Even though, the complex and profound nature of the problems that misled the elections in Pakistan, the Election Act, 2017 is a major step towards effective change. The Electoral Act has proclaimed free, fair and transparent elections by simplifying the consolidating laws, strengthening ECP and adopting new technological and procedural reforms.

However, the effectiveness of these reforms is a function of the factors that hinder their implementation.<sup>37</sup> To augment sustainable use of species, receptor, infrastructure, and capacity development, as well as public awareness about the Act are critical. In addition, long-term political support for and attempts to increase the population's confidence in the electoral processes will be vital to the stabilization of Pakistan's democratic institutions and the guarantee of that the elections really are fair.<sup>38</sup>

## 1.22 Additional Election Regulations

Although the Election Act, 2017 is the basic law of any election system of Pakistan but there are several other laws and regulations that also have much contribution in the electoral system of the country. These include the Representation of the People Act of 1976, the Political Parties Order of 2002 and the several provincial Local Government Ordinances. These laws have played their role of supporting electoral governance by dealing with several particulars of elections, governance and accountability.<sup>39</sup>

## 1.23 Provincial Local Government Ordinances

In Pakistan, local government elections are regulated by provincial Local Government Ordinances which more or less depict that election governance in the country is devolved. These ordinances provide the legal regime for the election of municipal and rural councils, governing of local institutions and democratic decentralization.

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<sup>36</sup> FAFEN, 'Observations on Challenges in Electoral Law Enforcement' (2020)

<sup>37</sup> Election Commission of Pakistan, *Future Directions for Electoral Governance (ECP 2023)*

<sup>38</sup> Hassan Khan, 'Shaping Pakistan's Electoral Future: A Legislative Perspective' (2022)

<sup>39</sup> *The Elections (Amendment) Act, 2021, Preamble*

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The ordinances are intended enabling. Local governments by decentralizing administrative and financial autonomy from provincial to local bodies. There is also a desecration intended to enhance governance at the local community level that is perceived to be both efficient and relevant.<sup>40</sup>

However, a number of challenges affect these provinces – Based on the foregoing, it is clear that the implementation of these ordinances has not received equal attention in all provinces. Political interference, stale political calendars that do not allow for the holding of Local government elections on a regular basis, ambiguous decentralization or unclear roles and responsibilities between local and provincial governments also militate against efficient grassroots governance. However the Election Act of 2017 exist with some regulative measures concerning the local elections, it still does not conform completely with the provincial ordinances further emphasizing the need to enhance electoral governance harmony.<sup>41</sup>

## 1.24 Election Tribunals

Election tribunals operating under the Representation of the People Act, 1976 retained and under the Election Act of 2017 are significant in the determination of election disputes. These tribunals function under the administrative umbrella of the ECP and deal with matters concerning electoral malpractice, rigging and accused candidate's qualification.

Election tribunals are vital institutions, which aim to bring justice and at the same time protect the process of elections. They guarantee this by making electoral officials and candidates suffer the law's consequences for their action. Nonetheless these tribunals have not been effective due to; delay in determining cases and allegations of bias which hampers credibility in providing justice.<sup>42</sup>

## 1.25 ADDITIONAL ELECTION REGULATIONS

By examining the relationship between these laws by show casing the development of the electoral structure of Pakistan. The Representation of the People Act, 1976 and the Political Parties Order, 2002 framed the electoral regulations and provincial local government ordinances underlined the need of the democracies at grassroots. These

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<sup>40</sup> Hassan Khan, 'Decentralization in Pakistan: Examining the Impact of Provincial Local Government Ordinances' (2021) *South Asia Journal* <https://southasiajournal.net/> accessed 16 December 2024

<sup>41</sup> *Constitution of Pakistan 1973, Article 140A: Devolution of powers to local governments*

<sup>42</sup> FAFEN, 'Electoral Dispute Resolution in Pakistan: Strengthening the Role of Election Tribunals' (2020)

efforts were then harmonized by the Election Act of 2017 that pulled together provisions on electoral governance into one package that apply across the board.

Combined with these laws, legal issues have been simplified, and electoral system reinforced. Nonetheless, difficulties arise when it comes to the practical application of this policy primarily at the local level; therefore, more extensive reform of this process is required with due regard for the corresponding standards all over the country.<sup>43</sup>

## PART III

### CRITICAL ANALYSIS OF THE ELECTION PROCESS

#### 1.26 INTRODUCTION:

The Election Act of 2017 imposed a new reform to the Pakistan electoral system with an aim to increase an efficiency of the electoral process and to address some of key issues that remained and were unresolved; such as voter fraud, lack of transparency and exclusion. While the Act as a whole suggests a comprehensive program of reform, translating the reform away from paper into practice has proven to be fraught with a number of problems, thus revealing the problem of translating the legislation-pointer to the operation of actual electoral systems.<sup>44</sup>

#### 1.27 Combining NADRA Data with Voter Registration

Perhaps one of the most exciting measures brought about by the Election Act of 2017 was the linkage of voter registration to the NADRA database. The goal was to enhance the integrity of the voter register, purge the rolls of more than one registration for the same registrant, and clean the register of any person not legally qualified to vote. The ECP introduced a computerized voters list during the 2018 general elections whereby it utilized NADRA's database to compile a larger and more efficient voter lists than had been witnessed in previous years.<sup>45</sup>

Nevertheless, experience has shown that this reform did not take place without difficulties encountered in the process. In the rural area, most of the voter could not find their names on the new register that were recently compiled. This problem was mainly

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<sup>43</sup> PILDAT, 'Consolidation of Electoral Laws in the Election Act 2017' (2018) <https://pildat.org/> accessed 17 December 2024

<sup>44</sup> Muhammad Ibrahim, 'Understanding Electoral Reform Implementation in Pakistan' (2022) *Pakistani Law Review* 34

<sup>45</sup> Free and Fair Election Network (FAFEN), 'Strengthening Voter Registration Through NADRA: Achievements and Barriers' (2020) <https://fafen.org/> accessed 17 December 2024



attributable to absence of communication on the updates made, inadequate voter sensitization, and illiteracy in some areas. In addition, incompleteness in the final list of voter contributed to confusion and reduced voter's turnout, especially in Khyber Pakhtunkhwa and Baluchistan provinces. The ECP's ability to monitor these lists, as well as update them in near real time was a problem due to lack of resources; insufficient infrastructure; and problems of logistics especially in the rural areas.<sup>46</sup>

## 1.28 Tech Reforms: EVMs and Biometric Systems

The Election Act of 2017, also intended on legislation on utilization of Electronic Voting Machines (EVMs) and biometric voter verification systems in the electoral process. All these technologies were that they would minimize human influence in vote counting, decrease fraud incidences, and speed up the voting process. In the 2018 general elections, for the very first time, a limited pilot test of EVMs was run in some of the polling stations of few constituencies, mostly in Karachi and Islamabad cities. But this slowed down implementation exposed some technical hitches such as jamming of machines, inadequate preparation of poll overseers, and problems with calibration of machines.

Problems were also observed in the use of biometric systems to verify voters for example through fingerprints. Before the pandemic, biometric verification posed several problems, most especially in areas with limited resources when most polling stations could not afford facilities such as electricity and reliable internet connection. Further, while a good number of voters especially in the rural regions, failed to produce their identification documents or were unaware of the smart cards resulting to a delay of many hours or confusion amongst the voters at the polling stations. These issues lead to hummer and less than ideal circumstances for some voters within some of these areas.<sup>47</sup>

## 1.29 Inclusion of Underrepresented Communities

The Election Act of 2017 paid a lot of detail to the inclusion of women as all the political parties had to ensure that at least 5% of their tickets were reserved for women. It was aimed at enhancing women's quota in National Assembly as well as in the Provincial Assemblies. This provision also caused over 20% of the rise in the number of women candidates; however, cultural restraints particularly in rural areas such as Sindh and Khyber Pakhtunkhwa also restrained full potential of this quota. It was not unheard of for women in these regions to be barred by social and family expectations from aspiring to

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<sup>46</sup> P Moosvi, 'Analyzing the Role of NADRA in Electoral Reforms' (2021) Pakistan Institute of Development Economics

<sup>47</sup> Free and Fair Election Network (FAFEN), 'Challenges in Implementing Biometric Voter Verification in Pakistan' (2020) <https://fafen.org/> accessed 15 December 2024

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be on the ballot or voting at all.<sup>48</sup>

Furthermore, the Act specified that polling stations should be made disabilities friendly. Whereas some of the urban cities included in the study, including Karachi and Lahore, showed marked improvements in policy accessibility, rural areas remain the least progressive. In these regions the polling stations were not physically accessible to voters with visual or even physical impaired mobility as there were no ramps, accessible transport or even making facilities for such voters. Inadequate structures in these areas the disabled voters more reduced chances of full participation in the electoral process.<sup>49</sup>

### 1.30 Political Party Financing Transparency

The Election Act of 2017 also brought changes to provisions to develop rules and regulation related to political party's financial transparency. Specifically related to the Act, the political parties were expected to declare their sources of their funds, file reports of their income and expenditure, and abide by certain laid down rules on how and what amount they spend on campaigns. These impediments were aimed at containing corruption, regulation of funding and equal democratization of the political system. The enforcement of these financial disclosure rules has been weak. Despite the fact that political parties are bound under the PCO to file their financial statements with the Election Commission of Pakistan (ECP), many parties furnished incomplete or rather wanting information or provided the information in unclear terms. The ECP, which has the right to audit these reports, was experiencing serious problems because the organization lacked the necessary financing and had too few employees. Furthermore, political parties remained to use complicated and less transparent sources of funding; which was against the spirit of the reforms.<sup>50</sup>

### 1.31 Obstacles in Execution

Though electoral changes for the administration were introduced by the Election Act of 2017, the implementation process has proven challenging. Especially, the EVMs as well as biometric systems implementation experienced technical and logistical problems and resistance from the political parties, and skepticism from the consumers. Another great shortcoming has been the general technical capacity of the ECP and lack of sufficient training of the election officials in the implementation of such reforms.

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<sup>48</sup> FAFEN, 'Barriers to Electoral Participation for Marginalized Groups: Women and Minorities' (2022) <https://fafen.org/> accessed 17 December 2024

<sup>49</sup> Hassan Khan, 'Analyzing the Impact of Electoral Quotas for Women in Pakistan' (2022) *South Asia Journal* <https://southasiajournal.net/> accessed 17 December 2024

<sup>50</sup> PILDAT, 'Political Party Financing: A Comparative Analysis of Pakistan's Electoral Framework' (2018) <https://pildat.org/> accessed 17 December 2024

<http://amresearchreview.com/index.php/Journal/about>

The measures as enacted by the government for the inclusion of special needs has faced cultural and practical challenges like gender quota and polling stations for the disabled. In traditions societies, the opposition of women's political participation has hindered the complete effectiveness of the gender quotas while in rural areas the absence of accessible polling stations has perpetually locked out the disable voters.<sup>51</sup>

Nevertheless, the Election Act of 2017 is still the key to advance the process of the Pakistan electoral system's democratization. The Act has set up a good platform for change, but success in overhaul is going to be determined by challenges in implementation. It will be important to ensure that politics supports the ECP in respect of necessary resources and infrastructures for the desired implementation of the mentioned reforms and Pakistan's democratic system advancements.<sup>52</sup>

### 1.32 Major Issues and Political Influence

After the passage of the Election Act of 2017, Pakistan future electoral ecosystem aims for eradicating electoral frauds, voter suppression and political influence in electoral process. However, what remains as a difficulty is that the number of legal reforms implemented have substance yet their concrete realization remains an issue due the following major complications, many of which originate from political interferences and institutional flaws.<sup>53</sup>

### 1.33 Political Interference: Eroding the Integrity of Elections

The long political influence is among the most daunting issues affecting the electoral system in Pakistan since it weakens the credibility of the election. Again, despite the Election Act of 2017, the political Parties have influence on the Election Commission of Pakistan (ECP) which is independent in theory as well as on practice. This interference has sparked controversy over the impartiality of the ECP mainly in regard to the election connected appointments.

Some critical issues of appointment have raised eyebrows; For instance, the appointment process of ECP officials. Further, political parties including the incumbent have been found most times to influence persons to be appointed into the ECP hence the notions of partisanship and conflict of interest. The failure to obtain clear and credible mechanism of electing ECP members has weakened the Commission in conducting an impartial

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<sup>51</sup> FAFEN, 'Observations on Challenges in Electoral Law Enforcement' (2020) <https://fafen.org/> accessed 17 December 2024

<sup>52</sup> *The Elections (Amendment) Act, 2021, Preamble.*

<sup>53</sup> Hassan Khan, 'The Role of Political Parties in Undermining Electoral Integrity in Pakistan' (2022) *South Asia Journal* <https://southasiajournal.net/> accessed 17 December 2024

election in the country. During the 2018 general elections, some of the opposition parties complained to the ECP fearing that some of its officials have political inclinations that can tilt the election in their favor.<sup>54</sup>

Besides the appointment related matters, political parties used to exert pressure to the ECP particularly during the election years. For instance, in the previous election exercise in 2018, the opposition parties alleged that the military was involved in the process especially the areas deemed to belong to the ruling party strongholds. Concerns were also raised about the degrees of fairness of the elections due to reported inference of military in the procedure with a vision to favor it to deliver the preferred results.

Electoral violence and intimidation are the other types of intensity of political interference that persist to challenge the democratic electoral process in Pakistan. There has been violence in the regions like Baluchistan and Khyber Pakhtunkhwa because the local political parties led by the figures supported by militants networks or tribes strive and try to prevent the opposition parties to come into power. This violence directly affects the voting processes and election fairness in regard to voter turnout. In these contexts, political intrusion combined with violence elements critically erodes the democratic and fair vote exercising of the voting right.<sup>55</sup>

#### 1.34 Electoral Fraud and the Weaknesses within Institutions

The Election Act of 2017 has been formulated with specific aim to solve the problem of electoral fraud, which remains acute in the country. There are indications that even with the Electoral commission and the introduction of Electronic Voting Machines (EVMs) and biometric voter's verification system. There is still issue of fraud afoot. Since EVM technology has not been effectively introduced across many constituencies but has replaced old voting systems in few constituencies, together with technical problems such as faulty machines and inadequate training of election officials, these changes have not an adequate effect on curbing fraud.

The Election Commission of Pakistan (ECP) has also bad challenges of course when it comes to this aspect of the electoral process. In section below, you will learn about six major challenges that have hindered the capacity of the ECP to monitor elections efficiently: These include; inadequate resources, political interferences, and bureaucratic malfunction. Also, the weak capacity of the Commission to ensure compliance with financial accountability, especially among political parties, on campaign funding and expenditure has also aggravated electoral corruption. Since the Election Act requires political parties to declare their sources of funding, the ECP faces challenges auditing the

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<sup>54</sup> Ayesha Jalal, *The Struggle for Pakistan: A Muslim Homeland and Global Politics* (Harvard UP 2014)

<sup>55</sup> *Constitution of Pakistan 1973, Article 218(3)*

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same.<sup>56</sup>

Furthermore, the ECP has not been able to maintain up-to-date and credible voters' register. Yet, in practice, problems inherited from the previous experience with NADRA have persisted, many eligible voters, especially in the countryside, have been left out of the updated lists due to insufficient outreach and the lack of effective information dissemination. Such problems coupled with election delays, inadequate updates of the voters' list and inconsistency of the final register has led to voter exclusion and little public confidence in the voting system.<sup>57</sup>

### 1.35 Voter Suppression and the Marginalization of Important Groups

Another problem which has been a part of Pakistan's electoral process even today is Voter suppression especially of the minority. However, the provisions on gender quotas and the accessibility of people with disabilities have not been effectively worked out to this day, including the lower tier: rural areas. Women continue to be denied a vote or a chance to stand for political office, especially in the more traditional areas whereby women are kept locked in by tribal or family norms of leadership.

Out of all the strategies formulated to enhance the representation of women in politics, the gender quota achieved little percentage of the goal by asking that, at least, five percent of the candidate tickets be given to women. Some political parties have complied with the quota but the choice of women was done superficially. Often women are nominated where the election is predetermined, in this way their involvement is seen as symbolic rather than genuine.

Individuals with disabilities also experience structural exclusion of the elections. However, most rural areas do not meet basic characteristics of accessibility where provision of ramps, accessible transport and specialized voting equipment are mandatory by law. Consequently, people with disability cannot vote and hence are excluded more from the voting system that forms a backbone of democracy.<sup>58</sup>

### 1.36 The Role of Civil Society and Independent Observers

Independent election observers and civil society organizations have much significant responsibility in the context of enhanced electoral integrity in Pakistan. That having been

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<sup>56</sup> Election Commission of Pakistan, *Electoral Performance Report: Addressing Electoral Fraud (ECP 2023)*

<sup>57</sup> P Moosvi, 'Institutional Barriers to Electoral Reform in Pakistan' (2021) Pakistan Institute of Development Economics

<sup>58</sup> Hassan Khan, 'Analyzing Cultural and Institutional Barriers to Women's Electoral Participation' (2021) South Asia Journal <https://southasiajournal.net/> accessed 17 December 2024

said, the use of PSMs remains constrained by the political environment and institutional vulnerabilities. Unfortunately, due to various limitations, CSOs may not effectively observe election, especially in the areas where politics dominates. They must be involved in the process in order to suffice electoral integrity without interference from different powerful entities; however, they face challenges in form of inadequate resources, bound by the law and political challenges.

Election supervision by independent and domestic and foreign monitoring has been a significant factor in Pakistan's past to preserve the sanctity of elections. However, due to the lack of resources and difficulties in observing voters registration process, vote count process as well and other aspects within the electoral process, their observation is insufficient and inadequate. They try to work with full transparency on behalf of the election authority and most of the time their efforts are diluted with political interference and institutional flaws which affect its credibility.<sup>59</sup>

## 1.37 Conclusion: Addressing the Challenges

Logically, the Election Act of 2017 was a positive point in the improvement of Pakistan's electoral system, but whether it will be effective will depend on the solution to such problems as political influence, voting fraud, the suppression of voters and institutional inefficiency. However, to realise the aims and objectives of the given Election Act reforms, Pakistan has to address these structural barriers squarely. Increasing the independence of ECP, enhancing the electoral facilities, guaranteeing efficiency of the measures for realization of the inclusiveness, and increasing transparency of the political parties' financing are the significant measures for consolidating the vision of the more democratic and a fair election system in Pakistan.<sup>60</sup>

## PART IV

### SUGGESTIONS

#### 1.38 INTRODUCTION:

While the Election Act of 2017 brought important change to the process of implementing electoral reform, there are still some serious challenges to be solved. As sure as these changes has the potentials to mature to the best of the country's electoral system, there are certain factors that must be addressed in order to strengthen the system further in Pakistan. These share packing the rights of the Election Commission of Pakistan (ECP), integrating technology for election proceedings, combating voter intimidation, and increasing election supervision and transparency. The following section explains the

<sup>59</sup> 'The Role of Civil Society in Strengthening Electoral Transparency' (2022)

<https://fafen.org/> accessed 15 December 2024

<sup>60</sup> PILDAT, 'Future Directions for Electoral Integrity in Pakistan: Key Lessons from the 2017 Act' (2022) <https://pildat.org/> accessed 17 December 2024

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proposed electoral reforms and enhancements to meet these challenges to make the Pakistan elections democratic.<sup>61</sup>

## **AMENDMENTS:**

The core reforms of the past few years such as the Elections (Amendment) Act, 2021, and the Constitution (Twenty-Sixth Amendment) Act, 2024 have brought new procedural and new institutional changes to enhance the electoral system of Pakistan. By experiencing a change in the law of 2021, the appointment of tribunals has required consultation with judicial authorities; there is diminished bias in the electoral commission disputes resolution. On the same analogy, the Twenty-Sixth Amendment while incorporating the election management under Article 81 provide an exclusive financial provision for the ECP and thus a better resource mobilization and outcomes.

Even though some of these amendments can be seen as positive the results of these changes can be optimized with further amendments. For example, it may be suggested that judicial consultations in the appointment of the tribunals could also be extended to the matters of evaluation of its performance, and increased supervisory role. Also, the financial independence of the ECP provided under the Twenty-Sixth Amendment could be combined with the need for reporting on the use of funds provided with the intention of increasing transparency within the institution and, therefore, public confidence in the institution.

### **1.39 Enhancing the Autonomy of the Election Commission of Pakistan**

Another immediate objective of Election Act for the year 2017 was to establish independence of the Election Commission of Pakistan (ECP). Nevertheless, political influence remains a significant threat to ECP's independence of operations. One massive reform that could be done in this line would be to reform the way ECP officials appointments are made to make the officials more independent.

For now, the ruling government largely determines most of the appointments to the ECP's top leadership, raising questions about partiality and official self-interest. Towards this end, an APC of different political parties should be formed for selection and appointment of CEC and other members of ECP. This committee should be in a position to establish that appointments are being made neutrally and based on merit and was composed of people from all political parties. In addition, there is scope for openness, where public hearings and consultations should take place, so that all the interested parties stay confident.<sup>62</sup>

The second critical area with regard to establishing ECP's autonomy is financial and material independence. Currently, the federal government funds the ECP and this was

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<sup>61</sup> *Election Act 2017, s 107: Comprehensive reforms for the electoral process*

<sup>62</sup> *Muhammad Ibrahim, 'Strengthening ECP's Independence: Constitutional and Institutional Reform' (2022) Pakistani Law Review 45*

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considered a point of worrying given the fact that political influence is potential here. Since it is to be fully independent and autonomous, the ECP should enjoy the right of direct appearing before the parliament with its budget proposal without having it sanctioned by the government. Such funding status would ensure that the ECP had a source of funding for election related activities without the influence of the political vultures making it more effective and credible.<sup>63</sup>

#### 1.40 Expanding the Role of Technology in Elections

To bring change and technically enhance electoral system new provisions like Electronic Voting Machines (EVMs) and biometric voter verification system were introduced by the Election Act of 2017. However, these technologies have experienced a number of barriers to implementation, and thus have not been fully exploited. For these reforms to be effective it is essential to increase the usage of EVMs and biometric systems in states and particularly in rural areas.

The current use of EVMs has only been made in few urban assembly constituencies which has hindered the generality of the nation. The ECP should consider a case by case implementation approach that initially should be implemented at a selection of urban centers which boast superior technological foundation. After the proprietary systems have been fine-tuned, then they should be extended to the peripheral rural regions with proper capacity building of election managers and appropriate sensitization of public to the new types of systems.<sup>64</sup>

The use of biometric voter verification has also proved hard noting that in most of the remote areas there are no facilities like electricity and internet among other necessities. To deal with this, the ECP should start concentrating in bringing in mobile biometric units that will be able to move around these regions to ensure that all the Voters are fully verified. One important step should be taken and this is linking your data base with NADRA to ensure that only voters have the right to vote.<sup>65</sup>

#### 1.41 Tackling Voter Suppression and Promoting Inclusivity

The main problem of which Pakistan has been suffering is voter suppression, especially women, minority, and the disabled. The Election Act of 2017 also included provisions on establishing gender quotas and polling stations that can be accessed for all; nevertheless,

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<sup>63</sup> *Constitution of Pakistan 1973, Article 218(3)*

<sup>64</sup> *Election Act 2017, ss 12–15: Technological reforms introduced by the Election Act 2017*

<sup>65</sup> *Free and Fair Election Network (FAFEN), 'Challenges and Opportunities in Implementing EVMs and Biometric Systems in Pakistan' (2020) <https://fafen.org/> accessed 17 December 2024*

these options are not yet fully applied across the country. In this regard, the ECP has to do a much better job of implementing the gender quotas to ensure that all the political parties produce realistic female candidates for elections, especially in those areas where women hardly stand any chance of clinching the seats.

When in some cultures women have little or no rights to participate in any activity such as voting, the ECP should engage civil society organizations to educate the community about the rights of women to participate in voting and even stand for elections. Social mobilization crusades involving men mainly the community leaders and elders also can contribute to the change of such negative social cultural, the perception as well as create a favorable Political environment for the women in politics.

The Election Act also recommends the provision of polling stations that are friendly to the disabled and as much as this has not been implemented in the rural areas. To help the ECP further (and save time Audit Committees' time), the ECP should perform audits of polling-stations to determine if all Stations, including those in far-flung areas, are accessible by disabled voters. This comprises of ramps for wheelchair bound persons, braille voting papers and means of transport for disabled voters with mobility problems. Awareness should also be created to the voters with disability through public campaigns about their Voting rights and what is available at the Polling Station.<sup>66</sup>

#### 1.42 Enhancing Electoral Oversight and Accountability

The Election Act of 2017 brought some of the changes that sought to enhance the electoral commission's performance and oversight especially on issues to do with financing of political parties. However, these reforms have been criticized for not being effective because ECP neither has the capacity nor the power to ensure strict compliance of political parties to the Policy. To that we need to grant more authority and capacity to ECP to monitor the Political Party's finance and ensure every party is respecting this disclosure laws.

The ECP should have power of performing detailed investigation on the financial records of the political parties and their expenditure during campaigns. The law should also prescribe severe consequences for organizations which did not declare their fund sources or spent more than allowed on the campaign. Since the audits should be independent of the government, the audit function should be conducted by external organizations.<sup>67</sup>

Election tribunals also have the responsibility of addressing certain electoral issues, though the efficiency of performing this function is affected by delays in decision making. For quick resolution of disputes, the ECP should campaign for the creation of

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<sup>66</sup> FAFEN, 'Enhancing Electoral Inclusivity for Marginalized Communities: A Policy Perspective' (2021)

<sup>67</sup> Free and Fair Election Network (FAFEN), 'Recommendations for Strengthening Electoral Oversight in Pakistan' (2021)

election tribunals manned by personnel with adequate legal knowledge of electoral matters in order to work expeditiously on election matters. This would ensure that any election related issues such as disputes and complaints are handled and above all with a lot of transparency than would enhance public credibility of the electoral process.<sup>68</sup>

#### 1.43 Strengthening the Involvement of Civil Society and Independent Observers

Independent observers and CSOs will keep electoral accountability and transparency checked. In order to enhance their authority, the ECP should coordinate with local and international observer's right from the period of exercise of voting rights through the period of tallying of votes or audit.<sup>69</sup>

The ECP should also assist civil society organizations involved in the promotion of voter education especially to low-performing regions. This movement should therefore be centered on rising public understanding on voting rights, the importance of voting and technique of preventing electoral misconduct. In this context, youth, women and other vulnerable groups must again be targeted so that they can be invited to participate in the electoral process.<sup>70</sup>

#### 1.44 RECOMMENDATIONS:

To ensure the full realization of the reforms introduced by the Election Act of 2017, several steps must be taken:

1. Strengthening the Independence of the ECP the ECP should be granted more independence especially in matters relating to appointments of its officials, and controlling its own finance. Politics should not influence the matters of the Commission and the Commission should be allowed to enforce its duties independently.
2. Expansion of Technology: The question is that EVMs and biometric systems must be upgraded and increase in all over Pakistan, especially in rural areas. At hand there is need to apply the technologies incrementally and training of election administrators is essential for the usability of these technologies.
3. Addressing Voter Suppression: Gender quotas should increase their effectiveness and applied actions to support representatives of the minority, especially women and people with disabilities. Organizations should target the public and conduct more awareness creation especially in areas of high traditional bondage that hinders people from participating in politics.
4. Improving Electoral Oversight: The ECP should be empowered and should have

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<sup>68</sup> *Election Commission of Pakistan, Annual Report on Electoral Oversight (ECP 2023)*

<sup>69</sup> *Election Act 2017, ss 218(3), 231: Engaging civil society in election processes*

<sup>70</sup> *'The Role of Independent Election Observers and Civil Society in Strengthening Pakistan's Electoral System' (2020)*

adequate resources] to conduct monitoring on political party finances to enhance transparency. It should be mandatory to have campaign finance audits and must be conducted by an independent entity Moreover; there should be severe consequences for the non-production of financial reports.

5. Ensuring Accurate Voter Registration: Measures have to be employed so that the lists of voters that all eligible people should catch are useful and relevant. The ECP should further maintain cooperation and coordination with NADRA to try for consolidation of the data and attempting to get all the eligible people registered. There is need for increased community sensitization in voter registration updates among rural people hence, outreach programs should be enhanced.

## CONCLUSION

Creating a better electoral system in Pakistan the Election Act of 2017 was the most important step. Responding to years of electoral fraud, political manipulation and voter suppression it established a number of combined measures. EAC goals, as a driver of political integration included the introduction of Electronic Voting Machines (EVMs), biometric voter verification, quota system for women in politics, and increased donor party accountability in financing their activities. However, as the findings of this research have revealed, the reforms to the theoretical structures of education have proved to encounter a number of difficulties. Several factors have frustrated the effectiveness of these reforms in the political process and electoral contests which, in turn, distorts their intended effects on these considerations.

Nevertheless, the Election Act of 2017 has been helpful to formulate future electoral reforms were done perfectly. Mandates including those that seek to strengthen the independence of the Election Commission of Pakistan (ECP) on the other hand as well as those that seek to increase political financing transparency are important in improving the overall electoral integrity of Pakistan. However, to the best of the author's knowledge, these provisions have not been fully implemented or put into practice, and therefore more needs to be done to enhance their efficiency.

## FINAL THOUGHTS

Therefore, although with the Election Act of 2017 there is a framework of reforms, they have not been implemented to the full scope. The problems that Pakistan now faces in the implementation of these reforms show that only sustained efforts should be applied in order to contribute to the resolution of those problems which have haunted the electoral processes of Pakistan for decades. This research suggests that real political interference, technological issues, vote suppression and institutional flaws can effectively be addressed to strengthen the electoral democracy in Pakistan. It is clear that for Pakistan to have fair and free elections it must repent and continuously practice the physical attributes of democracy alongside its written ones.

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