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## *Chapter 7*

### *INVESTIGATION AND ANALYSIS*

The delegation used the post-election period to investigate allegations of irregularities and to ascertain the extent and impact of the alleged misconduct. The delegation pursued this effort along two tracks. The first involved on-site investigations in several constituencies, particularly those where the more serious allegations of fraud had been raised. The second involved preparation of a statistical analysis that compared data from the 1988 and 1990 elections.

#### **A. On-Site Investigation**

An NDI representative remained in Pakistan until November 19 to investigate three major topics: 1) the complaint and petition processes; 2) allegations concerning election-related irregularities; and, 3) the post-election political environment. The investigation relied on information provided by election officials, journalists, government officials, human rights activists, and, most important, representatives of the various political parties.

Some of the party leaders presented allegations of irregularities that the delegation had heard on election day, but had been unable to verify. In those cases, the NDI representative made a concerted effort to meet with individuals who had first-hand knowledge of the incidents.

## *1. Background*

At an early stage in the investigation, the NDI representative contacted representatives of the JI, MQM, IJI, and PDA to solicit their views on the election process. The opinions expressed by these officials differed from party to party. One of the parties and two of the coalitions – the MQM, IJI and PDA – believed, in varying degrees, that irregularities had marred the electoral process and affected the vote totals in certain constituencies. JI representatives, by contrast, indicated that lapses in the electoral process had only a minimal impact on the outcome of the elections.

Despite the fact that the MQM won the vast majority of National Assembly seats for which it contested – usually by large majorities, MQM representatives stated that fraud had hurt their party's overall performance. They did not plan to seek redress for these alleged irregularities with the CEC, however, principally because their candidates had won.

The IJI representatives seemed uninterested in discussing election-related problems. Generally, they believed that in a limited number of constituencies the electoral system failed to prevent fraud, but that the overall results of the election very clearly reflected the will of the people. Several IJI candidates, however, filed complaints with the CEC; these complaints usually centered around isolated incidents of irregularities that were perpetrated by one of the parties or candidates – not by the civil authorities. NA 156, where the CEC ordered a recount of the ballots after hearing allegations concerning a missing ballot box and burnt ballots, is one such case.

The PDA made the most sweeping accusations about the electoral process, incorporating criticism of its opponents, the civil government and the military. As noted earlier, in the pre-election and post-election periods the PDA filed numerous general and specific complaints with the CEC. Because the most serious complaints were presented by the PDA, the NDI post-election investigation focused on those constituencies where the PDA believed that serious abuses had occurred.

## 2. PDA allegations

The PDA allegations can be divided into two categories: irregularities and fraud that affected a limited number of voters, commonly referred to as "retail fraud;" and manipulation of the results, commonly labeled "wholesale fraud." The PDA cited misuse of government funds to influence voters, disenfranchisement of voters and multiple voting as examples of "retail fraud." For some of these incidents, the PDA presented documentation. For many others, it did not. On the basis of the evidence presented, the observer delegation was unable to reach a verdict on the impact of these practices on individual constituency results. In order to determine whether the "retail fraud" was significant enough to have affected the outcome in particular constituencies, a more complete accounting must be done by the political parties.

Other allegations about pre-election irregularities proved equally difficult to assess. The PDA documented cases of multiple registration of voters. They could not, however, provide evidence that these individuals had in fact voted more than once. Further, while the voting registers may not have been up-to-date, part of the problem was that the CEC did not have funds or the necessary personnel to order a review of the lists between 1988 and 1990.

In NA 95, for example, the PDA candidate obtained registration lists that showed hundreds of voters as having the same address, as well as hundreds of voters registered in more than one polling station. The candidate could not prove that these people actually voted more than once or, if they had, that it would have changed the outcome in a race where the winning IJI candidate won by more than 20,000 votes. Nonetheless, the existence of registration lists with such significant problems raises the possibility that multiple voting in some constituencies, or other forms of "retail fraud," could have affected the electoral process.

Eyewitness accounts and reports from returning officers recounted pre-election and election day incidents of drive-by shootings, kidnappings, and murders. The highest concentration of problems occurred in Sind, although the other three provinces also reported serious incidents. A letter from the assistant returning

officer for provincial assembly constituency 85, in Punjab, for example, reported:

unprecedented rigging was done, voters harassed at gun points [*sic*], polling staff threatened and forced to sign ballot papers. At about half of the polling stations indiscriminate [*sic*] firing was done. Polling interrupted and stopped several times. There was no secrecy of the ballot. Security measures were very loose. It appears that every thing [*sic*] was pre-planned and with the active and positive connivance of administration, police and other agencies.

This assistant returning officer did not request repolling and the CEC did not order it. These incidents clearly represented a breakdown in civil authority and almost certainly kept some people away from the polls.

### *3. Manipulation of polling site results*

With respect to wholesale fraud, the PDA claimed that results had been manipulated in approximately 50 constituencies. This was accomplished, according to the PDA, principally by arresting and detaining party agents assigned to specific polling sites, and then stuffing the ballot boxes or switching the tally sheets. Both of these actions, the PDA claimed, produced a larger than average turnout and a large margin for the IJI.

Most accounts of large-scale arrests came from Sind – particularly from the constituencies around Nawabshah, Sanghar, Naushero Feroze and Jacobabad. In NA 158, 160, 180 and 181, all of which the PDA lost in 1990, hundreds of polling agents recounted how the police had improperly arrested or detained them prior to the election or on election day (the PPP had won three of these seats in 1988). Many of these individuals had First Information Reports (FIR's) issued by the police upon arrest, or bail statements to substantiate their allegations. (See the team reports from Nawabshah and Sukkur in Chapter 5.) These arrests and detentions would have prevented the polling agents from fulfilling their election day responsibilities. In the Punjab, the arrests and detentions were more selective, but may

also have had a damaging effect on the ability of the PDA to organize their supporters and observe the election process.

In a number of constituencies in Punjab and Sind, the PDA presented evidence of improperly completed tally sheets. Some of these tally sheets had been completed on unofficial forms, thus invalidating their value in the event of a complaint hearing or petition trial. Other tally sheets recorded only the results for one candidate. The PDA obtained a few examples of blank tally sheets that already included the presiding officer's signature. All of these incidents would have prevented the tally sheets from serving their intended role of deterring post-balloting fraud.

Polling site results in several constituencies could be consistent with the PDA scenario of wholesale fraud in these areas. For example, in NA 157 the IJI won all 20 polling stations where turnout was greater than 90 percent. More significant, in all but one of these 20 polling stations the IJI received more than 91 percent of the vote. There were 34 polling stations in NA 157 with greater than 60 percent turnout and the IJI won 31 out of 34. In NA 158, turnout at seven polling stations exceeded 90 percent. The IJI won each of these polling stations with more than 90 percent of the vote.

In NA 157 and 158, the PDA was able to substantiate many of their allegations regarding arrests and detentions. Even in these constituencies, however, the PDA did not present evidence establishing a direct correlation between the results in a given polling site and the absence of a polling agent. The CEC's unwillingness to direct returning officers to open ballot bags and analyze ballots, tally sheets, and counterfoils compounded the difficulty in evaluating the credibility of the results from polling stations in these constituencies. While it could be expected that certain polling sites would be dominated by one coalition or the other, the overall tenor of the figures from some of the polling stations – incredibly high turnout coupled with huge IJI margins – suggests that "vote addition," either through ballot stuffing or misreporting of the results, may have occurred.

The burden is on the PDA to determine whether patterns similar to those identified above exist in other constituencies. Specifi-

cally, the results from those polling sites where PDA polling agents were not present during the count should be reviewed. In this regard, it should be noted that the PDA did not generate a credible parallel vote tabulation. Such independent vote counting systems are customarily organized in countries where certain parties or non-partisan groups are skeptical about the electoral process (i.e., Nicaragua, Panama, Chile, Bulgaria and the Philippines).

It also appears that, based on interviews with party agents, the agents did not have a full understanding of their responsibilities. Thus, party agents did not take full advantage of the vote challenge procedures; they did not provide candidates with the tally sheets for some polling stations even where no problems were reported; and they did not understand the importance of promptly reporting violence, arrests or intimidation to their party headquarters.

#### *4. Evaluation of specific constituencies*

In some of the constituencies where an on-site post-election investigation was conducted, serious incidents of misconduct were corroborated, raising questions regarding the election process in these constituencies. The PDA believed that the problems in these constituencies were indicative of the irregularities that occurred throughout the country. However, allegations of fraud, and the documentation to support such allegations, in constituencies other than the ones discussed in this sub-section were qualitatively less well developed. This does not preclude the possibility that serious problems occurred in other constituencies; rather it suggests that if problems did occur, they were either more isolated or the PDA was simply not able to document them properly.

NA 181 in Sanghar provides an example of the way in which violence and arrests of party workers adversely affected the election process. Dozens of party workers were arrested or detained prior to and during election day. These arrests clearly undermined the PDA's organizational efforts and prevented the party agents from fulfilling their election day responsibilities. In addition, the police issued a warrant for the arrest of Shahnawaz Khan Junejo, the PDA candidate, several days before the election. This forced Junejo into

hiding at a critical stage in the campaign; he later surrendered to the police and was incarcerated in Sanghar jail. While it is not possible to assess the legal basis for Junejo's arrest, the timing of the arrest, the nature of the charges made against him, and the fact that both his sons were arrested on separate charges suggest that his arrest may have been politically motivated.

This pattern of arrests was also evident in three other constituencies that the delegation examined: NA 158, 160 and 180. As described above, the level of arrests and detentions in these constituencies prevented the PDA from conducting a full and thorough campaign and from observing the election process and documenting election-day irregularities.

Irregularities in Punjab reflect a different kind of problem in the election process. In NA 81, for example, the PDA candidate did not report widespread arrests or detentions. He did present, however, evidence of an election process that had broken down. He had in his possession duly stamped and signed ballots that had been found abandoned outside the polling station; he presented a letter to women's presiding officers that could have been construed as applying pressure on the officers to support the IJI; he had in his possession improperly completed tally sheets; and, he had an FIR documenting the arrest of his chief election agent. The charges against this election agent were dismissed the day after the election. All of these factors raise questions about the election process in a constituency where the winning candidate won by less than 4 percent of the vote.

The PDA candidate for NA 94, Salman Taseer, alleged similar problems. He presented copies of blank tally sheets that already had the signature of the presiding officer; he also had newspaper advertisements of tender notices for development projects in his constituency that had been ordered less than 10 days prior to the election. Eyewitness accounts in this constituency reported confusion at women's polling stations after busloads of IJI supporters arrived to vote. These eyewitness accounts do not confirm the existence of irregularities, but when combined with other problems – including the fact that the PDA candidate was barred from the returning officer's office during the count – they once again raise questions about the

election process in a constituency where the victor won by a very small margin. The limited recount of ballots performed by the returning officer for this constituency did not completely answer these questions.

There are of course limitations inherent in this type of qualitative post-election investigation. Nonetheless, the problems uncovered in the six constituencies described above were of a magnitude significant enough to warrant singling them out as problem constituencies. This does not necessarily mean, however, that the outcome would have been different had the misconduct not occurred, nor does it mean that the election process in the particular constituency was devoid of legitimacy. Such conclusions would be warranted only after a complete review of the election-day developments in these constituencies. Notwithstanding the inevitable delays, this review can best be accomplished through the election petition process.

## **B. Statistical Analysis**

In undertaking this mission, the delegation was aware that one or more of the parties might question the results in different constituencies. The delegation also was uncertain whether any of the parties would initiate an effective independent, parallel vote tabulation, which could have provided a basis for comparing the official results released by the CEC. In these circumstances, the statistical analysis coordinated by delegation member Lee Feldman proved critical in assessing the allegations of wholesale fraud presented by the PDA. Feldman performed a similar analysis in 1988 to examine PPP allegations of voter disenfranchisement.

The analysis was designed with the following goals in mind:

- to broaden the scope of the delegation's coverage beyond the constituencies and polling stations personally observed;
- to help explain the results in constituencies observed by the delegation;
- to develop an overall perspective on the behavior of the electorate in this election as compared to previous elections; and



- to analyze the vote casting and counting processes for systemic strengths and weaknesses.

Appendix XXII outlines the methodology used by Feldman in performing the statistical analysis. It also presents his comments on the electoral process and on the limitations inherent in a statistical analysis of the type he performed.

The analysis relied on data released by the CEC. The data permitted a constituency by constituency comparison of the 1988 and 1990 elections with respect to: voter registration, voter turnout, and vote totals received by each of the contesting parties. (See Appendix XXIII.)

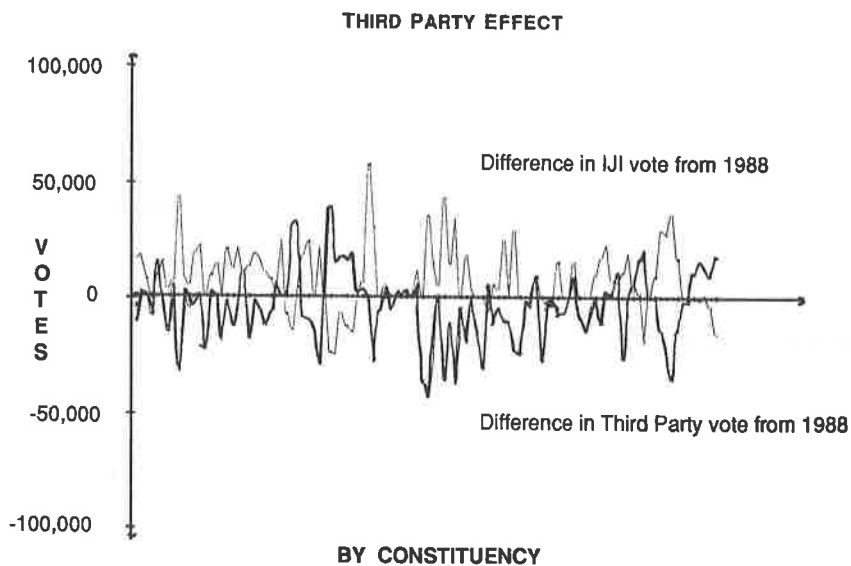
By evaluating this data, patterns of voter behavior, statistical anomalies and internal inconsistencies emerge that suggest, but do not prove, the existence of irregularities in certain constituencies. At the same time, it is also possible, and in some instances likely, that shifts in voter preferences as a result of effective political activity may explain what have been identified as problem constituencies.

The most significant pattern that emerged from analysis of the data attributes the IJI's overall success to its ability to forge coalitions or electoral alliances that prevented third-party candidates from effectively competing against the IJI candidates. Table 1 illustrates that in most constituencies won by the IJI in 1990 the increase in IJI votes mirrors a corresponding decrease of third-party votes.

There were, however, a number of constituencies where the increase in IJI votes cannot be explained by a corresponding loss in third-party votes. In these constituencies and others, a pattern of PDA vote erosion raises questions about the quality of the electoral process. Vote erosion is the loss of voter support by one party in 1990 as compared to its performance in 1988. While fluctuation in party support would be expected in any election, significant erosion could also indicate irregularities. (See Appendix XXIII.)

The statistical analysis established parameters of vote erosion that helped determine the magnitude of the possible problems in the

TABLE 1



election process. In some constituencies, the erosion was so significant that it alone raises questions. In other constituencies, the combination of vote erosion and the ability of the winning candidate to garner all or most "available" votes raises questions about the election process. From a statistical perspective, "available" votes are votes that result from increased turnout, decreased PDA support and decreased third-party support.

Approximately 15 percent of the 216 National Assembly constituencies fall into one of these two categories. In all of these questionable constituencies, the PDA lost at least 15 percent of the vote that it received in 1988. In more than 90 percent of these questionable constituencies, the winning candidate received virtually all of the available votes.

The IJI won approximately 70 percent of the constituencies identified by the analysis as questionable. In approximately 6 percent of these constituencies, the PDA won despite the decrease in its vote total from 1988. Finally, third-party candidates, many of whom were in alliance with the IJI, won approximately 24 percent of the questionable constituencies.

This statistical analysis highlights the extent to which the election process may have been flawed. It cannot and does not draw conclusions about either the type of irregularities that may have occurred or the validity of the outcome in any constituency. Even in those constituencies where the analysis raises questions concerning the process, it is not possible to reach an *a priori* conclusion that the runner-up would have been the victor.

### C. Summary

The above-mentioned problems notwithstanding, there is no clear basis presently available for invalidating the overall results of the 1990 Pakistan elections. The delegation's first-hand observations, coupled with the third-party phenomenon, suggest that the results in most constituencies reflected the will of the electorate. The PDA did not present sufficient evidence to prove, nor did the statistical analysis establish, that the results in a majority of the constituencies were affected by fraud.

The two tracks of the delegation's post-election investigation, however, confirmed the *possibility* that serious irregularities may have affected the election process, but not necessarily the results, in approximately 15 percent of the National Assembly constituencies. Moreover, the safeguards designed to prevent fraud proved ineffective in many constituencies.

By listing the problem constituencies found during the post-election investigation and identifying the types of problems encountered in each, the delegation seeks to highlight the need for increased vigilance by electoral authorities, government officials, political parties and the citizenry. The problems areas may also suggest the need for reforms in the election process that would facilitate more rigorous surveillance. Failure to address this matter in the near future will only diminish confidence in the election process.