



STATEMENT OF THE NDI PRE-ELECTION DELEGATION TO PAKISTAN
Islamabad, December 21, 2012

This statement is offered by an international delegation organized by the National Democratic Institute (NDI) that visited Pakistan from December 16 to 21, 2012. The delegation reviewed the political environment and the framework for the upcoming elections for the national and provincial assemblies. At the time of this mission, the election date had yet to be announced. As the delegation learned, many political observers in Pakistan anticipate that the elections would be held between March and May 2013.

The delegation included Rt. Hon. Joe Clark (Canada), former prime minister of Canada; Xenia Dormandy (United States), Senior Fellow at Chatham House and former Director for South Asia at the U.S. National Security Council; Siti Nursanita Nasution (Indonesia), former member of parliament of the House of Representatives of Indonesia; and Peter Manikas (United States), NDI Director of Asia Programs. Sandra Houston, NDI's Country Director for Pakistan, served as an advisor to the delegation. The delegation was assisted by Raissa Tatad-Hazell, NDI Washington DC-based Director for Afghanistan and Pakistan Programs; Jumaina Siddiqui, NDI Washington DC-based Senior Program Officer for Pakistan; Naseem Sehrish, NDI Pakistan Program Officer; and Faisal Sultan, NDI Pakistan Operations consultant.

The multinational delegation met with Pakistan's election authorities and government officials, political party leaders, media representatives, civil society and citizen monitoring groups, and international organizations. The delegation offers its findings and observations based on the Declaration of Principles for International Election Observation and the in the spirit of international cooperation. The delegation recognizes that it is the people of Pakistan who will ultimately determine the legitimacy of the upcoming elections.

The delegation would like to express its appreciation to everyone with whom it met. Without their taking time and sharing their knowledge and insights, the delegation would not have been able to accomplish its mission. NDI has been observing elections in Pakistan since 1988 and conducts ongoing program in the country. It appreciates the cooperation it consistently receives from government, political parties and civil society organizations.

OVERVIEW

The 2013 national elections present a unique opportunity for Pakistan to continue its reform momentum and advance its democratic transition. The elections are poised to be the first since 1977 to see a democratically elected government complete a full term. They also could mark the first time in the nation's history that an elected civilian government transferred power through a democratic process.

There are other positive developments, as well. The adoption of the 18th, 19th and 20th amendments to the Constitution have strengthened the institutional role of parliament,

established a consultative framework for selecting the Chief Election Commissioner and Caretaker Prime Minister and increased the independence and transparency of the Election Commission of Pakistan (ECP). In addition, political parties have been cooperating with one another in a manner rarely seen. They have reached agreement on selecting the Chief Election Commissioner and engaged in consultation with the election commission on the adoption of electoral rules. The major political parties also collaborated on measures to bring the Federally Administered Tribal Areas (FATA) into the mainstream of the nation's political life. A step in that direction was taken when the president signed an executive order extending the political parties act to the tribal areas.

Together, these reforms have brought about at least a cautious optimism among many political actors that progress toward democratic governance will continue. As one political activist told this delegation, that for many Pakistanis, "this is the first time there is hope about an election in Pakistan."

Serious challenges, however, remain and if unaddressed, could derail the reform momentum and impact the integrity of the elections. Political violence has increased and threatens to prevent some political parties from openly campaigning in parts of the country. The low level of women's participation remains a critical issue. As recently as the by-elections held earlier this year, women in many parts of the country have been denied the right to vote, sometimes as a result of collusion between local political leaders and electoral officials, and they remain considerably underrepresented on the national electoral rolls. Furthermore, questions about the impartiality of local ECP staff, potential problems with the voters' list, and lengthy delays in resolving electoral disputes could raise concerns about the fairness of the elections.

A defining characteristic of the upcoming elections is that they will be held while the nation experiences an unprecedented youth bulge. As nearly half of the 85 million voters registered to date are under the age of 35, a significant percentage of the electorate is composed of persons who would be voting for the first time. This youthful cohort presents a challenge to government, political parties and civil society because the continuation of democratic development will depend, in large part, on their inclusion in the political process.

The upcoming elections will determine the direction of the country in the years ahead. It is imperative that the new government has the legitimacy that comes from being elected through a credible election process. The delegation hopes that its recommendations and the efforts of the broader international community will help Pakistan accomplish that goal.

OBSERVATIONS AND FINDINGS

Election Commission of Pakistan

The Election Commission of Pakistan (ECP) is an independent agency of the federal government responsible for overseeing elections to the National Assembly and provincial assemblies. The Commission is composed of four judges – one each from the High Courts of the country's four provinces – and the Chief Election Commissioner who serves as chairman.

The 18th Amendment to the Constitution, passed in 2010, relieved the president of the power to unilaterally dissolve parliament and appoint the members of the ECP. With the aim of increasing public trust in the electoral process, the amendment provides that ECP commissioners be appointed at the recommendation of a parliamentary committee made up of members from the government and the opposition. The 19th Amendment, while focusing mainly on judicial appointments, also amends the Constitution to increase the number of members of the Parliamentary Committee tasked with selecting a new Chief Election Commission from eight members to 12 members. The 20th amendment to the Constitution, passed in February 2012, provides for the establishment of an independent election commission, the appointment of an impartial Chief Election Commissioner and the installation of five-year terms for all commission members. The ECP is legally and financially autonomous from the rest of the government and is bound by law to not act at the direction of either the president or parliament.

Since the last general election, the ECP held a series of consultative sessions with representatives of civil society, media, and political parties that culminated in the development of a five-year 2010-2014 Strategic Plan – the first of its kind – to address pressing electoral reform objectives. The Plan included 15 goals, further subdivided into 129 objectives, each with a timeline for completion. As 2012 marks the mid-point of the strategic plan, some of these goals have been met while others require legislative action and monitoring of implementation by the parliament.

The appointment of Justice Fakruddin Ibrahim as Chief Election Commissioner in July 2012 was the result of a unanimous agreement between the government and opposition. All the parties and civil society groups with which the delegation met expressed a high degree of confidence that the Chief Election Commissioner would act impartially and seek to conduct an electoral process that is fair to all contestants.

The ECP is invested with sweeping powers to mobilize the resources of every branch of government as well as the armed forces for the planning and conduct of the elections. As directed by the Supreme Court of Pakistan in Constitutional Petition No. 87 of 2011 (order dated June 8, 2012), polling stations should not be “at a distance of more than two kilometers from the place of residence of voters”. Currently, the ECP plans to prepare for the operations of 80,000 polling stations and train more than 630,000 election personnel for the 2013 polls.

Federal, provincial and local government employees are seconded to serve as temporary staff during elections. Civic and political groups expressed concern that having temporary staff assigned to work in their home districts could make them vulnerable to political forces in their respective areas. To address this concern, the ECP is considering randomizing the appointments of electoral staff, a measure conducted in other countries to address the same issue. In addition, the ECP would only inform key electoral staff of the location of their assignment just before election day.

In November 2012, the National Judicial Policy Making Committee (NJPMC) agreed to allow judicial officers to serve as election officials (ECP returning officers and district returning officers) in the upcoming general elections. Previously, these positions were filled by civil servants. The ECP has requested the parliament to grant it the authority to fill the positions of returning officers from the ranks of the judiciary. Political leaders in FATA have welcomed this decision, believing that judicial officers would be more impartial than civil servants. Because there are no judicial

officers in FATA, they have asked that officers from adjacent districts be assigned to FATA to serve in these roles. However, some civil society organizations are opposed to this decision by the ECP, arguing that judicial officers may not be responsive to the instructions of the election commission.

The ECP has proposed several changes to the codes of conduct being developed for this election cycle. Consultations have been held with various stakeholders, including civil society, political parties and parliamentary committees, on the enforceability of these codes. Previous elections had not involved meaningful consultations.

Existing laws restrict parties from undertaking practices such as transporting voters to the polls and impose campaign expenditure limits that were set in the 1970s. Currently, caps are set at 1 million rupees (approximately USD \$10,000) for provincial assembly candidates and 1.5 million rupees (approximately USD\$15,000) for National Assembly candidates. In October 2012, the ECP proposed legislation to increase these limits, stating that unreasonable caps may lead several candidates to submit false statements about their respective campaign finances. In meetings with the delegation, some parties expressed the view that the current caps were adequate while others mentioned that the limits were insufficient to conduct effective campaigns that cover broad and remote areas.

The ECP has undertaken numerous and important reform initiatives, and has committed itself to enforcing electoral regulations. The Commission's ongoing efforts reflect its expressed commitment to conduct a fair election. This is a welcome development, as previous electoral cycles involved election authorities who were seen as unwilling to undertake reforms and enforce regulations.

Voter Registration

The ECP's responsibilities including assembling and displaying a list of registered voters prior to an election. The Commission has released Pakistan's most up-to-date electronic electoral rolls ever produced, based on the ECP's collaboration with the National Database and Registration Authority (NADRA). This is a key improvement from the last general election in 2008, when millions of dollars were spent in the construction of a voters list that omitted tens of millions of eligible voters.

Voter registration is ongoing and will close upon the announcement of an election date. Eligible voters are able to check their registration status by SMS at a nominal cost. To date, of the 85 million voters on the list, approximately 12 million have checked their registration status via SMS. NADRA continues to work with the ECP to ensure all citizens in possession of a Computerized National Identity Card (CNIC) are included and properly documented on the voter list.

While electoral stakeholders consider the electoral rolls to be the most accurate to date, political parties and civil society groups have raised issues – such as inaccurate addresses at which voters are registered, a lack of clarity on procedures for making corrections to the voters list, and difficulties in implementing these procedures – which could lead to voter disenfranchisement. NADRA has estimated that approximately 10 percent of eligible voters have a different address from their ancestral or 'permanent' address; in the event that a current address could not be

verified, a voter's ancestral address was entered by default into the voters list. This has resulted in several inaccuracies.

In connection to an October 2011 case on the law and order situation in Karachi, the Supreme Court called for delimitation of constituencies within Karachi. Specifically the judgment notes that the "boundaries of administrative units like police stations, revenue estates, etc., ought to be altered so that the members of different communities may live together in peace and harmony, instead of allowing various groups to claim that particular areas belong to them and declaring certain areas as 'no go' areas under their fearful influence." In its December 5, 2012 judgment on the voter rolls, the Supreme Court directed the ECP "to carry out proper and complete door-to-door re-verification in Karachi so as to ensure that no voter is disenfranchised or dislocated and all other discrepancies are rectified as early as possible."

According to the Delimitation of Constituencies Act of 1974, electoral constituencies for the National and Provincial Assemblies are to be delimited after every census. However, the last census took place in 1998, and the last delimitation was conducted in 2002. As instructed by the Court, the ECP is moving forward with the door-to-door verification of voters and subsequent delimitation of constituencies in Karachi. The assistance of the Army and Frontier Corps have been enlisted to provide security during this process which the ECP plans to complete in 65 days. Political parties and civic groups question whether the re-verification and delimitation processes can be completed in that timeframe.

The issue of re-drafting constituency boundaries in Karachi is a sensitive one because of its implications for the city's ethnic groups and the political parties that represent them. Violent clashes between the *mohajirs* (descendants of people who immigrated from what is now India during the 1947 Partition) who are largely represented by Muttahida Quami Movement (MQM) and the growing Pashtun population represented largely by Awami National Party (ANP) have long been part of the city's landscape. Redrawing the constituency boundaries is likely to advantage one party at the expense of the other and can alter the balance of political power within the city.

Security and Political Violence

The level of political violence in Pakistan is greater than ever before and continues to escalate. The nation has long contained pockets of violence which, during election periods, were considered "no go" areas for some political parties because of the threat of violence and intimidation. Today large portions of the country are considered too unsafe for open political activity. While incidents of political violence have affected the entire country, they have been particularly pronounced in Balochistan, FATA and KPK.

Despite the recent reforms in FATA, the threat of extremist violence is pervasive. While political parties can now contest for seats in the National Assembly in the tribal areas, secular political parties cannot openly campaign. This is also true in large parts of Khyber Pakhtunkhwa (KPK). Secular parties have curtailed many of their political activities and no longer hold outdoor rallies and processions. Instead they are holding small meetings and travelling door to door to meet with their supporters. They are also using FM radio to broadcast their political messages into the

region. In both FATA and KPK, this has led to a severe imbalance in the electoral playing field since political parties tolerated by militants can freely conduct their political activities.

Balochistan has experienced a simmering insurrection since the nation's founding in 1947. Separatist violence, however, has substantially increased in recent years as the province has struggled to gain a greater share of the revenue derived from its natural resources, such as copper, iron and natural gas. Pakistan's military has conducted operations in the province for the past several years, viewing the insurrection there as a threat to the country's territorial integrity. The United Nation's Office of the High Commissioner on Human Rights (OHCHR), Working Group on Enforced or Involuntary Disappearances, reports that the number of persons who have disappeared in connection with the conflict could be in the thousands. As the elections approach, however, nationalist political party leaders who seek greater autonomy rather than independence have been the target of violence directed against their candidates and party workers. Violence has also flared among the Taliban, nationalists and the major secular parties which compete for political power within the province. A nationalist political leader told the delegation that severe security problems affected 20 of the province's 30 districts.

Electoral Complaints

Under Pakistan's election law, electoral tribunals are established by the ECP and tasked with addressing petitions related to electoral complaints within four months. In previous elections, this process experienced significant delays. In some cases, complaints filed at the end of one election remain unresolved into the next election. There are many underlying causes for such delays, including complications within the complaints process and the immense workload of the judges selected to sit on electoral tribunals. To remedy this, the ECP is establishing 14 new election tribunals, each with a term of one year with the possibility of extending another year.

The ECP has also recently pressed the government to grant the commission the authority to transfer or suspend officers whose performance is in question. Civil society organizations have suggested that the tracking system for electoral complaints needs to be made public, accessible particularly at the district and provincial level, to promote transparency and enable citizens to be informed of how many complaints have been filed as well as the progress of each case.

Caretaker Government

The 20th Amendment of the Constitution of Pakistan, signed into law in February 2012, calls for the establishment of a neutral, caretaker government in the lead up to national elections. Prior to this amendment, the Constitution provided that the appointment of the caretaker government would be made by the President and concerned Governors in consultation with the Prime Minister, Chief Ministers and Leaders of the Opposition in the outgoing National and Provincial Assemblies. 'Consultation' was not defined.

The 20th Amendment eliminates this ambiguity. It states that if the outgoing Prime Minister and the Leader of the Opposition do not agree on a candidate for the post of Caretaker Prime Minister within three days of the dissolution of the National Assembly, each will provide two names to a Parliamentary Committee that will be established by the Speaker of the National Assembly. The Committee will have three days to decide on a Caretaker Prime Minister. If the

Committee is unable to decide within that period, the proposed candidates will then be referred to the ECP which will make the final decision within two days of receiving the candidates' names. A parallel process at the provincial level would be employed to determine the Caretaker Chief Ministers.

Unusual factors could affect the selection and the neutrality of the caretaker government in Balochistan and KPK. In Balochistan, all of the parliamentary parties are represented in the provincial government. As there is no party-based official opposition, this could lead to hollow consultations on the selection of a caretaker. In KPK, where the issue of security is paramount, the ruling party is concerned that initiating negotiations with the opposition on the selection of the caretaker could affect security agreements among groups within the province.

Engagement of the Youth

Approximately 60 percent of Pakistan's entire population is under the age of 35. Although two thirds of Pakistanis still live in rural areas, urbanization is increasing rapidly. More than 60 million people are expected to be added to the population in the next 15 years. By conservative estimates, the population is expected to rise to 335 million by 2050.

Opportunities for youth to participate in politics have been limited, alienating or marginalizing a base of support that is essential to the long term viability of parties and the democratic system in Pakistan. It is estimated that 47 percent of the 85 million on the voter rolls are between the ages of 18 and 35, with 19 percent between ages of 18 and 24. The ability of parties to capitalize on the hopes and frustrations of young people, and gain their votes in the 2013 elections, will be an important test of their continued legitimacy and influence.

The 2013 electoral process is an opportunity for young Pakistanis to influence the direction of the country in a positive way. It provides them with a path to channel their political energy and initiate long-term support for the country's democratic process. All stakeholders have identified the need to engage young people in the electoral process; however, despite much rhetoric, there do not appear to be any concrete nor substantive plans by the ECP, civil society groups, the media and many political parties to draw this substantial demographic into the process.

Protecting the Rights of Women to Vote

As in previous elections, concerns about the right of women to vote have been raised by civil society groups and political parties. Particularly in areas of high security risk such as Balochistan, FATA, KPK and some areas of Karachi, women have not had the opportunity to cast their vote without fear or intimidation. The country's political and electoral observers have reported that, of the 85 million registered voters to date, only 37 million are women. In light of the near equal gender balance within the population, it is estimated that approximately 10 million women who are eligible to vote have not been registered. There also are concerns about whether polling stations for women would be available in keeping with the 'two kilometer provision', be sufficiently staffed, and have measures in place to ensure the secrecy of their ballot. Several civil society organizations working to promote women's political participation and electoral accountability have recommended that electoral results should not be included and that by-elections should not be conducted in constituencies where women were prevented from voting.

Although FATA residents were granted the right to vote in 1997, thousands of women in FATA have since been denied access to voter registration, harassed for standing as candidates, threatened with violence for going to the polls, and been forbidden by local leaders from exercising their right to vote. While Pakistan's 342-member National Assembly has 60 seats reserved for female representatives, none of these have been allocated for FATA.

The ECP should exercise the authority to take punitive action on persons who prevent women from exercising their right to vote. The Commission has asked the parliament for the authority to cancel the elections when collusive agreements between political leaders have prevented women from voting. The ECP also asked the parliament for the authority to nullify elections in polling areas where less than 10 percent of registered women have voted.

Election Monitoring

Pakistani civil society organizations (CSOs) are increasingly visible in the political arena and have emerged as a significant participant in the electoral process in the run-up to the 2013 elections. Several groups are working on various issues including election monitoring, electoral transparency, voter awareness, and the participation of women, youth and minority groups in the election process. Many CSOs are working in collaboration with one another and international organizations to convey concerns to relevant government bodies including the ECP, political parties and parliamentary committees formed to address electoral issues.

The Free and Fair Election Network (FAFEN), a network of 42 civil society organizations, will be deploying approximately 43,000 non-partisan election monitors across the country. This mobilization target is more than double the number of monitors that FAFEN deployed for the 2008 polls. Given the size of the planned operation, FAFEN is engaging the ECP on preparations to accredit their monitors and to ensure access to polling stations on election day. Similar to the priorities raised by political parties, FAFEN has asked the ECP to improve the capacity of election officers and monitoring teams, and reiterate the role of domestic and international monitors in the electoral process.

The European Union and the National Democratic Institute, in collaboration with the Asian Network for Free Elections, are developing plans to mobilize international observers for the upcoming elections. The groups plan to carry out observation missions in keeping with the Declaration of Principles for International Election Observation. The delegation strongly encourages international observers to coordinate their efforts with domestic election monitors.

Media

Pakistan experienced a renaissance in independent media beginning in 2002, when President Musharraf reformed broadcast laws and liberalized media licensing. Since then, electronic and print media has grown dramatically – in 2002, Pakistan had only one state-run news channel, whereas today there are approximately 90 privately owned stations. By some estimates, the number of Pakistani journalists has grown from 2,000 to 20,000, and independent radio has also flourished. The media has become a major actor on the national stage, playing an integral role in its coverage of national politics.

Despite the tremendous growth in independent news media and its role in strengthening democracy and promoting civic activism, significant challenges remain. In a December 2012 report issued by Reporters without Borders, Pakistan is the third most dangerous country in the world for journalists, with 10 killed so far this year. In particular, journalists are targeted for coverage of sensitive issues of politics, corruption, and security that implicate powerful actors.

The Pakistan Electronic Media Regulatory Authority (PEMRA) has mandated that all licensed media outlets must adhere to the ECP's Code of Conduct for Media and ensure that at least five percent of airtime is allotted for public interest broadcasts. The delegation urges that this rule is followed.

RECOMMENDATIONS

The delegation offers the following recommendations in the spirit of international cooperation and with the hope that they will be helpful in promoting inclusive, transparent and credible elections.

Voter Education. To increase voter engagement, robust voter education is needed in multiple languages. Voter education should involve the use of various media – including social media – to reach rural voters, and should incorporate tailored approaches to communicate with young voters and women.

Greater Accessibility to the Voters List. Efforts should be made to enable citizens and political parties to access the voters list. The list should be made available in a format that allows stakeholders such as political parties and civil society groups to verify information readily. To broaden the utility of the ECP's website, information on the site should be available in Urdu as well as English.

Electoral Security and the Role of the Armed Forces. Members of the armed forces who will be providing security for the electoral process should receive specific training on their roles and responsibilities. The ECP should publicize security plans for each district of the country. Security plans for Balochistan, FATA, KPK and Karachi are especially important and should be given priority. Voter education campaigns should include clear descriptions of the roles and responsibilities of the armed forces in the electoral process as well as the security plans for areas of high security risk.

Protection of the Right of Women to Vote. The ECP should consider canceling and re-conducting elections in areas where it is found that there is an agreement to prevent women from voting. The ECP should impose penalties for offenses that involve acts that deliberately prevent women from exercising their right to vote.

Measures to Ensure Election Monitoring. The ECP should ensure that district and constituency level staff are informed about the procedures needed to accredit monitors and receive credentials in a timely manner. The ECP and domestic monitoring groups should discuss how to engage provincial election authorities and enable monitoring activities. The training of ECP personnel, particularly at the district level, should include a specific orientation on the role of party pollwatchers as well as domestic and international monitors.

Enforcement of Electoral Regulations and Codes of Conduct. The ECP, parliamentarians, political parties, media, domestic monitoring groups and civil society organizations should collectively and urgently take concrete measures to enforce electoral regulations and codes of conduct at the district, provincial and national level. These measures should be publicized through various media to inform the electorate.

Use of Social Media to Broaden Voter Engagement. All electoral stakeholders, including the ECP and political parties, should consider the use of social media to increase participation in the political process, particularly among young voters. For example, the ECP and political parties could implement campaigns using Facebook and Twitter to connect with young male and female voters and encourage them to exercise their right to vote.

Timing and Transparency of the Electoral Complaints Process. The ECP should develop and publicize measures that enable the electoral complaints process to be conducted in a timely fashion. In addition, the ECP should consider adopting tools such as a website that allows voters, candidates and political parties to follow a complaint from filing to final disposition.

Monitoring Adherence to the Codes of Conduct. The ECP and CSOs have roles in monitoring the adherence of political parties to the Code of Conduct. The ECP, in consultation with the civil society organizations should consider developing a tool with accompanying monitoring criteria, to register violations of the code of conduct for political parties. Additionally, in collaboration with PEMRA, the ECP and civil society organizations can develop a monitoring tool, with accompanying criteria, to register violations of the code of conduct for the media.

Location of and Access to Polling Stations. In developing plans for increasing the number of polling stations for the upcoming elections, the ECP should consider establishing polling stations in larger, more accessible communities in addition to ones previously established in smaller areas. In addition, the ECP should consider establishing polling stations for women in areas near male polling stations to assure accessibility by women who must travel to the polling stations with male relatives.

Promotion of Greater Civic Awareness. PEMRA should effectively implement its rule for private stations to devote at least five percent of airtime for public service issues and broadcast programming and announcements related to voter education, especially in local languages.

Support for Timely Legislative Action to Implement Electoral Reforms. The incoming government should continue to support the collaborative efforts of the Senate and National Assembly committees focused on addressing election issues and reforms. The committees or other appropriate legislative bodies should continue to provide oversight of the election process during the post-election period.

Review the Provision on the Transport of Voters to the Polls. The ECP should examine whether it is able to mobilize adequate resources necessary to enable the transport of voters across the country to their respective polling stations. Should it determine that it would not be possible to carry out this task effectively, the ECP should consider removing the ban on political parties' transporting supporters to the polls.