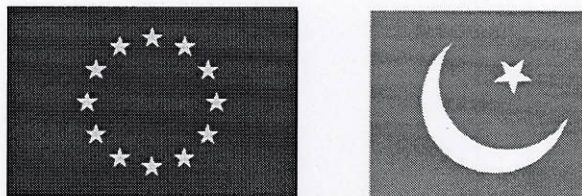


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ISLAMIC REPUBLIC OF PAKISTAN

FINAL REPORT

**National and Provincial Assembly Elections
18 February 2008**

16 April 2008

**EUROPEAN UNION
ELECTION OBSERVATION MISSION**

This report is available in English and Urdu, but only the English version is official.

This report was produced by the EU Election Observation Mission and presents the EU EOM's findings on the National and Provincial Assembly Elections – 18 February 2008 in Pakistan. These views have not been adopted or in any way approved by the European Commission and should not be relied upon as a statement of the Commission. The European Commission does not guarantee the accuracy of the data included in this report, nor does it accept responsibility for any use made thereof.

I. EXECUTIVE SUMMARY

The 18 February 2008 National and Provincial Assembly Elections saw a pluralistic process in which a broad range of views were expressed, an election that was competitive and a polling process which achieved increased public confidence in comparison to previous elections. A more significant role was played in these elections by the media and civil society, including by providing greater scrutiny of the process.

However, there were serious problems with the framework and conditions in which the elections were held and a level playing field was not provided during the campaign, primarily as a result of abuse of state resources and bias in the state media in favour of the former ruling parties. As a result, the overall process fell short of a number of international standards for genuine democratic elections.¹ These include the citizen's right to take part in the government of his or her country directly or through freely chosen representatives (UDHR Article 21), freedoms of expression (UDHR Article 19) association and assembly (UDHR Article 20), the right to an effective remedy (UDHR Article 8), the right to non-discrimination (UDHR Article 2), and the right to universal and equal suffrage (UDHR Article 21). There was also a lack of transparency in the performance of the election administration and the results process.

The elections took place in a difficult security environment in which the threat of violence and an atmosphere of fear prevailed. As a result of attacks on political party gatherings, over 100 party supporters were killed during the campaign. In addition, over 50 people were reportedly killed in clashes between supporters during this period. Tragically, on 27 December 2007, Benazir Bhutto, leader of the Pakistan Peoples Party (PPP) was assassinated at a campaign rally, leading to widespread anger, violence and rioting around the country. In this context, the election process, particularly on the day of voting, saw courageous commitment to the democratic process by voters, candidates and party workers, election staff, representatives of media and civil society, and state personnel.

The election process began while emergency rule was in place and the Constitution was suspended, together with its guarantees of fundamental rights. Several thousand people, including judges and journalists, were detained. Emergency rule was lifted only one day before the beginning of the campaign period. During the period of emergency rule many judges, including the Chief Justice, were removed following an executive order, damaging public confidence in the independence of the judiciary and the rule of law. This is particularly significant given the judiciary's prominent role in the election administration as well as election adjudication.

The legislative framework for elections does not provide an adequate basis for the conduct of genuine democratic elections. A number of areas need to be more precisely regulated and brought in line with international standards. In particular there is insufficient provision for the independence of the election administration and transparency in its work, especially in regards to the results process. There are multiple deficiencies in the complaints and appeals process. The right to stand as a candidate is also breached by the legal requirement for a bachelor degree or *madrassa* qualification, which excluded the overwhelming majority of the population (circa 95%).

There was a lack of confidence among election stakeholders in the independence and efficacy of the Election Commission of Pakistan (ECP). While technical preparations were generally undertaken efficiently and on time and saw some important improvements, particularly in regards to training and

¹ In accordance with EU election observation methodology, the EU EOM to Pakistan assessed the conduct of the National and Provincial Assembly elections in line with international standards for elections. The primary source was the Universal Declaration of Human Rights (UDHR). This provides for the fundamental rights essential to a genuine democratic process.

the use of translucent ballot boxes, serious problematic issues already identified during the 2002 elections were not sufficiently addressed. The ECP lacked transparency in key areas of its working practices, and did not formally consult with political parties and other stakeholders. It did not take sufficient responsibility for various aspects of the process which should be under its control, including supervising the work of returning officers, enforcing the Code of Conduct for Parties and Candidates, staff training, voter education, complaints resolution, and re-counting and re-polling.

Almost 81 million voters were registered to take part in the elections, out of a total estimated population of approximately 160 million. However shortcomings in the voter registration process and the inclusion of 2002 data resulted in an unreliable electoral roll that includes a significant number of duplicate entries, erroneous entries and omissions. As a result, there was a lack of confidence among political parties and civil society in the accuracy and efficacy of the electoral roll. Of the 26 million entries from the 2002 data (added following a Supreme Court ruling in August 2007), a significant number of people could not vote because they did not hold the required national identification card. This affected predominantly the rural poor and women. The Ahmadis (who are not recognised by the government of Pakistan as Muslim) were required to register on a separate voter list, a discriminatory practice without adequate justification, as a result of which they boycotted the elections.

The campaign was low key and subdued, but saw a broad range of views expressed, including some criticism of the President, government and ruling parties. Most campaigning took the form of small meetings or door-to-door visits. Only a few large rallies were held. A number of political parties promoted a boycott of the process, in particular in Balochistan. *Nazims* (elected heads of a local government bodies) were directly involved in campaign activity and widespread misuse of state resources was observed, mostly on behalf of candidates of the former ruling parties. There were credible reports of police harassment of opposition party workers and agents.

Since the 2002 elections, sources of information available to citizens have significantly increased and the media environment has become more diverse and vibrant. However, restrictions and pressures placed on the media before and during the election period seriously limited freedom of expression and the public's right to receive information. In spite of this, private media outlets provided candidates and contesting parties with comprehensive and pluralistic coverage. In contrast, public broadcasters failed to live up to their responsibility to maintain balance, providing substantial coverage to the President, government and PML-Q (Pakistan Muslim League – Quaid-e-Azam), and limited coverage to other parties. Media outlets' detailed coverage of election day and the results aggregation contributed to a sense of scrutiny of the process that was seen to be significant in inhibiting attempts at fraud.

Although women's political rights are protected in the law, in practice there are heavy limitations on the exercise of these rights. Women were under-represented in all aspects of the electoral process: as voters, candidates for general seats, electoral officials, and in political parties. Insufficient measures were taken to meet legal obligations to enable women to exercise their right to vote, as is stipulated in the Constitution, the Convention on the Political Rights of Women (CPRW) and the Convention on the Elimination of Discrimination against Women (CEDAW) to which Pakistan is State Party. In addition, agreements by stakeholders to exclude women from electoral participation in some areas were not addressed by the ECP.

Civil society played a more significant role in comparison to previous elections, in particular through domestic observation before and on election day. Most notably, the Free and Fair Elections Network (FAFEN) mounted a comprehensive programme, observing and reporting on the campaign period and conducting a parallel vote tabulation on election day. While over 18,000 FAFEN observers were accredited, in one third of districts this had been an administratively problematic process. On election day FAFEN observers were not able to gain access to all polling stations or constituency results compilations.

Voting and counting was generally assessed favourably in polling stations visited by EU observers, although some disorder and procedural irregularities were noted. Positive developments included better trained polling staff than in the past and use of translucent ballot boxes and standardised voting screens for the first time. However problems were also observed, particularly in female polling stations. These included failure to protect the secrecy of the vote, incorrect application and checking of ink, general disorder and confusion, and a lack of sufficient polling booths for women. In a positive contribution to transparency, agents representing candidates were present in the vast majority of polling stations visited, and generally received copies of the results. However, in a breach of basic transparency safeguards, at nearly two thirds of polling stations visited, results were not publicly displayed.

While EU observers generally assessed the compilation and consolidation of results processes favourably in constituencies where they were present, there were further breaches of basic transparency safeguards in both cases. Observers (including from the EU EOM) were not always granted access to the compilation process and breakdowns of constituency results by polling station have not been published at constituency level or on the internet, as was promised by the ECP.

The EU EOM is aware of suspicious results in a number of constituencies, including polling stations with implausibly high turnouts and questionable margins of victory. This indicates the possibility of malpractice, which warrants investigation by the electoral authorities. However the ECP has not initiated such activities and instead made apparently sweeping rejections of complaints filed by unsuccessful candidates, thus denying a fast and effective mechanism for redress through re-counting and re-polling.

There is a widespread lack of confidence in the complaints and appeals processes. Prior to the publication of results, redress could be sought through the superior courts. However, the independence of these courts was undermined by the fact that all judges had sworn an oath under the controversial Provisional Constitutional Order (2007), and therefore are perceived to be close to President Musharraf and the former ruling parties. Following publication of the final results, judicial challenges could only be lodged by candidates to election tribunals composed of current or former judges appointed by the Chief Election Commissioner. This lack of an independent appointment mechanism, together with a record of inefficiency (39 petitions were outstanding from 2002 elections), contributed to a further lack of confidence. More generally, there is a continuing culture of impunity surrounding electoral offences, with very few prosecutions undertaken.

The election process is not yet complete. Some constituencies are still to hold polling, and some cases are outstanding at the superior courts and tribunals. Improvements to the overall election process could still be made through the publication of individual polling station results, petitions being dealt with in an efficient, transparent and prompt manner, and investigation of alleged election offences. In the longer term, it is essential that the state authorities and political parties demonstrate sufficient political will to improve the framework and conditions for elections in line with international standards. In this context, detailed recommendations are included at the end of this report. Key recommendations include:

1. Steps should be taken to ensure there is an independent judiciary, so that effective oversight of the election process can be undertaken.
2. The appointment of the Chief Election Commissioner and ECP members should be subject to stakeholder consultation and should provide for independence. The ECP should be restructured, and should take full responsibility for its mandated tasks. The election administration should operate in a transparent and consultative manner.

3. Election legislation should be reviewed in a consultative manner, for example through an all-party constitutional review committee. Specific issues to be addressed include the independence and transparency of the election administration, complaints and appeals procedures, and candidacy requirements.
4. Election appeals should be dealt with in a timely manner by judges who are independently appointed. Petitions should be permissible from a wider range of election stakeholders.
5. The law should be amended, and the ECP should issue and enforce instructions, to ensure that all counting and aggregation processes are fully open to scrutiny. This should include detailed polling station results being swiftly displayed at the constituency and on the internet.
6. The ECP should take full responsibility for the production of an accurate and complete electoral roll. It should work with National Database and Registration Authority (NADRA) to incorporate any entries not captured through its own enumeration (either from a new enumeration or the one undertaken for the Electoral Roll 07). The data captured should be subject to a comprehensive nationwide check for duplicates.
7. If only Computerised / National Identity Cards (C/NICs) are permissible for registration and/or voting, acquisition of a CNIC must be facilitated so that there is no barrier to participation.
8. Freedom of expression should be subject to “necessary” restrictions, rather than “any reasonable restrictions” (Constitution, Article 19) and reform of the legal framework regulating media activities should be undertaken. Restrictions on media content should be reduced, and clear-cut definitions should be introduced.
9. State media should institute clear and transparent procedures to ensure its news and public affairs broadcasts during an election campaign are impartial.
10. The government should intensify its efforts to reduce women’s severe under-representation in the electoral process, in accordance with its international commitments under CEDAW and CPRW. Political parties also have a significant role through their internal practices, policy agenda, candidate nomination, and voter awareness.

Some improvements have been made by the Pakistani state authorities, for example with training and the use of translucent ballot boxes. However other identified problems with the framework and conditions for elections remain outstanding. The EU EOM was pleased to note that following the elections, all parties it met with reported a strong commitment to electoral reform. The EU EOM notes the willingness of the EU and wider international community to work together with the authorities, political parties and civil society in Pakistan to improve the election process, and encourages the people of Pakistan to continue to work towards the conduct of elections in full compliance with international standards for genuine democratic elections.