

Electoral Reforms in Pakistan During the PPP 4th Regime and Its Implementation Status: A Reappraisal

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Abstract

Elections are an essential element of modern democracy. For fair, free and transparent elections conduction, electoral reforms are necessary. However, the implementation and enforcement of these electoral reforms are more important, and for implementation of continuity of democratic transition is of far greater importance. This paper attempted to highlight electoral reforms, both in law and constitution, made during the 4th regime of the Pakistan People's Party. This brief paper investigates to what extent the constitutional amendments brought the election process in line. The paper also points out the implementation of these renewed efforts of election reforms in the 2013 general elections. This paper will be beneficial for scholars, Political Science and Pakistan Studies students and researchers. Data is mostly collected through secondary sources like books, journal articles, reports and reliable newspapers articles. For data application, the qualitative method is selected. The descriptive model of research is used to describe the facts of electoral reforms in Pakistan during the 4th regime of the PPP and its implementation in the 2013 general elections. The electoral reforms in Pakistan during the PPP government (2008-2013) did not guarantee good results; however, its implementation and enforcement in the 2013 elections are important.

Keywords: Electoral Reforms, Pakistan People's Party, Constitutional Amendments.

Electoral Reforms and Elections in Pakistan: Historical Perspective

After independence, Pakistan lacked a suitable institution to conduct national direct elections. Elections for various Provincial Assemblies were held at various times. In March 1951, Punjab's provincial assembly held its first direct elections. The adult franchise system was used to contest the elections. Provincial Assembly elections were conducted in North West Frontier Province in December 1951 (Kamran, 2002) as it was customary to charge the victorious candidates in provincial assembly elections of being rigged. Similar concerns surrounded the May 1953 elections for the Sindh Provincial Assembly. In April 1954, there were elections for the East Pakistan assembly. In these elections in East Pakistan, the United Front, an alliance made up of Bengali nationalists, triumphed against the Pakistan Muslim League (Ibrahim & Mussarat, 2015).

These provincial elections, which were specifically held in West Pakistan, were a farce, a joke, and an electoral fraud. To maintain control over the three provinces, the ruling party used a variety of morally dubious strategies. But the Muslim League in East Bengal had been so thoroughly disgraced that the United Front nearly drove it from the area. When the media reported on these irregularities, the people began to have extremely severe misgivings, which cast doubt on the legitimacy of those elections. On October 19, 1955, the newly installed central

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government appointed an Electoral Reforms Commission, ostensibly to allay those fears and restore public trust in the rule of democracy. There were two members and the chairman of the Electoral Reforms Commission. In order to ensure "free and fair" elections as well as "to prevent malpractices from any source at any stage of an election so as to ensure freedom and secrecy of the ballot in order that a true representation of the people shall be achieved," the Commission was tasked with making recommendations for how to amend the electoral laws and regulations (Chaudhry, 1969).

The 1956 constitution included the suggestions presented by the electoral reforms commission. Article 137 of the 1956 constitution established the election commission of Pakistan on March 23, 1956, with the chief election commissioner serving as its head. On June 25, 1956, the first chief election commissioner was named. The first occupant of the role was Mr. F.M. Khan, who held it till October 28, 1958. Strangely, no elections had taken place while he served as chief election commissioner, therefore his skills were not requested. The 1956 constitution proved to be short-lived since it was repealed on October 7, 1958, when Ayub Khan's martial law came into effect. After that, he instituted an indirect election system (Kamran, 2002).

The Basic Democracy (BD) system was the name given to the indirect election system. Voters were required to choose 80,000 representatives, or "BD members," under this system (40,000 from East Pakistan and 40,000 from West Pakistan). Subsequently, this figure was raised to 12,000, constituting the electorate for the election of the President and members of the national and provincial assemblies. 80,000 BD constituencies had 200–600 voters in each. The electoral college member age restriction was 25 years old (Chaudhry, 1969). Such decisions led to the establishment of a controlled system of governance under controlled electoral politics, which came to an end in 1969 with the transfer of power from president Ayub Khan to general Yahya Khan. General Yahya Khan genuinely wanted the nation to hold general elections. As a result, the three-member election commission was established, with Justice Abdus Sattar serving as chief commissioner. The election commission's main goal in October 1969 was to register voters who were at least 21 years old. The nation had its first general elections in 1970. Fair and unhindered elections were held. East Pakistan became divided when the Peoples Party in West Pakistan and the Awami League party gained the majority in East Pakistan. This caused political unrest throughout Pakistan (Khan, 2016). Yahya Khan gave Zulfikar Ali Bhutto of the PPP the reins. Chapter 8 of the overwhelmingly approved 1973 constitution lays forth in detail the roles, duties, and authority of the ECP. In addition to the constitutional provisions, the laws and regulations governing various facets of Pakistan's electoral system during the Bhutto Era included the Representation of the People Act (1976), the Representation of the People (Conduct of Election) Rules (1977), the Representation of the People Act (1976) as it applied to Federal Autonomous Triangles (FATAs), the Electoral Rolls Act (1974), and the Delimitation of Constituencies Act (1974). Bhutto's civilian government held elections in March and April of 1977. A joint opposition of nine political parties, the Pakistan National Alliance launched a nationwide protest on rigging charges in the election. This situation led to General Zia's military takeover (Youth Parliament Pakistan, 2015). On December 19, 1984, a presidential referendum was held during the Zia government (1977–88). The Islamization Process under the Zia regime received the lion's share of votes. The February 1985 non-party elections were rather fair. But MRD abstained from the elections (Ibrahim & Mussarat, 2015). The regulations governing Pakistan's electoral system during this time were the presidential election rules (1988) and the procedure for trial of election petitions pertaining to general elections. Four general elections were held between 1988 and 1999, the civilian phase following Zia ul Haq's death in 1988. 1999 saw the overthrow of the civilian government by COAS Gen. Pervez Musharraf, who then became the nation's chief executive (Khan, 2016). Following the successful conclusion of his first four-year term in 2000, he held new local body elections in 2005. In this way, he held four elections in five years: two local body elections,

one referendum, and a general election in 2002. These were held in accordance with laws and regulations pertaining to various aspects of Pakistan's electoral system, such as the Local Government Act 2001 under separate province-wise ordinances, the Election Commission Order (2002), the Conduct of General Elections Order (2002), the Political Parties Order (2002), the Political Parties Rules (2002), the Allocation of Symbols Order (2002), the National Assembly and provincial assemblies' allocation of reserved seats for women, and the Non-Muslim Procedure Rules (2002). Musharraf reduced the voting age to 18 years, increased the number of seats in legislatures, increased women's reserved seats and introduced a university degree as a candidate's qualification (Syed & Khan, 2020).

Electoral Laws Before 2008 General Elections

The eight years of General Pervez Musharraf's administration severely damaged the ECP's independence, impartiality, and competence, reducing it to merely serving as a front for military authority. Two local government elections, a presidential referendum, and a general election were all heavily rigged under the supervision of hand-picked chief election commissioners (CECs). Musharraf's legal framework order significantly skewed the political system, tipping the election scales in favor of the military government, and was codified into the constitution by the seventeenth amendment (Khan, 2016). In order to reduce the chances of the military influencing the democratic system, the ECP needs to be made neutral, impartial, and effective. The commission continued to be understaffed, undertrained, mismanaged, and with insufficient resources. Promotion opportunities were few for ECP employees, and recruitment strategies could be more effective in drawing in qualified applicants. Staff members of the ECP were not provided with systematic training programs, and the organization rarely or never invested resources in studying and analyzing previous elections or bringing up significant electoral issues. Millions of people were denied the right to vote in the elections under the Musharraf administration due to extremely erroneous voter lists. Methods of conducting polls were frequently skewed. There were frequent violations of the election code of conduct. It was shown that dysfunctional electoral tribunals could not settle conflicts arising after elections. The ECP was unable to supervise legitimate elections and a smooth political transition due to these internal flaws (Syed & Khan, 2020). Electoral reform on all fronts was urgently needed.

Electoral Reforms of PPP Government (2008-13): A Tremendous Achievement

However, in the above-mentioned situation, the February 2008 election was held, PPP secured maximum seats in NA and PML (N) sat on opposition benches. The PPP government could not afford to delay more extensive reforms to a deeply flawed electoral system. It was encouraging that the PPP and the main opposition party, the PML (N), have cooperated to pass major political and constitutional reforms to strengthen the ECP's independence, most notably the eighteenth amendment to the constitution, unanimously adopted in April 2010, the nineteenth amendment passed in January 2011 and twentieth amendment in February 2012. The following were the prominent reforms.

Permanent Election Commission:

The Chief Election Commissioner (CEC) was typically selected for a set time, and the election commission was not a permanent organization. It was solely established in relation to the upcoming general elections for the national and local parliament. A permanent Election Commission of Pakistan (ECP) with a chairperson and four members, one from each province in accordance with the constitution's Eighteenth Amendment, had been created by the PPP government. In the past, the CJ of the applicable provincial high court and the CEC were consulted before the president named the members. The CEC may be a serving or retired

Supreme Court judge or a serving or former high court judge qualified to be appointed as a judge of the Supreme Court. ECP members were required to be serving High Court judges (Khan, 2016). The eighteenth amendment requires that former high court justices make up the ECP membership while maintaining the CEC appointment requirements.

Additionally, it has increased the body's autonomy by extending the terms of office for the members of the ECP and CEC for three to five years. Furthermore, the ECP as a whole now has all of the authority and duties that the CEC's office formerly held. The four members of the ECP were appointed in 2011 by the PPP government and the parliamentary opposition in compliance with the eighteenth amendment's procedures (International Crisis Group, 2011). Neither the chairman nor a member of ECP could be removed except through the procedure provided under article 209 of the constitution for the removal of judges of the superior courts. In this way, a permanent election commission was constituted with the chairman and its members. The PPP government, through the eighteenth amendment, provided new machinery for holding elections (Khan, 2016).

Bi-Partisan Appointments of CEC & Members:

Additionally, the process for appointing CECs was modified. The eighteenth amendment removed the president's discretionary authority to designate the CEC to the constitution. Instead, it stated that after conferring with the head of the parliamentary opposition, the prime minister would present the names of three candidates to a joint parliamentary committee of the National Assembly. This committee would consist of eight members, four from each of the opposition and the "treasury," or the ruling and coalition parties (International Crisis Group, 2012). Thanks to the eighteenth amendment, the legislative committee currently has twelve members, with one-third coming from the senate. The legislative committee must confirm one name after considering the three nominees. In the case of a disagreement, the opposition leader and the prime minister would each submit a list; the committee would use this to authorize the CEC. On July 9, 2012, the appointment of Fakhrudin G. Ebrahim, a well-liked former Supreme Court ad hoc judge, was approved by the joint parliamentary committee unanimously (Khan, 2016).

Appointments of Neutral Caretaker Governments:

Following the 18th Amendment, the president's appointment of a caretaker prime minister is subject to consultation with the departing PM and head of the parliamentary opposition. Before designating caretaker chief ministers, governors are required to confer similarly with leaders of the parliamentary opposition and outgoing chief ministers. The caretaker prime minister and chief ministers, respectively, were after to advise the formation of federal and provincial caretaker cabinets (International Crisis Group, 2012). However, the twentieth amendment, which was approved on February 29, 2012, offers solutions in the event that the prime minister and the head of the opposition cannot agree on a temporary prime minister. They were required to submit two nominees each to a committee, with equal participation from the treasury and the opposition appointed by the speaker within three days after the National Assembly's dissolution. Within three days, the eight-member committee, which was made up of delegates from the departing senate and National Assembly, was supposed to select a single person. If it doesn't, the ECP would get the names and have two days to make a final judgment. The appointment of caretaker chief ministers would be handled similarly throughout the provinces, with the exception that the committees would consist of six members (National Democratic Institute, 2013). When selecting caretaker governments in the provinces and the center, the PPP government and its parliamentary opposition displayed the same level of political maturity as when they came to an agreement that led to the formation of the CEC (Dawn, 2012, July 18). The main opposition party, the PML (N), was expertly outplayed by PPP president Zardari in

the discussions to name Mir Hazar Khan Khoso as the caretaker Prime Minister, 84-year-old retired justice. Regarding the establishment of impartial interim governments in the provinces, the PPP government also conferred with all political parties (Dawn, 2012, July 19).

Removal of Flaws in Electoral Procedures and Laws:

Several pieces of legislation have been introduced by the parliament to improve the electoral process's credibility and eliminate defects. The election laws (Amendment) act of 2011, which amended the electoral rolls act of 1974 and the representation of the people act of 1976, is particularly significant. It establishes requirements for voter registration and participation, including the need to have a current computerized national identity card (CNIC) issued by the National Database and Registration Authority (NADRA) (Qadir, Daily Times, 2012, August 2). The election laws (Amendment) act of 2011 further guaranteed the security of the computerized election rolls. The ECP and NADRA worked together to enhance the electoral rolls' accuracy and legitimacy. Following the successful conclusion of a cooperative pilot project of ECP and NADRA in 2010 that included the addition of new voters, the authentication of already-existing entries, and the removal of false entries by cross-referencing with NADRA's database. On July 31, 2012, the final computerized electoral rolls were made available on the ECP website and posted at each district elections office (International Crisis Group, 2012).

The PPP government also modified the delimitation of constituencies act, 1974, to conform to the eighteenth amendment, which assigns responsibility to the ECP collectively rather than concentrating power in the office of CEC. The delimitation of constituencies (amendment) act, 2012 stipulates that the matter must be brought before all five members of the ECP (the four members and the CEC). In the event that there is a disagreement among the three members of the ECP supervising delimitation proceedings, or if there are four members and they are evenly divided in their opinions, the majority opinion will take precedence (International Crisis Group, 2012). A nationwide house-listing initiative was started by the population census organization in April 2011 as a prerequisite for the pre-census, although the data it collected had notable irregularities. Due to a lack of time, the 2013 general elections were held under the old constituency boundaries (Daily Times, 2012, July 31). In 2011, the political parties order was extended to FATA.

Consequently, candidates were no longer compelled to run as independents but may instead run as party nominees in the tribal territories. Additionally, there was no longer a minimum educational requirement for applicants to run for office. The 2008 Supreme Court ruling invalidated a clause requiring candidates to possess a college degree or its equivalent in Madrassa. The criteria were seen as too restrictive because they prevented an estimated 96% of the population from running for office (National Democratic Institute, 2013).

Accountability of Candidates and Political Parties:

The ECP updated the code of conduct in June 2012 and mandated that candidates running for the National Assembly and Provincial Assembly open bank accounts with a maximum balance of 1.5 million and 1 million rupees, respectively, in order to undertake campaigning. Every candidate would have to maintain a daily record of their election-related spending and turn in a weekly report to the appropriate returning officer until the end of the campaign (The Express Tribune, 2012, June 28). Additional regulations in the amended code forbid long-distance car rallies, with the exception of planned gatherings at specified locations announced to the public by the local government; hoarding, posters, and banners exceeding predetermined proportions; party flag upraising on public property or in public areas without the express written consent of the relevant authorities; any kind of "wall-chalking" (graffiti); and loudspeakers use, unless at the meetings of elections. Except for members of their immediate family, parties, candidates,

and election agents are not permitted to carry voters to and from polling places in any vehicle. On election day, they were also forbidden from setting up election camps within 400 yards of a polling place (International Crisis Group, 2012).

Women Voting Rights Protection:

The ECP recommended in May 2012 that it be given more authority to deal with the disenfranchisement of female voters as part of an electoral reform package that the law ministry would present to parliament. This power would include the power to declare elections null and void in situations where local parties have decided to bar female voters or when less than 10% of eligible women have cast ballots. Additionally, it suggested that presiding officers be obligated to furnish distinct data regarding the voting turnout of males and females (Khan, *The Express Tribune*, 2012, May 22). After the proposal from the subcommittee on electoral reforms was received by the National Assembly's standing committee on law, justice, and parliamentary affairs, it was accepted and returned to the ECP for feedback. The bill was introduced in parliament and adopted when those were received. The ECP prevented the exclusion of female voters by using its penal powers under the 1976 representation of the people act. In target regions where the proportion of women possessing CNICs is comparatively low, NADRA deployed mobile teams to register women voters. Many more women were added to the voter rolls as a result of these campaigns. In the electoral rolls, women make up 44% of registered voters (National Democratic Institute, 2013).

Permanent Election Tribunals:

A sitting or retired judge of the relevant provincial high court, or a district and sessions judge who satisfies the qualifications to be a high court judge at the time of retirement, presides over election tribunals. These courts resolve disagreements about elections. The eighteenth amendment gave the ECP as a whole the power to appoint electoral tribunals, a power that was previously exclusively held by the CEC. Every tribunal is endowed by the code of civil procedure, 1908, with the authority of a civil court to try cases. A petition must be decided upon in four months. Within 30 days after the tribunal's ruling, an appeal may be filed with the Supreme Court (Khan, 2016). A petition would be filed and then sent to the appropriate election tribunal for prompt resolution, and in the first draft of the Electoral Laws (Amendment) Bill, 2011, electoral tribunals were given the authority to assign local commissioners to collect evidence within ten days of the petition being filed. Though the commissions might be crucial in removing bureaucratic obstacles by lowering the number of administrative staff members in charge of handling election petition processing, they were left out of the final draft. To decentralize and expedite the prompt settlement of election-related complaints, a measure was approved by the parliamentary subcommittee on electoral reforms, providing for the creation of such commissions in districts around the nation (Khan, *The Express Tribune*, 2012, May 28).

ECP's Five-Year Strategic Plan (2010-2014):

On May 25, 2010, the ECP produced a five-year strategy plan (2010-2014) after extensive six-month consultations with lawmakers, political parties, civil society organizations, and international agencies. This emphasized tenets that are indicative of the ECP's overarching concept, including gender parity, the inclusion of marginalized groups, independence, impartiality, transparency, integrity, and professional quality. It also outlined fifteen overarching objectives, which were further broken down into 129 specific, time-bound tasks (International Crisis Group, 2012).

PPP's Electoral Reforms and General Elections 2013: A Glimpse of Implementation

On May 11, 2013, general elections were conducted. The highest number of voters was registered for these elections. Over 46 million people used their right to vote in the elections, making up over 55% of the electorate, according to the ECP. The nation's polling places used the first voter list with pictures created and printed by the ECP specifically for these elections. Political parties and other interested parties regarded it as one of the most significant reforms to raise the standard of the nation's elections. To make voting easier for people nationwide, ECP introduced its 8300 SMS service (Election Commission of Pakistan, 2016). Just a few days prior to the election day, around 55 million voters used the system, which proved to be quite beneficial to them. The ECP developed and implemented five norms of conduct that apply to political parties, office candidates, observers, the media, poll workers, and security personnel. Before the commission approved the code of conduct for political parties and candidates, it was published in newspapers to get feedback from the public and political parties, as well as to ensure that any concerns were taken care of (Youth Parliament Pakistan, 2015). During the campaign, the ECP sent out monitoring teams to keep an eye out for and report instances of political parties and candidates breaking the code of conduct. Once more, the ECP took this fresh endeavor to improve the fairness and transparency of the 2013 general elections (National Democratic Institute, 2013).

The Election Commission of Pakistan (ECP) mandated that candidates must have a different bank account for each constituency they plan to run in, per the Supreme Court of Pakistan's directive. The purpose of this action was to ensure that the candidates running for the National Assembly and Provincial Assembly elections stayed under the respective Rs. 1.5 million and Rs. 1 million caps. In order to ensure that candidates meet the requirements outlined in the Constitution to run for office, the ECP updated the nomination Form, requiring candidates to submit additional tax information, an affidavit regarding their dual nationality, and their legislative contribution if they were a member of a previous Assembly. Following the commission's permission, the nomination form was utilized (Election Commission of Pakistan, 2016). So as to assist the candidates running for office, the ECP created and disseminated a nomination booklet that contained essential details on the nomination paper filing process as well as legal excerpts. Politicians and parties reacted favorably to the handbook.

The conduct of conspiring to prevent women from casting ballots in the 2013 elections was specifically prohibited by the ECP code of conduct for political parties and candidates (Youth Parliament Pakistan, 2015). The April 25 *fatwa*, or decision, from the Pakistan Ulema Council distancing itself from this practice and allowing more women to vote in the elections was another measure to deter women from voting against Islamic law. The fact that a woman ran for office in a FATA general election for the first time was a significant step as well. The political parties order was extended to FATA, allowing political parties to file candidates for general seats in the National Assembly in the tribal territories for the first time. For general seats in the National Assembly, the majority of well-known parties fielded candidates in the tribal areas (National Democratic Institute, 2013).

In contrast to previous practice, ECP appointed election tribunals from among the current high court judges as well as retired district and sessions judges who were eligible to be appointed as high court judges for the hearing and resolution of election petitions arising from the 2013 general elections. The latter were hired under a contract. They received all the assistance required to make an election petition decision as quickly as feasible. In order to make future decisions based on the results of this initiative's reevaluation, the ECP (Youth Parliament Pakistan, 2015). The five-year strategy plan was mostly put into action before the 2013 general elections.

Conclusion

The general elections of 2008 brought 4th democratic regime of PPP after the eight-year rule of General Pervez Musharraf. Due to the ECP's lack of independence, the flawed legal system, the erroneous electoral roll, and the general lack of transparency, the 2008 general elections serve as a stark reminder of the urgent need for comprehensive electoral reform. Therefore, the PPP government started an extensive electoral reform effort after the general elections in 2008. A strategic plan for five years, 2010-2014, was prepared and largely implemented into the ECP. A special committee was formed to study electoral reforms. Significant advancements were achieved during the reform process, such as the removal of the excessively restrictive education requirements for candidates and the adoption of three major constitutional reforms that have improved the Election Commission of Pakistan's (ECP) independence and transparency while also strengthening the parliament's institutional role. The political parties order let candidates nominated by their parties run for seats in the regional general assembly, which was also extended to FATA by the PPP government.

Furthermore, new administrative codes of conduct were released by the ECP. During the 2013 elections, some good moves were made to increase the ability of women to use their civic and political rights. In the 2013 general elections, Pakistan witnessed the largest turnout in its electoral history for the first time because of all these electoral reforms. The 2013 elections were conducted with greater competence and consistency than those held in the past. However, a number of significant issues had not been satisfactorily addressed; therefore, the electoral changes remained unfinished. Reforms are an ongoing process. Thus, the succeeding governments should prepare electoral reforms according to the prevailing situation in the country and should address flaws to be removed in succeeding general and local elections. All stakeholders must work together to ensure that the democratic process continues and is maintainable. The transfer of power from one elected government to another is the only way to alleviate this brittle polity.

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