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WOMEN'S PARTICIPATION IN THE UPCOMING 2013 ELECTIONS

PAKISTAN'S INTERNATIONAL LAW COMMITMENTS UNDER CEDAW

EXECUTIVE SUMMARY

Significant shortcomings remain in regards to women's political participation in elections in Pakistan. The measures taken by the state until now have failed to provide sufficiently for *de facto* equality as evidenced by statistics: Only 16 women in the National Assembly have been directly elected on general seats (5.8 percent), far short of the target of 30 percent set by the Beijing Platform for Action and the UN. Even with the reserved seats for women, only 22.2 percent of National Assembly MPs are female, and 18.6 percent of the provincial assembly members. In 2008 less than three per cent of candidates for general directly elected seats were women. While gender-disaggregated data is not available on voting, the fact that 11 million fewer women are registered voters than men and the history of negligible turnout by women in certain areas are significant shortcomings. Discrimination has not been eliminated and equality of political participation has not been ensured.

Pakistan acceded to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1996. The treaty obliges all state organs, thus the Election Commission of Pakistan (ECP) and various other state agencies to support women's equality in electoral participation. The CEDAW treaty requires "all appropriate measures" to be taken to "eliminate" discrimination and "ensure" equality for women in the political life of the country.

The lack of available gender-disaggregated data, despite a treaty commitment to produce such data, means that it is not always possible to measure shortcomings and to respond accordingly.

There is insufficient consultation with women's groups in the development of policies and practices related to elections, as recommended by the UN's CEDAW committee (General Recommendation 23).

To date the electoral roll shows a significant shortfall in the number of women registered as voters; which calls into question the universality of enfranchisement for the upcoming election. NADRA and the ECP need to strengthen efforts to register women, for example through greater outreach and use of female staff. In addition, photographs on Computerized National Identity Cards (CNICs) could be made mandatory to reduce opportunity for impersonation.

Women in political parties are largely excluded from decision-making positions. The state is failing to sufficiently ensure that parties are upholding the principles contained in CEDAW. Parties could be obligated to provide information on women's participation and to have policies and practices in place to promote women holding decision-making roles. Parties could also be required to nominate a minimum proportion of women candidates on directly elected winnable seats.

The cultural context, which is unfavourable to women, places an onus on the state to provide additional measures for women candidates to overcome the difficulties they face in campaigning. These could include provision of extra resources for campaigning, enhanced security, and additional access to state media. The state media outlets do not appear to have any special policies regarding promotion of women contestants.

CEDAW emphasises *realisation* of rights. It is recommended that the ECP make every effort to promote women's voting rights being realised in practice, including through specialised voter education, making polling accessible (for example through the recruitment of female staff), and conducting research on the value of women's versus combined stations. The ECP could take additional

measures to promote the integrity of women's polling and actively work to prevent and respond to women's non-participation.

No gender-disaggregated data is available on use of the election dispute resolution mechanisms. The category of those permitted to file election petitions could be expanded to include political parties, CSOs and voters, to enable women to have greater access to remedy.

Without the different branches of the state of Pakistan providing gender-disaggregated data, meaningfully consulting with women's groups, and undertaking such additional special measures, there will continue to be serious shortcomings in women's political participation. Without women's equal electoral participation, the representative legitimacy of democratic processes and structures risk being left subject to question.

1. WHAT DOES INTERNATIONAL LAW SAY ABOUT WOMEN'S PARTICIPATION IN ELECTIONS?

CEDAW is an international treaty that contains obligations related to women's political activity, including in regards to electoral participation.¹ Pakistan acceded to the treaty in 1996, and is thus legally bound to implement the obligations of the treaty.² In total 187 countries around the world have signed up to CEDAW, and thus its contents are nearly-universally recognised and committed to.

The Convention provides an authoritative, objective framework for assessing laws and practices, for identifying shortcomings, and for working out constructive ways to achieve its objectives. This paper focuses on one aspect of the treaty only: women's electoral participation. It will consider different aspects of the electoral process, identifying where there is a compliance gap (i.e. where the reality in Pakistan does not conform with the requirements of the treaty) and it makes recommendations on how it can be addressed. Most of these recommendations may be implemented by administrative decision, but would be more strongly secured if they were required in law.

a) What does CEDAW say and mean?

CEDAW makes explicit reference to women's participation in political and public life in article 7:

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

(c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

This article contains clear language about "eliminating" discrimination, "ensuring" equality, and taking "all" appropriate measures.

Such obligations raise a number of questions about how this can be achieved, how to measure and assess women's participation, and what are "appropriate measures". To assist states in understanding and fulfilling their obligations, the official treaty body, the CEDAW committee³, has issued a "general recommendation" on article 7 (General Recommendation 23⁴). While the contents of this general recommendation are not binding law, as countries have not explicitly signed up to the general recommendations (only the treaty), they offer "clear guidance" to state parties on application of the treaty.⁵

The CEDAW committee is made up of 23 independent experts on women's rights from around the world. In addition to issuing general recommendations, it also deals with the regular reporting required from states party to the treaty on how the rights of the Convention are implemented.⁶ The Committee

¹ CEDAW treaty, <http://www2.ohchr.org/english/law/cedaw.htm>

² Pakistan has one reservation to the treaty: "The Government of the Islamic Republic of Pakistan declares that it does not consider itself bound by paragraph 1 of article 29 of the Convention". It also declared that "The accession by [the] Government of the Islamic Republic of Pakistan to the [said Convention] is subject to the provisions of the Constitution of the Islamic Republic of Pakistan." Article 25 of the Constitution states that: "Equality of citizens: 1) All citizens are equal before law and are entitled to equal protection of law 2) There shall be no discrimination on the basis of sex 3) Nothing in this Article shall prevent the State from making any special provision for the protection of women and children."

³ Committee on the Elimination of Discrimination against Women, <http://www2.ohchr.org/english/bodies/cedaw/index.htm>

⁴ General Recommendation 23, <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom23>

⁵ For description of General Recommendations on CEDAW see: <http://www.un.org/womenwatch/daw/cedaw/recommendations/index.html>

⁶ During its sessions the Committee considers each State party report and addresses its concerns and recommendations to the State party in the form of concluding observations. Shadow reports from civil society may also be accepted. When an NGO writes its report with access to the government report submitted to the CEDAW Committee, this is called a shadow report. When an NGO writes its report where no

examines each report and addresses questions and its concerns and recommendations to the State party concerned.⁷ If a country has also ratified or acceded to the Optional Protocol⁸ of the Convention, then the Committee is mandated to receive communications from individuals or groups submitting claims of violations of rights protected under the Convention, once domestic remedies have been exhausted. The Optional Protocol also provides for the committee to initiate inquiries into situations of grave or systematic violations of women's rights. Pakistan has not signed or acceded to the Optional Protocol to the Convention, and thus any violations of rights protected under the Convention may only be challenged within the Pakistani legal system and not to the CEDAW committee.

Recommendation *Pakistan ratifies the CEDAW Optional Protocol, so that there is a stronger complaints mechanism available for alleged violations of CEDAW rights.*

b) Obligations and discretion of the state

General Recommendation 23 (GR23) states that "The obligation specified in article 7 extends to all areas of public and political life... The political and public life of a country is a broad concept... The term covers all aspects of public administration".⁹ Obligations thus apply to different levels of elected representatives, and also to different organs of the state. Therefore constitutionally independent branches of the state, such as the ECP and state media, also share responsibility for fulfilment of the obligations of the treaty.

Article 7 requires that "States Parties shall take all appropriate measures to eliminate discrimination". Thus there is an onus on equality of outcome (no discrimination), and an obligation to take all the measures needed to achieve this. Therefore taking some measures is not in itself sufficient for meeting the obligations of the treaty. Exactly what these "appropriate measures" are is largely left to the discretion of the state.

The treaty does not address electoral systems, even though this is widely recognized to be a key means for promoting women's representation.¹⁰ Rather, the choice of an electoral system is seen as a sovereign matter. However in March 2012 the UN General

Assembly passed resolution 66/130 on Women and Political Participation¹¹ which "urges all States to take, inter alia, the following actions to ensure women's equal participation... (a) To review the differential impact of their electoral systems on the political participation of women and their representation in elected bodies and to adjust or reform those systems where appropriate."

2. IS THERE EQUALITY IN WOMEN'S ELECTORAL PARTICIPATION IN PAKISTAN?

Women are currently under-represented in all the elected assemblies of Pakistan. No federal or provincial assembly has reached the 30 percent Beijing Platform for Action and UN target.¹² Discrimination in political representation cannot be assessed to have been "eliminated" (See Table A).

It is not possible to know the levels of women's participation as voters as currently gender-disaggregated data on voter turnout is not produced. As discussed below, there is evidence that women are not participating as voters on equal terms with men. For example, women are very under-registered, and there are certain areas where women have barely participated in polling.

Given that there does not appear to be equality in terms of women being elected or participating as voters, there is an onus on the state to take "all appropriate measures" to "eliminate" this problem.

3. PROVISION OF GENDER DISAGGREGATED DATA

General Recommendation 23 requires states to report "statistical data, disaggregated by sex, showing the percentage of women relative to men who enjoy those rights."¹³ Currently there is a lack of requirement for this in Pakistani legislation and a lack of administrative practice. Key components of an election process can therefore not be satisfactorily scrutinized to assess women's participation. Without such data, it is not possible to determine if women are participating "on equal terms with men".

1. Electoral roll. While data is currently available on the total number of women registered to vote, this is

government report is available (e.g. either because their government has not written one or it writes it too late), this is called an alternative report.

⁷ Pakistan has just been considered in the committee's 54th session on 11 February – 1 March 2013. An NGO Alternative Report on CEDAW 2012 was produced by the Aurat Foundation. http://www.af.org.pk/pub_files/1358697993.pdf

⁸ CEDAW Optional Protocol, <http://www2.ohchr.org/english/law/cedaw-one.htm>

⁹ GR 23 paragraph 5.

¹⁰ See for example International IDEA publications such as http://www.idea.int/publications/designing_for_equality/index.cfm, Also See Pippa Norris, "The Impact of Electoral Reform on Women's Representation,"

¹¹ UN General Assembly resolution 66/130,

http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/66/130&Lang=E

¹² GR23, paragraph 16 states that "Research demonstrates that if women's participation reaches 30 to 35 per cent (generally termed a 'critical mass'), there is a real impact on political style and the content of decisions, and political life is revitalized."

¹³ GR 23, paragraph 48.

only broken down to the district level.¹⁴ Gender-disaggregated data needs to be broken down into smaller units, so that specific problem areas can be identified, and additional measures undertaken.

Recommendation The ECP publicly provide gender-disaggregated electoral roll information with a breakdown by National Assembly and provincial assembly constituencies.

NADRA¹⁵ which is responsible for provision of CNICs, a pre-requisite for registration and voting, provides only limited data on the numbers of men and women issued with CNICs.¹⁶ Crucially it also does not provide information on the number of women with CNICs without photographs (which as discussed below increases the risk of electoral fraud).

Recommendation NADRA publicly provide gender-disaggregated information with a breakdown by administrative areas, including information on the number of women who have CNICs without a photograph.

2. Voter turnout. Currently there is no system for separately recording the number of women and men who have voted. Ballot papers from combined polling stations are mixed together before counting, thus counting is not undertaken separately for male and female booths. There is also no tradition of examining the electoral roll to ascertain and report the respective numbers of women and who have voted.

Recommendation The ECP publicly provide gender-disaggregated voter turnout information with a breakdown by National Assembly and provincial assembly constituencies.

3. Political parties. GR23 clarifies that the concept of article 7 refers to “many aspects of civil society, including... the activities of organizations such as political parties.”¹⁷ It also states that “Governments should encourage political parties to examine the extent to which women are full and equal

participants in their activities”¹⁸ Thus there is an emphasis on both the role of parties, and what the state is doing to foster parties’ promotion of women’s involvement. In order to assess the gender performance of parties, and the government’s promotion of women’s participation in parties, it is necessary to have the necessary gender-disaggregated data.

Currently there is no legal or administrative requirement for parties to provide gender-disaggregated data (for example on the proportion of women in executive and leadership positions, in party committee positions, or in the general membership). None of the outgoing parliamentary parties currently list such information systematically on their websites. Thus it is not possible to know the extent of women’s political participation.

Recommendation Parties be required to provide regular and standardized information about the number and proportion of women in their executive and leadership positions. Such information should be publicly available for scrutiny.

4. State media. As an organ of the state, the state media has a responsibility to promote women’s political participation. The extent to which this is fulfilled is difficult to assess given the lack of public information provided by or on the Pakistan Television Corporation (PTV) and Pakistan Broadcasting Corporation (PBC)’s coverage of women in politics.

Recommendation Information be provided on the percentage of coverage given to women elected representatives, candidates, commentators and voters in state media.

5. Election dispute resolution (EDR). Resolution of complaints and petitions is key to electoral justice, and therefore confidence in the democratic process. Women’s use of administrative complaint mechanisms and judicial channels is not recorded, and therefore it is not possible to assess the extent to which women are seeking and receiving remedy. Currently no such data is available from the ECP or the judiciary.

Recommendation The ECP, tribunals and the judiciary establish a system for recording and making publicly available information on the number and proportion of complaints and petitions by women lodged, decided and upheld.

¹⁴ Pakistan has 114 districts, 272 NA constituencies and 577 PA constituencies.

¹⁵ The National Database and Registration Authority (NADRA) is a self-revenue generating, semi-governmental body responsible for developing and maintaining the civil registry of Pakistan.

¹⁶ NADRA’s website does not provide systematic gender-disaggregated data on the provision of CNICs. Some information is available in the form of NADRA press releases. However, these do not provide a full breakdown of information by constituency and are *ad hoc* rather than routine reporting.

¹⁷ GR 23, paragraph 5. This is further emphasised in GR23 paragraph 42: “States parties are under an obligation to take all appropriate measures, including the enactment of appropriate legislation that complies with their Constitution, to ensure that organizations such as political parties and trade unions, which may not be subject directly to obligations under the Convention, do not discriminate against women and respect the principles contained in articles 7 and 8.”

¹⁸ GR23, paragraph 32.

6. ECP staff. GR23 states that there is “a responsibility to... appoint women to senior decision-making roles”¹⁹ There is therefore a responsibility to have women in leadership positions within the ECP, as well as at all other levels. As discussed later, this does not appear to be the case. The ECP does not make public how many women it has at different levels of its organisation.

Recommendation The ECP regularly produce public information about the number and proportion of women it has at all levels of the organisation.

4. CONSULTATION WITH WOMEN'S GROUPS

GR 23 emphasises the need for women's groups to be consulted in the development of policies and practices in order to promote women's political participation. For example paragraph 26 notes that “States parties have a responsibility... as a matter of course, to consult and incorporate the advice of groups which are broadly representative of women's views and interests.”²⁰ It also notes that article 7 “requires States parties to ensure that women have the right to participate fully in and be represented in public policy formulation in all sectors and at all levels. This would facilitate the mainstreaming of gender issues and contribute a gender perspective to public policy-making.”

The ECP has undertaken some consultations with women's groups, for example in developing its voter education plan. It is also working with UN Women regarding development of gender mainstreaming policies.

Recommendation Consultation with groups broadly representative of women's views is undertaken by

- The parliament, on how legislation can promote development of women's participation in the election process. This could include looking at the electoral system, the role of women in political parties, election administration arrangements, and the role of the state media.
- The ECP, on all aspects of the election process, leading to policy and practice development. This could be regularly undertaken at central and lower levels.
- NADRA, on promotion of women's registration, and in particular promotion of women's photographs on CNICs.

- The judiciary, on how the petitions process can be made accessible for use by women.
- The state media, on how women's participation can be promoted (for example through increased coverage of women candidates and voters, through women commentators, increased attention on campaign issues of interest to women etc.).

5. OTHER GAPS AND POSSIBLE MEASURES

The electoral system

The Constitution provides for reserved seats for women at federal and provincial levels. This is the one special measure undertaken to promote women's representation. These reserved seats, established in 2002, are indirectly elected using a proportional system based on the number of general seats won by each party (calculated on a provincial basis).²¹

Currently only 26 women, out of a total of 849, have been directly elected to general seats in the national and provincial assemblies. This is three percent of the total of general seats in the national and provincial assemblies (See Table B).

While the current electoral system of reserved seats provides for higher numbers of women in elected institutions, it is argued by some that it does not provide sufficiently for women to be perceived of as fully-effective representatives. Without having been elected in direct elections, women on reserved seats may not be seen as having a popular mandate, and are dependent on the will of their party. There has therefore been call for review of the electoral system with a view to strengthening meaningful representation.²²

Recommendation In keeping with UN General Assembly Resolution 66/130, a review is undertaken of the impact of the electoral system on the political participation of women and their representation in elected bodies, and recommendations made for public and parliamentary consideration.

²¹ Articles 51(6) (d) and 106 (3) (c), Constitution of Pakistan.

²² The Aurat Foundation NGO Alternative Report on CEDAW 2012 states that “women on reserved seats continue to be looked down upon by other legislators, as they were not elected. This resulted in many occurrences of discrimination against these women, which includes that the development funds for women Members National Assembly (MNAs) on reserved seats are spent at the will of party leaders, often without their consultation... It is important to change the framework of reserved seats as it has resulted in women on reserved seats being considered inferior to other MNAs and MPAs. Due to their indirect allocation and without their own geographical constituency, the disparity between women and men for equal status in decision-making has increased.”

¹⁹ GR23, paragraph 27.

²⁰ GC23, paragraph 25.

The election administration

The ECP has stated in its Strategic Plan 2010-2014²³ that “the ECP will always endeavour to create favourable conditions for women... with regard to the electoral process.” It goes on to say that it will “formulate laws and strictly implement them to ensure that marginalized groups including women... are able to participate in the political and electoral processes.” However there is currently a lack of clear and specific policies on gender that are publicly available on the ECP website.

The ECP Strategic Plan also refers to “eligible women having at least 10 percent representation in ECP jobs” by June 2013. However at the current time there is considerable shortfall. None of the four Election Commissioners are women.²⁴ The latest ECP Strategic Plan progress report²⁵ indicates that one female assistant has been appointed in the ECP secretariat and two female public relations officers in Punjab and Balochistan. Out of a total of 2,288 staff, it appears that there is only a negligible number of women.

Thus there is a significant CEDAW compliance gap within the election administration as women are not performing “all public functions at all levels” as required under article 7. Women are not exercising decision-making or administrative power in this crucial component of state functioning.

Recommendation Future party and parliamentary selection of ECP commissioners adhere to Pakistan’s gender obligations under CEDAW for women to be represented in all levels of public functions. The ECP re-double its efforts to include women at all levels of the secretariat (e.g. through consulting with women’s groups, revising working conditions etc.).

Voter registration

Currently there is a severe deficit in the number of women registered to vote, which calls into question the universality of enfranchisement for the upcoming election (See Table C).²⁶

This shortcoming is attributed to difficult cultural and practical circumstances (particularly acute in the Federally Administered Tribal Areas, FATA) and

differences in the number of men and women registered with CNICs (a prerequisite for voter registration). NADRA, the agency responsible for CNICs, currently reports that 92 million CNICs have been issued; out of which 40 million have been to women.²⁷

The ECP has undertaken a door-to-door verification exercise, which aimed to provide for an accurate electoral roll, with people registered not just at the location where they first applied for their CNICs, but where they currently reside, in order to facilitate polling. There were some reports that women were vulnerable to exclusion in this process as one household member answered on behalf of others in the dwelling. Furthermore the lack of women working as ECP verification officers could have had a particularly prohibitive effect in certain areas given prevailing social codes regarding women’s contact with men. Out of 140 registration officers and 2,292 assistant registration officers working on voter registration across the country, the number of women officers was reportedly less than one percent.²⁸

Recommendation NADRA and the ECP redouble their efforts to register women with CNICs and on the electoral roll, including through the use of female registration staff and further additional measures.

It is currently not a mandatory requirement for women to have photographs on their CNICs. While this may be seen as culturally sensitive and a way of facilitating women’s registration, it can be counterproductive in leaving women’s votes vulnerable to fraud (as impersonation is made easy), thereby undermining their ability to meaningfully participate in an election. The necessity of such cultural sensitivity is questionable given that women are required to have photographs on their passports and visa applications for going to Hajj.²⁹

Recommendation Photographs be made mandatory on CNICs, to reduce opportunity for impersonation of women voters. NADRA make further efforts to facilitate the photographing of women, including through the use of female staff and settings.

Political parties

Currently there are no legal or administrative requirements for parties to provide gender

²³ cp.gov.pk/sp/goals-objectives.html.

²⁴ According to Article 218 (1) (b) of the Constitution of Pakistan, the Commissioners are appointed in the procedure provided in clauses (2A) and (2B) of Article 213. Each Commissioner must have served as a Judge of the High Court. The Prime Minister, after consultation with the opposition leader, forwards names to a parliamentary committee that select the Commissioners who are then appointed by the President.

²⁵ http://ecp.gov.pk/Reports/SPProgd19_8thRep_May10-Dec12_2012-12-13.pdf

²⁶ Article 25 of the International Covenant on Civil and Political Rights (ICCPR) specifies that elections “shall be by universal and equal suffrage.”

²⁷ “96 pct Adults Registered in Pakistan: NADRA”, 18 August, 2012.

<http://www.nadra.gov.pk/index.php/media/news-a-updates/374-96pc-adults-registered-in-pakistan-nadra>. The difference in the total number of CNICs issued and the total number of registered voters is due to CNIC figures including cards issued to adults in Kashmir and Gilgit-Baltistan (elections for the National Assembly do not take place in these areas).

²⁸ <http://www.ecp.gov.pk/Misc/ROARO/ListofROARO.aspx>.

²⁹ Women are required to have photographs on their passports and to submit a photograph for a Hajj visa. <http://www.hajjinformation.com/main/p10.htm>.

information, to have gender policies, or a proportion of women in positions of authority within the party.

Research indicates very low levels of women's participation in senior levels of parties. For example a recent study by Lahore University of Management Sciences (LUMS) states that "women remain marginalized from the party structures and leadership positions. There are of course exceptions to this trend, but to date women in the top echelons remain few and far between."³⁰ A 2009 study by the National Commission on the Status of Women (NCSW) highlighted problems for women in political parties, for example there are less than five percent female central executive committee members women, and a lack of involvement of women in development of manifestos and budget making.³¹

There is a shortcoming in regard to fulfilment of CEDAW commitments related to parties' performances regarding women. Parties are not demonstrating "their commitment to the principle of gender equality in their constitutions, in the application of those rules and in the composition of their memberships with gender-balanced representation on their executive boards."³²

Recommendation Parties demonstrate their commitment to gender equality in their rules, and public policies and practices, including by having women in leadership and decision-making positions.

There is also a CEDAW compliance gap as the state is not encouraging parties "to examine the extent to which women are full and equal participants in their activities... to adopt effective measures, including the provision of information, financial and other resources, to overcome obstacles to women's full participation and representation."³³ Thus the state is not taking "all appropriate measures... to ensure that organizations such as political parties... which may not be subject directly to obligations under the Convention, do not discriminate against women and respect the principles contained in article 7".³⁴

Recommendation Political parties be required to have policies and provide information on women's participation within the party, and to take additional measures to promote women's participation.

³⁰ "Political Parties in Pakistan, Organization and Power Structure", Mohammad Waseem and Mariam Mufti, Lahore University of Management Sciences (LUMS), November 2012.

³¹ "Gender Review Framework for Women's Political Participation", Rukhshanda Naz, NCSW, 2009.

³² GR 23, paragraph 34.

³³ GR23, paragraph 32.

³⁴ GR23, paragraph 42.

Candidates

The 2008 EU Election Observation Mission (EU EOM) noted that less than three percent of candidates for general seats were women.³⁵ Of these "The majority ran as independents, although they fared extremely poorly. The small number of party backed women candidates fared much better." The by-elections that have been held since the last general elections of 2008 indicate similar low levels of women's participation.³⁶

General Recommendation 23 states that "Political parties must embrace the principles of equal opportunity and democracy and endeavour to balance the number of male and female candidates... political parties also have a responsibility to ensure that women are included in party lists and nominated for election in areas where they have a likelihood of electoral success".³⁷ Again there is also an onus on the state to promote this: "Political parties should be encouraged to adopt effective measures... to overcome obstacles to women's full participation and representation and ensure that women have an equal opportunity in practice... to be nominated as candidates for election."³⁸

A cross-party NA Women's Parliamentary Caucus amongst other achievements committed to building consensus amongst parties for a minimum of 10 percent of women on general seats for the next election.³⁹

Recommendation Parties support women candidates running in 10 percent or more of winnable general seats.

Recommendation Parliament consider making it a mandatory requirement for parties to nominate a minimum proportion of women candidates.

³⁵ "The ECP website on 16 February 2008 listed 64 women candidates and just over 2,000 male candidates for general seats in the National Assembly. For general seats in the Provincial Assemblies there were 116 women candidates and 4,341 male candidates." EU EOM Final Report 2008.

³⁶ DRI conducted internal research on women's participation in by-elections held from 2012 to March 2013. Lists of contesting candidates for each by-election are not available on the ECP website. Instead a more cumbersome process is required, with formal requests needing to be made to ECP district offices.

³⁷ GR23, paragraphs 22 and 28.

³⁸ GR23, paragraphs 22 and 28.

³⁹ A private members bill was introduced in January 2012 in the NA by members of the Women's Parliamentary Caucus proposing amendments in the Political Parties Order to make it obligatory for parties to nominate a minimum of 10 percent women candidates on general seats; the bill has not been passed. The bill followed a Declaration by various women party leaders and legislators agreeing to build consensus among their respective political parties to provide a minimum 10 percent quota for women on winnable seats before the next elections. See Political Parties (Amendment) Bill 2012, http://www.na.gov.pk/uploads/documents/1326865627_665.pdf; For the Declaration see http://www.na.gov.pk/en/pressrelease_detail.php?id=179

The campaign and the media

The 2008 EU EOM noted that “Women candidates were generally not able to campaign on an equal basis with men, facing cultural restrictions which sometimes prevented them from showing their faces on posters and from undertaking campaigning activities which brought them into contact with men.”

These cultural disadvantages place an onus on the state to provide additional measures to women candidates to overcome the difficulties they face.⁴⁰ These could include provision of supplementary resources for campaigning, enhanced security measures, and additional access to state media.

The state media outlets in Pakistan do not appear to have any special policies regarding promotion of women contestants. The proportion of women party representatives given coverage may be quite high, due to contesting candidates being otherwise engaged in campaign work. However there is an absence of policy regarding additional coverage to contesting women candidates running for directly elected general seats.

Recommendation State media develop and implement policies to give advantage to women candidates running for general seats, to provide for more equitable opportunities for campaigning.

Polling and counting

It is not possible to know the overall levels of female voter participation due to the lack of gender-disaggregated data. However it is clear that in certain localities there has been negligible participation of women voters (in tribal agencies, Khyber Pakhtunkwa, Punjab and Sindh). Sometimes there appears to be agreements between local branches of political parties, and upon occasion election officials have also been implicated.

The ECP is constitutionally mandated to “ensure that the election is conducted honestly, justly, fairly and in accordance with the law, and that corrupt practices are guarded against.”⁴¹ However despite this obligation, the ECP has argued that it cannot annul a vote with negligible female voter participation on its own initiative but must await an official

⁴⁰ GR23, paragraph 15 states that “While removal of de jure barriers is necessary, it is not sufficient. Failure to achieve full and equal participation of women can be unintentional and the result of outmoded practices and procedures which inadvertently promote men. Under article 4, the Convention encourages the use of temporary special measures in order to give full effect to articles 7 and 8.”

⁴¹ Article 218(3), Constitution of Pakistan.

complaint from an aggrieved person.⁴² Although it has proposed legal measures to address annulment of such results⁴³, it has not itself taken action.⁴⁴ Thus in effect the state is not taking sufficient measures to “eliminate discrimination”.

One reason given for agreements barring women’s voting has been that women’s booths and stations are more subject to fraud. Corruption of women’s votes negates women’s participation in public and political life and also undermines an election process and confidence in the outcome.

Recommendation The ECP take additional measures to promote the integrity of women’s polling and actively works to prevent and respond to women’s non-participation. This could involve improving the accessibility of polling (including through recruitment of female polling staff), use of stronger security and integrity measures, proactive liaison with parties locally, stopping polling and declaring a poll void, and stronger management response to those committing offences. Scrutiny by women observers and agents can also be promoted.

Recommendation Political parties and civil society organisations take extra measures to undertake scrutiny of women’s polling stations and booths and take active measures to prevent the barring of women and to promote women’s participation as voters.

CEDAW emphasises *de facto* realization of rights.⁴⁵ A recent decision of the Supreme Court requiring polling stations to be located within two kilometers of voters⁴⁶ would likely have a particularly positive impact on women who are traditionally less able to travel. However this decision will be difficult to fully implement in practice and it is not yet clear if this will be sufficient to overcome impediments to women’s freedom of movement.⁴⁷ Conversely the prohibition on parties and candidates transporting voters⁴⁸ might be seen as making it disproportionately difficult for women to participate.

⁴² For further information see DRI briefing paper “No Voice: The Exclusion of Women from Voting.” http://www.democracy-reporting.org/files/dri_briefing_paper_15-no_voice-the_exclusion_of_women_from_voting.pdf

⁴³ http://ecp.gov.pk/Reports/SPProg19_8thRep_May10-Dec12_2012-12-13.pdf
<http://tribune.com.pk/story/444003/unfortunate-stance>

⁴⁴ In only a few cases has the ECP annulled the vote in some polling stations and ordered a re-poll (in July and August 2005, the ECP annulled voting at a number of stations in Nowshera and Swabi districts).

⁴⁵ GR23, paragraph 18 “The Convention obliges States parties in constitutions or legislation to take appropriate steps to ensure that women, on the basis of equality with men, enjoy the right to vote in all elections and referendums, and to be elected. These rights must be enjoyed both de jure and de facto.”

⁴⁶ Supreme Court verdict on Constitution Petition no. 87 of 2011.

⁴⁷ GR23, paragraph 45(c) requires states to “Ensure that barriers to equality are overcome, including those resulting from illiteracy, language, poverty and impediments to women’s freedom of movement.”

⁴⁸ The Representation of Peoples Act, 1976, Section 78 (5). In its 2012 verdict on election related petition, the Supreme Court also directed the ECP to impose a ban on private transport of voters on polling day.

States are also required to “Ensure that women understand their right to vote, the importance of this right and how to exercise it”.⁴⁹ The extent to which women will understand their right in the upcoming election is not yet clear. However the low levels of women’s registration and the history of women’s non-participation in certain areas indicates that further measures need to be undertaken.

Recommendation The ECP makes every effort to promote *de facto* realization of voting rights, including through specialized voter education, making polling accessible, and conducting research on the value of women’s versus combined stations.

Election dispute resolution

Challenges to election results are made through petitions to specially formed tribunals. The inefficiencies of this process result in a failure to provide electoral remedy.⁵⁰ What limited opportunities there are for remedy are less likely to be taken up by women. This is partly because of cultural practices of women not traditionally taking a lead in formal complaints. However it is also due to the opportunity to lodge such petitions being restricted to contestants only (and there being a very low number of women candidates).⁵¹ This restriction compounds the problem of women being barred from voting by agreement of candidates, as it is unlikely any candidate would challenge women’s non-participation (having been party to the agreement).

Recommendation The category of those permitted to file election petitions be expanded to include political parties, CSOs and voters, to enable women greater access to election dispute resolution.

⁴⁹ GR23, paragraph 45(b).

⁵⁰ See DRI’s paper on Election Dispute Resolution. <http://www.democracy-reporting.org/programmes/pakistan/publications.html>

⁵¹ The Representation of Peoples Act, 1976, Section 52 (1).

Table A - Women in the Parliament and Provincial Assemblies in Pakistan

	Total Members	Number of seats reserved for women	Total number of seats currently held by women	% of total seats held by women	Total number of seats needed to be held by women to meet the Beijing 30% target	Number of extra seats that would need to be held by women to meet the Beijing 30 % target
National Assembly (NA)	342	60	76	22.2	103	27
The Senate ⁵²	104	17	17	16.3	31	14
Federal total/average	446	77	93	19.3	134	41
Baluchistan PA	65	11	12	18.5	20	8
Khyber Pakhtunkhwa PA	124	22	22	17.7	37	15
Punjab PA	371	66	75	20.2	111	36
Sindh PA	168	29	30	17.8	50	20
Provincial total/average	728	128	139	18.6	218	79

Table B - Women on Directly Elected (General) Seats

	Total number of directly elected representatives (on general seats)	Number of women directly elected (on general seats)	% of women directly elected (on general seats)
National Assembly (NA)	272	16	5.8
Baluchistan PA	51	1	1.9
Khyber Pakhtunkhwa PA	99	0	0
Punjab PA	297	8	2.7
Sindh PA	130	1	0.7
Total	849	26	3

Table C - Final Electoral Rolls

Province	Men registered to vote	Women registered to vote	Total	Difference between men and women	% of women registered compared to men
Balochistan	1,886,212	1,391,912	3,278,124	494,300	74%
ATA	1,120,726	555,230	1,675,956	565,496	50%
Federal Area	325,795	279,007	604,802	46,788	86%
Khyber Pakhtun Khwa	6,929,055	5,135,474	12,064,529	1,793,581	74%
Punjab	27,297,010	21,011,177	48,308,187	6,285,833	77%
Sindh	10,214,384	8,218,393	18,432,777	1,995,991	80%
Total	47,773,182	36,591,193	84,364,375	11,181,989	77%

Source: ECP website (20 February 2013).

⁵² The Senate is indirectly elected by members of the provincial assemblies, Article 59 Constitution of Pakistan.

ABOUT DEMOCRACY REPORTING INTERNATIONAL

Democracy Reporting International (DRI) is a non-partisan, independent, not-for-profit organisation registered in Berlin, Germany. DRI promotes political participation of citizens, accountability of state bodies and the development of democratic institutions world-wide. DRI helps find local ways of promoting the universal right of citizens to participate in the political life of their country, as enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

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