

Allegations of Rigging in General Election-2018 in Pakistan

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Abstract

The GE-2018 held in Pakistan has been criticized by many candidates and political parties. Mismanagement and irregularities at some of the Polling Stations as well as untrained polling staff are particularly highlighted. Most of the allegations were found to be political in nature. However, some genuine concerns like untrained election officials, mismanagement at the polling stations, delay in announcement of elections results, created doubts in the transparency of electoral system. For making the conduct of elections fair and to redress the reservations of complainants, ECP should practically exert its authority. Its regional and district offices should be empowered, the use of Electronic Voting Machines (EVMs) in elections should be considered and election training should be imparted to all of the concerned polling as well as election staff. Sincere efforts must be made by all of the stakeholders to ensure the conduct of fair elections in Pakistan.

Key words: electoral system, free and fair election, rigging, voting, representation.

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Introduction:

Free and fair elections not only ensures democracy but it also extends legitimacy to governments at all levels. It ensures peace, stability and development. It gives vent to the expressions of individuals and enables them to choose the representatives of their choice to hold public offices for public interests. The conduct of free elections also ensures the protection of legitimate human rights. Election is a democratic process through which representatives of the people are elected to public offices (Atif, 2019). Representative democracy is in operation since 17th century due to the blessing of modern system of free and fair elections that are being held by the truly democratic states of the world. It is a wide process through which offices of legislature and sometime judiciary and executive are filled. Historically elections were held by ancient Greece and ancient Roman and through medieval period to elect their leaders. Elections were also held in the period of Rashideen Caliphate. The modern system of election emerged in the 17th century in North America and Europe.

The theme of my research has been proposed for systematic research with reference to Pakistan's electoral system through analytical review of the elections held in Pakistan to evaluate the question of free, fair and transparent elections based on International standard and apparatus enshrined in multiple International/national documents. Moreover, the general election 2018 is particularly focused with regard to the assessment of free elections in Pakistan and suggestions are given for improvement. Article 21 of the Universal Declaration of Human Rights (UNDHR) (1948) states that the will of the people is the basis of every authority. People express their will through free and genuine elections which are held periodically through universal and equal suffrage (Compendium of International Standards for Elections, 2007).

Need/Importance of Free and Fair Elections and its Impacts on Democracy:

Electoral system has profound impacts on the political life of the people. Each and every democratic state has the electoral system which responds to their demands on due times. Though Electoral Management Bodies (EMBs) as well as the electoral systems or rules may differ from state to state, yet the sole objective of these all system is the conduct of free and

fair election (Alan Wall et al, 2006). Elections play vital role on multiple fronts in a state.

Translation of votes into seats:

The very fundamental purpose of Electoral System is to translate votes cast by the voters of a particular constituency into seats. The seats are won by political parties and candidates. The system provides huge opportunities to the masses to exercise their rights and express their opinions through ballot. According to (Ahmed Nawaz, 2019) People are equipped with the most powerful weapon of vote which is registered, cast, calculated and represented in the National Parliament exclusively through elections. The right to vote of the people is often enshrined in the Constitution of the concerned states but practically it is exercised in elections.

Conflict Management:

Electoral System is an effective tool of conflict Management. It provides due opportunities to all individuals, groups, communities, etc. to participate in the affairs of the governments either directly or indirectly. The absence of a suitable electoral system in a society brings about the emergence of conflicts, crises and disputes among the people. In Lesotho, a country in southern Africa, Mixed Member Proportional (MMP) Electoral System was adopted which not only ended the existing but also provided a viable solution to the issue of representation. (Jorgen Elklit. 2008).

Adequate Representations:

The electoral systems are usually designed in such a manner as to provide to all of the people, groups and communities etc. representation in governance indiscriminately. The Electoral system in British Columbia, a Canadian province, was not working properly in term of providing due representation to its citizens. Therefore, a shift in the electoral system i.e. from First Past The Post (FPTP) to Proportional Representation (PR) of Single Transferable Vote (STV) was made in October, 2004 (The British Columbia Citizens' Assembly on Electoral Reform. 2005). Contrary to this, FPTP electoral system of India has given indiscriminate representation to all of the communities and groups living in India (Vijay Patidar. 2005). Similarly, FPTP Electoral system in Pakistan has been adopted with the same intentions to provide due representation to all of the

groups as well as communities and augment integration. In Palestine, after the conclusion of the Oslo agreement in 1993, single round FPTP and Block Vote (BV) electoral systems were adopted for ensuring due representation of the communities and groups living there (Andrew Ellis. 2005). Indiscriminate and due representation to the people in the affairs of government is the main purpose of all electoral systems.

National Integration/Political Inclusion:

The ultimate goal of each and every electoral system must be national integration. It can be achieved through political inclusiveness. The 1994 Elections under the system of List Proportional Representation (LPR) in South Africa is the leading instance of social unification and political inclusion. This system of LPR, adopted after the termination of the Apartheid, provided equal opportunities to the entire population and all of the political parties maintained their due share in the parliament (Andrew Reynolds. 2005).

Social Unification:

Beside political unity, social cohesion is also very much necessary for the achievement of robust national integration. The Papua New Guinea, a south western pacific country in the Oceania Continent is a multi-ethnic and socially fragmented country having 850 separate languages and many clans and tribal groups. Electoral System has provided stability and integration to this religiously and socially divided nation of the land. (Ben Reilly. 2008). Similarly, electoral system in USA, Canada as well as other states have been used to achieve social cohesion.

Allegations of Rigging in General Election 2018:

After the announcement of the election result of General Election-2018, most of the political parties, except Pakistan Tehreek-e-Insaf (PTI), Balochistan Awami Party (BAP) and some smaller political parties and several Independent Candidates, rejected the results and they leveled various allegations of rigging in election. Pakistan People's Party Parliamentarians (PPPP) Chairman, Bilawal Bhutto Zardari rejected result of the poll and lambasted the failure of the Election Commission of Pakistan (ECP), (Guramani, 2018). The Jailed leader of the Pakistan Muslim League (Nawaz) (PML-N), Mian Muhammad Nawaz Sharif, declared that the mandate of the people is stolen. (Yasin & Junaid, 2018).

Similarly, the Muttahida Majalis-e-Amal (MMA) rejected out rightly the entire results of GE-2018 and demanded that this election must be declared null and void and the conduct of re-election shall be announced in the country. (Abbasi, 2018). The major allegations levelled are summarized below:

1. The presence of Polling Agents/Election Agents/Candidates in some of the polling stations during vote counting was not properly ensured. The absence of polling agents during result compilation vitiates the entire electoral exercise (Rehmat Saleh Baloch, 2019 & others).
2. The provision of insufficient election materials especially Forms and Stamp Pads at some polling stations.
3. The signatures of the polling agents / election agents or candidates in some of the polling stations had not been taken on form-45 (result of the count) and form-46 (ballot paper account).
4. The failure of the Result Transmission System (RTS) in the neck of time.
5. Inordinate delay in the announcement of unofficial as well official election results in some constituencies.
6. The appointment of untrained polling staff in some of the polling stations of some constituencies.
7. In some of the polling stations the number of voters were more than the number provided in sub-section-3 of section-59 of the Election Act, 2017. (Haji Nawaz Kakar, 2019). Similarly, the ban regarding the transportation of voters to the polling stations by the candidates was criticized. It was suggested that voters should be facilitated to a greatest extent either by the candidates or by the EMB (Muhammad Amin Jomezai, 2019).
8. The absence of effective complaints mechanism systems at the district level.

Analysis of the allegations:

According to Section-90 of the Election Act, 2017, “counting of the votes shall be immediately started by the Presiding Officer in the presence of contesting candidates, election agents, polling agents and authorized

observer as may be present. They shall be provided due opportunities to observe the counting process in the polling station”. The provision of the law states that counting may be done in the presence of the mentioned persons. If they were not present during the counting process, it will not invalidate the result. “Similarly, subsection-12 of the section-90 provides that the Presiding Officer shall obtain signatures of the candidates, election agents or polling agents, observers in addition to the signature of the senior most APO on form-45 and 46”. It reveals the fact that signature is taken from those who are present in the polling stations during the counting process. If they were either not present or were unwilling to sign the said forms, the Presiding Officer will just write down on the said forms his / her note to that effect. It is construed from the spirit of this Section that the absence of signatures of the candidates, election agents or polling agents as well as observers on the form-45 and form-46 does not invalidate the result.

Though election training to the entire election as well as polling staff including District Returning Officers (DROs) and Returning Officers (ROs) were imparted but its duration was insufficient. It would have been better if the duration of the training for DROs, ROs as well polling staff had been extended.

Sub-section-2 of section-13 of the Election Act, 2017 provides for the use of the RTS. “The Presiding Officers is responsible to make snapshot of the form-45 immediately after the counting and as and when the connection is available send the same to the Returning Officer and ECP. Several issues surfaced due to the application of this provision of law. During the training almost all of the Presiding Officers either did not have the android mobiles set or pretended that they did not have the android phone set. Android Mobiles were necessary for the installation of RTS software in their mobiles. Even those who had the said mobile did not comprehend fully the use of the installed RTS software. Connectivity was another issue which impeded the full-fledged application of this option. The failure of RTS gave rise to unexpected uncertainties.

The hon’able Chief Election Commissioner (CEC) told that there happened technical fault in RTS and ECP has directed the cabinet division to investigate its failure. It has also been requested that an inquiry committee

consisting of experts from Pakistan Telecommunication Authority (PTA) and National Telecom and Information Technology Board (NTISB) shall be formed for the purpose (The daily Balochistan Time, 27th July, 2018). While, the Chairman of National Database and Registration Authority (NADRA) Mr. Usman Yousaf, has told that RTS did not crush in elections. He refuted the allegations that there were technical fault in RTS designed by NADRA. (Daily Jang, 3rd September, 2018). The allegations of untrained staff and overburdened polling stations have not been proved substantially but such cases had happened in very few constituencies. European Union Election Observation Mission (EUEOM) chief termed the entire process transparent and said the delay in result will not damage the process taken place or the conduct of election (The daily Balochistan Time, 28th July, 2018). Free and Fair Election Network (FAFEN) says in its observation report that GE-2018 were comparatively better than GE-2013. The report has lauded its better management, intensified contest and peaceful environment (FAFEN, 2018). Similarly, the Commonwealth observer groups described the 2018 election as a landmark in the political history of Pakistan.

Conclusion & Recommendations:

International standards of free and fair elections are not fully observed in the conduct of elections in Pakistan. The confidence of the people in elections is dwindling. ECP is supposed to restore the confidence of the voter in letter and spirit in the electoral system of the country. Most of the allegations of rigging in GE-2018 levelled by some of the political parties or candidates are political in nature rather than technical and logical. However, some of the apprehensions raised by them are genuine and needs attention. The following suggestions are given for making elections in Pakistan free, fair and acceptable:

- I. Electronic Voting Machines (EVMs) should be used in the upcoming bye as well as General Elections in Pakistan in order to make the entire process of election trust worthy. It would be helpful in the restoration of the confidence of the people and ensuring fair elections.
- II. Polling day occupies utmost importance in the entire electoral process. As electoral exercise takes place in three periods_ Pre,

during and Post-election periods_ in which the middle period shall be focused more than the others. In Pakistan General Elections to the National Assembly and four Provincial Assemblies are held on one day in the entire country. This is really a herculean task. It needs immense human resource as well as huge financial package to conduct the Poll. It would be better if phase wise elections are conducted like in our neighboring country and several other democracies in the world.

- III. ECP should establish a committee of experts on legal matters. The committee should see all of the lacunas and shortcoming of the legal framework (LFW) of the electoral system and propose such amendments or addition where necessary in order to make Elections Laws updated and complete.
- IV. District Returning Officers (DROs) as well as Returning Officers (ROs) along with the other election officials/polling staff must be fully trained by ECP. The duration of the training should be extended. Practical exercises should be included in the trainings (DROs/ROs, 2018).
- V. The offices of the District Election Commissioners (DECs) and Regional Election Commissioners (RECs) are the backbone of ECP in Pakistan. Unfortunately, these offices are just used as a post offices for the conveying of election materials. Offices of the DECs/ RECs should be empowered.
- VI. Transportation of polling staff to the polling stations and back to the offices of ROs is often mismanaged. Separate transport facility for polling staff and security personnel be arranged in elections and one vehicle should be used just for the staff of one polling stations.
- VII. Effective measures shall be taken regarding facilitation of voters at the polling stations. The buildings of polling stations and the availability of necessary arrangement in them should be particularly focused.
- VIII. Political parties should train their candidates and workers regarding the election process. It would ensure better management of elections at each stage.

- IX. Political parties should realistically ensure that five percent of representation on general seats, as per section 206 of the Election Act-2017, are given to female members.
- X. ECP in Pakistan is independent and autonomous as per the legal framework but it is still a long way to go to make ECP financially and administratively autonomous and powerful practically. ECP should also assert its independence in Elections like the Supreme Electoral Tribunal (TSE) in Costa Rica which enjoys immense powers including constitutional and legislative in the realms of elections (Ruben Hernandez Valle, 2006). Similarly, Vijay Patidar and Ajay Jha, (2009) have termed the Election Commission of India (ECI) as the embodiment of EMB independence. ECP should take a leaf out of these independent bodies' books.

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