

International Standard of Fair Elections and Scenario of Polls in Pakistan

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Abstract

The study presents a view of international standards for fair and free elections set by the international bodies as well as various Electoral bodies of developed countries. The electoral bodies had set the principals for pre-polling as well as during poll processes of elections rather it was for federal and state legislatures or local body councils. The implication of international standards in Pakistani elections has also been checked and short-comes are elucidated in detail. The study is done by the qualitative content analysis technique and interview method was also used for having the detailed opinion of concerns. The study presented a view that international election standards did not be applied in Pakistani elections. The study is concluded as that international standards were never be applied on polls in Pakistan, especially during the general elections of 2002 and 2008 as well as presidential referendum of General Musharraf. The Musharraf regime violated the rules and regulations and ECBs as well as ECOs did not be accomplished their responsibilities during that. Regime tried to maneuver elections but public power abolished its plan to favor the King's Party in general elections 2008 but country had to pay a huge loos of visionary political leader of Benazir Bhutto.

Keywords: *Electoral bodies, International standards, Pre-poll, General elections, Referendum*

Introduction:

The standards for fair elections are always remained a demand so that the free and fair election may be held in under-developed countries. The international bodies have set the standards decades ago and there is need to adopt them for the betterment of the democratic systems. In Pakistan,

general elections were held twice during the rule of powerful Military dictators of the time, General Pervaz Musharraf as well as a referendum was also held to justify the presidency of Military dictator in uniform. Musharraf claimed that the general elections and referendum of his time were transparent and they will be held in fair and free scenario. The qualitative content analysis technique was applied for having the scenario of international standards for fair and free elections by international bodies as well as Pakistani elections under Musharraf regime.

International Standards and Implication during Musharraf Era Elections

The studies presented a scenario as, “in the United Kingdom the term electoral malpractice means all illegal actions which break the Representation of the People Act 1983. In the field of malpractice there include such crimes which are not deception, like being not successful to have the mark on election material, making false pronouncements about the character of any candidate, or to use unwarranted impact to influence some person to cast his or her vote or not to cast his or her vote” (TEC, 2010). The argument was endorsed by the Wilks-Heeg et. al. and various other scholars too (Wilks-Heeg, Blick & Crone, 2012). For stopping the malpractices around world, standards of election had been set and international bodies demanded to apply them in elections. On other hand, the studies presented a view that General Musharraf used all the tools of malpractices for the winning in referendum as well as he tried best for captivating the general elections of 2002 and 2008 for his favorite parties and candidates but failed to have hundred percent favorable results (Parveen, 2020).

The studies presented a scenario that “allegations of rigging in the elections are not new for Pakistan only. This is worldwide phenomenon. Even the western mature democracies like those of United Kingdom are not free of such allegations. As early as 2009 elections in UK were marred with allegations of malpractices. Police force across United Kingdom recorded a total of 48 cases which involved 107 allegations of rigging in the elections of 2009. One of the largest cases, a single largest one was involved with the blames that twenty-four photocopies of ballot papers were used as original ballot papers and they were sent to the Returning Officer. Seventy-Nine per cent of the reported cases (38 cases) were involved only one blame against any person. However these malpractices are not in a large quantity. Thirty-two police forces out of total fifty-one in United Kingdom did not report any malpractice” (TEC, 2010). It is clearly shown that the majority of

elections in United Kingdom were free and fair from malpractices. But both the elections and referendum held under the Musharraf regime were not fair and free.

The TEC (2010) clearly showed that “after the deep analysis and observation the allegations of rigging during the 2009 elections, the electoral commission of United Kingdom gave recommendations keeping in view the implications that there was a minimal level of rigging in the elections who could affect very less to the upcoming elections. While talking about the role of administration and police, it was supporting to the democratic values and process. Even none of them was engaged in any anti-democratic and unlawful activity rather their behavior and bent of mind supported the process”. Khan (2010) presented a view that the elections held in 2002 under regime were not transparent and malpractices were used for winning of kings’ party PMLQ. But the regime could not interfered in general elections 2008 and the public will was succeeded. Noorani (2008) and Hussain (2008) also supported this study and presented a view that the killing of Benazir defeated the regime in elections.

Standards for Election Conducting Officers

The studies presented the role of election conducting officers (ECOs) and presented a view that there is a huge responsibility upon them for having fair and free elections, internationally. TEC (2010) presented a view that “election conducting officers to avoid any type of irrelevant and untoward situation and practice during conduct of elections. Commission should be fully empowered to gauge the each and every negative and suspicious activity at any level related to elections. Hence it makes sense for the reader to understand the role of electoral commission as a real custodian of this process of governments’ transformation. The election conducting officers including Electoral Registration Officers (EROs) and Returning Officers (ROs) should be free from any external pressures and threats for the smooth, free and fair conduct of elections”. On other hand, the election conducting officers were not fully free from external pressure.

The international standards clearly presented a view that ECOs must be aware about the factual position implementation as well as identification of real plan and provision about electoral safety so that they have vigilant eye upon all situations and sort of suspicious and irrelevant happenings. If the ECOs may not be aware that may be caused to derail the system as well malpractices and openings the ways for negative elements for putting whole electoral system in

erroneous directions (TEC, 2010). The IPC (1994) and Goodwin-Gill (2006) also endorsed the provisions about ECO's awareness about the electoral process from demarking to allocation of polling stations as well as casting of votes but the situations of elections during the Musharraf regime was not according to the international standards. Even that the ECOs had not sufficient arrangements for gathering the electoral material and they had to arrange for that personally in various constituencies (Dawn, October 05, 2002).

Recommendations for Police Forces

The TEC (2010) presented another position of bureaucratic provision for fair and free elections and declared that "the ROs and EROs should take the essential measures for the identification of the key partners and their contacts for the conduct of safe and fair elections including the relevant police officers and election Single Point of Contact (SPOC) officer. There should be a strong campaign launched for the promotion and awareness of elections so that the security and sensitivity of the polling stations must be ensured. There is responsibility of Police force to ensure security of polling stations as well as ECOs and SPOCs and. In this way they may be fully empowered to highlight and identify the electoral wrongdoings, allegations and malpractice and set up as well as maintain the conducive and effective coordination and relationships with local EROs and ROs. This practice supports a joint risk assessment for elections. But these practices were not being adopted in Pakistani elections during Musharraf era. The ECOs were not aware about the security measures taken by the security officials.

General Standards of Fair Elections

The international bodies and electoral commissions of developed countries like UK and USA emphasized upon matter of malpractice in elections by constructing new legislation as well as modifying previous requirements and empowered the Election Conducting Bodies (ECBs) as well as ECOs. New provisions made them more responsible, visionary, and trustworthy for providing fair and free election results as realizing sense of national responsibility and promoting improved democratic system. Instead of international scenario, Pakistani situation was very poor in general elections 2002 and 2008 as well as in presidential referendum.

There are some general standards that state that there must be provision of election that elections should be

1- Periodic

It means that the elections should be with regular intervals and a term is fixed in the constitution and the law after which regularly the elections are held.

2- multi-party

There are also elections in single-party systems but internationally those elections are considered more fair and properly transparent where every party is allowed to work freely.

Even then there are some specific things and provisions which tell about the requirement for an election that may be acceptable to all concerned. In this regard the Goodwin-Gill (1994) stated as;

The individual's right to take part in government, either directly or through freely chosen representatives, and the principle that the will of the people shall be expressed in periodic and genuine elections, reflect what are called obligations of result.

Current regional and universal human rights instruments give very little of detailed assistance on basic issues, such as

- (a) periodicity of elections
- (b) entitlements of political parties and organization of political parties
- (c) voter rights and registration
- (d) the manner of balloting.

That election should be able to let the people express their will there must be a standard of effectiveness, but what actually happens is that the means and ways that leads to the development towards that standard may be gauged remain changeable. Different IGOs and NGOs who are engaged in the monitoring of elections and provide some type of technical assistance at the field level are in a stage of making a body of practices which may produce the consolidation of norms and practices which must be used worldwide.

The UN Human Rights Commissioner, that is supervisory committee to function under the 1966 International Covenant on Civil and Political Rights, has established some international Standards of Elections in 1996 (High Commissioner of Human Rights, 1996).

1- Covenant's article 25 has the recognition and protection of the right of every person who is citizen of a state for participation in conduct of public matters, the right to cast the vote and to take part in the elections as a candidate and the right that one has access to the public service. There may be different types of constitution or different kinds of governments in force, the covenant wants the states that they should adopt legislative and some other measures to make sure that all of the citizens may have an effective opportunity to enjoy the rights it protects.

2- No distinctions among citizens are allowed in on the basis of race, sex, color, religion, language, political opinions, national origin or social, birth, property, or other position.

3- Condition for the elections must be restrictions on the basis of reasonable and objective criteria. Citizens may exercise these rights without any suspension or exclusion except on the basis that are made through law and that are reasonable and objective.

4- Citizens may also participate in the conduct of public affairs by exerting influence through public dialogue and debate through their representatives or with capacity to organize them. ensuring freedom of expression assembly and association may support this participation.

5- The vote at elections must be established through law and may be subject only to reasonable restrictions, like a minimum age limit for the right to vote. It is unreasonable to restrict the right to vote on the ground of physical disability or to impose literacy, educational or property requirements.

6- States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed. If residence

requirements apply to registration, they must be reasonable, and should not be imposed in such a way as to exclude the homeless from the right to vote. Voter education and registration campaigns are necessary to ensure the effective exercise.

7- Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected. Positive measures should be taken to overcome specific difficulties, such as illiteracy, language barriers, poverty, or impediments to freedom of movement which prevent persons entitled to vote from exercising their rights effectively. Information and materials about voting should be available in minority languages.

8- In their reports, state parties should indicate and explain the legislative provisions which would deprive citizens of their right to vote. The grounds for such deprivation should be objective and reasonable.

9- Elections must be conducted fairly and freely on a periodic basis within a framework of laws guaranteeing the effective exercise of voting rights. Persons entitled to vote must be free to vote for any candidate for election and for or against any proposal submitted to referendum or plebiscite, and free to support or to oppose government, without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector's will. Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind.

ODIHR Draft Standards

Include requirements such as:

1- **Universal Suffrage:** There must universal suffrage on equal basis.

2- **Non-discrimination:** it had been defined as;

Every person who has the right of suffrage must be allowed to exercise his/her suffrage right in a non-discriminatory manner on the basis of equal treatment before the law. This principle requires that a person, who has the right of suffrage, be allowed to exercise his/her suffrage right without distinction of any kind, such as race, colour, gender, language, religion,

political or other opinion, national or social origin, association with a national minority, property, birth, disability, or other status.

3- Nobody will be deprived of the right to be elected. Everyone who is restricted to be elected through any provision of law must have the right of fair scrutiny. Every kind of restriction must go under strict scrutiny.

4- No person may be deprived of such rights of casting the vote or being elected but if he has to be deprived in some circumstances those conditions must be very limited in their scope and focus.

5- For casting vote in the elections at national level no citizen should be required to for any restriction of residence.

6- There must not be any kind of limitation on the right of speech, expression, assembly association during and before the process of elections.

7- minorities without discrimination should be effectively represented

The Inter-Parliamentary Union Standards

The Inter-Parliamentary Union had adopted a Declaration on Free and Fair Elections which urges governments and parliaments throughout the world to be guided the principles and standards set out. Goodwin-Gill (2006) commented as: states must recognize and make provision for:

1- There must not be discrimination among the right of any individual to cast his vote

2- Every person has the right that he may have access to an impartial, effective, and without discrimination process through which the voters have to be registered.

3- Every citizen eligible to cast vote has the right that he must be got registered in the voting list as a voter. There may be a very much clear and obvious criteria to disqualify according to law that is properly established. Such laws must be verifiable objectively and they must not be subject to arbitrary decision.

None of the above-mentioned international election standards include explicit requirements about electoral provision for forced migrants. However, they do contain many points that are relevant and applicable to forced migrants, for example by addressing issues around residency requirements and protection from discrimination (FMR, 2020).

Some important criteria regarding candidature and Party as well as rights of campaign are listed below

1- Every citizen has the right of

- Expression of political opinion without any interference;
- seeking, receiving and imparting information and making an informed choice;
- Free movement within country for campaigning for election
- Campaigning on an equally with competitor political parties, including the party that forms the existing government.

2- Every candidate in an election and every political party will have equal chance of access to mass communications media, so that it may put forward its political views among the people

3- Candidates for election should be provided security regarding their lives, property. These would be recognized and protected.

4- Every political party or every individual is provided with the right to be protected by the law and to remedial from violation of electoral and political rights.

5- The above rights may only be subject to such restrictions of an exceptional nature which are in accordance with law and reasonably necessary in a democratic society in the interests of national security or public order, the protection of public health or morals or the protection of the rights and freedoms of others and provided they are consistent with obligations of states under international law. Permissible restrictions on candidature, the creation and activity of political parties and campaign rights shall not be applied so as to violate the principle of non-discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

6- Every individual or political party whose candidature, party or campaign rights are denied or restricted shall be entitled to appeal to a jurisdiction competent to review such decisions and to correct errors promptly and effectively.

7- No political party or candidate will get engaged in violence.

8- Every political party and candidate who compete in an election will honour the freedoms and rights of others.

9- Every political party and candidate who compete in an election will have to accept the results of a fair and free election.

1 – There are some responsibilities of every state regarding elections. These responsibilities and workings required from a state are also called criteria of election at international level. States should:

- Establish an effective, impartial and non-discriminatory procedure for the registration of voters;
- Establish clear criteria for the registration of voters, such as age, citizenship and residence, and ensure that such provisions are applied without distinction of any kind;
- Provide for the formation and free functioning of political parties, possibly regulate the funding of political parties and electoral campaigns, ensure the separation of party and State, and establish the conditions for competition in legislative elections on an equitable basis;
- Initiate or facilitate national programs of civic education, to ensure that the population are familiar with election procedures and issues;

2 – States should take the necessary policy and institutional steps to ensure the progressive achievement and consolidation of democratic goals, including through the establishment of a neutral, impartial or balanced mechanism for the management of elections. In so doing, they should, among other matters:

- Make sure the registration of voters, updating of electoral rolls and balloting procedures, with the assistance of national and international observers as appropriate;

- Make sure that those responsible for the various aspects of the election are trained and act impartially, and that coherent voting procedures are established and made known to the voting public;
 - Encourage candidates, parties, and the media to adopt and accept a Code of Conduct to run the election campaign and the polling period;
 - Make sure the integrity of the ballot through appropriate measures to prevent multiple voting or voting by those not.
 - Make sure the integrity of the process through which the votes are counted.
- 1 – States should honor and make sure that all individuals have human rights within their territory. At the time of elections, the state and its institution must therefore make sure:
- That freedom of assembly, association, movement and expression are honored, especially in form of rallies and meetings and public gatherings
 - That parties and candidates are free to communicate their views to the electorate, and that they enjoy equality of access to State and public-service media;
 - That the essential steps are taken to guarantee non-partisan coverage in State and public-service media.
- 4 – States have to take the necessary steps to make sure that parties and candidates enjoy reasonable opportunities to present their electoral platform.
- 5 – States have to take the necessary steps to make sure that the rule of the secret vote is honored, and that casters of votes are able to cast their ballots freely, without fear or intimidation.
- 6 – States have to take the necessary steps to make sure that the ballot is conducted in order to avoid illegality and fraud in such a way that security and the integrity of the process may be maintained, and that trained personnel may count ballot. There must be proper monitoring along with impartial verification.

- 7 – States have to take the necessary steps to make sure the transparency of the entire electoral process including, for example, through the presence of party agents and duly accredited observers.
- 8 – States have to take the necessary steps to make sure that parties, candidates and supporters enjoy equal security, and that State authorities take the necessary steps to prevent electoral violence.
- 9 – States must make sure that violations of human rights and complaints concerning with electoral process are determined promptly within the timeframe of the process of election and effectively by an independent and impartial authority, like an election commission or courts or tribunal (IPC, 1994).

In short there are ten most important criteria for fair elections accepted all over the world.

The voter must not be disenfranchised

The current Plurality Voting System restricts the voter to voting for only one choice for each position. This causes many biases and inequalities in the election, often electing oddball candidates.

A voter is disenfranchised when he is not allowed to vote his choice. This includes voting against all of the choices, voting for more than one choice, or voting for a choice that is not on the ballot. To prevent such disenfranchisements from occurring, the voting system must take and count properly all such votes. There must be no such things as overvotes and undervotes.

Choices must be voted on by their own merits

Comparing one candidate to another is what causes biases in elections. The voter must decide on each choice on the ballot **independently** from his consideration of the other choices.

It uses neither ranking nor plurality.

Ranking systems can't tell when the voter stops liking candidates and starts disliking them. Plurality introduces a bias for the candidate most different than the others, and against candidates with similar platforms. Both should be banned from elections.

It is not difficult for a choice to be placed on the ballot.

The current system requires petitions with thousands of signatures. With a truly fair system, there should be no need for this, or for high filing fees. Since the next criterion prevents interaction among choices, there is no reason to discourage the addition of choices to the ballot.

Note that this removes the need for primary elections.

The entry or exit of a choice cannot change the outcome

The plurality, approval, and ranking systems cause serious interactions among choices, letting an added choice change the outcome of the election. But a properly designed election will not be changed at all by the addition of a choice, unless that choice wins the election.

NO vote for a choice has the same weight as a YES vote for that choice.

Any system that either gives YES votes for a choice more weight than NO votes, or completely disallows NO votes is severely biased. It cannot possibly give a full account of voter preferences.

No voter should have to change his vote to improve the chance

The biases against similar candidates in the Plurality Voting System often cause a voter to have to change his vote if he expects his side to win. This is wrong!

The election process must not assume that every voter favors only one choice

This is the usual thinking of the vain politician who expects voters to favor him exclusively. But it disenfranchises the voter who thinks otherwise. Such thoughts must be removed from the voting system.

Must not take votes from others to give to negative campaigners

When someone uses negative campaigning or news media produce negative or false stories about a candidate, it should not cause other candidates to receive more votes. Votes shall not move from one candidate to another.

The choice that pleases the largest fraction of voters must win

Failure to do this is the reason most people distrust the elections. The Plurality Voting System does this too often, electing choices that get less than half of the vote, but the largest percentage of the cast vote”. This is often because voters must choose between two similar choices, causing neither of them to win.

The studies showed that above mentioned international standards were not adopted in the general elections 2002 and 2008 as well presidential referendum of General Musharraf. The state as well as ECBs and ECOs did not fulfill their duty and failed to meet the international standards.

Conclusion

The set international standards are to proven the fair and free elections. International bodies like IPU, IPC and Electoral bodies of developed countries had insisted to adopt these standards to every country including Pakistan. The studies shows the scenario of the general elections 2002 and 2008 as well as presidential referendum of General Musharraf were not conducted according to the required standards. It also proven by the studies that the state and ECBs as well as ECOs did not accomplished their responsibilities during the general elections and presidential elections under Musharraf regime. The international standards were negated on various points but public power abolished the plan to favor the King’s Party (PMLQ) in general elections 2008 but country had to pay a huge loos of visionary political leader of Benazir Bhutto during the election campaign on December 28, 2007. After the sad demise of Benazir Bhutto the public denied to fulfill the agenda of Military dictator and acted according to their free will.

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