



Political Parties' Petitions

with

ELECTION TRIBUNALS

SEPTEMBER 2013 UPDATE

Free and Fair Election Network
www.fafen.org

Abbreviations used in the report	
ECP	Election Commission of Pakistan
NA	National Assembly
PA	Provincial Assemblies
Ind	Independent
PML-N	Pakistan Muslim League-N
PTI	Pakistan Tehreek-e-Insaf
PPPP	Pakistan Peoples Party Parliamentarians
JUI-F	Jamiat Ulema-e-Islam-Fazl
PML-F	Pakistan Muslim League (F)
PML	Pakistan Muslim League
JUI-N	Jamiat Ulama-e-Islam Nazryati
PkMAP	Pakhtunkhwa Milli Awami Party
Atd	Abbottabad
Bhwp	Bahawalpur
DIK	Dera Ismail Khan
Fsbd	Faisalabad
Hub	Hub-Quetta
Hyd	Hyderabad
Kar	Karachi
Lhr	Lahore
Lor	Loralai
Mul	Multan
Pesh	Peshawar
Rwp	Rawalpindi
Suk	Sukkur

Executive Summary

The election results were officially notified on May 22, meaning the candidates had until July 6 to submit petitions with the Election Commission of Pakistan (ECP). The Election Commission of Pakistan (ECP) constituted 14 tribunals (13 working) across the country to redress election related complaints of contesting candidates. The commission received 402 petitions in all, according to media reports. FAFEN has deployed 18 trained non-partisan lawyers to observe the proceedings in the tribunals set up by the ECP.

By September 30, these tribunals had received and heard at least 339 petitions related to national and provincial assemblies.

Many of the petitions filed with the ECP have been done so on multiple grounds and have sought more than one relief.

FAFEN does not have the complete breakdown of the 339 petitions due to accessibility issues. There are 40 petitions for which the grounds they were filed on were not available. Similarly, there are 71 petitions for which details of the reliefs they sought were not available to FAFEN.

However, of the cases whose records are available, 37 challenged the nomination process, 82 challenged the qualification of the winning candidates, 194 made allegations of a corrupt or illegal practice by people other than the returned candidate and 220 directly accused the winning candidate of being involved in a corrupt or illegal practice to sway the results of the poll.

Moreover, 179 petitions sought disqualification of the winning candidate and the petitioner to be declared as the winning candidate instead. Another 73 sought a re-poll in the constituency. The counting of ballot papers for the entire or parts of a constituency were sought in 67 petitions. Thirty-five petitions wanted a re-examination of the votes declared invalid, while 48 petitions sought re-polling at certain polling stations. Thirty-eight petitions sought reliefs other than the five categories identified above.

A little over 19% (65) cases were decided or disposed of by tribunals by September 30, 2013. However all except one were disposed of on technical grounds making the petitions unsupportable.

The Lahore tribunal has been the most active, having received 48 petitions in all, followed by Peshawar and Faisalabad. The Karachi tribunal received the least number of petitions, despite media reports pointing to a number of issues in the May 11 general election.

Independent candidates filed the most petitions across the country (89). Party-wise, members of the three top parties in the National Assembly filed the bulk of petitions. PML-N members filed a total of 64 petitions, almost evenly distributed across the 13 tribunals. PTI members followed with 51 petitions. Members of PPPP, the second-largest party in the National Assembly, filed 41 of the 339 petitions, almost evenly distributed across the country. JUI-F members filed 27 petitions in all, mostly in Peshawar (10) and Loralai (nine).

Similarly, a party-wise analysis of the petition filed against winning candidates shows that members of PML-N – the party with the majority seats in the National Assembly (over 50%) – had the lion's share of petitions.

Over a third (126, or 37.17%) of the 339 petitions were filed against returned candidates belonging to PML-N. Most of these petitions were filed in Punjab (over 83%). The highest number of

petitions filed against them were in Lahore (42), followed by Faisalabad (26), Multan (16) and Bahawalpur (15). There were no petitions filed against PML-N candidates in Hyderabad or Sukkur.

PPPP returned candidates were nominated in 45 petitions, mostly in Sindh - 24 petitions in Sukkur and 20 petitions in Hyderabad. The third-most nominated party was the PTI, with 29 petitions making the party's winning candidates respondents, mostly in Khyber Pakhtunkhwa (Peshawar 13, Abbottabad five and Dera Ismail Khan 3). JUI-F winners were nominated in 18 petitions (mostly in Loralai, Dera Ismail Khan and Peshawar), followed by PkMAP (12, all in Loralai), PML (eight), ANP and MQM (five each), and PML-F (four). Winning candidates belonging to other parties including regional and/or smaller parties were nominated in 17 petitions.

Introduction

The Election Commission of Pakistan (ECP) constituted 14 tribunals across the country to redress election related complaints of contesting candidates. For the first time in Pakistan's electoral history, the judges heading these tribunals are retired eligible judges and not serving high court judges. Before now, existing workloads would eat into the schedules of the tribunals and some cases would go on for years.

By hiring retired judges instead, the ECP removed the existing workload from the tribunals' schedules, making it much easier for them to resolve cases in the 120 days stipulated by Section 67(1A) of the Representation of the People Act 1967. The count starts after the tribunals receive petitions from the ECP.

Section 52(2) of the Representation of the Peoples Act, 1976 gives candidates 45 days to file their election petitions with the ECP after the publication in the official gazette of the name of the returned candidate. It states: "An election petition shall be presented to the Commissioner within [forty-five days] of the publication in the official gazette of the name of the returned candidate and shall be accompanied by a receipt showing that the petitioner has deposited at any branch of the National Bank of Pakistan or at a Government Treasury or sub-Treasury in favor of the Commissioner, under the prescribed head of account, as security for the costs of the petition, a sum of one thousand rupees."

The election results were officially notified on May 22, meaning the candidates had until July 6 to submit petitions. The ECP received 402 petitions in all, according to media reports. The commission is also yet to forward 22 of these petitions to the tribunals owing to various technical reasons, according to the data gathered by FAFEN.

FAFEN has deployed 18 trained non-partisan lawyers to observe the proceedings in the tribunals set up by the ECP (initially 14, but 13 working). This report is based on the observations made by them. According to the data gathered by the observers, the tribunals had received and heard at least 339 petitions (related to national and provincial assemblies) by the end of September 2013. This figure does not reflect some petitions that were heard and disposed of before observation began.

Analysis of Petitions

FAFEN has identified four types of grounds on which the 339 petitions were filed. They are:

1. Incorrect nomination process.
2. Winning candidate not qualified to contest.
3. The returned candidate won the election by a corrupt or illegal practice by the administration, election officials, polling staff, and/or returning officer etcetera.
4. The returned candidate was involved a corrupt/illegal practice.

Generally, the petitioners have sought five types of reliefs in their petitions. They are listed below:

1. Declare the election of the winning candidate to be void and declare the petitioner as the return candidate.
2. Disqualify the winning candidate and order a re-poll.
3. Recounting of ballot papers for entire or parts of a constituency.
4. Re-examination of invalid votes.
5. Re-polling at certain polling stations.
6. Any other (Categorizes all other reliefs sought including the court directing NADRA to verify thumb impressions of voters of the entire constituency or some specific polling stations).

Many of the petitions filed with the ECP have been done so on multiple grounds and have sought more than one relief.

FAFEN does not have the complete breakdown of the 339 petitions due to accessibility issues. There are 40 petitions for which the grounds they were filed on were not available. Similarly, there are 71 petitions for which details of the reliefs they sought were not available to FAFEN.

However, of the cases whose records are available, 37 challenged the nomination process, 82 challenged the qualification of the winning candidates, 194 made allegations of a corrupt or illegal practice by people other than the returned candidate and 220 directly accused the winning candidate of being involved in a corrupt or illegal practice to sway the results of the poll.

Moreover, 179 petitions sought disqualification of the winning candidate and the petitioner to be declared as the winning candidate instead. Another 73 sought a re-poll in the constituency. The counting of ballot papers for the entire or parts of a constituency were sought in 67 petitions. Thirty-five petitions wanted a re-examination of the votes declared invalid, while 48 petitions sought re-polling at certain polling stations. Thirty-eight petitions sought reliefs other than the five categories identified above.

A little over 19% (65) cases were decided or disposed of by tribunals by September 30, 2013. However all except one were disposed of on technical grounds making the petitions unsupportable. The current speed at which tribunals are deciding petitions will likely delay the results of many petitions beyond the legal stipulated time of 120 days.

The Lahore tribunal has been the most active, having received 48 petitions in all, followed by Peshawar and Faisalabad. The Karachi tribunal received the least number of petitions, despite media reports pointing to a number of issues in the May 11 general election.

The following table lists the total number of cases by tribunals across the country. It also demarcates petitions challenging national and provincial elections and the total number of cases decided/disposed of by September 30, 2013.

Tribunal	Cases Received	National Assembly	Provincial Assemblies	Cases Decided*
Peshawar	39	18	21	14
Abbottabad	16	6	10	10
DIK	13	1	12	7
Rawalpindi	12	5	7	1
Lahore	48	21	27	8
Faisalabad	38	14	24	11
Multan	24	12	12	4

Bahawalpur	31	11	20	4
Karachi	10	4	6	0
Hyderabad	23	7	16	0
Sukkur	32	10	22	6
Loralai	24	5	19	0
Hub-Quetta	29	9	20	0
Total	339	123	216	65

**Just one case had been decided on merit by September 30 (in Abbottabad tribunal). The remaining 64 cases were disposed of on technical grounds*

1. Party-wise petitions

Independent candidates filed the most petitions across the country (89). Party-wise, members of the three top parties in the National Assembly filed the bulk of petitions. PML-N members filed a total of 64 petitions, almost evenly distributed across the 13 tribunals.

PTI members followed with 51 petitions, filing a disproportionate 19 petitions with the Lahore tribunal alone. The party had raised objections over elections in Lahore, claiming that there had been multiple instances of rigging in parts of the city, according to media reports. PTI members filed no petitions with the Dera Ismail Khan, Hub-Quetta and Sukkur tribunals.

Members of PPPP, the second-largest party in the National Assembly, filed 41 of the 339 petitions, almost evenly distributed across the country. They filed the highest number of petitions in Bahawalpur (eight) and filed no petitions in Rawalpindi.

JUI-F members filed 27 petitions in all, mostly in Peshawar (10) and Loralai (nine). PML-F filed 16 petitions, mostly in Sukkar (eight) and Hyderabad (six).

PML filed seven petitions (most in Lahore – four), followed by JUI-N and PkMAP (four each).

Members of other parties including regional and/or smaller parties filed 36 petitions in all.

Parties	Atd	Bhwp	DIK	Fsb	Hub	Hyd	Kar	Lhr	Lor	Mul	Pesh	Rwp	Suk	Total
Ind	6	6	4	23	10	3		13	1	8	7	2	6	89
PML-N	3	9	3	5	3	9	2	5	2	6	7	5	5	64
PTI	2	5	-	5	-	1	2	19	1	6	5	5	-	51
PPPP	1	8	3	1	4	3	3	3	1	3	4	-	7	41
JUI-F	1	-	1	-	3	-	-	-	9		10	-	3	27
PML-F	-	1	-	-	-	6	1	-	-	-	-	-	8	16
PML	-	-	-	2	-	-	-	4		1	-	-	-	7
JUI-N	-	-	-	-	-	-	-	-	4	-	-	-	-	4
PkMAP	-	-	-	-	1	-	-	-	3	-	-	-	-	4
Others	3	2	2	2	8	1	2	4	3	-	6	-	3	36
Total	16	31	13	38	29	23	10	48	24	24	39	12	32	339

1.1 Details

PML-N

The Pakistan Muslim League-Nawaz filed 64 petitions spread across the country. In four petitions, the party challenged the nomination process. Qualifications of the winning candidates were challenged in 13 petitions. In 36 petitions, the party alleged that corrupt or illegal practices were employed by people in the general election other than the winning candidates. In 43 petitions, the party directly accused the winning candidate of being involved in a corrupt or illegal practice to sway the results of the poll.

In 38 petitions, the party sought disqualification of the winning candidate and the petitioner to be declared as the winning candidate instead. Another 16 sought a re-poll in the constituency. The counting of ballot papers for the entire or parts of a constituency were sought in 14 petitions. In 10 petitions, the party sought a re-examination of the votes declared invalid by the ECP. The party sought re-polling at certain polling stations in 10 petitions. There were four petitions where the party sought reliefs other than the categories identified above.

PTI

The Pakistan Tehreek-e-Insaf filed 51 petitions, the second-most according to data available with FAFEN. In five petitions, the party challenged the nomination process. Qualifications of the winning candidates were challenged in eight petitions. In 33 petitions, the party alleged that corrupt or illegal practices were employed by people in the general election other than the winning candidates. In 38 petitions, the party directly accused the winning candidate of being involved in a corrupt or illegal practice to sway the results of the poll.

In 29 petitions, the party sought disqualification of the winning candidate and the petitioner to be declared as the winning candidate instead. Another 16 sought a re-poll in the constituency. The counting of ballot papers for the entire or parts of a constituency were sought in 14 petitions. In one petition, the party sought a re-examination of the votes declared invalid by the ECP. The party sought re-polling at certain polling stations in seven petitions. Moreover, there were seven petitions where the party sought reliefs other than the categories identified above.

PPPP

The Pakistan Peoples Party Parliamentarians filed 41 petitions. In three petitions, the party challenged the nomination process. It challenged the qualifications of the winning candidates in 13 petitions. In 20 petitions, the party alleged that corrupt or illegal practices were employed by people in the general election other than the winning candidates. The winning candidates were directly accused of illegally attempting to sway the vote in 19 petitions.

The party sought disqualification of the winning candidate in 22 petitions. It also sought a re-poll in the constituency in another four petitions. The counting of ballot papers for the entire or parts of a constituency was sought in six petitions. In four petitions, the party sought a re-examination of the votes declared invalid by the ECP. The party sought re-polling at certain polling stations in three petitions. There were five petitions where the party sought redressals other than the categories identified above.

JUI-F

The Jamiat Ulema-i-Islam-Fazl filed the fourth-most petitions. But unlike the top three, most of their petitions were filed in Peshawar and Loralai.

The party challenged the nomination process in two petitions. In five petitions, the party challenged the qualifications of the winning candidates. In 12 petitions, the party alleged that

corrupt or illegal practices were employed by people in the general election other than the winning candidates. The party directly accused the winning candidate of wrongdoings in the election process in 15 petitions.

The party sought disqualification of the winning candidate in 16 petitions. It also sought a re-poll in the constituency in another four petitions. The counting of ballot papers for the entire or parts of a constituency was sought in five petitions. In five petitions, the party sought a re-examination of the votes declared invalid by the ECP. The party sought re-polling at certain polling stations in seven petitions. There were four petitions where the party sought relief other than the categories identified above.

Others

Party-wise details of the grounds on which the remaining petitions were filed and the reliefs that they sought from the tribunals are given in the following two tables:

	Incorrect nomination process	Winning Candidate not qualified	Corruption by people other than winner	Corruption by winning candidate to sway the results
Independent	17	28	56	56
JUI-N	-	1	1	2
Others	4	10	20	23
PkMAP	-	-	2	2
PML-F	2	2	8	16
PML-Q	-	2	6	6

	Disqualify the winning candidate	Order a re-poll	Recounting of ballot papers	Re-examination of votes declared invalid	Order re-poll at certain polling stations	Other
Independent	30	12	15	9	14	7
JUI-N	3	1	-	-	-	-
Others	23	10	6	3	3	3
PkMAP	3	-	-	1	-	-
PML-F	12	9	6	2	3	7
PML-Q	3	1	1	-	1	1

2. Petitions filed against winning candidates (party-wise analysis)

Members of PML-N – the party with the majority seats in the National Assembly (over 50%) – had the lion's share of petitions filed against winning candidates. According to the data available with FAFEN, over a third (126, or 37.17%) of the 339 petitions were filed against returned candidates belonging to PML-N.

Most of these petitions were filed in Punjab (over 83%). The highest number of petitions filed against them were in Lahore (42), followed by Faisalabad (26), Multan (16) and Bahawalpur (15). There were no petitions filed against PML-N candidates in Hyderabad or Sukkur.

PPPP returned candidates were nominated in 45 petitions, mostly in Sindh – 24 petitions in Sukkur and 20 petitions in Hyderabad.

The third-most nominated party was the PTI, with 29 petitions making the party's winning candidates respondents, mostly in Khyber Pakhtunkhwa (Peshawar 13, Abbottabad five and Dera Ismail Khan 3).

JUI-F winners were nominated in 18 petitions (mostly in Loralai, Dera Ismail Khan and Peshawar), followed by PkMAP (12, all in Loralai), PML (eight), ANP and MQM (five each), and PML-F (four).

Winning candidates belonging to other parties including regional and/or smaller parties were nominated in 17 petitions.

Independent candidates were nominated in 70 petitions.

Parties	Atd	Bhwp	DIK	Fsb	Hub	Hyd	Kar	Lhr	Lor	Mul	Pesh	Rwp	Suk	Total
PML-N	4	15		26	5		3	42	3	16	6	6		126
PPPP			1			20							24	45
PTI	5		3				2			2	13	4		29
JUI-F	1	1	5		1				6		4			18
PkMAP									12					12
PML		1		1	3			2	1					8
ANP									2		3			5
MQM							4						1	5
PML-F													4	4
Others		2			6		1				4	1	3	17
Independent	6	12	4	11	14	3		4		6	9	1		70
Total	16	31	13	38	29	23	10	48	24	24	39	12	32	339

2.1 Details

PML-N

Over a third of the 339 petitions (126) were filed in constituencies won by PML-N candidates.

Seventeen petitions said that the PML-N winner was nominated incorrectly. Forty petitions challenged the qualifications declared by the party's winning candidate. Moreover, 79 petitioners

alleged that corrupt or illegal practices were employed by people in the general election to help the PML-N candidate win. Lastly in 81 petitions, PML-N winners were directly accused of engaging in corrupt or illegal practices in an attempt to sway the election results.

There were 50 petitions that sought the disqualification of the party winner and the petitioner to be declared the winner instead. Another 26 petitions sought re-polls in constituencies. Twenty-two petitioners sought recounting of ballot papers for the entire or parts of the constituency. Seven petitions wanted a re-examination of the votes that were declared invalid, while 12 petitions sought re-polling at certain polling stations. Nine petitions sought relief other than the categories identified above.

PPPP

A total of 45 petitions challenged the winning of PPPP candidates.

Five petitions said that the PPPP winner was nominated incorrectly. Eight petitions challenged the qualifications declared by the party's winning candidate. Moreover, 19 petitioners alleged that corrupt or illegal practices were employed by people in the general election to help the PPPP candidate win. Lastly in 42 petitions, PPPP winners were directly accused of engaging in corrupt or illegal practices in an attempt to sway the election results.

There were 37 petitions that sought the disqualification of the party winner and the petitioner to be declared the winner instead. Another 18 petitions sought re-polls in constituencies. Eleven petitioners sought recounting of ballot papers for the entire or parts of the constituency. Five petitions wanted a re-examination of the votes that were declared invalid, while eight petitions sought re-polling at certain polling stations. Fourteen petitions sought relief other than the categories identified above.

PTI

Twenty-nine petitions were filed against the PTI winning candidates.

Three petitions said that the PTI winner was nominated incorrectly. Eight petitions challenged the declared qualifications of the winning candidates. Moreover, 15 petitioners alleged that corrupt or illegal practices were employed by people in the general election to help the PTI candidate win. In 20 petitions, PTI winners were directly accused of engaging in corrupt or illegal practices in an attempt to sway the election results.

There were 19 petitions that sought the disqualification of the party winner and the petitioner to be declared the winner instead. Another 10 petitions sought re-polls in constituencies. Ten petitioners sought recounting of ballot papers for the entire or parts of the constituency. Three petitioners wanted a re-examination of the votes that were declared invalid, while nine petitioners sought re-polling at certain polling stations. Two petitions sought relief other than the categories identified above.

JUI-F

Eighteen petitions were filed against JUI-F winning candidates.

One petition said that the JUI-F winner was nominated incorrectly. Seven challenged the qualifications declared by the party candidates. Moreover, 11 petitioners alleged that corrupt or illegal practices were employed by people in the general election to help the JUI-F candidate win. Ten petitions directly accused the JUI-F winning candidates were of engaging in corrupt or illegal practices in an attempt to sway the election results.

There were 11 petitions that sought the disqualification of the party winner and the petitioner to be declared the winner instead. Another three petitions sought re-polls in constituencies. Four petitions wanted a re-examination of the votes that were declared invalid, while two petitions sought re-polling at certain polling stations. Two petitions sought relief other than the categories identified above.

Others

Details of parties other than the ones mentioned above are given in the following two tables:

	Incorrect nomination process	Winning Candidate not qualified	Corruption by people other than winner	Corruption by winning candidate to sway the results
ANP	-	-	3	4
Independent	10	14	47	39
MQM	-	-	1	3
Others	-	2	8	11
PkMAP	-	-	6	4
PML-F	-	1	-	3
PML	1	2	5	3

	Disqualify the winning candidate	Order a re-poll	Recounting of ballot papers	Re-examination of votes declared invalid	Order re-poll at certain polling stations	Other
ANP	2	1	3	1	-	3
Independent	35	11	16	7	11	4
MQM	1	-	1	-	1	1
Others	10	3	3	2	3	2
PkMAP	8	-	1	4	1	-
PML-F	4	-	-	1	-	-
PML	2	1	-	1	1	1

3. Recommendations

The following recommendations are based on the observations made by FAFEN so far:

1. All tribunals formed by the Election Commission of Pakistan should exercise utmost transparency and help remove barriers to observation. The Representation of Peoples Act says that Qanun-e-Shahadat 1984 shall apply to proceedings of all Election Tribunals. Under the Provisions of Qanun-e-Shahdat, documents forming the acts or records of the acts of Tribunals are public documents and every person has a right to inspect it and obtain the copies on payment of legal fees.
2. No provision in the law or rules sets a time limit on ECP to forward an election petition to a concerned tribunal. The rules/law also does not specify a time limit for a petitioner to remove any objections raised by ECP. According to FAFEN estimates, 22 petitions are still pending with the ECP due to these two issues. The law or rules should be amended to reflect adequate deadlines for both ECP to handle a petition and the petitioner to respond in case an objection is raised.
3. All Election Tribunals have been established by Election Commission of Pakistan but Election Tribunals in Sindh and Khyber-Pakhtunkhwa are working six days a week, while the tribunals in Punjab and Baluchistan are working five days a week. The working days of all tribunals should be made uniform.
4. The “Handbook on Election Tribunal Petition Process” published by the ECP in 2013 says: In 2009, an amendment to ROPA was adopted stating that “no adjournment shall be granted to any party for more than seven days and that too on payment of costs as the Tribunal may determine”. FAFEN observers have reported the following number of adjournments that were for more than seven days by September 30, 2013. FAFEN urges the tribunals to not adjourn any of the cases more than seven days in accordance with ROPA.

Tribunal	No. of adjournments for more than seven days
Peshawar	105
Dera Ismail Khan	4
Abbottabad	15
Rawalpindi	1
Lahore	86
Faisalabad	37
Multan	37
Bahawalpur	78
Karachi	17
Hyderabad	75
Sukkur	39
Loralai	68
Hub-Quetta	57