



Political Parties' Petitions

with

# ELECTION TRIBUNALS

MARCH 2015 UPDATE

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## Executive Summary

Only three cases were decided by the election tribunals in February 2015 – bringing the total number of decided cases to 367 out of 411<sup>1</sup> (341 out of 385 by the tribunals and 26 by the ECP). On the other hand, 44 petitions are still awaiting decisions by the tribunals.

Of the 367 cases, 154 (128 by the tribunals and 26 by the ECP itself) have been dismissed on grounds of technical deficiencies – implying that the merits of the petitions were not adjudicated on. Forty-four petitions have been accepted; 25 dismissed due to non-prosecution; 30 dismissed as withdrawn and 112 dismissed after complete trial. The reasons for dismissal of two petitions are not known to FAFEN due to non-availability of their copies of orders.

With regards to the 44 petitions accepted, 10 were filed by independent candidates and nine each by PPPP and PML-N. Additionally, one petition filed by PTI has been accepted so far.

On the other hand 16 accepted petitions are against the returned candidates of PML-N. Twelve cite independent candidates as respondents, followed by candidates of PPPP (eight) and PTI (three).

Given the backlog, the ECP seems to have failed to ensure compliance with the mandatory legal provision of disposing of election petitions within 120 days of receipt by the tribunals. Section 67(1)A of the Representation of People Act 1976 states, “where a petition is not decided within four months, further adjournment sought by any party shall be given only on payment of special cost of Rs10,000 per adjournment and adjournment shall not be given for more than three days.”

Even though all the pending cases have crossed the limit of 120 days, the compliance with the mandatory provision of imposing the fine has been very rare. It is important to mention that the Supreme Court of Pakistan has already emphasized that the tribunals should follow the above-mentioned provision strictly. Furthermore, FAFEN has recorded 2,653 adjournments of over seven days in the tribunals, in violation of election laws and ECP’s directions which urge the tribunals to hear the petitions on a day-to-day basis and do not allow an adjournment of more than seven days.

The ECP constituted 14 tribunals across the country to redress election-related complaints following the 2013 General Elections. The three tribunals in Balochistan have ceased functioning after deciding all their cases. The tribunal in Dera Ismail Khan has also finished its work, while Sukkur and Karachi tribunals have also ceased operations. Meanwhile, the ECP has extended the tenures of the remaining eight tribunals for the fourth time till April 30, 2015 following the expiry of their terms of contracts on February 28, 2015.

The election results were officially notified on May 22, 2013 following which the candidates had until July 6, 2013 to submit their petitions. The ECP received a total of 409 petitions, out of which 25 were dismissed by the commission itself during scrutiny. As many as 384 petitions were referred to the tribunals – one petition was sent back by the Rawalpindi tribunal and dismissed by ECP itself due to non-prosecution, bringing the number of cases dismissed by the ECP to 26. Another petition was filed directly with the tribunal in Lahore, bypassing the legal mechanism which resulted in its dismissal at the initial stage. Furthermore, another petition was filed with the ECP in June 2014 and dismissed by the Lahore tribunal in the same month, bringing the total number of petitions to 411.

Most of the petitions were moved by contesting candidates, while three petitions were filed by voters. Independent candidates filed a total of 99 petitions, followed by PML-N members who filed 66 petitions – 12 against PTI and 14 against PPPP. Of the 12 petitions against PTI, only one has been accepted so far. Nine petitions against PTI have been dismissed, while two are still awaiting decisions. Similarly, three petitions against PPPP have been accepted; nine have been dismissed while two petitions are yet to be decided.

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<sup>1</sup> FAFEN had earlier reported that a total of 410 petitions were filed following the 2013 General Elections. More recently, another petition was filed with the ECP and dismissed by the Lahore tribunal, bringing the total number of filed petitions to 411. The details of the petition are given in the next section of this report.

PTI filed a total of 58 petitions – 43 against winning candidates of the ruling PML-N and only one against PPPP. Of the 43 petitions against PML-N, 20 were filed to resolve disputes over National Assembly seats while the rest were related to the provincial assemblies. So far, only one petition filed by PTI against PML-N has been accepted by the Multan tribunal. The only one against PPPP to resolve a dispute over a National Assembly seat in Sindh was dismissed by the Hyderabad tribunal.

In addition, PPPP members filed 50 petitions – 19 against PML-N and only one against PTI. The only petition against PTI was dismissed by the Abbottabad tribunal. Of the 19 petitions against PML-N, three have been accepted; 14 have been dismissed while another two are pending with the respective tribunals.

PML-N – the party with the highest number of seats in the National Assembly –also has the highest number of petitions citing the party as the respondent. Over one-third (138 or 36%) of the 385 petitions referred to the tribunals were filed against the party's winning candidates. Independent candidates were nominated in 78 petitions, while PPPP and PTI had 50 and 30 cases filed against their candidates respectively.

The petitions were moved on single or multiple grounds and seek single or multiple reliefs. A majority of the petitions challenged the nomination or qualification of returned candidates with the additional ground of use of corrupt practices to sway the elections. There were 38 petitions challenging the nomination process and another 92 challenging the qualification of returned candidates. More than half (212 or 55%) of the petitions, among other grounds, made allegations of corrupt practices employed by returned candidates, while almost three-fourth (280 or 73%) of the petitions accused other personnel, including election officials, of malpractice.

Petitioners in 248 cases sought declaration to the effect that the election of the winning candidate be declared void and the petitioner be declared returned candidate instead. Among other reliefs, 122 petitions sought disqualification of the returned candidates and re-polling in the constituency. Another 91 petitions sought recounting of ballots for the entire or parts of the constituencies, 42 demanded re-examination of excluded ballots while 57 sought re-polling at certain polling stations besides 71 petitions seeking other reliefs.

## 1. 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, the tribunals are being headed by retired judges rather than serving high court judges (except for the tribunal in Quetta which was headed by a serving judge of Balochistan High Court).

Earlier, the workload of serving judges often restricted the tribunals' proceedings and the cases often continued for several years. By appointing retired judges, the ECP has attempted to remove these restrictions, making it easier to resolve the cases within 120 days stipulated in Section 67(1A) of the Representation of the People Act 1976.

Despite removing the restrictions, the ECP has been forced to extend the tenure of the tribunals on multiple occasions, due to a considerable number of pending cases. On February 28, 2015 the ECP extended the tenures of eight tribunals for the fourth time as a total of 44 petitions were still awaiting decisions. These include the tribunals in Abbottabad, Peshawar, Rawalpindi, Lahore, Faisalabad, Multan, Bahawalpur and Hyderabad.

Section 52(2) of the Representation of the People Act 1976 allows 45 days to candidates to file their petitions with the ECP following the notification of the official gazette of the names of the returned candidates. It states that "an election petition shall be presented to the Commission 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 Commission, 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, 2013, following which the candidates had until July 6, 2013 to submit their petitions. The ECP initially received 409 petitions, out of which 25 were dismissed by the commission itself during scrutiny. FAFEN's data suggests that the ECP referred 384 petitions to the tribunals. One petition was sent back by the Rawalpindi Tribunal and dismissed by ECP itself due to non-prosecution, bringing the number of cases dismissed by the ECP to 26. Another petition was filed directly with the tribunal in Lahore, bypassing the legal mechanism which resulted in its dismissal at the initial stage. Furthermore, one petition was filed with the ECP in June 2014 and dismissed by the Lahore tribunal in the same month, bringing the total number of filed petitions to 411.

FAFEN has deployed 18 trained, non-partisan lawyers to observe the tribunals' proceedings. This report is based on their direct observations till February 28, 2015.

It is important to note that a petition was filed by independent candidate Agha Ali Haider against PML-N's Jamil Hassan Khan and others on June 02, 2014.

The petitioner had contended that one Rashid had filed an objection against the candidature of Khan before the Returning Officer prior to the 2013 General Elections. The Returning Officer had rejected Khan's nomination papers; however, the appellate tribunal later accepted his nomination, setting aside the Returning Officer's order.

The objector then invoked the constitutional jurisdiction of the Lahore High Court by filing a writ petition which was accepted and resultantly, Khan's name was excluded from the list of validly nominated candidates. Khan, however, assailed this order before the Supreme Court of Pakistan, where the high court's order was suspended through an interim relief but the main appeal remained pending.

Khan went on to contest the polls on the basis of the Supreme Court's order and won the seat from PP-174 (Nankana Sahib-V). Later, the Supreme Court accepted the appeal vide order dated October 22, 2013 and set aside the high court's ruling. Agha Ali Haider then filed a petition with the ECP on June 02, 2014 which was dismissed by the Lahore tribunal on account of being time-barred and non-verification of oath vide order dated June 19, 2014.

## 2. Tribunals' Decisions

As many as 342 out of 385 cases were decided or disposed of by the tribunals by February 28, 2015. However, one of the petitions dismissed earlier on maintainability ground was remanded back to the Multan tribunal, bringing the total number of decided cases to 341.

Of the 341 petitions, 44 have been accepted; 25 dismissed due to non-prosecution; 30 dismissed as withdrawn; 112 dismissed after complete trial whereas 128 dismissed on technical grounds making the petitions not-maintainable. The reasons for dismissal of two petitions are not known to FAFEN due to non-availability of their copies of orders despite repeated attempts to obtain them.

The current pace at which the tribunals are functioning has delayed the decisions of 44 petitions beyond the legally-stipulated time of 120 days<sup>2</sup>. Table 2.1 gives the details of petitions filed and decided by the ECP and tribunals:

**Table 2.1: Petitions Filed and Decided by the ECP and Election Tribunals**

<b>Number of Petitions Filed with ECP</b>	<b>410</b>
<b>Number of Petitions Filed with Tribunals</b>	<b>1</b>
<b>Total Number of Petitions Filed</b>	<b>411</b>
<b>Number of Petitions Dismissed by ECP</b>	<b>26</b>
<b>Number of Petitions Disposed of by Tribunals</b>	<b>341</b>
<b>Total Number of Petitions Dismissed/Disposed of</b>	<b>367</b>
<b>Number of Pending Petitions</b>	<b>44</b>

Table 2.2 gives the details of cases decided by each tribunal:

**Table 2.2: Number of Petitions Decided by Election Tribunals**

No.	Tribunal	Petitions Accepted	Dismissed for Non - Prosecution	Dismissed as Withdrawn	Dismissed as Non-maintainable	Dismissed as not proved in trial	Dismissed but reason unknown	Total Petitions Disposed by Tribunals
1	Abbottabad	8		3	6	4		21
2	Bahawalpur	5	6	1	6	15		33
3	DI Khan	4	2		5	5		16
4	Faisalabad	4		4	14	8		30
5	Hub	1	1		2	7		11
6	Hyderabad	1	4	4	15	2		26
7	Karachi	9	2	3	17	7		38
8	Lahore	5	4	3	16	17		45
9	Loralai		2	2	5	12		21
10	Multan	2	2	1	3	5	2	15
11	Peshawar	1		4	16	5		26
12	Quetta	2	2	1	9	14		28
13	Rawalpindi			1	4	5		10
14	Sukkur	2		3	10	6		21
	<b>Total</b>	<b>44</b>	<b>25</b>	<b>30</b>	<b>128</b>	<b>112</b>	<b>2</b>	<b>341</b>

<sup>2</sup> Refer to the Annexure for list of pending cases.

### 3. Tribunals' Decisions: Party-wise Analysis

Of the 44 petitions accepted, 10 were filed by independent candidates and nine each by PPPP and PML-N members. Four petitions were filed by ANP and two each by JUI-F and PML-F. In addition, only one petition filed by PTI has been accepted so far. Table 3.1 gives the party-wise details of petitions accepted or dismissed by the tribunals as of February 28, 2015:

**Table 3.1: Party-wise Breakdown of Tribunals' Decisions**

No.	Petitioners' Party	Petitions Accepted	Dismissed for Non-Prosecution	Dismissed as Withdrawn	Dismissed as Non-maintainable	Dismissed as not proved in trial	Dismissed but reason unknown	Total Petitions Disposed by Tribunals
1	ANP	4		1	1	1		7
2	BNP		2		3	2		7
3	IND	10	6	12	32	27	2	89
4	JI	1			12			13
5	JUI-F	2	1	1	8	13		25
6	JUI-N				1	4		5
7	PML-F	2	3	3	4	5		17
8	PML-N	9	1	6	18	22		56
9	PML	1	1		4	1		7
10	PPPP	9	4	4	15	15		47
11	PTI	1	5	1	23	14		44
12	Others	5	2	2	7	8		24
<b>Total</b>		<b>44</b>	<b>25</b>	<b>30</b>	<b>128</b>	<b>112</b>	<b>2</b>	<b>341</b>

As many as 16 accepted petitions are against PML-N – the party with the highest number of seats in the National Assembly. Twelve petitions cite independent candidates as respondents; followed by PPPP (eight) and PTI (three). Table 3.2 gives the number of petitions and their respondents which have been accepted or disposed of by the tribunals:

**Table 3.2: Petitions Accepted or Dismissed Against Political Parties**

No.	Respondents' Party	Petitions Accepted	Dismissed for Non-Prosecution	Dismissed as Withdrawn	Dismissed as Non-maintainable	Dismissed as not proved in trial	Dismissed but reason unknown	Total Petitions Disposed by Tribunals
1	ANP		1	1	2			4
2	BNP							0
3	IND	12	1	8	17	28		66
4	JI					1		1
5	JUI-F	2	2	2	7	6		19
6	JUI-N							0
7	PML-F				6			6
8	PML-N	16	12	9	40	38	2	117
9	PML				4	4		8
10	PPPP	8	4	4	17	12		45
11	PTI	3		4	13	7		27
12	Others	3	5	2	22	16		48
<b>Total</b>		<b>44</b>	<b>25</b>	<b>30</b>	<b>128</b>	<b>112</b>	<b>2</b>	<b>341</b>

## 4. Petitions Pending Beyond the Legally-Stipulated Time Period

Section 67(1A) of the Representation of People Act 1976 says that “the election tribunal shall proceed with the trial of the election petition on a day-to-day basis and the decision thereof shall be taken within four months from its receipt”.

The date of receipt has been defined in the “Handbook on Election Tribunal Petition Process” prepared and published by the ECP following the 2013 elections as “the date of receipt at the registrar is essential as it will trigger the start of the legally prescribed period (120 days) from making a decision on the Election Petition”.

According to FAFEN observers, the tribunals have failed to dispose of 44 petitions within the legally-stipulated deadline of 120 days as of February 28, 2015. Nine cases are pending with the Lahore tribunal, seven each with the Faisalabad and Multan tribunals and six each with the Rawalpindi and Hyderabad tribunals. Table 4.1 gives the details of pending cases:

**Table 4.1: Cases Pending for Over 120 Days**

No.	Election Tribunal	No. of Pending Cases
1	Abbottabad	2
2	Bahawalpur	3
3	Dera Ismail Khan	
4	Faisalabad	7
5	Hub	
6	Hyderabad	6
7	Karachi	
8	Lahore	9
9	Loralai	
10	Multan	7
11	Peshawar	4
12	Quetta	
13	Rawalpindi	6
14	Sukkur	
	<b>Total</b>	<b>44</b>



## 5. Adjournments

The “Handbook on Election Tribunal Petition Process” published by the ECP in 2013 specifically prohibits an adjournment of petitions for more than seven days:

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”*.

However, FAFEN observers have witnessed 2,653 adjournments of more than seven days till February 28, 2015 – in violation of the ECPs directions. The following table gives the details of such adjournments for each tribunal.

**Table 5.1: Adjournments of More Than Seven Days**

No.	Tribunal	Adjournments
1	Abbottabad	51
2	Bahawalpur	364
3	Dera Ismail Khan	40
4	Faisalabad	309
5	Hub	16
6	Hyderabad	429
7	Karachi	88
8	Lahore	426
9	Loralai	253
10	Multan	160
11	Peshawar	216
12	Quetta	70
13	Rawalpindi	54
14	Sukkur	177
<b>Total</b>		<b>2,653</b>

## 6. Analysis of Petitions

FAFEN has identified four types of grounds on which the 385 petitions were filed. They are as follows:

- 1) Incorrect nomination process
- 2) Winning candidate not qualified to contest the elections
- 3) Returned candidate winning the polls through corrupt or illegal practice by the administration, election officials, polling staff and/or returning officer etcetera
- 4) Returned candidate involved in a corrupt/illegal practice himself

Generally, the petitioners have sought six different types of reliefs in the petitions which are listed below:

- 1) Declare the winning candidate's election null and void and the petitioner as the returning candidate instead
- 2) Disqualify the winning candidate and order a re-poll.
- 3) Recount ballot papers for the 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, including the court's directions to NADRA to verify the thumb impressions of voters)

A considerable number of petitions filed with the ECP were based on multiple grounds seeking more than one relief. FAFEN does not have a complete breakdown of 16 petitions due to accessibility issues.

According to the breakdown of details available with FAFEN, 38 petitions challenged the nomination process of candidates, 92 challenged the qualification of winning candidates, 212 leveled allegations of corrupt or illegal practices by the administration, election officials and/or polling staff while 280 directly accused the winning candidates of involvement in corruption/illegal practice.

Moreover, 248 petitions sought a declaration to the effect that the winning candidate's election be declared void and the petitioner be declared winner instead. Another 122 petitions sought re-polling and disqualification of the winning candidate, while recounting of ballot papers for entire or parts of a constituency was sought in 91 petitions. In addition, 42 petitions sought re-examination of the ballot papers declared invalid by the ECP; 57 sought re-polling at certain polling stations while 71 sought other forms of reliefs from the tribunals.

The Lahore tribunal has been the busiest - receiving 57 petitions out of which three were later transferred to the Faisalabad tribunal. The Peshawar tribunal received 40 petitions, out of which seven were transferred to the Abbottabad tribunal while four were handed over to the tribunal in Dera Ismail Khan. However, one pending case was re-transferred to Peshawar following the refusal of the presiding officer in Dera Ismail Khan to accept a tenure extension.

The Faisalabad tribunal initially received 39 petitions. However, three more cases were transferred to the tribunal by way of transfer from the Lahore tribunal. Later, five petitions were transferred from the Faisalabad tribunal to the Rawalpindi tribunal.

## 7. Party-wise Analysis of Petitions

Most of the petitions (99) were filed by independent candidates. PML-N members filed a total of 66 petitions with 13 tribunals (no petition was filed in Hub), while PTI members followed with 58 petitions with no petitions filed in Hub, Quetta and Sukkur.

PPPP members filed 50 petitions - almost evenly distributed across the country. They filed nine petitions in Bahawalpur and none in Rawalpindi, Peshawar and Loralai.

JUI-F members filed 27 petitions – mostly in Peshawar and Loralai, while PML-F filed 18 petitions – mostly in Hyderabad. In addition, JI members filed 13 petitions, followed by PML (10), ANP and BNP (seven each), JUI-N (five) and PkMAP (four). Table 7.1 gives the details of petitions filed by each party:

**Table 7.1: Party-wise Breakdown of Petitions Filed with Election Tribunals**

Tribunal	IND	PML-N	PTI	PPPP	JUI-F	PML-F	JI	PML	BNP	ANP	JUI-N	PkMAP	Others	Total
Abbottabad	6	3	2	5	4					1			2	23
Bahawalpur	6	10	8	9		1							2	36
Dera Ismail Khan	6	3	1	3	1					2				16
Faisalabad	20	4	8	1				2					2	37
Hub	1			1	2				3	1		1	2	11
Hyderabad	4	6	1	8	1	10							1	31
Karachi	3	8	7	5		2	11						3	39
Lahore	17	6	17	4				6					4	54
Loralai	3	2	1		6				3		4		2	21
Multan	8	6	4	3				1						22
Peshawar	6	7	4		7		2			3			1	30
Quetta	11	3		4	4				1		1	3	1	28
Rawalpindi	4	6	5					1						16
Sukkur	4	2		7	2	5							1	21
<b>Total</b>	<b>99</b>	<b>66</b>	<b>58</b>	<b>50</b>	<b>27</b>	<b>18</b>	<b>13</b>	<b>10</b>	<b>7</b>	<b>7</b>	<b>5</b>	<b>4</b>	<b>21</b>	<b>385</b>

Table 7.2 gives a province-wise breakdown of petitions filed by the candidates for National and Provincial Assemblies:

**Table 7.2: Breakdown of Petitions for National and Provincial Assemblies**

Petitioner Party	Punjab			Sindh			Khyber Pakhtunkhwa			Balochistan			Total		
	NA	PA	Total	NA	PA	Total	NA	PA	Total	NA	PA	Total	NA	PA	Total
<b>IND</b>	17	38	55	3	8	11	11	7	18	3	12	15	34	65	99
<b>PML-N</b>	10	22	32	6	10	16	3	10	13	1	4	5	20	46	66
<b>PTI</b>	19	23	42	5	3	8	6	1	7		1	1	30	28	58
<b>PPPP</b>	8	9	17	9	11	20	2	6	8	2	3	5	21	29	50
<b>JUI-F</b>					3	3	2	10	12	1	11	12	3	24	27

Petitioner Party	Punjab			Sindh			Khyber Pakhtunkhwa			Balochistan			Total		
	NA	PA	Total	NA	PA	Total	NA	PA	Total	NA	PA	Total	NA	PA	Total
<b>PML-F</b>	1		1	3	14	17							4	14	18
<b>JI</b>				2	9	11	2		2				4	9	13
<b>PML</b>	6	4	10										6	4	10
<b>ANP</b>								6	6		1	1		7	7
<b>BNP</b>										2	5	7	2	5	7
<b>JUI-N</b>										1	4	5	1	4	5
<b>PkMAP</b>										2	2	4	2	2	4
<b>Others</b>	4	4	8		5	5		3	3	2	3	5	6	15	21
<b>Total</b>	<b>65</b>	<b>100</b>	<b>165</b>	<b>28</b>	<b>63</b>	<b>91</b>	<b>26</b>	<b>43</b>	<b>69</b>	<b>14</b>	<b>46</b>	<b>60</b>	<b>133</b>	<b>252</b>	<b>385</b>

### PML-N

The Pakistan Muslim League-Nawaz (PML-N) filed a total of 66 petitions. These included 12 petitions against PTI candidates and 14 against PPPP. Of the 12 petitions against PTI, only one has been accepted so far. Nine petitions have been dismissed, while two are still awaiting decisions. Similarly, of the 14 petitions against PPPP, three have been accepted; nine have been dismissed while another two are yet to be decided.

As many as five out of 66 petitions challenged the nomination of candidates, while 14 challenged the qualifications of winning candidates. The party made allegations of corrupt or illegal practices employed by someone other than the candidate in 39 petitions and directly accused the winning candidate of corruption/illegal practice in 46 petitions. The party sought the winning candidates' disqualification and declaration of the petitioner as the winner in 45 petitions, while 18 petitions sought re-poll in certain constituencies. Recounting of ballot papers was sought in 16 petitions, while 10 petitions sought a re-examination of votes declared invalid by the ECP. In addition the party sought re-polling at certain polling stations in 11 petitions and other forms of relief in eight petitions.

### PTI

The Pakistan Tehreek-e-Insaf (PTI) filed 58 petitions – 43 against winning candidates of the ruling PML-N and one against PPPP. Of these 43 petitions, 20 were filed to resolve disputes over National Assembly seats while the rest were related to the provincial assemblies. So far, only one petition filed by PTI against PML-N has been accepted. The only petition filed by PTI against PPPP to resolve a dispute over a National Assembly seat in Sindh which was dismissed by the Hyderabad tribunal.

The party challenged the nomination of candidates in four petitions and qualifications of winning candidates in 10. It made allegations of corrupt or illegal practices employed by someone other than the candidate in 35 petitions and directly accused the winning candidate of corruption/illegal practice in 51 petitions. The party sought the winning candidates' disqualification and declaration of petitioner as the winner in 39 petitions. Twenty-two petitions sought a re-poll in the constituency, while another 22 demanded a recount of ballot papers. The party sought re-examination of invalid votes in four petitions and re-polling at certain polling stations in eight petitions besides seeking other forms of relief in 14 petitions.

### PPPP

The Pakistan Peoples Party Parliamentarians (PPPP) filed 50 petitions – 19 against PML-N and one against PTI. The only petition against PTI over a provincial assembly seat in Khyber Pakhtunkhwa was dismissed. Of the 19 petitions against PML-N, three have been accepted; 14 have been dismissed while another two are still pending with the tribunals.

The party challenged the nomination of candidates in three petitions and filed 14 cases challenging the winning candidates' qualifications. It made allegations of corrupt or illegal practices being employed by

someone other than the candidate in 22 petitions and directly accused the candidate of attempting to sway the results in 31 petitions. The party sought the winning candidates' disqualification in 32 petitions and a re-poll in the constituency in 10 petitions. Recounting of ballot papers for the entire or parts of a constituency was sought in nine petitions, while a re-examination of invalid votes was sought in six petitions. The party sought re-polling at certain polling stations in six petitions and other forms of reliefs in as many petitions. The details of nature of grounds on which the petitions were filed are given in Table 7.3:

**Table 7.3: Details of Nature of Grounds of Petitions**

Petitioner	Incorrect nomination process	Winning candidate not qualified to contest the polls	Corrupt/illegal practice employed by someone other than the candidate	Winning candidate involved in corrupt/illegal practice
ANP	1	4	5	5
BNP			3	4
IND	18	33	64	70
JI			2	13
JUI-F	2	5	12	18
JUI-N		2	1	3
PML-F	2	2	8	18
PML-N	5	14	39	46
PML		2	7	6
PPPP	3	14	22	31
PTI	4	10	35	51
Others	3	6	14	15
<b>Total</b>	<b>38</b>	<b>92</b>	<b>212</b>	<b>280</b>

The details of nature of prayers sought by the petitioners are given in Table 7.4:

**Table 7.4: Details of Nature of Prayers Sought by Petitioners**

Petitioner	Declare the election of the winning candidate void and declare the petitioner as the returned candidate	Disqualify the winning candidate and order a re-poll	Recounting of ballot papers for entire or parts of a constituency	Re-examination of invalid votes	Re-polling at certain polling stations	Other reliefs
ANP	6	3	1	1	1	
BNP	6			1	1	1
IND	58	31	25	11	16	24
JI	3	12				
JUI-F	19	4	5	5	7	4
JUI-N	4	1				
PML-F	14	11	6	2	3	6
PML-N	45	18	16	10	11	8
PML	5	2	2		2	3
PPPP	32	10	9	6	6	6
PTI	39	22	22	4	8	14
Others	17	8	5	2	2	5
<b>Total</b>	<b>248</b>	<b>122</b>	<b>91</b>	<b>42</b>	<b>57</b>	<b>71</b>

## 8. Petitions against Winning Candidates

According to FAFEN's data, over one third (138 or 35%) of the 385 petitions were filed against returned candidates of PML-N – the party with the highest number of seats in the National Assembly. Most of these petitions (115) were filed in Punjab - 47 in Lahore, 27 in Faisalabad, 19 in Bahawalpur, 14 in Multan and eight in Rawalpindi. No petitions were filed against PML-N candidates in Hyderabad.

PPPP's returned candidates were nominated in 50 petitions – mostly in Sindh (22 in Hyderabad, 13 in Sukkur and 13 in Karachi). PTI's candidates were nominated in 30 petitions, most of which were filed in Khyber Pakhtunkhwa (10 in Peshawar, eight in Abbottabad and three in Dera Ismail Khan). JUI-F's winners were nominated in 19 petitions (mostly in Loralai, Dera Ismail Khan and Peshawar) while independent candidates were collectively nominated in 78 petitions. Table 8.1 gives the details of petitions filed against each party/candidate:

**Table 8.1: Party-wise Breakdown of Petitions against Winning Candidates**

Tribunal	PML-N	IND	PPPP	PTI	MQM	JUI-F	PKMAP	PML	PML-F	ANP	NPP	NP	JI	Others	Total
Abbottabad	4	8		8		1							1	1	23
Bahawalpur	19	13	1			1		1						1	36
DI Khan		7	1	3		5									16
Faisalabad	27	9						1							37
Hub	3					2	2	1				1		2	11
Hyderabad		6	22		1				2						31
Karachi	3		13	2	20						1				39
Lahore	47	4		1				2							54
Loralai	2	1				4	10	1		1		1		1	21
Multan	14	6		2											22
Peshawar	6	5		10		4				3			1	1	30
Quetta	4	16				2	1	2		1		1		1	28
Rawalpindi	8	3		4										1	16
Sukkur	1		13		1				4		2				21
<b>Total</b>	<b>138</b>	<b>78</b>	<b>50</b>	<b>30</b>	<b>22</b>	<b>19</b>	<b>13</b>	<b>8</b>	<b>6</b>	<b>5</b>	<b>3</b>	<b>3</b>	<b>2</b>	<b>8</b>	<b>385</b>

Table 8.2 gives a province-wise breakdown of petitions filed against the winning candidates for both National and Provincial Assemblies:

**Table 8.2: Petitions against Winning Candidates for National and Provincial Assemblies**

Respondent	Punjab			Sindh			KPK			Balochistan			Grand		
	NA	PA	Total	NA	PA	Total	NA	PA	Total	NA	PA	Total	NA	PA	Total
PML-N	53	62	115	1	3	4	4	6	10	2	7	9	60	78	138
IND	7	28	35	1	5	6	13	7	20	5	12	17	26	52	78
PPPP	1		1	12	36	48		1	1				13	37	50
PTI	2	5	7		2	2	2	19	21				4	26	30
MQM				8	14	22							8	14	22

Respondent	Punjab			Sindh			KPK			Balochistan			Grand		
	NA	PA	Total	NA	PA	Total	NA	PA	Total	NA	PA	Total	NA	PA	Total
<b>JUI-F</b>		1	1				4	6	10	4	4	8	8	11	19
<b>PkMAP</b>										2	11	13	2	11	13
<b>PML</b>	1	3	4								4	4	1	7	8
<b>PML-F</b>				4	2	6							4	2	6
<b>ANP</b>							2	1	3		2	2	2	3	5
<b>NP</b>											3	3		3	3
<b>NPP</b>				2	1	3							2	1	3
<b>JI</b>							1	1	2				1	1	2
<b>Others</b>	1	1	2					2	2	1	3	4	2	6	8
<b>Total</b>	<b>65</b>	<b>100</b>	<b>165</b>	<b>28</b>	<b>63</b>	<b>91</b>	<b>26</b>	<b>43</b>	<b>69</b>	<b>14</b>	<b>46</b>	<b>60</b>	<b>133</b>	<b>252</b>	<b>385</b>

### PML-N

Over one third of the petitions (138) were filed in constituencies won by PML-N candidates. Seventeen petitions said the PML-N winners were nominated incorrectly while 47 challenged the qualifications declared by the party's candidates. Moreover, 88 petitioners made allegations of corrupt/illegal practices employed by people to help the candidates win. The winners were directly accused of being involved in corrupt/illegal practices in 98 petitions.

There were 82 petitions seeking the winner's disqualification and declaration of petitioners as the returned candidates. Another 47 sought re-poll in the constituencies, while 35 petitioners sought recount of ballot papers for entire or parts of the constituency. Ten petitions demanded re-examination of invalid votes, while 16 sought re-poll at certain polling stations. In addition, 31 petitions sought reliefs other than the categories identified above.

### PPPP

As many as 50 petitions challenged the winning candidates of PPPP. Five petitions claimed the winners were nominated incorrectly while eight challenged the qualifications declared by the party's candidates. Nineteen petitioners made allegations of corrupt/illegal practices employed by people to help the candidates win, while 47 directly accused the winners of engaging in corrupt or illegal practices.

There were 42 petitions seeking the winners' disqualification and declaration of petitioners as the returned candidates. Another 20 petitions sought re-poll in constituencies, while 13 sought recount of ballot papers for entire or parts of the constituency. Five petitions demanded re-examination of the votes declared invalid by the ECP; nine sought re-poll at certain polling stations while 13 sought other forms of reliefs from the tribunals.

### PTI

The winning candidates of PTI were challenged in 30 petitions. Four petitions said the winners were nominated incorrectly while eight challenged the candidates' declared qualifications. Seventeen petitioners made allegations of corrupt/illegal practices employed by people to help the candidates win, while 22 directly accused the winners of engaging in corrupt/illegal practices. Twenty petitions sought the winners' disqualification and declaration of petitioners as the returned candidates, while 10 sought re-poll in the constituencies. Another 10 petitions sought recount of ballot papers for entire or parts of the constituency, while three demanded re-examination of invalid votes from the tribunal. Furthermore, nine petitions sought re-poll at certain polling stations while two sought reliefs other than the categories identified above.

### MQM

FAFEN observers reported 22 petitions filed against MQM candidates. Twenty-one petitions accused the party's candidates of engaging in corrupt/illegal practices in an attempt to sway the election results while

two said the winner had been nominated incorrectly. As many as four petitions sought the winners' disqualification, while 12 sought re-poll in the constituencies. Four petitions sought recount of ballot papers for entire or parts of the constituency, while two petitioners demanded re-examination of votes declared invalid by the ECP. Moreover, two petitions sought re-poll at certain polling stations, with three seeking other reliefs from the tribunals.

### JUI-F

Nineteen petitions were filed against JUI-F's candidates. One petition said the winner was nominated incorrectly, while seven challenged the winners' qualifications. Twelve petitioners made allegations of corrupt practices employed by people to help the candidates win, while an equal number of petitions directly accusing the party's candidates of corrupt/illegal practices. There were 12 petitions seeking the winners' disqualification and declaration of petitioners as the returned candidates. Another three petitions sought re-poll in certain constituencies, four demanded re-examination of invalid votes while two sought re-polling at certain polling stations. In addition, two petitions sought other forms of reliefs from the tribunals. The details of nature of grounds on which the petitions were filed are given in Table 8.3:

**Table 8.3: Nature of Grounds of Petitions against Winning Candidates**

Respondent	Incorrect nomination process	Winning candidate not qualified to contest	Returned candidate winning the election through corrupt/illegal practice	Returned candidate involved in corrupt or illegal practice
ANP			3	5
IND	10	17	51	49
JUI-F	1	7	12	12
MQM			2	21
PkMAP			6	7
PML-F		1		5
PML-N	17	47	88	98
PML	1	2	6	4
PPPP	5	8	19	47
PTI	4	8	17	22
Others		2	8	10
<b>Total</b>	<b>38</b>	<b>92</b>	<b>212</b>	<b>280</b>

Table 8.4 gives the details of nature of prayers sought in the petitions against winning candidates:

**Table 8.4: Nature of Prayers Sought against Winning Candidates**

Respondent	Declare the winning candidate's election void and declare the petitioner as the return candidate	Disqualify the winning candidate and order a re-poll	Recount of ballot papers for entire or parts of a constituency	Re-examination of invalid votes	Re-polling at certain polling stations	Other reliefs
ANP	3	1	3	1		3
IND	54	22	20	9	15	13
JUI-F	12	3		4	2	2
MQM	4	12	4	2	2	3
PkMAP	11		1	4	1	
PML-F	6	2	2	1		
PML-N	82	47	35	10	16	31
PML	4	1		1	1	2
PPPP	42	20	13	5	9	13
PTI	20	10	10	3	9	2
Others	10	4	3	2	2	2
<b>Total</b>	<b>248</b>	<b>122</b>	<b>91</b>	<b>42</b>	<b>57</b>	<b>71</b>



## Recommendations

Based on the observation of the tribunals' proceedings, FAFEN recommends that:

1. All the tribunals should exercise utmost transparency and help remove barriers to observation. The Representation of the People Act says that the Qanun-e-Shahadat 1984 shall apply to the proceedings of all election tribunals. Under the provisions of Qanun-e-Shahadat, documents forming the acts or records of the acts of tribunals are public documents and every person has a right to inspect them and obtain copies upon payment of legal fees. It is recommended that there should be a clear provision in the ROPA requiring the tribunals and ECP to issue certified copies of petitions and judgments on payment of prescribed fee to any of the applicant.
2. No provision in the law or rules sets a timeframe for the 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 the ECP. According to FAFEN's data, the Lahore tribunal received two election petitions on January 29, 2014, and another case on June 02, 2014. The law or rules should be amended to reflect adequate deadlines for the ECP to handle a petition and the petitioner to respond in case an objection is raised.
3. All election tribunals have been established by the ECP. However, the tribunals in Sindh and Khyber-Pakhtunkhwa are working six days a week while tribunals in Punjab and Baluchistan are working five days a week. The working days of all tribunals should be made uniform.
4. According to ROPA's provisions, an appeal against the tribunals' decisions can be filed before the Supreme Court of Pakistan, but any party can file a writ petition against any interlocutory order of the tribunal before a high court. No time limit to dispose of such petitions is provided in the law. It is recommended that a mechanism should be introduced to deal with such types of hurdles in disposal of a petition. It is important to mention that the Supreme Court, in its recent judgment, held that the interlocutory orders passed by the election tribunal impugned before the high courts are not liable to be set aside in its constitutional jurisdiction, as the petitioners before the court had a remedy available to them by way of appeal under Section 67 of the ROPA 1976 after disposal of the election petitions. The Supreme Court, in no uncertain terms, declared that the exclusion of jurisdiction of courts (except election tribunals) to try election matters extends to the entire length of the proceedings in an election petition before the tribunal.
5. As disposal of petitions is mandatory in stipulated time, there should be some provision or mechanism which binds all other institutions/departments to fulfill their task related to election petitions, if directed by the tribunals, in a specific time so that delay in disposal of petitions can be avoided.
6. Another important issue which needs consideration is upholding of petitions for a considerable time by the ECP while they are transferred to another tribunal on request by any party or a tribunal itself. It has been observed that this practice is also causing delay in the disposal of petitions within stipulated time.
7. The ROPA provides that the ECP shall dismiss the election petitions itself in case of non-compliance of Section 54, 55 & 62(4). The point requiring consideration is that in case of dismissal of a petition by the election tribunal, the right of appeal is provided to the aggrieved party. However, this right has not been provided in case of dismissal of a petition by the ECP itself.

## Annexure: List of Cases Pending with Election Tribunals

No.	Tribunal	Petition No.	Petitioner	Respondent	Assembly	Constituency
1	Abbottabad	207/2013	PTI	PML-N	National Assembly	NA-20 Mansehra-I
2	Abbottabad	112/2013	JUI-F	IND	National Assembly	NA-40 North Waziristan Agency
3	Bahawalpur	272/2013	PML-N	IND	National Assembly	NA-188 Bahawalnagar-I
4	Bahawalpur	154/2013	PML-N	IND	Punjab Assembly	PP-213 Khanewal-II
5	Bahawalpur	254/2013	PML-N	BWP Awami Ittehad	Punjab Assembly	PP-267 Bahawalpur-I
6	Faisalabad	284/2013	PTI	PML-N	National Assembly	NA-66 Sargodha-III
7	Faisalabad	194/2013	PTI	PML-N	National Assembly	NA-125 Lahore-VIII
8	Faisalabad	119/2013	MDM	IND	Punjab Assembly	PP-78 Jhang-VI
9	Faisalabad	208/2013	IND	IND	Punjab Assembly	PP-78 Jhang-VI
10	Faisalabad	32/2013	IND	IND	Punjab Assembly	PP-78 Jhang-VI
11	Faisalabad	391/2013	IND	IND	Punjab Assembly	PP-78 Jhang-VI
12	Faisalabad	129/2013	PTI	PML-N	Punjab Assembly	PP-155 Lahore-XIX
13	Hyderabad	213/2013	PML-F	PPPP	National Assembly	NA-218 Matiari-cum-Hyderabad
14	Hyderabad	397/2013	IND	PPPP	National Assembly	NA-229 Tharparkar-I
15	Hyderabad	341/2013	PML-N	PPPP	Sindh Assembly	PS-59 Badin Cum Tando Muhammad Khan-III
16	Hyderabad	401/2013	IND	PPPP	Sindh Assembly	PS-62 Tharparkar-III
17	Hyderabad	157/2013	PPPP	IND	Sindh Assembly	PS-85 Thatta-II
18	Hyderabad	149/2013	PML-N	PPPP	Sindh Assembly	PS-29 Khairpur-I
19	Lahore	269/2013	PPPP	PML-N	National Assembly	NA-98 Gujranwala-IV
20	Lahore	150/2013	PML-Q	PML-N	National Assembly	NA-104 Gujrat-I
21	Lahore	239/2013	PTI	PML-N	National Assembly	NA-118 Lahore-I
22	Lahore	315/2013	PTI	PML-N	National Assembly	NA-122 Lahore-V
23	Lahore	153/2013	PTI	PML-N	National Assembly	NA-128 Lahore-XI
24	Lahore	317/2013	PML-Q	PML-N	Punjab Assembly	PP-109 Gujrat-II
25	Lahore	238/2013	PTI	PML-N	Punjab Assembly	PP-147 Lahore-XI
26	Lahore	345/2013	PML-N	PTI	Punjab Assembly	PP-152 Lahore-XVI
27	Lahore	155/2013	PTI	PML-N	Punjab Assembly	PP-160 Lahore-XXIV
28	Multan	352/2013	IND	PML-N	National Assembly	NA-144 Okara-II
29	Multan	307/2013	PPPP	PML-N	National Assembly	NA-144 Okara-II
30	Multan	355/2013	PTI	IND	National Assembly	NA-154 Lodhran-I
31	Multan	117/2013	PML-N	IND	National Assembly	NA-156 Khanewal-I
32	Multan	44/2013	IND	PTI	National Assembly	NA-162 Sahiwal-III
33	Multan	247/2013	PML-N	IND	Punjab Assembly	PP-212 Khanewal-I
34	Multan	16/2013	PML-N	IND	Punjab Assembly	PP-207 Lodhran-I
35	Peshawar	258/2013	JUI-F	PML-N	Khyber Pakhtunkhwa Assembly	PK-8 Peshawar-VIII
36	Peshawar	170/2013	PTI	ANP	National Assembly	NA-9 Mardan-I
37	Peshawar	294/2013	PTI	Ji	National Assembly	NA-34 Lower Dir
38	Peshawar	354/2013	IND	PML-N	National Assembly	NA-41 South Waziristan Agency
39	Rawalpindi	236/2013	IND	PML-N	National Assembly	NA-73 Bhakkar-I

No.	Tribunal	Petition No.	Petitioner	Respondent	Assembly	Constituency
40	Rawalpindi	392/2013	PML-Q	PML-N	National Assembly	NA-80 Faisalabad-VI
41	Rawalpindi	221/2013	IND	PML-N	National Assembly	NA-94 Toba Tek Singh-III
42	Rawalpindi	144/2013	PTI	PML-N	Punjab Assembly	PP-4 Rawalpindi-IV
43	Rawalpindi	186/2013	PTI	PML-N	Punjab Assembly	PP-10 Rawalpindi-X
44	Rawalpindi	189/2013	PML-N	PTI	Punjab Assembly	PP-11 Rawalpindi-XI