



DRAFT ELECTIONS BILL, 2017

FAFEN's Review and Recommendations

January 17, 2017

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Executive Summary

FAFEN Commentary on Draft Elections Bill, 2017

Free and Fair Elections Network (FAFEN) appreciates the opportunity provided by the Parliamentary Committee on Electoral Reforms to offer final comments on Draft Elections Bill, 2017, which the Parliamentary Committee circulated for this purpose on 20 December 2016. The draft bill, which will be presented to the Senate and National Assembly for consideration soon, represents a substantial step forward in the process of reforming election administration in Pakistan to ensure transparency, accountability, responsiveness and fairness of elections, including General Election due in 2018.

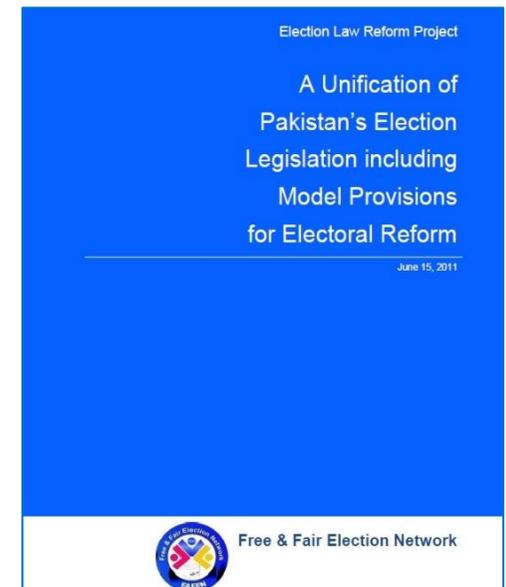
However, FAFEN believes that Draft Election Bill, 2017, is a combination of progressive and regressive measures, which may not yield the desired result of improving the quality of elections. Therefore, FAFEN calls on the Parliamentary Committee to consider a final set of recommendations before submitting the bill to Parliament for approval. This document

provides a narrative summary of the most important strengths of the Draft Elections Bill, 2017, as well as important weaknesses and FAFEN's recommendations to address those issues. Of primary significance is that the bill unifies relevant constitutional provisions and nine election-related laws into a single piece of legislation. FAFEN and other key stakeholders have recommended this consolidation and rationalization of election laws since 2007 and specifically since 2011 with the publication of "A Unification of Pakistan's Election Legislation including Model Provisions for Electoral Reform." The Draft Election Bill, 2017, represents the culmination of ten years of evidence-based civic advocacy and parliamentary responsiveness.

The draft bill includes significant proposed improvements related to many electoral reform issues FAFEN has been advocating since 2007, including strengthening the authority of the Election Commission, promoting women's political and electoral participation, and requiring publication of key election documents and data. It also incorporates positive measures FAFEN has advocated regarding fixing permanent polling places, handling election-related complaints and election result petitions more systematically, providing legal foundation for election observation, and enforcing declarations and disclosures required by political parties, legislators and candidates. In addition, the bill usefully addresses issues related to caretaker governments and local government elections.

Key Reforms 2007-2017

- ✓ Unified election law
- ✓ Increased ECP authority and independence
- ✓ Permanent polling places
- ✓ Sex-disaggregated voting data
- ✓ Publication of all key election data, including polling station vote count & consolidation forms
- ✓ Campaign finance disclosures
- ✓ Election complaint and results petition systems strengthened
- ✓ Proactive measures for women's citizen and voter registration
- ✓ Legal recognition of observers



While the bill adequately addresses some important weaknesses of the election system, it still includes significant defects that must be remedied. In particular, the bill requires critical improvements to ensure the independence and authority of the Election Commission of Pakistan (ECP) over all aspects of an election as a prerequisite for free, fair and transparent elections. The proposed law does not go far enough in protecting the independence and authority of the Election Commission with regard to the promulgation of procedural rules to administer elections. The Commission also is not given full control over Returning Officers, who are typically seconded from the judiciary and have responsibility for critically-important steps in the election process, including candidate nominations and constituency election results.

In addition, the bill improves election transparency in some respects, but punishes anyone who shares election information outside the chain of command, bars media and observers from the scrutiny of candidate nominations, and fails to provide time standards for publication of the most essential election-related documents and data. The election bill includes several positive measures related to women’s participation, but misses the opportunity to establish a legal requirement for collecting sex-disaggregated voting data or take initiatives on behalf of the electoral rights of other marginalized communities, including religious minorities. There is still an opportunity for the Parliamentary Committee to cure these debilitating infirmities in the draft election bill, 2017, and FAFEN urges the Committee to do so.

ECP Independence and Authority

The draft election bill stops short of providing the complete independence and authority to the ECP that is needed to ensure an election that is free of government interference. Section 239 of the draft bill is particularly problematic as it enables the Election Commission to “to make rules for carrying out the purposes of this Act,” but only with the approval of the government. The constitution and existing law requires presidential approval for rules, which also compromises the independence of the Election Commission. FAFEN strongly recommends that Election Commission should be empowered to make its own procedural rules for implementation of the new draft election bill, in line with best international practices and in the spirit of upholding the independence of the Election Commission.

Similarly, Section 240 of the draft bill has created dependence of the Election Commission on the government when there is any difficulty in giving effect to any of the provisions of the bill. The government will forward such provisions to the parliament, and there is no timeframe for such referrals. This provision is yet another measure that will undermine the independence of the Commission, and it is in direct conflict with Section 4 (3), which empowers the Commission to take any measure to do anything for carrying out the purposes of this bill “for which no provision or sufficient provision exists”. FAFEN strongly recommends deletion of Section 240 from the Elections Bill, 2017 in order to ensure the independence of the Commission.

The powers of the Commission are further weakened by inconsistencies in the law regarding disqualification of elected Members. The Commission may disqualify a Member for a second violation of the Code of Conduct for Political Parties and Candidates or if the Member is involved in an agreement to bar women from voting. However, it cannot disqualify a Member who has submitted a false statement of election expenses or wealth statement. The Commission must refer such cases to



the session court, which may allow Members who have submitted false information to continue their membership until the exhaustion of all appeals. This weakness of the Commission’s power also conflicts with Section 4 (2) of the draft bill, which grants that any direction and order of the Commission shall be treated as it has been given by a high court. FAFEN strongly recommends that the powers of the Election Commission to disqualify a Member should be made consistent throughout the new election law.

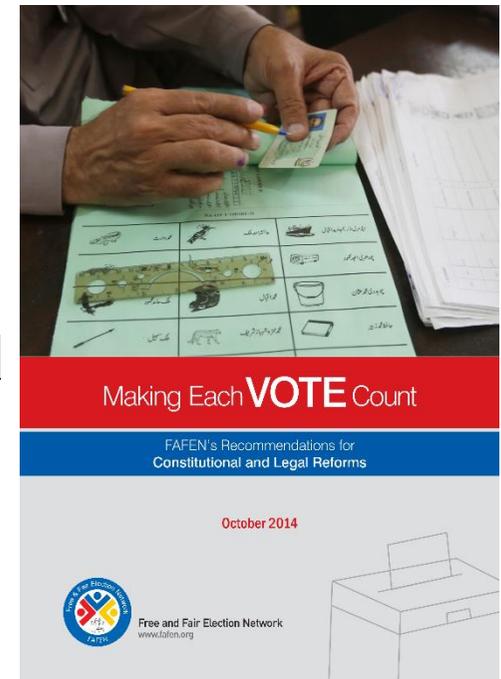
The law also does not bring Returning Officers (ROs) under the supervision of the Commission. According to Section 53 (1), an RO “shall do any such acts as may be necessary for effectively conducting the poll in accordance with the provisions of this act and the rules”, rendering ROs practically independent, without a supervising higher authority. District Returning Officers (DROs) are subject to the “superintendence, directions and controls” of the Commission, but similar language has not been used for the Returning Officers. FAFEN strongly recommends that ROs shall also be made subject to superintendence, directions and controls of the Commission, with appropriate enforcement mechanisms, to establish ECP’s control over critical election processes between the announcement of the election schedule (or “programme”) and 45 days after the announcement of final election results, which are the responsibility of the ROs.

Election Transparency and Access to Information

The draft bill is particularly regressive on the issue of access to information, which is protected under the Article 19-A of the Constitution. According to Section 194 (c) of the draft bill, a fine of five million rupees and imprisonment up to five years may be awarded to any person who “publishes or communicates ... information or data to any other person” “which to his knowledge has been obtained or disclosed in contravention of this Act or in breach of the security, secrecy and integrity thereof.” Similar penalty has been prescribed for an employee of the Election Commission who “publishes or communicates any information or data to any other person” without having the authority. Interestingly, the penalties prescribed to restrict access to information are more stringent than the penalties for corrupt or illegal practices under the draft bill. These provisions clearly indicate an effort to curb access to information, and are unacceptable. FAFEN strongly recommends that Section 194 (c) be withdrawn and penalties under this section should be rationalized.

While the draft bill does provide legal protection to election observation, it bars access of media, observers and citizens to the scrutiny of candidates during the nomination process, which is a step backwards from the existing laws and compromises the transparency of this critical step in the election process. FAFEN strongly recommends that the law should allow at least media and observers to be present at the scrutiny process. In addition, the meetings of the Election Commission should be open to media and observers, and minutes of the Commission’s meetings and the voting records of its Members should be made public.

The draft unified election law also fails to impose time requirements on the Election Commission to make publicly available all of the critical documents related to elections. The documents that should have clear deadlines for being made publicly available include: nomination papers, election expense returns by the candidates, election result forms such as polling station vote counts, ballot paper accounts, final consolidation of the result from each constituency, candidate wealth statements



and consolidated accounts by political parties. The draft bill does provide a timeline for publication on the website of the official gazette notification of the winning candidates, but it unreasonably gives the Commission two full weeks to make this essential document available on the web. These gaps should be filled by the law.

Electoral Participation of Women and Marginalized People

The draft bill includes commendable provisions to promote and protect women’s electoral and political participation, including the power of the Election Commission to require a re-poll in polling stations or constituencies where women’s voter turnout is less than 10% of the polled votes. The mandatory requirement for political parties to award 5% of tickets for contestation on general seats to women, however, is cosmetic and should be increased to 17% at least. The bill also requires the Commission to take special measures to improve women’s voter registration nationwide and in specific constituencies where women’s under-registration is stark. However, the draft bill fails to require by law the procedure for the collection of sex-disaggregated voting data, and includes almost no special initiatives to enhance the electoral and political participation of other marginalized communities, including religious minorities, persons with disabilities, and transgendered individuals. The right for persons with disabilities to cast their vote through postal ballot is positive, but not sufficient. FAFEN strongly recommends that the law grant the Election Commission authority to take all necessary measures for the full electoral and political empowerment of members of marginalized communities. The bill should also amended to require political parties to award 5% of tickets for contestation on general seats to people belonging to religious minorities.

Important Weaknesses of Law

Following are the weaknesses that merit attention of the Parliamentary Committee:

1	Political Influence, Parties and Candidates	<ul style="list-style-type: none"> a. The draft bill does not address the issue of political monopolies or prescribe any measures that can dilute control of some families over political parties. b. The draft bill allows indirect elections to the Senate, which have the potential to allow party leaders to induct members based on nepotism and not merit. c. The draft bill prohibits a foreign-aided political party, but does not address the situation of a political party formed or headed by a dual national or Pakistanis living overseas. d. The draft bill empowers government direct referral to the Supreme Court in case a political party is declared prejudicial to Pakistan’s sovereignty and integrity. Similarly, it empowers government to issue dissolution declaration of a foreign-aided political party and refer the matter to Supreme Court. Instead, both cases need to be referred to the Election Commission for a decision, which may be challenged in the Supreme Court.
2	Constituency Delimitations	<ul style="list-style-type: none"> a. The draft bill apparently allows delimitation at any time before the issuance of the election programme, but last-minute delimitations may be used to influence the election process and its outcome.

		b. The draft bill does not grant the right of appeal to a voter aggrieved by the Commission's decision on delimitation representation(s).
3	Caretaker Governments –	a. The draft bill does not provide for the transparency of the process of the appointment of the caretaker governments. Minutes of the meetings of the leader of the House and leader of the opposition in this connection must be required to be made public.
4	Polling Stations	c. The draft bill does not sufficiently clarify the criteria for finalizing polling stations, including the number of female and male registered voters for each station and booth, as well as maximum distance, in case of exceptions, of voters from polling stations.
5	Campaign Finance	a. The draft bill does not adequately mention the duration in which expenses incurred by the candidate shall be deemed as election expenses. It also does not cover election expenses incurred by the party on behalf of the candidate. b. The draft bill does not require submission of income tax returns by Members of the Assemblies and the Senate and only requires annual submission of wealth statements including assets and liabilities.
6	ECP Authority for Postings/Transfers and Disciplinary Actions	a. The draft bill does not does not establish the Commission's authority over postings and transfers of officials not on election duty. b. The draft bill provides for disciplining of election staff only from the date of notification of the election programme instead of the date of their appointment. Under the proposed law, election staff including DROs and ROs will be appointed two months before the announcement of the election programme. c. The draft bill does not specify whether the Commission can initiate direct disciplinary actions against officials seconded from the subordinate judiciary.
7	Ballot Counting and Announcement of Election Results	a. The draft bill does not provide adequate specificity about the ballot counting procedure to ensure ballots for each election (seat) are counted separately and to ensure ballot papers from female and male ballot boxes are counted separately (for sex-disaggregation of voter turnout data). b. The draft bill requires announcement of provisional result by the ROs, which can be problematic due to changes in the election result during vote consolidation because of postal ballots, overseas voting, identification of problems at polling stations, etc.
8	Local Governments	a. The draft bill does not provide a timeframe for election on reserved seats in LGs. It also does not provide a timeframe for bye election on an LG seat falling vacant.



Section-wise Recommendations for Improvements in Draft Elections Bill, 2017

Chapter I Preliminary

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>2 (xiv)</p> <p>'election expenses' means any expenditure incurred before, during and after an election or payment made, whether by way of gift, loan, advance, deposit or otherwise, for the arrangement, conduct or benefit of, or in connection with or incidental to the election of a candidate, including the expenditure on account of issuing circulars or publication or otherwise presenting to the voters the candidate or his views, aims or objects, but does not include the deposit made under section 60, section 110 or section 223.</p>	8	The referred section 223 does not deal with deposits, rather it covers appointment of delimitation authority	Reference to section 223 should be deleted
<p>2 (xv (b))</p> <p>II</p> <p>where there is no municipal ward or a census block, a well-defined Mohallah or a street; and</p> <p>III</p> <p>where the ward or census block, Mohallah or street is too big, a well-defined part thereof; or</p>	8, 9	The definition provides for subjective discretion in the determination of an urban electoral area	Electoral area in rural and urban areas may strictly follow the census blocks as determined in the preceding census. Integrity of census blocks needs to be protected. Exceptions should be rare, based on valid reasons that are duly documented.
<p>2 (xxi)</p> <p>“government dues and utility charges” for the purpose of section 59 and section 106 inter alia, include rent, charges of rest houses or lodges or other accommodation owned by any Government, Provincial Governments, Local Governments or a body owned or controlled by any Government but shall not</p>	9, 10	The referred section 106 does not deal with government dues and utility charges, rather it covers notification of elections for Senate	Reference to section 106 should be corrected to section 109

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
include the government dues or utility charges the recovery of which has been stayed by any order of a court; or tribunal;			
2 (xxii) "loan" for the purpose of section 59 and section 106 means any loan, advance, credit or finance obtained or written off on or after 31 December 1985 but shall not include the loan the recovery of which has been stayed by a court or tribunal;	10	The referred section 106 does not deal with loans, rather it covers notification of elections for Senate	Reference to section 106 should be corrected to section 109
2 (xxiv) "mainly owned" for the purpose of section 59 and 106 means holding or controlling a majority interest in a business concern;	10	The referred section 106 is not relevant to the phrase "mainly owned," rather it covers notification of elections for Senate	Reference to section 106 should be corrected to section 109
2 (xxvii) "political party" means an association of citizens or a combination or group of such association formed with a view to propagating or influencing political opinion and participating in election for any elective public office or for membership of a legislative body, including an Assembly, the Senate, or local government;	10	The definition of "political parties" covers single political parties as well as alliances of multiple parties	Alliances of political parties may be separately defined under the law

Chapter II Election Commission of Pakistan

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>3 (1)</p> <p>The Commission may exercise its powers and perform its functions notwithstanding that there is a vacancy in the office of any one of its members or that any one of its members is, for any reason, unable to attend its proceedings and the decision of the majority of the members shall have the effect of the decision of the Commission.</p>	13	Section does not define the minimum quorum for the Commission to be in session and is empowered to make decisions	Minimum quorum requirement may be established in the law
<p>4 (3)</p> <p>Anything required to be done for carrying out the purpose of this Act, for which no provision or no sufficient provision exists, shall be done by such authority and in such manner as the Commission may direct.</p>	13, 14	Section conflicts with Section 240 of the law	Section 240 may be amended to allow the Commission to use its powers granted by section 4 (3)
<p>5 (1)</p> <p>The Commissioner or the Commission may require any person or authority to perform such functions or render such assistance for the purpose of this Act as he or it may direct.</p>	14	“Commissioner” and “Commission” are separately mentioned, which is not consistent with Article 218 of the Constitution amended under 18th Amendment in 2010	Section 5 (1) should be made consistent with the Constitution
<p>5 (4)</p> <p>After the Election Programme has been issued an till the publication of the names of the returned candidates in the official Gazette, the Federal, a Provincial or a Local Government or authority shall not post or transfer any official appointed or deputed in connection with an election without prior approval of the Commission, including a posting or</p>	14	Section does not establish Commission’s authority over postings and transfers of officials not on election duty	Any transfers and postings of officials after the issuance of election programme may be subject to Commission’s approval in writing, based on valid and documented reasons

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
transfer the decision in respect whereof has not been implemented, and the Commission may itself issue necessary directions to any such government or authority for the posting or transfer of any official.			
<p>6 (2)</p> <p>The Commissioner shall exercise powers relating to the appointment of officers and staff to be employed in connection with the functions of the Commission and determine their terms and condition of employment in accordance with the Rules.</p>	14	Empowering the Commissioner to exercise these powers is not consistent with Article 218 of the Constitution amended under 18th Amendment in 2010	Section 6 (2) should be made consistent with the Constitution
<p>7 (4)</p> <p>Where any vehicle, vessel or other means of transportation is requisitioned under subsection (1), there shall be paid to the owner thereof compensation the amount of which shall be determined by the Provincial Government or the officer requisitioning the vehicle, vessel or other means of transportation on the basis of the fares and rates prevailing in the locality for its hire.</p>	15	Provision for provincial government to determine the compensation for requisitioned vehicles is problematic	Commission may determine and standardize the rate of compensation to the owners of requisitioned vehicles
<p>7 (5)</p> <p>Where the owner of the vehicle, vessel or other means of transportation, being aggrieved by the amount of compensation so determined makes an application to the Provincial Government within a period of thirty days from the date the amount has been determined, for the matter being referred to an arbitrator agreed upon the parties, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by Provincial Government may determine.</p>	16	This section may need changes if the recommendation given under 7 (4) is adopted	

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>9 (I)</p> <p>Notwithstanding anything contained in this Act, if, from facts apparent on the face of the record and after such inquiry as it may deems necessary, the Commission is satisfied that by reason of grave illegalities or such violation of the provisions of this Act or the Rules as have materially affected the result of the poll at one or more polling stations or the whole constituency including implementation of an agreement restraining women from casting their votes, it shall make a declaration accordingly and call upon the voters in the concerned polling station or stations or in the whole constituency as the case may be, to recast their votes in the manner provided for bye-elections.</p>	16	Manner of by-election for re-poll on the concerned polling station(s) is not applicable and therefore is unclear	Re-poll at concerned polling station(s) may be defined under the law
<p>11 (I)</p> <p>The remuneration payable to the Commissioner, members and other officers and staff of the Commission and all administrative expenses and other expenditure relating to the Commission shall be expenditure charged upon the Federal Consolidated Fund, within the meaning of Article 81.</p>	17, 18	Article 81 of the Constitution mentions only the expenditure payable to the Chief Election Commissioner	An amendment in the Constitution is required to cover the Commission instead of the Commissioner.
<p>12 (a)</p> <p>conduct training programs for election officials including of the Commission, the Federal and Provincial Governments, local governments or corporations, and autonomous or semi-autonomous bodies controlled by any of these Governments and officers from the judiciary, if any, deputed or selected in connection with an election in accordance with procedure laid down under this Act or the Rules;</p>	18	Training of officials from security forces is not specifically mentioned	Training of security officials may be emphasized under the law
<p>12 (c)</p>	18	Section does not address the need for awareness of enrollment and	The section may be amended to include reference to non-Muslims,

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
conduct public awareness programmes and media campaigns, regarding the importance of maximum voter enrolment and participation in elections, especially by women, dissemination of information regarding procedure of casting vote, and the importance of maintaining the integrity of the electoral process; and		participation in elections among non-Muslims, persons with disabilities and transgendered individuals	persons with disabilities and transgendered individuals
<p>13</p> <p>2 The Returning Officer shall, in pursuance of subsection (1), compile the provisional results and forthwith communicate these results electronically to the Commission.</p> <p>3 The Returning Officer shall send to the Commission:</p> <p>a) Scanned copy of the provisional results compiled under subsection (1); and</p> <p>b) Scanned copies of the Consolidated Statement of the Results of the Count, Final Consolidated Results together with Results of the Count and Ballot Paper Accounts, as received by him from the Presiding Officers under subsection (18) of section 89.</p>	19	Timelines are not defined for Returning Officers to communicate results to Commission electronically	Required timelines for RO's electronic communication to the Commission of provisional and consolidated results may be provided in the law
<p>13 (4)</p> <p>The Returning Officer shall also send to the Commission original copies of documents mentioned in subsections (2) and (3) through special messenger or any other swift means of communication including urgent mail service or courier service, as may be directed by the Commission.</p>	19	Timeline is not defined for dissemination of original copies of results documents	Timeline may be defined for dissemination of original copies of results documents
<p>13 (5)</p> <p>On receipt of the results from a Returning Officer, as aforesaid, the Commission shall publish the results on its website.</p>	19	Timeline and required types of forms are not defined for uploading result on Commission website.	Section 13 (5) may include all documents covered under subsection 3 before gazette notification of returned candidates

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>14 (2)</p> <p>The Commission shall carry out a post-election review of implementation of the Action Plan to ascertain shortcomings, if any, with suggestions to further improve the electoral system.</p>	20	Stakeholders and timeframe of post-election review of action plan are not defined	Section 14 (2) may require that post-election review be subject to a multi-stakeholder consultative process and completed within a specified time
<p>15 (1)</p> <p>Any person aggrieved by any decision or action taken by the Commission or its subordinate authority or any directive issued by it or any act of a political party or a candidate in violation of Code of Conduct may, within fifteen days of such decision, action, issuance of directive or violation, submit a complaint to the Commission pertaining to matters other than relating to election disputes falling under Article 225.</p>	20	Section requires a complaint against a decision or action of the Commission to be filed with the Commission	Complaints against decisions and actions of Commission may be removed from the purview of this section and/or right of appeal to Supreme Court may be added
<p>15 (1)</p> <p>Any person aggrieved by any decision or action taken by the Commission or its subordinate authority or any directive issued by it or any act of a political party or a candidate in violation of Code of Conduct may, within fifteen days of such decision, action, issuance of directive or violation, submit a complaint to the Commission pertaining to matters other than relating to election disputes falling under Article 225.</p>	20	Section allows only an “aggrieved person” to file a complaint, but does not define this term	Section 15 (1) may allow any registered voter to file a complaint without having to show he was “aggrieved”

Chapter III Delimitation of Constituencies

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>17 (2) The Commission shall delimit constituencies:</p> <p>a) after every census; or</p> <p>b) in the absence of census, after every ten years on the basis of electoral rolls; or</p> <p>at any time before notification of the Election Programme, after alteration of boundaries of administrative unit.</p>	22	Section apparently allows delimitation at any point before issuance of election programme	Section may require delimitation a minimum of six months before notification of election programme except in case of re-description of a constituency
<p>17 (2)</p> <p>(c) at any time before notification of the Election Programme, after alteration of boundaries of administrative unit.</p>	22	Section requires delimitation in case of alteration of boundaries of administrative units at any time before notification of election programme	Change in administrative units may only require re-description of constituencies, but not a change of delimitation
<p>19</p> <p>(2) A Province shall be a single constituency for all seats reserved for women which are allocated to each Province in Article 51.</p> <p>(5) The Constituencies for the seats reserved for women and non-Muslims in the Provincial Assemblies shall be such that each Province forms one constituency with as many such seats as are allocated to that Province in Article 106.</p>	23	Subsections do not equitably distribute reserved seats for women within a province	Subsections may establish regional quotas within province for reserved seats for women

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>21 (4)</p> <p>The Commission shall, after hearing and considering the representations, if any, received by it, make such amendments, alternations or modifications in the preliminary list of constituencies published under subsection (1) as it thinks fit or necessary, and shall publish in the official Gazette the final report and list of constituencies showing the areas included in each constituency.</p>	24	Subsection does not grant right to appeal to a voter aggrieved by Commission's decision on delimitation representation(s)	New subsection may be added to grant right of appeal to Supreme Court by a voter aggrieved by Commission's decision on delimitation representation(s)
<p>22 (1)</p> <p>Notwithstanding anything contained in this Act, the Commission may, at any time before notification of the Election Programme, of its own motion and for reasons to be recorded, make such amendments, alterations or modifications in the final list of constituencies published under subsection (4) of section 20 or in the areas included in a constituency, as it thinks necessary:</p>	24	Reference to subsection 20 (4) is incorrect	Reference should be corrected to 21 (4)

Chapter IV Electoral Rolls

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>25 (2)</p> <p>The Authority shall also transmit to the Commission relevant data of every cancelled or modified National Identity Card, Information regarding deceased voters and such other details as may be required by Commission for the purpose of this Act.</p>	26	Cancellation of CNICs of Pakistani citizens, for any reason, will deprive citizens of their right to vote	Section may clarify that cancellation of CNICs of Pakistani citizens, for any reason, will not disenfranchise them
<p>28</p> <p>The preliminary electoral rolls prepared under section 26, together with a notice inviting claims, objections and applications for corrections, if any, with respect thereto, shall be published and displayed by the Registration Officer for a period of not less than thirty days, in such manner and form as may be prescribed.</p>	27-28	Subsection is not adequately specific about the “manner and form” in which preliminary electoral rolls must be “published and displayed”	Subsection may specify that Commission shall establish a number of staffed display centers not less than 25% of the number of polling stations during the previous election, and shall effectively publicize the “display period”
<p>33 (2)</p> <p>The decision of the Revising Authority under subsection (1) shall be final and shall be communicated to the appropriate Registration Officer.</p>	29	Subsection does not grant right of appeal against decision of Revising Authority	Subsection may provide right of appeal to voters aggrieved by decision of Revising Authority
<p>39 (3)</p> <p>The Commission shall, through press release, inform the general public about the cut-off date for revision of or correction in an electoral roll of an electoral area or inclusion</p>	33	Subsection requires Commission to declare cut-off date only through press release	Subsection may require use of all possible means of communication to publicize cut-off date

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
or transfer of a vote from the electoral roll of an electoral area to the electoral roll of another electoral area.			
<p>44</p> <p>Sharing of information with National Database and Registration Authority.</p> <p>The Registration Officer shall communicate to the National Database and Registration Authority any change of address of the voters as a result of transfer of his voter under section 37, section 39 and any information received under section 43 for necessary entries in the record of the National Database and Registration Authority.</p>	34	Reference to section 39 is incorrect	Reference should be corrected to section 40
<p>47</p> <p>Special measures for enrolment of women voters.</p> <ol style="list-style-type: none"> 1. The Commission shall annually publish disaggregated data of registered men and women voters in each National Assembly constituency highlighting the difference in number of registered men and women voters. 2. Where the variation in the disaggregated data under subsection (1) is more than ten percent in a constituency, the Commission shall take special measures to reduce such variation. 3. The measures referred to in subsection (2) shall include action to expedite the issuance of national identity cards for women of such constituency by National Database and Registration Authority and for their enrolment as voters in the relevant electoral rolls by the Commission. 	35	Section provides for special measures only for women	Section may provide for special measures for citizen and voter registration also for non-Muslims, persons with disabilities and transgendered individuals



Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>4. No activity undertaken in connection with an election by the Commission or National Database and Registration Authority, as the case may be, shall be delayed, postponed or otherwise affected in any manner whatsoever merely on the ground of any measure being taken under this section.</p>			

Chapter V Conduct of Elections to the Assemblies

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
49 (1) For election to an Assembly, the Commission shall appoint a District Returning Officer for each district:	36	Subsection allows appointment of DROs from amongst ECP cadre, any government and subordinate judiciary	Subsection may restrict appointment of DROs from among ECP cadre only
49 (1) For election to an Assembly, the Commission shall appoint a District Returning Officer for each district:	36	Subsection does not specify the duration in which DRO and RO will perform their duties	Subsection may specify duration of DRO and RO's services for an election
53 (1) A Returning Officer shall do all such facts and things as may be necessary for effectively conduct the poll in accordance with the provisions of this Act and the Rules.	37	Subsection renders RO virtually independent in making election-related decisions	Subsection may be amended to include supervision, superintendence, direction and control of Commission or any of its designated officials over ROs
53 (3) A Presiding Officer shall conduct the poll in accordance with the provisions of this Act and the Rules, shall be responsible for maintaining order at polling station and shall report to the Returning Officer any fact or incident which may affect the conduct or fairness of the poll.	37	Subsection requires Presiding Officer to conduct elections in accordance with provisions of this act and the rules	Subsection may be amended to bind Presiding Officers to conduct elections as per instructions provided by the Commission or any of its designated officials, with enforcement mechanism if they fail to do so
53 (6) The Returning Officer may, at any time during the poll, for reasons to be recorded, suspend any Presiding Officer, Assistant Presiding Officer or Polling Officer, and make such alternate arrangements as he may consider necessary for the	38	Subsection provides for alternate arrangements by RO in case of suspension of an official on election duty	Subsection may clarify that alternate arrangements shall be made only from within the trained reserved staff

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
performance of the functions of the officer so suspended, whose matter shall be referred to the Commission for initiation of disciplinary proceedings.			
<p>54 (1)</p> <p>An election official appointed or deputed to perform duties in connection with an election shall be deemed to be under the control, superintendence and discipline of the Commission for the period commencing on and from the data of notification of the Election Programme till publication of the name of the returned candidate in the official Gazette.</p>	38	Subsection provides for disciplining election staff from the date of notification of election programme instead of date of their appointment	Subsection may be amended to extend Commission's control over election staff from their date of appointment
<p>54 (2)</p> <p>Notwithstanding anything to the contrary contained in any other law, the Commission may initiate and finalize disciplinary action and impose any penalty against any election official for any act of misconduct provided in the Efficiency and Discipline Rules as applicable to such election official or under any provision of misconduct under this Act, and for this purpose, the Commission shall be deemed to the Competent Authority under the said Efficiency and Discipline Rules or this Act.</p>	38	Subsection does not specify whether Commission can initiate direct disciplinary actions against officials seconded from subordinate judiciary	Subsection may clarify Commission's power and responsibility to initiate direct disciplinary actions against officials seconded from subordinate judiciary
<p>56 (2)</p> <p>As soon as may be after the announcement under subsection (1), the Commission shall, by notification in the official Gazette, call upon the voters of the notified Assembly constituencies to elect their representatives in accordance with an Election Programme, which shall stipulate.</p>	40 & 41	Subsection does not specify timeline for filing objection	Subsection may provide timeline for filing objections in line with section 61 (1)
<p>58 (1)</p> <p>Within one week after appointment of Returning Officer, the Commission shall provide, in the prescribed format, a list of</p>	42	Subsection requires Commission to provide ROs only with a list of proposed polling stations, but	Subsection may be amended to require Commission to provide list of proposed polling stations with (i)

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
proposed polling stations for each constituency to the Returning Officer of that constituency.		without sufficient information for ROs to consult stakeholders and give informed input	electoral area(s) assigned to each polling station (ii) the number of female and male booths proposed for each station and (iii) the number of registered voters assigned to each station and booth
<p>58 (2)</p> <p>The Commission shall, as far as practicable, retain the polling stations established for the proceeding election but it may add to or alter the list as may be required to reduce the distance preferably to one kilometer between a polling station and the voters assigned to it.</p>	42	Subsection does not sufficiently clarify the criteria for finalizing polling stations, including number of female and male registered voters for each station and booth, as well as maximum distance, in case of exceptions, of voters from polling stations	Subsection may provide criteria for maximum number of female and male voters to be assigned to each booth and maximum distance of voters from polling stations in exceptional cases
<p>58</p> <p>(3) (a) shall personally verify the proposed polling stations;</p>	42	Personal verification of polling stations by RO will be practically difficult in case of early elections and bye election	Subsection may describe potential alternate verification process in cases of early elections and bye elections
<p>58</p> <p>(3) (c) shall publish the preliminary list of polling stations, asking the voters and the intending candidates to file their objections and suggestions within twenty-one days of its publication.</p>	42	Subsection allows objections to polling stations by “intending candidates,” but this provision can be misused and create additional and unnecessary administrative burden on Commission	Intending candidates may be deleted from subsection
<p>58 (5)</p> <p>The District Returning Officer may, after hearing the objections or considering the suggestions, if any filed with him and making such summary inquiry as he may deem necessary, make alternations in the list of polling stations as may be</p>	42	Subsection does not enumerate details of entries that must be provided for each polling station on gazette	<p>Subsection may list the following required details for entries of each polling station on gazette:</p> <ol style="list-style-type: none"> I. Name and number of polling station

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
required and shall, at least thirty days before the polling day, publish in the official Gazette the final list of polling stations of each constituency in the district.			<ol style="list-style-type: none"> 2. Name(s) and number(s) of electoral area(s) assigned to each polling station 3. Type of polling station 4. Number and type of polling booth(s) 5. Number of voters assigned to each booth
58 (8) The Returning Officer shall establish in each constituency polling stations according to the final list published under subsection (4).	43	Reference to subsection 58 (4) is incorrect	Reference maybe corrected to subsection 58 (5)
58 (10) A polling station shall not be located in any premises which belongs to or is under the direct or indirect control of a candidate.	43	Subsection prohibits establishment of a polling station at a private school in direct or indirect control of a candidate.	Subsection may be amended to prohibit establishment of a polling station at a private school owned by any office bearer of any political party
59 (1) Any voter of a constituency, may propose of second the name of any qualified person to be a candidate for Member for that constituency: Provided that no voter shall subscribe to more than one nomination paper either as proposer or seconder.	43	Article 62 of the Constitution does not state the required qualifications for a candidate for a Provincial Assembly, which allows any citizen to contest a Provincial Assembly seat anywhere in Pakistan	Subsection 59 (1) may clarify that a candidate for a Provincial Assembly seat must be a registered voter in that province
59 (3) Explanation Authorization in favour of an advocate shall be attested by a Notary appointed under the Notaries Ordinance 1961 (XIX of 1961) or an Oath Commissioner appointed under Oaths Act,	45	Attestation of authorization in favour of an advocate by a government official is against the spirit of non-partisanship of public servants	The provision for attestation by a public servant (government official) may be removed

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
1873 (X of 1873) or any Government servant in basic pay scale 17 and above.			
59 (7) (a) place copies of these documents on the website of the Commission;	45	Subsection does not give a required timeline for uploading copies of nomination documents on Commission's website	Subsection may require uploading of nomination papers on Commission's website before the start of the scrutiny process
60 (1) Subject to subsection (2), the Returning Officer shall not accept a nomination papers unless- (a) a sum of rupees- (ii) twenty thousand for election to a seat in the Provincial Assembly, is deposited in cash by the candidate or by any person on his behalf at the time of its delivery; or	45, 46	Deposit in cash is not consistent with tax laws requiring any transactions exceeding Rs. 10,000 to be done through banking channels	Subsection should require deposit of nomination fee through cross-cheque in favour of an account specified by the Commission
61 (1) Any voter of a constituency may file objections to the candidature of a candidate of the constituency who has been nominated or whose names has been included in the party list submitted by a political party for election to an Assembly before the Returning Officer with the period specified by the Commission for the scrutiny of nomination papers of candidate contesting election to an Assembly.	46	Subsection does not mention candidates as objectors, which excludes candidates who are not registered as voters in that constituency	Subsection may also include candidates as potential objectors
61 (2) The candidates, their election agents, the proposers and seconders and one other person authorized in this behalf by each candidate, and a voter who has filed an objection under subsection (1), may attend the scrutiny of nomination papers, and the Returning Officer shall give them reasonable	46	Subsection restricts the access of media, election observers, advocates of objecting voters and general public to the scrutiny process	Subsection may explicitly provide for access of media, observers, advocates of objecting voters and general public to scrutiny process

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
opportunity for examining all the nomination papers delivered him under section 59:			
61 (8) The declaration submitted under subsection (3) of section 58 shall only be questioned by the Returning Officer if there is tangible material to the contrary available on record.	47	Reference to subsection 58 (3) is incorrect	Reference should be corrected to subsections 59 (2 a, c and d)
62 (5) Announcement of the day and time appointed for the hearing of an appeal under this section over the radio or television or by publication in the newspaper shall be deemed to be sufficient notice of the day and time so appointed.	49	Subsection does not mention publicity of notice to candidates on Commission's website	Subsection may provide for publicity of notice to candidates on website of Commission
64 (1) Explanation Authorization in favour of an advocate shall be attested by a Notary appointed under the Notaries Ordinance 1961 (XIX of 1961) or an Oath Commissioner appointed under Oaths Act, 1873 (X of 1873) or a Government Servant in basic pay scale 17 and above.	50	Attestation of authorization in favour of an advocate by a government official is against the spirit of non-partisanship of public servants	The provision for the attestation by a public servant (government official) should be removed
64 (3) On receiving a notice of withdrawal under subsection (1), the Returning Officer shall, if he is satisfied that the signature on the notice is that of the candidate, cause a copy of the notice to be affixed at a conspicuous place in his office.	50	Subsection empowers RO to accept a notice of withdrawal after RO is satisfied that signature on the notice is that of a candidate	Subsection may be amended to make satisfaction of RO subject to necessary inquiry
66 (3) (b) if a symbol is chosen by more than one independent candidates and one of them has previously been a Member of	50, 51	Preference to ex-members of Parliament or Provincial Assembly in allotment of symbols is discriminatory	Subsection may be deleted, and allocation of symbols may be randomized

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
the Parliament or a Provincial Assembly, such symbol shall be allotted to that former Member;			
71 (1) A contesting candidate may retire from election by notice in writing signed by him and delivered to the Returning Officer on any day not later than four days before the polling day by the candidate himself or by an advocate authorized in writing by the candidate.	52	Provision of retirement after the printing of ballot paper does not mention necessary scrutiny	Subsection may provide for necessary scrutiny by RO to verify retirement
71 (1) Explanation Authorization in favour of an advocate shall be attested by a Notary appointed under the Notaries Ordinance 1961 (XIX of 1961) or an Oath Commissioner appointed under Oaths Act, 1873 (X of 1873) or a Government Servant in basic pay scale 17 and above.	52	Attestation of authorization in favour of an advocate by a government official is against the spirit of non-partisanship of public servants	The provision for the attestation by a public servant (government official) should be removed
74 (3) The Commission shall, after such summary inquiry as it may deem necessary in any case, publish in the official Gazette the name of the candidate declared elected under subsection (2).	54	Provision for summary inquiry for uncontested poll is inadequate	Subsection may be amended to provide for necessary inquiry instead of summary inquiry
75 (1) A candidate may appoint a person qualified to be elected as a Member to be his election agent and shall send to the Returning Officer as notice in writing of the appointment containing the name, father's name and address of the election agent.	54	Condition for an election agent to be qualified as a member is unenforceable	Subsection may be amended to remove this required qualification of election agent and instead to permit any registered voter of the constituency to act as election agent
77 (3)	55	Subsection says not more than one ballot box shall be used at a time, which is not accurate in case of	Subsection may be amended to say one ballot box shall be used at a time

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
Not more than one ballot box shall be used at a time for the purpose of the poll at any polling station, or where there are more than one polling booths at a polling station, at any polling booth.		simultaneous elections for National and Provincial Assemblies	for each election (each seat) being contested
<p>77 (4 c) & (5)</p> <p>(4)(c) after the ballot box, has been shown to be empty, close and seat it with his own seal and with the seal of such of the candidates, or their election agents or polling agents as may be present and may desire to put their own seals on it; and</p> <p>(5) if one ballot box is full or cannot further be used for receiving ballot papers, the Presiding Officer shall seal that ballot box with his own seal and with the seals of the candidates or their polling agents who may wish to seal it and keep it in a secure place in the polling station and use another ballot box in the manner laid down in subsection (4).</p>	55	Reference to seals of candidates or their agents is unnecessary	Subsections may be amended to remove mention of seals of candidates or agents
<p>80 (1)</p> <p>An election under this Act shall be decided by secret ballot and, subject to the provisions of section 92 and section 102, every voter shall cast his vote by inserting in accordance with the provisions of this Act, in the ballot box, a ballot paper in the prescribed form.</p>	56	Subsection only mentions exceptions related to sections 92 and 102	Subsection should be amended to include exceptions related to sections 84 and 85 also
<p>82 (2)</p> <p>Any person removed under subsection (1) from a polling station shall not, without the permission of the Presiding Officer, again enter the polling station during the poll and shall, if he is accused of an offence in the polling station for election to an Assembly or the Senate, be liable to be arrested without warrant by a Police Officer.</p>	57	Subsection mentions Senate incorrectly	Subsection should delete the phrase 'or the Senate'

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>82 (4)</p> <p>All officials posted at a polling station including officials of law enforcing agencies shall render their fullest cooperation to the Presiding Officer for maintenance of order and for ensuring uninterrupted voting at the polling station.</p>	57	Subsection does not establish supervision of staff, including security officials, by Presiding Officer	Subsection may be amended to establish the supervision and authority of RO over all staff, including security officials
<p>84 (1)</p> <p>(a) if the applicant meets the requirements of identity verification laid down in section 82, he shall be entitled, subject to the provisions of the section to receive a ballot paper (hereinafter referred to as “Tender Ballot Paper”) in the same manner as any other voter;</p>	59	Reference to section 82 is incorrect	Reference should be corrected to section 83
<p>85</p> <p>Challenge of voters. -</p> <p>1. If, at the time, a person applies for ballot paper for the purpose of voting, a candidate or his polling agent declares to the Presiding Officer that he has reasonable cause to believe that person has already voted in the election at the same or another polling station, or is not the person whose name is entered in the electoral roll and undertakes to prove the charge in a court and deposits with the Presiding Officer in cash a sum of one hundred rupees, the Presiding Office may, after warning the person of the consequences and obtaining on the counterfoil, his thumb impression and if he is literate, also his signature, issue a ballot paper (Challenged Ballot Paper) to the person.</p> <p>2. If the Presiding Officer issues a Challenged Ballot Paper to any person, he shall enter the name and address of the person in a list to be prepared by him (Challenged Votes List) and obtain on it the thumb impression and, if he is literate, also the signature of that person.</p>	60	Challenged ballot procedure does not mention the personation inquiry by NADRA as mentioned in the case of tendered ballots	New subsection may be added to include personation inquiry by NADRA as provided in section 84 (5) for challenged ballots

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>3. The Presiding Officer shall, after the Challenged Ballot Paper has been marked and folded by the voter, place it in the same condition in a separate packet bearing the label “Challenged Ballot Papers”, instead of being placed in the ballot box and shall include it in the count by him in the manner provided in section 89.</p>			
<p>89 (4 a) (4) (a) open the used ballot box or ballot boxes and count the entire lot of ballot papers taken out therefrom;</p>	62-63	Subsection does not provide adequate specificity about ballot counting procedure to ensure ballots for each election (seat) are counted separately and to ensure ballot papers from female and male ballot boxes are counted separately (for sex-disaggregation of voter turnout data)	Subsection 89 (4 a) may be amended to read: “count the ballot papers first, using the following method: (i) open the used ballot box or ballot boxes from all female polling booths for each election (seat) and count the entire lot of ballot papers; (ii) follow the same procedure for used ballot box(es) from all male polling booths for each election (seat) separately, (iii) record the number of ballots from female and male boxes separately on the prescribed form for each election (seat), and only then (iv) thoroughly mix ballots from female and male (seat) together into one pile or box for each election separately.”
<p>89 (6 b) upon the request of a contesting candidate or an election agent present if, in his opinion, the request is not unreasonable.</p>	63	Subsection does not allow recount on request of a polling agent	Subsection may be amended to include recount on request of polling agent

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>89 (8)</p> <p>The ballot papers excluded from the count shall be put in a separate packet indicating on the packet the total number of the ballot papers contained in the packet both in letters and figures.</p>	64	Subsection mentions ballots excluded from the count	Subsection may be amended to mark ballots excluded from the count as rejected
<p>89 (10)</p> <p>The Presiding Officer shall, immediately after the count, prepare a Result of the Count in such form as may be prescribed showing therein the number of valid votes polled by each contesting candidate and the ballot papers excluded from the count.</p>	64	Subsection does not mention the inclusion of challenged and tendered ballots in the result of the count	Subsection may be amended to specify whether challenged and tendered ballots shall be included in the result of the count
<p>89 (12)</p> <p>The Presiding Officer, after preparation of the Result of the Count and the Ballot Paper Account, shall sign them and obtain thereon the signatures of the senior-most Assistant Presiding Officer and an accredited observer, a candidate or his election agent or polling agents as may be present in token of the said documents having been prepared in their presence and if any such person refuses to sign it, the Presiding Officer shall record a note on the result of the count and the ballot paper account to that effect.</p>	64	Subsection requires signature on result of count and ballot paper account forms by accredited non-partisan observers, which compromises their neutrality and non-partisanship	Subsection may be amended to remove neutral observers from amongst the persons required to sign result of count and ballot paper account forms
<p>89 (18)</p> <p>After the close of the proceedings under this section, the Presiding Officer shall, in compliance with such instructions as may be given by the Commission in this behalf, cause the packets, the Result of the Count and the Ballot Paper Account prepared by him to be sent to the Returning Officer and to the Commission, together with such other records as the Commission may direct.</p>	66	Subsection requires dissemination of result of the count, ballot paper account and packets to RO and the Commission	Subsection may exclude the Commission as recipient of packets and forms sent by Presiding Officer

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>90 (1)</p> <p>The Presiding Officer shall prepare a gender-segregated statement of voters showing total number of men and women voters at the polling station and the total votes cast by men and women voters.</p>	66	Subsection mentions a statement to be communicated by the Presiding Officer to RO and the Commission	Subsection may add statement, as may be prescribed under the rules
<p>90 (2)</p> <p>The Presiding Officer shall send the gender-segregated statement of voters to the Returning Officer and to the Commission at the time communication of result to the Returning Officer and the Commission.</p>	66	Subsection requires dissemination of gender disaggregated statement to RO and the Commission	Subsection may exclude the Commission as recipient of gender disaggregated statement
<p>90 (3)</p> <p>The Presiding Officer may, at any stage on the polling day during or after the polling, prepared and send a special report to the Returning Officer and to the Commission if he has reason to believe that women voters have been restrained from exercising their right to vote based on any express or implied agreement.</p>	66	Subsection requires dissemination of special report on restrictions on women voters to RO and the Commission	Subsection may exclude the Commission as recipient of special report. The subsection may also allow RO to take cognizance of reports submitted by voters and observers
<p>91</p> <p>Announcement of provisional results.- On receipt of the Results of the Count from all Presiding Officers of a constituency, the Returning Officer shall forthwith prepare provisional Consolidated Statement of Results of the Count of the Constituency (excluding postal ballots) in the prescribed manner, announce the same in the presence of such contesting candidates, their election agents or authorized observers as may be present, affix a copy of the provisional Consolidated Statement of Results signed by him at a conspicuous place in his office and send a copy thereof to the Commission.</p>	66	Subsection requirement of announcement of provisional result can be problematic due to changes in result during consolidation because of postal ballots, overseas voting, identification of problems at polling stations, etc.	Subsection may be amended to address the potential change of result during consolidation process, including requirement of clearer public statements that provisional results can change during final consolidation

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>94 (1)</p> <p>Immediately after announcement of provisional results, the Returning Officer shall give the contesting candidates and their election agents a notice in writing of the day, time and place fixed for the consolidation of the results, and, in the presence of such of the contesting candidates and election agents as may be present, consolidate in the prescribed manner the Results of the Count furnished by the Presiding Officer, including therein the Tendered Ballot Papers and postal ballots received by him before the time fixed for the consolidation of the results.</p>	68	Subsection description of consolidation process does not mention counting of challenged ballots and overseas ballots, if any	Subsection may be amended to include counting of challenged and overseas ballots, if any, during consolidation process. The subsection may also define how tendered and challenged ballots will be included in tally of total ballots polled by each candidate.
<p>94 (5)</p> <p>Before commencement of the consolidation proceedings, the Returning Officer shall recount the ballot papers of one or more polling stations if a request or challenge in writing is made by a contesting candidates or his election agents and the margin of victory is less than five percent of the total votes polled in the constituency or ten thousand votes, whichever is less:</p> <p>Provided that the recount shall be made by the Returning Officer only once.</p>	69	Subsection indicates that recount can only be sought before consolidation proceedings	Subsection may be amended to allow for recount requests during consolidation proceedings
<p>94 (9)</p> <p>After consolidation of results, the Returning Officer shall give to such contesting candidates and their election agents as are present during the consolidation proceedings a copy of the Final Consolidated Results sent to the Commission against proper receipt.</p>	69	Subsection does not mention accredited observer as required recipient of copy of final consolidated result	Subsection may be amended to require copy of final consolidated result to be provided to accredited observer also
<p>94 (10)</p>	70	Subsection provides for publishing of result forms on Commission's	Subsection may require publishing of result forms on Commission's

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
On receipt of documents under subsection (8), the Commission shall, within fourteen days from the date of publication of the names of the returned candidates in the official Gazette, publish the documents on its website.		website within 14 days of official publication of names of returned candidates in the official gazette	website before publication of official gazette
<p>97 (4)</p> <p>The Commission shall place the documents mentioned in subsection (1) and (2) on its website within fourteen days from the date of the publication of the name of the returned candidate in the official Gazette.</p>	71	Subsection provides for publication of gazette notification on website within 14 days of gazette publication	Subsection may provide for publication of gazette notification on website within 24 hours of gazette publication
<p>98 (1)</p> <p>The Returning Office shall seal the tamper-evident bags provided to him for the purpose after putting in the bags the following documents. -</p> <p>(a) the packets containing the ballot papers each of which shall be sealed with the seal of the Presiding Officer or, if opened by the Returning Officer, with the seal of the Returning Officer;</p> <p>(b) the packets containing the countfoils of issued ballot papers;</p> <p>(c) the packets containing the marked copies of the electoral rolls used in the poll;</p> <p>(d) the packets containing the Ballot Papers Account;</p> <p>(e) the packets containing the Tendered Ballot Papers, the Tendered Votes List, and the Challenged Ballot Papers held to be valid and counted by the Presiding Officer; the Challenged Ballot Papers considered doubtful and excluded from the count by the Presiding Officer; the Challenged Votes List; and the Spoilt Ballot Papers; and</p> <p>such other papers as the Commission may direct.</p>	71, 72	Subsection lists the documents to be retained	Subsection may also include result of count among documents to be retained



Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>98 (7) The Commission shall retain the documents contained in the packet deposited under subsection (4) for a period of one year from the date of their deposit and shall thereafter, subject to any order of the Tribunal or other Court, cause them to be destroyed: Provided that the documents of a constituency where election petition has been filed by a candidate shall be retained till final disposal of the election petition.</p>	<p>73</p>	<p>Subsection allows destruction of record if there is no tribunal order to the contrary</p>	<p>Subsection may also include pendency of petition or appeal as a reason not to allow destruction of record</p>

Chapter VI Election to Reserved Seats

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
103 Party lists for reserved seats.	76	The chapter does not adequately cover the process of scrutiny of nominations	New section may be added to the chapter to refer to the relevant sections of this Act dealing with scrutiny process
103 (3) If, at any time, the party list is exhausted, the political party may submit a name for any vacancy which may occur thereafter.	76	Subsection provides for additional names in case of exhaustion, at any time, of party list	Subsection may provide for process of publication of new names added, at any time, in case of exhaustion of party list
103 (7-C) proof of deposit of the fee required under any law for filing nomination papers.	77	Deposit for nomination in this subsection is not defined	Subsection may refer to Section 60 dealing with deposit

Chapter VIII Election Expenses and Wealth Statements

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>131</p> <p>Restriction on election expenses.</p> <ol style="list-style-type: none"> 1. No person other than the candidate himself shall incur any election expenses of such candidate. 2. Where any person incurs any election expenses on behalf of a candidate, whether for stationery, postage, advertisement, transport or for any other item, such expenses shall be deemed to be the election expenses incurred by the candidate himself. 3. The election expenses of a contesting candidate shall not exceed. <ol style="list-style-type: none"> (a) one million and five hundred thousand rupees for election to a seat in the Senate; (b) four million rupees for election to a seat in the National Assembly; and (c) two million rupees for election to a seat in a Provincial Assembly. 4. A candidate shall, through bills, receipts and other documents, vouch for every payment in respect of election expenses, except where the amount is less than one thousand rupees. 	93	Section does not adequately mention the duration in which expenses incurred by the candidate shall be deemed as election expenses	New subsection may be added to define expenses incurred on electioneering from the date of issuance of election programme till the issuance of the final consolidated result

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>131</p> <p>Restriction on election expenses</p>	93	Section does not provide exceptions from election expenses that may be incurred by the candidate on legal services, etc.	New subsection may be added to define exceptions from election expenses for expenses incurred on legal services, etc.
<p>131 (2)</p> <p>Where any person incurs any election expenses on behalf of a candidate, whether for stationery, postage, advertisement, transport or for any other item, such expenses shall be deemed to be the election expenses incurred by the candidate himself.</p>	93	Subsection does not cover election expenses incurred by the party on behalf of the candidate	Subsection may be amended to add 'political party' among persons incurring expenses on behalf of candidates
<p>132</p> <p>Bank account for election expenses.</p> <ol style="list-style-type: none"> 1. For the purposes of his election expenses, a candidate for a general seat in an Assembly shall open an exclusive account with any branch of a scheduled bank before the date fixed for scrutiny of nomination papers and maintain or cause to be maintained a register of receipts and expenditures. expenditures: 2. A candidate shall not make any transaction towards the election expenses through an account other than the account opened for the purpose. 3. A candidate may open the bank account for election expenses with an amount not exceeding the limit of election expenses provided under section 131. 	93	Section does not account for expenses incurred on electioneering before the opening of account	Section may provide a procedure to account for the expenses incurred prior to the opening of the account/submission of nomination papers but after the issuance of election programme

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>134 (1)</p> <p>Immediately on receipt, the returns and documents submitted under section 133, shall be sent by the Returning Officer to the Commission and shall, for a period of one year from the date of receipt by it, be open to inspection by any person on payment of the prescribed fee.</p>	94	Subsection authorizes Commission to facilitate inspection of returns	Rules may provide for explanation of Commission to include District Election Commissioner
<p>134 (2)</p> <p>The Commission shall, on an application made in this behalf and on payment of the prescribed fee, give any person copies of any return or document or any part thereof kept under subsection (1)</p>	94	Subsection authorizes Commission to issue verified copy of expenses	Rules may provide for explanation of Commission to include District Election Commissioner
<p>135 (1)</p> <p>The Commission shall, in accordance with such procedure as may be prescribed, scrutinize or cause to be scrutinized the return of election expenses submitted by each contesting candidate including the returned candidate.</p>	94, 95	Subsection does not define the specific timeline within which scrutiny will be conducted	Subsection may be amended to specify the timeline for scrutiny
<p>135 (2)</p> <p>Where after scrutiny of returns under subsection (1), the Commission is of the view that a candidate has acted in contravention of provision of section 131, the Commission shall direct an authorized officer to file a complaint against such candidate for committing the offence of corrupt practice.</p>	95	Subsection does not address a situation in which a duly notified returned candidate has acted in contravention of Section 131	Subsection may address the situation in which a notified returned candidate has acted in contravention of Section 131, providing for disqualification proceedings to be initiated against the violator

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>136 (1) Every Member of an Assembly and Senate shall submit to the Commission by the thirty first day of December each year a copy of his Wealth Statement including assets and liabilities of his spouse and dependent children as on the preceding thirtieth day of June on the form prescribed under the Income Tax Ordinance, 2001 (XLIX of 2001) filed with the Federal Board of Revenue for that tax year.</p>	95	Subsection only requires submission of wealth statement	Subsection may be amended to require submission of income tax returns in addition to wealth statements including assets and liabilities
<p>136 (1) Every Member of an Assembly and Senate shall submit to the Commission by the thirty first day of December each year a copy of his Wealth Statement including assets and liabilities of his spouse and dependent children as on the preceding thirtieth day of June on the form prescribed under the Income Tax Ordinance, 2001 (XLIX of 2001) filed with the Federal Board of Revenue for that tax year.</p>	95	Subsection requires submission of wealth statement of dependent children	Subsection may require submission of wealth statement of all biological children and, in case of more than one spouse, of all spouses
<p>136 (1) Every Member of an Assembly and Senate shall submit to the Commission by the thirty first day of December each year a copy of his Wealth Statement including assets and liabilities of his spouse and dependent children as on the preceding thirtieth day of June on the form prescribed under the Income Tax Ordinance, 2001 (XLIX of 2001) filed with the Federal Board of Revenue for that tax year.</p>	95	Subsection requires mandatory submission of wealth statement by all members	Subsection maybe made consistent with relevant tax law under which persons with annual income of more than rupees five hundred thousand are required to submit a wealth statement

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>137 (1)</p> <p>The Commission shall publish in the official Gazette the wealth Statements including assets and liabilities received by it under section 136 and any person may obtain copies of Wealth Statement on payment of prescribed fee.</p>	96	Subsection provides for public access to members' wealth statements on payment of a fee	Subsection may be amended to require uploading of submitted wealth statements on Commission's website
<p>137 (3)</p> <p>Where the Commission is satisfied that a Wealth Statement is false in material particulars, the Commission may, after providing an opportunity of being heard to the Member, by order direct an authorized officer to file a complaint against the Member who has submitted the Wealth Statement for committing the offence of corrupt practice.</p>	96-97	Subsection provides for filing of complaint regarding corrupt practices against member who has submitted a false statement	Subsection may provide for termination of member providing false statement, making it consistent with subsection 136 (6)

Chapter IX Election Disputes

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>141 (1)</p> <p>An election petition shall be presented to the Election Tribunal 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 favour of the Commission, under the prescribed head of account, as security for the costs of the petition, such amount as may be prescribed.</p>	99	Subsection does not specify the amount of fee for presentation of a petition	Subsection may be amended to specify an amount as fee for presentation of a petition
<p>143 (2 b)</p> <p>documentary evidence relied upon by the petitioner in support of allegations referred to in para (b); and</p>	100	Subsection incorrectly refers to para 'b' without mentioning any section or subsection numbers	Subsection may be amended to refer to section 143 (1 b)
<p>145 (2)</p> <p>if a respondent fails to appear before the Election Tribunal on a date of hearing despite service of notice through any one of the modes mentioned in section 143, the Tribunal shall proceed against the respondent ex-parte.</p>	101	Subsection incorrectly refers to section 143	Subsection may refer to subsection 144 (2)
<p>147 (4)</p> <p>On filing of reply by the respondent, the Election Tribunal may, with the consent of parties, fix specific dates for trial and disposal of the petition, providing for continuous hearing without adjournment.</p>	102	Subsection allows for optional continuous proceedings	Subsection may be amended to require mandatory continuous proceedings

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
147 Procedure before Election Tribunal for trial of petitions.	102-103	Subsection 5 is repeated thrice	Subsection numbering may be corrected from 5 to 12
157 (a) the failure to comply with the provisions of this Act or the rules in connivance with the returned candidate; or	108	Subsection mentions failure to comply with the Act and Rules in connivance with the returned candidate	Subsection may be amended to replace 'returned candidate' with 'any person'

Chapter X Offences, Penalties and Procedures

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>166 (e) contravenes the provisions of section 128</p>	112	Subsection incorrectly refers to section 128	Subsection may be amended to correct the reference
<p>170 (a, b & c)</p> <p>(a) seizes a polling station or a polling booth or a place fixed for the poll or makes polling authorities surrender the ballot papers or ballot box or both and does any other act which affects the orderly conduct of elections;</p> <p>(b) takes possession of a polling station or a polling booth or a place fixed for the poll and allows his supporters to exercise their right to vote while preventing others from free exercise of their right to vote;</p> <p>(c) coerces, intimidates or threatens, directly or indirectly, any voter and prevents him from going to the polling station or a place fixed for the poll to cast his vote; or</p>	114-115	Subsection mentions 'place fixed for the poll,' which is ambiguous	Subsection may be amended to address the ambiguity
<p>171 (2) An election official on duty in connection with the election who is guilty of the offence under subsection (1) shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one hundred thousand rupees or with both.</p>	116	Subsection prescribes six months imprisonment for election officials found involved in tampering with ballot papers	Subsection may be amended to increase the punishment term to two years, as was provided in ROPA, 1976, section 87 (2)

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>173</p> <p>Penalty for corrupt practice. Any person guilty of the offence of corrupt practice shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to one hundred thousand rupees or with both.</p>	116	Section provides for punishment of corrupt practice, but corrupt practices such as false submission of returns and wealth statement under sections 137 (3) and 135 (2) are not specifically addressed	Section may be amended to include Commission's power to disqualify any member convicted for corrupt practice
<p>175 (a)</p> <p>uses, in such manner as to be audible within the polling station, any gramophone, megaphone, loudspeaker or other apparatus for reproducing or amplifying sounds;</p>	117	Subsection allows use of gramophone, megaphone, loudspeaker etc. on election day albeit away from polling station, which is unenforceable and conflicts with section 181	Subsection may completely ban use of any sound amplifying equipment on election day
<p>176</p> <p>Canvassing in or near the polling station. A person is guilty of canvassing in or near a polling station if he, within a radius of four hundred meters of a polling station, on the polling day.</p> <p>a) canvasses for votes; b) solicits the vote for any voter; c) persuades any voter not to vote at the election or for a particular candidate; or</p> <p>exhibits, except with the permission of the Returning Officer and at a place reserved for the candidate or his election agents beyond the radius of one hundred meter of the polling station, any notice, sign, banner or flag designed to encourage the voters to vote or discourage the voters from voting, for any contesting candidate.</p>	118	Section allows canvassing beyond 400 meters of polling station, which is unenforceable	Subsection may completely ban canvassing on election day

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>182</p> <p>Penalty for illegal practice. A person guilty of the offence of illegal practice shall be punishable with imprisonment for a term which may extend to two year or with fine which may extend to one hundred thousand rupees or with both.</p>	120	Section does not provide for punishment to a convicted person who is also a returned candidate	Section may be amended to include Commission's power to disqualify any member convicted for corrupt practice
<p>184 (a)</p> <p>fails to maintain secrecy or aid in maintaining the secrecy of voting;</p>	121	Subsection describes 'aid in maintaining secrecy' as an offence	Subsection may be amended to correct the error
<p>185</p> <p>Officials not to influence voters. An election official or any other person performing a duty in connection with an election, or any member of a police force, is guilty of breach of official duty, if he, in the conduct or management of an election or maintenance of order at a polling station-</p> <p>(a) persuades any person to give his vote; (b) dissuades any person from giving his vote; (c) Influences in any manner the voting of any person; or (d) does any other act calculated to influence the result of the election.</p>	121	Subsection mentions only police force	Subsection may be amended to replace 'police force' with 'law enforcement agencies'
<p>194 (a)</p> <p>being an employee of the Commission publishes or communicates to any person, any information or data acquired by him in the course of such employment without being authorized by the Commission;</p>	124	Subsection does not specify the type of data or information that is classified, and provides an excessive punishment as compared to punishment under corrupt and illegal practice	Subsection may be amended to classify information and rationalize punishment



Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>194 (c)</p> <p>having possession of any information or data which to his knowledge has been obtained or disclosed in contravention of this Act or in breach of the security, secrecy or integrity thereof, publishes or communicates that information or data to any other person; or</p>	124	Subsection contravenes the spirit of Article 19-A of the Constitution	Subsection may be deleted

Chapter XI Political Parties

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
199 (4-f) be formed, organized, set-up or convened as a foreign-aided political party.	127	Subsection prohibits a foreign-aided political party, but does not deal with a political party formed or headed by a dual national or Pakistanis living overseas	Subsection may clarify regarding formation of a political party by dual nationals or Pakistanis living overseas
201 (7) Where the Government declares that a political party has been formed or is operating in a manner prejudicial to the sovereignty, or integrity of Pakistan, it shall within fifteen days of such declaration refer the matter to the Supreme Court.	129	Subsection requires referral to Supreme Court in case a political party is declared prejudicial to Pakistan's sovereignty and integrity	Subsection may be amended to provide for referral to Commission for proceedings to cancel the enlistment after due hearing of political party, with right of appeal to Supreme Court
203 (3) Any Contribution or donation made, directly or indirectly, by any foreign source, including any foreign government, multi-national or public or private company, firm, trade or professional association or individual shall be prohibited.	130	Subsection prohibits funds from foreign individuals	Subsection may clarify whether foreign individuals also include persons of Pakistani origin living overseas

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>211 (1)</p> <p>A political party contesting a general election shall not incur more than rupees fifty million on its election campaign from the date of notification of the Election Programme till the polling day.</p>	133	Subsection does not require a separate party account for election expenses	Subsection may be amended to require a separate account for a political party to be opened and all expenses incurred on election campaign to be operated from that account
<p>212 (2)</p> <p>Within fifteen days of making a declaration under subsection (1), the Government shall refer the matter to the Supreme Court.</p>	134	Subsection allows government to issue dissolution declaration of a foreign-aided political party and refer the matter to Supreme Court	Subsection may be amended to allow referral to Commission for proceedings to cancel the enlistment after due hearing of political party in question, with right of appeal to Supreme Court

Chapter XII Allocation of Symbols

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>215 (1)</p> <p>Notwithstanding anything contained in any other law, a political party enlisted under this Act shall be eligible to obtain an election symbol for contesting elections for Majlis-e-Shoora (Parliament), Provincial Assemblies or local government on submission of certificates and statements referred to in section 204 and 205.</p>	136	Subsection incorrectly refers to sections 204 and 205	Subsection may be amended to refer to subsection 201 (2)
<p>215 (2)</p> <p>A combination of enlisted political parties shall be entitled to obtain one election symbol for an election only if each party constituting such combination submits the certificates and statements referred to in section 204 and 205:</p>	136	Subsection incorrectly refers to sections 204 and 205	Subsection may be amended to refer to subsection 201 (2)
<p>218 (1)</p> <p>If a political party fulfils the requirements of section 210, it shall be allocated a symbol for all its candidates.</p>	137	Subsection incorrectly refers to section 210	Subsection may be amended to refer to sections 207 and 208

Chapter XIII Conduct of Elections to the Local Governments

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>221 (1)</p> <p>For the purpose of holding elections to the local governments, the Commission shall delimit constituencies of local governments, including union councils, wards in a union council, a ward in a district council or ward in a municipal committee, as far as possible and subject to necessary modifications, in accordance with Chapter III of this Act and the Rules.</p>	139	Subsection provides for delimitation of LG councils by the Commission	Subsection may clarify the situation in which provincial law(s) do(es) not provide for delimitation by the Commission
<p>226</p> <p>Election against reserved seats. -</p> <p>1) Subject to the rules, the Commission shall organize and conduct the election to the seats reserved for women, peasants or workers, technocrats, youth and non-Muslims in a local government under the applicable local government law.</p> <p>2) A contesting candidate or candidates obtaining the highest number of votes in a category shall be declared as elected against the seat or seats specified for the category.</p> <p>3) The Commission shall provide to the Returning Officer a list of elected Members eligible to vote and constituting an electoral college for the election of the indirectly elected Members of a local government under applicable local government law.</p>	142	Subsection does not provide a timeframe for election on reserved seats in LGs	Subsection may be amended to provide a timeframe for election on reserved seats in LGs

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>228</p> <p>Bye-Election. When the seat of a Member of a local government becomes vacant and bye-election is required to fill the seat under the applicable local government law, the Commission shall, by notification in the official Gazette, call upon the constituency or electoral college to elect a person to fill the seat on such date as may be specified in the notification and the provisions of this Act, the rules and applicable local government law shall apply to the election to fill such seat.</p>	142	Subsection does not provide a timeframe for bye election on an LG seat falling vacant	Subsection may be amended to provide a timeframe for bye election on vacant LG seat

Chapter XIV Caretaker Government

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>230</p> <p>Functions of caretaker Government.</p> <p>(1) A caretaker Government Shall:</p> <ul style="list-style-type: none"> a. perform its functions to attend to day-to-day matters which are necessary to run the affairs of the Government; b. assist the Commission to hold elections in accordance with law; c. restrict itself to the activities that are of routine, non-controversial, urgent and in public interest and reversible by the future Government elected after the elections; and d. be impartial to every person and political party. <p>(2) The Caretaker Government shall not:</p> <ul style="list-style-type: none"> a. take major policy decisions except on urgent matters; b. take any decision or make a policy that may have effect or pre-empt the exercise of authority by the future elected Government; c. enter into major contract or undertaking if it is detrimental to public interest; d. enter into major international negotiation with any foreign country or international agency or sign or ratify any international binding instrument except in an exceptional case; 	144	Section does not provide a maximum size of a caretaker cabinet	Section may be amended to bring the size of caretaker cabinet in conformity with Article 92 of the Constitution



Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>e. make promotions or major appointments of public officials but may make acting or short term appointments in public interest;</p> <p>f. transfer or shuffle public officials unless it is considered expedient and under intimation to the Commission; and</p> <p>g. attempt to influence the elections or do or cause to be done anything which may, in any manner, influence or adversely affect the free and fair elections.</p> <p>(3) In this section, 'caretaker Government' means the caretaker Federal Government or a caretaker Provincial Government.</p>			

Chapter XV Miscellaneous

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
<p>238</p> <p>Election Observers. -</p> <p>(1) The Commission, at its own motion or upon an application made in this behalf, may allow any domestic or international election observation organization to observe the process of conduct of election, having an access to polling station, counting of votes and consolidations of results.</p> <p>(2) No person shall be allowed to observe the process of conduct of election, if he. -</p> <ol style="list-style-type: none"> a. is not accredited as an observer by the Commission or its authorized officer; b. is affiliated with any political party; c. fails to provide his full particulars and documents, including photographs, which may be required by the Commission; d. has been involved in activities prejudicial to the peace and tranquility of the people of a constituency; and e. fails to provide an authorization from of the organization of which he is a member. <p>(3) Every observer while observing the process of conduct of election shall display prominently a card of his identification issued to him by the Commission or an officer authorized by it.</p> <p>(4) Every observer or, as the case may be, organization may submit a report to the Commission highlighting the</p>	148	Section does not provide right of appeal against the decision of the Commission on accreditation of observation organizations	Section may be amended to provide right of appeal against Commission's decision

Section (subsection) of Draft Elections Bill, 2017	Page Number (as given in Draft Bill)	Description of Issue	Recommendation
electoral irregularities which were noticed during observation relating to conduct of election, which recommendations, if any.			
238	148	Subsection 2 is repeated	Subsection numbering may be corrected from 2 to 4
239 Power to make rules. The Commission may, with approval of the Government, make rules for carrying out the purpose of this Act.	148	Section requires Commission to seek approval of the government for making Rules	Section may be amended to empower Commission to make and approve its own Rules under this Act
240 Removal of difficulties. - 1) If any difficulty arises in giving effect to any of the provision of this Act, the Commission may, with the approval of the Government, make such provision for the removal of the difficulty as it may deem fit. 2) Every provision made under subsection (1) shall be laid, as soon as may be after it is made, before each House of Majlis-e-Shoora (Parliament).	148-149	Section is in conflict with Section 4 (3) of this Act	Section may be removed

General Recommendations on Areas Unaddressed by the Draft Bill

ECP Powers

1. Meetings and voting record on issues resolved through a vote of the Election Commission members may be open to the media, observers and citizens
2. Commission members may legally be bound to submit their individual and immediate family's income tax returns and wealth statements as well as declaration of associations available to the public on the ECP's website

Conduct of Elections

3. Draft Bill does not provide for Commission's scrutiny of final consolidated result before the gazette notification the returned candidate to optimize the use of Results Management System
4. Draft Bill does not specify conditions for the changes in the list of polling stations after gazette notification and has left it on the discretion of DRO subject to approval of the Commission

Political Parties

5. Parties' income and asset statements may also be accessible to public on website of the Commission

Caretaker Governments

6. Members of the caretaker governments may legally be bound to submit their individual and immediate family's income tax returns and wealth statements as well as declaration of associations available to the public on the ECP's website within 48 hours of taking oath of their offices.
7. Members of the caretaker governments may legally be barred to hold any office approved by any government for a period of two years starting from election day

ABOUT FAFEN

- FAFEN is one of the most credible networks of civil society organizations working for strengthening citizens' voice and accountability in Pakistan since 2006.
- FAFEN has harnessed information technology for real-time monitoring, facilitation and technical backstopping of partners for effective and result-based program delivery.
- FAFEN is the only civil society group to have been invited by the Judicial Commission to present the evidence of illegalities and irregularities documented through the course of General Elections 2013 Observation. The systemic and procedural issues identified by FAFEN have been acknowledged by the commission in its detailed findings.
- FAFEN's recommendations for electoral reforms have contributed to the work of Parliamentary Committee for Electoral Reforms.
- FAFEN's advocacy for parliamentary transparency, accountability and reforms has shaped public discourse on parliamentary reforms. Improved citizens' access to parliamentary information including daily public release of parliamentarians' attendance records can be directly attributed to FAFEN's work.
- FAFEN deployed 18,000 and 40,000 non-partisan and trained observers for the systematic observation of general election 2008 and 2013, respectively, largest citizens' observation ever undertaken in Pakistan.
- FAFEN's evidence and recommendations for reforms have improved the quality of public and political discourse on elections, its issues and need for reforms. Leading political parties and media houses extensively use FAFEN's election findings and analysis to build a case for reforms.
- With more than 17,300 followers on Twitter and around 72,000 on Facebook, FAFEN is considered one of the most reliable sources of electoral and parliamentary information in the country.



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