



BY-ELECTION 2018

FAFEN'S BY-ELECTION OBSERVATION REPORT

ECP ensures smooth results management in low turnout by-elections



A significant improvement in the quality of the election result management process characterized the otherwise low-turnout and peaceful by-elections in 37 National and Provincial Assemblies' constituencies that were held on October 14, 2018, which completed the process for the General Election (GE) 2018.

While a considerable decline in the turnout in these constituencies as compared to July 25, 2018 is disconcerting, the transparency and efficiency of vote counting at the polling stations and tabulation of the provisional results by the Returning Officers (Form-47-Provisional Consolidated Statement of the Result of the Count) was encouraging, improving the overall credibility of the electoral process. With the exception of PB-40 (Khuzdar-III), provisional results for the remaining constituencies were finalized by 2:00 am deadlines as stipulated by Section 13 (3) of the Elections Act, 2017.

This demonstrable improvement coupled with strengthened enforcement of voting processes also correlates with Free and Fair Election Network's (FAFEN) long-term finding drawn from the observation of over 100 by-

elections held between 2008 and 2018 that election quality is enhanced when the exercise is managed directly by Election Commission of Pakistan (ECP) officials as District Returning Officers (DROs) and Returning Officers (ROs), in comparison to elections managed by officials employed from the lower judiciary for this purpose. For by-elections, ECP appointed its Regional Election Commissioners and District Election Commissioners as DROs and ROs, except for two Punjab Assembly constituencies where personnel of Provincial Election Commissioner's Office were given these responsibilities.

The Election Day followed a rather lackluster campaign in most of the constituencies except for a few contests in Punjab, where competing candidates were seen engaged in intense campaigning particularly in Lahore. Low voter turnout in by-elections may be attributed in part to the limited scale of campaigning by candidates. ROs also kept a check on illegal campaigning and canvassing, and did not allow oversized banners or unauthorized rallies.



Keeping with the stronger enforcement of electoral regulations during the GE-2018, the ECP continued to assert its powers given in the Elections Act, 2017 to ensure that the executive's interference was minimized. Although the government criticized some of the ECP's measures, which are sanctioned by the law, the Commission suspended the notification of the transfer of the Inspector General of Police in Punjab. Similarly, there were fewer instances of public office holders campaigning for candidates in a majority of the constituencies. At least three federal ministers were subpoenaed by the Election Commission for engaging in electioneering, which is prohibited under Section 233 of the Elections Act.

Despite these enforcement efforts, several announcements and decisions by the federal government might have influenced the voters' choices, such as the Prime Minister's announcement of a special development package for Karachi. However, the legal provisions require reconsideration by the Parliament, especially for by-elections, as the provisions legally restrict the government's functioning and decision-making if those decisions have the potential to directly or indirectly influence voters' choices.

A total of 374 candidates were in the running for 35 constituencies. Of these 374, a total of 139 candidates represented 27 political parties, while the remaining 235 contested these elections independently. On an average, 11 candidates contested the election in each National Assembly (NA) constituency and 10 contested each Provincial Assembly (PA) constituency. While elections in PP-296 (Rajanpur-IV) and PP- 87 (Mianwali-III) were uncontested, polling took

place in the remaining 35 constituencies, for which the ECP had setup 7,489 polling stations to cater to 9,283,074 registered voters.

The principle of 'level-playing field' might have been compromised in constituencies where all contesting candidates withdrew in favor of the contender representing the party in power. Pakistan Tehreek-e-Insaf (PTI) candidates were declared the winner unopposed in PP-87 Minawali-III and PP-296 Rajanpur-IV. In a development unusual to Chakwal, which is otherwise known for its close electoral competitions, candidates of leading political parties in NA-65 Chakwal-II withdrew their nominations, leaving the field for Pakistan Muslim League's (PML) nomination. Only candidates of relatively smaller political parties, including Tehreek-e-Labbaik Pakistan (TLP) and Justice Party (JP), remained in the running for this lopsided contest. Provisions in the Elections Act, 2017 pertaining to withdrawals and resignations by candidates may need to be reviewed to discourage uncontested wins.

FAFEN deployed 1,737 Election-Day observers, including 1,296 males and 441 females, to observe the voting and counting processes at 4,038 polling stations in 11 National Assembly and 27 Provincial Assembly constituencies (13 in Punjab, nine in Khyber Pakhtunkhwa, and two each in Balochistan and Sindh). This report is based on the observations received on Election-Day from 4,038 polling stations in 34 NA and PA constituencies sent by FAFEN observers using a specially-designed Election Information Management System (EIMS) comprising of mobile and web-based applications. Following are FAFEN's major observations of the by-elections:

1 Voter Turnout

Voter participation appeared to have significantly declined in the by-elections for all NA and PA constituencies. The turnout for nine NA constituencies, which fell vacant after the GE-2018 winners opted to vacate them, dropped from 51.9 percent (on July 25, 2018) to 26.5 percent on October 14. Similarly, the turnout for seven Khyber Pakhtunkhwa Assembly constituencies that went to re-election on October 14 decreased from 45.4 percent in GE-2018 to 21.7 percent during these by-elections. The turnout for 10 Punjab Assembly constituencies dropped from 57.8 percent to 43.7 percent. In Sindh, the turnout for a constituency fell from 50.9 percent to 36.8 percent.

Overall, women's voter turnout witnessed a steeper decline than men's turnout. Nearly 54 percent fewer women and 44 percent fewer men turned out to cast their ballot in nine NA constituencies during these by-elections in comparison to GE-2018. For Punjab Assembly seats, turnout of women

was 26 percent lower and turnout of men was 22 percent lower as compared to GE-2018. The difference was even starker in Khyber Pakhtunkhwa Assembly constituencies, where 61 percent fewer women and 48 percent fewer men went to polling stations on October 14 compared to July 25, 2018.

Karachi's constituency NA-243, vacated by incumbent Prime Minister Imran Khan, witnessed the lowest turnout (16 percent) among all constituencies. The turnout remained below 20 percent in all three Khyber Pakhtunkhwa Assembly constituencies as well. All of these constituencies had witnessed over 40 percent voter turnout during GE-2018. On the other hand, three Punjab Assembly constituencies recorded over 50 percent turnout, with PP-165 Lahore XXII (vacated by the Leader of the Opposition Mian Muhammad Shehbaz Sharif) observing the highest turnout of these by-elections (55 percent). The following table shows the assembly-wise comparison of voter turnout:

Assembly	Number of Constituencies	GE-2018			By-Elections 2018		
		Male	Female	Overall	Male	Female	Overall
NA Constituencies	9	55.4%	47.7%	51.9%	30.5%	21.8%	26.5%
Khyber Pakhtunkhwa Assembly	7	55.4%	32.5%	45.4%	28.7%	12.7%	21.7%
Punjab Assembly	10	60.1%	54.8%	57.8%	46.3%	40.4%	43.7%
Sindh Assembly	1	52.1%	49.4%	50.9%	38.3%	34.9%	36.8%
Balochistan Assembly	1	NA	NA	NA	NA	NA	NA

The Elections Act, 2017 empowers the ECP to only conduct pilot-test projects for overseas Pakistanis. However, on the directions of the Supreme Court, overseas voting (i-voting system) was introduced by the ECP, which was used by more than 80 percent of 7,461 overseas Pakistani who registered to use this facility. Notwithstanding the technical

aspects of i-voting, the process needs to be further streamlined and strengthened to address concerns over the transparency as well as secrecy of ballots. In addition, i-voting must immediately be brought to the Parliament for a detailed discussion keeping with the spirit of Section 94 (1) of the Elections Act, 2017.

2 Voter Registration

These by-elections witnessed an increased number of registered voters on the electoral rolls -- 42,810 voters (18,540 men and 24,270 women) -- in comparison to July 2018. As many as 16,838 voters were added to the electoral rolls of 11 NA constituencies, including 11,636 voters added in 11 Punjab Assembly constituencies, 9,566 voters in nine Khyber Pakhtunkhwa Assembly constituencies, 2,857 voters in two Balochistan Assembly constituencies and 1,933 voters in two Sindh Assembly constituencies.

The highest surge was recorded in NA-35 Bannu, where 3,913 voters were added to the electoral rolls, whereas PP-292 Dera Ghazi Khan-VIII had only an additional 183 voters in comparison to July 2018. More than half of the constituencies (16 out of 35) witnessed an increase of fewer than 1,000 voters, whereas 15 constituencies saw an increase of between 1,000 and 2,000 voters since July 2018. There were four constituencies in which the electoral rolls swelled by more than 2,000 voters each. The following table illustrates the constituency-wise comparison of registered voters:

Assembly	Number of Constituencies	GE-2018			By-Elections 2018			Increase in Registered Voters
		Male	Female	Overall	Male	Female	Overall	
NA Constituencies	11	2,714,270	2,297,958	5,012,228	2,720,237	2,308,809	5,029,046	16,818
Khyber Pakhtunkhwa	9	816,227	621,377	1,437,604	820,962	626,208	1,447,170	9,566
Punjab	11	1,205,973	946,975	2,152,948	1,211,448	953,136	2,164,584	11,636
Sindh	2	170,667	131,602	302,269	171,761	132,441	304,202	1,933
Balochistan	2	105,670	74,874	180,544	106,939	76,462	183,401	2,857

3 Women Voting

The Elections Act, 2017 empowers the ECP to declare a poll void if women's turnout is less than 10 percent of the total polled votes in a constituency. During GE-2018, ECP ordered re-election in one Khyber Pakhtunkhwa Assembly constituency due to this reason. In these by-elections, women's turnout remained above the legal threshold of 10 percent in all 35 constituencies. With the exception of PK-7 Swat-II where women

voters constituted only 19 percent of the total, women cast more than 20 percent of votes in the rest of the constituencies. Women's turnout represented 40 percent of the total polled votes in 11 Punjab constituencies – three NA and eight PA – and one Sindh Assembly constituency. The highest percentage of women's votes was recorded in PP-27 Jhelum-III (45 percent).

4 Ballots Excluded from Count

The percentage of ballots excluded from the count significantly decreased from 3.3 percent in July 25 elections to 1.9 percent in the October 14 by-elections. As many as 54,581 ballots were excluded from the count at the polling stations. These ballots, if found wrongly excluded, may be included in the count by ROs during the consolidation of the results. The number of ballots excluded from the count becomes critical in close contests, as reported by FAFEN after the observation

of GE-2018 during which 169 NA and PA constituencies had higher number of rejected ballots than the margin of victory. Although low as compared to GE-2018, there were four constituencies – two each of Punjab and Khyber Pakhtunkhwa Assemblies – where the margin of victory was less than the number of ballots excluded from the count. The following table illustrates the constituency-wise details:

Sr. No	Constituency	Winning Party	Number of Votes for the Winner	Runner-up Party	Number of Votes for the Runner-up	Margin of Victory (Difference in Number of Votes)	Number of Ballots Excluded from Count
1	PK-53 Mardan-VI	PTI	19,192	ANP	19,131	61	544
2	PK-7 Swat-VI	ANP	13,997	PTI	13,663	334	920
3	PP-3 Attock-III	PML-N	43,259	PTI	43,032	227	1,583
4	PP-27 Jhelum-III	PML-N	61,542	PTI	60,886	656	1,554

5 Campaigning and Canvassing

The ECP's code of conduct for political parties and contesting candidates prohibits the setting up of facilitation camps for voters outside polling stations within the radius of 400 meters. This condition was relaxed in urban areas, where political parties and contesting candidates were allowed to set up facilitation camps beyond 100 meters. FAFEN observers reported the presence of

party camps within the limited perimeter of almost half (48.5%) of the observed polling stations, and almost three-quarters (73.2%) of those in Khyber Pakhtunkhwa. The following table shows a constituency-wise distribution of the facilitation camps set up outside polling stations in violation of the requirement:

Assembly	Number (and %age) of PSs with facilitation camps within the PS perimeter	Total Number of PSs Observed
National	755 (37.3%)	2,023
Khyber Pakhtunkhwa	501 (73.2%)	684
Punjab	612 (55.6%)	1,101
Sindh	71 (62.8%)	113
Balochistan	0 (0%)	73
Overall	1,939 (48.5%)	3,994

6 Voting Process

FAFEN observers reported a relatively lower number of illegalities and irregularities during the voting process observed at 3,994 polling stations, where they were allowed observation. While this scale may not have an impact on the outcome of any election result, some illegalities and irregularities impinge upon the rights of voters and entitlements of candidates provided in the law. In addition, weak enforcement of election laws at polling stations diminishes public perception about the credibility of the exercise. These issues need to be addressed by the ECP because they erode public confidence in the process.

The Election Commission may curtail such incidences through better training of polling

officials and enactment of a more effective and well-publicized complaints mechanism for on-the-spot redressal. The vesting of magisterial powers in Presiding Officers has remained ineffective as such powers are rarely used on the Election Day. FAFEN observers reported only 14 Presiding Officers using their magisterial powers to deal with persons committing offenses, as provided by the Elections Act.

Incidences of voters not being allowed to vote despite having a valid national identity card (NIC) was reported at only 14 polling stations in four NA and three PA constituencies. However, at 27 observed polling stations in five NA and six PA constituencies, voters were allowed to cast

their ballots on production of identity documents such as old NICs, birth certificates, Nikahnamas and driving licenses, which is not permitted under the law.

Another area that requires ECP's attention is the failure of Assistant Presiding Officers (APOs) to stamp and sign the back of the ballot paper before issuing it to a voter, as required by law. Ballots that are not stamped and signed by the APO are rejected from the count, disenfranchising the voter and potentially affecting the election result. The ECP may investigate all such instances where ballot papers are rejected due to not being stamped and signed by the APOs. Varying degrees of penalty are provided under the Act in cases of both omission and commission to help ensure that polling staff are more rigorous in future in exercising their legal responsibilities. During the October 14 by-elections, FAFEN observers reported 224 instances at 37 polling stations of APOs issuing unstamped and unsigned ballot papers to voters – in seven NA and PA constituencies each.

The right of voters to secrecy of the ballot was breached at 146 polling stations in 10 NA and 18 PA constituencies, where polling staff did not stop unauthorized persons from accompanying voters behind secrecy screens. As many as 233 voters at these polling stations were observed to have been accompanied by unauthorized persons when they went behind the secrecy screens

to stamp their ballot. According to the Elections Act, only persons with disabilities (PWDs) are allowed to take any person of their choice (18 years of age or above) behind the secrecy screen to assist them in marking their ballot.

The secrecy of the ballot is also breached in cases where the Presiding Officer does not set up the secrecy screens in a way provided by the law and described in their handbooks. At 809 polling booths in 333 polling stations, secrecy screens were set up so that voters could be seen marking their ballots. At 1,357 polling booths in 520 polling stations, the CCTV cameras were installed in a way that they could zoom in to view the voters marking their ballots, also violating the secrecy of the ballot.

Although small in scale, instances of polling staff and polling agents stamping ballot papers on behalf of voters were reported by FAFEN observers at 21 polling stations in four NA and seven PA constituencies. Equally disconcerting are incidences of illegal influencing of voters inside polling stations by polling staff, polling agents or other unauthorized persons. FAFEN observers reported instances of polling staff, polling agents and/or unauthorized persons influencing voters to poll their ballot for a specific candidate and/or asking voters about their choice at 53 polling stations in nine NA and 14 PA constituencies.

7 Counting Process

Despite clear legal and procedural provisions, Presiding Officers at 21 percent of 978 polling stations where counting was observed did not paste a copy of Form-45 (Statement of the Count) outside the polling station after the completion of the counting process. Similarly, 30 percent of the Presiding

Officers did not paste Form-46 (Ballot Paper Account). Section 90 (14) of the Elections Act, 2017 specifically requires the Presiding Officers to affix copies of the two forms at a conspicuous place outside the polling station for public inspection. This measure is necessary to ensure transparency in the



results management process. The following table shows an assembly-wise status with

regard to the display of the Statements of the Count outside polling stations:

Assembly	Polling Staff Affixing Statement of the Count Outside Polling Stations	Polling Staff Not Affixing Statement of the Count Outside Polling Stations
National	378	118
KP	160	25
Punjab	201	57
Sindh	18	7
Balochistan	14	0

There appears to have been an improved effort by the ECP to ensure smooth functioning of the Result Transmission System (RTS) for these by-elections as provided under Section 13 (1) of the Elections Act, 2017. The RTS failure on the night of July 25 led to a controversy that undermined the credibility of an otherwise better managed electoral exercise. However, 95 percent of the Presiding Officers interviewed during the by-election observation said they were trained by the ECP on the use of RTS and had the required understanding to use this system. This confidence translated into efficient transmission of results by Presiding Officers using RTS. An overwhelming majority (95 percent) of the Presiding Officers

interviewed on October 14 were able to successfully transmit the results using RTS, corresponding with the publically announced achievement of the similar percentage of success by the ECP. Notwithstanding the unfair expectation that Presiding Officers should bring their personal mobile phones, the Parliament may reconsider the legality of the RTS as there continues to be geographical regions without mobile or internet connectivity. Alternatively, Section 13 may be amended or clarifying instructions should be issued to Presiding Officers that they should deliver polling station vote counts promptly to the RO by hand if they are unable to send them via the RTS after three attempts.

8 Conduct of Security Staff

Strong security presence was observed inside and outside most polling stations on the Election-Day. FAFEN observers reported the absence of security officials at the entry of less than one percent (34) of the observed polling stations. Similarly, observers found no security official inside two percent (96) of the observed polling stations. Observers witnessed the presence of security officials inside polling booths as well. Nearly 90 percent of the observed booths had security

personnel inside. FAFEN observers reported 46 incidents of security staff barring polling agents from pointing out procedural irregularities. All except two of these incidents were reported from the polling stations set up for NA and Punjab Assembly constituencies.

Security officials were also seen checking and, in some cases, demanding voter-chits (parchis) from voters at almost 99 percent of the observed polling stations. These chits,



which state the serial number of the voter on the electoral roll, are usually issued from parties' or candidates' camps outside the polling stations. These chits assist the election staff to find the voters on the electoral rolls. However, the Elections Act and the Elections' Rules do not permit denying any voter entry to a polling station if they do not have a chit.

Observers noted that security officials were frisking voters at the entrance of 97 percent of observed polling stations. Although ECP's code of conduct and security guidelines bar entry to polling stations with mobile phones, FAFEN observation reveals that security officials were letting people with mobile phones inside about seven percent of

observed polling stations. Similarly, media persons were allowed to carry their cameras inside 10 percent of the observed polling stations.

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9 Setting up of Polling Stations

ECP set up 7,489 polling stations comprising of 21,783 polling booths for 9,283,074 registered voters in the 35 constituencies, averaging 1,239 voters per polling station and 426 voters per booth. The law stipulates a limit of 1,200 voters per polling station and 300 per polling booth to be followed as far as practicable. Although the overall average does not deviate significantly from the legally advised limit, an analysis of the List of Polling Stations reveals a high degree of variation among polling stations. Only half (49 percent) of the polling stations were allotted a number of registered voters within

the legally advised limit of 1,200, while the remaining 51 percent of polling stations were assigned more than 1,200 voters.

In addition, FAFEN observers noted that half (49 percent) of the observed polling stations were inaccessible for voters with disabilities. These polling stations did not have the required ramps to facilitate wheelchair users.

The table below presents the number of registered voters, polling stations and booths, polling staff and sensitive polling stations in each province.

Province	Registered Voters	Polling Stations	Polling Booths	Polling Staff	Sensitive Polling Stations
Punjab	6,185,936	5,193	14,339	33,871	848
Sindh	884,437	544	2,001	4,546	201
Khyber Pakhtunkhwa	2,029,963	1,555	5,007	11,569	544
Balochistan	182,738	197	526	1,249	134



Province	Registered Voters	Polling Stations	Polling Booths	Polling Staff	Sensitive Polling Stations
Overall	9,283,074	7,489	21,873	51,235	1,727

10 Election Day Violence

FAFEN observers reported a total of 27 incidents of violence inside and outside polling stations from 10 National and Provincial Assembly constituencies. The highest number of these incidents were reported from NA-63 Rawalpindi-VII (eight incidents), followed by PP-118 Toba Tek

Singh-1 and PP-222 Multan-XII (four each) and NA-124 Lahore-II (three). All of these incidents were either verbal clashes between political party workers or brawls between polling agents. However, immediate intervention by security officials deescalated each situation.

11 Independent Observation

Section 238 of the Elections Act, 2017 permits duly verified and accredited election observers to observe the proceedings including the voting and counting processes. Duly accredited by the ECP, FAFEN observers were allowed to enter inside 2,734 polling stations without any restrictions, while at 1,260 polling stations (31.5% or nearly one-third) they had to persuade the polling or security staff. Nearly one percent or 44 of the accredited FAFEN observers were not allowed to enter the polling stations for observing the voting process.

Similarly, FAFEN observers attempted to observe the counting processes at 978 polling stations. They were allowed to observe the counting at 775 polling stations (79%) without any restriction, while they had to persuade the polling staff to let them observe the process at nearly 145 polling stations (14%). Around six percent or 58 observers were barred from observing in the counting process.