



FAFEN UPDATE ON ELECTION TRIBUNALS

11 OUT OF 23 TRIBUNALS DISPOSE OF 25 OUT OF 377 ELECTION PETITIONS

Systematic tracking of election petitions by the Free and Fair Election Network (FAFEN) filed with 23 election tribunals indicates that only 25 petitions—four pertaining to National Assembly (NA) constituencies and 21 to Provincial Assembly (PA) constituencies—have been disposed of by the tribunals as of August 17, 2024. These disposed petitions represent seven percent of 377 petitions filed with the election tribunals.

With six tribunals in Punjab province still inactive, this slow pace may result in multiple petitions lingering beyond the legal deadline of 180 days from the date of their filing. Legally, the Election Commission of Pakistan (ECP) is bound to publish in the official Gazette the names of the returned candidate (candidate with the highest number of votes) and all other contesting candidates along with the number of votes obtained by them (section 98 of the Elections Act, 2017). Any losing candidate can file petition within 45 days of the gazette notification of the returned candidate (section 142) and each petition shall be decided within 180 days of its filing (section 148).

Through amendments to the Elections Act, 2017, enacted in August 2023, Parliament extended the time limit for the disposal of election petitions from 120 days to 180 days from the date of their filing. The amendments also introduced measures to expedite the disposal of petitions by capping the maximum duration of stay orders issued by higher courts in such cases to six months. However, the ongoing operations of the tribunals, particularly in Punjab, do not reflect the spirit of the law, due to multiple factors, including prolonged legal interpretational differences between the Election Commission of Pakistan (ECP) and the Lahore High Court (LHC) regarding the notification of six tribunals in the province, which has rendered them dysfunctional. The eight tribunals notified in Punjab thus far have a cumulative caseload of 157 election petitions.

FAFEN has determined that at least 377 petitions have been filed with the 23 election tribunals across the four provinces and the Islamabad Capital Territory (ICT). Of these, FAFEN has identified the petitioners for 333 petitions through copies of the petitions and cause lists available on the High Courts' websites. To date, the copies of only 226 petitions have been obtained. Additionally, 44 petitions could not be tracked through the cause lists. The ECP has also not yet disclosed the exact number and ancillary details of the petitions filed before the tribunals.

FAFEN also observed the process of resolving result disputes following GE-2013, when the ECP established 14 tribunals to decide on 385 petitions, and after GE-2018, when the ECP established 20 tribunals to decide on 300 petitions.

Following are key findings of the observation of results dispute resolution process.

BALUCHISTAN TRIBUNALS LEAD WITH 17 PERCENT CASE DISPOSAL RATE

Of 23 notified tribunals, 11 have disposed a total of 25 petitions – four for NA and 21 for PA constituencies. Balochistan tribunals disposed of 17 percent of the total petitions in the province, Sindh seven percent, Khyber Pakhtunkhwa four percent, Punjab less than a half percent while ICT tribunal has not decided any petition so far. In Balochistan, three Quetta-based tribunals have decided 14

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petitions – one for NA and 13 for Provincial Assembly of Balochistan (PAB). Sindh tribunals in Karachi, Sukkur, Larkana and Hyderabad have decided six petitions – two for NA and four for Provincial Assembly of Sindh (PAS) while Mingora and Dera Ismail Khan tribunals in Khyber Pakhtunkhwa have decided four petitions – one for NA and three for Provincial Assembly of Khyber Pakhtunkhwa (PAKP). The only petition disposed of in Punjab is of a Provincial Assembly of Punjab (PAP) seat by Rawalpindi tribunal.

While none of the disposed of petitions has been accepted, two PAS petitions have been dismissed on non-prosecution (petitioners not following up the case before the tribunals); seven petitions – three each for NA and PAKP and one for PAS – have been withdrawn by the petitioners while 16 petitions – one each for NA, PAP, PAKP and PAS and 13 PAB – have been dismissed on merits of the case.

Tribunal-wise, Quetta-II have disposed of a total of 11 petitions, followed by Mingora and Karachi-II, which have decided three petitions each, Quetta-I two petitions while Sukkur, Hyderabad, Larkana, Quetta-III, Rawalpindi and DI Khan have decided one petition each so far.

These numbers can vary as ECP and tribunals has still not shared the information on the petitions and FAFEN relies on the cause lists to ascertain the numbers and status of the petitions.

RESULTS CHALLENGED IN 36 PERCENT OF GENERAL SEATS ACROSS ALL ASSEMBLIES

According to the petitions tracked by FAFEN, election outcome of more than one third (36 percent) geographical constituencies across the national and four provincial legislatures have been challenged. This proportion is consistent with the election disputes raised after General Elections 2013 and 2018 when 385 and 300 election petitions were processed by tribunals.

In the case of NA, the election outcome of 97 (36 percent) out of total 266 geographical constituencies were challenged. Regionally, 37 percent NA constituencies of Punjab, 44 percent each of Sindh and Balochistan, 18 percent of Khyber Pakhtunkhwa and all three ICT constituencies have been challenged.

In the case of Provincial Assemblies, 211 (36 percent) out of 593 geographical constituencies of the four provincial assemblies – 32 percent of PAP, 38 percent of PAS, 73 percent of PAB, and 25 percent of PAKP – were challenged. Refer to figure 1 and figure 2 for the number of NA and constituencies, respectively, where results have been challenged.

Figure 1: No. of NA constituencies by region and status of election results

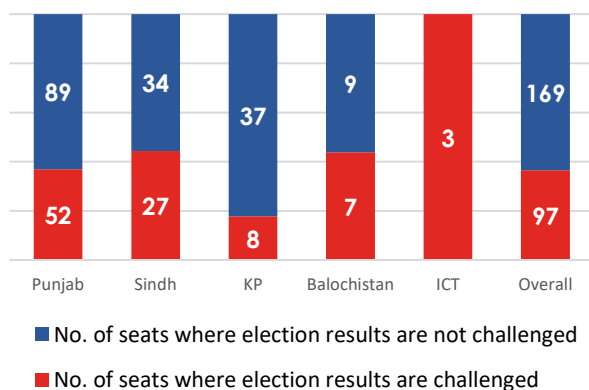
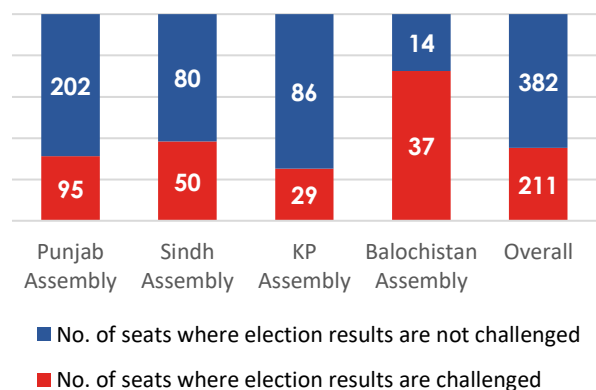


Figure 2: No. of PA constituencies by assembly and status of election results

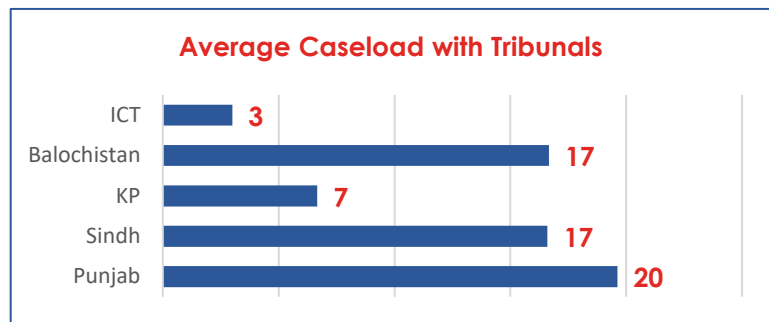


PUNJAB TRIBUNALS FACE THE HIGHEST CASELOAD

For 23 notified tribunals, the average caseload for each tribunal stands at 14 petitions¹. In Punjab, eight notified tribunals have an average caseload of 20 petitions per tribunal, highest amongst provinces. This may go further up to 25 petitions per tribunal if the 44 untracked petitions are accounted for in the province. However, as many as six out of eight tribunals are currently inactive due to ongoing litigation in the Supreme Court of Pakistan.

As many as five tribunals in Sindh and three in Balochistan have an average caseload of 17 petitions per tribunal, whereas Khyber Pakhtunkhwa's six tribunals have an average caseload of seven petitions per tribunal. The ICT tribunal has to decide on petitions filed against outcome at three constituencies in the region. Currently, the Islamabad High Court (IHC) has restrained the only tribunal in the Islamabad Capital Territory (ICT) from pursuing the trial of petitions pending before it.

On the basis of available information, four tribunals in Lahore, one active and three inactive, have a cumulative caseload of 77 petitions – 26 for 24 NA and 51 for 46 PAP constituencies. Two Multan tribunals, one active and another inactive, have a cumulative caseload of 40 petitions – 11 for 10 NA and 29 for 27 PAP seats while the sole Rawalpindi tribunal has a caseload of 24 petition – 11 for as many NA and 13 for as many PAP constituencies. Bahawalpur tribunal has a caseload of 16 petitions for seven NA and nine PAP seats.



The two tribunals in Karachi have a cumulative caseload of 57 petitions – 24 pertaining to 21 NA and 33 pertaining to 32 PAS seats. The caseload with other tribunals in Sindh is relatively lighter with Hyderabad assigned 11 petitions – four for three NA and seven for six PAS seats; Larkana seven petitions, three for as many NA and four for as many PAS seats; and Sukkur eight petitions for as many as PAS seats.

Peshawar's two tribunals have a cumulative caseload of 13 petitions – two on as many NA and 11 on as many PAKP seats; Mingora nine petitions – three on as many NA and six on as many PAKP seats; Dera Ismail (DI) Khan five petitions, one for a NA seat and four for three PAKP seats. Similarly, Abbottabad has a total caseload of five petitions, one for a NA seat and four for as many PAKP seats.

Balochistan's three tribunals, all based in Quetta, have a cumulative caseload of 50 petitions – nine for seven NA and 41 for 37 PABseats.

188 OF 333 CHALLENGES COME FROM LOSING PTI-BACKED INDEPENDENT CANDIDATES

As per law, only losing candidates can challenge the results of a constituency while making the other contesting candidate a defendant party to the petition. Losing independent candidates backed by Pakistan Tehreek-e-Insaf (PTI) has filed the most petitions. Cumulatively, they have made 188 challenges, 76 for NA constituencies and 112 for provincial assembly constituencies – 72 PAP, 25 PAS, 13 PAKP and two PAB. PTI-backed candidates are responsible for 56 percent of total caseload with the tribunals. Of 188 PTI petitioners, 162 losing candidates stood runner-up, 18 finished third, four remained on number four while the rank of remaining four petitioners in constituencies' results was eighth, 12th, 16th and 17th.

¹ This overall caseload has been calculated for 333 petitions that FAFEN has tracked so far for a fair comparison between the overall and provincial caseloads. This may go up to 16 when the regional distribution of 44 untraceable petitions is clear.

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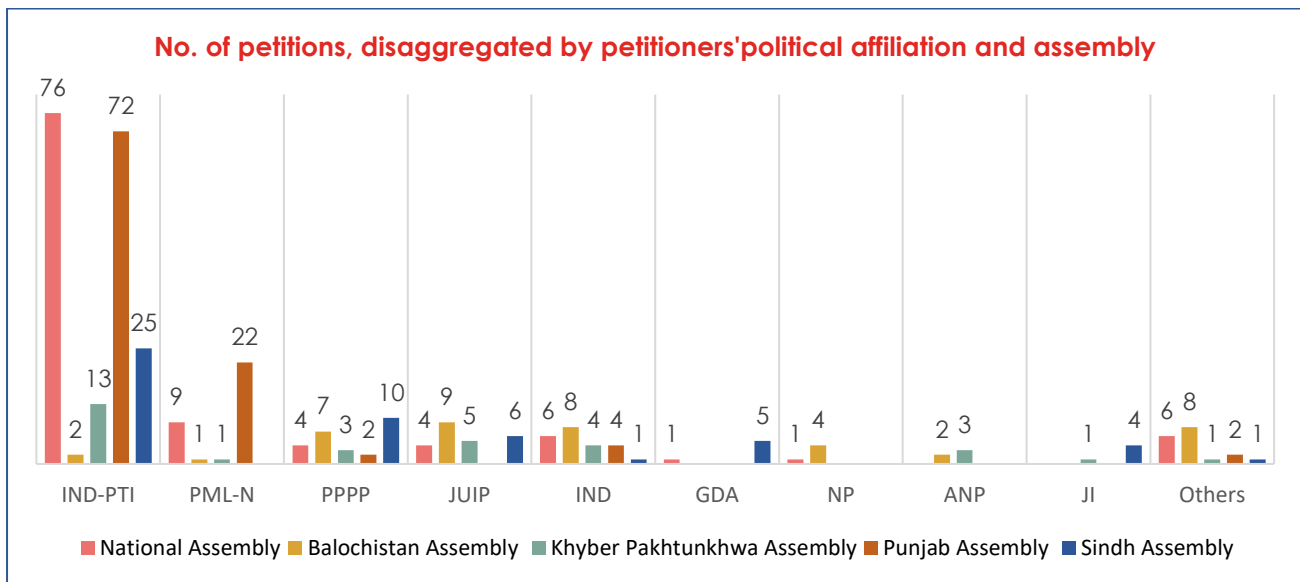
Losing candidates of Pakistan Muslim League Nawaz (PMLN) have filed 33 petitions – nine for NA and 24 for provincial assembly constituencies – 22 PAP and one each for PAKP and BA. As many as 32 PMLN petitioners stood runner-up in their constituencies while one finished third.

Losing candidates of Pakistan Peoples Party Parliamentarians (PPPP) have filed 26 petitions, four for NA and 22 for provincial assembly constituencies – 10 PAS, seven PAB, three PAKP and two PAP. A total of 20 PPPP petitioners stood runner-up while remaining six finished on third position in their respective constituencies.

Jamiat Ulema-e-Islam Pakistan (JUIP) has made 24 challenges, four for NA and 20 for provincial constituencies – nine PAB, six PAS and five KPA. All but one JUIP petitioners are runner-up on their constituencies. One candidate had clinched third position.

Unaffiliated losing independent candidates have made 23 challenges, six for NA and 17 for provincial seats. Losing candidates belonging to Grand Democratic Alliance (GDA) have filed six challenges, one for NA and five for provincial constituencies while those of National Party (NP), Awami National Party (ANP) and Jamaat-e-Islami (JI) have made five challenges each. NP's challenges include one on NA while all other petitions by candidates from these three parties pertain to provincial constituencies.

Candidates affiliated with Pakhtunkhwa Milli Awami Party (PKMAP), Tehreek-e-Labbaik Pakistan (TLP) and Balochistan National Party (BNP), Hazara Democratic Party (HDP), Jamhoori Watan Party (JWP) and National Democratic Movement (NDM) have filed two petitions each. Challenges by PKMAP, TLP, JWP and NDM are about one NA constituency and one provincial constituency each. Similarly, a candidate each belonging to Haq-Do-Tehreek Balochistan (HQTb) and Pashtunkhwa National Awami Party Pakistan (PKNAPP) has petitioned about one NA seat each. Losing candidates belonging to Khadimeen-e-Sindh (KS), Istehkam-e-Pakistan Party (IPP), Balochistan National Party Awami (BNPA) and Balochistan Awami Party (BAP) have made challenges on one provincial assembly seat each.



121 OF 308 DEFENDANT WINNERS BELONG TO PMLN

As many as 128 challenges on 121 seats, 46 on 43 NA seats, 66 on 64 PAP seats, four on as many PAKP seats and 13 on 10 PAB seats, have been filed against returned candidates of PMLN. Returned candidates of MQMP are facing 49 challenges on 44 constituencies, 19 on 16 NA seats and 30 on 28 PAS seats. PPPP's returned candidates are facing 47 challenges on 43 seats, 17 on 15 NA seats, three on as many PAP seats, 15 on as many PAS seats, two on as many PAKP seats and eight on as many PAB seats.

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Independent returned candidates affiliated with PTI has a total burden of 43 challenges on 39 constituencies, 10 on as many NA seats, 17 on 14 PAP seats, two on as many PAS seats, 13 on 12 PAKP and one on a PAB seat.

Fifth largest group of returned candidates facing challenges to their election victory are unaffiliated independent candidates with a total of 20 challenges on 16 seats, six challenges on three NA seats and 17 on 16 constituencies of provincial assemblies – six PAP seats, two PAS and PAKP seats and three PAB seats.

As many as 29 petitions have been filed against returned candidates of 11 other parties on as many constituencies, six challenges on as many NA seats, eight on as many PAP seats, three each on as many PAS and PAKP seats and nine on as many PABseats. Three wins each by BAP, NP and IPP and two each by ANP, GDA and Pakistan Tehree-e-Insaf Parliamentarians (PTIP) as well as one win each by BNP-Awami, BNP, Pakistan Muslim League Zia (PMLZ) and JI have been contested.

