



FAFEN Update on Election Tribunals

ONLY 11 PERCENT PETITIONS DECIDED SO FAR

The Free and Fair Election Network (FAFEN) is systematically tracking the election results disputes being heard by Election Tribunals. As of October 10, 2024, the Election Tribunals have disposed of 40 petitions of the 334 for which FAFEN has complete data. FAFEN has identified a total of 377 petitions, but could not obtain full information on 43 petitions in Punjab.

Legally, the tribunals are required to dispose of all petitions within 180 days of filing, subject to the time spent resolving objections on petitions. However, this legally-preferred deadline has already lapsed for many petitions.

The Election Commission of Pakistan (ECP) recently notified eight election tribunals in Punjab after a prolonged legal disagreement with the Lahore High Court, but these tribunals have yet to commence proceedings. The slow pace of disposals in other provinces, coupled with the late start of tribunals in Punjab, makes it unlikely that all pending petitions will be resolved soon.

Of the 40 disposed of petitions, four pertained to National Assembly seats, while the remaining 36 related to Provincial Assembly seats. Regionally, Balochistan tribunals have disposed of more than half of their petitions (28 out of 51), Khyber Pakhtunkhwa (KP) tribunals have resolved 10 percent (four out of 42), and Sindh tribunals have resolved seven percent (six out of 83). In Punjab, only two out of 155 petitions have been decided, and none of the three petitions from Islamabad Capital Territory (ICT) have been resolved.

With the exception of two tribunals in Balochistan, no tribunal has rendered a verdict of any petition after a full trial. Most of the petitions have been dismissed on technical grounds. Regarding the National Assembly, two petitions from Sindh and one each from Balochistan and KP have been resolved. For Provincial Assemblies, 27 petitions from Balochistan, four from Sindh, three from KP, and two from Punjab have been resolved.

BACKGROUND

For the 2024 General Elections, the Election Commission of Pakistan (ECP) requested all High Courts to nominate judges for Election Tribunals on February 14, 2024. While most acted in accordance with the request, the Chief Justice of the Lahore High Court (LHC) initially nominated only two judges instead of the nine requested. On April 4, 2024, the new LHC Chief Justice nominated six additional judges, but the ECP appointed only two for the Lahore seat. Correspondence between the LHC and the ECP followed, with the LHC objecting to the incomplete appointments. On May 29, 2024, the Lahore High Court ruled that the Chief Justice's opinion should take precedence and directed the ECP to appoint the remaining judges. When the ECP failed to comply, the LHC constituted six additional tribunals on June 12, 2024. The ECP then challenged the ruling in the Supreme Court. On July 4, 2024, the Supreme Court referred the matter for constitutional interpretation, suspending both the ECP's previous notification and the LHC's rulings. By September 24, 2024, a meeting between the LHC and the ECP resolved the issue, and on September 30, 2024, the Supreme Court allowed the ECP's appeal, setting aside the LHC's judgments. Subsequently, on October 3, 2024, the ECP reconstituted the eight Election Tribunals for Punjab, with four serving and four retired LHC judges, and reallocated their jurisdictions. However, proceedings for election petitions in Punjab have not yet resumed.

The functioning of tribunal in Islamabad has also been affected by the litigation. Three MNAs from Islamabad, whose elections were contested, filed applications under Section 151 of the Elections Act, 2017, seeking to transfer their cases from the tribunal led by Justice Tariq Mehmood Jehangiri. On June 10, 2024, the ECP approved the transfer to a tribunal led by Justice (Retired) Abdul Shakoor Paracha. However, the runner-up candidates challenged this decision in the Islamabad High Court (IHC), which suspended the ECP's order on June 24, 2024. On September 19, 2024, the IHC set aside the ECP's transfer orders, remanding the petitions to the ECP for reconsideration. Consequently, all proceedings on these petitions are currently stalled.

Of the 40 disposed petitions, three were accepted, and 37 were dismissed. The three accepted petitions were filed by losing candidates for the Provincial Assembly seats in Balochistan – two by Jamiat Ulema-e-Islam Pakistan (JUIP) and one by a National Party (NP) candidate. . These petitions were filed against winning candidates from the Pakistan Peoples Party Parliamentarian (PPPP) and Balochistan Awami Party (BAP). In all three cases, repolling in specific polling stations was ordered.

Among the 37 dismissed petitions, 11 were deemed non-maintainable due to non-compliance of mandatory legal requirement in filing the election petitions, 15 were dismissed for lack of evidence, seven were withdrawn by the petitioners, two were dismissed for non-prosecution, and the reasons for two could not be determined due to unavailable judgments.

Of the dismissed petitions, 11 were filed by PPPP candidates, seven by unaffiliated independents, three each by JUIP and NP, two each by independent candidates backed by Pakistan Tehreek-e-Insaf (PTI) and Jamat-e-Islami Pakistan (JIP), and one each by Awami National Party (ANP), BAP, Balochistan National Party (BNP), Balochistan National Party Awami (BNPA), Grand Democratic Alliance (GDA), Hazara Democratic Party (HDP), Jamhoori Wattan Party (JWP), Pakistan Muslim League-Nawaz (PMLN), and Pakhtunkhwa Milli Awami Party (PKMAP).

Among the dismissed petitions, nine each were filed against returned candidates of PMLN and PPPP, six against PTI-backed independents, four against JUIP, three against unaffiliated independents, two against NP, and one each against returned candidates from BNPA, BNP, Muttahida Qaumi Movement Pakistan (MQMP), and BAP.

TRANSPARENCY

FAFEN has obtained certified copies of most of the tracked petitions from all regions except Punjab. Out of 334 tracked petitions, FAFEN now has copies of 252 petitions. FAFEN has copies of all petitions filed with KP and ICT tribunals, all but five in Balochistan tribunals and all but one for Sindh tribunals. However, in Punjab, FAFEN has acquired only 78 out of 155 tracked petitions. Similarly, FAFEN does not have access to information about 43 petitions that most likely are in Punjab.

GROUNDS FOR PETITIONS

An analysis of 252 copies available with FAFEN reveals that an overwhelming majority (92 percent) of petitions accuse illegal and corrupt practices by the returned candidate in collusion with election officials. Moreover, 57 percent of petitions cite issues with the consolidation processes, while 49 percent highlighted problems in vote counting. About 38 percent petitions challenge the qualification of the returned candidate, and 32 percent question the validity of their nomination. Almost all petitions have invoked multiple grounds.

Among the petitions by PTI-backed independents, 96 percent included accusation of corrupt practices in connivance with election officials. JUIP candidates taken this ground for 85 percent of their petitions. Similarly, 80 percent petitions by ANP candidates, 78 percent by PPPP, and 54 percent for PMLN have taken this ground.

PRAYERS OF PETITIONERS

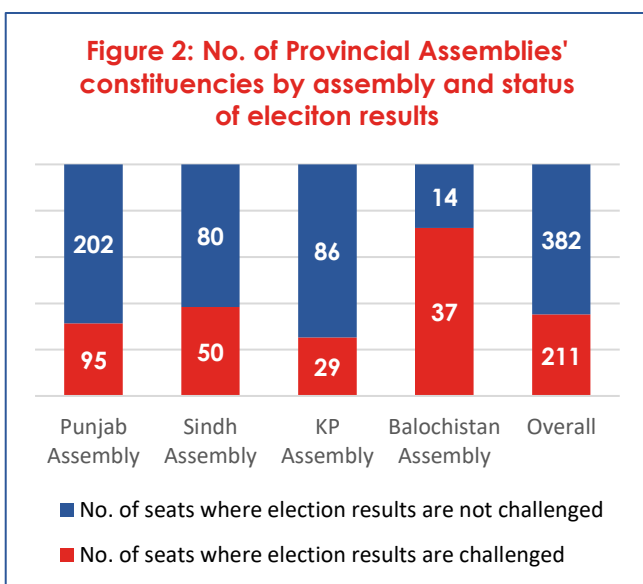
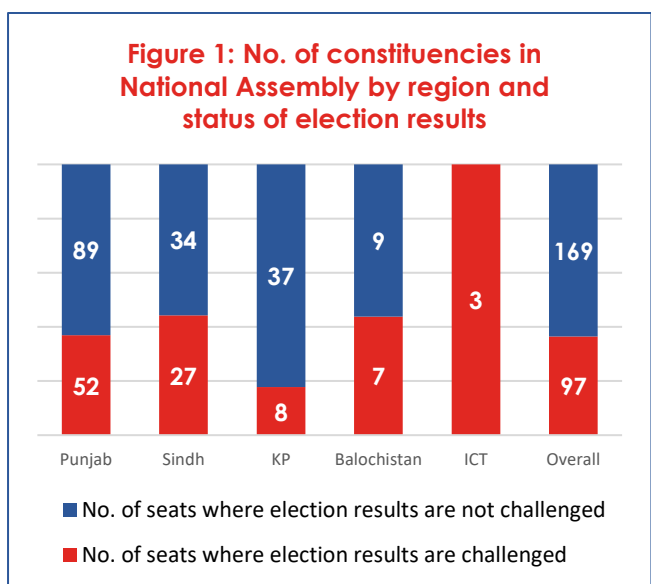
The majority of losing candidates (79 percent) sought a declaration of their own victory in the elections, rather than the victory of the currently returned candidates. Almost all petitions included multiple prayers. A quarter of petitioners called for a re-election, 32 percent re-polling, 22 percent sought a recount, 19 percent demanded re-consolidation, and seven percent requested reexamination of valid votes. Interestingly, all losing candidates from PTI and PMLN sought to be

declared winners in place of the officially notified candidates. A majority of petitioners from other parties also invoked this prayer.

RESULTS CHALLENGED IN 36 PERCENT OF GENERAL SEATS ACROSS ALL ASSEMBLIES

According to the petitions tracked by FAFEN, the election outcome in more than one-third (36 percent) geographical constituencies across the National Assembly and four Provincial Assemblies have been challenged. This proportion is consistent with the disputes raised following the 2013 and 2018 General Elections, during which 385 and 300 election petitions, respectively, were processed by tribunals.

In the case of National Assembly, the election results in 97 out of total 266 geographical constituencies (36 percent) were challenged. Regionally, challenges were filed for 37 percent National Assembly constituencies in Punjab, 44 percent each in Sindh and Balochistan, 18 percent in KP, and all three constituencies in ICT.



For Provincial Assemblies, 211 out of 593 geographical constituencies (36 percent) have had their election results challenged. This includes 32 percent of constituencies in the Punjab Assembly, 38 percent in the Sindh Assembly, 73 percent in the Balochistan Assembly and 25 percent of the KP Assembly. Refer to Figure-1 and Figure-2 for the number of National Assembly and Provincial Assembly constituencies, respectively, where results have been challenged.

Losing candidates of PMLN have filed 33 petitions – nine for the National Assembly and 24 for Provincial Assembly constituencies (22 Punjab Assembly and one each for KP Assembly and Balochistan Assembly). Of these, 32 petitioners were runners-up in their constituencies, while one finished in third place.

PPP candidates have filed 26 petitions – four for National Assembly and 22 for Provincial Assembly constituencies (10 Sindh Assembly, seven Balochistan Assembly, three KP Assembly and two Punjab Assembly). Of these, 20 PPPP petitioners were runners-up, while the remaining six placed third in their respective constituencies.

JUIP has filed 24 challenges – four for National Assembly and 20 for Provincial Constituencies (nine Balochistan Assembly, six Sindh Assembly and five KP Assembly). All but one JUIP petitioner were runners-up in their constituencies, with one candidate placing third.

Unaffiliated independent candidates have filed 23 challenges – six for National Assembly and 17 for Provincial Assembly seats. Candidates from GDA have filed six challenges – one for National Assembly and five for Provincial Assembly constituencies. Meanwhile, candidates from the NP, ANP and JIP have each filed five challenges each, with NP's challenges including one National Assembly seat and the rest focusing on Provincial Assembly constituencies.

