



Mid-Term Assessment of the Quality of Democracy in Pakistan

March 25, 2008 - September 24, 2010



Mid-Term Assessment of the Quality of Democracy in Pakistan

March 25, 2008 - September 24, 2010

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

PILDAT is an independent, non-partisan and not-for-profit indigenous research and training institution with the mission to strengthen democracy and democratic institutions in Pakistan.

PILDAT is a registered non-profit entity under the Societies Registration Act XXI of 1860, Pakistan.

Copyright ©Pakistan Institute of Legislative Development And Transparency - PILDAT

All Rights Reserved

Printed in Pakistan

Published: September 2010

ISBN: 978-969-558-182-7

Any part of this publication can be used or cited with a clear reference to PILDAT.

Supported by



Head Office: No. 7, 9th Avenue, F-8/1, Islamabad, Pakistan
Registered Office: 172-M DHA, Lahore, Pakistan
Tel: (+92-51) 111-123-345; Fax: (+92-51) 226-3078
E-mail: info@pildat.org; Website: www.pildat.org

CONTENTS

Abbreviations & Acronyms

Preface

Executive Summary

The Context	13
1. Rule of Law, Rights and Citizenship	17
1.1. Nationhood and Citizenship	17
1.2. Rule of Law and Access to Justice	22
1.3. Civil and Political Rights	28
1.4. Economic and Social Rights	31
2. Representative and Accountable Government	37
2.1. Free and Fair Elections	37
2.2. The Democratic Role of Political Parties	43
2.3. Effective and Responsive Government	47
2.4. The Democratic Effectiveness of Parliament	53
2.5. Civilian Control of the Military and Police	58
2.6. Integrity in Public Life	60
3. Civil society and Popular Participation	65
3.1. The Media in a Democratic Society	65
3.2. Political Participation	68
3.3. Decentralization	70
4. Democracy Beyond the State	73
4.1. External Influences on the Country's Democracy	73
4.2. The Country's Democratic Impact Abroad	75
The Democracy Score Card	79
Key Message of the Assessment	83
The Way Forward	89
End Notes	91
Appendices	
Appendix A: Framework for the Assessment of the Quality of Democracy	99
Appendix B: The Democracy Assessment Group	103
Appendix C: Score Card: Mid-Term Assessment of the Quality of Democracy in Pakistan	105

CONTENTS

Tables & Graphs

Table 1: Strength of Political Parties in the Provincial Assembly of Balochistan	44
Table 2: Political Party Statements of Accounts 2009	46
Table 3: Breakdown of Seats by Political Parties in the 13th National Assembly	46
Table 4: Development and Non Development Expenditure on Higher Education	48
Table 5: Ranking of Military and Police Contributions to UN Operations	56
Graph 1: Score Card of Mid-Term Assessment of the Quality of Democracy in Pakistan	79

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

PREFACE

The **Mid-Term Review of the Quality of Democracy in Pakistan**, covering the period of March 25, 2008 to September 24, 2010, is an assessment of the quality of democracy in Pakistan that has been compiled as a result of the assessment carried out by a diverse group of Pakistani citizens based on an international democracy assessment framework at the conclusion of the mid-term of the democratic Government in Pakistan after the February 2008 General Elections.

The Report has been originally authored by PILDAT using the criteria developed by the International Institute of Democracy and Electoral Assistance. This is the first time that the Democracy Assessment framework has been used to evaluate democracy in Pakistan. This review, therefore, provides a baseline on the subject on a criteria that is internationally comparable. This review, to be carried out periodically in Pakistan by PILDAT, should therefore, be viewed as a work-in-progress. The framework used to assess the quality of democracy in Pakistan is a tool to promote democratic reform. The framework does not assess the government alone but assesses the entire society looking at how democratic is the country and society of which the government is a part. PILDAT, which has been producing annual State of Democracy reports since 2002, believes that after the restoration of the form of democracy through the February 2008 General Election, the society must strive to improve and strengthen it. It is a collective responsibility that democracy must deliver and succeed as poor quality of democracy may disappoint people and may lead to yet another failure and 'derailment' of democracy. PILDAT initiative to assess the quality of democracy in Pakistan is a modest yet significant effort to make democracy deliver and work.

A **Mid-Term Quality of Democracy Score Card** based on the evaluation carried out by the individual members of the Democracy Assessment Group is also part of the Report.

Acknowledgments

PILDAT gratefully acknowledges the support and cooperation of the Democracy Assessment Group. While all members contributed to enrich the report, we would especially like to thank the input and detailed review and editing by **Mr. Javed Jabbar** and **Mr. Cyril Almeida**.

PILDAT sought and received support of the Foundation for the Future in carrying out the assessment which it gratefully acknowledges. The contents of this Report are the sole responsibility of PILDAT and the Democracy Assessment Group and do not necessarily reflect the views of the Foundation for the Future.

Disclaimer

PILDAT Team has made every effort to ensure the accuracy of data and assessment in this report and any error or omission is not deliberate.

Islamabad
September 2010

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

Abbreviations and Acronyms

ANP	Awami National Party
AJK	Azad Jammu and Kashmir
APC	All Parties Conference
ATF	Anti-Terrorism Force
BLUF	Balochistan Liberation United Front
BNP	Balochistan National Party
CCBs	Citizen Community Board
CEC	Chief Election Commissioner
CCI	Council of Common Interest
CNICs	Computerised National Identity Cards
CNG	Compressed Natural Gas
CM	Chief Minister
CPI	Consumer Price Index
DCO	District Coordination Officer
DG	Director General
DMG	District Management Group
ECC	Economic Coordination Council
ECL	Exit Control List
ECP	Election Commission of Pakistan
EOBI	Employees Old Age Benefit Institution
FATA	Federal administered Tribal Areas
FBR	Federal Board of Revenue
GB	Gilgit-Baltistan
GDP	Gross Domestic Product
HDI	Human Develop Index
HEC	Higher Education Commission
HOPO	Holders of Public Offices (Accountability) Bill 2009
IFJ	International Federation of Journalists
IMF	International Monetary Fund
IRO	Industrial Relations Ordinance
ILO	International Labour Organisation
IPP	Independent Power Producers
ISPR	Inter Services Public Relations
ISI	Inter Services Intelligence
JKLF	Jammu and Kashmir Liberation Front
JUI-F	Jamiat-e-Ulema-e-Islam - Fazl ur Rehman Group
KESC	Karachi Electric Supply Corporation
KP	Khyber Pakhtunkhwa (formerly NWFP)
LHC	Lahore High Court
LTTE	Liberation Tigers of Tamil Eelam
MMA	Muttahida Majlis-e-Amal
MNA	Member of National Assembly
MQM	Muttahida Quami Movement
NADRA	National Database and Registration Authority
NALA	Northern Areas Legislative Assembly
NA	National Assembly
NAO	National Accountability Ordinance

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

NAB	National Accountability Bureau
NEPRA	National Electric Power Regulatory Authority
NFC	National Finance Commission
NGO	Non Government Organisation
NRO	National Reconciliation Ordinance
NPP	National Party of Pakistan
NPOS	Not-Profit Organisations
OCAC	Oil Companies Advisory Committee
OECD	Organisation for Economic Co-operation and Development
OGRA	Oil and Gas Regulatory Authority
OSD	Officer on Special Duty
PAC	Public Accounts Committee
PEMRA	Pakistan Electronic Media Regulatory Authority
PPSC	Provincial Public Safety Commission
PBUH	Peace Be Upon Him
PSDP	Public Sector Development Programme
PML-N	Pakistan Muslim League-Nawaz Group
PPPP	Pakistan Peoples Party - Parliamentarian
PTV	Pakistan Television
RPP	Rental Power Project
SAARC	South Asia Association for Regional Corporation
SAARC	South Asian Association for Regional Cooperation
SAFTA	South Asian Free Trade Area
SC	Supreme Court
SECP	Securities and Exchange Commission of Pakistan
UC	Union Council
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNCAC	United Nations Convention against Corruption
USAID	United States Agency for International Development
UNDP	United Nations Development Programme
UNSC	United Nations Security Council
UNESCO	United Nations Educational, Scientific and Cultural Organisation
WAPDA	Water and Power Development Authority
WHO	World Health Organisation

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

EXECUTIVE SUMMARY

As the current democratically elected Parliament and the Government of Pakistan complete half of their constitutionally mandated term of 5 years on September 16 and September 24, 2010 respectively, the **Democracy Assessment Group (DAG)**, convened by the Pakistan Institute of Legislative Development And Transparency - PILDAT, has undertaken a Mid-Term Assessment of the Quality of Democracy in Pakistan. This is a pioneering effort to apply an international framework for the Assessment of the Quality of Democracy in Pakistan.

The Framework of Assessment

The Framework for the Assessment for the Quality of Democracy, based on the experience of democracies around the world, was created by the Democratic Audit, UK, an independent research organisation that draws upon a wide range of collaborators from academia, journalism, the legal profession and elsewhere, and later refined by the Sweden-based International Institute of Democracy and Electoral Assistance (I-IDEA). The framework rests on the following four pillars:

1. State-Citizen Relationship
2. Representative and Accountable Government
3. Civil Society and Popular Participation
4. External Influences on and of the country's Democracy or Democracy beyond the State

Each of these pillars is further supported by a number of sub-pillars. There are a total of 15 sub-pillars associated with all the four pillars. Each of the sub-pillars is expressed in the form of an over-arching question. There are a number of questions associated with each sub pillar or under each over-arching question which need to be answered by assigning a score from 1 to 5; 1 being the lowest score and 5 as the highest score. There are a total of **75** questions and therefore a maximum score of **375**. The greatest weightage in the entire framework is that of the **Representative and Accountable Government** pillar and it accounts for **45 %** of the total score. The **State-Citizen Relationship** pillar has a weightage of **29 %** followed by the **Civil Society and Popular Participation**, with a weightage of **16 %**, while the **External Influence on and of the Country's Democracy** has a weightage of **10 %**. The details of the framework are attached as *Appendix A*.

The Report on the Mid-Term Assessment of the Quality of Democracy in Pakistan

Before undertaking the scoring exercise, extensive data was collected relating to each of the 75 questions so that the Democracy Assessment Group could make informed and educated decisions while assigning score to each question. The collected data and its narrative discussion are compiled in the form of a Report which forms the basis and background to the actual assessment. The complete Report forms the basis of the scoring exercise for each of the 75 aspects of the Quality of Democracy in Pakistan by the Democracy Assessment Group.

The Democracy Assessment Group (DAG) and the National Workshops

Drawn from all provinces and regions of Pakistan, the 24-member Democracy Assessment Group or DAG represents the broad diversity of the Pakistani Society. Province, Gender, Profession, Language and Political Affiliation are some of the features of the DAG members' profiles which were kept in view while inviting them for this delicate exercise. The DAG has met a number of times before finalizing the Mid-Term Assessment. The framework and the assessment by the DAG have been shared in two national workshops comprising about 50 participants each from different walks of life in Pakistan. The 50 participants included the members of the DAG as well. The National Workshops have discussed and endorsed the Assessment of the DAG. The matrix of DAG membership is attached as *Appendix B*.

Objectives of the Assessment

The main objective of the **Assessment of the Quality of Democracy in Pakistan** is to identify strengths and achievements and to also identify the weaknesses so as to propose reforms to address those weaknesses. The DAG and the National Workshops have proposed a reform agenda for the democratic system of Pakistan for wider discussion and debate and eventually for implementation by the relevant authorities.

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

Although a major part of the assessment framework deals with the policies and actions of the Government, the exercise is not focused on Government performance alone. A closer look at the 75 aspects of Quality of Democracy indicates that the *society as a whole contributes to the quality of democracy*. The assessment is also intended to reinforce the citizens' ownership of the democratic process and to highlight the need to continuously struggle to improve its quality.

The Mid-Term Assessment also sets a baseline for future assessments to measure progress or lack of it in the Quality of Democracy in Pakistan.

The Democracy Score Card at 2 ½ Years

Overall Score

The Mid-Term Assessment of the Quality of Democracy in Pakistan has yielded an aggregate score of **172** out of a total of **375** which corresponds to **45 %** score. The Group had assessed the Quality of Democracy for the period prior to 2008 Election (Musharraf-era) in January 2010 and it had resulted in an overall score of **40 %**. In comparison, the Group had assessed the Quality of Democracy as it stood in January 2010 and had given a score of **48 %** at that time. The results of the assessment in September 2010 clearly point towards a slight deterioration in the Quality of Democracy since the beginning of the term of the present Government in March 2008 - a drop of just 3 percentage points from 48 % to 45 % in a span of 7 months.

Civil Society and Popular Participation in Pakistan received the highest score of **53%**. This has been followed by **Citizenship, Law and Rights**, with the score of **46%**. The remaining two key pillars, **Representative and Accountable Government** and **Democracy beyond the State** receive the score of **43%** each.

Within these pillars, the **representativeness of the media of the diversity of public opinion** received the *highest* score of **67 %** assigned to any question under the framework. The **Effectiveness of Civilian Control over the Armed Forces** received a score of **26 %** which is one of the *lowest* score assigned to any question. This score calls for a serious reflection both by the civilian and military leadership. An elected, democratic government must be able to exercise credible and effective control of the military. In the opinion of the Group, Pakistan is far from this stage.

Integrity in Public Life also received a low score indicating that in the opinion of the Democracy Assessment Group, the current constitutional and legal arrangements to ensure the integrity in public office are unsatisfactory and there are questions about the conduct of the public office holders and that this conduct does not evoke public trust. The **public confidence in Public Officials and Services** received the second lowest score of **28 %**.

A complete **Score Card** using the Framework is placed at *Appendix C*.

Key Message of the Assessment

The key message of the Mid-Term Assessment of the Quality of Democracy in Pakistan is that the ***status of Constitutional and institutional arrangements of Democracy are comparatively better than in most parts of our history***. Today, we have the **basic ingredients of Democracy in place** such as an **independent Judiciary, independent and diverse media, a sovereign and inclusive Parliament** in which the **opposition is given an important role** and a **free open civil society**. But the **state of governance, rule of law, accountability and integrity in public office** are **not satisfactory** and need **urgent improvement**.

The Way Forward

During the process of this assessment and during the consideration of the results of this assessment, the Group was unanimous in the **firm belief that the way forward for Pakistan is to sustain, refine and strengthen the democratic system**.

Disappointment at the performance of elected legislatures and governments in a particular phase cannot become the

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

justification for abandoning the democratic process.

More than ever before, **any disruption of the democratic process at this stage in the country's precarious and vulnerable situation is bound to produce adverse consequences.**

The low over-all score of 45 % is, on the one hand, accurate and, on the other, it is also misleading. The low score is accurate in so far as it correctly reflects a widespread sense of disillusionment and dis-satisfaction with the performance of elected governments for two and a half years. This despondency applies to the performance of Federal as well as Provincial governments, irrespective of which political parties or coalitions are in office. At the same time, the low score is misleading because it does not adequately or holistically reflect the fact that in the very same two and a half years, the elected legislatures have transformed the mutilated, authoritarian dimensions of the original much-amended 1973 Constitution into an authentically new Parliamentary framework. By adopting the 18th Amendment, the Federal legislatures have actually advanced along the democratic path far more than even the 1973 Constitution did. For the first time in Pakistan's 63-year history, Provincial autonomy and the true principles of Federalism have been categorically enshrined. By also forging a consensus to equitably share revenues through the new National Finance Commission Award the elected governments have demonstrated the capacity to transcend narrow interests for the larger cause of national cohesion.

Yet it is the next phase that becomes the far more formidable challenge: of translating this new Constitutional framework and consensus sanctified on paper into concrete, practical, visible benefits which are seen and felt by citizens in every sphere of their lives, and thus make a measurable difference.

The way forward, therefore, is to **use democracy to conduct comprehensive reforms**, to significantly improve governance, ensure transparency and accountability, and enforce the rule of law without fear or favour. The elected legislatures monitored by vigilant citizens and media, supported by an independent judiciary have prime responsibility to initiate this elemental change.

If, however, democracy continues to be used to perpetuate corruption and nepotism, prolong malpractices and mis-governance, it is not just democracy which will face old or new threats. The very existence of Pakistan will be put at grave risk. Mere continuation of past trends and repeated resort to partisan tactics will nullify the spirit and substance of the historic Constitutional transformation and the admirable consensus on the distribution of finances.

Any survey of the way forward for democracy has to be cognizant of the enormous impact of the catastrophic floods of August 2010. The aftermath of the calamity will shape economic conditions and affect our entire administrative and governance systems for the next several years. This is precisely why sustaining democracy at this time becomes even more important.

The **way forward is to place the citizen, and not the rulers, at the apex of pelf, privilege and public policy.** This is only possible through **sustained democracy.**

A democratic Pakistan alone is a secure Pakistan.

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

THE CONTEXT

The Government of Pakistan, the Parliament of Pakistan and the four Provincial Assemblies which were elected in February 2008 have completed half of their 5-year term in September 2010. The country has made some gains in terms of structure and form of democracy during the past two and a half years.

The independence of Judiciary that was seriously compromised during the presidency of General Pervez Musharraf (1999-2008), particularly when he suspended the Chief Justice of Pakistan first on March 9, 2007 and then sacked a number of superior court judges on November 03, 2007, has been restored following the reinstatement of the sacked judges. The superior judiciary is now not only independent, it is active and assertive as well.

The media, both print and electronic, which faced restrictions during the final days of President Musharraf is once again generally free and vibrant.

Some important powers of the Parliament and Provincial Assemblies which were taken over by the President and Provincial Governors respectively following the 17th Constitutional Amendment passed in the shadow of military rule have now been returned to the legislatures with the passage of the 18th Constitutional Amendment.

Some important electoral reforms have already been announced, such as the appointment of the Chief Election Commissioner by mutual consultation of the Prime Minister and the Leader of the Opposition, a departure from the previous discretionary power of the President.

Provinces have been given greater political and financial autonomy by devolving a large number of legislative and administrative powers from the federation to the provinces. For the first time in the history of the country, more than half of the funds in the federal divisible pool will go to the provinces under an arrangement agreed to by all the provinces in the recent 7th National Finance Commission Award.

Despite these impressive gains, however, the public perception of the current democratic Government and the system of democracy itself has gradually become unfavourable during the past 30 months. A general perception has emerged that the Government has not been able to effectively address key issues facing the country,

such as poverty and the increasing gap between the rich and the poor; weakening economy and slowing economic growth; endemic corruption at all levels of the Government; a poor state of law and order; weak rule of law and increasing political interference in it; weakening writ of the Government, even in settled urban places like Karachi where targeted killings and attacks on peaceful events have become a norm, etc. Insurgencies continue to be serious challenges not only in areas such as FATA, adjoining Khyber Pakhtunkhwa and Balochistan but in other parts of the country as well.

Despite the international economic recession, an on-going war in Afghanistan and its inevitable impact on Pakistan, the resulting unfavourable climate for foreign investment in the country, and the recent unprecedented floods - all of which have contributed to the current, difficult state of affairs - a strong public perception persists that the Government has not been able to handle these crises competently; that it has failed to adopt sufficient austerity measures; that corruption by its top officials has continued; that senior officials flout the rule of law; and that high-level appointments in state institutions, including public enterprises which generate multi-billion-rupee losses, have been made not on the basis of competence, integrity or performance but for political and personal reasons.

Another perception is that the Federal Government has not demonstrated leadership on several critical occasions, with the result that other institutions like the Judiciary and the Armed Forces have had to come forward to address the situation. The Federal and Provincial Governments, in general, feel that these perceptions are exaggerated and played up by the news media, especially by a range of current-affairs programmes on the television channels, for improving their popularity or for vested interests.

The Government also suggests the activism of an independent and assertive higher Judiciary, which was restored despite the Federal Government's apparent reluctance, has also constrained the Government's freedom of action and the all-powerful Military, the popularity of which has tremendously improved since the departure of General Pervez Musharraf, also makes things difficult and embarrassing for the Government at times.

An incumbent Government inevitably loses some of its popularity towards the mid-point of its term but various

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

public opinion polls indicate the erosion of popularity of the current Government is extraordinary.

Furthermore, this deepening perception of failure is not just with regard to the current Federal Government; it is increasingly extending to the Provincial Governments and political class in general. Serious doubts about democracy and its workability in Pakistan are being expressed not just among segments of the general public but also among political leaders, including some in the ruling coalition at the centre and in the provinces.

It is in this context that the **Report on Mid-Term Review of the Quality of Democracy in Pakistan** has been prepared.

Methodology

An international democracy assessment framework has been used as a basis to assess the quality of democracy in Pakistan to provide an objective, informed and non-partisan democracy assessment as a tool to promote democratic reform. The framework does not assess the government alone but also looks at how democratic is the country and society of which the government is a part.

The Framework for the Assessment for the Quality of Democracy, based on the experience of democracies around the world, was created by the Democratic Audit, UK, an independent research organisation that draws upon a wide range of collaborators from academia, journalism, the legal profession and elsewhere, and later refined by the Sweden-based International Institute of Democracy and Electoral Assistance (I-IDEA).

A group representing the multi-faceted diversity of Pakistan and including representatives of major political parties and groups, academia, media and civil society - the **Democracy Assessment Group (DAG)** - was assembled by PILDAT to review the report and, based on the democracy assessment framework, prepare a Scorecard. The members of the DAG belong to various regions of the country, professions and political parties, subscribe to various viewpoints, and speak various regional languages.

The International Institute of Democracy and Electoral Assistance (International IDEA)

The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization which supports sustainable democracy worldwide. International IDEA's mission is to support sustainable democratic change by providing comparative

knowledge, assisting in democratic reform, and influencing policies and politics.

Principles and Key Features of the IIDEA Democracy Assessment Framework

The basic principles of the IIDEA Democracy Assessment Framework, used in preparing this Report and the Scorecard are:

- Democratization is a process which requires time and patience
- Democracy is not achieved through elections alone
- Democratic practices can be compared but not prescribed
- Democracy is built from within societies
- Democracy cannot be imported or exported, but it can be supported

The key features of the IIDEA framework approach are:

- Only citizens/residents be part of the assessment
- The assessment be strictly independent of Government
- Major purposes: contribute to public debate; raise consciousness
- The assessment assist in identifying priorities for Reforms and monitor their progress.
- Embrace the widest range of democracy issues and choose priorities as per local conditions
- Qualitative Judgments of strengths and weaknesses be reinforced by quantitative measures
- Standards of assessment be based on the local context and international norms
- The assessment process to involve wide public consultation, including a national workshop

Democracy Assessment Framework

The Framework has 4 key Pillars or Categories:

1. **Rule of Law and Citizens Rights**
2. **Representative and Accountable Government**
3. **Civil Society and Popular Participation**
4. **Democracy Beyond the State**

Each category is divided into sub-categories expressed through 15 overarching questions. Overarching questions are further specialized by search questions. These total 75 questions. Each of the 75 Questions are graded by the Democracy Assessment Group on a scale of 1 to 5: 1 being

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

the lowest score and 5 as the highest score. Each of the sub-pillars is also expressed in the form of an over-arching question.

Since there are a total of 75 questions, the maximum score is **375**. The greatest weightage in the entire framework is that of the **Representative and Accountable Government** pillar and it accounts for **45 %** of the total score. The **State-Citizen Relationship** pillar has a weightage of **29 %** followed by the **Civil Society and Popular Participation**, with a weightage of **16 %**, while the **External Influence on and of the Country's Democracy** has a weightage of **10 %**. The details of the framework are attached as *Appendix A*.

A Pilot Project Setting the Baseline

PILDAT plans to undertake periodic assessments of the quality of democracy in Pakistan. The mid-term assessment conducted in this Report covers the period February 2008 to September 2010. This first report sets the baseline to measure progress or otherwise in the future using the scorecard in this report as a reference.

The Democracy Assessment Group

The complete list of politically and regionally diverse PILDAT Democracy Assessment Group is contained in *Appendix B*.

RULE OF LAW, RIGHTS AND CITIZENSHIP

1.1. Nationhood and Citizenship

Overarching Question: *Is there public agreement on a common citizenship without discrimination?*

1.1.1. How inclusive is the political nation and state citizenship of all who live within the Territory?

Parliament passed the 18th Constitutional Amendment unanimously on April 08, 2010. The 18th Constitutional Amendment has a specific “enhancement of fundamental rights” orientation. It has added the right to education, right to information, right to fair trial and freedom of association to the corpus of fundamental rights already enshrined in the original 1973 Constitution. The 18th Amendment also strengthened provincial autonomy by, inter alia, abolishing the concurrent legislative list in the 1973 Constitution which enabled federal action and primacy in many areas now within the provincial jurisdiction.

Chapter 1 (Articles 8-28) of the 1973 Constitution of Pakistan describes the Fundamental Rights which are to be available to all citizens, men and women, wherever they may be, as well as all people temporarily or permanently in Pakistan. The basis of fundamental rights is laid out in Article 4, which states that it is the undeniable right of individuals to benefit from the protection of the law and be treated in accordance with the law. The Constitution also guarantees the protection of life, liberty, body, reputation and property of an individual. Article 20 states that every citizen shall have the right to profess, practice and propagate his religion and every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions. Article 21 states that no person shall be compelled to pay any special tax the proceeds of which are to be spent on the propagation or maintenance of any religion other than his own. Article 22 (1) states that no person attending any educational institution shall be required to receive religious instruction or take part in any religious ceremony or attend religious worship, if such instruction, ceremony or worship relates to a religion other than his own.

An overwhelming majority (over 96%) of the Islamic Republic of Pakistan is Muslim. The rest is Christian, Hindu and followers of other religions. Article 2 of the Constitution states that Islam shall be the State religion of Pakistan. Article 41 (2) of the Constitution states: “A person shall not be qualified for election as President unless he is a Muslim of not less than forty-five years of age and is qualified to be

elected as member of the National Assembly.” Article 91 (3) of the Constitution, amended by the 18th Amendment, now requires that the prime minister be elected from one of the Muslim members of the National Assembly.

The Citizenship Act allows a female foreigner who marries a Pakistani man to get Pakistani citizenship but the same right is not given to a Pakistani female marrying a foreigner. The question of gender equality was raised in the Federal Shariat Court in Pakistan which declared the Pakistani Citizenship Act, 1951¹ to be discriminatory against women. On December 19, 2007, the Federal Shariat Court asked the President of Pakistan to amend the Pakistani Citizenship Act within six (6) months so that a Pakistani female's non-Pakistani husband could also get Pakistani citizenship, just like a foreign woman married to a Pakistani man.² In a 26-page judgment announced by the Federal Shariat Court (FSC), the Court declared:

“We are of the view that Section 10 of the Citizenship Act is discriminatory, negates gender equality and is in violation of Articles 2-A (Objectives Resolution) and 25 (equality of citizens) of the Constitution, also against international commitments of Pakistan and, most importantly, is repugnant to the Holy Quran and Sunnah.”

Thus far the Act has not been amended as required by the FSC.

The territories of Pakistan defined in Article 1 of the Constitution of Pakistan do not include the territories currently designated as Azad Jammu and Kashmir (AJK) and Gilgit-Baltistan (GB). Pakistan considers the final status of these territories has yet to be decided; nevertheless, for all practical purposes, these territories are being administered by the Government of Pakistan and in many regards are treated as a part of Pakistan. This unusual situation has given rise to some situations which amount to deprivation of certain rights of the citizens living in AJK and GB. For example, these two territories do not have representation in either House of the National Parliament. The areas are also not represented in the Council of Common Interests, which is the constitutional body to regulate inter-provincial relations.

The Federal Cabinet approved the Gilgit-Baltistan Empowerment and Self Governance Order, 2009 on

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

August 29, 2009 to give greater autonomy to the previously-known Northern Areas of the country. The Gilgit-Baltistan Package, as it is generally referred to, was signed by the President of Pakistan Asif Ali Zardari on September 07, 2009, and is aimed, according to the government, at introducing administrative, political, financial and judicial reforms in GB. The reform stops short of granting a clear-cut provincial status to GB, apparently to avoid legal complications as the area is still considered disputed.

Following the introduction of the package, the Gilgit-Baltistan polls were held on November 12, 2009. Under the Gilgit-Baltistan Empowerment and Self-Governance Ordinance 2009, the office of the Chief Executive has been replaced by the Chief Minister who is elected by a 33-member Assembly which includes six (6) women and three (3) technocrats. A Governor is appointed by the President of Pakistan and heads a 12-member Council, half of which are from the Gilgit-Baltistan Assembly and another half appointed by the Governor. It is generally believed the legislative assemblies of both Azad Jammu and Kashmir and Gilgit-Baltistan are deprived of their democratic and decision-making powers and their status is said to be of advisory bodies to the Councils, which are dominated by un-elected but powerful nominees of the Government of Pakistan.

1.1.2. How far are cultural differences acknowledged, and how well are minorities and vulnerable social groups protected?

The majority of Pakistan's population, over 96%, is Muslim while the non-Muslim population includes Christians, Hindus, Sikhs, Qadianis and others.

According to the 1998 population census, Punjabi is the mother tongue of 44.15% of the population, Pushto (Pathan) 15.42%, Sindhi 14.1%, Siraiki 10.53%, Urdu 7.57%, Balochi 3.57% and 'Other' 6.28%. Owing to the linguistic and regional diversity, Pakistan is also home to diverse cultures based on ethnicities, tribes, mother tongues and regions. Although each province has one major block of population speaking a mother tongue, there are other sizeable population groups in each province or territory.

While the cultural diversities are acknowledged, appreciated and represented by the State and State institutions, some of the stresses in the relationship of the state with its federating units, or those amongst the

federating units, manifest themselves from time to time. These stresses, however, emanate mainly from perceived or real violation of political or economic rights of a province or territory.

The Constitution of Pakistan guarantees equal rights and fundamental freedoms to all citizens of Pakistan. Religious freedom is also pledged for every citizen as per Article 20 of the Constitution. To protect the rights of minorities the Minorities Wing of former Ministry of Minorities, Culture, Sports, Tourism and Youth Affairs has been upgraded as a full-fledged Ministry of Minorities since September 2004. Similarly Departments of Minorities Affairs are established in each province. Seats are reserved for non-Muslim minorities in the Senate, National Assembly and the four Provincial Assemblies. Non-Muslims can contest elections on general seats in the Parliament and Provincial Assemblies.

In the context of protection of religious minorities, the blasphemy laws in Pakistan are widely criticised internationally and somewhat nationally, for being draconian and open to abuse. Section 295 of the Pakistan Penal Code deals with damage or defilement of a place of worship or a sacred object; Section 295-A deals with outrage to religious feelings; Section 295-B deals with the defiling of Holy Quran; and Section 295-C deals with defamation of Prophet Muhammad (peace be upon him). Imprisonment for life is the penalty for defiling the Holy Quran, while death with or without a fine is the sentence for defaming Prophet Muhammad (Peace be upon him). If a person is charged under 295-C, the trial must take place in a Court of Session with a Muslim Judge presiding.

Section 298 states: "whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both." Section 298-A prohibits the use of any derogatory remark or representation in respect of Muslim holy personages. Section 298-B and Section 298-C prohibit Qadianis from behaving as Muslims, calling themselves Muslims, proselytizing, or "in any manner whatsoever" outraging the religious feelings of Muslims. Violation of any part of section 298 makes the violator liable to imprisonment for up to three years and also liable to a fine.

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

Sections 295, 295-A, 295-B and 295-C are equally applicable to any non-Muslim or Muslim who tries to defame religious personages or Quran. Section 295 and 295-A are equally applicable for the protection of religions other than Islam and are not limited to just Islam.

No judicial execution of a person charged with blasphemy has occurred in Pakistan but a number of persons accused of blasphemy or even persons who were perceived to be protecting such persons have been attacked or killed. The charge of desecrating Holy Quran or being disrespectful towards the Holy Prophet Muhammad (PBUH) arouses such intense emotions that often it has been difficult to complete a due process of law in a free and fair manner. This has not only provided an easy way to settle personal scores with non-Muslims, who can become easier prey to such charges, it has led to situations where even innocent Muslims were also lynched by mobs when wrong accused of such crimes. While many in Pakistan and outside call for repealing or amending the blasphemy laws, people have been attacked or killed often because of a societal failure to abide by the rule of law and because segments of the public dispense resort to mob violence under the garb of religion.

Parts of the blasphemy laws, for example, Article 295-C, have been criticised internationally for not making a distinction between a deliberate action (intention) and an unintended mistake, thus rendering the laws vague and so open to abuse. The formulation also ignores important exceptions that are part of criminal laws internationally, for example, the psychological condition of accused, knowing the consequences of one's actions (a minor, a non-believer or an insane person).

The blasphemy laws once again became the centre of controversy in August 2009 when eight (8) members of the Christian community were burnt alive in Gojra, Punjab including torching forty (40) houses by a mob after an alleged incident of desecration of the Holy Quran during a wedding ceremony.

In 2009, the UN Secretary-General received a written statement in the 12th regular session of the UN General Assembly Human Rights Council. The following points pertained to the blasphemy laws in Pakistan:

- The laws do not define the crime; words such as 'insult' or 'respect' focus on the modus operandi of offense; writing, speaking, etc.
- The UN Special Rapporteur on Religious Tolerance

observed that the punishments accompanying blasphemy laws are excessive and disproportionate to the offenses. Some Islamic scholars have also condemned the existence and application of these laws.

- The blasphemy laws provide no built in safety net to stop abuse of the laws.
- Pakistan's blasphemy laws are inherently arbitrary and restrict freedom of speech and other freedoms guaranteed by international human rights laws³

Blasphemy laws in Pakistan have also been criticized for violating Articles 2 and 4 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities which seek to protect 'fundamental freedoms without any discrimination' and freely profess religion.

In addition to religious minorities, some other sections of the population, for example, the Baloch and people from the South Punjab, have alleged discrimination. Both these groups allege they have been under-represented in the federal civil and military services and their areas, which are underdeveloped, have not been allocated appropriate development funds. The Baloch population also complain that natural resources from Balochistan, such as petroleum and gas, have been exploited by successive federal governments/centre and other provinces without corresponding benefits to Balochistan's population and area. The 18th Constitutional Amendment has tried to make amends by giving joint and equal ownership of minerals, oil and natural gas to the provinces.

1.1.3. How much consensus is there on state boundaries and constitutional arrangements?

There is generally a consensus within Pakistan on state boundaries including the disputed nature of the AJK and Gilgit-Baltistan. However, the Durand Line demarcating the border with Afghanistan has been a subject of controversy between the Governments of Pakistan and Afghanistan and the latter has not officially recognised it as the international border. Similar localised disputes between Pakistan and India also exist over Sir Creek in the south of Pakistan. The line of control dividing the areas of Kashmir under Pakistani and Indian control is also volatile at places, especially in Siachen in the north.

1.1.4. How far do constitutional and political arrangements enable major societal divisions to be moderated or reconciled?

The key societal divisions in Pakistan are inter-provincial, linguistic and sectarian (among various sects of Muslims who interpret history and injunctions of Islam differently, such as between Sunnis, further sub-divided among Barelvis, Deobandis, Salafis, etc., and Shiites).

A desire and movement for administrative autonomy and giving expression to its identity has always existed among various regions of Pakistan. Prior to 1970, there was a movement for autonomy in the then-East Pakistan which was largely resisted by the governing forces in West Pakistan. Such movements have also existed in Balochistan, Khyber Pakhtunkhwa (formerly NWFP) and Sindh. These movements were not merely efforts to decentralise the decision-making in a large country but also to assert cultural and linguistic identities. A movement for a Seraiki province and for the restoration of Bahawalpur as a separate province still exists.

Recently, Hazara division of the Khyber Pakhtunkhwa has staked a claim to becoming a separate province after the name of the North-West Frontier Province was changed to assert its Pakhtun identity, leading the non-Pushto speaking Hazara division to assert its Hindko-speaking identity. However, the Constitution of Pakistan lays down a very hard-to-meet procedure for the creation of a new province. The procedure requires a 2/3rd majority not only in the two Houses of the Parliament but also in the Provincial legislature whose boundaries are to be altered.

Historically, the trend in Pakistan has been to merge the units to create larger units as the former state, and later province, of Bahawalpur was merged in Punjab; the state of Khairpur was merged in Sindh province, while the states of Dir, Chitral and Swat were merged in Khyber Pakhtunkhwa. The states of Kalat and Lasbela were merged to create the province of Balochistan. Contrary to this trend, the neighbouring India which had 15 states at the time of its creation in 1947, today has 28 states with 7 union territories.

One of the key issues which dominate the current inter-provincial relations in Pakistan include the continued disagreement over the use of Indus Rivers Water and construction of reservoirs on it despite the landmark 1991 Indus River Water Apportionment Accord among the provinces. The construction of reservoirs is crucial for

Pakistan on many counts, including the generation of inexpensive electric power and storage of irrigation water. The colossal damage due to recent (July/August 2010) floods have further underscored the need for reservoirs on rivers, especially river Indus, even for flood control.

The relationship of religion (Islam, in this case) with the state has also been a subject which divided the society in the early days of Pakistan and to some extent continues to do so even today. A segment of society has wanted religion to be kept separate from the affairs of the state; however, a more influential group has favoured, and succeeded in, making Islam the state religion of the country.

Another widening divide in Pakistan is over the so-called 'War against Terrorism' in the adjacent Afghanistan and Pakistan's role as a front line state against terrorism and the related cooperation with the United States of America. A section of society argues that it is the state and its legitimate government which is authorised, even from a religious point of view, to make decisions such as supporting or not supporting a particular country, countries or a war. The group also argues that it is for the government to decide about waging or not waging holy war or jihad against an enemy.

The other group argues that the State has lost that authority by siding with the forces which have invaded another Muslim country, Afghanistan, and therefore the Muslims of Pakistan are duty bound to organise themselves to support the resistance. Moreover, some, more radical elements of society even support fighting alongside Afghans against not only the 'occupying forces' in Afghanistan but also the Pakistani security forces, state institutions and even people whom they consider are taking a position in support of the 'occupation' forces in Afghanistan. Tehreek-e-Taliban Pakistan (TTP) is one of the more widely known group supporting and propagating this viewpoint.

There are articles in the Constitution of Pakistan to moderate and deal with most, if not all, societal divisions. Chapter 5 of the Constitution of Pakistan deals with the relations between the provinces and federation. These provisions have been recently amended through the 18th Constitutional Amendment strengthening provincial autonomy by a large measure.

One of the key forums to moderate inter-provincial and federal-provincial relations is the Council of Common Interests. After the 18th Constitutional Amendment, the

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN

REPORT

March 25, 2008 - September 24, 2010

Council of Common Interests (CCI) has been entrusted with greater responsibilities and strengthened to cope with its increased responsibilities. The CCI will now be chaired by the Prime Minister; earlier, according to Article 153, the membership or the chairmanship of the Prime Minister was not mandatory. The CCI must now meet once a quarter and will have a permanent secretariat. The Council's membership will comprise the Prime Minister, 3 Federal Ministers and the 4 Chief Ministers. The list of subjects on which the CCI will have policy control has been very substantially increased by transferring some of the subjects from the abolished Concurrent List and some of the subjects from Part-I of the Federal Legislative List to Part-II of the Federal Legislative List as per details given earlier. The CCI will now also have policy control over water reservoirs in addition to natural sources of water supply. In future, the Federation shall not build new hydroelectric stations in any Province except after consultation with that Province.

Another forum to mitigate and oversee economic relations is the National Economic Council (NEC) which reviews the overall economic condition of the country. After the 18th Constitutional Amendment, provinces have been given the power to raise domestic or foreign loans with the approval of the National Economic Council.

The National Finance Commission (NFC) Award is the distribution of financial resources among the provinces of Pakistan by the federal government. Certain types of taxes collected in each province are pooled and then re-distributed according to the NFC formula. The NFC is constituted under Article 160 (1) of the 1973 Constitution and is to be held at intervals of five years. Its members are Federal Finance Minister (Chairman), Provincial Finance Ministers and other experts who the President may appoint after consultation with provincial Governors.

In the 18th Constitutional Amendment, it has been stipulated that the NFC shall not reduce the share of resources allocated to the Provinces by the previous Commission. In addition, provinces have become entitled, as of right, to the entire proceeds of the excise duty on oil as well as to the excise duty on natural gas.

1.1.5. How impartial and inclusive are the procedures for amending the Constitution?

Article 238 and 239 of the Constitution of Pakistan define the method of Constitutional Amendment which is as follows:

- (1) A Bill to amend the Constitution may originate in either House and, when the Bill has been passed by the votes of not less than two-thirds of the total membership of the House, it shall be transmitted to the other House.
- (2) If the Bill is passed without amendment by the votes of not less than two-thirds of the total membership of the House to which it is transmitted under clause (1), it shall, subject to the provisions of clause (4), be presented to the President for assent.
- (3) If the Bill is passed with amendment by the votes of not less than two-thirds of the total membership of the House to which it is transmitted under clause (1), it shall be reconsidered by the House in which it had originated, and if the Bill as amended by the former House is passed by the latter by the votes of not less than two-thirds of its total membership it shall, subject to the provisions of clause (4), be presented to the President for assent.
- (4) A Bill to amend the Constitution which would have the effect of altering the territorial limits of a Province shall not be presented to the President for assent unless it has been passed by the Provincial Assembly of that Province by the votes of not less than two-thirds of its total membership.
- (5) No amendment of the Constitution shall be called in question in any Court on any ground whatsoever.
- (6) For the removal of doubt, the Constitution declares that there is no limitation whatever on the power of the Majlis-e-Shoora (Parliament) to amend any of the provisions of the Constitution.

The recently passed 18th Constitutional Amendment has been challenged by a number of organizations and individuals in the Supreme Court. A 17-member bench of the Supreme Court of Pakistan has taken up the petitions against the Amendment and the judgment may have a profound impact on the constitutional and political future of the country.

If a proposed bill needs to be verified from an Islamic point of view it is sent to the Council of Islamic Ideology. According to the Constitution of Pakistan, the "President or the Governor of a Province may, or if two-fifths of its total membership so requires, a House or a Provincial Assembly shall, refer to the Islamic Council for advice any question as to whether a proposed law is or is not repugnant to the Injunctions of Islam."

1.1.6. How far does the government respect its international obligations in its treatment of refugees and asylum seekers, and how free from arbitrary discrimination is its immigration policy?

Despite lack of resources and infrastructure, Pakistan has for more than three decades hosted the largest single refugee population, the Afghan refugees, in the world. After the Soviet invasion of Afghanistan in 1979, Afghan refugees began to enter Pakistan and by the fall of 1989 the number of refugees was estimated at 3.2 million.⁴ Additional refugees entered Pakistan after the US invasion of Afghanistan in 2001, pushing the total refugees to over 5 million, including those who were born in Pakistan over the previous two decades.

From 2005 to late 2006, the Government of Pakistan attempted to register Afghans living in Pakistan, the Interior Ministry issuing Proof of Registration (PoR) cards. By February 2007, the total number of registered Afghans stood at 2.15 million. As of March 2009, some 1.7 million registered Afghan nationals still remained in Pakistan, where they are allowed to work and attend schools until the end of 2012. The majority of Afghan refugees in Pakistan live in rural areas around the Durand Line region, with small communities in cities such as Peshawar, Quetta, and Karachi. Under an agreement with the Government in 2003, non-Afghan refugees recognised by the UNHCR at the time were given permission to work.⁵

It should be noted that owing to the Military operations in FATA, Swat and Malakand divisions, Pakistan also has a large population of Internally Displaced Persons (IDPs). A very small number of refugees and asylum-seekers, primarily from Somalia, Iraq and Iran, also live in the country.

On the other hand, there are more than 200,000-500,000 Pakistani Biharis living in statelessness in Bangladesh, waiting for Pakistan to accept their repatriation.⁶ Housed in camps for more than 37 years, the Biharis were a part of West Pakistan prior to the 1971 fall of Dhaka. In 2008, Bangladesh granted citizenship to many who were born after 1971 in Bangladesh, but many older Pakistani Biharis refused to accept Bangladeshi citizenship and have opted to wait for Pakistan to accept them as Pakistanis.⁷

1.2 Rule of law and access to justice

Overarching Question: *Is there public agreement on a common citizenship without discrimination?*

1.2.1. How far is the rule of law operative throughout the territory?

During the ongoing term of the 13th National Assembly of Pakistan, the operation of the rule of law has continued to remain poor across the country.

Acts of Parliament and the writ of the superior courts have always been in-applicable to the Federally Administered Tribal Areas (FATA) as per Article 247 of the Constitution; however, a system woven around the Political Agents appointed by the Federal Government had been relatively successful in maintaining law and order in the FATA. This system broke down in the mid-2000s, when troops of the Pakistan Army undertook operations against insurgents. Missile attacks by American unmanned aerial vehicles, commonly known as drones, are a daily occurrence. Besides FATA, parts of Khyber Pakhtunkhwa have also seen an insurgency, which has spread to the cities of Pakistan, including Lahore and Islamabad.

Another insurgency, this one by Baloch separatists, their fifth since Pakistan's creation, has also broken out in Balochistan. The latest insurgency gained momentum after Sardar Akbar Khan Bugti, a Baloch chieftain, was killed while security forces approached him in his hideout in a cave in Kohlu, Balochistan. The Baloch insurgency is mainly in the form of attacks on security forces or targeted killing of non-Baloch settlers, some of whom have been living there for the last many decades. The insurgency is continuing in parallel with the mysterious abductions, release after torture or in many cases killings of Baloch. Many Baloch blame security forces for these mysterious operations, but security forces strongly deny the allegations.

Meanwhile, in Karachi 'target killings' with apparent ethnic, sectarian and political linkages have been witnessed since the February 2008 elections and have escalated in 2010.

In all the insurgencies, the civil administration seems to be helpless in controlling the situation. In Swat, for years the illegal FM radio broadcasts that were inciting people to rebellion and insurgency went unnoticed until a rebellion overran the State machinery in the area. Only then did the Armed Forces undertake operations that to a large degree

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

cleared the area of militants. Following the end of large-scale military operations, it remains to be seen if the civil administration can reassert its presence and undertake the rehabilitation of people and infrastructure.

In Swat, years of misgovernance, unavailability of justice to common citizens, excesses by the State and other powerful groups, flouting of merit in recruitment for government jobs, and poor delivery of basic services such as health have led to the current state of rule of law which has been compounded by several other factors.

In 1969, the former princely state of Swat was abolished and incorporated as part of the Provincially Administered Tribal Areas (PATA) in then-NWFP in 1975. Until then, the princely state had its own administrative system with courts headed by qazis and judicial courts headed by tehsildars. Compared to the swiftness of justice provided under the qazi system, the complex and long-drawn new judicial system led to a demand for cheap and prompt justice and was supported by the Taliban who demanded the enforcement of Sharia.⁸

The demand was accepted by the Government in early 2009 with the promulgation of the Nizam-e-Adl Regulation 2009. However, the Regulation has raised concerns about the uniform applicability of rule of law in the country, with many jurists inside and outside Pakistan voicing concern about the creation of a parallel judicial system. The Regulation was also seen as a contradiction to Pakistan's commitments to international conventions. The United Nations Committee on the Rights of the Child expressed concern that the regulation did not provide adequate guarantees for the implementation for the Convention.

The implementation of the regulation raised further issues, when the airing nationally of a video of a girl being flogged in Swat in April 2009 led to a strong public outcry.⁹ This, coupled with disagreements on the implementation of the regulation, especially appointment of qazis,¹⁰ eventually led to a military operation against the Taliban. The military has since then been accused by the Human Rights Commission of Pakistan (HRCP) of carrying out extra-judicial killings in Swat, an accusation which the ISPR has denied.

Another long-standing concern is the lack of child protection legislation. The Child Protection Bill has not yet been adopted despite several years of consideration. Furthermore, the National Commission on the Rights of the

Children Bill is still waiting to be adopted whereas Balochistan, KP, FATA and Azad Jammu and Kashmir lack legislation relating to child rights..

The rule of law is especially weak in FATA, where the Frontier Crimes Regulation (FCR) of 1901 remains in force. Furthermore, the Political Parties Act of Pakistan does not extend to FATA; hence all candidates for the National Assembly must take part in elections as independents. In March 2010, Prime Minister Yusuf Raza Gilani stated that the Act would be extended to the territory.¹¹ The Additional Secretary FATA, while addressing the Public Accounts Committee (PAC) stated that the FCR is being enforced in only one percent of FATA.¹² Further, the law and order situation has significantly hampered development projects. Even in areas where the Regulation is in force, a lack of amendments in the last 62 years means that the Regulation lacks the robustness required for effective administration.

A major hindrance to the enforcement of rule of law in Pakistan has been the gradual decline and weakness of the administration and civil-services. Regarded as "demoralised and ineffective"¹³ with limited implementation capacity, the bureaucracy's ineffectiveness is resulting in the weakening writ of the state and a breakdown in the rule of law. Critics cite the politicisation of the bureaucracy in Pakistan as the key reason for this worsening state of affairs. Some argue that the removal of the constitutional guarantee available to the civil service in the 1956 constitution made the civil bureaucracy more vulnerable to political pressure, even though such guarantees were built into the Civil Service Act later.

According to the World Bank's World Governance Indicators (WGI) 2009, Pakistan's Percentile rank in Rule of Law has deteriorated from 34.8 in 1996 to 19.1 in 2008. 81% countries are better placed than Pakistan in 2008 in the context of Rule of Law compared to 65 % in 1996. Pakistan ranks 7th among the eight South Asian countries in the Rule of Law with only Afghanistan trailing. Among the 20 most populous countries in the world, Pakistan ranks 19th in Rule of Law followed only by Nigeria.

1.2.2. To what extent are all public officials subject to the rule of law and to transparent rules in the performance of their functions?

Two key issues illustrate the extent to which all public officials are subjected to the rule of law in Pakistan. First, the state of law dealing with the accountability of public

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN

REPORT

March 25, 2008 - September 24, 2010

officials; and second, the National Reconciliation Ordinance, 2007 (NRO) as a result of which a large number of cases against senior public officials were withdrawn.

According to the law at present, accountability of public officials in Pakistan is the responsibility of the National Accountability Bureau (NAB), which came into being through the National Accountability Ordinance, 1999 (NAO). The ordinance provides the NAB with the broad based mandate to detect, investigate and prosecute charges of corruption and corrupt practices, and to hold individuals involved in such crimes accountable. The Prime Minister of Pakistan, in his first address to the National Assembly after his election on March 29, 2008, announced his government's intention to disband the NAB and constitute a National Accountability Commission in its place. The Government introduced the Holders of Public Offices (Accountability) Bill, 2009 (HOPO Bill) in the Parliament on April 15, 2009, but the bill remains pending as of the completion of half the term by the present National Assembly. The Bill, as reported in the media, has undergone various modifications within the National Assembly Standing Committee on Law, Justice and Parliamentary Affairs; however, only the version that was originally introduced by the government is publically available.

The specifics of the HOPO bill have attracted severe criticism, including from within the political class. Some of the key areas drawing criticism are:

1. The scope of the bill limits who can be prosecuted for corruption. Unlike the NAO, a public official can only be prosecuted under the bill within a period of 3 years after he has ceased to hold office. This clause is apprehended to have more of an amnesty-granting clause than accountability.
2. The definition of corruption has been narrowed from that contained in the NAO and does not include owning or possessing property disproportionate to one's means, misusing authority to seek a benefit or favour, and issuing any concession or benefit under any directive or order for the benefit of one's self or dependents.
3. The bill also limits the investigatory powers of the anti-corruption agency. Provisions allowing the agency to question individuals, freeze assets and require individuals to produce bank documents, all of which

were part of the NAO, have been removed in the HOPO Bill. Under the bill, there is no power of arrest and offences are bailable.

4. The bill discards specialist courts and transfers jurisdiction to try corruption cases to sessions courts.
5. The bill reduces the penalties for corruption from 14 years imprisonment and a bar of 21 years from holding public office outlined in the NAO to a maximum of 7 years imprisonment and a 5-year bar from being a member of a national or provincial assembly.

The Bill has also been criticised for undermining Pakistan's international obligations under the UN Convention Against Corruption (UNCAC).¹⁴

While the HOPO Bill remains pending with the National Assembly Standing Committee on Law, Justice and Parliamentary Affairs for nearly 1 ½ year since its introduction in the National Assembly on April 15, 2009, the existing accountability mechanism in the form of the NAB is in limbo, with the NAB reduced to lame-duck status.

The independence of the NAB to prosecute individuals accused of corruption was severely curtailed through the National Reconciliation Ordinance (NRO) promulgated by former President Pervez Musharraf on October 5, 2007. Under the ordinance, 8,041 individuals, including top bureaucrats, government officials and politicians, among them the former Prime Minister late Mohtarma Benazir Bhutto, had cases against them withdrawn. Notably, the list of NRO beneficiaries also included Mr. Asif Ali Zardari, the current President of Pakistan and two serving federal ministers.

While the NRO was declared with no legal effect (void ab initio) in a landmark judgment of the Supreme Court of Pakistan, the Government appears to be resisting the full implementation of the judgment. Mr. Asif Ali Zardari is now the President of Pakistan and is believed to enjoy constitutional immunity against all criminal cases while he holds the office of the President. While the Supreme Court has instructed the Government to write to the authorities in Switzerland to re-open the cases against Mr. Zardari which were closed upon the request of the Government of Pakistan under the NRO, the Government has not done so on various grounds. The NAB is without a full-time Chairman for the last many months.

The NRO, despite the fact it has now been declared illegal;

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

the paralysis of the National Accountability Bureau for the last two-and-a-half years; and the continuing lack of an effective law of accountability of public office holders is having a profound impact on the current state of accountability of public officials.

The Federal Investigation Agency (FIA) continues to lack independence and protection against political interference. The FIA Director General does not enjoy the protection of tenure, allowing the government to transfer the DG whenever it considers doing so expedient. Mr. Tariq Khosa, the former Director General of the FIA, was abruptly transferred when he was heading the investigation of a politically sensitive case of alleged corruption in the Pakistan Steel Mill. The Supreme Court requested the Government to allow Mr. Khosa to continue with the investigation, but the government did not agree to the request. Three Director Generals have been transferred from the FIA during the last two and a half years.

47% of respondents to a Transparency International Pakistan survey stated that lack of accountability was the main cause for corruption in government departments.¹⁵

1.2.3. How independent are the courts and the judiciary from the executive, and how free are they from all kinds of interference?

Judiciary-Executive relations have historically been characterised by tensions in Pakistan, with the Executive attempting to influence, if not dominate, the Judiciary. Notwithstanding a few judgments which sought to defend the independence of Judiciary, the Judiciary had generally been under pressure from powerful civil or military governments in the past. A new chapter in the history of the Superior Judiciary began on March 9, 2007 when the Chief Justice of Pakistan Mr. Iftikhar Chaudhry declined to resign under pressure from the then President-cum-Chief of the Army Staff General Pervez Musharraf. The second reinstatement of Chief Justice Iftikhar Chaudhry on March 16, 2009 heralded the beginning of a new Superior Judiciary which is independent and assertive. To some critics, the Superior Judiciary has subsequently become proactive and has been criticised for allegedly encroaching on the roles of the executive and legislature at times.

In the context of independence of the Judiciary, a major issue has traditionally been the procedure for the appointment of the judges of the High Courts and the Supreme Court. Article 177 (1) of the Constitution of Pakistan states that the Chief Justice of Pakistan shall be

appointed by the President, and each of the other Judges shall be appointed by the President after consultation with the Chief Justice. The 'Consultation' has aspect was generally taken lightly by the Executive and in practice the appointments of Judges reflected preferences of the Executive. In 1996, the Supreme Court of Pakistan passed a landmark ruling in the Al-Jehad Trust case under which it defined 'consultation' mentioned in Article 177 as "effective, meaningful, purposive, consensus oriented, leaving no room for complaint of arbitrariness or unfair play."¹⁶ The judgment further stated that the recommendations of the Chief Justice of the High Court and Chief Justice of Pakistan with respect to the appointments of judges in the High Court were to be accepted by the President/Executive in the absence of very sound reasons against the recommendations. The judgment considerably reduced the influence of the executive in the appointment of judges to the superior courts.

The 18th Constitutional Amendment has completely revamped the procedure for the appointment of Judges of the Superior Courts. Under the 18th Amendment, a seven-member Judicial Commission headed by the Chief Justice of Pakistan is to nominate candidates for vacancies on the Supreme Court which are then to be voted on by an eight-member Parliamentary Committee, which can reject the nominations by not less than a three-fourth majority. Appointment of Judges to the High Courts and the Federal Shariat Court have also been altered in the same vein.

However, the 18th Amendment procedure for the appointment of Superior Court judges has been challenged in the Supreme Court where presently a 17-member bench is hearing the matter.

Appointment of subordinate judiciary in civil and criminal courts is made by the provincial government as per the Civil Service Acts/Rules.¹⁷ Administrative control over the subordinate judiciary is maintained by the High Court.

Both the superior and the subordinate judiciary suffer from a shortage of judges as well as financial resources.¹⁸ Furthermore, several judges had been serving in the past against executive posts in the federal and provincial governments. A new National Judicial Policy has been announced by the Chief Justice of Pakistan under which all judges working in the executive positions have been recalled to perform judicial functions.¹⁹

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

While the Executive manipulation of the judicial process may have decreased since the restoration of the pre-November 03, 2007 Judiciary, there have been instances where the judicial process has been ignored by the executive. There is also a widespread belief that cases pertaining to the military or the military's interests, (for example, Air Marshal (Retd.) Asghar Khan's case against the distribution of funds by the ISI among politicians and media persons) are not being taken up by the Superior Judiciary. The issue of the Missing Persons, of which the Supreme Court took notice in 2005, stands unresolved although a Judicial Commission has been formed at the direction of the Supreme Court on May 4, 2010.

Despite instances of the Executive delaying the implementation of judicial rulings, the Judiciary has given landmark judgments, such as on the NRO, the promotion of civil service officials from Basic Pay Scale 21 to 22, and the suspension of government notification regarding the appointment of Justice Saqib Nisar as the Acting Chief Justice of the Lahore High Court and elevation of Justice Khawaja Muhammad Sharif as a Judge of the Supreme Court. Nevertheless, the High Courts and the Supreme Court are presently enjoying an unprecedented amount of freedom and independence.

1.2.4. How equal and secure is the access of citizens to justice, to due process and to redress in the event of maladministration?

After the 18th Constitutional Amendment to the Constitution of Pakistan, the number of Fundamental Rights in the Constitution has been increased to include the right to a fair trial [Article 10A], the right to information [Article 19A] and the right to education [Article 25A].

Article 4 of the Constitution of Pakistan determines protection under the law to be the inalienable right of every citizen, whereas Article 25 proclaims all citizens to be equal before the law.

In practice however, access to justice remains limited and unequally distributed. The justice system is a long, laborious and costly road which, there is a widespread public belief, should be avoided as far as possible. The public perception of the Judiciary as an institution, however, has improved (up from 51% in 2007 to 68% in 2009)²⁰ reflecting the the growing trust of the public in the independence of higher Judiciary, especially the Supreme Court of Pakistan, after the restoration of the Chief Justice of Pakistan in March 2009.

Parallel systems of justice have continued to hold sway in remote areas of the country, especially Balochistan. The Human Rights Commission of Pakistan has documented over a dozen incidents of people walking on burning coal to prove their innocence in 2008.²¹ In August 2008, Senator Sardar Israrullah Zehri stunned the Senate of Pakistan and the public when he defended the alleged burying alive of two women in Balochistan on the basis of "tribal custom."²² He was later appointed the Minister for Postal Affairs by the ruling party.²³

Access to justice is limited in rural areas of the country, where influentials were able to sway the system in their favour. A case in point being Walidad Khaskheli, a peasant belonging to Sanghar, Sindh who died outside the Karachi Press Club while protesting against the alleged excesses of a local landlord, Waryam Faqir Khaskheli, a Pakistan Muslim League-F leader and Khalifa of Pir Pagara.²⁴

The lack of adequate provision of justice has given rise to the phenomenon of vigilante justice. On May 14, 2008 three alleged robbers were beaten and burnt to death in Karachi by a mob.²⁵ Three days later, two more alleged robbers were set on fire by a mob. One of them died in hospital. The trend continued in 2009, when an armed robber was lynched in Karachi by a mob.²⁶ While his accomplice managed to escape and was later apprehended by police, the robber was allegedly shot in the head by a member of the mob.

The harrowing footage of the clubbing to death of two teenagers in Sialkot in August 2010 by a mob on the suspicion the teenagers were dacoits, while the local police and rescue agencies stood by, caused a judicial and a belated administrative stir. Similar incidents of vigilante justice have subsequently also emerged from southern Punjab where a young boy was allegedly tortured to death while he was partially buried.

The past two years witnessed cases of disregard to due process in the application of law. Cases like that of Sugra Begum, who allegedly had to bribe court officials Rs500 to ensure her son charged with robbery appeared before a judge, were reported by the media on a regular basis.²⁷ Cases of detention despite acquittal from a court of law, as in the case of Rizwan, an accused in the Sheraton suicide attack case were also reported.²⁸ According to the Human Rights Commission of Pakistan (HRCP), illegal police custody of 119 citizens was reported during 2008 in Lahore alone. In Sindh's Khairpur district, a judge raided a

police station and found 22 illegally detained persons. In April 2009, after the murder of three Baloch nationalist leaders, 16 people were killed in a wave of protests. During 2009, 164 incidents of target killings took place in Balochistan, in which 118 citizens and 158 security officials were killed while 83 citizens and 7 security officials were injured. In Punjab, 224 cases of kidnap for ransom took place during 2009 as compared to 248 cases in 2008. 163 persons were kidnapped in Sindh, 241 in Balochistan and 592 in NWFP during the year. 747 persons were killed in Karachi, out of which 291 were killed in target killings and 209 of the victims were political activists. In Punjab, 253 people were killed in police encounters, while 28 policemen were also killed. In Sindh, 74 criminal suspects and 52 policemen were killed in encounters.²⁹

1.2.5. How far do the criminal justice and penal systems observe due rules of impartial and equitable treatment in their operations?

According to the public opinion in Pakistan, crime is considered to be one of the three biggest problems in Pakistan faced by the citizens. In July 2010, most Pakistanis (88%) believed crime along with terrorism (91%) and lack of jobs (91%) were the three very big problems of Pakistan.³⁰ Consequently, the police have low public ratings, with 65% dissatisfied with the police and only 29% satisfied with the working of police in Pakistan. The police have been sliding in public opinion: in 2009, 39% supported the police and 55% characterized it as a negative influence.

The police has often been accused of torture. In a study published in 2008, Chaudhry, et al noted that 91.54 per cent of victims of police torture during the period of study (between January 1, 1998 and December 31, 2002) in Lahore were males.³¹ Members from lower socio-economic groups were most frequently victimized by the police; the labour class was the most common victim followed by the business class. While female torture was low (8.46 per cent), women were mishandled as psychological torture to male victims. 12.14 per cent of the victims claimed to have suffered psychological torture as well as physical trauma. The study noted that police torture of victims in the country was showing "an alarming increase", while the violation of human rights in the country by law enforcement agencies was "rampant."

On March 06, 2010 the Chief Justice of Pakistan took suo moto notice after a video showing victims being tortured by police was aired on TV channels. The Supreme Court

observed that prima facie the police personnel concerned had violated the Constitution.³²

With the mobile-phone camera facility more widely available to the citizens, the news media has of late begun to show images of police violence and torture captured by citizens, which has helped put pressure on the police.

1.2.6. How much confidence do people have in the legal system to deliver fair and effective justice?

Respondents to the Transparency International Pakistan's National Corruption Perception Survey 2009 ranked the Judiciary as the 7th most corrupt government department out of the options presented.³³ This observation is believed to be directed at the lower Judiciary, where most of the litigant public comes in touch with the Judiciary. This was a considerable improvement from 2006, when it was ranked as the 3rd most corrupt department. When asked the question "Was any corruption faced by you/your household?" 85.64 per cent of the respondents answered in the affirmative, while 14.36 per cent answered in the negative.³⁴

When asked about judicial activism by the Supreme Court in March 2010, 57 per cent of the respondents to a Gallup Pakistan poll felt that the apex court was acting correctly, 18 per cent believed it was acting incorrectly and 25 per cent held no opinion on the issue.³⁵ The Court system ranked fourth in public approval ratings with 55% approval after the military (84%), the media (76%) and religious leaders (62%) in the PEW Global Attitudes Survey Report on Pakistan in July 2010.

Justice Iftikhar Muhammad Chaudhry, the Chief Justice of the Supreme Court of Pakistan, held a 61% favourable public opinion, the same as Army Chief Gen. Ashfaq Pervez Kayani, according to the PEW Survey. Only 16% expressed an unfavourable view of the Chief Justice and 24% do not offer an opinion.

The Chief Justice, who was suspended by former President Pervez Musharraf, and was reinstated in March 2009 by the Gilani government after major public agitation led by the lawyers and joined by various other segments of the civil society, opposition political parties and widely covered by the independent media, has continued to enjoy wide support for his actions after his reinstatement.

The Supreme Court of Pakistan announced a Judicial Policy effective June 01, 2009. Its key feature is that the

Supreme Court and all the High Courts will decide pending cases within a year, the period for Balochistan being reduced to six months as cases related to the insurgency there had piled up. Similarly, time periods of six months and one year were fixed for the completion of criminal depending on the applicable punishment. In practice, however, the time limits have often been circumvented. Computerisation of court records is also a goal.³⁶ The Supreme Court has been carrying out periodic reviews of the implementation of the Judicial Policy.

1.3 Civil and political rights

Overarching question: Are civil and political rights equally guaranteed for all?

1.3.1. How free are all people from physical violation of their person, and from fear of it?

The chronic deficiencies in civil and political rights have been compounded by new international factors arising from the war in Afghanistan after 9/11. The Afghan Taliban who escaped from Afghanistan into the adjoining tribal areas of Pakistan co-opted many local extremist groups who are now trying to gain the control of certain territories. This has led to a massive increase in terrorist activity in all parts of Pakistan.

Article 9 of the Constitution of Pakistan states: “No person shall be deprived of life or liberty save in accordance with law.”

In terrorist attacks across Pakistan during 2008, there were 6,715 fatalities, with 2155 civilians, 654 security force personals and 3906 terrorists killed. In 2009, total fatalities jumped to 11,704, with 2324 civilians, 991 security force personals and 8389 terrorist killed. In 2010, till August 2010, 8,733 fatalities have occurred, with 5360 civilians, 329 security force personals and 3912 terrorists killed.³⁷

The volatile security situation in Khyber Pakhtunkhwa (formerly NWFP) led to a 90 per cent increase in kidnapping for ransom cases in 2008.³⁸ In its 2009 report, the Pakistan Institute for Peace Studies stated that the “Taliban (had) resorted to kidnappings to generate finances as well as use the abducted individuals as bargaining chips to demand release of arrested militants from the government custody.” Prominent kidnap victims included Dr. Lutfullah Kakakhel, Vice-Chancellor of Kohat University of Science and Technology; Mr. Ateefur Rehman, Upper Dir District

Coordination Officer; Mr. Muhammad Idrees, Kohat Deputy Inspector General; Yar Syed, chief of a Peace Committee; and Malik Riaz Bangash, secretary general of the ANP's Hangu chapter.³⁹

Violence against women registered an increase in 2009. The Human Rights Commission of Pakistan (HRCP) reported 1,404 women were murdered, 647 of whom were murdered in the name of 'honour' while 757 were murdered for other reasons. 928 cases of rape were reported; 135 women fell victims to burning and domestic violence cases shot up from 137 in 2008 to 205 in 2009. In 2008, there 808 cases of sexual violence, 612 honour killings, 137 cases of domestic violence and 138 cases of burnings. According to the HRCP, these numbers represented a fraction of the true problem as a majority of the cases went unreported or were hushed up.

1.3.2. How effective and equal is the protection of the freedoms of movement, expression, association and Assembly?

Article 15 of the Constitution states: “Every citizen shall have the right to remain in, and, subject to any reasonable restriction imposed by law in the public interest, enter and move freely throughout Pakistan and to reside and settle in any part thereof.”

Citizens from one province, city or area can generally move freely to another area and set-up businesses or take up employment.

On March 24, 2008 the new PPP-led government ended the 5-month long detention orders of deposed Chief Justice Iftikhar Chaudhry and other sidelined judges. Bar leaders Mr. Aitzaz Ahsan and Mr. Ali Ahmed Kurd were also restored their freedom of movement. In March 2009, in an attempt to thwart lawyers' long march 600 opposition activists were detailed in the capital city of Islamabad. In early May 2009, the Sindh government placed a ban on chairman PTI, Imran Khan, on entering Sindh. Mr. Khan was due to participate in a peace rally in the city, as well as initiate a membership drive for his party. The ban was later removed after Mr. Khan threatened to move the apex court against the ban.⁴⁰

In its 2008 report on the State of Human rights, the HRCP called the blockade of the road from Parachinar to other settled areas of the then-NWFP “the most serious violation of the right of freedom of movement” in the year, and blamed the blockade for causing flour prices to shoot up by

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN

REPORT

March 25, 2008 - September 24, 2010

as much as 1,000% in the region. The HRCP labelled the administration's inability to keep the roads open "one of its most stunning failures." The resumption of traffic was reported on November 16, 2009, after it had been secured by paramilitary forces.⁴¹

Article 16 of the Constitution states: "Every citizen shall have the right to assemble peacefully and without arms, subject to any reasonable restrictions imposed by law in the interest of public order."

In the prelude to the 2008 General Elections, campaigning was seriously hampered because of restrictions placed by the government on freedom of assembly, often because of threats from militant groups. In Rawalpindi, the district administration banned public gatherings at Liaquat Bagh, whereas in Lahore, the Government of Punjab banned all public rallies in January 2008 for one month in order to improve the law and order situation.⁴²

With the beginning of the Lawyer's Long March on March 15, 2009, the Punjab government, then under Governor Rule, began a wave of arrests and detained lawyers and leaders and workers of the opposition.⁴³ Heavy contingents of police were deployed around PML-N leader Nawaz Sharif's Model Town residence armed with detention orders.⁴⁴ The police however failed to prevent Mr. Sharif from leading the Long March.

Article 19 of the Constitution states: "Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, [commission of] or incitement to an offence."

On March 14, 2009, the Pakistan Electronic Media Regulatory Authority (PEMRA) blocked a private TV channel during the Long March.⁴⁵ In August 2010, Geo TV and ARY News were taken off cable networks in certain areas of the country before the Supreme Court intervened and ordered the restoration of the news channels.

Article 17 of the Constitution states: "Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of [sovereignty or integrity of Pakistan, public order or

morality]."

In his inaugural speech, Prime Minister Gilani outlined his government's plans to revive student and trade unions. However, substantive action is yet to be taken in regard to the former.

1.3.3. How secure is the freedom for all to practise their own religion, language or culture?

Article 20 of the Constitution states:

"Subject to law, public order and morality:-

- (a) every citizen shall have the right to profess, practise and propagate his religion; and
- (b) every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions.

However, in practice, the situation for religious minorities in the country has remained poor.⁴⁶ In 2008, religious minorities were increasingly targeted by militants in the then-NWFP and FATA. According to the Minority Council of Pakistan (MCP), in January 2008, five Christians were kidnapped in South Waziristan and in June 2008, 16 Christians were kidnapped by militants. In another incident in the port city of Karachi, the MCP reported that a United Presbyterian Church was attacked by a Muslim mob in July 2008.

In April 2009, 35 Sikh families were forced to leave their homes after Taliban militants in Orakzai Agency razed their houses due to the non-payment of Rs15 million in 'Jazia' tax.⁴⁷ According to news reports, the families had arranged Rs12 million and had requested the militants for a one-day extension in the deadline to collect the remainder.

In July 2009, Dawn quoted a Sikh resident of the Tirah valley who had been forced to take refuge in Peshawar as saying, "We were living under fear. Fear of militants, fear of Lashkar-e-Islam and fear of other armed groups." On February 21, 2010, Jaspal Singh, another Sikh resident of Tirah valley, who had been kidnapped by the Taliban, was murdered.⁴⁸

A prominent incident of violence against minorities during the period under review occurred in Gojra, a small town in Punjab, on August 03, 2009 when a mob, incensed over the alleged desecration of the Holy Quran at a wedding ceremony, torched a large number of houses belonging to the Christian community, leaving 7 dead.⁴⁹ In response, the

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN

REPORT

March 25, 2008 - September 24, 2010

Gojra police arrested 65 individuals, including Qari Abdul Khaliq Kashmiri, a leader of the banned Sipah-i-Sahaba Pakistan.

According to the Minority Rights Group International, the Blasphemy law remained a source of discrimination against minorities.⁵⁰ The Group's annual report cited an editorial from the Daily Times, after a factory worker was beaten to death by his co-workers in Karachi: "The truth is that an innocent man has been killed because of the legal "facility" [i.e. the Blasphemy Law] available to the killers to hide their real motive. It breaks one's heart to admit that all non-Muslims at the lower rungs of society are vulnerable to this savagery ... And if someone comes to the defence of these wronged people, religious fanatics come out and scare the State away."

Another religious group, the Qadianis, have been especially targeted, with the Minority Rights Group International reporting that 88 people of the faith had been killed between 1984 and 2008.

The HRCP, while commenting on religious minorities in the country in its 2009 report, quoted artist Jamil Masih as saying that it was impossible to get his work displayed at art galleries:⁵¹ "They might even like the work at first but once they find out I am a Christian they won't show it." The Commission illustrated the rise of religious intolerance in Pakistan by stating that:

"Literature too was affected. Fifty years ago a Persian teacher, a pious maulana, explaining the exemplary character of the Holy Prophet (PBUH) quoted lines from Guru Nanak, the founder of Sikhism, to explain his point; from poets to villagers everyone quoted Nanak. Now, Guru Nanak is no longer taught at the Punjab University because he was a non-Muslim. While a translation of Guru Nanak's work by an eminent Pakistani scholar was welcomed in departments of South Asian languages in other countries, no curriculum in Pakistan would use it."

The lack of religious freedom not only impacted non-Muslims, but also the Shia community. The Minority Rights Group International cited the case of Shia Muslim areas of Kurram agency (see previous section for details), which had been cut off from the rest of the country since 2007, prompting doctors to appeal for urgent medical aid to avert a humanitarian crisis.⁵² Two other prominent incidents of

violence against the Shia community occurred in Karachi in January and February 2010 when terrorists targeted the Ashura and Chehlum processions respectively.⁵³ Terrorists followed up the attack on the Chehlum procession with an explosion outside the emergency ward of the Jinnah Postgraduate Medical Centre, which was crowded with relatives of people injured in the bus blast, paramedics and media personnel.

On July 2, 2010 the shrine of Hazrat Ali Hajveri, popularly known as Data Ganj Bakhsh, in Lahore was attacked resulting in the death of at least 37 people.

1.3.4. How free from harassment and intimidation are individuals and groups working to improve human rights?

With the increase in Talibanization in Pakistan, NGOs and human rights groups were faced with growing intimidation. On April 05, 2007, Dawn cited an NGO worker who ran an advocacy group in Tank, KP, "I received life threats from the local Taliban as they termed my work against Shariat," while another NGO worker in Bannu stated: "NGOs are not as active as they used to be in the past and everyone is afraid of being kidnapped."⁵⁴

On February 26, 2008, four NGO workers died when armed men attacked their office with hand grenades in Mansehra.⁵⁵ The NGO was active in various union councils of Mansehra district, focusing on welfare of women and children.

On April 06, 2009, three women workers of a USAID-funded NGO and their driver were gunned down by suspected militants while returning to Mansehra from Kund Bangla.⁵⁶ The team had "gone to Kund Bangla to mobilise the local community to send their children to schools" according to Shahzad Ahmad, the project coordinator. The group had set up parent-teacher associations in villages to promote girls education, he added. Later, on April 28, 2009, three NGO workers were kidnapped in Swat.⁵⁷

On November 21, 2009, a bomb exploded near the building of an NGO offering treatment to the blind in Peshawar, injuring one person.⁵⁸ The groups head Daud Khan stated that it was "engaged in providing treatment to the blind people in North West Frontier Province" and its teams visited different parts of the province and offered treatment to local people suffering from eye diseases. The NGO received funds from Germany, he added.

On February 03, 2009, gunmen in Balochistan kidnapped John Solecki, head of the UNHCR in Quetta, while killing his driver.⁵⁹ Mr Solecki had been working in the sub-office of UN High Commission for Refugees for two years. He was released by his captors after two months on April 05, 2009.⁶⁰

On February 19, 2010, four members of an international NGO Mercy Corps were suspected of having been kidnapped after they went missing in the Shankai area of the Qila Saifullah district, Balochistan.⁶¹ All four were Pakistani nationals, while three of them were residents of Islamabad.

Notwithstanding these individual acts of intimidation, the role of civil society organizations especially those monitoring the human rights has expanded significantly in the past few years with the support of many other groups and community organizations. The formation of a National Human Rights Commission of Pakistan, whose legislation is under consideration by the Parliament for the last many years, may go a long way in the independent monitoring and reporting of the human rights violations in Pakistan.

1.4 Economic and Social Rights

Overarching Question: Are economic and social rights equally guaranteed for all?

1.4.1. How far is access to work or social security available to all, without discrimination?

Part II of the Constitution of Pakistan deals with the 'Fundamental Rights and Principles of Policy'. Article 38 in this part emphasises the promotion of social and economic well being of the people.

According to the Social Security Minimum Standards Convention, 1952, "Social Security is the result achieved by a comprehensive and successful series of public measures for protecting the public (or a large sector of it) from the economic distress that, in the absence of such measures, would cause stoppage of earnings in sickness, unemployment, invalidity or old age and, after death, for making available to that same public medical care as needed and for subsidizing families bringing up young children."⁶²

The Government of Pakistan promulgated the Employees' Social Insurance Ordinance in 1962. However, before the

said Ordinance could be enforced, the subject of Labour Welfare was transferred (under the Constitution of 1962) to the Provincial Governments. As such the Government of West Pakistan promulgated the West Pakistan Employees' Social Security Ordinance in 1965. On completion of the preliminary work in this regard, the Social Security Scheme was launched with effect from 1st March, 1967. On dismemberment of One Unit with effect from 1st July, 1970, the Scheme was reorganized on provincial basis as a result of which three independent Institutions viz. Sindh Employees' Social Security Institution (SESSI), Punjab Employees Social Security Institution (PESSI) and NWFP Employees' Social Security Institution came into existence. The Scheme has been introduced in Balochistan with effect from 1st November, 1990 and is being administered by Balochistan Employees' Social Security Institution (BESSI).⁶³

Under the Ministry of Labour and Manpower, Employees Old Age Benefit Institution provides several schemes such as Old-Age Pension; Survivor's Pension; Invalidity Pension and Old-Age Grant. Though the EOBI falls under the Ministry of Manpower and Labour, presently the institution does not receive any financial assistance from the Government for carrying out its Operations. A contribution equal to 5% of minimum wages has to be paid by the employers of all the industrial and commercial organizations where the EOBI Act is applicable. Contributions equal to 1% of minimum wages by the employees of said Organizations are also made.

The Employees Old Age Benefits Institution (EOBI) disbursed Rs496.694 million among 346,403 pensioners during December 2009. According to an EOBI report, the Institution registered 473 new employers, 14,943 employees and approved 1789 pension claims which included 997 old age, 36 invalidity and 649 survivors' pensions and 107 old-age grants during the same month. The EOBI is a prime welfare institution for labour and working class, which provides financial benefits to the workers of industrial and commercial establishments during old age and invalidity and their survivors. According to the report, the EOBI collected Rs703.37 million as the EOBI contribution from registered employers and employees during the same month. It said there are 37 regional and 30 field offices providing services of registration and granting pension claims throughout Pakistan. The institution has authorized 533 branches of the National Bank of Pakistan for collection of contribution and disbursement of pension across the country.

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

The unemployment rate in Pakistan grew to 5.5% in 2008-2009, from 5.2% in 2007-2008. This is further broken down as 4.7% in rural areas and 7.1% in urban areas in 2008-2009.⁶⁴

The present Government launched the Benazir Income Support Programme (BISP) with initial allocation of Rs.34 billion (USD 425 million, approximately) for the financial year 2008-09. The programme aimed at covering 3.5 million families in the financial year 2008-2009. The allocation for the fiscal year 2009-10 was Rs70 billion to provide cash assistance to 5 million families which constitutes almost 15% of the entire population. The programme aims at covering almost 40% of the population below the poverty line with an allocation of Rs3.50 billion for the current fiscal year. Under this programme, the enrolled families are paid cash assistance of Rs1,000 per month at their doorsteps. The BISP is being implemented in all four provinces (Punjab, Sindh, Baluchistan and Khyber-Pakhtunkhwa) including FATA, AJK and ICT. The BISP is the largest social safety net programme in Pakistan's history.

1.4.2. How effectively are the basic necessities of life guaranteed, including adequate food, shelter and clean water?

Pakistan ranks 101st among 135 countries according to the Human Development Index 2009. According to the Assessment Mission of the UN on Impact of Food Crisis, Pakistan is one of the 32 countries predicted to have a severe food crisis in the coming years; as a result the poorer class will switch to cheaper and less nutritional food.⁶⁵

Amongst the 148 countries included in the Food Security Risk Index, Pakistan is the 11th most susceptible state expected to be confronted with extreme food shortage.⁶⁶ Continuously rising food prices, stagnant incomes and rising unemployment have deteriorated the food-security situation in Pakistan and placed a growing section of the population at risk of starvation and hunger. Even Punjab, the largest agricultural province, is challenged to protect its vulnerable population against the negative impact of high food prices and insufficient household incomes.⁶⁷

According to 2008 data from the World Food Programme, 77 million Pakistanis - nearly half the country's total population - are food insecure, while 95 of Pakistan's 121 districts face problems such as hunger and malnutrition-related disease.⁶⁸ In 2007 a UNICEF report concluded that half of all child deaths in Pakistan can be attributed to poor

nutrition. Food and economic crises have increased food insecurity. Prices of essential food items rose over 35 per cent in 2007-08, compared to an 18 per cent increase in labour wages.

Pakistan has registered an average annual growth rate of GDP over 6 per cent in recent years, yet it ranks 101st out of 135 in Human Development Index 2009. Pakistan's overall debt that stood at about Rs6 trillion at the end of fiscal year 2008, has seen a massive increase of 46% and stands at Rs8.75 trillion in 2010,⁶⁹ accounting for, according to an estimate, 65% of the GDP.⁷⁰ The country faces a near total breakdown in the delivery of basic public services like power, gas and water, potentially leading to large-scale public agitation and protests on the streets.⁷¹

Apart from damaging 1.3 million houses, displacing 7.5 million people, and killing over 1,600 and injuring 2,600,⁷² the unprecedented floods in the country also increased the food prices which has accelerated the inflation rate. According to official figures by the Federal Bureau of Statistics Pakistan's consumer price index (CPI), a key indicator of inflation, surged by 13.23% in August 2010 over the corresponding month of the previous year and is estimated to increase in the months ahead.⁷³ Basic necessities of life including safe drinking water and shelter have been affected severely.

In the face of massive devastation caused by unprecedented floods in Pakistan, the Prime Minister of Pakistan confirmed that floods had destroyed standing crops on 1.4 million acres of land. The Prime Minister estimated losses to crops, cattle and infrastructure as between Rs. 350 billion to Rs. 500 billion, or four to six billion US Dollars, including serious damage to 1,000 bridges and more than 400km of roads, which would cost billions of rupees to repair, and 30 per cent of agricultural land affected. The Pakistan Electric Power Company, the prime minister said, had put the damage to its installations at billions of rupees with grid stations, transformers and transmission lines destroyed in many areas.⁷⁴

The Food and Agriculture Organisation (FAO), a United Nations affiliate, has predicted a food crisis in Pakistan in the coming years as thousands of tonnes of seeds, preserved for harvesting in Rabi (Winter) Season, were washed away by the devastating floods, resulting in great hardships for the growers in the wheat cultivation areas.⁷⁵

Earlier, according to the UNDP Millennium Development

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

Goals (MDGs) in Pakistan, safe water availability had been targeted to rise from 53% (1990s) to 93% (2015) of the population.⁷⁶ "However, safe water has not been well defined and most of the drinking water in Pakistan cannot be classified as safe."⁷⁷

Tap water as a source of drinking water remains at 36% in PSLM 2007-08⁷⁸ as compared to PSLM 2005-06. In Balochistan and KP provinces, tap-water facility has increased from 37% and 44% in 2006-07 to 40% and 51% respectively in 2007-8. Regarding the supply of drinking water, large differences are noticeable across the four provinces. Balochistan and KP depend significantly on the poorest sources, while water sources from Motor Pump have increased in all provinces, particularly in the Punjab province.

During the monsoon and the summer, there is a significant increase in waterborne diseases in Pakistan. An estimated 30% to 40% out of total patients who visit hospitals are treated for waterborne diseases.⁷⁹

Even for those who do have access to clean water, unsanitary handling and storage translates into unsafe household water for drinking and food preparation. Unsafe water, sanitation, and hygiene practices are responsible for the vast majority of diarrheal diseases. An estimated 250,000 child deaths occur each year in Pakistan due to water-borne disease.

Considering the deteriorating water-quality status, the Pakistan Council of Research in Water Resources (PCRWR) launched a National Program for monitoring the quality of water in Pakistan. The main objective of the water-quality monitoring project was to establish a permanent water quality-monitoring network in the country to observe changes in surface and groundwater quality as well as groundwater levels. Overall the water samples were found bacteriological contaminated. Almost 50% of the samples in 17 cities were found unfit for human consumption. All samples in Gujrat, Khuzdar, Loralai and Ziarat were found bacterially contaminated and unsafe for human consumption. Decontamination facilities are generally not present in almost all the cities.⁸⁰

According to the United Nation's Statistics Division, the percentage of urban population living in slums (katchi abadis) in the year 1991, 2000 and 2005 were 78.7, 73.6 and 47.5 respectively. About 60% of total un-regularized slums have been regularized.

The 2005 Punjab Economic Survey stated that roughly half the population of urban Punjab lives in slums, or katchi abadis. In Lahore less than 15% of its population lives in slums or katchi abadis, whereas around 42% of the total population of Karachi lives in 539 slums covering 60% of the city's area and has no access to clean water.

1.4.3. To what extent is the health of the population protected, in all spheres and stages of life?

For the fiscal year 2009, allocation for health under the Public Sector Development Program (PSDP) was increased by 66%, from Rs.13.99 billion in last fiscal year to Rs. 23.15 billion against the demand of Rs.30.310 billion.

During 2008-09, 35 basic health units and 13 rural health centres were constructed, while 40 rural health centres and 850 basic health units were upgraded. According to the Pakistan Red Crescent Society, indicators relating to health continue to reflect poor health status for the majority of approximately 154 million population of Pakistan. Life expectancy stands at 64 years with a high infant mortality rate of 77/1,000 live births while maternal mortality rate ranges between 350-400 per 100,000 live births. Women in reproductive age constitute 24% of the total population and the sex ratio in Pakistan is adverse to women 108:100. Population growth rate is 1.9% annually. Pakistan thus lags behind its neighbours and other low-income countries in terms of health and population outcomes.

There are only 12 doctors to every 10,000 people in Pakistan and 10 hospital beds to every 10,000 people, according to the World Health Organization (WHO).

The availability of health services has seen another crisis through the recent floods in Pakistan. More than 3.5 million children are at risk from waterborne and skin diseases, while respiratory infections and malnutrition are spreading in flooded areas. The problem is compounded by the impact of the floods on the country's medical system, which has long been badly overstretched and underfunded. The floods damaged more than 200 health facilities, and about one-third of the country's 100,000 women health workers have been displaced.

1.4.4. How extensive and inclusive is the right to education, including education in the rights and responsibilities of citizenship?

The Federal Government allocated an amount of Rs31.6 billion for the education sector in the national budget for the year 2009-10 compared to Rs24.4 billion allocated in the

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN

REPORT

March 25, 2008 - September 24, 2010

previous year, while Rs5.14 billion are allocated in the federal budget 2010-2011 for Education Division.

In 1995-96, the allocation was 2% of GDP and slightly above during the subsequent years till 1998-99 with a significant increase in 1996-97. During Gen Pervez Musharraf's military regime from the 2003-04 budget onwards the education allocation hovered around 2.2% of GDP. The present government again reduced it to 1.25% of GDP. This drastic reduction in allocation in the education sector resulted in deterioration of public education services, particularly higher education which has no source of funding other than the Higher Education Commission (HEC).

The UN's Millennium Development Target for education is universal primary enrolment. According to the UNDP Pakistan the net primary enrolment in 1990-91 was 46 per cent and it has increased to 52 per cent by 2004-05. The MTDG target of 77 per cent looks very ambitious and there is little possibility that the target would be met. Similarly 100% target of universal net primary enrolment by 2015 seems to be quite difficult. The target that survival ratio should rise from 50% to 100% is even more ambitious, though the survival ratio has increased from 50% to 72% over 1990-91 to 2004-05. The literacy rate in 2004-05 has been 53%, whereas the MDG target is of 88% by 2015.

The right to free elementary education has now been guaranteed by the Constitution of Pakistan through the 18th amendment under Article 25-A: "The state shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law."

During the recent floods, a number of school structures have been damaged. The OCHA's situation report suggests that "some 7,820 schools are reported to have been fully or partially damaged in Punjab, Sindh, Balochistan, KP, GB and AJK, and about 4,935 schools are being used as relief shelters. A decrease in the number of schools being used as shelters has also been reported from KPK and Sindh." According to Save the Children US, over 5,500 schools have been damaged across the country, while 5,000 others are being used as shelters for displaced families. According to the UN Children's Fund (UNICEF), 1.6 million children have been affected by damaged schools, or because the schools are being used as shelters.

1.4.5. How free are trade unions and other work-

related associations to organize and represent their members' interests?

The right to association is guaranteed by Article 17 of the Pakistani Constitution giving every citizen the "right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality."

General labour conditions in Pakistan leave much to the desired. The country's existing labour code is riddled with discrepancies. Furthermore, since Pakistan's economy has a significant informal sector, the majority of workers remain outside the ambit of labour laws and social protection. Only 2.4% of the labour force is unionized and has access to collective bargaining for their wages and working conditions.

Until recently, labour and related subjects remained part of the Concurrent Legislative List making it the responsibility of both the federal and provincial governments. For the sake of uniformity, laws were enacted by the federal government, stipulating that provincial governments may make rules and regulations of their own according to the conditions prevailing in or for the specific requirements of the provinces. However, after the promulgation of the 18th Constitutional Amendment on April 19, 2010, the 47-subject Concurrent Legislative List has been omitted from the Constitution of Pakistan, thereby transferring these subjects, including Trade Unions, Industrial and Labour Disputes, to the provinces.

A petition has been filed by the Pakistan Workers Federation in the Supreme Court of Pakistan against the 18th Constitutional Amendment, citing reasons such as taking away the right of labour unions or federations to register at the national level. The petitioners have argued that the provincial legislation passed so far on the subject is in violation of the fundamental rights guaranteed under the Constitution.

1.4.6. How rigorous and transparent are the rules on corporate governance and how effectively are corporations regulated in the public interest?

Pakistan's corporate governance is principally guided by the Companies Ordinance, 1984; the Securities and Exchange Commission (SECP) Act, 1997; and the regulations of the Stock Exchanges of Karachi, Lahore and Islamabad. The Securities and Exchange Commission of Pakistan (SECP) introduced the Code of Corporate Governance (the Code) in 2002.

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN

REPORT

March 25, 2008 - September 24, 2010

The Securities and Exchange Commission of Pakistan (SECP) became operational in January 1999. It was initially concerned with the regulation of corporate sector and capital market and to the supervision and regulation of insurance companies, non-banking finance companies and private pensions. The SECP has also been assigned with oversight of various external service providers to the corporate and financial sectors, including chartered accountants, credit rating agencies, corporate secretaries, brokers, surveyors, etc.

The SECP has been initiating and filing criminal complaints against the companies they find violating the Corporate Governance Code. The SECP publishes quarterly and annual reports on the inquiries conducted by it.

The Centre for Management and Economic Research (CMER) released a working paper on Regulatory Impact Assessment (RIA) of the SECP's Corporate Governance Code of Pakistan and assessed its success as well as its compatibility with international standard and strategy as follows:

“The analysis shows that though the listed companies are gearing themselves up to adopt the Code, there are some constraints, and reservations about the way it was drafted and implemented. The paper concludes that the policy makers should try to apply RIA framework more rigorously for ensuring greater accountability of the regulatory actions as well as improving regulatory transparency”

There has been criticism of the absence of any watchdog authority to oversee the performance of state-owned enterprises, so as to ensure that white-collar crimes in companies such as the Pakistan Steel Mills are not committed.

REPRESENTATIVE AND ACCOUNTABLE GOVERNMENT

2.1. Free and Fair Elections

Overarching Question: *Do elections give the people control over governments and their policies?*

2.1.1. How far is appointment to governmental and legislative office determined by popular competitive election, and how frequently do elections lead to change in the governing parties or personnel?

The preamble of the Constitution of Pakistan states that the "State shall exercise its powers and authority through the chosen representatives of the people." The executive authority of the federation vests in the office of the President of Pakistan. The national Parliament and four (4) Provincial Assemblies constitute the Electoral College for the President. A Cabinet of Ministers, who are members of the National Assembly or the Senate of Pakistan, with the Prime Minister, a Member of the National Assembly of Pakistan, at its head, is constitutionally mandated to aid and advise the President in the exercise of his functions.⁸¹ Similar systems are replicated in the provinces through the office of the governor, chief ministers and provincial cabinets.

Article 224 (1) of the Constitution states: "A general election to the National Assembly or a Provincial Assembly shall be held within a period of sixty days immediately [following] the day on which the term of the Assembly is due to expire, unless the Assembly has been sooner dissolved, and the results of the election shall be declared not later than fourteen days before that day."

In the span of 40 years since 1970, Pakistan has had 9 General Elections in 1970, 1977, 1985, 1988, 1990, 1993, 1997, 2002 and 2008. The 1970 Election is regarded as relatively free and fair but it did not lead to a transfer of power to the party which won the largest number of seats in the Assembly. The 1977 Election is generally accepted to be rigged, though there are varying accounts about the extent of rigging. The result of the 1977 election was rejected by the Opposition and led to widespread agitation culminating in the Army takeover and Martial Law.

No political party was allowed to contest the 1985 election; all candidates contested as independents. The dark shadow of a ruthless military government dominated the 1985 Election and the consequent Assembly. No transfer of

power was envisaged; at best, some sharing of power was planned. A weak civilian Prime Minister did use whatever limited democratic space was made available to expand the writ of the elected government, but the government was eventually sacked by the President-cum-Chief-of-the-Army-Staff, General Zia ul Haq.

The premier intelligence agency of the Armed Forces, the Inter-Services Intelligence (ISI), successfully manipulated the 1988 Election by creating and supporting an alliance of political parties, as later admitted by the then-ISI Director General, Lt. Gen. (Retd.) Hamid Gul. A limited transfer of power followed as a powerful President fully supported by the Armed Forces dominated the elected Prime Minister, who was in a weak position to start with because of a slim majority in the National Assembly due to the ISI-facilitated electoral alliance, the IJI.

The 1990 Election took place after the sacking of the PPP Government by the President. A caretaker government sympathetic to the IJI was installed and the 1990 Election produced an IJI victory. In this sense, it was a transfer of power from the PPP to the IJI with a partisan caretaker government and President bridging the period between the two governments.

The 1993 Election came in the wake of the sacking of the IJI Government by the President. After a messy judicial and political battle, the President also had to resign. A consensus caretaker government was installed which conducted the 1993 Election. In some ways, it was also a relatively free and fair Election which led to the victory of the PPP. This was a more legitimate and fair transfer of power than the previous ones.

Once again the PPP Government was sacked by the President in 1996, leading to the 1997 Election. A President hostile to the PPP presided over a Caretaker Government which was led by a veteran but disenchanted PPP leader, Malik Meraj Khalid. The PML-N, led by Mr. Nawaz Sharif, won a 2/3rd majority and once again power was transferred from one party to the other. In 1999, yet again putting aside all constitutional, democratic and civilised norms, the Army ousted the elected government and assumed direct control.

General Pervez Musharraf, the President-cum-Chief of the Army Staff, held an Election in 2002 which was heavily manipulated ahead of the polling day. Major political

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

contenders Benazir Bhutto and Nawaz Sharif were out of the country and not allowed to return to the country for the Election. The Army and the ISI heavily influenced the Election by creating a party loyal to General Pervez Musharraf. Administrative influence was used to ensure a victory for the favourite party, the PML-Q. Even election rules and constitutional provisions were suspended to allow floor-crossing to enable the formation of a Government by the PML-Q. President General Pervez Musharraf remained a powerful head of the state and final authority in all matters up to the completion of the term of the Government in 2007.

Before the next election, a powerful and popular movement had started against General Musharraf, triggered by General Musharraf's effort to remove the Chief Justice of Pakistan, Mr. Iftikhar Chaudhry, who had begun to chart an independent course. The public demonstrations led by the lawyers and supported by a newly empowered and popular electronic media weakened General Musharraf to a point where he initiated dialogue with Benazir Bhutto, the PPP Chairperson. A broad understanding seemed to have been reached between General Musharraf and Benazir Bhutto about the next election and it appears that the understanding was underwritten by some powerful foreign countries. According to the reported understanding, the PPP was to be 'allowed' to win the election and no rigging or manipulation was to be employed to prevent its victory. General Musharraf was also to be accepted as the President, at least for some time, according to the reported understanding. However, Benazir Bhutto was assassinated in the middle of the election campaign in December 2007 and the resulting sympathy wave mitigated the possibility of any rigging against the PPP, even if had been as intended.

By the time the 2008 Election was held, Pervez Musharraf had relinquished the position of the Chief of Army Staff under intense domestic and international pressure, thus depriving him of the source of his political strength. The Army, under the command of his successor, General Ashfaq Pervez Kayani, and the ISI, appear to have remained neutral during the 2008 Election. The PPP emerged as the largest party in the National Assembly and formed a coalition Government.

General (Retd.) Pervez Musharraf had to resign as President on August 18, 2008 after an impeachment motion against him appeared imminent. The ruling PPP elected its co-chairman Asif Ali Zardari as the new

President on September 6, 2008. In this way, a real transfer of power took place from Musharraf-backed PML-Q to the PPP; however, it is far from clear if the transfer of power was a result purely of the electoral process. A number of behind-the-scene activities involving powerful actors within the country, for example, the Army and the ISI, and outside the country helped in facilitating the transfer of power. During the past two and a half years, on several occasions it has appeared that the current government was constrained by some of the understandings which may have been reached prior to the 2008 Election.

Before the 18th Constitutional Amendment, citizens groups such as the Citizens Group on Electoral Process (CGEP) had proposed that after the dissolution of the National Assembly or completion of its term a neutral caretaker government be appointed after reaching a consensus with the outgoing National Assembly's Leader of the House and Leader of the Opposition. The proposal has been reflected in the 18th Constitutional Amendment. The amendment has also added that "Members of the caretaker cabinets and their immediate family members (spouse and children) shall not be eligible to contest the immediate following elections to such Assemblies."

Despite demands, however, the amendment does not define the caretaker cabinet as Neutral and also does not define the powers and responsibilities of the Caretaker Government as limited to holding of elections and related routine administration.

2.1.2. How inclusive and accessible for all citizens are the registration and voting procedures, how independent are they of government and party control, and how free from intimidation and abuse?

The preparation of electoral rolls for the 2008 general elections caused some controversy after the draft electoral rolls displayed by the Election Commission of Pakistan (ECP) contained only 52,102,428 registered voters; down from 71,863,280 voters in the 2002 electoral rolls.⁸² Considering the historical growth rate of 2.7 percent per annum, the number of registered voters in 2007 should have grown to around 82 million. Consequently, the electoral rolls showed a gap of approximately 30 million. The Supreme Court of Pakistan ordered the creation of a supplemental list of voters for the general elections, after Mohtarma Benazir Bhutto, the then-chairperson PPP challenged the draft electoral rolls in the court. The supplemental list contained an additional 27 million voters, taking the total number contained in both lists to

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

approximately 81 million.

The Election Commission of Pakistan (ECP) commissioned computerised Electoral Rolls in April 2006 and completed the exercise in about 20 months just a few weeks before the 2008 General Election. Unfortunately, the computerised electoral rolls neither contained voters' pictures (despite repeated reminders by certain citizens groups including the CGEP) nor were these complete or error free. Despite a door-to-door survey and incurring an expense of about Rs1 billion (officially declared by the ECP on its website and mainly contributed by the USAID), the resulting Voters' List gained only a low level of confidence among the political parties and citizens' groups. The list contains multiple entries of voters and was a major source of complaints by various candidates in the 2008 election. A cautious estimate puts the extent of bogus votes in Pakistani Electoral Rolls at around 25%, significant by any standard.⁸³

Pakistan instituted the system of National Identification Cards back in 1974 and adopted computerised Identification Cards issued by the National Database and Registration Authority (NADRA) since 1998. However, for reasons not explained to the public, the Election Commission of Pakistan did not use the NADRA database to prepare fresh electoral rolls for the 2008 election. According to the NADRA figures, the number of CNIC holders was approaching 79 million as of July 2010. Out of this, 46 million (58 %) were men and 32 million (40 %) were women. In 2008, the Bangladesh Government provided Identification Cards to its over 95% adult population in less than a year through an integral process of voter registration and issuance of National Identification Cards, eliminating time-consuming duplication of effort on the part of the citizens and state institutions. The Bangladeshi electoral rolls produced ahead of the December 2008 election contained pictures of each voter. In India, voters' pictures are being incorporated in the Voters' List and a picture Voter Card is also issued to each registered voter.

The ECP initiated a joint technical working group with NADRA in April 2009 with the objective of revising electoral rolls by exploring the feasibility of validating, authenticating and marking duplicate and bogus voter data from the ECP electoral rolls database in conjunction with the NADRA CNIC database. NADRA and the ECP have agreed to start a pilot project after provision of data sets for two Tehsils, one urban Tehsil of Rawalpindi district and one rural Tehsil from

Chakwal district. After successful implementation of the pilot project, the rest would be executed on an agreed work plan.

One of the strategic goals in the Election Commission's Five-Year Strategic Plan 2010-2014 is to "Improve the existing computerised electoral rolls system (CERS) up to June 2010". The ECP also aims to achieve "Legislation on mandatory condition of CNIC for voter registration leading to accuracy in the electoral rolls by September 2010; Improved display of the draft electoral rolls and accessibility to voters till December 2011; and to Conduct a study in to introduction of photograph in the electoral rolls."⁸⁴

The Election Commission of Pakistan has continuously suffered from a low level of trust by public and political parties in its ability to conduct free, fair and credible elections in Pakistan. According to some analysts, general elections held in Pakistan in 1970, 1977, 1985, 1988, 1990, 1993, 1997 and 2002, all have had high, medium or low levels of rigging in the three phases of elections, i.e. pre-poll, polling day and post-poll phases.⁸⁵

The appointment of the Chief Election Commissioner and ensuring the Commissioner's independence and impartiality have been major issues. Before the 18th Constitutional Amendment, the President of Pakistan was constitutionally empowered to appoint the Chief Election Commissioner in his discretion. However, after the 18th Constitutional Amendment, Article 213 has been amended and defines a process of consultation involving the Prime Minister and the Leader of the opposition who will "forward 3 names for the appointment of the CEC to a Parliamentary Committee for hearing and confirmation of any person."⁸⁶

In line with another demand, the 18th Constitutional Amendment has changed the composition of the Election Commission and, in addition to the CEC, four (4) permanent members from each Province are to be appointed to complete the Election Commission. Previously, High Court Judges served as temporary Provincial Election Commissioners.

The Constitution of Pakistan mandates that the CEC and other Commissioners can only be from the Judiciary. However, since the conduct of an election is mainly an administrative job, the CEC and other members of the Election Commission do not necessarily have to be from the Judiciary. This, however, requires an amendment in the

Constitution.

In order to ensure independence, it is also proposed that a judge should not be appointed as CEC or a member of the Election Commission before the expiration of 3 years after he/she has ceased to hold the position of a judge of the Supreme Court or a High Court.

2.1.3. How fair are the procedures for the registration of candidates and parties, and how far is there fair access for them to the media and other means of communication with the voters?

Article 17 of the Constitution deals with the registration of political parties and, post-18th Amendment, states: "Every citizen, not being in the services of Pakistan, shall have the right to form or be a member of a political party, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan and such law shall provide that where the Federal Government declares that any political party has been formed or is operating in a manner prejudicial to the sovereignty or integrity of Pakistan, the Federal Government shall, within fifteen days of such declaration, refer the matter to the Supreme Court whose decision on such reference shall be final."

Candidates are nominated under the rules specified in Article 12 of the Representation of the People Act, 1976, Clauses 1 and 2 (a) of which are:

- (1) Any elector of a constituency may propose or second the name of any duly qualified person to be a member for that constituency.
- (2) Every nomination shall be made by a separate nomination paper in the prescribed form which shall be signed both by the proposer and seconder and shall, on solemn affirmation made and signed by the candidate, accompany
 - (a) A declaration that he has consented to the nomination and that he fulfils the qualifications specified in Article 62 and is not subject to any of the disqualifications specified in Article 63 or any other law for the time being in force for being elected as a member;

While the procedures for the registration of candidates and parties remain generally fair, some procedural reforms are required to create greater access to that information for the voter as well as the media prior to and during an election. The public access to disclosure and declarations by the

candidates and parties before to an election proves helpful to voters. The ECP obtains key information about candidates through prescribed nomination papers including education, assets, debts and liabilities, tax information, etc. Although the information is classified as public and in theory is available for scrutiny, a bureaucratic and time-consuming procedure impedes access to such information. The ECP should make arrangements to upload all disclosures for each constituency on the ECP website before every Election and within 3 days after the publishing of final list of candidates.⁸⁷ The availability of such information online should also be publicised for public knowledge. The ECP has made a commitment in its Five-Year Strategic Plan 2010-2014 to "Publish the financial statements of parliamentarians and political parties on the ECP website". The ECP has set the deadline of October 2010 for this task.⁸⁸

There is also a need for the ECP to electronically display progressive polling station-wise election results on its website in the interest of fairness and transparency. The CGEP proposes that each polling station should electronically (e.g., via email, telephone, SMS, fax, etc.) transmit a copy of its vote count (results) directly to the Election Commission, which should immediately post the results on its website. This measure will preclude any manipulation after the result is compiled and will enhance public confidence in the electoral process.

The ECP has mentioned the objective in its Five-Year Strategic Plan 2010-2014 to "Publish polling stations-wise results on the ECP website immediately after the results are available". The ECP has set the deadline of June 2013 to achieve this goal the year when the next General Elections are due to be held.

In the prelude to the 2008 General Elections, the Human Rights Watch (HRW) cited a bias by the state media, which has a wider reach than the private media, towards the PML-Q and its allies in its coverage, stating: "Human Rights Watch monitored PTV's election coverage in three phases prior to elections: December 19-26, January 7-14, and February 7-10. During this time, the state media gave PML-Q and its allies broadcast time far in excess of its coverage of the opposition. In addition, PTV completely ignored the parties advocating a boycott of elections. Privately-owned channels, however, do report on the activities of these political parties, which have participated in previous elections. A disproportionate amount of air time was allotted to Musharraf supporters, particularly after the

assassination of Benazir Bhutto on December 27.”

The HRW also criticised restrictions put in place by the then-President Gen. Pervez Musharraf restricting live coverage of protests by lawyers and political activists, and censorship of talk shows for limiting the public's “right to information.”

2.1.4. How effective a range of choice does the electoral and party system allow the voters, how equally do their votes count, and how closely do the composition of the legislature and the selection of the executive reflect the choices they make?

As noted in the previous section, Article 17 (2) of the Constitution allows every citizen not being in the service of Pakistan to register a political party, subject to any reasonable restrictions placed by the Federal Government. Elections are therefore party-based. The Parliament has representation of political parties from a wide range of the political spectrum; from religious parties such as the JUI-F and the JI, to more liberal parties such as the ANP and the PPPP.

The number of voters in each National Assembly and Provincial Assembly constituency varies. Based on the number of registered voters during the 2008 Election, the largest National Assembly constituency was NA-266, Nasirabad-cum-Jaffarabad with 651,356 voters and the smallest was NA-38 Tribal Area-III with 87,993 voters. An average National Assembly constituency size was about 295,000 voters. An average Provincial Assembly constituency in Punjab and Sindh had approximately 147,000 voters; in Khyber Pakhtunkhwa about 106,000 voters; and in Balochistan about 89,000 voters.

Pakistan's electoral system is based on First Past the Post (FPTP). Only reserved seats for women and Non-Muslims are allocated on the basis of a form of Proportional Representation system. The number of reserved seats is allocated on the bases of the proportion of general seats won by each party. The FPTP system allows a candidate winning a minority vote in a constituency to get elected as he or she may have won the largest number of votes among a large number of candidates. According to the prevailing system, a party which may have following in the entire country but not enough in any constituency to return its candidate may end up without any representation in the Parliament. In the past, political parties with a smaller share of the popular vote have won a larger number of seats in the assemblies. For example, the PPPP won 28.4% popular

votes in the 2002 Election but could win only 23.16% of the National Assembly seats. The PML-Q, meanwhile, won only 26.6% votes but 33.82 % of the seats.

2.1.5. How far does the legislature reflect the social composition of the electorate?

Article 62 of the Constitution allows a person to be qualified or elected to Parliament if he is a citizen of the country, enrolled in the voter's list, has not been convicted for a crime and is sagacious and righteous, among other requirements. The 18th Constitutional Amendment has introduced changes in Articles 62 and 63 relating to qualifications and disqualifications for election to the Parliament and the Provincial Assemblies. Earlier a person was not qualified if he/she had been convicted for an offence involving moral turpitude or giving false evidence. This has been removed. Time limits for disqualifications, i.e. five years from date of release in case of jail terms, five years from date of dismissal from public service, two years from date of compulsory retirement, have been re-introduced in place of Musharraf-era lifetime bans.

While the law allows for a diverse group of parliamentarians, in reality, the situation is quite different, with monetary means playing an important role in who can contest elections. The average value of assets of a Member of the National Assembly (MNA) was just below Rs27 million in 2002-2003 which has increased to almost Rs81 million in 2008-2009 a three-fold increase in assets declared by Members of the National Assembly (MNA) belonging to the 12th National Assembly (2002-2007) and the 13th (current) National Assembly of Pakistan from 2002-2003 to 2008-2009.⁸⁹

In an evaluation of Parliament undertaken by a diverse group of Members of the National Assembly, journalists, academics, civil servants, etc. on PILDAT's initiative, the question “How easy is it for a person of average means to be elected to Parliament?” received the lowest score of 28% for all of the indicators in the section “Representativeness of the National Assembly.”⁹⁰

A restriction on the eligibility for Parliamentarians was placed in 2002, after then-President Musharraf imposed a minimum requirement of a bachelor's degree. On April 21, 2008, the Supreme Court struck down the condition after then-Attorney General Malik Mohammad Qayyum stated that only 3% of the total registered voters possessed a graduate degree. The election of the 12th National Assembly of Pakistan (2002-2007) and the 13th National

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN

REPORT

March 25, 2008 - September 24, 2010

Assembly of Pakistan have, however, been conducted under the eligibility criterion of a bachelor's degree for candidates.

2.1.6. What proportion of the electorate votes, and how far are the election results accepted by all political forces in the country and outside?

According to the Election Commission of Pakistan, voter turnout in the 2008 General Election in Pakistan stood at 43.65%. This figure is considerably lower than both the neighbouring India, where the turnout in the 2009 General Election stood at 62%⁹¹ and Bangladesh, where the 2008 General Election witnessed a record turnout of 88%.

Before the 2008 General Election in Pakistan, average voter turnout in General Elections of Pakistan since 1947 stood at about 45 per cent. Voter Turnout was 57.96% in the first General Election in 1970 (55.09% in East Pakistan and 61.45% in West Pakistan) but in the following General Elections, it gradually decreased until the 1997 General Elections. In the 1997 General Elections voter turnout was 35.4%. Voter turnout in the 2002 General Election slightly recovered to 41.7%. In the Local Government Election held in 200-2001, voter turnout was 52.3%, which decreased to 47.5% in the 2005 Local Government Election.⁹²

According to statistics compiled by the Sweden-based International Institute for Democracy and Electoral Assistance (I-IDEA) in its publication "Voter Turnout since 1945: A Global Report," Pakistan has the lowest average voter turnout among the South Asian countries with India having an average turnout of 59.4%; Bangladesh 58.2%; Sri Lanka 74.3% and Pakistan, as stated above, 45.3%. According to the same source, Pakistan ranks at 164 in terms of Voter turnout, out of 169 countries surveyed. Sri Lanka ranks at 79, India at 141 and Bangladesh at 143.

Election results have generally not been accepted by political parties on the losing side in elections. The 1970 Election, though considered fairest in Pakistan's history, was considered unfair by many parties including the Jama'at-e-Islami which considered itself a likely winner. Charges of strong-arm tactics and intimidation were levelled against the Awami League, the party which swept all but two National Assembly seats from then-East Pakistan. The 1977 Election result was totally rejected by the opposition. The 1985, 1988, 1990, 1993, 1997 and 2002 Election results were also rejected by the losing parties.

In the 2008 General Election, a departure from earlier

political reaction was seen when the former ruling party, the PML (in Government from 2002-2007) accepted the results and stated it would sit in the opposition.⁹³ However, candidates from the two most successful parties, the PPP and the PML-N, claimed that the elections were not completely fair. Candidates for NA-219 and PS-49 accused the MQM of rigging elections and resorting to violence,⁹⁴ while former Prime Minister Nawaz Sharif accused the PML of fixing votes and attacking his supporters.

In a pre-Election Assessment Score Card, the Citizens Group on Electoral Process (CGEP) had termed the pre-electoral process leading up to the General Election 2008 to be highly unfair with extremely low prospects for the credibility of the General Election 2008. Judging the overall fairness of the pre-poll environment spanning over 12 months, the Citizens Group gave it a poor assessment, a score of 26 on a scale of 100.⁹⁵

In its observations of the 2008 General Elections, the European Union Election Observation Mission (EUEOM) noted that very few returning officers displayed constituency results with a breakdown of polling stations. It further noted that public authorities favoured the former ruling party, Nazims were heavily involved in campaign activities, and the complaints and appeals framework failed to provide effective remedy. Furthermore, there were serious restrictions on the right to stand for elections, and a lack of confidence in the Election Commission prevailed. Overall, the mission observed that technical preparations had seen some improvement and the elections were "competitive."

The first elections for the Gilgit Baltistan Assembly held in November 2009 also resulted in accusations of electoral fraud levelled by the opposition. While official results showed the PPP obtaining a majority, the PML President Chaudhry Shujaat Hussain claimed that rigging had "even broken the records of 1977 vote fraud."⁹⁶ There were also accusations of executive interference, with the PML-N spokesperson Siddiqui Farooq accusing the then-Governor Gilgit-Baltistan, Mr. Qamar Zaman Kaira, of using state machinery to help the PPP candidates.⁹⁷

In the by-election for NA-55, the losing candidate, Sheikh Rashid Ahmed, while accepting defeat, alleged that the elections had been rigged.⁹⁸ He however stated that he would not file a complaint with the Election Commission, as he was "helpless" in the face of the Punjab government, whom he accused of conducting "pre-planned rigging."

Low voter turnout and allegations of rigging by contesting parties continue to characterise by-elections. In PP-13, Rawalpindi XIII, a Punjab Assembly seat, the PML-N emerged victorious, but the voter turnout was 17.69%.

The use of state resources and influences in by-elections has been another issue and both the ruling PPP and the PML-N in Punjab have been accused of this practice. The Election Commission of Pakistan asked the Punjab Election Commissioner to lodge an FIR with the police against persons who tried to rig the by-polls in NA-100, Gujranwala.⁹⁹

Prime Minister of Pakistan Syed Yusuf Raza Gilani has consistently addressed Election rallies in support of the candidates of his party and announced development schemes while visiting by-election constituencies on state expense, using the full, state-funded protocol of the Prime Minister.¹⁰⁰ In a letter to the Honourable Chief Election Commissioner dated August 3, 2010, PILDAT sought clarification from the Honourable Chief Election Commissioner whether the Prime Minister's election rallies and announcement of development projects constituted violations of electoral law or code of conduct.

2.2. The Democratic Role of Political Parties

Overarching Question: *Does the party system assist the working of democracy?*

2.2.1. How freely are parties able to form and recruit members, engage with the public and campaign for office?

Pakistan inherited "less than 10 political parties" from British India at the time of partition in August 1947.¹⁰¹ In 2009, registered and non-registered parties number over 80, although 15-20 political parties figure prominently in politics. The origin and development of parties and their structures is seen to have followed a different trajectory than the growth of political parties in developed democracies of Europe and North America, where parties grew with the development of a representative government. In comparison, political parties in British India, including the Muslim League and the Indian National Congress, were founded as advocacy groups, rather than outcome of a democratic process.¹⁰²

Similarly, unlike the Western model of democracy where issues of nation-state and national identity had been

resolved by the time democracy and adult franchise were accepted as operational norms of political process, Pakistan had not seen these issues settled at the time of adoption of adult franchise and democracy.¹⁰³ Scholars argue that as Pakistan represents fragmented ethnic, linguistic, regional and religious strands, these have been made use of to make political dividends. Some national political parties have emerged that have attempted to bypass or defuse these fragmented identities and fault lines, but their attempts have not always been successful. Regional or ethnic parties, or those with other parochial interests have used the electoral process to strengthen themselves in turn strengthening regional or ethnicity-based politics in Pakistan.

Article 17 of the Constitution allows every citizen of Pakistan, with the exception of those in its service, to form or be a member of a political party, provided that no political party promotes sectarian, ethnic or regional hatred.

The 18th Constitutional Amendment amended Article 17 so as to do away with, among other things, intra political party elections, an amendment criticised largely as regressive by the public and the media. The justification given for this change is that the law (Political Parties Act, 1962) already provides for such elections.¹⁰⁴

While there is no bar on parties on recruiting members, the general public's interest joining political parties or politics remains low. A July 2010 Gilani Poll/Gallup Pakistan reveals that only 22% Pakistanis have ever wished to join politics and even if they were offered an opportunity, only 9% said they had a strong inclination to take up the profession, another 19% expressing some inclination. But the vast majority of both men and women show no interest in politics as a career. Interest in politics as a professional career dips sharply among Pakistanis with post-graduate degrees, as only 3% of that group claimed they were keen on politics as a professional career.

The overall law and order situation in the country owing to militancy and terrorism has also lately affected the ability of political parties to engage with the public and campaign for public office. The assassination of Mohtarma Benazir Bhutto, chairperson of the PPP and former Prime Minister ahead of the 2008 General Election severely curtailed campaigning by other leaders. With a growing wave of militancy in Pakistan, especially in parts of the KP, since 2008, political parties and elected representatives rely mainly on news media for engaging with the public on key

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

political issues.

Political parties have experienced difficulties in recruiting members generally from an area outside their traditional bases. A case in point has been the MQM's attempt to expand its base to Punjab and the alleged harassment of its workers by the police.¹⁰⁵ The Pakistan Tehrik-i-Insaaf has also accused the Punjab government of removing its advertising hoardings in Lahore to undermine its mass-contact campaign. Senator Pervaiz Rashid from the PML-N, however, rejected the charge, saying that the policy applied to hoardings of all parties, not just the PTI.¹⁰⁶ In early May 2009, the Sindh government placed a ban on the chairman PTI, Mr. Imran Khan, on entering Sindh.¹⁰⁷ Mr. Khan was due to participate in a peace rally in the city, as well as initiate a membership drive for his party. The ban was later removed after Mr. Khan threatened to move the apex court against the ban.

In what is termed as a political “fight for domination in Karachi,” Karachi has witnessed a deadly spell of target killings during 2010, largely seen as a turf war between the MQM and the ANP. The ruling PPP is “perceived by the MQM as challenging its monopoly on Karachi politics... the ANP is more active in Karachi now than was the case three years ago; the Sunni Tehrik is also making inroads into Karachi,” making it hard for MQM to “sustain its capacity to control reward and punishment in Karachi.”¹⁰⁸

2.2.2. How effective is the party system in forming and sustaining governments in office?

Article 63-A (1) of the Constitution prevents a member of a parliamentary party from switching loyalties and states that a member can be disqualified:

- (1) If a member of a Parliamentary Party composed of a single political party in a House-
 - (a) resigns from membership of his political party or joins another Parliamentary Party; or
 - (b) votes or abstains from voting in the House contrary to any direction issued by the Parliamentary Party to which he belongs, in relation to-
 - (i) election of the Prime Minister or the Chief Minister; or
 - (ii) a vote of confidence or a vote of no-confidence; or
 - (iii) a Money Bill;

The 18th Constitutional Amendment has changed Article

63-A, to be effective after next General Election, so that disqualification for defection will be triggered on a reference made by the Head of a Party [by whatever name called] in place of the Head of a Parliamentary Party earlier, and the Speaker or Presiding Officer will not be able to 'sit on', i.e. delay the reference. In this manner the position and power of Mr. Asif Zardari in the PPP, Mian Nawaz Sharif in the PML-N and Mr. Altaf Hussain in the MQM have been strengthened.

While the presence of legislation against defection or switching loyalties helps sustain governments, it does not necessarily mean that the majority party is always successful in forming the government. A case in point is the Balochistan Assembly, where after the 2008 General

Table 1: Strength of Political Parties in the Provincial Assembly of Balochistan

No.	Name of Party	Seats
1.	Pakistan Muslim League-Nawaz (PML-N)	0
2.	Pakistan Peoples Party-Parliamentarian (PPPP)	12
3.	Pakistan Muslim League (PML)	19
4.	Pakistan Muslim League-Functional (PML-F)	0
5.	Muttahida Majlis-e-Amal (MMA)	10
6.	Muttahida Quami Movement	0
7.	Independent	12
8.	Balochistan National Party (BNP-A)	7
9.	National Peoples Party (NPP)	0
10.	National Party (NP)	1
11.	Awami National Party (ANP)	4
12.	Pakistan Peoples Party - Sherpao (PPP-S)	0
Total		65

Election, the PML won the most seats yet the government was formed by the PPPP.

2.2.3. How far are parties effective membership organizations, and how far are members able to influence party policy and candidate selection?

The majority of Political parties in Pakistan are personality driven and have weak organisational structures. Structures exist in theory but in practice national and provincial levels of a party function sporadically at the call of the top leader. Organisational structures are usually non-existent and dysfunctional except at the time of an election when party candidates activate local party units with their loyalists and supporters, thus replicating at the local level organisational structures dominated by local leaders. Lacking institutionalisation, party organisation suffers from internal feuds based on personal factors, region and political jealousies, intensification of which results in factions that break apart to become another party. Local factions are dominated by different leaders, most of whom have strong constituencies and do not require party support to win an election.¹⁰⁹

Apart from the Jama'at-e-Islami (JI), which is a cadre party and maintains a party organisation set-up and internal discipline, all major political parties are seen as personality driven. In the absence of strong internal organisation, parties depend on the appeal and clout of the leader. Leaders have a free hand in managing the affairs of the party in consultation with a group of close advisors and do not always "consult formal policymaking and management bodies of the party."¹¹⁰

Given the factional nature of party politics, it is observed that open and competitive elections often intensify factional wrangling characterised by trading allegations over enrolment of fake members, use of intimidation and threats, and manipulation of party elections. To avoid these issues, the top leadership of political parties usually nominates provincial and local level leaders.

Senior party positions are also disputed in such scenarios. A case in point was the elections of the PML's Central Executive Committee (CEC) in July 2009, which led to the election of Chaudary Shujaat Hussain as president of the party.¹¹¹ The elections were disputed by a group within the party, which claimed to speak for the "real" PML. The group assembled separately and elected Mr. Humayun Akhtar as the party's chairman, Senator Salim Saifullah as president, Mr. Hamid Nasir Chattha as secretary general,

and Mr. Khurshid Kasuri as chief organiser. The move eventually led to the expulsion of Mr. Humayun Akhtar from the PML.¹¹²

The PML-N had dissolved all its local organisations at a meeting in Bhurban on September 8, 2009, as the tenure of the outgoing office-bearers expired on August 2, 2009. The decision was taken at a joint meeting of the parliamentary party, the central working committee and PML-N workers. The meeting also appointed Mr. Nawaz Sharif as chairman of the central organising committee to hold party elections. A unanimous resolution was adopted to restructure and reorganise the PML-N and hold intra-party elections. Mr. Nawaz Sharif was given power to nominate other organising bodies at the district and tehsil levels to hold party elections. He was also authorised to make all political and managerial decisions in the meantime. The meeting gave six months to the organising committees to complete the process of the party's membership and elections and elect new bodies by March 23, 2010. There are media reports about resentment in various provinces about Mr. Nawaz Sharif's party nominees, especially in Sindh and Balochistan.¹¹³ Despite the lapse of almost a year, no intra-party elections have been held in the PML-N and the deadline, after being changed thrice, is now November 2010.

Membership database of parties is not well maintained. Even the record of the membership of the General Council of the parties, which elect national office bearers, is not maintained properly. Membership of the Electoral College is a subject of controversy and is not made public.

Although national and provincial parliamentary selection boards are made to select the party candidates for national and provincial elections, the final decision is usually left to the party heads. In general, views of the party members at the constituency level are considered while selecting candidates from the constituency but local party members do not play a decisive role in the selection of party candidates.

2.2.4. How far does the system of party financing prevent the subordination of parties to special interests?

In 2002, General Pervez Musharraf issued the Political Parties Order 2002. Article 13 of the order required political parties to declare their source of funding. Table 2¹¹⁴ carries the status of the assets of major political parties in Pakistan.

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

Table 2: Political Party Statements of Accounts 2009

Party	Net Balance at the Close of the Year 2008-09
PML-N	Rs. 1,370,601 in cash and bank balances
ANP	Rs. 1,837,493 in cash and bank balances
PPPP	Rs. 435,745 in cash and bank balances
PML	Rs. 1,333,526 in cash and bank balances
MQM	Rs. 40,503,832 in cash and bank balances

In 2009, political party financing continued to remain weak. According to the statement of accounts of political parties published in the Gazette of Pakistan, the ruling PPPP had the lowest current assets amongst major political parties,

while the MQM had the highest. The PML relied heavily on its party president for funding, while the PML-N's main source of funding was the Assembly Members fund and Senators' application fees. The MQM and ANP, however, received a major chunk of their funding from members and donations. According to the statement of accounts of political parties published in the Gazette of Pakistan:

1. The PML-N's main source of funds during 2008-2009 were the Provincial Assembly Members fund and Senator's application fee, which together totalled Rs. 1,507,000 and accounted for 62% of funds received. During the period, the PML-N spent Rs. 1,835,403.
2. The Awami National Party received a total of Rs. 392,644 during 2008-2009, out of which Rs. 328,454 (84%) originated from members. During the period, the party spent Rs. 504,873.
3. The PPPP had no income/receipts in 2008-2009. The party incurred expenses of Rs660.
4. The PML received a total of Rs. 11,879,357 in 2008-

Table 3: Breakdown of Seats by Political Parties in the 13th National Assembly

No.	Party	FATA	ICT	KP	Punjab	Sindh	Balochistan	Total
1	PPPP	0	0	9	45	33	4	91
2	PML-N	0	2	4	60	0	0	66
3	PML	0	0	5	28	4	4	41
4	MQM	0	0	0	0	19	0	19
5	ANP	0	0	10	0	0	0	10
6	MMA	0	0	4	0	0	2	6
7	PML-F	0	0	0	1	3	0	4
8	BNP-A	0	0	0	0	0	1	1
9	PPP-S	0	0	1	0	0	0	1
10	NPP	0	0	0	0	1	0	1
11	IND.	11	0	1	2	1	2	17

2009, out of which Rs. 6,044,711 (51%) were received from its President. The party made payments amounting to Rs. 12,102,335 during the period.

5. The MQM received Rs. 77,045,891 during 2008-2009, out of which Rs. 55,802,648 (72%) were from the Muttahida Quami Fund (MQF), while Rs. 20,785,000 (27%) were from donations. The party incurred expenses of Rs. 37,671,631 during the period.

Many question the real value of declared party assets, much like the MNAs' assets. Corruption in the political system, weakness of the political parties, high cost of political activity and electioneering are often cited as reasons for considering reforms for introducing a system of public funding for political parties.¹¹⁵ Party finances are mostly generated through private sources like membership fees and donations by individuals and corporations. However, in many countries, parties are also state-funded and a major chunk of party income is afforded through the public sector. Germany is a case in point where state funds political parties in proportion to their showing in the last election and on the basis of the number of their paying members. Weak financial health of political parties is considered a constraint for reaching voters and running well-equipped offices at the national, provincial and local levels in Pakistan.

2.2.5. To what extent does support for parties cross ethnic, religious and linguistic divisions?

An analysis of the results of the National Assembly 2008 General Election shows that in terms of a presence in all four provinces and territories of the country, only the PPPP and the PML can claim success. While the PML-N performed strongly in Punjab, it failed to win a single seat in Sindh and Balochistan. The MQM and the ANP only won seats in Sindh and KP respectively. The ability of parties other than the PPP and PML to cross ethnic and linguistic boundaries is limited. Some parties, like the JI, which boycotted the 2008 Election have a robust organisation throughout the country but only have a limited appeal electoral appeal.

2.3. Effective and Responsive Government

Overarching Question: *Is government effective in serving the public and responsive to its concerns?*

2.3.1. How far is the elected government able to influence or control those matters that are important to the lives of its people, and how well is it informed, organized and resourced to do so?

The elected governments in Pakistan are generally faced with three types of pressures which severely constrain their influence and control over matters that are important to people such as Employment, Inflation and Law and Order. During the past two-and-a-half years, these constraints have increased for the incumbent Government.

In general, the economy has been under pressure in Pakistan. Other than the 2002-2007 period where the economy was relatively stable, Pakistan has faced one economic crisis after the other in recent history. The global economic crisis in 2008 and the high prices of petroleum products and staple foods in international markets put severe pressure on the Pakistani economy. The present Government turned to IMF borrowing which led to a series of reform demands from the IMF. Increasing the prices of electricity, petroleum and gas were mandated by the IMF as was the widening of tax base all unpopular measures.

The intensifying insurgency in the country put a new and serious burden on Pakistan's economy. Given the fragile security conditions, the significance and influence of the Armed Forces has increased, while the options of the Government in this security environment have significantly shrunk.

The expectations of the public of its elected Government are very high and the public generally desires quick fixes. The demands of the Parliamentary system of Government, especially in a coalition Government like the present one, force the Government to make compromises with other political parties while trying to appease their own parliamentarians. Large cabinets, induction of more persons in government jobs or in state owned enterprises than necessary, announcing unrealistic and unsustainable development packages are all hallmarks of a weak elected Government in Pakistan and most of these are manifesting themselves at the moment.

The Government's decision to continue the Musharraf policy of aligning with the US in the ongoing war in Afghanistan in particular is not popular with a large

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

segment of population, complicating matters for the Government. The Government is also criticised for corruption, lack of respect for rule of law, weak financial discipline and favouring personal friends over merit in terms of selecting senior managers in public sector. These factors have collectively eroded the ability of the Government to deliver basic necessities and services. A leadership with vision, dedication, integrity and innovation may yet find a way out even in these difficult times, but so far such traits have been tellingly absent.

According to a spring survey of public opinion in Pakistan under Pew Global Attitudes Project released in July 2010, just one-quarter of Pakistanis say the national government has a good influence on the direction of the country, while a large majority (71%) says it is having a bad influence. Pakistani sentiment about the national government has grown increasingly negative in the last decade. The percentage describing the government's impact as positive has fallen from 72% in 2002 to 59% in 2007 and 40% in 2009, declining again in this year's survey.¹¹⁶

During the 2008 General Election, the Pakistan Peoples Party reiterated its commitment to its long-held manifesto of "Food, Clothing and Shelter to every poor family in Pakistan"¹¹⁷ and promised change through employment, education, energy, environment and equality. Yet crises such as food shortage, energy, price hike, dwindling economy and resultant increase in poverty have continued to rock the government. Owing to limited fiscal space available, the government has been unable to fulfil its promises and pledges in areas such as education and health, while lack of focus or the ability to take and implement policy decisions is also cited as a reason.

Analysts argue that given the circumstances in which the current government took over power following nine years of military rule, and given Pakistan's accumulated

problems, it is unfair to set a score-card on issues of governance, yet the Government has shown clear governance failures at the macro level, where better and more effective management could have resulted in better policies.¹¹⁸ Most economists agree that the problems in Pakistan's economy were aggravated by the mishandling of the economy by the present government.

In September 2009, Prime Minister Yousuf Raza Gilani stated that the Government planned to increase the education budget to 7 per cent of the GDP by 2015.¹¹⁹ While this decision was in line with the recommendations of international organisations such as UNESCO who had called for a greater allocation to education, the government's ability to utilise the existing allocation was called into question. Furthermore, the Economic Survey of Pakistan 2009 showed a release of Rs. 4313.6 million in 2007-2008 against the original allocation of Rs. 6508.78 million for the Ministry of Education under the Public Sector Development Program (PSDP). In 2008-2009 the PSDP allocation stood at Rs 6269.652 million, but was reduced by 33% to Rs. 4,162 million.¹²⁰ The cut in 2008-2009 was attributed to "financial constraints." Funding for the Higher Education Commission (HEC) also witnessed a decrease during the period of the assessment. The Economic Survey of Pakistan attributed this decrease to the "economic crisis" which began in 2007-2008. Pakistan was ranked 117th out of 134 countries in terms of quality of primary education in the World Economic Forum's Global Competitiveness Index for 2009.

In the past two years, the Government faced multiple food crises. At the start of its term, it inherited a wheat shortage. A committee was formed to devise a plan to overcome it and ensure supply at uniform prices.¹²¹ However, reports of the shortage of wheat continued to surface throughout the period, with the KP threatening to move court after the Punjab government stopped the supply of wheat to other

Table 4: Development and Non Development Expenditure on Higher Education

	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010
Released Recurring	10,493.412	14,332.521	12,536.498	15,766.425	21,500.000
Released Development	10,890.877	14,409.156	15,390.455	16,420.408	22,500.00
Released Total	21,384.289	28,741.677	27,926.953	132,186.833	44,000.00

Source: Economic Survey of Pakistan 2009-2010

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

provinces in August 2009. The causes for the shortage varied, with food department officials in Rawalpindi and Islamabad stating that it was a problem with distribution.¹²² An increase in the price of flour was reported in Karachi ahead of Eid-ul-Azha despite the presence of 950,000 tonnes of wheat in Sindh, as compared to 570,000 tonnes in the preceding year. The Pakistan Flour Mills Association (Sindh zone) Chairman Mohammad Yousuf associated this rise in price to the shortage of transport, as most of the vehicles were employed in the transportation of sacrificial animals. According to the Economic Survey of Pakistan 2009, the shortfall of the production of wheat in the country had led to a 17% increase in the price of the food item.

In the second year of its term, the Government was faced with a new food crisis. A shortage of sugar led the Government to increase the price of sugar to Rs49.75 per kg. In view of the crisis, the Lahore High Court (LHC) taking suo moto notice of the hike in sugar prices and subsequently ordered the commodity to be sold at Rs40. Later, the Supreme Court (SC) declined to suspend the LHC's verdict.¹²³ The National Accountability Bureau (NAB) informed the court that top politicians including President Mr. Asif Ali Zardari, PML-N chief Mr. Nawaz Sharif, Punjab Chief Minister Mr. Shahbaz Sharif, PML chief Chaudhry Shujaat Hussain, Mr. Nasrullah Dareshak, Mr. Jehangir Tareen, Mr. Humayun Akhtar Khan, Mr. Anwar Cheema, former governor of Punjab Mian Mohammad Azhar, Mian Altaf Saleem, and Senator Haroon Akhtar were among those responsible for a similar sugar crisis in 2006. In the aftermath of the Lahore High Court's verdict, Mr. Wattoo while addressing the National Assembly's Standing Committee had expressed the Government's inability to supply sugar at the rates ordered by the Lahore High Court and stated that "the Industries Ministry did not have any policeman nor a Tehsildar or any other authority to control the price hike. The high court will have to implement its decision by itself."¹²⁴ The sugar crisis continued into 2010, with the Industries and Production Minister Mir Hazar Khan Bijarani presenting figures that indicated a gap of 1.2 million tonnes between production and consumption in the country.

At the beginning of its term, the PPP-led government was also faced with multiple energy crises, with a World Bank study predicting Pakistan would face a power shortage of around 6,000 megawatts by 2010.¹²⁵ On April 14, 2008, a rally against power outages in Multan the constituency of Prime Minister Gilani deteriorated into a riot leaving 58 people injured and two offices of the Multan Electric Supply

Corporation injured.¹²⁶ Faced with a hail of protests during the Senate's summer session in July, the Federal Minister for Water and Power Raja Pervez Ashraf assured the house of additional generation capacity of 3,500 megawatts by December 31, 2009 to overcome the shortage.¹²⁷

In October 2009, the Minister apprised the Senate that Rental Power Projects (RPPs) were the only option for ending load shedding within six months.¹²⁸ Yet, a third party evaluation carried out by the Asian Development Bank (ADB) stated that even the addition of 14 RPPs would not end load shedding in Pakistan.¹²⁹ Rather, it suggested the utilization of 2,000 megawatts of electricity from within the existing system by operating it at full capacity. Analysts also cited the existence of huge circular debt, which was close to Rs198 billion as of November 2008,¹³⁰ as a reason for Independent Power Producers (IPPs) not utilizing their full generation capacity. Load shedding has continued in 2010, with protests breaking out in various cities of the country. The power production options, especially hydel power, have come into sharper focus after the worst-ever floods in Pakistan in July-August 2010 have raised questions about whether the construction of dams such as Kalabagh may have both averted the flood catastrophe as well as addressed the energy and other agricultural needs of Pakistan.

In July 2009, the Prime Minister's Adviser on Petroleum Dr Asim Hussain outlined the need to import gas from Iran through the proposed Iran-Pakistan pipeline in order to overcome the severe gas shortage that was expected in the winter. By November 2009, the Government decided to close CNG stations for two days a week as part of a gas load management plan to overcome the shortage, prompting the All Pakistan CNG Association to call a strike. However, the Association called off the strike three days later after the Minister for Petroleum Syed Naveed Qamar assured them that their grievances would be addressed.¹³¹ The Minister announced on February 04, 2010 that gas load shedding to the CNG industry would be discontinued by the end of the month due to a decrease in domestic consumption. However, a ban on new CNG stations would remain in effect till fresh supplies were arranged.

2.3.2. How effective and open to scrutiny is the control exercised by elected leaders and their ministers

over their administrative staff and other executive agencies?

In general, the elected leaders such as the Prime Minister, Chief Ministers, Federal and Provincial Ministers exercised effective control over their administrative staff. This control is open to scrutiny by the superior courts which have exercised this option on several occasions. Sometimes, the administrative staff have collectively challenged a decision of the elected representatives and won. In general, administrative staff tend to make compromises and go along with the elected officials to safeguard their careers. Only in exceptional cases do they disagree with the elected officials. The elected governments tend to give increased role to elected legislatures in the postings, transfers and promotions of the civil service officials and this further enhances the degree of control on the civil service, sometime even compromising the independence of the civil servants.

During the period of the assessment, two incidents in particular highlighted the negative impact on the independence of civil servants. First, in late June 2009, a controversy arose when the Government appointed a Grade-20 officer from the District Management Group (DMG) as Ambassador to France¹³². The move was criticised heavily by Foreign Service officials, with the deputy to the ambassador in Paris, who was senior, reported to have requested a recall rather than serve under a junior official.¹³³ Some alleged that the appointment was made under pressure from the Presidency, a charge denied by Presidential spokesman Mr. Farhatullah Babar, who stated that all such appointments were made by the Prime Minister's office.¹³⁴ Early in July, senior officials of the Foreign Office were reported to have refrained from taking the matter to court when Foreign Minister Mr. Shah Mehmood Qureshi took it up with the President. The deadlock however continued and on July 19, 2009, 105 senior civil servants of the Foreign Service moved the Islamabad High Court (IHC) regarding the appointment.¹³⁵ The appointment of the envoy however was withdrawn by Prime Minister Yousuf Raza Gilani within 12 hours of the filing of the petition.¹³⁶

On September 4, 2009, the Prime Minister reshuffled almost the entire senior bureaucracy, replacing over a dozen federal secretaries and announcing changes in several other ministries by promoting a number of civil servants to BPS-22. Those ignored in the promotions moved the Supreme Court, pleading that injustice had been done to them by promoting the other 54 bureaucrats. The

promotions and the subsequent official reshuffling were the largest in the country's bureaucratic history, in which a number of secretaries, including the interior, information, industries, privatisation commission, labour, and the special secretary of finance were replaced with the newly-promoted officers. The Supreme Court judgement of April 28, 2010 set aside the promotion of 54 civil servants from grade-21 to grade-22.¹³⁷

Another incident that brought into question the control of elected officials over executive agencies occurred on January 25, 2010 when policemen in Quetta resorted to near-mutiny over the issue of increase in salaries.¹³⁸ The policemen demanded their salaries be brought at par with those of their colleagues in Punjab, Sindh and KP and during their protest resorted to aerial firing, torching tires on main city roads and forcing shops to close down. The protesters eventually reached the Governor House, where Balochistan Governor Nawab Zulfiqar Ali Magsi urged them to present their demands in writing, which he would then forward to the Chief Minister. The policemen however refused to call off the protest until an immediate notification to raise their salaries was issued. Furthermore, they turned down requests from provincial ministers Zamarak Khan Piralizai, Mir Yonus Malazai, Syed Ehsan Shah and Tahir Mahmood to call off the protest till the return of the Chief Minister, who was abroad at the time. The policemen eventually agreed to call off the protest when Home Minister Mir Zafarullah Zehri gave assurances to the protesting policemen that their demands would be taken up with higher authorities. Five officials of the Special Branch whose involvement in the protests was caught on camera were dismissed from service, while an inquiry was ordered against 300 officials of the Balochistan Constabulary, Special Branch and Anti-Terrorism Force (ATF).¹³⁹

The Punjab Government has come to be known for frequent transfers and administrative disciplinary actions against civil service officials. On the spot suspensions and transfers of civil officials has created discipline and greater control but a sense of insecurity as well. Many competent officials tend to avoid a duty with the Government of Punjab because of these insecurities.

2.3.3. How open and systematic are the procedures for public consultation on government policy and

legislation, and how equal is the access for relevant interests to government?

There is almost no mechanism or practice of consultation on legislation or policy with the people by the federal or provincial governments. Governments, both federal and provincial, do not even have a structured formal system of consultation with their elected representatives. The Parliament and Provincial Assemblies with their standing committees can be effective forums for consultation with the legislators and to promote consultation with the public but the parliamentary committees, Parliament and the Provincial Assemblies have not been adequately consulted or used as forums of consultation with the public on legislations and policies framed or to be framed by the governments.

With a few exceptions, most standing committees hold in-camera sessions. During the past two years, few Parliamentary committees have held public consultations. Two notable cases where committees asked for public input and consultation include the Parliamentary Committee on Constitutional Reforms and the National Assembly's Standing Committee on Finance and Revenue.

In August 2009, the Parliamentary Committee on Constitutional Reform sought the opinions of the general public, civil society, the Pakistan Bar Council and provincial bar councils about the Charter of Democracy, the 17th Amendment and provincial autonomy.¹⁴⁰ On February 18, 2010, the National Assembly's Standing Committee on Finance and Revenue held a pre-budget consultation for the first time in the history of committee.¹⁴¹

In July 2008, the Ministry of Finance debuted a blog by making the first post on the Economic Survey 2007-2008. The blog allows users to leave comments and has been updated regularly by the Ministry.

2.3.4. How accessible and reliable are public services for those who need them, and how systematic is consultation with users over service delivery?

There are regulatory authorities for some of the major public services which are required by law to consult the public before taking a decision which may affect the public. The Oil and Gas Development Authority (OGRA) holds consultations when a proposal to increase the price of oil or gas is received from the Ministry of Petroleum. Similarly, the National Electric Power Regulatory Authority (NEPRA) consults the public on the quality of service when considering revision of tariffs for electric power. Generally,

public participation in such consultations has been poor, as a result of which public influence on the ultimate decisions has been minimal.

The availability and reliability of public services in Pakistan has been a matter of concern throughout the country's history, with the International Crisis Group (ICG) stating that: "decades of mismanagement, political manipulation and corruption have rendered Pakistan's civil service incapable of providing effective governance and basic public services. In public perceptions, the country's 2.4 million civil servants are widely seen as unresponsive and corrupt, and bureaucratic procedures cumbersome and exploitative."¹⁴² According to the Group, the education system is "over-centralized", and bureaucratic infighting has occasionally led to a delay in production of textbooks, thereby depriving teachers and students of learning material. Furthermore, corruption in the public education sector has led to the mushrooming of "ghost" schools, to which valuable resources of the Ministry of Education are allocated.

Respondents to the National Corruption Perception Survey (NCPS) 2010 carried out by the Transparency International Pakistan ranked education as the fourth most corrupt government department out of ten options presented to them. During the period of this assessment, the Economic Survey of Pakistan 2009-2010 reported a fall in the number of primary school (Classes I-V) teachers between 2007-08 and 2008-09.

During the past two years, the country was faced with multiple energy crises and soaring fuel costs. During 2008-2009, the National Electric Power Regulatory Authority (NEPRA) received 445 complaints, out of which 347 were redressed while 98 were still under process.¹⁴³ The Oil and Gas Regulatory Authority (OGRA) received 1917 complaints, out of which 1489 were resolved while 428 were under process.¹⁴⁴ Respondents to the NCPS 2010 ranked Power as the second most corrupt government department out of ten options presented to them, with 54.35% of respondents stating they had obtained an electricity connection through an "alternative process."

2.3.5. How comprehensive and effective is the right of access for citizens to government information under the constitution or other laws?

The 18th Constitutional Amendment ensures the Right to Information as one of the fundamental rights by inserting the new Article 19-A in the Constitution: "Every citizen shall

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law.”

Citizens' access to government information in Pakistan is provided for by the Freedom of Information Ordinance, 2002, which was promulgated in response to 'policy actions' agreed upon with the Asian Development Bank.¹⁴⁵ The ordinance aims to “provide for transparency and freedom of information” and empowers citizens to request information from public bodies through employees designated by them. However, the ordinance restricts access to information whose disclosure might be harmful to Pakistan's international relations, law enforcement efforts, involve an invasion of privacy, or endanger the country's economic and social affairs. Furthermore it does not derogate any other laws, meaning that the restrictions of the Official Secrets Act, 1923; Qanoon-e-Shahadat Order, 1984; and Government Servants (Conduct) Rules, 1964 remain in force, due to which government officials are often reluctant to disclose information.

The ordinance has been labelled as “weak and inadequate” by the Centre for Peace and Development Initiatives (CPDI), which has called upon the government to take immediate steps to strengthen the legislation. These include reducing and precisely defining exemptions, making it obligatory for government departments to publish important information, making requested information accessible rapidly, reducing the costs of information requests, repealing laws which are inconsistent with the Freedom of Information ordinance such as the Official Secrets Act, 1923 and providing adequate protection for whistleblowers.

When the PPP assumed government, it was vocal in its support for the right to information, with both the President and Prime Minister referring to it in their inaugural speeches. The then-Minister for Information Ms. Sherry Rehman who had authored a Freedom of Information bill in 2004, drafted a new law, but it was not presented before the Parliament. In August 2009, Senator Raza Rabbani stated that the issue would be taken up in the Parliament and he would talk to the Minister for Information in this regard.

Although there are freedom of information laws at the national level and in the provinces of Sindh and Balochistan, the largest province, Punjab, and Khyber Pakhtunkhwa do not have any such law as yet. With the passage of 18th Amendment and through the NFC Award major financial resources being moved to the provinces, provincial laws

for freedom of information are more important than ever.

Despite the fact that the Freedom of Information Ordinance has been on the statutes books for about 8 years, there has not been any significant effort to make use of the law by general public and media. There have been very few cases of complaints against a department refusing to give information to the people. This is in stark contrast to India where the Right to Information law has become a major public tool to take on the powerful executive.

2.3.6. How much confidence do people have in the ability of government to solve the main problems confronting society, and in their own ability to influence it?

According to a survey conducted by the International Republican Institute (IRI), 84 per cent of respondents felt the country was headed in the wrong direction in August 2009. This figure was up by three percent from March 2009.¹⁴⁶ In the spring survey, under the Pew Global Attitudes Project released in July 2010, few Pakistanis are happy with the state of their nation only 14% were satisfied with national conditions, while 84% said they are dissatisfied. 78% said Pakistan's economy was in bad shape. Moreover, there was growing pessimism about Pakistan's economic future. Half of the public expected the country's economic situation to worsen over the next 12 months, up from 35% in the 2009 survey.

In response to a Gilani poll relating to corruption in the country released in January 2010, 62% believed corruption would increase in 2010, 27% felt it would decrease and 11% were unsure. 74% stated that corruption had some or a lot of negative impact on their lives, 89% felt it affected the business sector and 88% felt politics suffered from corruption (bribery) to some or a great extent.

Latest public opinion surveys from Pakistan released by the PEW Global Attitudes Project in July 2010 revealed that corruption continues to be regarded as a major challenge in the society. 74% of respondents stated that corrupt political leaders are a very big problem. Last year, a similar share (71%) viewed corruption as a very big problem, while smaller majorities did so in 2007 (64%) and 2002 (58%).

Comparison of the Annual Hope and Despair survey conducted by Gallup at the end of each year since 2000 indicates that Pakistani optimists outnumber pessimists for all years except the last two (surveys conducted at the end of 2008 and 2009) when pessimists and optimists were in

the ratio of 40 to 9 in 2008 and 35 to 23 in 2009, indicating some improvement in 2009.

2.4 The Democratic Effectiveness of Parliament

Overarching Question: Does the Parliament or legislature contribute effectively to the democratic process?

2.4.1. How independent is the Parliament or legislature of the executive, and how freely are its members able to express their opinions?

In Pakistan, members of Parliament are granted immunity from prosecution in a court of law for expressing their opinions in the Parliament under Article 66 (1) of the Constitution, which states:

Subject to the Constitution and to the rules of procedure of [Majlis-e-Shoora (Parliament)], there shall be freedom of speech in [Majlis-e-Shoora (Parliament)] and no member shall be liable to any proceedings in any court in respect of anything said or any vote given by him in [Majlis-e-Shoora (Parliament)], and no person shall be so liable in respect of the publication by or under the authority of [Majlis-e-Shoora (Parliament)] of any report, paper, votes or proceedings.

Whereas institutionally Parliament is independent, dominance of political parties in elections has meant tight party control over MPs and parliamentary groups that make the business of the Parliament very predictable. Since the parties that form the executive control the House, it is rare that MPs voice their independent opinions against the policies of the executive openly.

It has now become a feature of any parliamentary system that party discipline makes this majority reliable and almost guarantees the Government victory in Parliamentary votes or what is termed as an 'Elective Dictatorship.'

Constitutionally, MPs were required to vote along party lines on certain matters such as the election and vote of confidence or no-confidence of the leader of the House and a money bill (budget). However, the 18th Constitutional Amendment has made it mandatory for MPs to vote along party lines on a constitutional amendment bill, a move that was criticised for further restricting MPs' already limited independence.

In fact, through the 18th Constitutional Amendment, party control, or the party leader's control, has been further strengthened. In Article 63-A relating to defection, the main changes, to be effective after the next general election, are that disqualification for defection will be triggered on a reference made by the Head of a Party [by whatever name called] instead of the Head of a Parliamentary Party as was earlier the case, and the Speaker or Presiding Officer will not be able to delay the reference. Through this change, the position and power of Mr. Asif Zardari in the PPP, Mian Nawaz Sharif in the PML-N and Mr. Altaf Hussain in the MQM have been strengthened.

Apart from developmental funds received by a parliamentarian from the Federal Government (usually Rs15 million per year), all other funds are at the discretion of the Prime Minister.¹⁴⁷ The criteria for allocating these funds are also the domain of the Prime Minister. Therefore, wayward MNAs are told that in case they detract from the party line by constantly embarrassing the government, they would be denied developmental funds by the 'competent authority.'

2.4.2. How extensive and effective are the powers of the legislature to initiate, scrutinize and amend legislation?

Under the provisions of Article 70 of the Constitution, a Bill with respect to any matter in the Federal Legislative List or in the Concurrent Legislative List may originate in either House. If it is passed by the House, the bill is then forwarded to the other House for approval. A Bill that is approved by both houses is then sent to the President for assent.

While the rules afford the Parliament significant powers to pass legislation, high expectations of constituents to resolve local issues means that Members of National Assembly are left with little time to perform their duties as an MNA. Furthermore, the absence of research staff for MNAs means they do not have access to properly researched and analysed counter positions or improvements to a Bill sponsored by the Government or a Private Member, with the result that pushing legislation through becomes the prerogative of the government.

The National Assembly passed 29 government¹⁴⁸ and 3 private members' bills in the second year concluding in March 2010, while the Assembly passed 3 government bills and 1 private member' bill during the first year. 68

Ordinances were promulgated by the President of Pakistan during the second year compared to 8 during the first year. The ratio of laws passed by the Assembly to the ordinances promulgated during the second year was therefore 32 to 68, or 2.1 ordinances for every law passed by the Assembly. This compares to 2.6 ordinances for every law passed by the Assembly during the first year. The legislation by the Assembly has therefore improved compared to legislation by Presidential decree during the second year.

While the ratio improved between the years, the Parliament failed to pass key legislation like the Holders of Public Offices (Accountability) Bill 2009 that has remained pending with the National Assembly Standing Committee on Law, Justice and Parliamentary Affairs since April 2009.

2.4.3. How extensive and effective are the powers of the legislature to oversee the executive and hold it to account?

Parliamentary oversight is one of the cornerstones of democratic Parliaments and is an indicator of good governance. Parliamentary Committees are the engines that drive parliamentary oversight to hold the government accountable for the policies that it implements. Parliamentary oversight is the broad monitoring of the executive's action by the representatives of the citizens. Besides the Parliament's legislative function, it is through effective oversight that the Parliament can ensure a balance of power and assert its role as the defender of the people's interests and economic and social prosperity.

Currently there exist 38 Ministries-related standing committees in the Senate, each comprising about 12 members and 46 Ministries-related Standing Committees in the National Assembly, each comprising about 17 members.

Article 198 of the Rules of Procedure and Conduct of Business in the National Assembly 2007 provides for the formation of standing committees for each ministry of the government. A similar provision exists in the rules of procedure of the Senate. The committees of both houses have the powers to examine the "expenditures, administration, delegated legislation, the public petitions and policies of the Ministry concerned and its attached corporations and public bodies" and may call on the Ministry to submit a reply.¹⁴⁹

Additionally, the Senate and the National Assembly also have a Committee on Government Assurances respectively,

which is responsible for taking note of "the assurances, promises, commitments, and undertakings of the Government given by its Ministers from time to time on the floor of the House" to report on the extent to which these commitment have been implemented and whether the implementation has taken place in a timely manner. The two committees have held 3 meetings each respectively.

The National Assembly also has a Public Accounts Committee (PAC) with powers to "examine the accounts showing the appropriation of sums granted by the Assembly for the expenditure of the Government, the annual finance accounts of the Government, the report of the Auditor-General of Pakistan and such other matters as the Minister for Finance may refer to it." As the key accountability committee, headed by the Leader of the Opposition, a development that has taken place for the first time in the Parliamentary history of Pakistan, the PAC has continued to be the most active among the committees. The PAC held 29 full committee meetings in 2009-2010 as compared to 28 in the first year; an increase by three per cent. The PAC also held the maximum number of meetings among all the National Assembly Committees.

While there are instances of committee work improving especially in oversight affairs in this Parliament, the parliamentary committee system remains one of the weakest areas in Parliamentary performance. Committees are often referred to as "the workhorses" of Parliament. Non-partisan and representative structures of Committees, with serious and independent research support are required for effective oversight over the executive. As key organs of Parliaments, committees require highly qualified staff who can carry out research and are familiar with parliamentary procedures and laws. Independent research services are essential to supporting the work of Parliamentary Committees. But provision of research support and non-availability of qualified and sufficient staff remains an issue of key concern affecting Parliament's performance especially in oversight of the executive.

2.4.4. How rigorous are the procedures for approval and supervision of taxation and public expenditure?

The Public Accounts Committee has significant powers to oversee public expenditure. The efficacy of this mechanism therefore depends on the performance of the committee and the reports of the Auditor General which form the basis of the Committees work. The PAC has held the maximum number of meetings among all the National

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

Assembly Committees in the past two years; however availability of qualified staff and support infrastructure remain key issues for the committee.

Under Article 80 of the Constitution, the Federal Government is required to place the Annual Budget Statement before the National Assembly. However, the Parliament's involvement in the making of the federal budget as well as its ability to influence it have been extremely limited in Pakistan.¹⁵⁰

Pakistan's current budgetary process has, for various historical reasons, attracted little input from parliamentarians, political parties or wider civil society. The budget process has in consequence become solely the domain of the government, leaving little scope for analysis or accountability by the Parliament. PILDAT has been recommending improvements in the Parliamentary Budget Process including providing an effective role to the National Assembly in the review of the budget proposals of the government; giving a significant role to the standing committees to review the demands for grants relating to their respective ministries or divisions; and extending the budget session to a longer duration, i.e. up to 90 days or more, to allow more meaningful input. However, despite promises to improve the budget process, little has changed over past two years.

In 2008, the Budget Session of the National Assembly was held from June 02-24. Yet, it did not witness any significant improvement in terms of opportunity for serious contribution to budget proposals by parliamentarians. The standing committees, which have a significant role in processing all bills presented in the Assembly, remain excluded from discussion and examination of the Finance Bill. Winding up the general debate on the new government's first budget, the Minister in-charge for Finance, Syed Naveed Qamar told the House that the government planned to begin budget deliberations as early as March 2009 rather than June. He stated that from the following year, the expenditure part of the budget would be presented before the National Assembly in March for deliberations in different standing committees before the presentation of the final budget in June, a promise which was not kept by the Government in 2009 or 2010. The Federal Budget 2009-2010 was tabled in the House on June 13, 2010 while the Budget 2010-2011 was tabled on June 5, 2010.

Budget Session in the second year (June 13-25, 2009) saw an increase in the participation of opposition MNAs,

from 63 in the first year to 74 in the second; a 16% increase. However, the increase in participation made no significant difference to the substance of the debate. There was also a serious lack of pre-budget consultation with the members and the general public. A mechanism of consultation could have been beneficial in terms of a democratic consensus on budget allocation.

Once again, the Federal Budget 2009-2010 was passed in a remarkably short amount of time (10 working days; 42 Working Hours) further indicating the lack of substantive discussion. The Assembly debated the budget for almost the same amount of time as last year (41.46 Hours) and despite the same number of hours available for debate, fewer members participated in the second year; 170 (or about 50% of the total members of the National Assembly) in the second year compared to 229 (or 68% of the total members of the Assembly) in the first. Participation of the treasury members in the total participants of the budget debate also dropped from 72% in the first year to 56% in the second year. There was also a significant decline of about 40% in the number of cut motions from 1148 in the first year to 692 in the second. This may be indicative of a decline in members' interest in the budget process. The participation of women MNAs also declined during the second year as only 46 women MNAs or 61% of total women MNAs participated in the budget debate compared to 64 or 84% of total women MNAs during the first year.

The Budget Session 2010 was yet another of the same kind where form completely overshadowed the substance. There were speeches by the dozens but hardly any meaningful input was provided to improve the Budget. Unlike various non-state institutions and media houses which organised pre-budget consultations, there was hardly any pre-budget forum for the elected representatives in the National Assembly and Senate where they could give their ideas, opinions, advice or recommendations about the broad outlines of the next budget before the budget was shaped.

The National Assembly Standing Committee held a pre-Budget Public Consultation on Change in Collective National Behaviour: How to Expand the Tax Base in Pakistan Ideas for the Budget 2010-2011 on February 18, 2010 which is a commendable departure from the past. However it is unclear whether proposals obtained at the consultation were shared in time with the Ministry of Finance or if those were incorporated in the Budget 2010-2011.

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

The Provincial Assembly of the Punjab held a special Pre-Budget Session in January 2010 in which members were asked to present their proposals for the upcoming budget from January 25 -29, 2010 and February 22, 2010, the initiation of a culture that is extremely positive for the legislative control over the purse strings in Pakistan. The Assembly was also facilitated to record and note recommendations presented by each member so that the Budget 2010-2011 could be analysed in that backdrop.

During the National Assembly Budget Session 2010-2011, the House sat on 15 days showing an increase from 10 working days met last year. The National Assembly debated the budget for 39 hours compared to 42 hours last year; a decline by 7 per cent. The total days consumed in debate on the budget were 12 compared to 6 in 2009. The total time consumed was 39 hours and 36 minutes showing a slight decline from 2009 when 39 hours and 53 minutes were spent on debate. The total members who spoke also decreased from 170 in 2009 to 161 in 2010. The Prime Minister attended all 15 sittings save one day, thus averaging 1 hour 9 minutes presence in a sitting. The Leader of the Opposition, Chaudhry Nisar Ali Khan, however, was absent from 9 sittings and averaged 40 minutes presence in a sitting.

Table 5 carries a comparison of budget sessions over a decade.

2.4.5. How freely are all parties and groups able to organize within the Parliament or legislature and

contribute to its work?

All parties and groups are able to organise themselves formally through resolutions or informally. Apart from parliamentary parties, which follow constitutional provisions against defection of members, informal groups such as the Women Parliamentary Caucus chaired by the Speaker 13th National Assembly of Pakistan and the Young Parliamentarians Forum Pakistan with the Deputy Speaker as its Patron, in addition to other all party groups are organised and work in the legislature.

2.4.6. How extensive are the procedures of the parliament or legislature for consulting the public and relevant interests across the range of its work?

The rules of procedure for the National Assembly and the Senate allow Standing Committees to examine public petitions related to ministries and associated bodies. Furthermore, "Public petitions (to standing committees) may be presented on a Bill which has been introduced, or any matter connected with the business pending before the House, or any matter of general public interest which is primarily the concern of the Government." As per the rules, public can directly send their petitions to the Parliamentary Committees for redressing their grievances but they seldom do as the committees do not have the awareness, mechanism, staff and resources to deal with such petitions. This inactivity of the Parliamentary Committees and therefore of Parliament has created a huge vacuum in the system of governance which has resulted in weakening of trust in Parliament and the democratic system. Other institutions try to fill the vacuum resulting in imbalances in the system. For example, the Supreme Court of Pakistan

Table 5: A Comparison of the Budget Sessions in the National Assembly: 1998-2010

	1998-1999	1999-2000	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011
Total Working Days of the Budget Session	11	13	5	9	8	13	11	19	10	15
Number of Members Participated	80	66	48	191	132	183	187	229	170	161
Time Consumed in the Budget Sessions	17.00 hours	13.50 hours	09.40 hours	45.32 hours	34.20 hours	55.50 hours	45.22 hours	41.46 hours	42 hours	39 hours

receives approximately 1,000 petitions every day directly from common people regarding their grievances which are then handled by the Supreme Court by approaching various institutions of the executive. This is a job which could and should have been handled by the Parliamentary Committees as these are supposed to act as the link between the public and the state institutions.

2.4.7. How accessible are elected representatives to their constituents?

The nature of politics in a developing country like Pakistan is different from developed democracies. In Pakistan, legislators have to act as a channel or a broker between the state and the constituents for provision of basic services. Their 'electability' depends on maintaining linkages with their constituents.

Conversely, this means that the constituents do not put any premium on a legislator's performance in the Assembly but instead on what their legislator can do for them at the constituency level. Voters do not distinguish between what the spheres of responsibility are between the local government, provincial government and the federal government, nor do they care about the role of their representative in the House, in Committees, in legislation, etc. The range of demands can extend from containing inflation to the provision of natural gas and from the provision of a Drinking Water Supply Scheme to the establishment of a School or the provision of government jobs. While there is no structured system for MNAs to maintain links with their constituents, they are required to attend social gatherings like weddings and funerals. Furthermore, constituents also expect MNAs to keep an eye on developmental projects and help expedite the provision of amenities such as gas. Not performing these duties could harm an MNA's chances of re-election.

2.4.8. How well does the parliament or legislature provide a forum for deliberation and debate on issues of public concern?

Parliament's performance over the last 2 years can signify its value as a forum for deliberation and debate. In its second year, the National Assembly met for a total of 136 days in 12 sessions including four (4) joint sessions. The actual number of days the Assembly met was 104 as compared to 97 in the first year. The second year also shows an improvement in the average hours met per day; from 2 hours and 51 minutes in the first year to 3 hours and 24 minutes in 2009-2010; thus, an increase of 17.2%. The total working hours for the second year also increased to

355 hours and 20 minutes from 277 hours and 15 minutes; an increase of 28.2%.

In its second year, the number of questions asked by members slightly declined by about 2 % from 10,843 in the first year to 10,572 in the second year. However the number of questions answered increased from 3,044 to 3,447. Whereas 28% of questions were answered in the first year, 33% were answered in the second year. Despite this improvement, nearly two thirds of questions went unanswered.

In 2009-2010, the attendance of members continued to be a problem and slightly worsened compared to the first year. The average attendance dropped from 74% in the first year to 72% in the second. The minimum attendance also decreased from 62% in the first year to 55% in the second year.

One positive factor in the context of attendance, however, was the personal attendance of the National Assembly sittings by the Prime Minister of Pakistan Mr. Yousuf Raza Gilani. The Prime Minister attended 87% of the Assembly sittings in the second year and this remains one of the highest attendance records among Pakistani Prime Ministers.

A small but significant step was taken by the 13th Assembly when some token details of the Defence Budget were presented in the Assembly during the Budget debate. For many years, the Defence budget was only a lump-sum figure without any details.

Even though this Assembly can generally boast of better performance than the previous one, and key issues are raised and discussed in the Parliament, it is also apparent that the Parliament in Pakistan has chosen not to play any significant role in resolving political crises. The restoration of the Chief Justice happened outside Parliament, on the streets, although Prime Minister Gilani called a special session of the National Assembly and allowed the Opposition Leader the floor for 2.5 hours. Similarly, another major crisis facing Pakistan for the last 8 years and intensifying in recent years is insurgency and terrorism, especially in the Federally Administered Tribal Areas (FATA) and the North West Frontier Province (NWFP). It was heartening to see that the joint session of Parliament was convened on the subject which continued for 12 days in-camera from October 8-22, 2008. Senior security officials, including the Director General of the Inter-Services

Intelligence (ISI), briefed the members. In the end, the joint session passed a unanimous resolution and resolved to constitute a Special Committee on Terrorism and Security. The Committee has been tasked to 'periodically review, provide guidelines and monitor implementation of the principles framed and road map given in the Resolution' passed by the joint session on October 22, 2009. All meetings of the committee, however, have been in-camera and little is known about what the committee has achieved. The Parliament has not approved a National Defence or National Counter-Terrorism Strategy.

2.5. Civilian Control of the Military and Police

Overarching Question: *Are the military and police forces under civilian control?*

2.5.1. How effective is civilian control over the armed forces, and how free is political life from military involvement?

According to the Constitution of Pakistan's Article 243 (1A), the Federal Government has the control and command of the Armed forces. The President in consultation with the Prime Minister appoints the Chairman, Joint Chiefs of Staff Committee and Chiefs of all three (Military, Air force and Naval) Armed Forces of Pakistan.

However, Pakistan's history of civil-military relations has been chequered at best. Pakistan has faced 4 prolonged periods of military rule since 1947. The first of these came in 1958, when martial law was declared and political parties abolished. The martial law was imposed by General (later Field Marshal) Ayub Khan, who became President in 1960. He was replaced in 1969 by the Commander-in-Chief of the Army, General Agha Muhammed Yahya Khan. In 1977, the military again took power in a coup and re-established martial law under General Mohammed Zia ul Haq. Military rule continued until the death of General Zia in a plane crash in 1988, after which a civilian Government was re-instituted. The late President General Ziaul Haq added sub-clause (2)(b) to Article 58, authorizing the President to dissolve the Assembly at his discretion. Using this power, General Ziaul Haq ousted Prime Minister Muhammad Khan Junejo and his cabinet in May 1987 and declared the Assembly dissolved. Between 1988 and 1999, the governments of Benazir Bhutto and Mian Muhammad Nawaz Sharif and the assemblies were dismissed thrice by Presidents Ghulam Ishaq Khan and Farooq Ahmed Khan Leghari. The fourth and the most recent coup d'état was in

1999 by Gen. Pervez Musharraf. Through his Legal Framework Order, 2002 Gen. Musharraf introduced an amendment in Article 41 that rendered article 43(i) ineffective (Article 43(i) of the 1973 Constitution does not permit the President to hold any other office of profit) and permitted Gen. Musharraf to constitutionally hold the two posts for five years. Article 58(2)(b) which was omitted in 1997 was revived through the LFO and was ratified as part of the Constitution by the 17th Constitutional Amendment during Gen. Musharraf's tenure.

Under the 18th Constitutional Amendment, however, the definition of "high treason" in Article 6 has been expanded. Now, under Article 6 an act of suspending the Constitution or holding it in abeyance or any attempt to do so will also be considered high treason. Further, high treason cannot now be validated by the Supreme Court or a High Court. The President's discretionary powers to dissolve the National Assembly (Article 58(2)(b)) or to refer a question to a Referendum have also been omitted by the 18th Amendment.

In Pakistan a "hybrid" model of civil-military relations is in place.¹⁵¹ No recent coup d'état does not mean the military has lost the capacity to project force or manipulate the nature and direction of political change. The US led war on terrorism has reinforced the role and position of the Pakistan Military, which is actively involved in countering terrorism.

The public credibility lost during Gen. Musharraf's government, especially 2007 onwards, has been quickly regained by the Military. The Army Chief General Ashfaq Parvez Kayani enjoys a 61% approval rating, same as the Chief Justice of Pakistan.¹⁵² In comparison, Gen. Musharraf's public approval ratings had plummeted to 15% in February 2008. The military is the most-trusted institution in Pakistan in 2010, with 84% of respondents claiming it has a good influence on the direction of Pakistan, essentially unchanged from 86% in 2009, but a significant increase from 68% in 2007. The National Government has approval ratings of 25%, ahead of President Asif Ali Zardari, the co-chairman of the ruling PPP, who has approval ratings of 20% in 2010.¹⁵³

In analysing the two years of civil-military relations in Pakistan, Dr. Hasan-Askari Rizvi says that "Pakistan Military, although back in barracks, remains the most formidable 'political' force in Pakistan capable of affecting the course and direction of political and social change....

Democratic political government has a reasonable space to pursue governance and political management agenda, he argued, though it has not yet managed to create a coherent credible civilian alternative that evokes loyalty at the popular level.”¹⁵⁴ The military enjoys sufficient autonomy in professional and service matters and gives input in the policy areas of its interest. However, military neither directly governs nor does it directly control civilian leaders. An overall democratic civilian arrangement is maintained that leaves enough scope for autonomous management of political affairs but the civilian leaders and the senior leadership of the military constantly engage in interaction and bargaining on key policy issues. The balance of power in the bargaining process may shift in one direction or another depending on the stakes of the senior leadership of the military, the issue in question and the specific context of the interaction.¹⁵⁵

2.5.2. How publicly accountable are the police and security services for their activities?

Pakistan followed a police structure founded on the Police Act of 1861 until 2002, when a new police order was made.

The Police Ordinance 2002 was prepared by senior police officials and legal experts under auspices the National Reconstruction Bureau (NRB). The Police Ordinance of 2002 followed the Japanese National Safety Commission system, to ensure oversight of police by elected and nominated members at all levels (district, provincial and federal). Secondly, an independent prosecution service was provided to keep checks on the police. To some extent the police was given operational independence in organizational as well as investigative areas and a variety of responsibilities were assigned among separate police departments to improve efficiency of the system; however, many of the changes were reversed. Amendments in 2004 took away powers of the neutral and independent safety commissions (in the crucial areas of promotions and transfers) and political interference increased.¹⁵⁶

Political manipulation and bribery have always been a hindrance towards providing justice to citizens. Political interference and party affiliation of police personnel is another reason which impedes accountability. In a recent case, within hours of the removal of Mr. Shahbaz Sharif as Chief Minister of Punjab on February 25, 2009 many senior police officials in Punjab were relieved of their duties and officers close to Mr. Salman Taseer, the Governor of Punjab, were appointed. When Mr. Shahbaz Sharif was reinstated in late March 2009 through reversal of the earlier court

decision, he also reversed all the transfers in the police department made by the Governor.

2.5.3. How far does the composition of the army, police and security services reflect the social composition of society at large?

Punjab is the most populace province followed by Sindh, KP and Balochistan. The Pakistan Army is criticized for having a higher representation from Punjab than any other province of Pakistan. However, according to the Inter Service Public Relation (ISPR), over the course of a decade (2001-2011), the representation of Pakhtuns in the Army will increase by 1% to 14.5%. A 2% per cent increase will be made in the number of Sindhis bringing their total strength to 17% by 2011. The representation of Balochis, which was nil in 2001, constituted 3.2% in 2007. Baloch representation is to be increased to 4% by 2011. Similarly, with their 0% presence in the Army 10 years ago, the people from Azad Kashmir and Gilgit-Baltistan in 2007 now constitute 9.11% of the Army. However, their number would be curtailed to 9% in 2011. By 2011, it will be ensured that at least one person from the non-Muslim community is among hundred personnel of the armed forces. In 2007 they constituted just 0.72% while 10 years ago, their presence was just 0.29% in the Army.

Since the Police forces of the four provinces are independent, the question of representation gets addressed provincially. Senior positions in the police are filled from the Police Service of Pakistan (PSP). The Police Service of Pakistan is not an operational body; rather, it is a career service similar to the Civil Service of Pakistan, from which officers are assigned to the provincial services or, on rotation, to central government agencies where their skills are needed. Appointment to the PSP are made by the Federal Public Service Commission (FPSC) in the same proportion as in other services that includes merit 7.5%; Punjab (Including Federal Area of Islamabad) 50%; Sindh (including Karachi) 19% (the Share of Sindh will be further sub-allocated in the following ratio: Urban Areas, namely Karachi, Hyderabad & Sukkur 40% of 19% or 7.6% and Rural Areas, i.e. rest of Sindh, 60% of 19% or 11.4%); KP 11.5%; Balochistan 6%; Gilgit-Baltistan and FATA 4% and Azad Kashmir 2%. The Women Reserved Quota is 10% calculated from the share of each province/region in terms of Establishment Division's O.M. No.4/15/2006-R-2, dated 22.05.2007.¹⁵⁷

Except for centrally administered territories and tribal territories in the north and northwest, basic law and order responsibilities are carried out by the four provincial

governments. The central government has controlled a series of specialized police agencies, including the Federal Investigative Agency, Airport Security Force, and various paramilitary organizations such as the Rangers, Constabulary Forces, and the Frontier Corps.

2.5.4 How free is the country from the operation of paramilitary units, private armies, warlordism and criminal mafias?

According to Article 256 of the Constitution of Pakistan, private armies are forbidden: "No private organization capable of functioning as a military organization shall be formed, and any such organization shall be illegal."

But there are many gangs and militias violating the law of the land allegedly through the overt or covert support of the State. There is a history of US support for mujahedeen or "freedom fighters" (including Osama Bin Laden)¹⁵⁸ and some of these groups, called "Islamic militants", today operate out of border areas of Pakistan. The State of Pakistan has used local militias (commonly known as Lashkars) in KP and FATA to deal with Taliban.¹⁵⁹ A list of extremist and militant groups and affiliated welfare organisations that have been banned by the Government of Pakistan for their involvement in terrorist activities includes Al Qaeda; Sipah-e-Muhammad; Tehrik Nifaz-i-Fiqah Jafaria; Sipah-i-Sahaba; Jamatud Dawa; Al Akhtar Trust; Al Rasheed Trust; Jaish-e-Mohammad; Lashkar-i-Jhangvi; Tehrik-i-Taliban Pakistan; Tehrik Nifaz-i-Shariat Muhammadi; Lashkar-e-Taiba; Lashkar-e-Islam; Balochistan Liberation Army; Jamiat-ul-Ansar; Hizbut Tahrir and Khuddam-i-Islam.¹⁶⁰ The Balochistan Liberation Army is a separatist extremist organization which claims responsibility for targeted killings of the non-Baloch settlers in the province.

In addition to these groups, there are many criminal groups and mafias operating in the country. These include armed dacoits and robbers groups in interior Sindh, said to be operating under political patronage, and armed groups within Karachi that have been especially active in 2010. The armed groups in Karachi are also believed to be working under political patronage of rival political parties in Sindh. The bloodletting witnessed in Karachi following the assassination of MQM MPA Mr. Raza Haider is believed to be part of "political turf battles" and "ethnic animosities" getting jumbled up with "criminal syndicates," "sectarian mafias" and "Islamic terror groups."¹⁶¹

Over 300 people have been killed in targeted killings in

political violence from May 12, 2009 to August 8, 2010 just in Karachi. The highest number of incidents of electoral violence occurred in Balochistan, where 336 incidents were reported, which was 42% of the total reported incidents between October 15, 2009 to May 31 2010. Sindh was second with 215 incidents, while 166 incidents were recorded in Khyber Pakhtunkhwa. Punjab, Islamabad Cantonment Territory (ICT) and Gilgit-Baltistan had seen a fewer number of electoral violence incidents. Approximately 5,700 persons became victims of political violence during October 15, 2009 to May 31 2010, of which 1, 921 were killed, 3, 732 were injured and 63 kidnapped.¹⁶²

The money-crime-and-drugs nexus also means an increase in organized crime and criminal groups, drug barons and mafias in Pakistan. The United Nations Office on Drugs and Crime (UNODC) estimates that Pakistan is now the destination and transit country for approximately 40% of the opiates produced in Afghanistan and is the destination and transshipment point for precursor chemicals.

2.6. Integrity in Public Life

Overarching Question: *Is the integrity of conduct in public life assured?*

2.6.1. How effective is the separation of public office from the personal business and family interests of office holders?

One of the internationally recognised definitions of corruption is "owning or possessing property or resources disproportionate to one's means which cannot be reasonably accounted for," a key definition missing from the draft bill of accountability moved by the PPPP government to the National Assembly in April 2009.¹⁶³

Parliamentarians of Pakistan are required by law to submit their statements of accounts and declaration of their and their immediate families' assets to the Election Commission of Pakistan (ECP) on an annual basis. This is a legal requirement under the Representation of People's Act, 1976, passed on January 4, 1977 by the Pakistani Parliament then led by Prime Minister Zulfikar Ali Bhutto. The Act's Article 42A states: "Every member shall...submit a statement of assets and liabilities of his own, his spouse and dependents annually to the (Election) Commission (of Pakistan)" and there is a prescribed form

for declaring these details. Article 42A (2) allows the Election Commission of Pakistan to publish these details. Under article 42A(3), the Chief Election Commissioner "shall...notify the names of the members who fail to file statements of assets and liabilities within the period specified...and by an order direct that such member shall cease to function till such statement is submitted." Every year, the ECP temporarily suspends legislators who fail to submit their statements by the due date till such time as they submit these statements.

According to the clause 42(a): "Where a member submits the statement of assets and liabilities...which is found to be false in material particulars, he may be proceeded against under Section 82 for committing the offence of corrupt practice." Section 82 is titled as "Penalty for corrupt practice" and states, "Any person guilty of corrupt practice shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both." The Election Commission of Pakistan neither has the powers nor it is staffed and equipped to scrutinise the statements submitted by legislators. The ECP's duty is to make the statements public through gazette notifications. It appears to have been left to the members of the public, especially those who may personally know the legislators, to file complaints if they find an incorrect statement by a legislator. Although there are reports that the National Accountability Bureau has used these statements to selectively initiate enquiries against some legislators in the past, no parliamentarian has ever been punished or accused of misrepresenting his/her declaration under Article 42A(4).

2.6.2. How effective are the arrangements for protecting office holders and the public from involvement in bribery?

Anti-corruption laws are criticized as being ineffective. The Anti-Corruption Establishment (ACE) has long and cumbersome procedures to follow and has no powers to initiate an enquiry.

According to the annual report by the Transparency International 2009, Corruption Perceptions Index Score of Pakistan is 2.4. Out of 180 countries evaluated, Pakistan's ranking on the corruption scale has slipped 5 ranks, from 47 in 2008 to 42nd most corrupt country in 2009. In comparison, Bangladesh which was the most corrupt country in 2001, 2002 and 2003, has improved its ranking from 38 in 2008, to 42 in 2009. In 2010, corruption in the political arena also continues to be regarded as a major

challenge: currently, 74% say corrupt political leaders are a very big problem. Last year, a similar share (71%) viewed corruption as a very big problem, while smaller majorities did so in 2007 (64%) and 2002 (58%).¹⁶⁴

As such there is no mechanism which can gauge the protection of office holders and public from involvement in bribery. In many cases, accusations against powerful government officials result in no action.¹⁶⁵

In the UK Parliament a Register of Member's Interest is maintained. The Register was set up following a Resolution of the House of May 22, 1974. The maintenance of the Register is one of the principal duties laid on the Parliamentary Commissioner for Standards by House of Commons Standing Order No. 150. Each member of the Parliament is required to register his/her business, interest or material benefit. The purpose of the Register is to encourage transparency, and through transparency, accountability. It is "to provide information of any pecuniary interest or other material benefit which a Member receives which might reasonably be thought by others to influence his or her actions, speeches or votes in Parliament, or actions taken in the capacity of a Member of Parliament." The Register is not intended to be an indicator of a Member's personal wealth; nor is registration of an interest in any way an indication that a Member is at fault.¹⁶⁶

2.6.3 How far do the rules and procedures for financing elections, candidates and elected representatives prevent their subordination to sectional interests?

According to Section 49 of the Representation of the People Act, 1976, the limit of election expenses is Rs1.5 million for a National Assembly seat and Rs1 million for a Provincial Assembly seat. However, the Election Commission of Pakistan, a constitutionally empowered independent body, fails to enforce the limit; it is commonly understood that actual election expenditures at both national and provincial levels exceed many times the prescribed limit.¹⁶⁷

Many reforms are required in this area. Given the large sums of money involved in electioneering, and with no transparent or defined rule for financing the elections or candidates, it is generally understood that funding obtained by candidates at the time of elections results in corruption in the form of return of favours later and corruption in general for political sustenance, especially for future elections. Moreover, expensive election campaigns also mean that only a small percentage of the population has the

door of electoral politics open to them, unless a system of state funding of political parties is adopted.

With the exception of a few cadre parties, major political parties do not fund candidates' elections and instead choose a candidate with strong financial background. Party funding is usually used for the election campaign and since there are always private sources and donations, the donor can influence the party for its interest. Gen. Hameed Gul has admitted to have formed an electoral alliance while he was serving as Chief of Inter Service Intelligence (ISI) in 1990s.¹⁶⁸ In addition, the ISI case, taken up by the Supreme Court of Pakistan under Article 184(3) of the Constitution, relating to the disbursement of public money and its misuse for political purposes contains affidavit signed by Lt. Gen. (Retd.) Asad Durrani listing the politicians to whom money had been paid.

According to the Global Corruption Report 2004 published by the Transparency International, Pakistan figured in a category of states where investment in political parties could produce policy outcomes sought by influential investors.¹⁶⁹

The Strategic Goal No. 12 in the ECP's Five-Year Strategic Plan 2010-2014 is: "Reform legislation on political finance relating to political parties and candidates, strengthening financial accountability and enforcement mechanism with the deadline of December 2011."¹⁷⁰

2.6.4. How far is the influence of powerful corporations and business interests over public policy kept in check, and how free are they from involvement in corruption, including overseas?

The National Accountability Bureau report on petroleum pricing method between June 2001 to June 2006 was submitted to the then President Pervez Musharraf and Prime Minister Shaukat Aziz in June 2006. The report was never made public but the Chairman NAB Lt. Gen. Shahid Aziz was removed abruptly soon after the report was submitted.¹⁷¹ The report was later submitted to the Justice Bhagwandas Commission probing into the wrongdoings committed by government functionaries and oil industry executives in the pricing of petroleum products, causing a loss of Rs.83 billion to the nation over a period of five years.¹⁷²

According to a former deputy chairman of the NAB, Maj.Gen. Muhammad Siddique: "senior management of "Pakistan State Oil Company Limited (PSO) and others are

involved in massive misappropriation/misuse of authority and forgery in the import of HSD (high speed diesel) and its subsequent sale in the country and ... committed the offence of corruption and corrupt practices' as defined in relevant laws." According to the report, the federal cabinet in 2001 assigned the role of oil price fixation to the Oil Companies Advisory Committee (OCAC) under observation by the director-general of oil but none of the directors-general performed the task of monitoring, and some of them even expressed ignorance about the cabinet decision. The entire price fixation by OCAC remained non-transparent/dubious and the DG Oil/Ministry did not play any role, violating the cabinet decision. "It is sufficiently evident that (functionaries in the) ministry of petroleum in collusion with the Oil Companies Advisory Committee (OCAC), oil industry and Oil Marketing Companies (OMCs) have engaged themselves in corrupt practices for generating colossal undue financial gains for refineries and OMCs at the cost of public and economy as a whole."

2.6.5 How much confidence do people have that public officials and public services are free from corruption?

The National Corruption Perception Survey 2010 by the Transparency International issued in June 2010 measured the type and amount of corruption being faced by consumers of the following ten public sector departments: Police; Custom; Judiciary; Health; Power; Education; Land Administration; Local Government; Taxation and Tendering & Contracting. Another point of the survey was to gather information about the particular phases where hindrances are usually being faced to see if progress has been made over the years (compared to the survey conducted in 2002 and 2006).

The Survey conducted in 2002, 2006, 2009 and 2010 indicated Police as the most corrupt department. However, appreciation had been expressed for the Motorway Police, the Traffic Police Warden system of Punjab, though some respondents of Punjab were of the view that even this system is increasingly affected by corruption and is no longer as effective. After the Police, the departments perceived as most corrupt were Power and Health. In the 2009 survey, corruption in the Health department ranked higher as compared to 2002 and 2006. This was also due to the fact that in the 2009 survey rural households had more representation, and in rural areas dependence on Public Health departments is higher as compared to urban areas. In the 2009 survey, overall expression of helplessness and desperation among the respondents has

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN R E P O R T

March 25, 2008 - September 24, 2010

been more pronounced than in previous years. The most common comment: "All departments are corrupt, their officers are callous, inefficient and do not desire to work." The only ray of hope for some respondents was the media interest in exposing corruption.

CIVIL SOCIETY AND POPULAR PARTICIPATION

3.1. The Media in a Democratic Society

Overarching Question: *Do the media operate in a way that sustains democratic values?*

3.1.1 How independent are the media from government, how pluralistic is their ownership, and how free are they from subordination to foreign governments or multinational companies?

The Constitution of Pakistan guarantees freedom of expression through Article 19 stating that “Every citizen shall have the right to freedom of speech and expression and there shall be the freedom of the press, subject to any reasonable restriction imposed by law in the interest of the glory of Islam, or the integrity, security or defence of Pakistan, or any part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court.” Given the many limitations and exceptions, this constitutional guarantee is considered fairly “problematic”¹⁷³ by the Pakistani media. At present, however, the laws are not strictly interpreted or enforced.

Through the 18th Constitutional Amendment, the Constitution now guarantees the Right to Information as a fundamental right through Article 19A which states that “Every citizen shall have the right to have access to all information in all matters of public importance subject to regulation and reasonable restrictions imposed by law.”

In the 2010 Global Press Freedom Rankings by the Freedom House, Pakistan is ranked 134th in a list of 196 countries with the status of “Not Free.” Pakistan gets an overall country score of 2.5 (compared to 2.4 of India) on a scale of 1 to 5 in the Asian Media Barometer for Pakistan in 2009 conducted by a local panel of experts consisting media practitioners and civil society representatives. The barometer is based mainly on 4 key sectors. Sector 1 is the Freedom of expression, including freedom of the media, are effectively protected and promoted. Pakistan scores a 2.8. Under Sector 2, media landscape, including new media, is characterised by diversity, independence and sustainability, Pakistan scores a 2.5. In Sector 3, Broadcasting regulation is transparent and independent; the state broadcaster is transformed into a truly public broadcaster, Pakistan scores 2.3. Under Sector 4, The media practice high levels of professional standards, Pakistan receives a score of 2.3.¹⁷⁴

The Pakistani media which enjoyed unprecedented

freedom under Gen. Pervez Musharraf, who is credited for having liberalised media in Pakistan, ironically suffered unprecedented crackdown following Gen. Musharraf's imposition of Emergency on November 3, 2007. The crackdown on television channels was in some ways more remarkable than the emergency announcement as his order to block television channels revealed how powerful the medium had become since 2002.

In March 2002, the Pakistan Electronic Media Regulatory Authority (PEMRA) was established to induct the private sector into the field of electronic media. With no ban on cross-ownership of television and newspapers in Pakistan, today there only a handful of major media groups control a large part of the mainstream media in Pakistan, a monopolistic situation that has been criticised by advocates of media freedom.

Despite its ostensible commitment to freedom of the media, the current relationship between the PPP Government and the media can be described as rocky at best. Journalists have been 'warned', channels and certain current affairs anchors have been banned for criticising the government and the long-standing practice of withholding government advertisements from certain newspapers has been continued.¹⁷⁵ In August 2010, two Pakistani television channels, Geo TV and ARY News, were shut in southern Pakistan amid protests by ruling party workers over reports of the shoe-throwing incident at a rally addressed by President Zardari in Birmingham, UK. The Sindh High Court and the Supreme Court had to intervene to restore the news services on cable television. On July 9, 2010 the Provincial Assembly of the Punjab passed a resolution against the media while the controversy over 'fake degrees' of lawmakers raged nationally. The resolution was widely criticised by the media, which also boycotted proceedings of the Assembly. The Punjab Assembly eventually had to pass another resolution acknowledging journalists' role in the movement for restoration of democracy and supremacy of the Judiciary.

76% Pakistanis in 2010 believe that the media has a positive influence, a view consistent with the 2009 opinion.¹⁷⁶ Media enjoys the second-best rating after the Military, which has an approval rating of 84% in 2010.

Given the media's growing profile and reach within the Pakistani society, international governments and donors, trying to reach the Pakistani population for meeting various

aid or engagement objectives, have been working with the Pakistani media. Details of such initiatives are not generally acknowledged or publicized by the media and the exact size and diversity of engagement remains unknown. Donor organizations, however, report such support periodically. The Asia Foundation (TAF - a US-based NGO which has its office in Pakistan as well) 2005 Project List carried details of support to a private Pakistani Television channel for production of a series of 10 documentaries focusing on the policy theme of "peace" and a 13-episode series on current affairs on concepts such as governance, gender, justice, and social services; while support to another private TV Channel was given for the production of 13 episodes of a live talk show on gender issues such as sexual harassment, honour killing, and female education and 13-episode series of interviews of leading social workers and politicians.¹⁷⁷

Perhaps the largest and most-well known of the international governments' engagements with the Pakistani media is that of the broadcasting arrangements of the Voice of America with leading media channels in Pakistan to broadcast US government-funded content. In November 2005, the US Embassy Islamabad announced that the Voice of America (VOA), an international multimedia broadcasting service funded by the US government, will launch Beyond the Headlines, its new television program in Urdu on GEO TV in Pakistan. The Voice of America has continued to partner with other leading channels as well and is currently in partnership with the Express News TV. In addition to Urdu language radio broadcasts, in October 2009, the VOA and the Pakistan Broadcasting Corporation reached an agreement in which the VOA began to use the PBC equipment and transmitters in Peshawar, Islamabad and Lahore to distribute VOA material in Pashto and Urdu on medium and FM waves.

Despite the availability of this space on electronic media and airwaves in Pakistan to a major US-government funded media service, the US government, which has increasingly begun to rely on Urdu language channels for interviews of leading US government officials visiting Pakistan, considers its reach to local media as limited. The US plans to create a Media Engagement Fund in Pakistan as the US Secretary of State Hilary Clinton announced in July 2010 in Pakistan.¹⁷⁸ According to estimates, the Obama administration plans to spend nearly US \$50 million on Pakistani media in 2010 to reverse anti-American sentiments and raise awareness of projects aimed at improving quality of life.

3.1.2 How representative are the media of different opinions and how accessible are they to different sections of society?

Pakistani media has seen a remarkable explosion ensuring a wide range of sources of information, from print media, broadcasting channels, internet and through it the social media and the cell phones that provide a range of sources of information to the citizens. PEMRA has issued 96 licenses for satellite TV channels out of which 80 are operational. Of these 26 are news and current affairs, 12 of those in vernacular languages. There are 202 approved FM station licences of which 116, according to PEMRA, are operational. There are 130 daily newspapers and 850 publications. According to the Internet Service Providers Association, internet broadband services are available in 170 cities and number of internet connections is over 5 million with average of 5 users per connection, with an approximate 25 million internet users in Pakistan. Mobile phone connections have crossed 100 million users, making Pakistan the fastest growing cell phone market in Asia.

The media penetration, in terms of broadcast private channels, is considered to be to only one-third of the population,¹⁷⁹ mostly urban. PTV is the only terrestrial channel that geographically covers 98% of Pakistan with Radio Pakistan covering 100% of the country. Pakistan gets a 3.2 average score, on a scale of 1-5 under the category of availability of wide range of sources of information accessible and affordable for citizens.

In terms of media reflecting the ethnic, linguistic, religious, political and social diversity of the country, the media landscape presents a mixed picture. While public broadcast networks such as the PTV and Radio Pakistan broadcast in regional languages, there are also private media channels operating in regional languages, those that focus on specific interest broadcast, religion-based channels and programming, and focussed on women and youth, etc. However, the media is criticised for not fully representing societal diversity such as gender (Pakistan scores 2.4 on a scale of 1-5 in terms of media reflective of voices of both women and men), labour, religious and societal diversity, etc., scoring 2.4 on a scale of 1-5 in this regard.

3.1.3. How effective are the media and other independent bodies in investigating government and powerful corporations?

Media is playing the role of a catalyst in Pakistan. While some argue that the media has not helped alter or influence social behaviour, it is the media spotlight on incidents such as the Sialkot lynching¹⁸⁰ that has resulted in action by the Supreme Court of Pakistan as well as the Provincial and Federal Governments and of the initiation of an independent inquiry into the incident. The reporting of wheat and sugar crises¹⁸¹ by the media have also helped greater understanding of underlying issues and have resulted in either administrative or judicial action on these issues.

While the media enjoys relative freedom in Pakistan and it has contributed to unearthing scandals and corrupt practices relating to government bodies, it is still denied access in areas such as defence issues, war against militancy, etc. and has to depend on official and military sources. Moreover, journalism is a hazardous profession in some parts of the country (north and west) than in other parts¹⁸² and fear of political groups as well as stage agencies hinders in-depth and independent reporting. The issue of self-censorship especially where publisher's interest is likely to be harmed or in connection with sensitive or security-related information also impedes investigative journalism. Compared to the print media, television lacks investigative journalism and stories.¹⁸³

The Government also follows a carrot and stick approach through advertisement revenue to the media. Newspapers which incur the wrath of the government do not receive advertising, for example, the Musharraf Government banned advertisements in Dawn newspaper for 10 months for its coverage of the situation in Balochistan.

3.1.4. How free are journalists from restrictive laws, harassment and intimidation?

Pakistan's turbulent history and ongoing political and economic crises elevate the importance of a press that is a position of informing the citizenry while also providing a check on public officialdom and leadership. However, the dangers are manifest: over the years, members of the press have been arrested and jailed, had their offices raided and ransacked, been publicly flogged, severely censored, tortured and even murdered.

A recent example of torture of a leading journalist took place on September 4, 2010 when Mr. Umar Cheema, Investigative Reporter, The News, was kidnapped and

brutally tortured by unidentified persons. According to media reports, Mr. Cheema was detained for six hours and subjected to severe torture, hung upside down naked and was let go after his head and moustache were shaved and his abductors threatened him with dire consequences. While the investigation continues, the treatment meted out to him is widely believed to be the handiwork of security agencies.¹⁸⁴ The incident has "damaged credibility and competence of the entire federal government because the incident took place in the federal capital, virtually under the nose of all the relevant authorities." An independent investigation and punishment of the culprits, whether civil or military, in a "visible and exemplary manner" has been demanded.¹⁸⁵

In July 2010, Reporters without Borders condemned an escalation in violence against journalists including three murder attempts (two in Bajaur, FATA and one in Hyderabad) and a severe beating in Hyderabad. Two TV reporters were killed in Quetta on September 3, 2010 while 6 other journalists were seriously injured in a suicide bombing which killed 59 persons. There was also an alleged murder attempt on September 01, 2010 on a reporter of Dunya Television who covered the Sialkot lynching incident. While the Taliban and militants are the most likely perpetrators of harassment and intimidation of journalists, especially in the north-west and tribal areas of the country, attacks on and intimidation of journalists has also been attributed to security agencies and the government.

The 7th Annual Report on Press Freedom in South Asia, produced by the International Federation of Journalists (IFJ) for the South Asia Media Solidarity Network (SAMSN), documents alarming trends in working conditions for journalists, typified by greatly increased risks to physical safety, rising job insecurity and a commercial environment that tends to undermine many ethical norms in Pakistan. Between May 2008 to March 2009, 10 journalists were either killed in Pakistan, while a total of 25 journalists were either physically harmed or threatened. Incidents of abduction of journalists were reported from many parts of the country, while 13 journalists were detained by law-enforcement agencies.

A report released by Intermedia Pakistan to mark International Press Freedom Day claimed that 7 journalists were killed in Pakistan in the period between May 3, 2009 and May 3, 2010, including two journalists from Balochistan, one each from Islamabad, Punjab, Sindh,

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

Khyber Pakhtunkhwa and an Afghan journalist in the FATA. During the year, a staggering 87 journalists were assaulted and injured; 53 in Punjab, 12 in Islamabad, 11 in Sindh, 5 in Khyber Pakhtunkhwa, 3 in Azad Jammu & Kashmir, 2 in Balochistan, and 1 in FATA. At least 13 journalists were reported missing, abducted or arrested in the same period; 3 each in Khyber Pakhtunkhwa and FATA, 2 each in Islamabad, Punjab and Sindh, and 1 in Balochistan. The report also documented at least 17 cases of intimidation and threats to journalists or media organizations; 9 in Punjab, 4 in Khyber Pakhtunkhwa, 3 in Islamabad and 1 in Sindh.

The status of the media and journalists' freedom gets an all encompassing score of 2.5, on a scale of 1-5¹⁸⁶ clearly, suggesting that the journey towards media freedom has reached a mid-point.

There are about 12 laws that restrict freedom of expression in Pakistan, but since rule of law in the country is weak, there is "freedom by default"¹⁸⁷ for journalists. Pakistan's score on this count is evaluated to be 2.5 on a scale of 1-5 in the Asian Media Barometer: Pakistan 2009.

3.1.5 How free are private citizens from intrusion and harassment by the media?

The media has a 76% approval rating in Pakistan in 2010, second only to the Military, which has an 84% approval rating.¹⁸⁸ There remain, however, concerns about the media's professionalism and perceived biases. Cross-ownership laws have given a handful of media owners the status of media moguls in a position to wield power over many sectors. Reporters are also known to on occasion exercise petty displays of power to intimidate or harass citizens or individuals in state institutions.

There are 3 codes of conduct for professional standards of the media developed by PEMRA, the Pakistan Federal Union of Journalists (PFUJ) and the Pakistan Broadcasters Association. However, implementation of those codes of conduct remain at various stages within industry bodies, like the APNS and the CPNE. Earlier, the government developed codes without consulting with journalists and were criticised as such by journalistic organisations. The absence of a single collective Code of Conduct that all media voluntarily agree to adhere to and the absence of an oversight Complaints Commission results in a lack of uniform professional standards in the media. According to the PFUJ, there are approximately 10,000 working journalists in the country, up from 2,000 in the year 2002.

Given this dramatic increase in the membership of the profession, the need for common standards has become all the more pressing.¹⁸⁹

In analysing whether Journalists and media have integrity and are not corrupt, the Asian Media Barometer: Pakistan 2009 states, "*even though media overall enjoys credibility, there have been voices within the media and from outside for accountability of the media. It is fairly common for journalists in Pakistan to solicit and accept favours from government, including land allotments. Some journalists are also on the payroll of intelligence agencies. But the number of such journalists is low.*"

3.2. Political Participation

Overarching Question: Is there full citizen participation in public life?

3.2.1. How extensive is the range of voluntary associations, citizen groups, social movements etc., and how independent are they from government?

The number of registered NGOs is estimated to be 45,000, up from 39,000 in 1999.¹⁹⁰ Citizen organizations, working in a variety of fields, employ approximately 300,000 persons, have 200,000 full-time volunteers and engage in a wide array of activities, ranging from basic services delivery to sophisticated financial services to technical advice in areas like agriculture, water and sanitation and housing construction. Increasingly, non-profit organizations (NPOs) are engaged in lobbying for legal and fiscal reform, and take a pro-active approach in defining issues for the national agenda. This new role is in part due to the comparatively large volume of resources the non-profit sector now commands. Despite this growth, a significant percentage (38%) of citizen organizations are not registered under any law. Even registered organizations are not necessarily subject to monitoring and evaluation under the regulatory system.

The Constitution of Pakistan (1973) confers freedom of association as one of the fundamental rights to the citizens of Pakistan by: "Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality."

Citizen organisations are registered under 4 laws in Pakistan: the Voluntary Social Welfare Agencies

(Registration and Control) Ordinance, 1961; the Societies Registration Act, 1860; the Companies Ordinance, 1984; and the Trust Act II, 1882. The Federal Ministry of Economic Affairs coordinates international donor assistance to Pakistan which is also channelled into non-profits. Overall, the legal framework can be generally termed as enabling for civil society and the activities of NPOs.

3.2.2. How extensive is citizen participation in voluntary associations and self-management organizations, and in other voluntary public activity?

There has been considerable growth in the number and scope of non-profit and voluntary associations in Pakistan in recent years. In part, this is because the State has tended to move away from being the monopoly provider of social services, while at the same time creating an enabling environment for a variety of non-state actors to deliver a wide range of social services. In addition, the fact that citizen organisations today capture a greater volume of resources, mainly through foreign donor, has helped widen the role of citizen organizations. A different trend is the diversification of philanthropic initiatives, beyond the traditional donations to mosques and madressahs, to institutes such as the Shaukat Khanum Memorial Cancer Hospital and Research Centre,¹⁹¹ and the Lahore University of Management Sciences,¹⁹² etc.

In addition to the growth in the citizenry's involvement in formal non-profit sector, the Lawyers' Movement, a contemporary non-violent yet effective movement is an example of an active civil society and a citizens' movement to uphold the rule of law in Pakistan.

Following the devastating earthquake in Pakistan's Northern Areas in October 2005, the country witnessed widespread voluntary involvement of citizens and groups in relief and rehabilitation efforts. A similar civic voluntary spirit is reflected today in relief efforts for the victims of the worst floods in the history of Pakistan in August 2010.

3.2.3. How far do women participate in political life and public office at all levels?

For the first time in the history of Pakistan, a woman Speaker has been elected in the National Assembly, where 22% of members are women (16 directly elected and 60 indirectly elected). However, the 40-member Federal Cabinet has only 2 female Federal Ministers, while 3 out of 17 Ministers of State are women. 1 of the 2 Special

Advisors to the Prime Minister of Pakistan is also a woman.

The total number of reserved seats for women in all 4 Provincial Assemblies in Pakistan is 128, while a 17% representation quota for women also exists in the Senate of Pakistan

A PILDAT analysis of Private Members' Bills moved during the second year (March 17, 2009 - March 16, 2010) of the 13th National Assembly of Pakistan indicates that Women Parliamentarians have been the most active legislators during the year as 83% of Private Members' Bills were introduced by women Parliamentarians, all by women elected to reserved seats.¹⁹³

While no gender disaggregated voter data is made available by the Election Commission of Pakistan, there exist political, electoral and cultural structures that obstruct women's participation as voters and candidates. Factors which act to depress the level of political participation by women in Pakistan include psychological barriers in society; physical and cultural barriers; inequality of resources; patronage-based system of elections as opposed to rules-based system, etc. The 15 women who returned to the 13th National Assembly of Pakistan on directly-elected seats in 2008 were in many cases acting as political proxies. To increase political participation by women, beyond reserved seats in legislatures, would require political parties give tickets to women to contest directly elected seats.¹⁹⁴

To further facilitate women's participation in public society, a bill to protect women from harassment, the Protection against Harassment of Women at Workplace Bill, 2009, has been passed by the Parliament in January 2010. The bill's objective, according to its text, is to create a safe working environment for workers, which is free from sexual harassment, abuse and intimidation, with a view to enabling higher productivity and better quality of life at work. Punishment for violators of a code of conduct is up to a 3-year jail term and up to a Rs. 500,000 fine.¹⁹⁵ The National Assembly of Pakistan also passed a private member's bill on August 4, 2009 on domestic violence against women and children, the Domestic Violence (Prevention and Protection) Bill, 2009, envisaging speedy criminal trials and a chain of protection committees and protection officers. The bill, however, lapsed as the Senate of Pakistan failed to pass it within constitutionally stipulated period of 90 days.

Prime Minister Syed Yousaf Raza Gilani announced several

packages for women on International Women's Day on March 8, 2010, such as the establishment of the Office of Women's Ombudsman; a 10% quota for women in the Central Superior Services (CSS); and the conversion of youth development centres into working women's hostels. In addition, the Prime Minister announced the National Commission on the Status of Women would be given complete administrative and financial autonomy, adding that the Government had also decided to strengthen the First Women's Bank to empower women economically. He ordered the Establishment and Finance Division to strengthen the Ministry of Women Development (MOWD) and all other federal and provincial ministries and departments to mainstream gender equality.¹⁹⁶

3.2.4. How equal is access for all social groups to public office, and how fairly are they represented within it?

A Member of the 13th (current) National Assembly of Pakistan is twice as rich compared to his/her counterpart in the 12th National Assembly of Pakistan (2002-2007). The average value of an MNA's assets has increased three fold in six years from 2002-2003 to 2008-2009. The average value of an MNA's Assets in the 12th National Assembly was just below Rs27 million in 2002-2003, a figure which jumped to approximately Rs81 million in 2008-2009.¹⁹⁷

Contrast such numbers with the estimated 50% of Pakistanis living below the poverty line with an average income of less than US \$ 2 a day.¹⁹⁸ According to the UN Human Development Report 2009, Pakistan's Human Poverty Index value of 33.4% puts the country at 101st among 135 countries for which the index has been calculated. While geographical, ethnic and religious diversities may be reflected to an extent in public institutions, the income disparity and the poverty levels preclude the poor from even aspiring to hold public office.

3.3. Decentralization

Overarching Question: *Are decisions taken at the*

level of government that is most appropriate for the people affected?

3.3.1. How independent are the sub-central tiers of government from the centre, and how far do they have the powers and resources to carry out their responsibilities?

Pakistan is a federal state and as such has different tiers of government, including federal, provincial and local. The local tier comprises district, tehsil and union administrations.

After the 18th Constitutional Amendment, as per amendments made in Article 90, the Executive Authority of the Federation vests in the President though it is to be exercised by the Federal Government, comprising the Prime Minister and Federal Minister, in the name of the President. The Prime Minister is the Chief Executive. In addition, the Concurrent List, containing subjects on which both Parliament and the Provincial Assemblies could legislate, has been omitted. However, Criminal Laws, Criminal Procedure and Evidence remain subjects on which both the Parliament and the Provincial Legislatures can make laws. A number of entries have been added to the domain of the Council of Common Interests. The Federation's power to entrust functions to Provinces will now be subject to ratification/approval of such entrustment by the Assembly of the concerned Province.¹⁹⁹ An 18th Amendment Implementation Commission headed by Senator Raza Rabbani was appointed by the Prime Minister in April 2010 and given a mandate of ensuring implementation, especially relating to transfer of subjects from the federation to the provinces, of the 18th Amendment within one year.

Before the 7th National Finance Commission (NFC) Award, administrative decentralization remained elusive in the absence of fiscal decentralization. After the 7th NFC Award, the country has moved towards a more meaningful resource decentralization from the centre to the provinces. The 18th Amendment also stipulates that a subsequent NFC Award will not reduce the share of resources allocated to the Provinces by a previous Commission. Provinces have become entitled, as of right, to the entire proceeds of the excise duty on oil in addition to the excise duty on natural gas. The Provinces have also been given power to raise domestic or foreign loans with the approval of the National Economic Council.

3.3.2. How far are these levels of government subject to

March 25, 2008 - September 24, 2010

free and fair electoral authorization, and to the criteria of openness, accountability and responsiveness in their operation?

Article 140-A relating to devolution of power to local governments has been retained and expanded under the 18th Constitutional Amendment thereby ensuring that elections to local governments shall be held by the Election Commission of Pakistan.²⁰⁰

Local-government elections were scheduled to be held in 2009. However, after the General Election in 2008, the new provincial governments decided to postpone local-government elections in order to amend the Local Government systems. Until December 31, 2009, such changes required Presidential approval. In early 2010, all four provinces suspended the elected local bodies and tasked administrators (civil servants) with the management of LG affairs until elections are held. Each province has passed new local government laws, a process that has been subject to considerable negotiation among the various coalition partners in the provinces. It is not clear when LG elections will be held in these provinces.

Pakistan ratified the International Covenant on Civil and Political Rights (ICCPR) on June 23, 2010²⁰¹ which contains obligations relating to democratic elections at all levels. In addition to international standards, the laws and practices at the local level should take into account reform initiatives at the federal level. Holding local elections in line with international standards would buttress the provinces' aspirations to autonomy.

DEMOCRACY BEYOND THE STATE

4.1. External influences on the country's democracy

Overarching Question: *Is the impact of external influences broadly supportive of the country's democracy?*

4.1.1. How free is the country from external influences which undermine or compromise its democratic process or national interests?

Pakistan's strategic relevance to global politics, owing to its frontline role in global efforts to curb transnational terrorism after terrorist attacks in the US in September 2001, has continued after the February 18, 2008 General Election. The US, which had built a relationship with the military government of Gen. Pervez Musharraf after 9/11, turned its attention towards cultivating the civilian leadership after the return of the civilian rule. In the immediate aftermath of the election, US officials held meetings with leaders of major political parties including the Co-chairperson of the PPP Mr. Asif Ali Zardari, the PML-N chief Mr. Nawaz Sharif and the MQM Deputy Convener Mr. Farooq Sattar. During the meetings with Mr. Zardari and Mr. Sharif, American officials urged both leaders to work with moderate forces and President Musharraf. The series of post-election meetings were criticised within the country and were seen as US meddling in Pakistani affairs.²⁰²

External influence in Pakistan's internal affairs and democratic processes is not a new phenomenon. Ahead of the 2008 Election, international mediation, especially from the US and the UK, is understood to have been behind negotiations between Gen. Musharraf and former Prime Minister Ms. Benazir Bhutto, which presaged her return to Pakistan and the holding of elections. Mr. Nawaz Sharif, former Prime Minister of Pakistan, left a Pakistani prison for what was negotiated to be a 10-year exile to Saudi Arabia through a deal negotiated by Saudi Arabia and the Clinton administration in the US. That Saudi Arabia was to act as a guarantor of Mr. Sharif's exile deal with Gen. Musharraf was confirmed in a press conference on September 8, 2007 by Saudi Intelligence Chief Prince Muqrin bin Abdul Aziz at the Army House, Rawalpindi: "Nawaz was bound under the agreement not to return to Pakistan before ten years in exile. We sincerely hope that Nawaz Sharif honours this agreement."²⁰³ Mr. Nawaz Sharif attempted to return to Pakistan in September 2007 following a Supreme Court order, but was made to return to Saudi Arabia soon after his

arrival at the Islamabad airport.

In August 2008, when the PPP and the PML-N cooperated to force Gen. Musharraf to step down by threatening impeachment, the country once again saw a flurry of activity by British and American diplomats who were believed to be crafting an exit for Gen Musharraf that saved him from the humiliation of impeachment.²⁰⁴ President Musharraf resigned from office on August 18, 2008 and later moved to the United Kingdom where the government provided him with official security protection.²⁰⁵

The successful conclusion of Long March in March 2009, which resulted in the reinstatement of Chief Justice Iftikhar Chaudhry is also believed to have been facilitated by American and British mediation of the talks between the Government, Mr. Nawaz Sharif and the Army Chief Gen. Ashfaq Pervez Kiyani.²⁰⁶ According to media reports, Secretary Clinton and Ambassador Holbrooke made several calls to both President Zardari and Mr. Sharif, while then UK Foreign Secretary David Miliband was also cited as a "key intermediary" in defusing the crisis.²⁰⁷

Saudi Arabia is believed to have once again intervened in the fate of a Pakistani leader in September 2009 when it supported President Musharraf at a time Mr Nawaz Sharif had started building pressure for the trial of the Mr Musharraf under Article 6 of the Constitution (treason). The royal treatment given to former President Musharraf during his visit to Saudi Arabia was interpreted as tacit support for Mr Musharraf.²⁰⁸

In October 2009, US President Barack Obama signed the Enhanced Partnership with Pakistan Act (commonly known as the Kerry-Lugar-Berman Bill), a five-year, US \$7.5 billion aid package for Pakistan. The conditions applying to security-related assistance and major defense transfers were severely criticised by a cross-section of Pakistani society. In particular, Sec 6, paragraph (c) of the Bill which requires Pakistan to certify to the US Congress that it is cooperating with US goals in combating terrorism, preventing the territory of Pakistan from being used as a base for attacks on Al Qaeda, and the Pakistani armed forces are not interfering with the democratic development of the country, etc. was heavily criticised. The military leadership, in a controversial press release, opted to make its views public instead of communicating these to the Government. It expressed "serious concerns" over some clauses of the bill which would affect "national security"

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN

REPORT

March 25, 2008 - September 24, 2010

and asked the Parliament to deliberate on the issue and enable the Government to develop a national response.²⁰⁹ While no amendments to the legislation were made, Senator John Kerry (D-MA) and Congressman Howard Berman (D-CA), after whom the bill is named, issued a Joint Explanatory Statement to “facilitate accurate interpretation of the text and to ensure faithful implementation of its provisions in accordance with the intentions of the legislation” explaining that the “legislation does not seek in any way to compromise Pakistan's sovereignty, impinge on Pakistan's national security interests, or micromanage any aspect of Pakistani military or civilian operations. There are no conditions on Pakistan attached to the authorization of US \$7.5 billion in non-military aid.”²¹⁰

Pakistani public opinion did not change much in favour of the United States during the period. According to a spring 2010 survey by the Pew Research Center's Global Attitudes Project, America's overall image remains negative in Pakistan: only 17% have a favourable view of the US. 59% of Pakistanis describe the US as an enemy, while just 11% say it is a partner. The US-led war in neighbouring Afghanistan is widely opposed by Pakistanis. Nearly two-thirds (65%) want U.S. and NATO troops removed as soon as possible. However, despite the widespread negative opinions of the US, most Pakistanis want better relations between the two countries. 64% say it is important for relations with the US to improve, up from 53% in 2009.²¹¹

In May 2009, Pakistan signed a memorandum of understanding to begin talks on a new transit trade agreement with Afghanistan, meeting a long-standing demand of the latter. Several quarters within the country however expressed reservations on a new agreement, arguing that it would ultimately allow India trade access to Afghanistan through the Wahga-Khyber route.²¹² During talks, the Pakistani side also expressed its concerns relating to the flow of arms and drugs, as well as terror financing. Following public US pressure on Pakistan, the Commerce Ministers of Pakistan and Afghanistan inked an agreement on July 18, 2010 that is set to lead to a final Transit Trade accord. US Secretary of State Hillary Clinton was present at the signing ceremony.

Even though Pakistan has been part of a strategic relationship with the US since the September 11, 2001 attacks, the Pakistani Parliament and the public at large is mostly unaware of the nature and details of much of the relationship. In a stunning statement before the Standing

Committee on Health of the Senate, Federal Health Secretary Khushnood Lashari on August 18, 2010 claimed that relief operations in flood-affected Jacobabad could not be conducted from the Shahbaz airbase because it was under the control of the US. “Health relief operations are not possible in the flood-affected areas of Jacobabad because the airbase is with the United States,” the Secretary said in response to a question from a member of the committee. The Pakistan Air Force, however, denied the allegation and claimed that the base was under the control of the PAF.²¹³

During the past two years, Pakistan's growing dependence on foreign aid for its economy has led observers to question if the national interest is being jeopardised.

In October 2008, the government was on the verge of bankruptcy, with only US \$3 billion of real reserves according to one estimate enough to pay for just 30 days worth of imports.²¹⁴ The Government was compelled to seek assistance from the International Monetary Fund (IMF), which included tough conditions such as devaluation of the rupee; freezing of non-development expenditure for the last three quarters of the ongoing financial year; non-provision of supplementary grants to government departments; the removal of subsidy on gas and electricity; a 20% reduction in non-development expenditure of civil departments and federal ministries; increase in mark-up rates of banks and on inter-bank transactions; uniformity in the inter-bank and open market dollar exchange rate; and an end to government financial intervention in stock markets.²¹⁵

The Government faced tough criticism for turning to the IMF for aid and accepting the conditionalities. The leading opposition party, the PML-N termed the deal with the IMF a failure of the government's economic plans, whereas the former ruling party, the PML referred to it as an “economic tsunami.” The Jamaat-e-Islami claimed that by going back to the IMF, “the government compromised the country's sovereignty and integrity...It has taken a step even more dangerous than any military dictator took in the past.” Even the ANP, a coalition partner of the ruling party, was critical of the loan and asked the PPP to take Parliament into confidence.²¹⁶

4.1.2. How equitable is the degree of influence exercised by the government within the bilateral, regional and international organizations to whose decisions it may be subject?

The Enhanced Partnership with Pakistan Act, or the Kerry-

Lugar-Berman Bill, a five-year aid package committed US \$1.5 billion annually in non-military aid to Pakistan. The mechanism for the distribution of this aid led to differences between the governments in Islamabad and Washington. The Pakistani government argued that channelling the aid through NGOs would result in the loss of 35%-40% in administrative expenses and therefore reduce the aid's impact on public welfare.²¹⁷ Some media reports in the US however expressed the fear that providing aid to the government directly posed its own risks, given the allegations of corruption and inefficiency. Eventually, Ambassador Holbrooke announced that he wanted to reduce the role of contractors who delivered aid in and favoured steering more aid towards the government.²¹⁸

Much the same sentiment against the use of international NGOs for disbursement of relief and rehabilitation to the flood affected in Pakistan was expressed by Prime Minister Gilani recently when he claimed that 80% of international aid channelled through foreign NGOs will not reach the grass roots due to high overhead costs involved.²¹⁹ The argument received a cold reception in the national media, however, with many suggesting the Prime Minister needed to shore up the credibility of his government before criticising aid disbursement through international NGOs.

Pakistan has continued to pursue the Pak-Iran Gas Pipeline initiative despite US reservations on the issue. On June 20, 2010, Foreign Minister Shah Mahmood Qureshi said that the curbs being imposed on Iran would not affect Pak-Iran gas pipeline agreement. He rejected US concerns over the gas line project and said that the agreement was the need of Pakistan in view of load shedding and energy crisis.²²⁰

4.1.3. How far are the government's negotiating positions and subsequent commitments within these organizations subject to effective legislative oversight and public debate?

As noted in 4.1.1, the Government's decision to approach the IMF had met considerable resistance from the opposition as well as some coalition partners. Legislators in the Senate warned the Government against the IMF loan and demanded that if such a step was unavoidable, the matter should have been debated threadbare in the Parliament.

Pakistan's agreement/Letter of Intent with the IMF should have been discussed and approved by the Parliament at the time that Pakistan went to the IMF, according to the opposition and citizens organizations. The controversy

peaked once again in February 2010 when the Government introduced the Federal Value Added Tax Bill 2010 (VAT Bill 2010) in the Parliament in keeping with IMF conditions.²²¹ However, the imposition of the VAT was deferred by the Government till October 1, 2010 because of a failure to evolve a consensus between the Centre and provinces.

Regarding the Kerry-Lugar-Berman Bill, after the publication of a Joint Explanatory Statement to the Act by the US Congress, Foreign Minister Mr. Shah Mahmood Qureshi addressed both houses of Parliament and extensively quoted from the statement to rebut opposition charges that the Government had compromised Pakistan's sovereignty.²²² The Minister's speech was met with applause from ruling-party members and only a few chants of "Shame, Shame" and "Bill Namanzoor" from the opposition. In the Senate, Chairman Farooq Naik rejected a demand from the Opposition Leader Senator Wasim Sajjad to hold another debate on the explanatory statement.

Outside Parliament, the Leader of the Opposition in the National Assembly Chaudhry Nisar Ali Khan stated that the PML-N did not accept the Kerry-Lugar-Berman Bill despite it having been signed.²²³ The PML also opposed the law and stated that it would put forward a bill in the National Assembly asking the President of Pakistan to "issue a certificate every year that the country's security, sovereignty and nuclear programme are not being influenced by any foreign country."²²⁴ Federal Information Minister Qamar Zaman Kaira claimed that there were no differences of opinions in the cabinet and it had formally accepted the US bill.²²⁵

4.2. The Country's Democratic Impact Abroad

Overarching Question: *Do the country's international policies contribute to strengthening global democracy?*

4.2.1. How consistent is the government in its support for, and protection of, human rights and democracy abroad?

Within its foreign policy ambit of mobilization of international support and resources for its domestic socio-economic development and strengthening security and territorial integrity,²²⁶ Pakistan has continued to lend support to democracy and human rights causes worldwide during the period.

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN

REPORT

March 25, 2008 - September 24, 2010

In keeping with its foreign policy interest of cultivation of close and brotherly relations with the Muslim states, Pakistan continued its support for the rights of the Palestinians. When Israel carried out airstrikes in Gaza in December 2008, President Zardari labelled them a violation of the UN charter while Prime Minister Gilani stated that the airstrikes not only contravened international principles and norms but were also counter-productive. Later Pakistan's Foreign Office strongly condemned the Israeli attack on May 31, 2010 on a humanitarian mission, the Freedom Flotilla, which was carrying aid for Gazans.

Pakistan also continued to diplomatically and morally support the right of self-determination for Kashmiris, especially in the wake of new wave of Kashmiri unrest, and condemned Indian human rights abuse in Indian-held Kashmir,²²⁷ making Indian commitment to a roadmap covering Jammu and Kashmir as a pre-requisite to continuing a dialogue with India.

Despite what have been termed as “frequent unjustified public accusations against Pakistan” by Afghanistan, Pakistan has continued to maintain that Pakistan and Afghanistan enjoy excellent relations through abiding spirit of fraternity and goodwill between the peoples of the two countries. Pakistan understands the pain and suffering of Afghan brethren, maintains Pakistan's Foreign Office, and is resolved to continue working with Afghanistan and the international community to eradicate violent extremism.²²⁸

During the period, the Karzai government in Kabul continued to accuse elements in Pakistan, particularly the intelligence apparatus, of involvement in acts of terrorism in Afghanistan. In June 2008, Sayeed Ansari, the spokesman for the Afghan intelligence service, claimed Afghan authorities had evidence of the direct involvement of the Inter-Services Intelligence (ISI) in an assassination attempt on Afghan President Karzai in April 2008.²²⁹ Later that summer, President Karzai accused the ISI of involvement in the July 07, 2008 attack on the Indian embassy in Kabul. Relations between Pakistan and

Afghanistan began to thaw after the departure of President Musharraf, with President Karzai stating that his successor, President Asif Ali Zardari, had the “right intentions and right policy” to fight terrorism and appealed to the international community to back him.²³⁰

In May 2009, after the Sri Lankan military over-ran the Liberation Tigers of Tamil Eelam (LTTE), many observers pointed to the important role played by Pakistan in the victory of the former. Media reports claimed that the Sri Lankan Army Chief Lt. Gen Fonseka, during his visit to Pakistan in May 2008 had finalized a deal worth US \$100 million under which Pakistan sold 22 Al-Khalid tanks to Sri Lanka.²³¹ It was further reported that General Foneska had presented the Pakistani military authorities with a US \$65 million shopping list and that they had accepted his request to deliver a shipment every 10 days. On April 28, 2009 the Sri Lankan Army Spokesman Brigadier Udaya Nanayakara confirmed that Pakistan and India had trained and equipped the Sri Lankan military to fight the LTTE.

4.2.2. How far does the government support the UN and agencies of international cooperation, and respect the rule of law internationally?

In keeping with Pakistan's policy of close engagement and working within the norms of institutions of the international system, Pakistan maintains faith in the principles enunciated in the United Nations Charter and takes an active part in the deliberations of the UN and other international and regional organizations.²³² During 2009, Pakistan retained its spot as the top contributor to the UN peacekeeping missions across the world, with military and police forces serving in 12 peacekeeping missions.²³³

As of July 31, 2010, Pakistan ranked 2nd in terms of its military and police contributions to the United Nations Peacekeeping Missions, with the top slot going to Bangladesh with 10757 personnel.²³⁴

On February 14, 2008, Amnesty International urged all political parties in Pakistan to ratify the International

Table 6: Ranking of Military and Police Contributions to UN Operations

Pakistan's Ranking	Police	Military Experts on Missions	Troops	Total
02	889	117	9650	10656

Source: Monthly Summary of Contributions to UN Peacekeeping Operations as of 31 July 2010

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN

REPORT

March 25, 2008 - September 24, 2010

Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the United Nations Convention Against Torture.²³⁵ It also called upon the Pakistani authorities and political parties to ensure the implementation of the UN Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child, both of which Pakistan had ratified. In April 2008, Pakistan ratified all three conventions and on January 22, 2010, the National Assembly passed the Harassment of Women at the Workplace bill as well.

In the aftermath of the Mumbai attacks, the United Nations Security Council declared the Jamaat-ud-Dawa a terrorist group under Security Council Resolution 1267.²³⁶ In response to the UNSC resolution, Pakistan banned the group and arrested its head, Hafiz Saeed. He was however released on June 03, 2009 in accordance with the verdict of the Lahore High Court, which maintained that the UNSC resolution did not require his arrest.²³⁷

4.2.3. How extensive and consistent is the government's contribution to international development?

During the past two years, Pakistan contributed to international relief efforts in disaster hit areas. On May 12, 2008, Pakistan dispatched two C-130 aircraft with 24 tonnes of relief goods comprising tents, plastic sheets, thousands of mosquito nets, medicines and water purification tablets to cyclone-hit Myanmar.²³⁸ Later in the same month, Pakistan dispatched six C-130 aircraft with 72 tons of relief goods comprising tents, blankets, edibles and medicines for flood victims in China.

In response to the United Nations Secretary General's call to the international community to assist the victims of the devastating quake in Haiti, Prime Minister Gilani asked the Cabinet Division to immediately provide 3,000 tents/blankets and 8 tonnes of medicines to the UN office in Islamabad for onward dispatch to the country.²³⁹

4.2.4. How far is the government's international policy subject to effective parliamentary oversight and public influence?

While Article 90 of the Constitution vests executive authority in the President, Article 48 binds him to "act in accordance with the advice of the Federal Cabinet or the Prime Minister." Furthermore under the Rules of Business, no important foreign policy decision can be taken without the approval of the Prime Minister²⁴⁰ and all proposals

involving negotiations with foreign countries, for example. exchange of diplomatic and commercial representation, treaties and agreements, good will visits, representation at international conferences and meetings, etc., must be brought before the Federal Cabinet.²⁴¹ The Federal Cabinet and Prime Minister are in turn accountable to the Parliament, which can influence the formation and implementation of foreign policy by adopting non-binding resolutions, or by holding hearings in the standing committees for foreign affairs. Parliament may also pass a bill with respect to any aspect of Pakistan's external relations, which then gains the force of law.²⁴²

In practice, however, parliamentary oversight of the executive's international policy remains weak. Parliament is not required to ratify Pakistan's international agreements and treaties. The Pakistani Parliament and public remain unaware of the details of Pakistan's agreements with the US, despite their relevance to Pakistan's role in war against terrorism and its internal fallout. Contrast this with the newly independent state and a nascent democracy such as Kyrgyzstan which requires its Parliament to ratify pacts such as those re-negotiated recently between the United States and Kyrgyzstan involving the US use of Kyrgyz Manas air base, central to the NATO mission in Afghanistan.²⁴³

As noted in 4.1.1, ambiguity surrounds whether Pakistan has allowed United States the use of its air bases such as Shahbaz airbase and on what terms and conditions. While the Federal Health Secretary informed the Senate Committee on Health that Pakistan's Shahbaz airbase is controlled by the US due to which health relief operations were not possible in the flood-affected areas of Jacobabad, both the Pakistan Air Force and the United States denied the allegation and claimed the base was under the control of the PAF.²⁴⁴

While in theory, Parliamentary Standing Committees on Foreign Affairs are to oversee the working of the Foreign Ministry as well as to analyse the government's foreign policy decisions and choices, in practice the two committees, in the National Assembly and the Senate respectively, have shown little promise in this regard. During the past two years, the National Assembly's Standing Committee on Foreign Affairs held only 8 meetings under the chairmanship of Mr. Asfandiyar Wali Khan. The Senate's Standing Committee on Foreign Affairs, Kashmir Affairs and Gilgit-Baltistan remained without a chair and was therefore non-functional until May 6, 2010

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN R E P O R T

March 25, 2008 - September 24, 2010

when Senator Salim Saifullah Khan was elected as its chair.

There have been repeated calls that the Parliament must be made constitutionally responsible for ratification of all international treaties, agreements and conventions that Pakistan is a signatory to and that appointments of Pakistan's envoys should be subject to ratification by appropriate Parliamentary committees. However, so far these reforms have not been introduced even as part of the 18th Constitutional Amendment despite recommendations.²⁴⁵

March 25, 2008 - September 24, 2010

THE DEMOCRACY SCORE CARD

The Mid-Term Assessment of the Quality of Democracy in Pakistan has yielded an aggregate score of **172** out of a total of **375** which corresponds to **45 %** score. The Group had assessed the Quality of Democracy for the period prior to 2008 Election (Musharraf-era) in January 2010 and it had resulted in an overall score of **40 %**. In comparison, the Group had assessed the Quality of Democracy as it stood in January 2010 and had given a score of **48 %** at that time. The results of the assessment in September 2010 clearly point towards a slight deterioration in the Quality of Democracy since the beginning of the term of the present Government in March 2008 - a drop of just 3 percentage points from 48 % to 45 % in a span of 7 months.

The pillar receiving the highest score - Civil Society and Popular Participation

Out of the four pillars of the framework, the pillar of Civil Society and Popular Participation received the highest scores of **53 %**.

The Role of Media

The **Role of Media** as a sub-pillar received the highest score of **58 %**. Under this sub-pillar, the **independence of media** received a high score of **62 %**; **representativeness of the media of the diversity of public opinion** received a

score of **67 %**, the highest score of the Score Card, and the **investigative ability of the media and civil society** received a score of **62 %**. Relatively a lower score, i.e., **52 %**, was received by the **freedom of private citizens from the intrusiveness of media** which underscores the need for media to be a little more sensitive to the privacy of a citizen.

Political Participation

Political Participation by various groups of citizens received **52 %** scores but the **Equality of Access for all social groups to public office** received a low score of **42 %**.

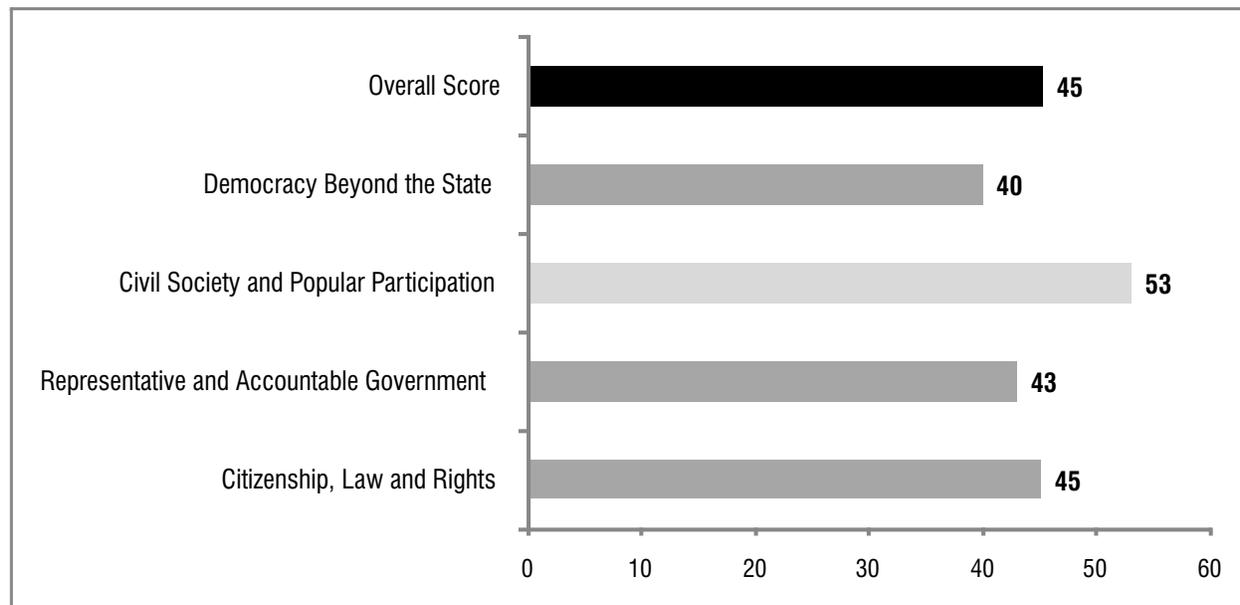
The Degree of Decentralization

The Degree of Decentralization sub-pillar received a score of **47 %** indicating not a very satisfactory state. Within the sub-pillar, the **degree of Government's cooperation to involve grass-root organizations and citizens at the lowest level of Government** received a score of **41 %** which indicates an unhealthy condition.

The Citizen-State Relations pillar: the second highest score

The Citizen-State Relations pillar received **46 %** score which is slightly behind the highest score of **45 %** received by the Civil Society and Popular Participation pillar.

Graph 1: Score Card of Mid-Term Assessment of the Quality of Democracy in Pakistan



Common Citizenship without discrimination

Under the Citizen-State Relations, the Group scores indicate relative satisfaction about the current **constitutional arrangements regarding the citizens' rights** but some dissatisfaction with the arrangements to protect the non-Muslim minorities and vulnerable social groups. **Public agreement on a common citizenship without discrimination** received **61 %** score.

Rule of Law and Access to Justice

Rule of Law and Access to Justice receives a **43 %** score. Within this sub-pillar, the Group scores indicate dissatisfaction about the **operation of the Rule of Law** as it receives one of the lowest scores of **33 %**. The **Independence of Judiciary**, however, received high marks: **60 %**.

Civil and Political Rights

The Civil and Political Rights sub-pillar received **47 %** marks which does not indicate a satisfactory condition. Within the sub-pillar, the Group assigned one of the lowest marks, which is **34 %**, to the freedom from physical violation or even the freedom from the fear of physical violation.

Economic and Social Rights

The sub-pillar of Economic and Social Rights received a low score of **40 %**. The Group assigned low marks to the **state of provision of basic necessities and services** such as food, shelter, clean water at **31 %**, **Healthcare** at **33 %** and **Education** at **41 %**. The **Freedom of Trade Unions** received a **49 %** score while the effectiveness of the **Rules of Corporate Governance** received a **48 %** score.

Representative and Accountable Government receives the second lowest score

The second lowest score has been assigned to the **Representative and Accountable Government** pillar. This pillar is the most important of the four pillars as it commands the greatest weightage of **45 %**. The DAG assigned **43 %** score to this pillar. An analysis of the scores assigned to the six sub-pillars under this pillar indicates that while the **Representativeness of the Government** receives relatively high scores, it is the **Accountability** part which does not fare well in the assessment.

Free and Fair Elections

The Free and Fair Elections sub-pillar received **50 %** score.

The score indicates a satisfactory status with room for improvement.

Democratic Role of Political Parties

The Democratic Role of Political Parties sub-pillar also received a **51 %** score. The Group gave high marks (**63 %**) for the **freedom enjoyed by the political parties** and **56 %** for their role in the formation and sustenance of the federal and provincial governments. The DAG, however, felt that the **political parties are not yet sufficiently membership-based and organised entities** and gave a rather low score of **39 %** to this aspect of the political parties.

With regard to the **financial needs and expenditures of political parties**, the Group noted that, despite the legal requirements for financial reporting overseen by the Election Commission, there is **notable absence of credibility**. The scope for introducing a fair system of State funding of political parties, as in several other countries, deserves serious consideration. This aspect of the political parties received **40 %** marks.

Effective and Responsive Government

This sub-pillar received a rather low score of **38 %** indicating that the Group does not consider that the present Government is effective and responsive. The score assigned to the **Ability of the Government to solve the main problems confronting the society** and their own ability to influence the Government to do it received a low score of **31 %** indicating a weak level of confidence in the ability of the Government.

The Democratic Effectiveness of Parliament

The Democratic Effectiveness of Parliament sub-pillar received the highest score of **50 %** within this pillar. This score indicate that despite the pessimism often expressed about the role of the Parliament and the Political Parties in Pakistan, the Group **favourably viewed the constitutional and legal arrangements for the independence of the Parliament** and the powers of oversight that it enjoys.

The Group, however, was not so sure about the **effectiveness of the Parliament's role in the budget process** especially the taxation proposals and this particular aspect received **38 %** score.

Civilian Control of the Military

The Civilian Control of the Military sub-pillar received the second lowest score of **35 %** within this pillar. The **Effectiveness of Civilian Control over the Armed Forces**

received a low score of **26 %** which is one of the **lowest score assigned to any question**.

This score calls for a serious reflection both by the civilian and military leadership. An elected, democratic government must be able to exercise credible and effective control of the military. In the opinion of the Group, Pakistan is far from this stage.

However, the Group noted with satisfaction steady progress in making the **composition of the Armed Forces more reflective of the social and regional composition of Pakistan**. This particular aspect of the sub-pillar received **51 %** score.

Integrity in Public Life

The Integrity in Public Life sub-pillar received the least score (**34 %**) not only within this pillar but also among the total 15 sub-pillars of the entire framework. This low score indicates that in the opinion of the DAG, the current **constitutional and legal arrangements to ensure the integrity in public office are unsatisfactory** and there are questions about the conduct of the public office holders and that this conduct does not evoke public trust.

The **public confidence in Public Officials and Services** received a low score of **28 %**.

External Influence on and of the Country's Democracy: received the lowest score

The analysis of the Assessment of the Quality of Democracy in Pakistan reveals that the External Influence on and of the Country's Democracy gets the lowest score of **38 %** among the four pillars.

External Influences on the Country's Democracy

43 % is the score assigned to the **Supportiveness of the External Influence on the Country's Democracy** indicating that the Group does not consider that the net effect of the external influences is very supportive for the Democracy in Pakistan. This score indicates that there is a considerable negative impact of factors external to the country on the Quality of Democracy in Pakistan. This low score of **35 %** indicates that, in the opinion of the Group, the external influences are undermining or compromising the democratic process and the national interest of Pakistan.

The assessment also indicates that the current level of

Parliamentary Oversight on the country's negotiating positions at the international forums or in bilateral relations and international commitments is **far from satisfactory**. The Group assigned **32 %** score to this particular aspect.

Pakistan's Democratic Impact Abroad

A relatively better score (**45%**) was received by Pakistan's efforts to support democracy and human Rights abroad.

A complete Score Card using the Framework is placed at *Appendix C*.

KEY MESSAGE OF THE ASSESSMENT

The key message of the Mid-Term Assessment of the Quality of Democracy in Pakistan is that the status of Constitutional and institutional arrangements of Democracy are comparatively better than in most parts of our history. Today, we have the basic ingredients of Democracy in place such as an independent Judiciary, independent and diverse media, a sovereign and inclusive Parliament in which the opposition is given an important role and a free open civil society. But the state of governance, rule of law, accountability and integrity in public office are not satisfactory and need urgent improvement.

Challenges Facing Democracy upon its Restoration in March 2008

In the opinion of the Democracy Assessment Group, Democracy has made some impressive gains during the past two and a half years despite various difficulties and challenges at the very outset. These difficulties should not be ignored while ascertaining the accomplishments and weaknesses of the democratic era. The major challenges facing Democracy in Pakistan in March 2008 included the following:

- a. An extremely weak democratic culture inherited from the previous government which depended on one powerful individual, General Pervez Musharraf, who happened to be the President of Pakistan as well as the Chief of Army Staff rather than on democratic institutions such as the Parliament, Provincial Assemblies, Judiciary and the Election Commission.
- b. Democratic institutions were weak and demoralised
- c. Federation-Province Relations lacked harmony especially the people of Balochistan who were extremely disenchanted with the Federal Government due to the policies followed by the Government of General Musharraf
- d. The superior Judiciary was sacked by General Musharraf without any lawful authority and the country was facing street agitation when the new democratic era began
- e. The Civil-Military relations were at their lowest level due to the long, unjust and illegitimate rule of General Musharraf which was resented by the people. The Military as an institution was brought to disrepute by the policies of General Musharraf.
- f. The Rule of Law was significantly disrupted because General Musharraf twice suspended Constitutional provisions, heavily manipulated the 2002 Election by unlawfully using intelligence agencies to alter results and party alignments.
- g. Parts of the country were in the grip of insurgency which intensified due to the policies adopted by the Musharraf regime
- h. Despite apparent economic stability, the economic crisis that began to set in during the last days of the Musharraf-led regime worsened especially during the period of the caretaker government that unwisely deferred increase in the price of oil for reasons of political expediency despite sharp rise in prices in the international market. Thus a huge deficit was inherited by the next Government.

Major Accomplishments of Democracy during the past Two and a Half Years

Some of the major accomplishments are as follows:

1. **Restoration of Judiciary:** Despite the apparent reluctance of the new democratic Government to restore the superior Judiciary sacked by General Musharraf, it was due to restored Democracy that street agitation demonstrated the power to force the Government to restore the Judiciary unconditionally and completely. Thus commenced a new era of an independent Judiciary.
2. **Unanimous passage of the 18th Constitutional Amendment:** The unanimous passage of the 18th Constitutional Amendment by the Parliament is one of the major accomplishments of Democracy during the past 30 months. The package of 100 amendments to 97 articles of the Constitution was debated for more than 9 months by a Special Parliamentary Committee on Constitutional Reforms consisting of the representatives of all political parties represented in the Parliament and was ultimately unanimously passed by both Houses of the Parliament. The package of amendments is a rare feat as it created consensus among various parties on some of the most divisive issues in the country such as Provincial Autonomy and giving a new name of Khyber Pakhtunkhwa to the North West Frontier Province. The Amendment restored the Parliamentary character of the Constitution, strengthened the Parliament and Provincial Assemblies, strengthened Fundamental Rights and minimised personal discretion.
3. **7th National Finance Commission (NFC) Award:** Serious differences in the past among the provinces had prevented a consensus on a new formula to divide the financial resources between the Federation and the Provinces and among the provinces. The last consensus award was made possible in 1996 during a caretaker government. The 7th NFC Award formally notified on May 10, 2010 was historical in the sense that it was for the first time that the provinces had agreed on multiple criteria for the distribution of resources among the provinces unlike the sole criteria of population that was followed in the past to the great dismay of three smaller provinces. It was also historical because for the first time the share of the provinces became larger than the federal share. The Federation share will be 44 % during 2010-11 and 42.5 % from the year 2011-2012 onwards. Such a consensus among so many parties ruling in various provinces and at the Centre would not have been possible without the democratic spirit.
4. **Making the Public Accounts Committees (PACs) more effective:** For virtually the first time in recent history of Pakistan the Government agreed to the election of a member of the Opposition as the Chairman of the Public Accounts Committee in the 13th National Assembly, in line with internationally-established democratic traditions. The same practice was followed in the case of at least one of the two PACs in the Punjab Assembly.
5. **Recognition of the Role of Opposition in the Parliament and the Provincial Assemblies:** The ruling coalition in the Centre did not insist on getting their members elected as chairs of all the parliamentary committees in the National Assembly. As another unprecedented first, more than 25 per cent of the parliamentary committees' chairs represent the Opposition parties.
6. **Constructive Role of the Opposition:** The PML-N is the main opposition party in Pakistan. Despite some serious differences with the PPP which heads the coalition government in the federation, the PML-N, in a clean departure from the past, does not try to remove the government through agitation or intrigues. The

March 25, 2008 - September 24, 2010

opposition, in fact, has supported the government at times facing the taunts of friendly opposition. The PML-N leader Muhammad Nawaz Sharif publicly distances himself from the acts which appear to be expanding the sphere of influence of the military at the expense of the civil government. It is one of the major accomplishments of democracy that such a mature level of accommodation and tolerance prevails in the country.

7. **Aghaz-e-Huqooq-e-Balochistan:** In view of the long-standing grievances of the people of Balochistan, the federal government announced a 30-point special package of reforms and development for the province in November 2009 with the title of Aghaz e Huqooq e Balochistan. Even though this package is a major initiative and has the potential to promote reconciliation and harmony in the Federation-Province relations, it has not satisfied everyone in Balochistan.
8. **Gilgit-Baltistan Empowerment and Self-Governance Order, 2009:** The order signed by the President of Pakistan Mr. Asif Ali Zardari on September 7, 2009 (post-1947 called Northern Areas) introduces several administrative and legislative reforms. The Government of Pakistan conducted election to the GB Legislative Assembly following the promulgation of the order. The Order addresses at least some of the long-standing demands of the people of Gilgit-Baltistan and expands the sphere of democracy to this region. Political parties of Azad Jammu and Kashmir have expressed strong reservations on this initiative.

Challenges to Democracy and Key Areas of Concern

There remain many challenges to Democracy in Pakistan. Recognising that democracy was restored only two and a half years ago and that the repeated interruptions in the democratic process by military or quasi military interventions have rendered the democratic institutions fragile and weak, Democracy in Pakistan is vulnerable and far from secure and stable. It is therefore important that the challenges being faced by Democracy today are identified and highlighted for a wholesome analysis on the State of Democracy in Pakistan and for consideration and action by all citizens of Pakistan and especially the Government and its various branches including the Judiciary and the Armed forces.

1. **Socio-Economic Challenges**

The challenges in the social and economic sectors pose the most potent threats to fragile democracy. The country's low ranking in the global human development index and our failure to achieve most of the targets set by the Millennium Development Goals reflect the neglect of the fundamental priorities of education, health and basic services for the overwhelming majority of the people. Disruption and at times complete suspension of basic public services such as electric power, gas and water are cruel manifestations of poor planning, economic mismanagement and absence of a strategic vision.

High inflation in the prices of essential items, a low growth rate fuelling unemployment and ever-expanding losses of State-owned enterprises are some of the other serious challenges. The unprecedented floods in July-August 2010 have destroyed homes and a large part of the infrastructure. Destruction of crops, livestock and stored grains have set the country back by many years. The on-going insurgency especially in the areas adjoining Afghanistan adds a huge economic burden to the national economy. All these challenges add up to a formidable challenge to Democracy when people may tend to explain the economic hardships as an outcome of democracy. A strict economic discipline, adopting

March 25, 2008 - September 24, 2010

austerity measures at all levels including the most visible ones at the top to set good example, thoughtful planning, winning confidence and trust of the international donors to support Pakistan are some of the immediate measures needed to avert a public backlash on democracy.

Far more financial resources exist within the country than are being applied to provide basic services to citizens. When voters are pre-occupied with fundamental problems of daily life, they are unable to give democratic processes the attention they deserve. One essential way to change this for the better is to ensure that those citizens who are liable to pay taxes do so on a regular basis. Presently, for a country of its size and relative status, Pakistan has one of the lowest tax-to-GDP ratios in the world at about only 9 per cent. Millions of non-salaried citizens evade taxes through under-reporting, mis-reporting or non-reporting of taxable income and assets. The Federal Board of Revenue and all other Federal and Provincial authorities need to reduce their own internal inefficiencies and collusion with tax-evaders in order to substantially raise revenue-collection. Enhanced financial resources invested in education, health and human resource development will deepen and strengthen the relationship between the citizen and democracy.

2. **Terrorism affecting Pakistan's Democracy in the 21st Century**

While the economic and socio-economic costs of terrorism in Pakistan run into billions and the price paid in human lives is incalculable, the effect of terrorism on Pakistan's democracy is equally palpable. This is especially evident in the plummeting confidence of the people in the elected Government's capacity to enforce law and order. The Armed Forces are reported to complain of a lack of effective, comprehensive follow-up action by the civil Government in areas where they have conducted clean-up operations against terrorists and militants.

3. **Perceptions of Corruption and delay in instituting an Accountability Mechanism**

Prime Minister of Pakistan, Syed Yusuf Raza Gilani, in his very first speech in the National Assembly on March 29, 2008, promised to disband the National Accountability Bureau (NAB) and create instead an independent Accountability Commission as envisaged in the Charter of Democracy signed by the PML-N and the PPP leaders. Two and a half years down the line, this unfulfilled promise is one of the greatest failings of the current Government and to some extent of the Parliament which has allowed the Holders of Public Offices (Accountability) Bill 2009 to stay with the National Assembly Standing Committee on Law, Justice and Parliamentary Affairs for over 17 months since its introduction in the National Assembly on April 15, 2009. While the law is far from passed, the existing accountability mechanism in the form of the NAB is in limbo.

The Government, the Opposition, and the Parliament as an institution, must act fast on creating an effective and independent Accountability mechanism by passing a law that provides for speedy accountability and is immune to all types of influence. The sustainability of Democracy in Pakistan is closely and directly related to the existence of such an Accountability mechanism. Corruption was used as a key argument for the dismissal of at least 6 governments in the past 30 years in Pakistan. Providing a credible accountability mechanism will rob any future adventurer of the pretext of corruption to disrupt democracy. Pakistan, as a signatory to United Nations Convention Against Corruption (UNCAC) has international obligations, too, to move effectively and speedily for the establishment of a Credible Anti-Corruption mechanism.

March 25, 2008 - September 24, 2010

A weak and inefficient mechanism of accountability of the holders of public office undermines democracy, given Pakistan's peculiar context in which democracy gets derailed every few years. If the Government fails to establish an effective mechanism of accountability, the democratic system will be imperilled, regardless of how strongly are the pro-democracy forces in the country.

4. **A weak Performance Legitimacy of the Government**

While carrying out a general discussion of factors that affect the quality of democracy in Pakistan, the Democracy Assessment Group emphasised the role that performance plays in legitimizing democracy. Performance failure of a democratic government is seen as the failure of democracy and one of the greatest threats to Pakistan's democracy is the Government's performance. Given the challenges that Pakistan faced today, performance legitimacy is all the more important.

5. **Perception of Confrontation between the Supreme Court and the Government**

Since the July 31, 2009 judgment of the Supreme Court of Pakistan on the National Reconciliation Ordinance (NRO), a confrontational relationship appears to be emerging between the elected Government and the Supreme Court of Pakistan, especially on the question of the Government's implementation of the Court's NRO judgment. The mechanism of Parliamentary Scrutiny and a Judicial Commission provided for in the 18th Amendment for the appointment of Judges has added another point to the possible areas of divergence between the Executive and the Judiciary and between the Parliament and the Judiciary. The confrontation between two state institutions does not augur well for democracy and may develop deeper implications for the continuity of democracy in Pakistan especially if the military steps into the foray as well.

6. **Weak Political Parties and Intra-party Democracy**

Lack of institutional decision making and a lack of democracy within political parties has been termed as one of the key features that hamper the Quality of Democracy in Pakistan. Until the passage of the 18th Constitutional amendment in March 2010, there existed Constitutional legal requirements that forced political parties to hold internal elections, even though those were widely perceived to be often sham and lacking legitimacy. The 18th Constitutional amendment did away with the Constitutional obligation to hold inter-party elections even though legal requirements to do so remain in place. Until political parties promote a democratic a genuinely democratic internal culture and conduct reforms with robust internal democratic decision-making mechanisms, the quality of democracy will remain compromised. There is also a need for political parties to increase their popular base beyond narrow ethnic and regional limits.

7. **The Need to strengthen Parliamentary Oversight of the Executive**

Parliament is the key legitimate forum to carry out an effective oversight over the executive. There was consensus on the need to strengthen the role of parliamentary committees and the allocation of funds by the government for them to carry out their work. This includes effective oversight of the Defence sector which is crucial especially in Pakistan's peculiar civil-military relations. The existing bi-partisan Parliamentary Committee on National Security should conduct oversight of the intelligence apparatus. Despite the existence of 41 Standing Committees in the National Assembly there is a need to address public concerns at the tendency to use most of these committees for narrow, partisan purposes and for grand standing exercises rather than to achieve authentic improvements in oversight.

March 25, 2008 - September 24, 2010

8. **The Perception of Inadequate Dividends of Democracy for Public**
Democracy in Pakistan will only be as strong as people would want it to be. However people increasingly feel that democratic governments are equally incapable of resolving their problems as non-democratic ones. Hence, they have very little attachment to democracy and do not respond adequately to threats to democracy. This problem needed to be resolved at a societal level.
9. **The Need to Channelize the Potential of Youth for Democracy**
70% of the population of Pakistan is below 30 years of age, while 45% is below the age of 15 years. The youth demographics alone, if ignored, pose a huge challenge and an opportunity in Pakistan. If youth's potential is not harnessed, especially for democratic participation, interest and relevance of democracy, youth can become a recruiting source for extremism ideologies.
10. **Role and Responsibility of the Media**
Even though the media have played a pivotal role in empowering people with the information that is essential for a functioning democracy, there is a distinct sense of concern at the imbalance and excesses of news media in covering the political process, in reporting violence and in fostering national self-esteem. There is a need for both media and Government to ensure voluntary practice of codes of conduct that already exist and to implement the existing law for a Press Council.

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

THE WAY FORWARD

During the process of this assessment and during the consideration of the results of this assessment, the Group was unanimous in the **firm belief that the way forward for Pakistan is to sustain, refine and strengthen the democratic system.**

Disappointment at the performance of elected legislatures and governments in a particular phase cannot become the justification for abandoning the democratic process.

More than ever before, any disruption of the democratic process at this stage in the country's precarious and vulnerable situation is bound to produce adverse consequences.

The low over-all score of **45 %** is, on the one hand, accurate and, on the other, it is also misleading.

The low score is accurate in so far as it correctly reflects a widespread sense of disillusionment and dissatisfaction with the performance of elected governments for two and a half years. This despondency applies to the performance of Federal as well as Provincial governments, irrespective of which political parties or coalitions are in office.

At the same time, the low score is misleading because it does not adequately or holistically reflect the fact that in the very same two and a half years, the elected legislatures have transformed the mutilated, authoritarian dimensions of the original much-amended 1973 Constitution into an authentically new Parliamentary framework. By adopting the 18th Amendment, the Federal legislatures have actually advanced along the democratic path far more than even the 1973 Constitution did. For the first time in Pakistan's 63-year history, Provincial autonomy and the true principles of Federalism have been categorically enshrined. By also forging a consensus to equitably share revenues through the new National Finance Award the elected governments have demonstrated the capacity to transcend narrow interests for the larger cause of national cohesion.

Yet it is the next phase that becomes the far more formidable challenge.

This is the challenge of translating this new Constitutional framework and consensus sanctified on paper into concrete, practical, visible benefits which are seen and felt by citizens in every sphere of their lives, and thus make a measurable difference.

The way forward, therefore, is to **use democracy to conduct comprehensive reforms**, to significantly **improve governance, ensure transparency and accountability**, and **enforce the rule of law** without fear or favour.

The elected legislatures monitored by vigilant citizens and media, supported by an independent judiciary have prime responsibility to initiate this elemental change.

If, however, democracy continues to be used to perpetuate corruption and nepotism, prolong malpractices and mis-governance, it is not just democracy which will face old or new threats. The very existence of Pakistan will be put at grave risk. Mere continuation of past trends and repeated resort to partisan tactics will nullify the spirit and substance of the historic Constitutional transformation and the admirable consensus on the distribution of finances.

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

Any survey of the way forward for democracy has to be cognizant of the enormous impact of the catastrophic floods of August 2010. This calamity has wreaked huge damage to agriculture and food security, to physical infrastructure and to the livelihoods of about 20 million Pakistanis. The aftermath will shape economic conditions and effect our entire administrative and governance systems for the next several years.

This is precisely why sustaining democracy at this time becomes even more important. It is only the participation of the people themselves and active role of their elected representatives in taking decisions that affect the process of recovery and rejuvenation which will facilitate fair, orderly and enduring reconstruction and renewal.

The way forward is to place the citizen, and not the rulers, at the apex of power, privilege and public policy. This is only possible through sustained democracy.

A democratic Pakistan alone is a secure Pakistan.

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

END NOTES

1. See Pakistan Citizenship Act, 1951 Pakistan Citizenship Act, 1951 [Pakistan], April 13, 1951
2. See Citizenship Act discriminatory, The Dawn, December 20, 2007
3. See Blasphemy laws are lifted, The Telegraph, May 10, 2008; See Blasphemy laws and human rights of religious minorities in Pakistan, September 04, 2009 at www.un.op.org
4. See Refugees and Repatriation, the US Library of Congress at <http://countrystudies.us/afghanistan/80.htm>
5. See Non-Afghan Refugees in Pakistan, Solving the Afghan refugee problem, UNHCR
6. See Young 'Biharis' are BD citizens, says court, The Dawn, May 19, 2008
7. See Bangladesh citizenship right divides Biharis, The Reuters, May 20, 2008
8. See Swat Taleban find Sharia a challenge, The BBC South Asia, March 24, 2009
9. See Protests against girl's flogging, The Dawn, April 05, 2009
10. See Political parties act to be extended to FATA: Gilani, The Daily Times, March 05, 2010
11. See Sufi not correct in claims: Minister, The Pakistan Observer, May 06, 2009
12. See Absence of legislation causes millions rupees loss to exchequer, The APP, November 17, 2009
13. See the State of the Economy: Pulling Back from the Abyss, Third Annual Report 2010, Institute of Public Policy, Beaconhouse National University, Lahore
14. See PILDAT Legislative Brief No. 5: The Holders of Public Offices (Accountability) Bill 2009
15. See TI Pakistan National Corruption Perception Survey (2009)
16. See PLD 1997 Supreme Court 84
17. See Dr. Faqir Hussain's Judicial System of Pakistan
18. See Global Integrity Scorecard: Pakistan (2008), especially page 127
19. See National Judicial Policy (2009)
20. IRI Public Opinion Polls in Pakistan at www.iri.org
21. See HRCP's State of Human Rights in Pakistan (2008), especially page 47
22. See Burying of women alive defended in Senate Dawn, August 30, 2008
23. See A fairy-tale cabinet Dawn, November 07, 2008
24. See CJP urged to take notice of peasant's death, The Dawn, April 18, 2009
25. See HRCP's State of Human Rights in Pakistan (2008), especially page 45
26. See Robber killed by mob, police blame accomplice, The News, December 18, 2009
27. See Great expectations await Justice Chaudhry, The Dawn, March 23, 2009
28. See CJP visits Central Jail Karachi The Nation, May 11, 2009
29. See HRCP's State of Human Rights in Pakistan (2009)
30. Pew Global Attitudes Report on Pakistan, July 2010
31. Chaudhry et al., Initials. (2008). Pattern of police torture in punjab, pakistan. The American Journal of Forensic Medicine and Pathology, 29(4), 309-311.
32. See SC takes notice of police torture in public, The Dawn, March 06, 2010
33. See TIP's National Corruption Perception Survey (2009), especially page 22
34. Ibid
35. See Gallup Pakistan's poll on Views on Judicial Activism (2010)
36. See New Judicial Policy, Dawn Editorial, June 2, 2009
37. <http://www.satp.org/satporgtp/countries/pakistan/database/casualties.htm>
38. See Pak Institute for Peace Studies' Pakistan Security Report (2008)
39. Ibid.
40. See Sindh government allows entry to Imran Khan, The Dawn, May 03, 2009
41. See Thall-Parachinar road opens after year-long closure, The Dawn, November 16, 2009
42. See HRCP's State of Human Rights (2008)
43. See Lawyers, political workers held to prevent long march, The Dawn, March 15, 2009
44. See Nawaz calls off long march, The Nation, March 16, 2009
45. See Sherry Rehman Resigns, The Daily Times, March 14, 2009
46. See State of the World's Minorities and Indigenous Peoples (2009), especially page 161
47. See Talks on with Taliban for return of displaced Sikhs, The Dawn, May 19, 2009
48. See Persecuted by all, The Dawn, February 24, 2010
49. See Negligence of officials blamed for Gojra riots, The Dawn, August 03, 2009
50. See State of the World's Minorities and Indigenous Peoples (2009)
51. See HRCP's State of Human Rights in Pakistan (2009)
52. State of the World's Minorities and Indigenous Peoples (2009)
53. See Ashura carnage revisits Karachi, The Dawn, February 06, 2010
54. See NGOs bear brunt of growing 'Talibanisation,' The Dawn, April 05, 2007
55. See Four NGO workers die in attack on office, The Dawn, February 26, 2008
56. See Three NGO women shot dead, The Dawn, April 07, 2009
57. See Foreigners killed in Buner: ISPR, The Dawn, May 02, 2009
58. See Bomb attack hits NGO office in Peshawar, one injured, The Dawn, November 21, 2009
59. See Gunmen kidnap UN agency official in Quetta: Driver killed in ambush, The Dawn, February 03, 2009

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

60. See Solecki freed, *The Dawn*, April 05, 2009
61. See Four Mercy Corps employees kidnapped in Balochistan, *The Dawn*, February 19, 2010
62. See Social Security (Minimum Standards) Convention, 1952 www.ilo.org
63. See S.M. Moin Qureshi "The success and failure of social security in Pakistan"
64. Pakistan Economic Survey 2009-10; Finance Division, Government of Pakistan
65. See Impact of Food Crisis On Health- UN, Inter Agency Assessment Mission on Impact of Food Crisis in Pakistan (page 8)
66. See Experts believe Pakistan needs comprehensive food security strategy, *The Daily times*, September 1, 2009
67. See Another wheat crisis likely, *The Nation*, Dec 18, 2009
68. See Hunger pains: Pakistan's food insecurity, *The Nation*, June 16, 2009
69. Economy on the edge of precipice, says minister, *The Dawn Islamabad*, September 6, 2010
70. State of the Economy: Pulling Back from the Abyss, Third Annual Report 2010 by the Institute of Public Policy, BNU, page 4
71. See State of the Economy: Pulling Back from the Abyss, Third Annual Report 2010 by the Institute of Public Policy, BNU, pages 3-4
72. Prime Minister of Pakistan's Policy Statement on the floor of the National Assembly of Pakistan on September 4, 2010. See Gilani briefs NA on flood rehabilitation plan, *The Dawn*, September 5, 2010
73. See Inflation up by 13.23 pc in August, *The Nation*, September 10, 2010
74. Prime Minister of Pakistan's Policy Statement on the floor of the National Assembly of Pakistan on September 4, 2010. See Gilani briefs NA on flood rehabilitation plan, *The Dawn*, September 5, 2010
75. See FAO warns of looming food crisis, *The Nation*, August 18, 2010
76. See UNDP- Pakistan, Millennium Goals 7
77. See Pakistan Social and Living Standards Measurement Survey 2008
78. Pakistan Social and Living Standards Measurement Survey
79. See Seasonal waterborne diseases on the rise, *The Nation*- July 24, 2009
80. See National Water Quality Monitoring Programme - PCRWR
81. Article 90-91, Constitution of Pakistan
82. See PILDAT's State of Electoral Rolls in Pakistan (2010)
83. Ibid
84. The ECP's Five Year Strategic Plan 2010-2014, Strategic Goal # 2: Registration of Voters and Electoral Rolls, page 32
85. PILDAT-Paper Citizens Group on Electoral Process CGEP Background Paper: A dispassionate Analysis of HOW ELECTIONS ARE STOLEN AND WILL OF THE PEOPLE IS DEFEATED: Reflection on the Electoral History of Pakistan (1970- 2008): January 2008
CGEP Electoral Reform Proposal in PILDAT Policy Brief: Proposals for Electoral Reforms, August 2010
86. Ibid
87. Ibid
88. The ECP's Five Year Strategic Plan 2010-2014: Strategic Goal No # 12: Political Parties and Candidates, page 45
89. PILDAT Report How Rich are Pakistani MNAs? Comparative Analysis of Assets Declarations by the MNAs for the Years 2007-2008 and 2008-2009, August 2010
See PILDAT's Evaluation of Parliament (2009)
90. See Does India's 62% voter turnout compare favourably? *The Hindu*, May 16, 2009
91. PILDAT Background Paper Elections in Pakistan February 2007
92. See Pervez Musharraf's party concedes defeat, *The Telegraph*, February 19, 2008
93. See PPP, PML-N candidates accuse MQM of rigging, *The Dawn*, February 20, 2008
94. See CGEP Score Card on Pre-poll Fairness (Part 1: December 2006 December 2007) - January 9, 2008
95. See All rigging records broken in Gilgit-Baltistan: Shujaat, *The Nation*, November 16, 2009
96. See Gilgit-Baltistan polls rigged to large extent: Siddiqui Farooq, *The Dawn*, November 25, 2010
97. See Rashid accepts defeat, alleges rigging, *The Daily Times*, February 25, 2010
98. See ECP wants FIR against rigging in Gujranwala polls, *The News*, August 26, 2010
99. See Credibility of Democracy under threat: PILDAT, *The Daily Times*, August 24, 2010
100. Political Parties and Fragmented Democracy: Hasan-Askari Rizvi; Pakistan - Reality, Denial and the Complexity of its State, Volume 16 (English Edition); Henrich Boll Stiftung Publication Series on Democracy, 2009
101. Ibid, page 67
102. Ibid, page 67
103. Ibid, page 67
104. PILDAT Briefing Paper Impact of the 18th Constitutional Amendment, July 2010
105. See Police accused of harassing MQM activist, *The Dawn*, October 10, 2009
106. See Removal of hoardings: PTI accuses N-League of showing intolerance, *The Dawn*, November 11, 2009
107. See Sindh government allows entry to Imran Khan, *The Dawn*, May 02, 2009
108. See Dubious Call to the Military by Dr. Hasan-Askari Rizvi, *The Daily Times*, August 29, 2010
109. Political Parties and Fragmented Democracy: Hasan-Askari Rizvi; Pakistan - Reality, Denial and the Complexity of its State, Volume 16 (English Edition); Henrich Boll Stiftung Publication Series on Democracy, 2009
110. Ibid.
111. See Split in PML-Q ranks over party leadership, *The Dawn*, July 05, 2009
112. See Split in the PML-Q, *The Dawn*, August 30, 2009
113. See PML-N Sindh, Balochistan resent Nawaz's nominations, *The Daily Times*, July 17, 2010
114. Gazette of Pakistan, October 21, 2009
115. PILDAT Background Paper: Selected Case Studies of Public Funding for Political Parties, November 2005
116. See Pew Global Attitudes Project: Public Opinion Poll Report on Pakistan, released July 29, 2010

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

117. See PPP Manifesto (2008), especially page 2
118. PILDAT Background Paper: The Politics of Democracy and of Good Governance in Pakistan, March 2009
119. See Education budget to be raised: Gilani, The Dawn, September 20, 2009
120. The Economic Survey of Pakistan 2009-2010
121. See Flour shortage cause disputed, The Dawn, September 10, 2008
122. Ibid.
123. See SC keeps sugar price unchanged at Rs40 Dawn, September 25, 2009
124. See Lahore High Court left on its own, The News, September 05, 2009
125. See Rs60 bn needed to tide over water, power crisis: WB, The Dawn, February 09, 2008
126. See Multan rocked by power riots, The Dawn, April 15, 2008
127. See Furor in Senate over power crisis, The Dawn, July 25, 2009
128. See RPPs only short-term solution to power crisis: minister, The Dawn, October 13, 2009
129. See ADB finds rental power deals faulty, The Dawn, January 30, 2010
130. See Govt striving to settle Rs200bn circular debt, The Dawn, December 09, 2008
131. See All Pakistan CNG Association calls off strike, The Dawn, November 14, 2009
132. See DMG group officer made ambassador to France, The Dawn, June 25, 2009
133. See Qureshi's bid to resolve ambassador issue, The Dawn, July 03, 2009
134. See DMG group officer made ambassador to France, The Dawn, June 25, 2009
135. See Appointment of DMG officer as ambassador: 105 officers go to Islamabad court, The Dawn, July 19, 2009
136. See Appointment of envoy to France withdrawn, The Dawn, July 19, 2009
137. See Daily Jang, May 09, 2010
138. See Quetta in chaos as policemen demand increase in salary, The Dawn, January 26, 2010
139. See Five police officials sacked over violent Quetta protests, The Dawn, February 10, 2010
140. See Reforms committee elects Rabbani as chairman, The Dawn, June 30, 2009
141. See <http://www.pildat.org/eventsdel.asp?detid=355>
142. See ICG's report on REFORMING PAKISTAN'S CIVIL SERVICE (2010), especially page 1
143. See NEPRA Annual Report (2009), especially page 39
144. See OGRA Annual Report (2009), especially page 77
145. See CPDI's State of Transparency and Freedom of Information in Pakistan, especially page 3
146. See IRI Pakistan Index (August 2009), especially page 6
147. PILDAT Background Paper Roles and Responsibilities of MNAs, July 2008
148. Increase in the number of bills passed during the second year can partly be attributed to the Supreme Court judgment of July 31, 2009 which required all those ordinances which were granted permanence through General Pervez Musharraf's unconstitutional emergency declared on November 3, 2007 to be laid before the Parliament for consideration if these were to be made laws. Of the 32 laws passed in the second year, 12 were the ordinances referred to the National Assembly. Out of these ordinances passed into laws, 10 were the ordinances brought before the National Assembly due to the Supreme Court judgment of July 31, 2009. 14 of the laws passed were amendments to the existing laws.
149. See Article 201 (4) of Rules of Procedure and Conduct of Business in National Assembly 2007 and Article 146 (4) of Rules of Procedure and Conduct of Business in the Senate 1988
150. PILDAT's Performance of the 13th National Assembly of Pakistan (2009), especially pages 06 and 07
151. PILDAT Background Paper A Comparative Overview of Civil-Military Relations around the World, October 2008
152. Pew Global Attitudes Project: Public Opinion Poll Report on Pakistan, released July 29, 2010
153. Ibid
154. PILDAT Seminar on Civil-Military Relations and Democracy: An Account of 2 Years, July 20, 2010 at <http://www.pildat.org/eventsdel.asp?detid=390>
155. PILDAT Background Paper A Comparative Overview of Civil-Military Relations around the World, October 2008
156. See Reforming Pakistan's Police Report by International Crisis Group in July 2008
157. See Pew Global Attitudes Project: Public Opinion Poll Report on Pakistan, released July 29, 2010
158. See Report of University of Virginia Conference on Global Security in the Balance: Pakistan and U.S. Foreign Policy, March 2, 2010 at <http://www.virginia.edu/uvatoday/newsRelease.php?id=11136> as accessed on August 01, 2010
159. See Pakistan Uses Tribal Militias in Taliban, The New York Times, Oct. 8, 2008
160. See Pakistan bans 25 Militant Organisations: The Dawn, August 6, 2009
161. See Targeted Killings Product of Ethnic, Political "Turf War" at the Pakistan Conflict Monitor, Human Security Report Project, August 18, 2010 at <http://www.pakistanconflictmonitor.org/transnational-crime/> as accessed on August 20, 2010
162. http://www.dailytimes.com.pk/default.asp?page=2010\08\17\story_17-8-2010_pg7_29
163. See PILDAT Legislative Brief on The Holders of Public Offices (Accountability) Bill 2009, August 2009
164. See Pew Global Attitudes Project: Public Opinion Poll Report on Pakistan, released July 29, 2010
165. See PBC receives another complaint against Latif Khosa, The News, March 4, 2010
166. See REGISTER OF MEMBERS' INTERESTS www.parliament.uk
167. See PILDAT Policy Brief on Electoral Reforms in Pakistan, July 2010
168. See Hameed Gul admits he formed IJI, The News, August 30, 2009
169. See Political Parties floating with fragile funding, The Daily Times, Dec. 2, 2005
170. The ECP's Five Year Strategic Plan 2010-2014: Strategic Goal # 12: Political Parties and Candidates, page 45
171. See 'Former NAB chief removed to protect top politicians' The Dawn, Nov. 26, 2009

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

172. See Faisal urges SC to take suo moto notice of RPPs, The News, Jan 22, 2010
173. See Asian Media Barometer: Pakistan 2009, Friedrich Ebert Stiftung
174. Ibid
175. See APNS condemns govt ban on ads for Jang Group of Publications- The News, March 18, 2009
176. See Pew Global Attitudes Project: Public Opinion Poll Report on Pakistan, released July 29, 2010
177. See The Asia Foundation Project List 2005, page 35
178. See Coverage of US issues, The Dawn, July 25, 2010
179. See Asian Media Barometer: Pakistan 2009, Friedrich Ebert Stiftung
180. In August 2010, two teenage boys were lynched in Sialkot by a mob. Caught on camera by a television reporter, the video of the incident showed police and Rescue 1122 personnel at the scene watching the boys being beaten to death. Telecasting of the video on Pakistani news channel created a furor and the Supreme Court of Pakistan took suo moto notice of the case. The inquiry report carried out by Justice (Retd) Kazim Malik, Director General Anti-Corruption Establishment Punjab, confirmed that both the slain brothers were innocent and had no past criminal record, and pointed out the criminal role of the police in the killing through the police officers present at the scene encouraging rather than stopping the crowd from attacking the brothers.
181. In May 2006 the government of General Musharraf privatised Pakistan Steel Mills. The consortium involving Saudi Arabia-based Al Tuwairqi Group of Companies submitted a winning bid of \$362 million for a 75 per cent stake in Pakistan Steel Mills Corporation (PSMC) at an open auction held in Islamabad. In response to wide spread public outcry and call for action the Chief Justice of Pakistan took a suo moto action against the privatisation citing irregularities in the process. The Supreme Court on August 8 2006 annulled the sale of the Steel Mills and held in the verdict that the entire disinvestment process of the Pakistan Steel Mills reflected a haste, ignoring profitability aspect and assets of the mills by the financial adviser before its evaluation and directed the government to refer the matter to the Council of Common Interests within six weeks.
- The Wheat Crisis:** In 2007, Pakistan experienced its first wheat crisis. That was the year which saw food and grain prices rise by 83 per cent. By 2008, the price of wheat had increased from 15 rupees per kilogram to 25 rupees per kilogram. The government exported more wheat than its usual amount, creating a domestic shortage. The persistent shortage of electricity is a huge obstacle in optimal production of wheat flour, as the mills cannot work unhindered, therefore are not producing enough flour. To exacerbate this shortage, the private sector has joined hands with the government in order to take advantage of high wheat prices. Many media reports suggest that the government provides cheap wheat to flour mills, and much of what these mills produce is either hoarded or gets smuggled out. The black market in Pakistan is quite formidable and the wheat price hike of 30 to 35 percent in the last two years in Afghanistan hints at a high likelihood of smuggling. Many of the flour mills are owned by influential people who have links and connections with the top brass/politicians/people in power. Thus, they are able to manoeuvre the government greatly in order to make huge profits.
- The Sugar Crisis:** Sugar, the second largest agriculture related industry in Pakistan, has undergone a crisis almost every year since 2001. About 50 percent of the sugar mills in Pakistan are owned by politicians or their families. This came about due to the heavy government investment in the sugar industry in the late 1980s in the form of loans from national banks. In the 1990s, many of these loans were written off, which ensured that the industry was able to sustain itself, regardless of whether it was efficient or not. The sugar industry holds a lot of clout within the government. In March 2009, the Economic Coordination Committee was aware of the huge gap between supply and demand for sugar, but did not import the sugar quickly enough, causing its price to artificially increase. Secondly, even though sugar experienced hyperinflation during Ramadan, religious authorities had nothing to say on the subject. Thirdly, the government dictates when sugarcane will be crushed, even though when sugarcane is not crushed immediately after harvesting, its sugar content loses weight and the sugarcane fetches a cheaper price. Fourthly, there are laws which state that farmers cannot process their own sugarcane or sell the sugarcane out of their own zone. All these factors ensure that the government and mill owners dictate the terms on which sugar is sold. Because of this (and the increase in price of wheat) some farmers have stopped growing sugar and switched to wheat. (Source: Food Insecurity in Pakistan; Published by Miriam Katz on November 28, 2009; in <http://www.tbl.com.pk/crisissugar-wheat-rice/>)
182. See Asian Media Barometer: Pakistan 2009, Friedrich Ebert Stiftung
183. Ibid.
184. See Media bodies, Jabbar, Bijarani condemn Cheema's torture, The News, September 07, 2010
185. Ibid.
186. See Under Fire: Press Freedom in South Asia 2008-2009- International Federation of Journalists 7th Annual Report 2008-9
187. Ibid
188. See Pew Global Attitudes Project: Public Opinion Poll Report on Pakistan, released July 29, 2010
189. See Asian Media Barometer: Pakistan 2009, Friedrich Ebert Stiftung
190. See Pakistan Country Report by the International Centre for Not-for-Profit Law
191. The Shaukat Khanum Memorial Cancer Hospital and Research Centre (SKMCH&RC), a 115 bed institute with an annual budget of Rs. 3.3 billion and 75% of financially supported patients since 1994, is a project of the Shaukat Khanum Memorial Trust, which is a charitable organization established under the Societies Registration Act XXI of 1860 of Pakistan. With Rs. 6.97 billion philanthropic spending, the institution is the brainchild of Pakistani cricket-turned politician Mr. Imran Khan. The inspiration came after the death of his mother, Mrs. Shaukat Khanum, from cancer.
192. The Lahore University of Management Sciences (LUMS) was established in 1984 by a group of industrialists and people belonging to Pakistan's leading private and public sector corporations, to provide rigorous academic and intellectual training to students. According to the Higher Education Commission of Pakistan, LUMS is one of the top ranked Pakistani universities amongst Pakistani institutions that offer degrees in Business Management and Information Technology. LUMS sets a trend as an institution where merit and academic promise is the only form of admission while financial assistance, based on need and merit, is also offered to students.
193. See Women Parliamentarians top the List of Movers of Private Members' Bills, at <http://www.pildat.org/eventsdel.asp?detid=358> as accessed in

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN

REPORT

March 25, 2008 - September 24, 2010

- March 2010
194. See PILDAT Background Paper Impediments in effective participation of Women, Youth and Minorities in the Electoral Processes in Pakistan, September 2006
195. See President Zardari signs women harassment bill, The Nation, Jan. 29 2010
196. See Equal rights and equal opportunities, The Daily Times, March 15, 2010
197. PILDAT Report How Rich are Pakistani MNAs: Comparative Analysis of Assets Declarations by the MNAs for the Years 2007-2008 and 2008-2009
198. See High per capita income not a sign of prosperity, The Dawn, May 10, 2009
200. PILDAT Briefing Paper Impact of the 18th Constitutional Amendment, July 2010
201. Briefing Paper 03 on Pakistan's Local Government Reform and Electoral Arrangements, July 2010; Democracy Reporting International
202. See U.S. Embrace of Musharraf Irks Pakistanis The New York Times, February 29, 2008
203. See Muqrin, Hariri urge Nawaz to honour agreement, The Daily Times, September 9, 2007
204. See West's diplomats rush to save Musharraf from impeachment as resignation rumours grow, The Guardian, August 14, 2008
205. See Pervez Musharraf: £25,000 to protect him at London dinners, The Times, September 11, 2009
206. See Pakistan agrees to reinstate former chief justice, The Guardian, March 16, 2009
207. See Army played positive role in defusing crisis, The Dawn, April 17, 2009
208. See Royal protocol for Musharraf in Saudi Arabia, The Dawn, September 02, 2009
209. See Corps commanders express concern over Kerry-Lugar, The Dawn, October 08, 2009
210. See Joint Explanatory Statement, Enhanced Partnership with Pakistan Act of 2009, Essential Documents, The Council on Foreign Relations, Published October 14, 2009
211. See Pew Global Attitudes Project: Public Opinion Poll Report on Pakistan, released July 29, 2010
212. See India to get Afghan transit trade route, The Dawn, May 07, 2009
213. See PAF says Shahbaz airbase under its control, The Dawn, August 20, 2010
214. See Pakistan facing bankruptcy, The Telegraph, October 06, 2008
215. See Pakistan accepts 11 IMF conditions, The News, November 02, 2008
216. See Political parties criticise govt for going to IMF, The Daily Times, November 16, 2008
217. See US to give more money directly to government, The Dawn, October 03, 2009
218. Ibid.
219. See PM opposes US aid through NGOs, The Dawn, September 07, 2009
220. See Pak snubs US over Iran gas pipeline deal, The Nation, June 21, 2010
221. As per paragraph 15 of the Recent Economic Developments of the Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding with the International Monetary Fund (IMF) dated November 20, 2008, the Government of Pakistan agreed to initiate the process to implement a full VAT with minimal exemptions, to be administered by the Federal Board of Revenue (FBR). See PILDAT Legislative Brief on The Federal Value Added Tax Bill 2010, May 2010
222. See Qureshi defends Kerry-Lugar bill in NA, The Dawn, October 17, 2009
223. See PML-N rejects Kerry-Lugar bill, says Chaudhry Nisar, The Dawn, October 18, 2009
224. See PML-Q plans bill to counter Kerry-Lugar, The Dawn, November 07, 2009
225. See Cabinet formally accepts the Kerry-Lugar Bill, The Dawn, October 22, 2009
226. See PILDAT Briefing Paper Pakistan's Foreign Policy: An Overview: 1947-2004, April 2004
227. See Pak rakes up Kashmir issue with US, Times of India, July 19, 2010
228. See Mr. Spanta's remarks are inconsistent with excellent Pakistan-Afghanistan relations, Pakistan Ministry of Foreign Affairs PR. NO. 211/2010, August 27, 2010
229. See Afghans See Pakistan Role in Karzai Plot, The New York Times, June 26, 2008
230. See Karzai says Zardari has right intentions in terror fight, The Indian Express, September 30, 2008
231. See Pakistan's crucial role in the death of Tamil Tigers, The News, May 20, 2009
232. See UN Mission's Summary detailed by Country (2009), especially pages 27 and 28
233. Ibid.
234. See Ranking of Military and Police Contributions to UN Operations, Monthly Report July 31, 2010 at http://www.un.org/en/peacekeeping/contributors/2010/july10_2.pdf
235. See <http://www.amnesty.org/en/for-media/press-releases/pakistan-ratify-human-rights-treaties-20080214>
236. See UN declares Jamaat-ud-Dawa a terrorist front group, The Long War Journal, December 11, 2008
237. See LHC orders release of Jamaatud Dawa chief, The Dawn, June 03, 2009
238. See http://www.paf.gov.pk/relief_operation.html
239. See Pakistan to send tents, medicine to Haiti, The Dawn, January 19, 2010
240. See Constitution of Pakistan
241. See PILDAT Briefing Paper on the Process of Foreign Policy Formulation in Pakistan (2004), pages 6-7
242. Ibid.
243. See US regains right to use air base in Kyrgyzstan, Global Edition of the New York Times, June 24, 2009
244. See PAF says Shahbaz airbase under its control, The Dawn, August 20, 2010
245. See Note of Reiteration by Senator Prof. Khurshid Ahmad in Report of the Parliamentary Committee on Constitutional Reforms, March 31, 2010, page 50

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN
R E P O R T

March 25, 2008 - September 24, 2010

APPENDICES

APPENDIX - A

Framework for the Assessment of the Quality of Democracy

1. **State-Citizen Relationship: 110 Scores (29 % of the Total Score)**
 - a. **Nationhood and Citizenship: 30**
 - i. Inclusive citizenship for all
 - ii. Protection of Minorities and vulnerable groups
 - iii. Consensus on State Boundaries and Constitutional Arrangements
 - iv. Effectiveness of the Constitution to reconcile divisions in the society
 - v. Inclusivity and Impartiality of the procedure to amend the constitution
 - vi. Respect of international obligations regarding refugees by the Government
 - b. **Rule of Law and Access to Justice: 30**
 - i. State of Rule of Law
 - ii. Subordination of State Officials to Rule of Law; Transparency of Rules regarding performance of public officials
 - iii. Independence of Judiciary
 - iv. Citizens' Access to Justice and redressal of grievances in case of maladministration
 - v. Adherence to due process in criminal justice and penal systems
 - vi. Citizens' confidence in the legal system to deliver justice
 - c. **Civil and Political Rights: 20**
 - i. Freedom from physical violation and fear of physical violation
 - ii. Effectiveness of Freedom of Movement, Freedom of Expression, Freedom of Association and freedom of Assembly and application of this freedom to all citizens
 - iii. Effectiveness of Freedom to practice one's own religion, language and culture
 - iv. Freedom from harassment and intimidation for Human rights Activists
 - d. **Economic and Social Rights: 30**
 - i. Access of Social Security to all
 - ii. Effectiveness of the guaranteed supply of basic necessities of life like Food, Shelter and Clean water
 - iii. Protection of Citizens Health
 - iv. Inclusiveness of the right to education including civic education
 - v. Freedom of Trade Unions and Associations
 - vi. Transparency and Rigorousness of rules of Corporate Governance
2. **Representative and Accountable Government: 170 (45 % of the Total Score)**
 - a. **Free and Fair Elections: 30**
 - i. Election of public Office Holders and Possibility of Change of Government through election
 - ii. Freedom and inclusiveness of Voter Registration and Vote Casting procedures
 - iii. Fairness of registration of Political Parties and Candidates and their access to voters through media and otherwise
 - iv. Fairness of the system of election to make legislatures truly reflect the public choices in elections

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN

REPORT

March 25, 2008 - September 24, 2010

- v. Legislatures' reflection of the social composition of the electorate
- vi. Voter Turn-out and Acceptability of Election Results

b. **The Democratic Role of Political Parties: 25**

- i. Freedom of political parties to form, recruit members, engage with public and campaign
- ii. Effectiveness of the Party system in forming and sustaining governments
- iii. Effectiveness and Influence of members in deciding party policy and its candidates
- iv. Freedom of the party from interest groups in raising finances for itself
- v. Inclusiveness of Parties across religious, cultural and linguistic divides

c. **Effective and Responsive Government:30**

- i. Influence and Control of the Government on matters important to the lives of its people
- ii. Effectiveness and Accountable Control of Elected Officials on the administration
- iii. Government's Open and Systematic procedures to consult people on its policies and proposed legislation
- iv. Accessibility and Reliability of public services to their users and consultation process with users on service delivery
- v. Effectiveness and Comprehensiveness of Right to Information
- vi. People's confidence in the Government's ability to solve the problems facing the society and in their own ability to influence the Government to solve these problems

d. **Democratic and Effective Parliament: 40**

- i. Independence of Parliament and Freedom of Expression of its members
- ii. Extensiveness and Effectiveness of the Legislative Powers of the Parliament
- iii. Extensiveness and Effectiveness of the powers of the parliament to Oversee the executive
- iv. Rigorousness of the procedure to approve and supervise taxation and public expenditure
- v. Freedom of the parties to organize and function within parliament
- vi. Extensiveness of parliamentary procedures to consult public and interest groups on all matters within its purview
- vii. Accessibility of parliamentarians to their constituents
- viii. Effectiveness of Parliament as a forum of debate and deliberations on issues of public concern

e. **Civilian Control of the Military and Police: 20**

- i. Effectiveness of Civilian Control over the armed forces and Freedom of political life from military involvement
- ii. Public Accountability of Police and Security Services for their activities
- iii. Reflection of social composition of the society in the Composition of Armed Forces and Police
- iv. Freedom of the country from the operation of paramilitary units, private armies, warlordism and criminal mafias

f. **Integrity in Public Life: 25**

- i. Effectiveness of separation of public office from the interests of public office holders
- ii. Effectiveness of arrangements to protect office holders and the public from involvement in bribery
- iii. Effectiveness of the Rules and Procedures for Election Finance to prevent candidates and elected representatives' subordination to interest groups
- iv. Effectiveness of checks on influence of powerful corporations and business interests over public policy and

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN

REPORT

March 25, 2008 - September 24, 2010

- freedom of corporations and businesses from corruption and foreign influence
- v. Public Confidence in the integrity of public officials and public services that these are corruption free

3. **Civil Society and Popular Participation: 60 (16 % of the total Score)**

a. **The Media in a democratic Society: 25**

- i. Independence of media from government, foreign governments, multinational companies and their pluralistic ownership
- ii. Representativeness of media of different public opinions and its accessibility to different sections of the society
- iii. Effectiveness of media and other independent bodies in investigating government and powerful corporations
- iv. Freedom of journalists from restrictive laws, harassment and intimidation
- v. Freedom of citizens from intrusion and harassment by the media

b. **Political Participation: 20**

- i. Extensiveness of the range of voluntary associations, citizen groups, social movements and their independence of the government
- ii. Extensiveness of Citizens Participation in voluntary associations and other voluntary public activity
- iii. Participation of women in political life and public offices at all levels
- iv. Equality of access for all social groups to public office and their fair representation in those offices

c. **Decentralization: 15**

- i. Independence of sub-national governments of the national government and their power and resourcefulness to carry out their responsibilities
- ii. Free and Fair Election of sub-national governments and their openness, accountability and responsiveness
- iii. Cooperation of government at the lowest tier of government with associations and communities to formulate and implement policies and service delivery

4. **Democracy beyond the State: 35 (10 % of the Total Score)**

a. **External influence on the country's Democracy: 15**

- i. Freedom of the country from external influences which undermine or compromise its democratic process or national interest
- ii. Degree of equitable influence exercised by the government in bilateral, regional or international organizations whose decisions the country is subject to
- iii. Effectiveness of Legislative Oversight and public debate on government's negotiating positions and subsequent commitments within international organizations

b. **The Country's Democratic Impact Abroad: 20**

- i. Consistency of Government in its support for and protection of human rights and democracy abroad
- ii. Government's Support to the UN, agencies of international cooperation and respect for the rule of law internationally
- iii. Extensiveness and Consistency of Government's contribution to international development
- iv. Effectiveness of Parliamentary Oversight and public influence over Government's international policy

Total Score: 375

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

APPENDIX - B

The Democracy Assessment Group

The names of the Democracy Assessment Group are written in alphabetical order on first name basis from serial number 01-22.

No.	NAME	PROFESSION	REGION	POLITICAL AFFILIATION	GENDER
1	Cyril Almeida	Journalism	Sindh	None	Male
2	Ghazi Salahuddin	Journalism	Sindh	None	Male
3	Hasan-Askari Rizvi	Research	Punjab	None	Male
4	Ijaz Shafi Gilani	Research	Sindh	None	Male
5	Ilahi Baksh Soomro	Politics	Sindh	PML-N	Male
6	Javed Hafeez	Former Government	Punjab	None	Male
7	Javed Jabbar	Media; Former Government	Sindh	None	Male
8	Khalida Ghaus	Research	Sindh	None	Female
9	Mir Hasil Khan Bizenjo	Politics	Balochistan	NP	Male
10	Mohammad Waseem	Academia	Punjab	None	Male
11	Moinuddin Haider	Former Military/Government	Sindh	None	Male
12	Mujib-ur-Rehman Shami	Media	Punjab	None	Male
13	Nasim Zehra	Media	Punjab	None	Female
14	Omar Khan Afridi	Former Government	KP	None	Male
15	Parvez Hassan	Law	Punjab	PTI	Male
16	Syed Akbar Zaidi	Research/Academia	Sindh	None	Male
17	Sardar Khalid Ibrahim	Politics	AJK	JKPP	Male
18	Sartaj Aziz	Former Government	KP	PML-N	Male
19	Shahid Hamid	Law; Former Government	Punjab	None	Male
20	Sherry Rehman	Politics; Former Government	Sindh	PPPP	Female
21	Talat Masood	Analysis; Former Government	ICT	None	Male
22	Wazir Ahmed Jogezeai	Politics	Balochistan	PPP	Male
23	Ahmed Bilal Mehboob	Research and Analysis	Punjab	None	Male
24	Aasiya Riaz	Research and Analysis	Punjab	None	Female

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

APPENDIX - C

Score Card: Mid-Term Assessment of the Quality of Democracy in Pakistan

No.	Parameter and Sub-Area of Evaluation	Max Score	Score Assigned by DAG	Score Assigned by DAG (%)
1	Citizenship, Law and Rights	110	50	46
1.1	Nationhood and Citizenship	30	16	54
	<i>Overarching Question: Is there public agreement on a common citizenship without discrimination?</i>			
1.1.1	How inclusive is the political nation and state citizenship of all who live within the territory?	5	3	51
1.1.2	How far are cultural differences acknowledged, and how well are minorities and vulnerable social groups protected?	5	2	40
1.1.3	How much consensus is there on state boundaries and constitutional arrangements?	5	3	61
1.1.4	How far do constitutional and political arrangements enable major societal divisions to be moderated or reconciled?	5	3	56
1.1.5	How impartial and inclusive are the procedures for amending the Constitution?	5	3	62
1.1.6	How far does the government respect its international obligations in its treatment of refugees and asylum seekers, and how free from arbitrary discrimination is its immigration policy?	5	3	58
1.2	Rule of Law and Access to Justice	30	13	43
	<i>Overarching Question: Are state and society consistently subject to the law?</i>			
1.2.1	How far is the rule of law operative throughout the territory?	5	2	33
1.2.2	To what extent are all public officials subject to the rule of law and to transparent rules in the performance of their functions?	5	2	39
1.2.3	How independent are the courts and the judiciary from the executive, and how free are they from all kinds of interference?	5	3	60
1.2.4	How equal and secure is the access of citizens to justice, to due process and to redress in the event of maladministration?	5	2	43
1.2.5	How far do the criminal justice and penal systems observe due rules of impartial and equitable treatment in their operations?	5	2	40
1.2.6	How much confidence do people have in the legal system to deliver fair and effective justice?	5	2	40

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

No.	Parameter and Sub-Area of Evaluation	Max Score	Score Assigned by DAG	Score Assigned by DAG (%)
1.3	Civil and Political Rights	20	9	47
	<i>Overarching Question: Are civil and political rights equally guaranteed for all?</i>			
1.3.1	How free are all people from physical violation of their person, and from fear of it?	5	2	34
1.3.2	How effective and equal is the protection of the freedoms of movement, expression, association and assembly?	5	3	56
1.3.3	How secure is the freedom for all to practice their own religion, language or culture?	5	2	48
1.3.4	How free from harassment and intimidation are individuals and groups working to improve human rights?	5	2	48
1.4	Economic and Social Rights	30	12	40
	<i>Overarching Question: Are economic and social rights equally guaranteed for all?</i>			
1.4.1	How far is access to work or social security available to all, without discrimination?	5	2	39
1.4.2	How effectively are the basic necessities of life guaranteed, including adequate food, shelter and clean water?	5	2	31
1.4.3	To what extent is the health of the population protected, in all spheres and stages of life?	5	2	33
1.4.4	How extensive and inclusive is the right to education, including education in the rights and responsibilities of citizenship?	5	2	41
1.4.5	How free are trade unions and other work-related associations to organize and represent their members' interests?	5	2	49
1.4.6	How rigorous and transparent are the rules on corporate governance, and how effectively are corporations regulated in the public interest?	5	2	48

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN R E P O R T

March 25, 2008 - September 24, 2010

No.	Parameter and Sub-Area of Evaluation	Max Score	Score Assigned by DAG	Score Assigned by DAG (%)
2	Representative and Accountable Government	170	75	43
2.1	Free and Fair Elections	30	15	50
	<i>Overarching Question: Do elections give the people control over governments and their policies?</i>			
2.1.1	How far is appointment to governmental and legislative office determined by popular competitive election, and how frequently do elections lead to change in the governing parties or personnel?	5	3	51
2.1.2	How inclusive and accessible for all citizens are the registration and voting procedures, how independent are they of government and party control, and how free from intimidation and abuse?	5		53
2.1.3	How fair are the procedures for the registration of candidates and parties, and how far is there fair access for them to the media and other means of communication with the voters?	5	3	56
2.1.4	How effective a range of choice does the electoral and party system allow the voters, how equally do their votes count, and how closely do the composition of the legislature and the selection of the executive reflect the choices they make?	5	3	51
2.1.5	How far does the legislature reflect the social composition of the electorate?	5	2	42
2.1.6	What proportion of the electorate votes, and how far are the election results accepted by all political forces in the country and outside?	5	3	50
2.2	The Democratic Role of Political Parties	25	13	51
	<i>Overarching Question: Does the party system assist the working of democracy?</i>			
2.2.1	How freely are parties able to form and recruit members, engage with the public and campaign for office?	5	3	63
2.2.2	How effective is the party system in forming and sustaining governments in office?	5	3	56
2.2.3	How far are parties effective membership organizations, and how far are members able to influence party policy and candidate selection?	5	3	59
2.2.4	How far does the system of party financing prevent the subordination of parties to special interests?	5	2	40
2.2.5	To what extent do parties cross ethnic, religious and linguistic divisions?	5	3	56

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

No.	Parameter and Sub-Area of Evaluation	Max Score	Score Assigned by DAG	Score Assigned by DAG (%)
2.3	Effective and Responsive Government	30	11	38
	<i>Overarching Question: Is government effective in serving the</i>			
2.3.1	How far is the elected government able to influence or control those matters that are important to the lives of its people, and how well is it informed, organized and resourced to do so?	5	2	36
2.3.2	How effective and open to scrutiny is the control exercised by elected leaders and their ministers over their administrative staff and other executive agencies?	5	2	44
2.3.3	How open and systematic are the procedures for public consultation on government policy and legislation, and how equal is the access for relevant interests to government?	5	2	39
2.3.4	How accessible and reliable are public services for those who need them, and how systematic is consultation with users over service delivery?	5	2	34
2.3.5	How comprehensive and effective is the right of access for citizens to government information under the constitution or other laws?	5	2	43
2.3.6	How much confidence do people have in the ability of government to solve the main problems confronting society, and in their own ability to influence it?	5	2	31
2.4	The Democratic Effectiveness of Parliament	40	20	50
	<i>Overarching Question: Does the Parliament or Legislature contribute effectively to the democratic process?</i>			
2.4.1	How independent is the Parliament or legislature of the executive, and how freely are its members able to express their opinions?	5	3	54
2.4.2	How extensive and effective are the powers of the Parliament or legislature to initiate, scrutinize and amend legislation?	5	3	61
2.4.3	How extensive and effective are the powers of the parliament or legislature to oversee the executive and hold it to account?	5	2	44
2.4.4	How rigorous are the procedures for approval and supervision of taxation and public expenditure?	5	2	38
2.4.5	How freely are all parties and groups able to organize within the parliament or legislature and contribute to its work?	5	3	56
2.4.6	How extensive are the procedures of the parliament or legislature for consulting the public and relevant interests across the range of its work?	5	2	42
2.4.7	How accessible are elected representatives to their constituents?	5	3	60
2.4.8	How well does the parliament or legislature provide a forum for deliberation and debate on issues of public concern?	5	2	48
2.5	Civilian Control of the Military and Police	20	7	35
	<i>Overarching Question: Are the military and police forces under civilian control?</i>			

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

No.	Parameter and Sub-Area of Evaluation	Max Score	Score Assigned by DAG	Score Assigned by DAG (%)
2.5.1	How effective is civilian control over the armed forces, and how free is political life from military involvement?	5	1	26 <small>(Lowest Score of any Sub-pillar in Score Card)</small>
2.5.2	How publicly accountable are the police and security services for their activities?	5	2	33
2.5.3	How far does the composition of the army, police and security services reflect the social composition of society at large?	5	3	51
2.5.4	How free is the country from the operation of paramilitary units, private armies, warlordism and criminal mafias?	5	2	33
2.6	Integrity in Public Life	25	8	34
	<i>Overarching Question: Is the integrity of conduct in public life assured?</i>			
2.6.1	How effective is the separation of public office from the interests of office holders?	5	2	36
2.6.2	How effective are the arrangements for protecting office holders and the public from involvement in bribery?	5	2	33
2.6.3	How far do the rules and procedures for financing elections, candidates and elected representatives prevent their subordination to sectional interests?	5	2	36
2.6.4	How far is the influence of powerful corporations and business interests over public policy kept in check, and how free are they from involvement in corruption, including overseas?	5	2	37
2.6.5	How much confidence do people have that public officials and public services are free from corruption?	5	1	28
3	Civil Society and Popular Participation	60	32	53
3.1	The Media in a Democratic Society	25	15	58
	<i>Overarching Question: Do the media operate in a way that sustains democratic values?</i>			
3.1.1	How independent are the media from government, how pluralistic is their ownership, and how free are they from subordination to foreign governments or multinational companies?	Overarching Question: Is	3	62
3.1.2	How representative are the media of different opinions and how accessible are they to different sections of society?	5	3	67 <small>(Highest Score of any Sub-pillar in Score Card)</small>
3.1.3	How effective are the media and other independent bodies in investigating government and powerful corporations?	5	3	62
3.1.4	How free are journalists from restrictive laws, harassment and intimidation?	5	2	48
3.1.5	How free are private citizens from intrusion and harassment by the media?	5	3	52
3.2	Political Participation	20	10	52
	<i>Overarching Question: Is there full citizen participation in public life?</i>			

MID-TERM ASSESSMENT OF THE QUALITY OF DEMOCRACY IN PAKISTAN REPORT

March 25, 2008 - September 24, 2010

No.	Parameter and Sub-Area of Evaluation	Max Score	Score Assigned by DAG	Score Assigned by DAG (%)
3.2.1	How extensive is the range of voluntary associations, citizen groups, social movements etc., and how independent are they from government?	5	3	63
3.2.2	How extensive is citizen participation in voluntary associations and self-management organizations, and in other voluntary public activity?	5	3	53
3.2.3	How far do women participate in political life and public office at all levels?	5	2	49
3.2.4	How equal is access for all social groups to public office, and how fairly are they represented within it?	5	2	42
3.3	Decentralization	15	7	47
	<i>Overarching Question: Are decisions taken at the level of government that is most appropriate for the people affected?</i>			
3.3.1	How independent are the sub-central tiers of government from the centre, and how far do they have the powers and resources to carry out their responsibilities?	5	3	53
3.3.2	How far are these levels of government subject to free and fair electoral authorization, and to the criteria of openness, accountability and responsiveness in their operation?	5	2	48
3.3.3	How extensive is the cooperation of government at the most local level with relevant partners, associations and communities in the formation and implementation of policy, and in service provision?	5	2	41
4	Democracy Beyond the State	35	15	43
4.1	External Influences on the Country's Democracy	15	6	40
	<i>Overarching Question: Is the impact of external influences broadly supportive of the country's democracy?</i>			
4.1.1	How free is the country from external influences which undermine or compromise its democratic process or national interests?	5	2	35
4.1.2	How equitable is the degree of influence exercised by the government within the bilateral, regional and international organizations to whose decisions it may be subject?	5	2	41
4.1.3	How far are the government's negotiating positions and subsequent commitments within these organizations subject to effective legislative oversight and public debate?	5	2	32
4.2	The Country's Democratic Impact Abroad	20	9	45
	<i>Overarching Question: Do the country's international policies contribute to strengthening global democracy?</i>			
4.2.1	How consistent is the government in its support for, and protection of, human rights and democracy abroad?	5	2	42
4.2.2	How far does the government support the UN and agencies of international cooperation, and respect the rule of law internationally?	5	3	54
4.2.3	How extensive and consistent is the government's contribution to international development?	5	2	48
4.2.4	How far is the government's international policy subject to effective parliamentary oversight and public influence?	5	2	34
	Aggregate	375	172	45



PILDAT
Pakistan Institute of
Legislative Development
And Transparency

Head Office: No. 7, 9th Avenue, F-8/1 Islamabad Pakistan
Registered Office: 172-M, DHA, Lahore, Pakistan
Ph: (+92-51) 111 123 345 Fax: (+92-51) 226 3078
E-mail: info@pildat.org Web: www.pildat.org