ELECTION COMMISSION, ELECTORAL REFORMS AND DEMOCRACY IN INDIA: LESSONS FOR PAKISTAN

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Introduction

This paper discusses the complex relationship between the Indian Election Commission, the electoral reforms in the country and democracy in India. Then, the paper endeavours to ponder on the question whether the Indian experience of democracy, which has been facilitated through the Indian Election Commission and an entire history of electoral reforms, offers any vital lessons for strengthening Pakistan's fragile democracy or not. Democracy has been a western political idea to govern the masses within a particular state. The idea of democracy was brought to India through the British colonial rule, which lasted from the end of the Mughal Empire in 1857 to the independence of India and Pakistan from colonial rule in August 1947. The western concept of democracy, which the colonial rulers had superimposed on the colonized population of United India, proved to be most successful in independent India, which became known as the largest democracy in the world from 1947 to present.

Democracy has been a western idea and historically, the various western political thinkers such as Plato, Aristotle, Machiavelli, Thomas Hobbes, John Locke, Jean Jacques Rousseau, Hegel and Marx have deliberated upon it. In his *Republic,*[(1)] Plato preferred the idea of a 'philosopher king' over that of democracy. He disapproved of direct democracy that prevailed in Athens during his time but his deliberations did not extend to 'representative democracy' of the contemporary times. Once again with Greek city-states in mind, Aristotle[(2)] called democracy the worst form of government. Being a renaissance man, out of his desire for the unification of Italy, Machiavelli too in his *Prince*[(3)] preferred

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the prince to rule the state. Out of his sheer fear of anarchy, Hobbes in his *Leviathan*[4] preferred the Sovereign to govern. Indeed, it was John Locke[5] who, in his *First Treatise on Government,* criticized the divine right of kings to rule, and in his *Second Treatise on Government* advocated a model of democracy. Rousseau, in the 18th century, emerged as the champion of democracy in his *Social Contract*[6] but his ideas in practice led to fascism, absolutism and even to communism. He was not in favour of modern day democracy, which he called 'elective aristocracy'. Hegel, in his *History of Philosophy,*[7] favoured monarchy over democracy while Karl Marx in *Das Capital*[8] favoured communism over democracy. Within this context, western political thought ever since Plato has vacillated between monarchy, communism and democracy as the best ways to govern a given state. It is a different matter altogether that democracy has flourished in the United States and in Western Europe in the modern times.

In the contemporary times, the success of the idea of democracy requires not only the practice of good governance but also transparent legalistic, political, bureaucratic and cultural practices. Democracy is the name of a complex relationship between the rulers and the ruled or between the politically elected and the electorate through the regular holding of elections. The smooth operation of democracy, therefore, not only requires the transparency of elections but also the faith of the voters that only those candidates would be elected whom the electorate had voted for. In this way, the running of efficient democracy is not only a political but also a sociological, anthropological or even a psychological phenomenon. This is where the transparency of legalistic, political and bureaucratic structures gains vital importance to the efficient functioning of democracy.

Within the Indian context, democracy has functioned relatively smoothly due to the constitutional measures, the establishment and evolution of the Indian Election Commission and the on-going electoral reforms within the country. Although Indian democracy has not reached its perfection yet, Pakistan can nevertheless learn from the Indian democratic practices especially the ones related to the operation of the Indian Election Commission and the nature of electoral reforms carried out in India.

To argue thus, this paper is divided in the following three sections: 1) The Nature of the Indian Election Commission; 2) Electoral reforms and democracy in India; and 3) Lessons for Pakistan.

The nature of the Indian Election Commission

This section discusses the evolution of the Indian Election Commission from 1947 onwards including the various constitutional measures that tried to guarantee the freedom and integrity of the India Election Commission. It will also discuss the relationship between the Election Commission and Elections in India along with the functions, structures, powers and empowerment of the Indian Election Commission.

According to L. M. Singvi:

> Electoral process and apparatus are basic to the design of a constitution and the quality of government in a democracy. The electoral system is a determinant as well as concomitant in modern democracies; it provides the institutional workshop for hammering out a government on the anvil of popular choice. It [obligates] us to ensure that this workshop operates efficiently and purposefully.[9]

According to Shri Ram Maheshwari, the administrative services which are to conduct elections must have 'competency' and possess 'integrity and impartiality' in order to ensure fair and free elections.[10]

> If the election machinery is defective or is not efficient or is worked by people whose integrity cannot be depended upon, democracy will be poisoned at the source; nay, people instead of learning from elections how they should exercise their vote, how by a judicious exercise of their vote they can bring about changes in the Constitution and reforms in the administration, will learn only how parties based on intrigues can be formed and what unfair methods they can adopt to secure what they want.[11]

For the purpose of holding fair, free and transparent elections, it was imperative to establish an Election Commission that could act as a watchdog over the entire election process. The Indian Election Commission was established in accordance with the Constitution of India on 25 January 1950. The Indian constitution laid down several measures to ensure the establishment of an independent and impartial election authority. The Commission had the responsibility to conduct elections in accordance with the constitutional provisions, supplemented by laws made by the Indian Parliament. The major laws included Representation of the People Act 1950, which mainly dealt with the preparation and revision of electoral rolls, while the Representation of the People Act 1951 dealt with all the aspects pertaining to the conduct of elections and post-election disputes in detail.[12] According to the Indian Constitution, the Chief Election Commissioner would administer the Election Commission. The Chief Election Commissioner would remain permanently in office, and would remain uninfluenced by parties, politics and executive considerations.[13]

Article 324 of the 'Constitution of India'[14] deals with the functions and the role of the Indian Commission. Article 324 (1) gives the superintendence, direction and control of the preparation of the electoral rolls for and the conduct of all elections to the Parliament and to the Legislatures of every state, and of elections to the offices of the President and the Vice President held under this constitution in a Commission referred to as the Election Commission. Until 1966, only the Election Commissioner could exercise the powers of superintendence, direction and control given to the Commission, while an Amendment to the Constitution in 1966 held that the Deputy Election Commissioner or the Secretary could also perform the functions of the Election Commissioner. Despite the delegation of these tasks, the Chief Election Commissioner continued to be the sole authority in all matters pertaining to the preparation of electoral rolls and the conduct of elections to the Parliament and the State Legislatures and to the offices of the President and Vice President.[15]

Article 324 (2) provides that the Election Commission shall consist of the Chief Election Commissioner and any number of other Election Commissioners as the President may from time to time appoint. Article 324 (5) provides that subject to the provisions of any law made by the Parliament, the conditions of service and tenure of office of the Election Commissioners and the regional Commissioners shall be such as the President may by rule determine. Proviso to Article 324 (5) stipulates that the Chief Election Commissioner shall not be removed from office except in like manner and on the like grounds as a judge of the Supreme Court, and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment. Article 324 of the Constitution of India is so wide in its scope that the Supreme Court of India called it the 'reservoir of power which may be exercised in a variety of cases for the furtherance of the object of free and fair elections without any fetters'.[16]

In order to make the plenary powers of the Commission under Article 324 of the Constitution of India more effective, the Parliament, under Articles 327 and 328 of the Constitution, has enacted two laws which have enunciated detailed measures under which elections need to be held. The first one of these is the 'Representation of the People Act 1950' which relates to matters of preparation, revision and publication of electoral rolls and the administrative machinery for such preparation, revision and publication. This Act also provides for the delimitation of Council Constituencies for the purpose of election to the Legislative Council. The Act has also allocated a number of seats in the House of the People to several States and Union Territories and the Part B Tribal Areas in the States of Assam, and has fixed the number of seats in each State Legislature.[17]

The second law called the 'Representation of the People Act 1951' deals with important matters. These comprise qualification and disqualifications for membership of Parliament and State Legislatures, notification for elections to the Houses of Parliament and State Legislative Assemblies and Legislative Councils, administrative machinery for the conduct of elections and its various stages, candidates and their agents, the poll, the counting of votes, declaration and publication of election results, election expenses, disputes regarding elections, election petitions and election tribunals, corrupt practices and electoral offences, incurring of disqualifications and their removal and bye-elections.[18] Keeping in view all previous rules on the subject, the Central Government, in consultation with the Election Commission, legislated the 'Registration of Electors Rules, 1960' and the 'Conduct of Elections Rules 1961' under the Representation of People Acts of 1950 and 1951. It is within the framework of these rules that elections to both the Parliament and State Legislature are held.

Functions of the Election Commission

There have been three main functions of the Election Commission of India: the preparation of elections, the provision of an election programme and the actual conduct of elections. First, the preparatory level deals with the constituencies, the question of voter and registration, electoral rolls and

candidates. The first preparatory function of the Election Commission deals with the Constituencies. For elections, states are divided into geographically compact areas known as constituencies. Parliamentary constituency deals with elections to Lok Sabha and Assembly constituency with elections to the State Legislative Assemblies. Each parliamentary constituency consists of an integral number of Assembly constituencies. The number varies from State to State. Earlier, the Election Commission was always associated with the delimitation of Parliamentary and Assembly constituencies in India.

The Election Commission divided the entire country into viable territorial divisions of Parliamentary and Assembly constituencies. The President notified the delimitation. After the first elections to Lok Sabha and Legislative Assemblies in 1951-1952 elections, the Election Commission suggested to the Union Government that the delimitation of constituencies should be made by an independent commission whose decisions should, in turn, be mandatory. Accordingly, the Parliament passed the Delimitation Commission Act 1952. In this Delimitation Commission, the Election Commission provided secretarial assistance at all levels. However, the allocation of seats in the Lok Sabha to the different States and the number of seats in the Legislative Assemblies were last determined by the Delimitation Commission constituted under the 'Delimitation Act 1972'.

The Election Commission consolidates all the delimitation orders and publishes them in a single order known as the Delimitation of Parliamentary and Assembly Constituencies Order. The Constitution of India's 42nd Amendment Act provided that the number of seats as allocated and the territorial extent of constituencies as determined by the delimitation of 'Parliamentary and Assembly Constituencies Order, 1976' are unalterable until the publication of the population figures of the first census following the year 2000. This implies that despite the establishment of the Delimitation Commission, the Election Commission still has a central role to play in the delimitation of constituencies. This is especially so due to the involvement of the secretary level staff of the Election Commission in the delimitation process of the Delimitation Commission. Besides the delimitation of constituencies, the Election Commission also performs another very important preparatory function, relating to the registration of voters.

The second preparatory function of the Election Commission is related to voter and registration. In order to cast his vote, the voter has to be registered in the electoral roll, which the Election Commission prepares. The Constitution of India confers the right to vote in an election to every adult citizen. The Election Commission has to be cautious in the registration of voters because the voter has to fulfil certain conditions to be eligible as a voter. In order to be registered, the voter must be a citizen of India, not less than 18 years of age on the qualifying date which is first January of the year in which the electoral roll is prepared or revised; should be an ordinary resident in the Constituency; should not be of unsound mind and should not be disqualified for voting under the provisions of any law relating to corrupt practices and other offences in connection with election.

The third important preparatory function of the Election Commission is to prepare the Electoral Rolls.

> The basis of a modern political democracy is the right of franchise enjoyed by every adult citizen. In order that every citizen of the land can exercise his vote, the essential prerequisite is that his name should be correctly registered in the electoral rolls.[19]

The Election Commission generally revises the electoral rolls of all constituencies in India before general elections and by-elections usually on the first of January of that year. The Election Commission can also revise the electoral rolls in any other particular year.

Last but not least, the Election Commission plays an important role in the selection of the candidate prior to the elections. A candidate can either belong to a recognized national or state political party or contest elections as an independent with or without the support of any political party. The Election Commission authorizes a person, in whose presence the candidate, after filing his nomination papers but before the date of scrutiny, has to take an oath to affirm his allegiance to the Constitution and to uphold the sovereignty and integrity of India. The Election Commission, keeping in mind the laws regarding the 'qualifications/disqualifications'[20] of the candidate, can refuse the nomination of the candidate during the process of scrutiny. Article 102 of Constitution of India along with Sections 8, 8A, 10 and 10A of the Representation of People Act 1951 impose certain disqualifications upon the candidate. The Election Commission, nevertheless, may remove or reduce the period of any of these disqualifications except those imposed under Section 8A of the Act. The Election Commission also allots symbols to the candidates who belong to political parties, while it allocates free symbols to unrecognized political parties.

Besides the preparatory function whose four factors have been discussed above, the Election Commission has the second broad function of providing an Election Programme. The election programme deals with four factors: the notification calling upon the constituencies to elect, the nomination of the candidates including the scrutiny of nomination and the withdrawal of the candidates from the contest, the election campaign itself and the poll.

The third broad function of the Election Commission is the actual conduct of elections which deals with three factors: campaigning, the poll and the count. Where campaigning is concerned, the Election Commission of India in 1991 gave a 'Model Code of Conduct for the Guidance of Political Parties and Candidates'[21] to be followed during the campaign. The Code prohibited any attack on religion or communities, incitement for violence, criticism of friendly countries, aspersions on the integrity of the President and judiciary, anything affecting the integrity of the nation and anything obscene or defamatory. Statutory provisions in the Code demanded restraint from indulgence in corrupt practices or other electoral offences during the campaign. The corrupt practices mentioned in the code are bribery, the use of undue influence, the promotion of enmity or hatred between different classes of

citizens on grounds of religion, caste, community or language or appeal to voters on the above grounds, the publication of false statements in relation to the personal character of a candidate, conveyance of voters to and from a polling booth, obtaining assistance from specified categories of government servants for promoting the prospects of election.[22] Threats, intimidation, terrorization and victimization still occur although the law forbids such actions throughout India. The economic power of employers in industrial areas or land proprietors in agricultural areas under modern productive methods is also subtle, pervasive and legally unregulated. This implies that irrespective of the strictness of the Code, corrupt practices have continued in India.

Besides providing the Code, the Election Commission has offered national and state parties free time on radio and television. The order of broadcasts for national parties has been determined by draw of lots by the representative of the Chief Election Commissioner in the presence of representatives of national parties. Lots for the State level broadcast by state parties are drawn by the Chief Election Officers of the State concerned in the presence of representatives of the State parties. In the broadcasts, the party leaders have to follow the accepted Code.[23]

In addition to the campaign, the Election Commission fixes the duration of the poll while the Returning Officer of each constituency notifies it[24] but the total poll period must not be less than eight hours in a day.

> At the completion of the poll, the Presiding Officer closes the slit of the ballot box, seals it and delivers the sealed ballot box/boxes and the sealed packets containing the various election papers, the marked counter foils of the used ballot papers, marked copy of the electoral roll, etc. to the Returning Officer as soon as possible. The polling agents present in the polling station may also, if they so desire, put their seals on these packets. The sealed packets are kept under safe custody and cannot be opened without the direction of a competent court. This ensures secrecy of the ballot.[25]

In actual conduct of elections, counting the vote is also an important function of the Election Commission. Given the direction of the Election Commission, the Returning Officer fixes the date, time and place of counting the votes and disseminates the information to each candidate or his election agent. The returning officer appoints counting supervisors and assistants while supervising them as well during the counting of the votes[26] polled at each constituency. Assistant Returning Officers may also supervise the counting of the votes. Indeed, the functions of the Election Commission have dictated the structure and powers invested in the Indian Election Commission.

The structure and powers of Election Commission

This section discusses the structure and the powers of the election commission. Within this context, it is imperative to comprehend the manner of the appointment of the Chief Election Commissioner and the extent of his independence. Where the appointment of Election Commissioners is concerned, the government of the day appoints them without indulging in any consultation. The Minister of Law sends the file to the Prime Minister and the latter recommends a name to the President. Once approved, the Minister of Law

forwards the notification. Surprisingly, the various vital stakeholders in the elections such as political parties, candidates and their supporters, media along with the public in general have shown their confidence in the appointments. Nevertheless, the various ideas have been floated in India that the opposition leader in the Parliament, the Chief Justice of India and others should also play a role in the appointment of the Chief Election Commissioner. The Chief Election Commissioner can be removed from office as a judge of the Supreme Court which implies that he can be removed through the process of impeachment laid down in the Constitution; this means that the Election Commissioner can only be removed from office on the recommendation of the Chief Election Commissioner.

For the efficient practice of democracy, it is imperative to have an Election Commission that is wholly independent, objective and non-partisan. The question is whether the Election Commission in India has been wholly independent or not. Within this context, it is imperative to explore both the extent of the Commission's independence and the nature of the constraints imposed upon it. In ideal circumstances, the Election Commission should be committed to the Constitution and the laws, and not to the party in power. According to Justice Khanna, 'every effort should be made to ensure that no extraneous pressures are exerted over it.'[(27)] The Election Commission can discharge its constitutional obligations effectively only if the machinery through which it functions is insulated against executive pressures. Article 324 (5) ensures the Election Commission's independence from the executive and arms it with constitutional safeguards. But these safeguards relate only to the post of the Chief Election Commissioner.[(28)]

Constituent Assembly discussions clearly reflected that the framers of the Constitution desired the Election Commission to be 'a truly independent body, free from any kind of control or interference from the executive.[(29)] However, there were hurdles in the realization of this vision. S. L. Shakdher, former Indian Chief Election Commissioner, complained of government control on the Secretariat of the Commission. He reiterated:

> The Secretariat of the Commission is treated as a subordinate office of the Law Ministry who exercises detailed administrative and financial control. In fact, the Commission cannot correspond directly with the Finance Ministry or any other Ministry in regard to its day to day functioning. It is essential that the Commission should have complete autonomy in respect of its Secretariat, if the Commission is to function effectively and in an independent manner.[(30)]

Besides, there have been other factors which have curtailed the independence of the Indian Election Commission, which relate to the budgeting and restrictions imposed on its effective functioning.

> [The Indian Election Commission] is one of the most important institutions needed to sustain democracy and must, therefore, enjoy a status equal to that of the judiciary. It should have a permanent organization of its own in each district, and the Constitution must provide enough funds and staff so that the Election Commission can adequately discharge its obligations.[(31)]

Further issue of the restraints imposed on the independence of the Election Commission would be elaborated while discussing electoral reforms in India.

Although General elections in India involve around 700 million electors and 11 million polling staff and security personnel, the Secretariat of Election Commission has around 50 officers and 300 officials to assist it in the performance of its colossal task of holding elections. There are three Deputy Election Commissioners and three Director Generals at the senior level heading certain departments. Other officers such as directors, principal secretaries, secretaries, under-secretaries and other lower level officials assist their senior counterparts.

The parliament votes for the expenditure on salaries and allowances of Election Commissioners and other officers of the Commission along with other administrative expenditure for the day to day functioning of the Secretariat of the Commission. According to former Chief Election Commissioner of India:

> In order to ensure the full independence of the Commission, its expenditure should be a 'charge' on the Consolidated Fund of India like the expenditure of the Supreme Court, the Comptroller and auditor General of India and the Union Public Service Commission. Such a measure of making the expenditure of the Commission a charge on the Consolidated Fund of India will further enhance its independence and insulate it from Executive interference making inroads in its financial autonomy, for any control on the Commission's budget might be misconstrued as a check on its activities by the political executive.(32)

The empowerment of the Election Commission

This segment highlights the role of political parties, the bureaucracy, the media and the people in empowering the Indian Election Commission. It argues that despite the empowerment of the Election Commission through the Constitution of India, the Parliament and the Supreme Court along with the various High Courts, the empowerment of the Election Commission by the political parties, bureaucracy, media and the general public is essential for having public faith in the transparency of elections in India.

The political parties of India have empowered the Election Commission through their continued acceptance of electoral verdicts and through their appreciation of the role of the Election Commission in conducting fair and free elections. Because political parties are one of the main stakeholders in the electoral process, only their satisfaction can ensure general acceptance of the public, which is needed for a smooth transference of power. It implies that throughout the history of Indian elections, political parties have been satisfied with the manner in which Indian Election Commission has held 16 general elections to the House of the People, around 348 general elections to State Legislative Assemblies and thousands of bye-elections to Parliament and state legislatures.

Besides the political parties, it is imperative for the bureaucracy to play an effective and transparent role in the actual conduct of elections. When the Election Commission commands, the bureaucracy renders close to perfect

elections. The former head of Indian Election Commission S. Y. Qureshi observed that:

> [There is a] crucial role played by the Indian bureaucracy, … in conducting free, fair, peaceful and smooth elections, paving the way for smooth transfer of power after elections. The bureaucracy's brightness and constant innovations have made the ECI a powerful and effective body.(33)

Besides bureaucracy, the media has always aided and empowered the Indian Election Commission in the actual conduct of elections by acting as the eyes and ears of the Commission. The media has highlighted malpractices of the candidates and political parties in their political campaigns. Election Commission finds out the violations of the Model Code of Conduct or other corrupt or illegal practices of candidates or their supporters through the media. The fear of adverse reporting in the media keeps political parties away from violating the code. The candidates and their supporters have been aware that adverse publicity would affect the way the Indian public views the elections.

The final factor that empowers the Indian Election Commission is the faith of the people of India in the transparency and fairness of Indian Elections. The former head of Indian Election Commission S. Y. Qureshi rightly commented that:

> The way [people of India] have respected the electoral verdicts during the last [16] general elections to the House of the People, 348 general elections to State Legislative Assemblies and thousands of bye-elections to Parliament and state legislatures bears ample testimony to the fact that the Commission has not failed the people of the country in performing the sacred duty imposed on it by the Constitution. It has been working consistently to safeguard and increase the political strength of ordinary voters and citizens.(34)

Having explored the nature of the Election Commission of India, it is imperative to explore the nature of electoral reforms in India and the role of these reforms in strengthening Indian democracy.

Electoral reforms and democracy in India

This section discusses the need for electoral reforms for the efficacy of democracy and elaborates on various electoral reforms carried out in India until today. This section argues that the efficacy of democracy rests on fair and free elections. By the same token, the absence of fair and free elections would tarnish the efficacy of democracy. There has been a need for electoral reforms in India due to the prevalence of flaws in the country's electoral system. Therefore, in order to establish flawless democracy within India, it is imperative to make the election process as transparent, as fair and free as possible. Throughout its history, India has carried out electoral reforms in order to improve upon its democracy. Yet, India needs to implement more electoral reforms in order to become a perfect democracy.

This section also highlights why India has required and still needs electoral reforms. It also emphasizes the various electoral reforms that have been accomplished so far and others that need to be realized. The electoral reforms dealing with the reorganization and empowerment of the Election Commission of India, cleansing Indian politics of money power and criminalization as well as enhancing the transparency of the political parties are most essential. In addition, this section also discusses other miscellaneous electoral reforms required for the efficacy of Indian democracy.

Within South Asia, India has boasted of being the only country that has held free and fair elections and thus has an exemplary democratic system.[35] Yet, there have been imperfections in the election process, which have necessitated electoral reforms in the country. Electoral reforms signify 'a change in the electoral system' so that 'genuine public desires' can be expressed in the election results.[36] The entire election process is a large game of political chess, where different actors play their part and the ultimate champion is one who plays his pieces right. Although, India is a glaring example of upholding democracy, yet 'minor' flaws remain in the entire construction of its electoral process such as malpractices.[37] According to Bernard Shaw, 'An election is a moral horror, as bad as a battle except for the blood, a mud bath for every soul concerned in it.'[38]

Although the concept of democracy was a foreign import, India has tried to Indianize the democratic system keeping in view its own traditions and culture. According to Montek, 'the pluralistic character of Indian politics led to the choice of gradualism in the implementation of reforms.'[39] As a result, throughout the actual practice of democracy, power and politics have manipulated the heterogeneity of population, the caste system, other traditions and customs to determine the nature of democracy in India. According to Professor Palmer:

> Upon closer view, this system seems to lose some of the stamps of undigested foreign borrowing and to assume forms which are more closely related to India's secular tradition, experiences and needs. But beneath the familiar forms are unfamiliar practices and attitudes. The Indian political structure is still not [as] clear as one might first assume. The Indianization of Indian politics is still going on.[40]

In his referral to 'Indianization of Indian politics', Professor Palmer meant the everyday realities of Indian politics, which were shrouded in the notions of 'secular India' and 'tradition, experiences and needs.' Such flowery phrases have concealed the brutal reality of Indian politics from the ordinary eye.

Dr. Pragya Singh highlights the 'abuse of caste and religion' in Indian elections. He maintains that the political parties allow only those candidates to contest elections who can muster the minority groups and castes in their favour. 'Communal loyalties are used at the time of election campaigning to attract the minority voters.' Interestingly, according to him, the electorate also casts its vote considering the 'prejudices' of 'caste and religion'.[41] It implies that not only the

political parties but the electorate along with the administration have been aware of the role that caste, class, religion and so called tradition play in Indian democracy. Moreover, electoral reforms are also needed to remove power abuse against the minorities.[42] According to Bimal Prasad Singh:

> Communal polarization rather multi-polarization has posed a threat to the Indian political ethos of pluralism, parliamentarianism and federalism. Despite the adoption of the principle of 'secularism' as a constitutional creed, which ironically allows communal parties to compete, the trend towards communalism and fundamentalism in Indian politics [has] been growing day by day. The spirit of tolerance that is essential for a 'secular' society seems to have completely vanished from the body politics of India.[43]

Bhandari rightly argues that it is due to this very 'process of Indianization' that many problems have occurred, which have baffled the 'legal framers of the system'. Furthermore according to him, in this process of Indianization, 'power and politics' have played a prominent role.[44] Within this context, a long time ago, Nehru stated, 'there is a search for power and yet when power is attained, much else of value has gone. Political trickery and intrigue take the place of disinterested courage. Form prevails over substance and power, so eagerly sought after, somehow fails to achieve what it aimed at.'[45] Nehru's comment can be deconstructed as his disillusionment with the functioning of Indian democracy.

According to Professor T. N. Smith, the 'development' of indisputable electoral administration requires 'an administrative machine' which is 'capable of conducting elections with impartiality and without confusion.'[46] Bhandari highlights several 'disturbing developments' in Indian democracy, which have strained India's democratic polity'. According to him, India has 'glaring economic and social inequalities, exploitation, privileges and concentration of wealth.' The entire 'election system reveals that the present system of parliamentary democracy is suffering from serious limitations and distortions.'[47] According to Mahesh and Dr. Sannaswamy, the electoral process in India is defective on many counts which does not provide 'fair opportunity to every candidate: Money power, soaring election expenditure, corruption and other electoral malpractices distort the electorate's verdict.'[48]

On the contrary, Dr. Rajbir Singh Dalal argues that India has the 'most successful and progressive democracy which has passed many litmus tests' including that of Emergency from 1975-1977. Furthermore according to him, the conduct of the 16 Lok Sabha elections and many Legislative Assemblies elections 'smoothly and fairly', show the success of Indian democracy compared to other developing countries.[49] His optimism, however, soon gets diluted when he touches upon the challenges that Indian democracy faces today. These are corruption and the increasing size of black money; misuse of power and rising opportunism; nexus among politicians, bureaucrats and mafia; criminalization of politics and the increasing use of money, muscle and mafia; the decline of ethics and values in public life and the lack of statesmanship qualities in the leadership; glaring inequality among the citizens; reckless and biased media;

naxalism, terrorism and other tension areas; prolonged and expensive judicial system; fractured mandate and unstable government along with overcautious people regarding their rights but dereliction towards their duties.[50]

Electoral reforms are essential for strengthening the democratization process in India. Indian democracy has First Past The Post (FPTP) as its electoral system to provide representation to voters in State Assemblies and in the Parliament. FPTP voting refers to an election won by the candidate(s) with the most votes. Many 'distortions' in the system have 'undermined the democratic aspirations of the people.'[51] The FPTP may allow political parties to come to power, both in the States and at the Centre that acquired minority of votes. The problem with this system has been that vast majority of voters, in this system are left unrepresented in governance. 'The present electoral system in India encourages corruption and use of muscle power [along with] communal pull to gain the slight margin of winning votes.'[52] The winning candidate does not necessarily receive an absolute majority of all the votes cast. Moreover, the parties with economic power can manipulate voters and therefore become more successful in gaining a dominant position in the governance structure.[53] Reforms include introducing a means of accountability as democracy would be strengthened by public accountability and information legislation.[54] Within this context, the Election Commission, through its recommendations and implementation of electoral reforms, becomes a 'means to the end of [achieving] a vibrant democracy.'[55]

According to Article 328 (b) of Constitution of India: 'No election to either house of the Parliament or to the house of either house of legislature of a state shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate legislature.' Here, it is the parliament to enact legislation to control all types of loopholes with regard to fair election. It is the parliament's utmost duty to hold elections in a fair manner and in a better way.[56]

The nature of electoral reforms along with its history and future paths must be viewed within this context. In India, the commonly held view has been that the Indian electoral system did not have any significant flaw until the fourth general elections, which were held in 1967.[57] This impression could have been due to the unawareness of the electorate regarding the entire election process in India. Until the 1967 general elections, the Indian media had not played any active role in increasing the general awareness of the public regarding the flaws in elections. The general public perceived the fifth general elections of 1971 to be somewhat deformed while it viewed all the successive elections especially those held during the 1980s and after to be considerably flawed. This was generally due to the role of the Indian media in pointing out the anomalies in Indian general elections.

The Tarkunde Committee Report of 1974-1975, Dinesh Goswami Committee Report of 1990, Justice V. R. Krishna Iyer Committee of 1994, the Election Commission's Recommendations in 1998, Indrajit Gupta Committee Report of 1998, Law Commission's Report of 1998, Justice Kuldeep Singh Panel of 2002 along with Proposed Electoral Reforms by 'Anna Hazare and his

followers'[58] produced a comprehensive set of recommendations regarding electoral reforms.

In India, certain electoral reforms have been implemented already. These include the lowering of voting age from 21 to 18 years, increase in the amount of security deposit from Rs.500 to Rs.10,000 for general constituencies and Rs.250 to Rs.5,000 for reserved constituencies, the introduction of electronic voting machine, making it obligatory for candidates for elections to the Lok Sabha and State Assemblies to declare their criminal background, educational qualifications and economic status at the time of filing nomination papers. Yet, many more electoral reforms need to be implemented.

In contemporary India, there are various problems in the election process, which need to be addressed through electoral reforms. First of all, the independence of Election Commission of India needs to be established. Second, politics needs to be cleansed through electoral reform. Third, electoral reforms need to make the functioning of the political parties more transparent. Finally, other miscellaneous electoral reforms are also discussed.

Independence of the Election Commission and Electoral Reforms

The independence of the Election Commission of India can be ensured through electoral reforms regarding the appointment of the Chief Election Commissioner, the process of removal of the Chief Election Commissioner and giving more powers to the Election Commission of India. Where the appointment of the Chief Election Commissioner is concerned, there is criticism regarding the manner of their appointment. The government makes the appointment of the Chief Election Commissioner along with those of the two Election Commissioners, which makes the neutrality and objectivity of the posts doubtful. Within this context, there have been suggestions that these appointments should be based on wider consultations with an electoral college that includes the leader of the opposition. The appointment through a process of wider consultations would not only make the institution strong but would also increase the confidence of the CEC and the EC.[59]

The removal process of the Chief Election Commissioner must be one which insulates the CEC's office from Executive interference and keeps the removal independent of the 'whims and fancies of the government of the day.'[60] At present, the Chief Election Commissioner can only be removed through impeachment. Similar protection needs to be extended to other Election Commissioners. The ECs can only be removed through the recommendation of the Chief Election Commissioner, but this protection is insufficient. Therefore, constitutional protection needs to be extended to the Election Commissioners as well.

Finally, three electoral reforms are required to ensure the independence of the Election Commission of India. A few provisions in the law need to be modified to further enhance the credibility of elections. This entails the question of officials and police personnel deputed to the Commission. According to law, the Commission has total control over such personnel, but political parties offended by their upright behaviour could avenge them later when they are not

under the protection of the Election Commission. On the contrary, if the personnel favoured a particular political party, which eventually came into power, then those in power could reward such personnel, thus corrupting the administrative machinery that was involved in the elections.

Within this context, the Election Commission recommended that there should be legal provisions banning the transfer of election officials for six months before the date of elections without consulting the Election Commission. Even after the elections, officers may need protection for some time, which could be up to a year. If any disciplinary action was contemplated against any officer by the government, consultations with the Election Commission should be made mandatory. This will provide a sense of security to the upright officers.[61] Next, Commission's budget should come directly from the Consolidated Fund of India as it does in the case of the Supreme Court of India. Finally, an independent secretariat on the model of the secretariats of the Rajya Sabha, the Lok Sabha and the Supreme Court Registry should be appointed for the Commission.

Cleansing of Politics through Electoral Reforms

The second issue has been how politics can be cleansed of both money power and muscle power through electoral reform. It signifies that electoral reform is required to put an end to money and political power nexus as well as to end the criminalization of politics in India. Money power has played a significant role in deciding the end result of elections in the past. The role of money has considerably increased in the present times. The civil society in India has become tired of the use of black money in Indian elections. The use of black money implied that the Indian elections could be bought as well.[62] Money power could be curbed through state funding. The practice of state funding for political parties to reimburse their poll expenses is prevalent in certain countries like Germany, France, Israel, Canada, Japan and the US. In this system, political parties polling a minimum percentage of votes are entitled to subsidy by the state.

The role of muscle power has become another decisive factor. This is done in two ways: a) by preventing the voters of weaker sections of society on their way to polling stations for casting their ballots; and b) by forcibly capturing polling booths for marking and inserting ballot papers in the ballot box of the candidate of choice. Unfortunately, as Siddhartha Dash elaborates, numerous 'local muscle men and criminals whose services were earlier sought for extortion or vote gatherings are now directly entering the fray and are elected in the process.'[63]

> Candidates and parties would initially resort to using criminals to intimidate electors and even officials. There are pockets in [India] where electors were subjected to intimidation and, for decades could not dare venture anywhere near a polling booth. Then, over time, the criminal elements used for intimidation realized that they were contributing to the victory of others, and began entering the electoral fray themselves.[64]

The 'disease of criminalization' has become widely prevalent in the Indian political system. Many elected representatives have become overtly or covertly involved in criminal processes and illicit activities, which the Indian public has criticized strongly.[65] As Biswas Soutik puts it, 'when a political party puts up candidates with criminal charges, it results in the alienation of large sections of people from the political class and politics itself.'[66] It is not only the matter of having criminals as political leaders, but the entire election process gets criminalized when different party members attempt to buy elections. The usage of black money in the electoral process has corrupted the entire system.[67] It is also a matter of candidates grabbing positions of power irrespective of the means they use.

Long ago, Plato had stated that 'the measure of a man is what he does with power.' Many political actors in India have tried to grab power irrespective of the use of illegal means. They 'use all sorts of ways to overcome any obstacle that they face.'[68] On the road towards power grabbing, they get rid of any hindrance and take shortcuts which suit them the best. Big family parties, which have always been in power, have got black money involved in elections to ensure that they do not lose election seats.[69] Moreover, for the acquisition of power, politicians have been willing to indulge in violence during or before or even after elections.[70] Out of a total of 4,807 sitting MPs and MLAs, over 30 per cent have criminal cases against them, of which 688 cases are of serious nature.[71] The combination of money power and criminal record almost doubles the winning chances of a candidate. Justice Jeevan Reddy, former Supreme Court Judge and former Chairman of the Law Commission of India, held that '23 per cent of the candidates with criminal record win, while only 12 per cent of the clean candidates do.'[72]

Many commissions and committees tried to remove criminalization from Indian election process. These included Goswami Committee on Electoral Reforms in 1990 and the Vohra Committee in 1993. The Vohra Committee Report was prepared to reflect upon all available information about the activities of mafia organizations, which had linkages with and were being protected by government functionaries and political personalities. The major contribution of the report was to coin the phrase 'criminalization of politics and politicization of criminal'. It was the first time ever that the effect of both organized and unorganized crime on the entire electoral process was officially recognized.[73]

Among others, Inderjit Gupta Committee on state funding of elections in 1998, Law Commission Report on 'Reform of the Electoral Laws' in 1999, National Commission to review the working of the Constitution in 2001, Election Commission of India's Proposed Electoral Reforms in 2004 and the second Administrative Reform Commission in 2008, all dealt with criminalization in Indian politics. Then, the Supreme Court issued an order on 16 December 2013 requesting the Indian Law Commission to concentrate on two issues related to the criminalization of politics. First, either disqualification should be triggered upon conviction, as it exists today, or upon framing of charges by the court.

Second, the question was raised whether filing of these affidavits under Section 125 of the Representation of People Act 1951 should be a ground for disqualification. Section 8 of the Representation of People Act 1951 provides for disqualification on conviction for certain offences. Sub-section (1) deals with certain named offences, the conviction irrespective of the quantum of punishment results in disqualification for a period of six years from the date of such conviction. Sub-section (2) says that conviction under offences mentioned, wherein a sentence of imprisonment for not less than six months is imposed shall result in disqualification of such person for a period of six years from the date of his conviction and for a further period of six years from the date of his release. Sub-section (3) which has attracted the greatest attention says: 'A person convicted of any offence and sentenced to imprisonment for not less than two years (other than any other offence referred to in Section 1 and Section 2) shall be disqualified from the date of such conviction and shall continue to be disqualified for a period of six years since his release'.(74)

Despite these clauses and recommendations of Law Commission of India, the influential candidates either escape prosecution using various means or they are acquitted. Banerjee writes: 'while the prosecution proceedings are kept pending for years, the persons continue to contest, get elected and contest in the next election.'(75) The recommendations of Indian Law Commission, which it gave in 1999 in its 170th report, that a person, against whom charges have been framed by a criminal court for offences punishable with death or imprisonment of life, should also be disqualified from filing his nomination for state legislature or Parliamentary elections. Such recommendations have still not been implemented.

In order to deter the criminal elements from entering into the electoral field, law should make it mandatory for a person convicted by a court of law and sentenced to imprisonment for six months or more to be debarred from contesting polls for a period of the sentence imposed and an additional period of six years. Any person who is accused of any offence punishable with imprisonment for five years or more should be disqualified, even when her/his trial is pending, provided that the competent court of law has taken cognizance of the offence and framed the charges against him.

In 2013, in Resurgence India vs. Election Commission of India case, the Supreme Court of India directed the returning officers to reject the nomination papers of candidates, who do not provide all relevant information about their assets, liabilities and criminal cases, if any. Justice Jeevan Reddy held: 'Even today, the field of qualification of candidates has to be enlarged by providing, that candidates against whom charges have been framed for offense punishable with death, imprisonment of life or imprisonment of 10 years, shall stand disqualified, provided such charges are framed six months prior to the date of scrutiny of the nomination papers.'(76) Despite such judgments, the nexus between criminalization and politics has largely prevailed in India. Besides, Indian political parties also need to be cleansed through electoral reforms.

Electoral Reforms and transparency of Indian political parties

Electoral reforms are also required regarding the transparency of Indian political parties as it is vital for the success of democracy in India. Political parties play a pivotal role before elections, during elections and in the formation of government after elections. The Constitution of India or other legal provisions have left the political parties unregulated. As Dash puts it, 'one of the most critical needs of the time is to reform political parties and to make them open, democratic and accountable. Political parties should be made more accountable by being forced to do internal audits of their finances and producing evidence of internal democracy.'(77) The emergence of many political forums and parties having diverse ideologies threaten the Indian electoral process as they can disrupt the political side of elections in India.(78)

In order to ensure transparency in political parties, electoral reforms are required in five issue-areas: the registration and de-registration of political parties, inner party democracy, and transparency in the accounts of political parties, the problem of dummy candidates and the electorates' right to reject all the candidates. The first issue area concerns the registration and de-registration of political parties. The Election Commission registers the political parties under statutory provisions given in the Representation of People Act, 1951. Section 29A inserted in 1989, gives the broad framework for registration of an association or group of Indian citizens as a political party. An association seeking registration as a political party is required to move an application before the Election Commission within 30 days of its formation. Interestingly, the term 'political parties' was not used in any law before 1989.(79)

One of the statutory requirements for a valid application for registration as a political party under Section 29A in the 1951 Act is that the constitution of the party should contain an undertaking of allegiance to the Constitution of India and to the principles of socialism, secularism and democracy, and to uphold the unity, sovereignty and integrity of India. Although political parties bind themselves to follow constitutional provisions and the principles of democracy through an undertaking in their constitutions, at the time of registration, there are no legal provisions that enable the Commission to take punitive action against them or to withdraw their registrations in case of violation of such an undertaking.

In an appeal on the issue of cancellation of registration of political parties in cases of violation of constitutional provisions, the Supreme Court held that the Election Commission's decision of registering a political party is a quasi-judicial one. Moreover, given the lack of provisions in law for de-registration, the Election Commission cannot de-register a party on complaints of political party's violation of the latter's own undertaking. The Supreme Court upheld a narrow interpretation of the Election Commission's power to register a political party which restricted the Election Commission's power to hold a political party accountable, thus making the Commission powerless. Unfortunately, the Commission's recommendation to the government to amend the law, empowering the Commission to regulate registration as well as de-registration of political parties and their internal functioning according to the

parties' own constitutions, has not been implemented yet.[80] Non-implementation of proposed electoral reforms has been a constant hindrance in the cleansing of India's political parties.

The second issue-area, where electoral reforms are needed, is the maintenance of democracy within political parties themselves. Since India has a robust democracy, it is imperative that political parties should also observe democratic principles. The parties need to follow 'democratic processes' in decision-making, in intra-party elections to various offices and committees of the party at suitable times.[81] As most parties give three-year terms to their office-bearers, this time period would seem suitable.

Presently, the Election Commission is not empowered enough to regulate the internal functioning of political parties, but the Commission has proposed reforms in this regard. In 1996, the Election Commission conducted a review of intra-party elections among recognized parties finding deficiencies in this regard. The Commission notified the parties instructing them to complete internal elections within a given period. Then onwards, the Commission has monitored the holding of internal elections in about 50 recognized national and state parties. If any political party is unable to conduct its elections in time, it can ask the Commission for an extension, explaining the reasons for it. The Commission, while agreeing to extend the time, binds the party to abide by the extended limit.[82] The general public, however, does not perceive internal elections within political parties to be democratic. Currently, the Election Commission does not closely supervise the internal electoral process within the political parties. With electoral reforms that empower the Election Commission in this regard, the political parties would have to ensure inner democracy while registering with the Election Commission, or the parties would risk losing their registrations.

A third important factor that can bring about transparency in political parties deals with the maintenance of transparency in the accounts of political parties. In order to enhance the transparency in the accounts of political parties, the Indian Commission has proposed that chartered accountants approved by the Election Commission should audit the accounts of political parties. Moreover, the audited accounts need to be displayed both on the Election Commission's website and the political party's website.

Fourth, in order to enhance the transparency of political parties, electoral reforms need to deal with the problem of dummy candidates. According to S. Y. Quraishi, a dummy candidate:

> contests an election with no intention of winning. He is non-serious and stands for an election simply to influence the share of votes among genuine candidates or to take advantage of benefits given to candidates. Some dummy candidates are set up by 'rival' candidates so that they get more poll agents in polling stations and counting centers to influence the polling process and often to circumvent the ceiling on expenditure.[83]

Dummy candidates have contested elections in India from the various constituencies. For example, in 2012 in the Kadappa constituency of Andhra

Pradesh, the Election Commission declared 11 independent candidates in the Lok Sabha constituency as 'Dummy Candidates' and withdrew all the privileges given to them. Of the 11, the Election Commission issued notices to seven. Three were found to be campaigning for Y. S. Jaganmohan Reddy of the YSR Congress party, while two others supported the Indian National Congress candidate D. L. Ravindra Reddy. The Election Commission served show-cause notices to both Jaganmohan and Ravindra Reddy, asking them why the expenditure incurred by these independent candidates should not be treated as their expenditure.

Dummy candidates can also be dormant candidates who are willing to withdraw from the electoral contest, often for a consideration, but remain listed in the ballot. The purpose of dummy candidates is to confuse voters by setting up candidates with similar names. For example, in the elections to the Hisar parliamentary constituency in Haryana in 2011, there were 31 independent candidates, of which 5, including the main candidate Kuldeep Bishnoi had similar names. The duplication of names of candidates is also known as 'cloning,'[(84)] which carries implications for elections within a given constituency. Luckily, other four 'Kuldeeps' could not confuse voters and had an average voting share of 801 only. All 27 independent candidates polled 2,192 votes each on average, whereas the main winning candidate polled 3, 55, 955 votes. It is obvious that such candidates are mostly non-serious or have other considerations. According to S. Y. Qureshi, when dummy candidates are caught, they are 'deprived of privileges like vehicles', denied the right to nominate agents in polling booths and they are not even allowed to be present at the counting stations.[(85)]

According to Bhattacharya and Mitra, 'hyper-plurality' in candidate structure can damage the credibility of the democratic process itself. They also give ample suggestions to cleanse politics through ensuring mature candidates with good character, increasing transaction costs for non-serious candidates, submission of a high deposit fee, regulations which ensure a minimum level of support for the candidate, ending candidates' simultaneous participation from many constituencies and avoiding confusions among voters.[(86)]

Last but not least, electoral reforms need to be carried out which give the electorate the right to reject all the contesting candidates in a given elections, which would create more transparency in the political parties. Voters should get the right to cast a negative vote. In every ballot paper or ballot electronic voting machine, there should be an option 'none of the above', and if the number of votes polled in this category is more than 50 percent of the total votes polled, all candidates should be debarred from contesting elections for at least six years by the Election Commission and the election be declared void. The election should then be re-conducted with fresh candidates.

The right to reject could mean that the electors have the option of not voting for a candidate or of nullifying the entire panel of candidates, if the reject vote exceeds the votes secured by any candidate. This option might put pressure on parties to nominate more acceptable candidates and force candidates to reach out to a larger section of electors. Another interpretation of 'right to reject'

would be that electors could reject the whole panel of candidates, which would force a re-election with fresh list of candidates.(87)

In addition to the three broad areas in which electoral reform is required for the efficacy of democracy, there are other miscellaneous issues as well. There is the issue of inadequate representation of women in legislatures. Instead of following the reservation rule with the possibility of further internal reservation, all recognized political parties should fix a specified percentage of women candidates in all state and parliamentary elections that they may participate in. Rikhil R. Bhavnani, using data from randomly chosen seats in local legislatures in Mumbai, found that the probability of a woman winning office conditional on the constituency being reserved for women in the previous election is approximately five times the probability of a woman winning office if the constituency had not been reserved for women. The data suggested that reservations work in part by introducing into politics women who are able to win elections after reservations are withdrawn and by allowing parties to learn that women can win elections.(88)

Then, since the government in poll bound states can affect elections in their own favour using the administration, the government in poll bound states should resign before polls. The cabinet ministers of states going to polls, barring chief minister, finance and home ministers, should resign after elections are announced. Such reforms would defuse the misuse of government money and administrative powers to influence elections.

Some scholars have suggested that the Election Commission should prescribe a maximum age limit and minimum academic qualifications for the candidates contesting elections in India. There should be a retirement age for politicians, which some analysts have suggested between 60-65. According to Dash, for all the competitors in elections, the Indian Election Commission should conduct a test, which would test their knowledge of India's 'Constitution, economy, freedom struggle and geography. Certain minimum marks in these subjects should be fixed to qualify for becoming a politician; psychological tests should also be held to judge their overall personality.'(89)

Then there has been a dire need for the reorganization of constituencies within India. For example, in Delhi itself, while one Parliamentary Constituency comprises four lakh voters, another constituency includes as many as 22 lakh voters. Within constituencies, large differences in terms of population need to be removed. Certain constituencies have continued as reserved since the inception of the Constitution. Dash holds that 'the continued reservation of seats for specified castes and tribes could be rotated after each census on the basis of strength of their population. Such a step would possibly remove the grievances of the general population of perpetually being denied representation in the legislature.'(90)

According to Siddhartha:

> Reform is not a single time effort but a continuous process. It would be appropriate if a standing committee, comprising members of parliament and experts in election laws, is constituted to go into the question, as and when it arises, and to suggest changes wherever necessary, in the election law to the

> government. The success of the reform would depend upon the working of and adherence to the system on the part of electoral machinery at all levels, the political parties, the candidates and the electorate. An independent press and enlightened public opinion have no substitute to push through reform. The participation of the youth in election plays a major role in restoring our faith in democracy. Finally, there should be proper mechanism, fully functional and fully equipped, to fight with any triviality.[91]

This section has discussed the complex relationship between electoral reforms and democracy in India. Democracy has been a 'foreign import' for India, but the country has sought to 'Indianize' it through mixing the western concept with its own traditions, cultural and religious heterogeneity along with the realities of communalism, class and caste. Many electoral reforms have been implemented in India but many more need to be implemented. Various provisions in the Indian Constitution, Supreme Court decisions, and recommendations of the various Commissions including those of the Indian Election Commission have made electoral reforms possible. Nevertheless, both the criminalization of politics and the politics of criminalization have necessitated electoral reforms in order to achieve effective democracy in the country. The areas which most require electoral reform include the further empowerment coupled with the independence of the Election Commission, cleansing politics of criminalization and increasing the transparency of political parties. In addition, this section has raised a few miscellaneous issues as well that require electoral reform.

Lessons for Pakistan

This section argues that India's continued practice of democracy ever since its independence offers strong lessons for Pakistan's delicate democracy. Where the democratic process in India is concerned, the strengthening of the Indian Election Commission along with the nature of electoral reforms carried out in India, have been of foremost significance. It is generally true that India has not reached the perfection of having a flawless democracy yet. Nevertheless, Pakistan needs to benefit from India's long experience to empower the Election Commission of Pakistan and implement the various important electoral reforms, which would eventually strengthen Pakistan's unstable democracy.

The electoral process in India holds lessons for Pakistan. One lesson is of setting a simple and well-defined target. Another is the importance of having transparency in the value elections. It is harder for politicians to interfere in the electoral process and steal the elections when bureaucrats and election officials are under intense public scrutiny. Extending the country's right to information law, irrespective of the fear of the exposure of corruption, has proved to be immensely valuable. Lastly, bureaucrats become more efficient and less corrupt, when they lose discretionary powers. Those who organize elections have no discretion to decide who is allowed to vote or where. They are only supposed to ensure it all works efficiently, leaving little incentive for people to bribe or bully them.[92]

Unlike India, which has experienced uninterrupted democracy from 1947 to present, Pakistan's political history has demonstrated the vulnerability of its democracy. Since the country's inception, its politics have oscillated between military rule and electoral democracy. The latter held sway from 1947-1958, 1972-1977, 1988-1999 and finally since 2008, while the military rule persisted during the intermittent periods. This alone suggests that Pakistan's democracy has continuously been in a state of transition. Even the democratic phase between 1988-1999 remained politically unstable due to mid-term dismissals of both Prime Minister Benazir Bhutto, representing Pakistan People's Party (PPP) and Prime Minister Nawaz Sharif, representing Pakistan Muslim League (PML). Thus it has not only been the military coup d'états that strained the democratic process in Pakistan, but even elected governments have been unable to stabilize the country's democratic process. Traditionally, the un-curtailed power of the military institution along with the deterioration in civil-military relations has been held responsible for fragile democratic process in Pakistan. At a deeper level, however, it is also the failure of the democratic leadership to strengthen the democratic process itself. Fortunately, democracy has continued in Pakistan since the end of Musharraf's rule in 2008.It was the first ever time in Pakistan that the government of Prime Minister Zardari completed its five-year term (2008-13) with a peaceful transition to Nawaz Sharif's government in 2013.[93]

In an interview with the author, Haider Muhammad Chohan provided important insights into the efficacy of elections in Pakistan. He served as the Secretary of the ECP twice from August 1982 to October 1984 and from March 1989 to August 1990, but on both occasions he was removed from his post before elections were held. Chohan comprehensively explained the overall election system in Pakistan, beginning from the 1935 Government of India Act, which was not based on universal franchise. He held that in 1946 elections in India, both Hindus and Muslims created different pressure groups as a conventional form of rigging. A similar exercise was seen after partition in Pakistan's first provincial elections in Punjab between1950-1954, which were neither free nor fair. Over time, rigging became a regular feature in the electoral history of Pakistan. Rigging became common with all the government agencies including the military serving as the prominent actors in it.[94]

Democracy in Pakistan is still at the onset even after 67 years of its existence because of recurring military coup d'états. According to Chohan, the military always found new ways and means of rigging the elections or referendums which were held during dictatorships. Unfortunately, according to him, Pakistan's democratic governments also relied on undemocratic means to maintain their power. He illustrated the example of Zulfikar Ali Bhutto, who being nurtured in the nursery of the military, never relied on democratic processes; rather he resorted to rigging in the elections. The elections held in early 1977 were an illustration of this phenomenon, whereby elections were tainted by rigging made easier because of the ineffectiveness of the Election Commission. People's reaction against fraudulent election, back then, was immense.[95]

He also maintained that President Ghulam Ishaq Khan (1988-1993) used and misused the reserved powers of the Eighth Amendment to check the governments in power. Using this Amendment, Ishaq Khan was able to dismiss Prime Minister Benazir Bhutto on 6 August 1990 and Nawaz Sharif on 18 April 1993 on charges of corruption, mismanagement and nepotism. The October 1990 elections were also rigged as Ishaq Khan never wanted Benazir to gain power.[96]

Chohan opined that the 2013 elections were 'reasonably fair, credible and transparent' in Pakistan's electoral history. According to him, Pakistan's national tendency was not to believe as a society; rather, people enjoyed 'mudslinging' which arose out of 'confusion and chaos.' Allegations from political circles, especially from Pakistan Tehreek-e-Insaaf (PTI) on the unfair conduct of the 2013 elections seemed illogical. It seemed beyond the capacity of Sharif who was in power in Punjab only and because the Election Commission of Pakistan works under the constitution and caretaker government came through consultation as a constitutional requirement. Across the board, rigging in the recent elections do not have a solid ground because provincial governments do not have enough powers to frustrate the Election exercise on a large scale.[97]

In Pakistan, the Election Commission is the constitutional entity, made up of one Chief Election Commissioner (CEC) and four Election Commission Members,[98] with the authority and responsibility of conducting elections. The ECP is the organization responsible to assist the Election Commission in implementing its policies and decisions. The ECP has offices throughout the country at the federal, provincial, divisional and district levels. While the Election Commission is headed by the CEC, the executive side of the ECP is headed by the Secretary of the ECP**.**

The Constitution of Pakistan charges the Election Commission with organizing and conducting elections in an honest, just and fair manner, in accordance with the law. The Commission is required to take steps to guard against corrupt practices in the electoral process.[99] The Election Commission's specific responsibilities include the following: preparing electoral rolls for the National Assembly, the Provincial Assembly and the local government elections and revising them annually; delimitation of constituencies; organizing and holding general elections to the National Assembly, the Provincial Assemblies and the local government bodies.[100] Organizing and conducting elections to the Senate and by-elections to fill vacancies in the National and Provincial Assemblies and the Senate; appointing Election Tribunals; and holding election to the office of the President. The CEC and the Members of the Election Commission are appointed for five-year terms and cannot be removed, except through the Supreme Judicial Council; the same procedure used to remove Judges of the Superior Courts.[101]

A person may be appointed as the Chief Election Commissioner if he or she is (or has been) a judge of the Supreme Court or a judge of a High Court and is qualified to be appointed as a Supreme Court judge. To be a member of the Election Commission, a person must be a former judge of a High Court.

There are four High Courts in Pakistan – one in each of the four provinces namely Balochistan, Khyber-Pakhtunkhwa (KPK), Punjab and Sindh.[102] All executive authorities in the Federation and Provinces are required to assist the Election Commission in the discharge of its functions.[103]

Despite being faced with various challenges, the Election Commission has successfully conducted General Elections from 1970 through 2013 (1970, 1977, 1985, 1988, 1990, 1993, 1997, 2002, 2008 and 2013). The 2013 General Elections were the tenth elections held on the basis of direct vote; prior to 1970, indirect elections were held to the National and Provincial Assemblies. The ECP has been managing elections in Pakistan, which stands sixth in the world in terms of population. Though the ECP has been managing huge election operations, it has always been aware of its limitations, potentials and prospects in delivering elections to the Pakistani nation.[104]

Ishtiak held that the ECP was a 'hub for all the political stakeholders, judiciary and the media' alike and its basic obligation was to conduct fair and free elections. In order to translate this vision into reality, the ECP held meetings with the political stakeholders to deal with the complexities and hiccups of election commission and electoral reforms. According to Ishtiak, the importance of the ECP should not be overlooked in our country which is still striving to achieve institutional harmony.[105]

According to Chohan, the Election Commission of India was more transparent than the ECP because Indian leaders had 'more awareness and education'. He held that Brahman families, who dominated Indian politics, were highly educated and thus had a better understanding of democracy. Moreover, he maintained that Indian democracy was strengthened in its true spirit when *Dalits* (the untouchables) were given constitutional rights. Chohan was of the view that unlike the Election Commission of Pakistan, appointments of Chief Election Commissioner (CECs) in India have not been from the judiciary. In India, all the Chief Election Commissioners were selected on merit and were generally civil servants of great competence. He continued that the ECP is more autonomous and empowered to take any important actions against institutions, political parties or individuals in comparison to Indian Election Commission (IEC). 'In the ECP what we lack is implementation and selection of individuals of integrity and impartiality. One of the major setbacks to the ECP is that the appointments of CECs are exclusively from the judiciary.'[106]

At this juncture, the question that arises is: How can the ECP and the electoral process be made trustworthy enough to nullify the need for having interim governments? First, the government should give real powers to the ECP to manage its affairs and select its workforce independently. Second, the auditing of political contestants is important to curb the wrong use of money in elections. In India, banks have to report all transactions above one million rupees to the ECI after the announcement of the election schedules. The contestants are barred from holding marriages of their children while the election is being held, just to keep a check on the use of money. Third, in Pakistan, the ECP cannot take action against the presiding officers and returning officers, according to the code of conduct. The Commission's former secretary

Ishtiak Ahmed Khan has recently stated that the ECP has requested the Parliament to amend the law and empower the Commission to take action against anyone who is found guilty of misconduct.[107] All these steps would create more transparency in the electoral process.

The ECP introduced a photographic electoral roll with National Identity Card (NIC) numbers of all voters, which was an effort to prevent multiple registrations and voting. SMS service was initiated to help voters learn about their registration status and polling station. Five codes of conduct for electoral stakeholders were implemented including that for political parties and candidates, polling personnel, security personnel, election observers and the media. The ECP also completed the unification of election laws and recommended important areas for legislation to the government before the general elections.[108]

The electoral processes, in order to be 'responsive and inclusive,' must fulfil the expectations of all electoral stakeholders,[109] especially signifying all the political parties and the electorate. The European Union Election Observer Mission, in its report on the 2013 General Elections, commented that:

> Fundamental problems remain with the legal framework and the implementation of certain provisions, leaving future processes vulnerable to malpractice, and Pakistan not fully meeting its obligations to provide citizens the right and opportunity to stand as candidates and to vote.[110]

At present, Pakistan's general public is aware that electoral reforms are essential for the efficacy of democracy. UNDP commissioned a nation-wide survey of 4,535 people, in which 49 percent were not satisfied with the existing electoral system while 55 percent of those polled held that electoral reforms were necessary. Within this context, all political parties must agree on holding a new population census along with the fresh delimitation of constituencies to ensure that 'all constituencies were roughly equal in population size.'[111] Despite the prevalence of democracy in India since inception, Indian electoral reforms dealing with the delimitation of certain constituencies according to population size, still need to be implemented.

Before the 2013 elections, only meagre electoral reforms were realized, and Pakistan was required to comply with international obligations under instruments like the International Covenant on Civil and Political Rights, which Pakistan ratified in April 2010. However, a Special Parliamentary Committee on Electoral Reforms was formed, which comprised representatives from all the political parties. The Committee was designed to address the grievances of all the political parties as well as of the citizens. With the establishment of Special Committee, the Parliament assumed a leading role, when compared to the judiciary or the bureaucracy, in the process of electoral reforms. This was a welcome development and the tenure of the Committee should be extended by one more year.

In an interview with the author on 19 December 2014, Ishtiak Ahmed Khan, former Secretary of the ECP (September 2009-November 2014) highlighted that in 2012, the ECP initiated the 'scrutiny of Electoral Rolls',

which lay at the 'pinnacle' of electoral reforms. According to him, political parties, civil society, media and the entire nation demanded the preparation of accurate computerized Electoral Rolls because the latter serve as the strong foundation for any credible, free and fair elections. Multiple and bogus entries in the Electoral Rolls of 2007 were widely criticized throughout Pakistan. Within this context, it was imperative to 'devise a fool-proof system to eliminate any possibility of bogus entries in the electoral rolls.' He further held that it was a 'historic moment' in the electoral history that the first phase of this national task was completed and Nadra provided verified and augmented data pertaining to 2007 Electoral Rolls that contained variances in terms of errors, as well as multiple and unverified entries. Nadra's analysis confirmed the genuineness of the complaints and unravelled startling revelations that out of a total 81.2 million voters registered in 2007, Nadra verified only 44.02 million.[112] Ishtiak appreciated the preparatory functions of the ECP prior to the 2013 elections in Pakistan. He elaborated that 2013 General Elections were the largest in Pakistan's electoral history with the ECP introducing reasonable initiatives before elections which included the following: the introduction of Electoral Rolls with photographs of voters and their NIC numbers to identify the validity of thumb impression; training and orientation of all temporary election staff; the increase in the number of polling stations; introduction of a Code of Conduct for political parties and candidates along with four other codes covering election observers, polling personnel, polling officials and the media; campaign monitoring; and the tabulation of gender-disaggregated data among others.[113]

Despite prevailing doubts among the political parties and the electorate regarding the holding of elections in 2013, the ECP felt satisfied with the role it played during the 2013 elections. According to Ishtiak, there were doubts due to fear and uncertainty created by terrorist attacks. Serious doubts were expressed till the polls day on whether or not it would be possible to hold the elections. The ECP not only conducted the elections in time but also used the media to dissuade the stakeholders from rigging. On 11 May 2013, the people of Pakistan exercised their right of franchise as a result of which the first ever smooth transition of power took place from a civilian government to another civilian government. Ishtiak held that in September 2012, the ECP held a meeting with all the political parties of Pakistan. All of the political cadres, according to him, had 'extreme confidence' in the ECP and suggested that instead of an interim government, the ECP itself should act as an interim government. He opined that the same trust was maintained during the previous elections which proved to be the best example of conducting free, fair and credible elections. He emphasized that international observers too were unanimous in their opinions that the 2013 elections in Pakistan were transparent, credible and reliable as compared to all previous elections.[114]

Can Pakistan learn any lesson from the elections held in India in 2014? Indian elections in 2014 were completed in nine phases having been spread over two months. They were largely successful with the participation of over 500 million voters. There were neither any allegations of rigging nor any complaints of someone stealing the mandate away. In India, a peaceful transfer of power

occurred compared to Pakistan, where politics became chaotic after the 2013 elections. Until early 2015, several political parties in Pakistan have complained that the 2013 elections were neither fair nor free. Yet, the government has not fully addressed the allegations of the political parties that injustice was done to them through rigged elections.[115]

Political drivers in India must be complimented for their concerted efforts to strengthen democracy. The ECI and the general public have a trust relationship; unfortunately, this bond seems to be quite thin in Pakistan. The chart below shows a clear difference between the voter turnouts in both countries.

Table 1
Voter Turnout Data for India

Year	Voter Turnout	Total vote	Registration	VAP Turnout	Voting age population	Population	Invalid votes	Compulsory voting
2014	66.40%	553,801,801	834,101,479	70.29%	787,860,328	1,236,344,631		No
2009	58.17%	417,037,606	716,985,101	56.45%	738,773,666	1,156,897,766	0.05%	No
2004	58.07%	389,948,330	671,487,930	60.91%	640,182,791	1,049,700,118	0.10%	No
1999	59.99%	371,669,104	619,536,847	65.69%	565,780,483	986,856,301	1.91%	No
1998	61.97%	375,441,739	605,880,192	67.45%	556,651,400	970,933,000	1.86%	No
1996	57.94%	343,308,035	592,572,288	61.08%	562,028,100	952,590,000	2.44%	No
1991	56.73%	282,700,942	498,363,801	57.23%	493,963,380	851,661,000	2.43%	No
1989	61.98%	309,050,495	498,647,786	65.18%	474,143,040	817,488,000	2.68%	No
1984	63.56%	241,246,887	379,540,608	64.61%	373,371,000	746,742,000	2.51%	No
1980	56.92%	202,752,893	356,205,329	62.35%	325,162,040	663,596,000	2.43%	No
1977	60.49%	194,263,915	321,174,327	64.67%	300,392,640	625,818,000	2.75%	No
1971	55.25%	151,296,749	273,832,301	57.22%	264,393,600	550,820,000	3.20%	No
1967	61.04%	152,724,611	250,207,401	63.11%	241,996,800	504,160,000	4.47%	No
1962	55.42%	119,904,284	216,361,569	54.42%	220,324,090	449,641,000	3.94%	No
1957	62.23%	120,513,915	193,652,179	61.15%	197,090,250	402,225,000		No
1952	61.17%	105,950,083	173,212,343	58.92%	179,830,000	367,000,000		No

Table 1.1
Voter Turnout Data for Pakistan

Year	Voter Turnout	Total vote	Registration	VAP Turnout	Voting age population	Population	Invalid votes	Compulsory voting
2013	53.62%	46,217,482	86,189,802	41.72%	110,782,605	193,238,868		No
2008	44.55%	35,610,001	79,934,801	38.77%	91,856,744	164,741,924	2.70%	No
2002	41.80%	29,829,463	71,358,040	38.93%	76,627,450	144,616,639	2.60%	No
1997	35.17%	19,058,131	54,189,534	31.47%	60,565,705	137,649,330	2.30%	No
1993	40.28%	20,293,307	50,377,915	37.56%	54,032,880	122,802,000	1.30%	No
1990	45.46%	21,395,479	47,065,330	43.40%	49,301,560	112,049,000	1.10%	No
1988	43.07%	19,903,172	46,206,055	42.91%	46,379,960	105,409,000	1.50%	No
1985	52.93%	17,250,482	32,589,996	41.71%	41,357,400	96,180,000	2.40%	No
1977	55.02%	17,000,000	30,899,152	46.94%	36,213,120	75,444,000		

Source: Adapted from Institute for Democracy and Electoral Assistance (IDEA)[116]

Pakistan has had a history of rigged elections. In 1977, Zulfikar Ali Bhutto – a Machiavellian but genuinely popular political leader – decided to rig the elections and won. The opposition took to the streets to protest even though like now it was generally accepted that the fraud would not have had any impact on the outcome.[117] Imran Khan's protest against rigged elections of 2013 was a recurrence of the earlier protests against Bhutto. Khan's *dharna* (sit-in) lasted for a record breaking 126 days eventually ending on 17 December 2014.[118] As a response to the protests against rigging, the government called in the army invoking Article 245 of Constitution.[119] On the contrary, in India the process of democracy has not only 'taken roots but it has spread wide and deep' due to certain processes such as 'independent voting' and the country's 'embracing press demands.'[120]

Complaints in elections have been a regular feature throughout the world, not just in Pakistan. According to Ishtiak, Pakistan needed a 'more robust post-election dispute resolution mechanism. According to the Constitution of Pakistan, Articles 2-5 enunciate that post-election disputes should be resolved by the tribunals. In the Representation of People Act 1976, Article 103A stipulates that after elections the ECP would serve as a tribunal to resolve the petitions within 60 days. In the 2013 elections, different political parties filed around 500 petitions; ECP resolved 80% of them within 60 days. However, those requiring detailed inquiry had to go the Election Tribunals. Concerning Pakistan Tehreek-e-Insaaf's (PTI) rigging allegations, Ishtiak held that proper mechanism should have been constructed and justice should have been dispensed in time. Moreover, decisions from the tribunals should not be taken or rejected on the mere basis of technical grounds. The basic purpose of dispute resolution is to provide speedy justice and to readdress genuine grievances of the complainants. He further added that if justice is not provided in time, it can seriously arouse a sense of injustice and resentment in the society. While all genuine grievances contained in the election petition must be addressed, putting a question mark on the whole process based on complaints in few constituencies could have serious implications for democracy. If election results are not accepted, without logical grounds, the very purpose of holding elections is defeated.[121]

In response to a query, Ishtiak reiterated that 'an efficient Election Commission was one which looked for electoral reforms immediately after the elections' – a task which the ECP undertook. According to him, immediately after the elections, several meetings were held with ROs, DROs, presiding officers and other technical staff including international observers, which led to the identification of new electoral reforms leading to the formulation of a thorough Strategic Plan (2014-2018).[122] The Plan was also presented before the 33-member parliamentary committee constituted in 2014 to introduce electoral reforms.

The ECP developed its first Strategic Plan (2010-2014), based on consultations with voters, political parties, civil society and international stakeholders under the umbrella of the Election Support Group. The strategic plan consisted of 15 goals, which covered various aspects of electoral operations

and procedures, legal reform, stakeholder outreach and internal organizational reform and capacity building. According to the International Foundation for Electoral System's (IFES) assessment, by December 2012, three years into the five-year implementation period, the ECP had achieved approximately 80% of its strategic plan.[123]

On electoral reforms, the UNDP held seminars in all of Pakistan's provinces with representatives of the civil society, academia, youth and women. The representatives agreed that urgent measures needed to be taken to 'increase the number of women candidates (such as the introduction of legislation making it a legal requirement for parties to allocate 10 percent of the tickets for general seats to women) and for candidate nomination procedures in political parties to be subject to democratic selection process.'[124] In India, the various electoral reforms have been recommended regarding the issue of women in politics along with the establishment of democracy within the various political parties. India has, nevertheless, not yet implemented many recommendations in this regard.

The quality of democracy within political parties has impacted on the quality of democracy within a particular country. Political parties are the building blocks of a democratic structure and if parties become subservient to individuals, with decisions being made undemocratically without involving the decision-making structures within the party, the national democratic structure becomes hostage to a few individuals. Within this context, institutions such as the Parliament lose the ability to continue functioning as an important institution with genuine representation, people-centric legislation and management.

While carrying out this assessment, PILDAT maintains that Pakistan's political parties have been often victimized during Martial Law when parties were outlawed, their bank accounts were blocked, their leaders were jailed, party officials were forced to abandon their parties and join official patronage. These repressive measures have not allowed political parties to grow into strong institutions which democratic traditions nurtured.[125]

The Steering Committee of PILDAT devised 13 indicators to assess democracy within political parties 'objectively and scientifically.' Eight major political parties were selected for the assessment. Five of these parties held the largest number of seats in the National Assembly. A party-wise account of each of the 13 indicators was compiled after collecting data from the various sources including the political parties. This account, then, became the basis for quantitative assessment (scoring) for the parties.[126] According to the scores assigned to the selected eight political parties, the list of parties in the order of most democratic to least democratic included Jamaat-e-Islami (56%), the PTI (49%), the Awami National Party (ANP) (46%), the Jamiyat-e-Ulema-Islam (JUI-F) (43%), the National Party (NP) (43%), the Mutahida Qaumi Movement (MQM) (42%), the Pakistan's People Party(PPP) (34%) and the Pakistan Muslim League-Nawaz (PML-N) (32%). Jamaat-e-Islami was rated as the most democratic party. Apparently, regular party election, regular change in top leadership, lack of dynastic leadership in the party favoured the party to be rated as the most democratic. The following table presents the consolidated scores under each indicator of eight political parties:

Indicator		Percentage Score (%)								
		PML-N	PPP/P	PTI	MQM	JUI-F	JI	NP	ANP	Average
1.	How much democracy does the constitution guarantee within the party? (10 Marks)	53	50	62	45	59	57	50	55	54
2.	How regularly and competitively does the party hold intra-party elections? (10 Marks)	34	35	64	39	49	62	52	55	49
3.	How effective are the various bodies of the party and how frequently do they meet? (10 Marks)	25	35	45	49	48	64	47	48	45
4.	How far were local party organizations involved in deciding the party candidates for the past National and Provincial Assembly elections? (10 Marks)	24	25	42	40	44	44	38	44	38
5.	How regularly the parliamentary party meetings take place during the sessions of the Senate, National Assembly and Provincial Assemblies? (5 Marks)	37	45	57	63	58	63	48	55	53
6.	How regularly does the party hold its annual convention? (5 Marks)	20	25	34	38	43	52	40	40	37
7.	How far does the party discourage the tradition of dynastic leadership? (5 Marks)	14	14	57	48	35	86	51	42	43
8.	How often has the top-most party leadership changed during the past 10 years without the death of the party chief? (5 Marks)	11	12	20	18	29	80	66	40	35
9.	How wide is the funding base and how credible are the audited accounts of the party? (10 Marks)	28	31	48	33	31	48	32	30	35
10.	How far is dissent tolerated within the party? How democratic was the procedure of disciplinary action, if any, against dissenting party officials? (5 Marks)	37	37	26	12	42	48	40	48	36
11.	How democratic is the decision-making process on important questions of policy? How democratic was the decision-making on the three most important decisions taken by the party during the past one year? (5 Marks)	26	32	37	28	45	48	35	46	37
12.	How active is the role and participation of women, youth and minorities in the party? (5 Marks)	48	66	77	69	46	37	29	46	52
13.	How comprehensive and up-to-date is the party website? How frequently is it updated? (5 Marks)	58	32	63	57	23	51	25	45	44
Overall Percentage Score (%)		**32**	**34**	**49**	**42**	**43**	**56**	**43**	**46**	**43**

Source: Adapted from Pildat's Report, Assessing Internal Democracy of Major Political Parties of Pakistan.[(127)]

In Pakistan, electoral reforms have not been implemented, which could have effectively restrained the criminalization of politics and ended the nexus between black money, mafia and muscle power in General Elections. Among miscellaneous reforms, there is a debate in Pakistan on the usage of Electronic Voting Machines (EVMs), while India has already introduced these machines. The benefit of EVMs is that it improves the accuracy and speed of counting and results transmission. On the other side, EVMs are expensive and could negatively impact on credible election transparency. Recently, in November 2014, the ECP's Director General Information Technology Khizar Aziz revealed that the software used by EVMs could be manipulated to affect the results. He said that EVMs installed at polling stations were vulnerable to hacking via Bluetooth signals and other forms of wireless connectivity. Moreover, EVMs could even be tampered with while in storage.[(128)]

Before 2013 General Elections in Pakistan, a feasibility study on the use of electronic voting machines (EVM) was conducted and many EVM demonstrations were organized for political parties so that an informed decision was taken. Ishtiak believed that electronic technicalities like EVM and biometrics needed to be introduced which would make Pakistan's electoral system 'more refined and fool proof'.[129] Nevertheless, it is essential for Pakistan's decision makers to carefully weigh EVMs' potential benefits and risks before introducing these machines in the country.

In a seminar held in Islamabad, the author commented that in Pakistan, central to the success of Electoral Reforms has been the lack of implementation of the proposed reforms. Indeed, a plethora of recommendations regarding electoral reforms have persisted but the issue of implementation has been firmly neglected. Effective implementation of electoral reforms has required steadfast political commitment from all the political parties along with strong, empowered, independent and resourceful Election Commission of Pakistan. It will be very difficult to implement electoral reforms in Pakistan unless the Election Commission of Pakistan became truly independent of the governments in power – from the influence of the administration, bureaucracy and police both before and after elections –and unless there existed mechanisms for acquiring financial resources from an independent fund. The Election Commission of India has been empowered by the political parties, media, the civil society as well as the general public who so far have accepted the results of all general elections and State level elections. Yet, India has been trying to make its Election Commission even more independent through electoral reforms. Pakistan also needs to move in a similar direction.[130]

Chohan was optimistic about the future of Pakistan's electoral system. 'Our nation has latent talents and our society is [undergoing] a rapid transitional phase compared to others.' According to him, indicators like education, awareness, vibrant media, social justice and economic progress could enhance the performance of both the ECP and the electorates.[131] Regarding the future of Pakistan's electoral system, Ishtiak was of the view that the next two years shall be completely dedicated to fresh population census, which is due since 2008. Also, that renewed de-limitation of constituencies shall be carried out on the basis of fresh population census.[132]

This section has discussed the lessons that Pakistan could learn from the democratic processes in India. Within this context, it has especially highlighted the need for further empowerment and independence of Pakistan's Election Commission, which can ensure the transparency and fairness of elections. Pakistan, moreover, needs to introduce electoral reforms, which would encourage internal democracy within political parties as well as the auditing of the latter's accounts, and aim attending the strong linkage between politics and criminalization, along with the implementation of miscellaneous reforms. Recommendations on electoral reforms are one matter; their implementation is quite another. Unless the government has strong enough will to carry through reforms via effective legislation, followed up with its enforcement, democracy in Pakistan will remain a myth.

Conclusion

This paper has explored the intricate linkages between the Indian Election Commission, electoral reforms and democracy in India. The lessons that Pakistan could learn from the Indian experience of democracy have also been elaborated upon. Ever since 1947, India has had a history of uninterrupted democracy while Pakistan has had a long history of military rule with intermittent phases of democracy. Democracy is a complex web of connections among the individual politicians, political parties, the electorate, civil society, media and state institutions that is formed through the electoral process. The roots of Indian democracy have been strengthened due to the establishment and consolidation of the Indian Election Commission through the Constitution of India and the Parliament. The trust invested by the politicians, the public, civil society and the media, invested in this Commission have further empowered it. Despite this, the Election Commission requires still greater independence. This has become a highly significant aspect of the discourse on electoral reforms in India.

Thanks in large part to the media's effectiveness, there is growing awareness and expanded consciousness in Indian society of the prevalent flaws in their democracy. Within this context, there has been a pressing emphasis since the 1980s on electoral reforms that would make Indian democracy more efficient, transparent and relatively free from pressures of communalism, caste-ism, ethno-centrism, gender along with class based concerns. What is especially needed are electoral reforms that deal with the independence of the Election Commission, prevent the criminalization of politics and the politics of criminalization, and promote the cleansing of the political parties themselves. Among the miscellaneous issues requiring electoral reforms are gender issues as well as technical issues that can enhance further transparency in Indian democracy.

Why and what does Pakistan need to learn from the practice of Indian democracy? As a nascent and fragile democracy, Pakistan needs to study the institutionalization of democracy in India. In particular, our country needs to further enhance the power of its own election commission through independent funding as well as its empowerment through the media, public, civil society and the political parties. In this regard electoral reforms would serve to increase the trust of the electorate and the politicians alike in the Election Commission, which would, in turn, make Pakistan's democracy more transparent. Moreover, following the Indian example, Pakistan needs to prevent the criminalization of politics through its own electoral reforms. Such reforms would ideally break the nexus between politics and crime created by black money, muscle men, violence, mafias etc. Finally, Pakistan must also increase the transparency in the political parties themselves through electoral reforms. Such reforms should ideally deal with the question of holding internal elections within political parties and with carrying out an audit of their accounts among others. In a nutshell, democracy, as a model of governance, has been so very complex that every age and territory has had to discover its own merits and its own flaws in

the political structure and invent new ways to deal with these in its own way — and so extend the journey of electoral reforms from one century to the next.

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