

Electoral Reform and Political Representation of Religious Minorities



Preamble:

Appreciating the fact that there is a general agreement among the political actors and political forces in the country about the need for comprehensive electoral reforms to strengthen democracy in the country,

Believing that religious minorities will also benefit from comprehensive electoral reforms which will lead to empowering the political system and its stability by ensuring correct enrollment of the voters, polling of votes, transparent vote counting and dependable results,

Considering that the country faces huge challenges in the areas of economy, rule of law, peace and security, governance and developing democratic institution, and that the country needs speedy and comprehensive structural, systemic and sectoral reforms,

Realizing that the joint electorate restored in 2002 and a new system of reserved seats based on proportional representation was introduced in good faith to incorporate voice of minorities in the elected bodies. Yet it did not lead to a greater equality among citizens and ending discrimination on the basis of religion and belief in different area of life,

Remembering that there are laws and policies based on religious preference that undermine the principle and objectives of equal citizenship.² These discriminations have to be eventually removed in order to bring the laws, policies and practices to comply with international standards of human rights,

Understanding that the fruits of the joint electorate system are still to be materialized, partly because the rationale and arrangement for the affirmative action is yet to be explained fully. Hence there is need for improving arrangements for minority representation in economic, social, cultural and political mainstream of the country,

Knowing from the experience in the past that a genuine political representation remained elusive without parallel steps and arrangements for social justice through enhanced economic opportunities, therefore any method of political representation of minorities should lead to more affirmative action, such as reservations for admissions in universities and colleges, and effective and result based implementation of quota for jobs,

Keeping in mind that the quality of political representation is closely linked to the growth of political culture in general and overall democratic development in the country, we would recommend a close examination of the existing system and efforts by the stakeholders to take the following concerns and issues into account in the electoral reforms.

Issues and concerns:

- a) The reserved seats for minorities (and women) are filled by a priority list for the candidates submitted by respective parties to the Election Commission in advance.³ The

¹ This working paper drafted by Peter Jacob, Executive Director, Centre for Social Justice (www.csjpak.org), encapsulates the discussion over the years among circle of CSOs and religious minorities, also in article <http://tns.thenews.com.pk/electoral-reforms-and-minorities/#.VHFVqouUf0Y>.

² Examples of institutional discrimination in the constitution of Pakistan: Articles. 41, 93 bar election of non-Muslim for the offices of the President and Prime Minister and Article 260 tries to define thereby restrict the religious freedom of citizens, Article 31 religious preferences in Education policy, 20 extra marks for Hafiz-e- Quran, Hudood laws provide that non- Muslims cannot be judges in the cases under these laws though the laws are applicable to religious minorities. Mention of religion on passports, manipulation of quota for job to the disadvantage of religious minorities since 2009.

³ The constitution of Pakistan, Article 51 (6) (e). <http://www.pakistani.org/pakistan/constitution/part3.ch2.html>

constituency for minority members of national assembly is the whole country and for members of provincial assembly, it is the whole province.⁴

- b) While the political parties have tried to make criteria for selection of candidates yet the process is centralized, not participatory enough. The Election Commission of Pakistan recommended review of this method too in its Strategic plan 2014-2018.⁵
- c) The parliamentary committee working on electoral reforms (2014) lacks representation of the religious minorities and other marginalized sections.⁶ There is a danger that the process of electoral reforms might not pay enough attention to the concerns of religious minorities, pretty much like the Constitutional Review Committee of 2009.
- d) The current method of nominating representation of religious minorities in the elected bodies does not provide for mandatory representation of all minorities thus some religious communities are not represented at all in National and provincial assemblies.
- e) As shown in a study by FAFEN, the minority representatives in the Senate, the National Assembly and in four Provincial Assemblies⁷ made important strides in participating through the debate on the budget(s) speeches, sponsoring resolutions about incidence of violence against minorities and speaking on point of order during 2013-2014.⁸ However they could not move legislation concerning some crucial matters for minorities such as review of affirmative action and the abuse of blasphemy laws, curtailing institutional and social discrimination, hence the allegations of weak minority participation.
- f) The outreach and public contact of the minority representatives is restricted by two factors; lack of geographical distribution / allocation of seats and lack of further distribution of seats for different religious minorities in National and Provincial Assemblies. Therefore since 2002 the balance in assemblies is tilted towards one or the other minority community (Hindu or Christian). Moreover, the representation belonged mainly to a few urban centers, therefore their outreach to minority communities was limited.
- g) The recent legislation for local government by the provinces reflects a lack of uniform understanding about mode of election for the reserved seats including for minorities. For instance, the Punjab Local Government Act 2013 leaves a room for manipulation of the reserved seats at the District Council and Urban Local Councils (Metropolitan bodies).⁹
- h) The Federal Ministry for Minorities Affairs was devolved to provinces under the 18th Amendment in 2010 which deprived religious minorities of a voice at this important level of decision making. The Ministry for National Harmony created in 2011 was merged with Ministry of Religious Affairs in 2013.
- i) An objective assessment of the effectiveness of the Ministries for minorities at provincial levels and departments has not been carried out. Generally speaking, the respective ministries do not add value and protection for religious minorities as shown in the trends in mob attack, kidnapping for ransom, forced conversions. The ministries have also failed to involve communities in their work such as awarding scholarship, implementation of job quota.

⁴ Ibid, Article 51 (6) (b) and (c).

⁵ Position of the Election Commission: “the Commission believes electoral system should be reviewed in order to introduce reforms that make it more representative.” page 30, Second five years Strategic plan 2014-2018, Election Commission of Pakistan. <http://ecp.gov.pk/ECP-SP-2014-2018.pdf>

⁶ <http://www.dawn.com/news/1126628>

⁷ Four minority representatives in the Senate, 10 in the National Assembly and 23 in four Provincial Assemblies.

⁸⁸ “Analysis of In-house Performance of Non-Muslims MPs”, input by Mr. Abdul Ahad, conference report by Church World Service Pakistan/Afghanistan, 2014

⁹ Sections 14-15, The Punjab Local Government Act 2013, Act XVIII of 2013.

<http://punjablaws.gov.pk/laws/2542.html>

- j) The Ahmadi community is virtually disenfranchised due to the mandatory declaration of faith that the voters and candidates are required to sign. This community has declined to sign the declaration for religious reasons as they will have to compromise their religious beliefs and social protection by doing so. A requirement of declaration of voter's religion is discriminatory, unnecessary and against the principle of secret and equal franchise.

Recommendations:

1. A mechanism needs to be devised to enhance the representative character of the members for minority reserved seats with the objective to making their nomination more transparent, adding accountability before the electorate and enhancing quality of their participation in the legislative processes.
2. The reserved seats should be increased and allocated in a manner so that each religious minority community including Buddhist, Parsi, Bahai, Kailash, Hindus and Christians have representation in the elected bodies at federal and provincial levels.
3. A demarcation of constituencies for seats reserved for minorities is needed to have an even representation of minorities spread in length and breadth of Pakistan. The demarcation should consider the representation of minorities in FATA, Gilgat-Baltistan and Federal capital territory of Islamabad.
4. In order to make the arrangement of reserved seats more meaningful, Association of Women for Awareness and Motivation (AWAM) and Centre for Social Justice (CSJ) recommend that:
 - i. The number of seats for minorities in the National and Provincial Assemblies have not been increased after 1985 (while the general seats were increased by 30 percent) therefore these reserved seats be increased least by 50 percent besides three seats for FATA, Gilgit-Baltistan and Islamabad.

The enhancement may be based on the principle and method of affirmative action¹⁰, practiced earlier, rather than a representation on the basis of population to avoid controversies regarding population census.¹¹ A constitutional amendment should be made to achieve enhancement of reserved seats.
 - ii. To enhance the quality of representation, the political parties should be required to make priority list of candidates on reserved seats including minorities' through elections within the party, at least six months prior to the general elections. This arrangement would increase the political participation and transparency within the party. Amendments should be made to the Peoples' Representation Act 1973 or draft Unified Election laws by the Election Commission, to give effect to this recommendation.
 - iii. The political parties should encourage minority women to play an active role and contest elections within party on the seats reserved for women for provincial and national assemblies. The political parties should also include technocrats belonging to religious minorities, on merit, for the seats reserved for technocrats in the Senate.
5. The parliamentary Election Reforms Committee should be expanded to include representation from religious minorities' and other marginalized sections of population. The reforms committee is also urged to arrange a hearing involving concerned CSOs to give their recommendations on electoral reforms.

¹⁰ Social Justice: as enunciated in Article 37, Constitution of Pakistan

¹¹ <http://pakistan.worldnewsviews.com/2014/10/29/youth-parliament-proposals-increased-representation-of-minorities-in-parliament-stressed/>

6. The use of national identity card as only means of verification for voting has implications on exercising right to vote especially for the disadvantaged groups. NADRA should launch a special registration drive for issuing identity cards (correction of errors included) to the people who are left out due to circumstance such as debt bondage, gender segregation, and enforced displacement.
7. The Pakistan Institute of Parliamentary Services by individually or together with provide training and technical assistance especially to new lawmakers to facilitate their work at the beginning of each term of the parliament, at provincial and federal levels.¹²
8. In order to ensure equality before the law,¹³ and religious freedom¹⁴, the declaration of religion required for enrollment in voters list and candidacy should be abolished and an amendment should be made to bring all voters on a single electoral roll according to their location in the constituencies.
9. While it is strongly recommended that a Ministry for Minorities at Federal level is formed, the functioning of Ministries and departments for minorities' affairs in provinces should be improved by training, monitoring and evaluation of their projects and functions.

¹² <http://www.pips.org.pk/>

¹³ Constitution of Pakistan, Article 25, Equality of citizens before the law.

¹⁴ Ibid, Article 20, Freedom of Conscience and Religion

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