



**2015 Senate Polls in Pakistan –
Urgent need for Reforms and
some Recommendations**

Siegfried O. Wolf

March 2015

ABOUT SADF COMMENTS

The SADF Comment series seeks to contribute innovative and provocative thinking on significant, on-going debates as well as provide immediate, brief analysis and opinion on current occurrences and developments in South Asia. The topics covered are not only directed towards academic experts in South Asian affairs but are also of relevance for professionals across disciplines with a practical interest in region. Therefore, the SADF Comment series serves as a platform for commentators who seek an international audience for opinions that impact state and society in South Asia and beyond.

ABOUT SADF

South Asia Democratic Forum (SADF) is a non-partisan, autonomous think tank dedicated to objective research on all aspects of democracy, human rights, security, and intelligent energy among other contemporary issues in South Asia. SADF is based in Brussels and works in close partnership with the Department of Political Science at South Asia Institute, Heidelberg University.

After having completed its 12th Parliamentary year on March 4th, Senate Polls took place in Pakistan the following day. The Senate is the Upper House of the bicameral Parliament of Pakistan, also known as *Majlis-e-Shura*. Pakistan's political system consists of a President and the Parliament, which comprises two houses, the National Assembly (the Lower House) and the Senate. It came into existence on 6 August 1973 after the introduction of the 1973 Constitution (especially Article 50) which was adopted on 12 April of the same year. Before, the Pakistani Parliament had only one Chamber, the National Assembly. Basically, the Senate consists of 104 members elected indirectly by the members of the National Assembly and the Provincial Assemblies. Senate polls are held every three years for one half of the Senate and each Senator's term lasts for 6 years. In this regard, it is interesting to note that it took the Pakistani state more than three and a half decades to grant the country's religious minorities (non-Muslims) some minimum representation. The 18th constitutional amendment approved in 2010 provides that four seats on the Senate have to be filled by religious minorities, and this happened for the first time in 2012.

Based on the constitutional provisions, officially the Senate has to make sure that equal representation to each of the Federating Units is guaranteed, regardless of their size and population. Therefore, as a permanent legislative body, the Senate should operate as a counterweight to the National Assembly where representation is based on the population. In this context, a major goal is to balance the dominant role of Punjab, the largest province of Pakistan, which has a numerical majority of seats in the Lower House. In order to do so, one of the main features of the Senate is equal provincial membership, to promote national cohesion and harmony and, to alleviate fears of the smaller provinces (for example the less populated Balochistan) regarding a potential supremacy of larger populated provinces in the country's political decision making process. Apart from that, the Senate possess other legislative powers, such as enacting bills. In other words, both houses, as well as the President's assent, are necessary to produce new laws. However, the important economic bills are not part of this regulation. Initiating bills regarding fiscal budget is the sole prerogative of the National Assembly and the Senate can only make recommendations on budgetary proposals, while in every other policy field it can initiate bills as well.

Nevertheless, one must recognise that the Senate's authority remains limited in the most significant decision-making areas. As such, the Senate's functions established by the constitution and its principles reflect theoretical pretensions but the reality looks quite different. In brief, the Senate is one of the symbols of Pakistan's malfunctioning political institutions. Until today, the Upper House is far away from being an effective and functioning institution for the provinces and other territories that should address their regional concerns and grievances towards the central government in Islamabad. Besides the low attendance and participation of the Senators in the sessions of the Upper House, the federal spirit of the Senate is undermined by a distorted (unequal) representation of the provinces and other territories. For example, the Federally Administered Tribal Areas (FATA) representation in the Senate (eight seats) is relatively weak compared to the four provinces of Pakistan (Punjab, Sindh, Balochistan, KPK –each of them having 23 seats in total including reserved seats for women, technocrats & ulema, non-Muslims). Furthermore, the federal principle is being further challenged by numerous so called 'outsider' candidates that contest senate polls from provinces where they do not belong (or not originally reside), in order to make sure to consolidate the political power of certain actors. In consequence, the Senate has yet to function as "an essential organ and a stabilizing factor of the federation in Pakistan", as it is claimed by this institution.

Having this in mind, one of the latest ordinances by the President Mamnoon Hussain is another disturbing factor. This presidential decree was aiming at the voting rights of the Members of National Assembly (MNA) from the Federally Administered Tribal Areas (FATA) in the Senate elections. More concretely, this new legal framework would remove the Statutory Regulatory Order of July 7, 1975, as well as a 2002 executive order (issued by former military ruler Pervez Musharraf) — which gave each MNA from FATA as many votes as the number of vacant seats. Following the withdrawal of the two earlier orders, each FATA MNA will now have only one vote. This would further reduce the role and opportunities of FATA politicians in the Senate polls.

Being issued on the eve of the Election Day, not only did it create much confusion about the precise electoral procedure - which finally led to the postponement of the polls on March 20th - but also revealed the weakness of the Election Commission of Pakistan (ECP). Instead of taking

a clear stand against the highly critical presidential ordinance, the ECP remained more or less inactive in this crucial situation. Having this in mind, one must also seriously question the decision of the ECP to put sharp restrictions on media coverage of the Senate polls. For example, journalists were forbidden from entering the Khyber Pakhtunkhwa (KPK) and Punjab Assembly as well as the National Assembly. However, despite the fact that the ordinance was withdrawn after a petition was successfully filed by several MNA from FATA, what happened showed once again that Pakistan's politicians in general, and the national government in particular, are willing to undermine common democratic norms and procedures, in order to achieve partisan interests. Furthermore, it demonstrates the immaturity of its political institutions, and that the national élite (so called establishment) is still not willing to share the power with the regions in a substantial and sufficient manner. It is also noteworthy to mention that due to the postponement of the Senate polls in the FATA, its representatives (more concretely, the vacant seats from FATA) could not take part in the elections of the Senate's top two slots: Chairman as well as Deputy Chairman. Even if their votes would not have much effect on the choice of the selection of Chairman and Deputy Chairman, it must be seen as a violation of the notion of equality and federal principle. On the other hand, the unopposed election of Raza Rabbani (leader of Pakistan People Party/PPP) as Chairman and the 'relatively trouble-free' voting for Abdul Ghafoor Haideri (Jamiat Ulema-i-Islam-Fazl/JUI-F) as Deputy Chairman should be not interpreted as a sustainable consensus that will generate a more constructive working relationship among the country's civilians.

In sum, the Senate polls underpinned the widening of the chasm and the unrestricted struggle between the major political forces in Pakistan instead of trying to improve jointly the quality of democracy and governance. Nevertheless, several domestic sources proclaim that the latest Senate polls were one of the 'cleanest' ones in the country's history. It is not a new phenomenon in Pakistan that the widespread allegations of bribery, horse trading, and other kinds of electoral rigging are just wiped away with the statement that the country is not a perfect democracy but elections can function more or less 'smoothly'. This 'rhetoric of whitewashing' reduces democracy to the pure technical aspect of holding elections. Elections are after all a vital ingredient of democracy, but most definitely it is not the only component that makes a

democracy. This means that democracy is not only based on people's sovereignty (ensured through elections) but also on liberty and equality. In the given context of the Senate elections and the respective composition and functioning of this institution, it seems that especially the democratic requirement of equality regarding political participation and representation is significantly challenged. Subsequently, besides the need for an ethical framework originating from democratic values, Pakistan's political system is desperate for significant electoral reforms. Among many suggestions, the following recommendations could be made:

First of all, there should be the same amount of Senate seats for all provinces and other territories to ensure that all regional entities have an equal representation.

Secondly, strict regulations should be enacted to ensure that candidates in the Senate polls are only coming from the respective provinces and other territories in which they run for election. This would help to contain the interests of national political parties at the expense of regional interests, as well as strengthening the federal principle.

Thirdly, direct elections for the Upper House should be introduced. This would enhance people participation and representation, avoid horse trading and other political 'dealing and wheeling' which are not in line with commonly accepted democratic values and procedures. Furthermore, this would make the Senators more responsive to the regional concerns which they are supposed to take care of. In this direction, the usual arguments of a subsequent worsening of the security situation (more security risks through additional elections) as well as the additional costs of elections are merely excuses to block electoral reforms and to protect interests of the national élite. Subsequently they should be ignored especially considering the tremendous defence budget as well as the self-proclaimed successes against militancy and counter-terrorism by Pakistan's security sector agents. As such, arguments as security situation and costs are losing their credibility in the given context.

Fourthly, a mechanism to improve Senators' participation in parliamentary sessions and functioning of Senate committees should be introduced.

Finally, if nobody will pay attention to these or similar recommendations, which are increasingly being demanded by political observers and the public, the Senate will neither ever able to claim to be the 'federal soul' of Pakistan nor to represent the interests of the people.