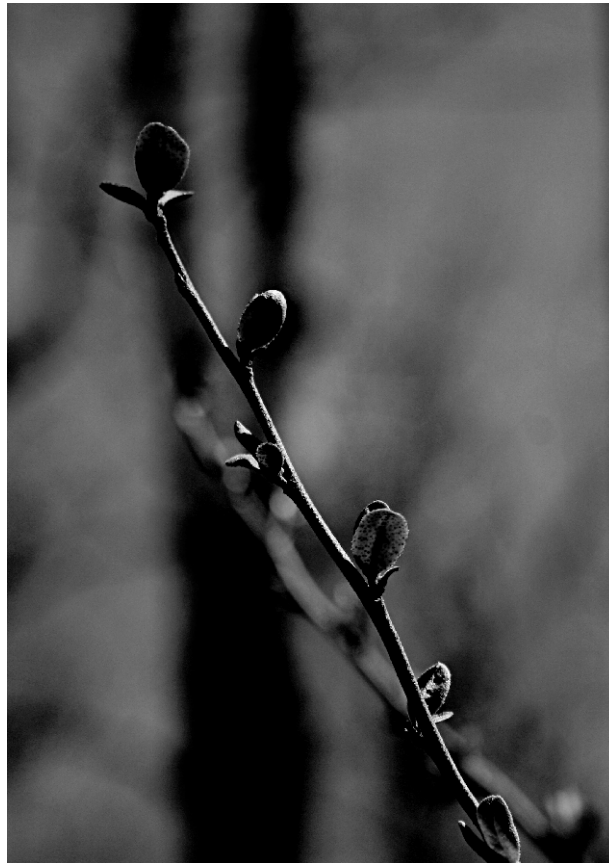




**Assessment of the  
Quality of Democracy in Pakistan**  
**January - December 2011**



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

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Printed in Pakistan

Published: January 2012

ISBN:978-969-558-249-7

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Support By



Foundation  
For the Future

Published by



Pakistan Institute of Legislative Development and Transparency - PILDAT

**Head Office:** No. 7, 9th Avenue, F-8/1, Islamabad, Pakistan

Tel: (+92-51) 111-123-345 | Fax: (+92-51) 226-3078

**Lahore Office:** 45-A, Sector XX, 2nd Floor, Phase III Commercial Area, DHA, Lahore, Pakistan

Tel: (+92-42) 111 123 345 | Fax: (+92-42) 3569 3896

E-mail: [info@pildat.org](mailto:info@pildat.org); Web: [www.pildat.org](http://www.pildat.org)

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## PREFACE

The **Assessment of the Quality of Democracy in Pakistan: Year 2011** is a report prepared by PILDAT and its Democracy Assessment Group to evaluate democracy in Pakistan during the calendar year of 2011.

The assessment is based on an international criteria developed by the International Institute of Democracy and Electoral Assistance - IDEA. PILDAT had earlier prepared a **Mid-Term Assessment on the Quality of Democracy in Pakistan** based on this framework that covered the period between March 2008 to September 2010.

This is, therefore, a continuation of a periodic assessment of state and society by PILDAT using global indicators and framework for international comparison. The PILDAT initiative to assess the quality of democracy in Pakistan is a modest yet significant effort to make democracy deliver and work.

A **Democracy Score Card 2011** based on the evaluation carried out by the individual members of the Democracy Assessment Group is also part of the report.

The Assessment has been carried out based on an international framework that rests on four pillars and 15 sub-pillars divided under 75 questions.

### Acknowledgements

PILDAT gratefully acknowledges the support and cooperation of the Democracy Assessment Group. The Group members has reviewed the report in detail and made very valuable contributions in shaping the analysis contained in this report. PILDAT also acknowledges the contribution of **Mr. Cyril Almeida** who has edited the final report.

This report has been prepared by PILDAT team including **Mr. Muhammad Abdullah Zaidi**, Lead researcher and Projects Officer-PILDAT, **Ms. Wajiha Kanwal**, Projects Manager-PILDAT and **Ms. Aasiya Riaz**, Joint Director-PILDAT under the supervision of **Mr. Ahmed Bilal Mehboob**, Executive Director-PILDAT.

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

### Disclaimer

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

Islamabad  
January 2012



### **Abbreviations and Acronyms**

ANP	Awami National Party
AJK	Azad Jammu and Kashmir
APC	All Parties Conference
BLUF	Balochistan Liberation United Front
BNP	Balochistan National Party
CCBs	Citizen Community Board
CEC	Chief Election Commissioner
CCI	Council of Common Interest
CIA	Central Intelligence Agency
CNICs	Computerised National Identity Cards
CNG	Compressed Natural Gas
CM	Chief Minister
CPI	Consumer Price Index
DCO	District Coordination Officer
DG	Director General
DMG	District Management Group
ECC	Economic Coordination Council
ECL	Exit Control List
ECP	Election Commission of Pakistan
EOBI	Employees Old Age Benefit institution
EVM	Electronic Voting Machines
FATA	Federal Administrative Tribal Areas
FCR	Frontier Crimes Regulation
FBR	Federal Board of Revenue
GB	Gilgit-Biltistan
GDP	Gross Domestic Product
HDI	Human Development Index
HEC	Higher Education Commission
HOPO	Holders of Public Offices (Accountability) Bill 2009
IFJ	International Federation of Journalists
IMF	International Monetary Fund
IRO	Industrial Relations Ordinance
ILO	International Labour Organization
IPP	Independent Power Procedures
ISPR	Inter Service Public Relations
ISI	Inter Service Intelligence
JUI	Jamiat-e-Ulema-e-Islam-Fazlur Rehman Group
KESC	Karachi Electronic Supply Corporation
KP	Khyber Pakhtunkhwa (formerly NWFP)
LHC	Lahore High Court
MMA	Muttahida Majlis-e-Amal
MNA	Member of National Assambly
MQM	Muttahida Quami Movement
NADRA	National Database and Registration Authority
NALA	Northern Areas Legislative Assembly
NA	National Assembly
NAO	National Accountability Ordinance
NAB	National Accountability Bureau
NEPRA	National Electric Power Regulatory Authority



NFC	National Finance Commission
NGO	Non-Government Organization
NLC	National Logistic Cell
NRO	National Reconciliation Ordinance
NPP	National Party of Pakistan
NPOs	Non-Profit Organizations
OCAC	Oil Companies Advisory Committee
OECD	Organization for Economic Co-operation and Development
OGRA	Oil and Gas Regulatory Authority
OSD	Officer on Special Duty
PAC	Public Accounts Committee
PEMRA	Pakistan Electronic Media Regulatory Authority
PPSC	Provincial Public Safety Commission
PBUH	Peace Be Upon Him
PSDP	Public Sector Development Programme
PML-N	Pakistan Muslim League-Nawaz
PPPP	Pakistan Peoples Party-Parliamentarian
PTV	Pakistan Television
PTI	Pakistan Tehreek-e-Insaf
RPP	Rental Power Project
SAARC	South Asian Association for Regional Cooperation
SAFTA	South Asian Free Trade Area
SECP	Securities and Exchange Commission of Pakistan
UC	Union Council
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNHRC	United Nations Human Rights Council
UNCAC	United Nations Convention against Corruption
USAID	United States Agency for International Development
UNDP	United Nations Development Programme
UNSC	United Nations Security Council
UNESCO	United Nations Educational, Scientific and Cultural Organization
WAPDA	Water and Power Development Authority
WHO	World Health Organization

## Executive Summary

In a year of turmoil marked by several challenges, democracy in Pakistan has made incremental progress. The Democracy Assessment Group convened by PILDAT has carried out a detailed assessment of the Quality of Democracy in Pakistan during the year 2011. The report released by the Group assigns an overall score of **49%**. The Group had assessed the Quality of Democracy at 45% in September 2010.

The Democracy Index for the year 2011 prepared by the Economist Intelligence Unit ranked Pakistan at 105 out of 167 countries under the category of hybrid regimes. Pakistan had an overall score of 4.55 out of 10.

The Assessment has been carried out based on an international framework that rests on four pillars and 15 sub-pillars divided under 75 questions. As per a detailed, systematic evaluation by the Democracy Assessment Group **Civil Society and Popular Participation** received the highest score of **53%** with no change from 2010. **Democracy beyond the State** received the second highest score of **52%** compared to 43% in 2010. **Citizenship, Law and Rights** received a score of **49%** which is an improvement compared to 46% in 2010. **Representative and Accountable Government** received the lowest score of **47%** compared to 43% in 2010.

As a "process," democracy has made tangible progress in Pakistan during the past four years (2008-2012). Therefore, **public support for democracy**, despite poor governance by the Executive, needs to be celebrated. There is a consensus in all quarters of the country that the democratic process should continue without interruption. It is also particularly comforting that all political parties publicly support the continuation of the democratic process. The unflinching commitment of the citizens of Pakistan will eventually sustain democracy. Under the Economist's Democracy Index for 2011 the category of Political Culture in Pakistan received a score of 4.38 out of 10.

Six factors are impacting the process of democracy. They are:

1. The 18<sup>th</sup> Amendment to the Constitution is a major rectification of deviations of the past and a step towards a more democratic future. The **18th Amendment** not only **removed the distortions** introduced by General Musharraf through the 17th Constitutional Amendment but even more importantly, it opened the door for the **devolution of power** to the Provinces. Devolution of power to the Provinces and to the grassroots holds the key to the promotion of democratic processes in Pakistan.

However there are serious issues of implementation as also other questions relating to *uniform education curriculum, protection of labour and the maintenance of health standards* across the country in which the **Federation must exercise a coordinating, regulatory role**. There is also a need to *activate the Council of Common Interests* with a full-time secretariat to revive the Federation's regulatory role.

2. The independent and activist role of the **Judiciary**: The Court has asserted its role as a custodian of holding the Government accountable whenever it forms the view that the concerned institutions are not performing their due role. Despite the view in some quarters that the Supreme Court sometimes oversteps its Constitutional mandate, the higher Courts have caught the imagination of the citizens as their instrument to hold rulers accountable. On the whole the Supreme Court serves as a strong deterrent against excesses. As long as the Supreme Court stays within its Constitutional role, this is a welcome development for the process of democracy. The Superior Courts also need to attend to improvement in the working of subordinate Judiciary to provide timely justice to the citizens.

The **freedom of the Courts from interference** has received a score of **67%** which is an improvement from 60% in 2010. **The superior Judiciary** is largely appreciated for taking up many cases involving corruption as there is a general impression that the Government is not serious in this matter. There is also a general consensus that the Federal Government is employing delaying tactics on implementation of some of the Court orders, there is also a general consensus in the Democracy Assessment Group that all institutions of the State, including Executive, Legislature and Judiciary, must work effectively within their respective Constitutional domains.

3. **Political Parties move ahead on road to maturity:** During the past four years almost all major political parties have not become part of any covert attempt to bring back undemocratic, non-elected elements as the ruling forces. Despite some shortcomings, political parties have refrained from strengthening any counter-democratic trends.
4. **Members of Parliament** have enhanced their professional competence to legislate: Despite the perception about Parliament comprising members with limited abilities in statecraft, legislators have demonstrated that they are capable of enhancing their skills.

A major concern, however, is that Parliament continues to remain an **ineffective forum for the resolution of major crises**. While this Government uses the name of Parliament in media sound bites to claim legitimacy for all its actions, Parliament is not the forum which has effectively played its role in holding the Government to account or in influencing policies of the Government.

5. Fairness of the Electoral system to elect a reasonably representative Parliament: Year 2011 has seen developments that have **improved the prospects of a free and fair election**. The holding of a free and fair election through a non-partisan, transparent and competent body holds a key to the process of democracy. The **formation of the Election Commission** through a bi-partisan Parliamentary Committee and the **electoral reforms undertaken by the Election Commission** of Pakistan are largely commendable. The Election Commission's efforts to make comprehensive Electoral Rolls and its attempts to achieve the goal of 'one CNIC one vote' are steps in the right direction. The electoral rolls are subject to greater scrutiny by the Judiciary as well as political parties and civic groups.

The Group also noted that the appointment of the new Chief Election Commissioner is due in March 2012 and advised that bi-partisan consultations should begin in the earnest to identify and appoint a consensus Chief Election Commissioner in line with the provisions of the 18<sup>th</sup> Constitutional Amendment.

The sub-pillar of **Free and Fair Elections** in the matrix used by the Democracy Assessment Group received the second highest score 58% compared to 50% in 2010. According to the Democracy Index the category of Electoral Process and Pluralism was assigned a score of 4.55 out of 10.

6. News Media and Citizen Connectivity: The news media have become more pervasive, diverse and competitive, even if they are not always transparent in matters relating to their financial sources or fair and balanced in their treatment of various political forces. They have successfully **engaged large sections of the population in the affairs of the State**. Interestingly, while the engagement appears to be passive (e.g., just watching TV) they build up citizen power by connecting millions in cyberspace. Some of that "connected power" spills over into telecom connectivity and in the social media. Taken together the mass media and telecom have connected the citizenry and thus empowered them to become a check on state power. According to the Democracy Index 2011 the category of Political Participation received a score of 2.22 out of 10.

The news media must, however, develop an objective and transparent policy to publicly acknowledge their sources of funding – an aspect in which citizens must move to hold media to account. While media remain generally free of executive control, there is an alarming increase in the threat to the lives and safety of journalists from state and non-state actors.

Thus while these six factors have improved the overall processes and prospects for sustainable democracy in Pakistan, the democratically elected Governments have yet to deliver 'good governance,' 'economic growth' and 'welfare'? The answer is **No**.

**Poor governance remains the most potent threat to the quality of democracy in Pakistan sliding from bad to worse in 2011. The harsh reality of continuing inflation and food prices have undermined the provision of basic services to people. The energy crisis has deepened in Pakistan without the Government offering any credible and practical solutions for its**

**resolution. Railways has become largely dysfunctional compounding public transport problems. Pakistan's public debt increased by 13% during 2011 and elected governments did not take any tangible steps in increasing Pakistan's tax-to-GDP ratio, which at 8.5% in 2010-2011, became the lowest in Asia and developing countries.** The Government's inability to raise revenue to meet its rising expenditures and liabilities such as circular debt is the core financial problem. In the assessment of the quality of democracy in 2011, the sub-pillar **Economic and Social Rights** received a low score of 41% while **access to work and social security** and **protection of health** scored 37% and 32% respectively recording deterioration from the previous year. According to the Democracy Index 2011 the category of Functioning of Government received a score of 5.71 out of 10.

Lack of uniform application of, and adherence to, the **rule of law** remain the biggest challenges for the quality of democracy in Pakistan. The **application of the rule of law** in society received a low score of 43% by the Assessment compared to 33% in 2010.

**Balochistan** remains a major area of concern notwithstanding the Government claims that 80% of the work on the Aghaz-e-Huqooq-e-Balochistan has been completed, the commitment that no new cantonments would be established in Balochistan and that the control over Frontier Corps will be transferred to the provincial Government. Insurgency continues in Balochistan while the issue of missing persons remains unresolved. The Baloch nationalist parties have not been brought into the democratic mainstream.

Regrettably **Karachi** has also witnessed intermittent violence which has political, ethnic and economic context. Last 4 months have seen improvements after the Judicial intervention and deployment of Rangers.

The perceived rampant **corruption** in the country and the Government's reluctance to make any efforts to control it are major causes of embarrassment for supporters of democracy in the country. In 2011 the Hajj scam, the NICL scam have further dented the credibility of the incumbent Government. The appointment of the Leader of the Opposition as head of the PAC for the first time in Pakistan in the 13<sup>th</sup> National Assembly was celebrated as a major positive step towards deepening democracy. As the PAC is set to commence reviewing the audit reports pertaining to the term of the current Government, the appointment of a controversial Auditor General by the Government has not been received well. The Democracy Assessment Group assigned the sub-pillar of **Integrity in Public Life** the lowest score of 34%. Similarly **public confidence in Public Officials and Services** received a score of 28% which is the lowest of all indicators of democracy assessment during 2011.

**Civil-Military Relations** showed serious deterioration during the year 2011. The issue of the alleged Memo, seen by some as the civil Government's wish-list to contain the Army, and by others as a storm in a tea cup, has come to be at the heart of the estrangement in civil-military relations at the end of 2011. The same elected Government, which continually came to the public rescue of the military after the killing of Osama bin Laden, US targeting of the ISI and the NATO attack of November 2011, has resorted to an open confrontation with the Army.

2011 also witnessed a civilian **Prime Minister**, seen as being relatively weak, unexpectedly breaking conventional barriers on official comments about civil-military relations in Pakistan by terming the military as a "*State within the State*" – an open public position that has never before been taken by any other Prime Minister of Pakistan. During the Assessment the **effectiveness of civilian control over armed forces** received a score of 36%.

Beginning its fifth and final year of the 5-year term in March 2012, the **inability of the Parliament to pass an effective Accountability law remains, so far, one of its major failures**. As there remains serious difference of opinion between the ruling PPPP and the opposition PML-N on the draft of the Holders of Public Offices (Accountability) Bill 2009, perhaps the Parliament should consider strengthening the National Accountability Bureau (NAB) by revising the NAB Ordinance 1999 to make NAB a transparent, objective and even-handed body. The Parliament may consider revising the NAB law to make the appointment of the Chairperson NAB through a Parliamentary Committee equally representing the Treasury and the Opposition benches instead of the present mere "consultation" with the Leader of the Opposition.

During the Assessment the **democratic effectiveness of the Parliament** received a score of 52% compared to 50% the past

year. The question regarding the **powers of Parliament to legislate** received a score of **60%** - a slight deterioration from 61% in 2010. **Parliament's oversight of the Government's international policy** received a score of **39%** while the question of **Parliament's ratification of the Government's international negotiating positions** and treaties/ commitments received a score of **39%**.

2011 marked the end of the 4<sup>th</sup> year in which Provincial Assemblies and Governments have failed to establish elected **Local Governments**, a crucial third tier of democracy. As these have been mostly established by the military rulers, Local Governments enjoy little political support by parties. However, the 18<sup>th</sup> Constitutional Amendment passed in April 2010 by all parties represented in Parliament had retained Article 140-A relating to devolution of power to local governments and expanded to provide that elections to local governments shall be held by the Election Commission of Pakistan. In the past four years, however, new legislation for establishing a sustainable democratically-elected Local Government system in Pakistan has been hampered by sharp differences on the nature of the system among different provinces. The resultant delay has led to the re-emergence of the old bureaucratic system that denies the right to people to govern themselves at the local tier. This runs contrary to the very principle of democracy, devolution and decentralisation that the 18<sup>th</sup> Constitutional Amendment upheld and through which provinces got their due rights. Whereas the Provincial Governments are entitled to make Local Government laws keeping in mind their own circumstances, the failure to revive these through Local Government election is a violation of Article 32 and 140-A of the Constitution. Concentrating powers at the provincial tiers, without devolving to the local tiers is denying the dividends of democracy and devolution to the public. In the view of the Democracy Assessment Group, the sub-pillar on **Decentralisation** received a score of **44%**.

**Civil society and citizens groups** remain vibrant in the country and have countered, to an extent, the militancy and extremism in the society. However, some of them operate without effective application of common standards of audit, accountability and transparency. In this year's assessment, the question of **citizen participation in voluntary groups and public activity** received a score of **57%** compared to 53% the past year.

Despite the efforts made by the Government, militancy and extremism continue to be a potent threat. The Group has raised serious questions over the absence of a well-thought-out and coherent national security strategy. Violent religious extremism is already visible in some parts of society and threatens democratic stability.

## Rule of Law, Rights and Citizenship

This pillar was assigned an overall score of 49% by the Democracy Assessment Group, the second lowest score in 4 pillars of the democracy assessment framework. This, however, is an improvement compared to 46% in 2010. Major highlights include:

- The unclear Constitutional status of Azad Jammu and Kashmir has given rise to disenfranchisement of the people that the State must address. AJK does not have any representation in the National Assembly of Pakistan, the Council of Common Interests National Economic Council, the National Finance Commission and Indus River System Authority (IRSA)
- Societal persecution of minorities increased in 2011 while the Government remained largely unable to provide them with security.
- Rule of Law witnessed some improvements with regards to terrorist attacks and incidence of violence in society
- Balochistan remains an area of concern. Insurgency continues in Balochistan while the issue of missing persons remains unresolved. The Baloch nationalist parties have not been brought into the democratic mainstream
- Judiciary remains free of the Executive's influence. The Superior Courts also need to attend to improvement in the working of subordinate Judiciary to provide timely justice to the citizens.
- All organs of the State, including Executive, Legislature and Judiciary, must work effectively within their respective Constitutional domains.
- Corruption scandals such as the NICL scam and the Hajj scam once again highlight that public officials are not subject to the rule of law.
- The Federal and Provincial Governments need to improve delivery of basic services to the citizens including access to clean water, food, shelter and health services Amendments needed to police laws to ensure independence to police officials in their work.
- Amendments to Frontier Crime Regulation and extension of Political Parties Act 2002 to FATA are important steps but a lot more needs to be done.
- The FCR still contains draconian clauses such as "collective punishment". The Action in Aid of Civil Power Regulation Bill 2011 allows the security forces to incarcerate miscreants for extended periods of time which undermines the spirit of FATA reforms.
- An overall decrease was seen in terrorist activities and incidents of violence during the year. This decrease can be associated to the military operations started by the Government in FATA, drone program and talks with the Taliban.

### 1.1. Nationhood and Citizenship

This pillar was assigned a score of 59% by the Democracy Assessment Group. This is the highest score among sub-pillars in democracy. It is also an improvement compared to 54% in the year 2010.

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

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

This question was assigned an above average score of 57% by the Democracy Assessment Group. This is an improvement compared to 51% in 2010.

Despite its purported Muslim identity Pakistan was not conceived as a theocratic state. Pakistan was visualized as a democratic, predominantly Muslim yet pluralistic nation state. The Muslim-majority principle advocated as the basis for a separate homeland was inclusivity and did not call for the kind of exclusivist 'Muslim only' entity or a vast 'Muslim Majority' entity.<sup>1</sup> Muslims in Pakistan also comprise sub-nationalisms shaped by the geography of territory, the history of their local culture and other indigenous factors.<sup>2</sup>

The 18<sup>th</sup> Constitutional Amendment passed by the Parliament in April 2010 entered into the stage of its implementation during this year. The 18<sup>th</sup> Constitutional Amendment had a specific "enhancement of fundamental rights" orientation. It had added the right to education, right to information, right to fair trial and freedom of association to the corpus of fundamental rights already enshrined in the original 1973 Constitution. The 18<sup>th</sup> Amendment also strengthened provincial autonomy by, inter alia, abolishing the concurrent legislative list in the 1973 Constitution which enabled federal action and primacy in many areas, now within the provincial jurisdiction. On June 30 the Federal Government dissolved seven (7) additional ministries to the provinces and thus the third and final phase of devolution initiated after the abolition of the concurrent legislative list under the 18<sup>th</sup> Constitutional Amendment was completed. In total 17 ministries have been transferred to the provinces.<sup>3</sup>

Chapter 1 (Articles 8-28) of the 1973 Constitution of Pakistan describes the Fundamental Rights which are to be available to all citizens, men and women, wherever they

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

On overwhelming majority (over 96%) of the Islamic Republic of Pakistan is Muslim. The rest consist of Christians, Hindus and followers of other religions. Article 2 of the Constitution states that Islam shall be the state religion of Pakistan. Article 41 (2) of the Constitution states: *"A person shall not be qualified for election as President unless he is a Muslim of not less than forty-five years of age and is qualified to be elected as member of the "National Assembly."* Article 91 (3) of the Constitution, amended by the 18<sup>th</sup> Amendment, requires that the prime minister be elected from one of the Muslim members of the National Assembly. The first Constitution of Pakistan reserved the ceremonial post of the President for Muslims but there was no bar on non-Muslims to be elected as the Prime Minister. However, the Constitution of 1973 reserved the posts of both Prime Minister and the President for Muslims. The second amendment to the Constitution on September 7, 1974 categorized Ahmadis as non-Muslims.

The Citizenship Act allows a female foreigner who marries a Pakistani man to get Pakistani citizenship but the same right is not given to a Pakistani female marrying a foreigner. The question of gender equality was raised in the Federal Shariat Court (FSC) in Pakistan which declared the Pakistani Citizenship Act, 1951 to be discriminatory against women. On December 19, 2007 the Federal Shariat Court asked the President of Pakistan to amend the Pakistan Citizenship Act within six (6) months so that a Pakistani female's non-Pakistani husband could also get

Pakistani citizenship, just like a foreign woman married to a Pakistani man. Thus far the Act has not been amended as ordered by the FSC.

The territories of Pakistan defined in Article 1 of the Constitution do not include the territories currently designated as Azad Jammu and Kashmir (AJK) and Gilgit-Baltistan (GB). Pakistan considers that the final status of these territories is yet to be decided; nevertheless, for all practical purposes, these territories are being administered by the Government of Pakistan and in many regards are treated as part of Pakistan. This unclear situation has given rise to disenfranchisement of people from these territories. These territories do not have any representation in the National Assembly of Pakistan or the Council of Common Interests – a body to regulate inter-provincial relations, the National Economic Council and the National Finance Commission (NFC). Similarly, they are not represented on Indus River System Authority (IRSA) which means that they do not get any share of profits earned from hydroelectric power stations located in this territory.

The Azad Jammu Kashmir is governed under the Interim Constitution Act, 1974 and Gilgit-Baltistan is governed under the Gilgit-Baltistan Empowerment and Self-Governance Order, 2009 which was issued by the President of Pakistan on August 29, 2009. It is generally believed that legislative assemblies of both Azad Jammu and Kashmir and Gilgit-Baltistan serve as advisory bodies to the legislative councils which are dominated by unelected but powerful officials of the Government of Pakistan.

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

This question was awarded a relatively low score of 41% marks by the Democracy Assessment Group showing a slight improvement from the past year.

According to the 1998 population census, Punjabi is the mother tongue of 44.15% of the population, Pushto (Pathan) 15.42%, Sindhi 14.1%, Siraiiki 10.53%, Urdu 7.57%, Balochi 3.7% and Other 6.28%. Owing to the linguistic and regional diversity, Pakistan is also home to diverse cultures based on ethnicities, tribes, mother tongues and regions. Although each province has once major block of population speaking a mother tongue, there

are sizeable population groups in each province or territory.

While the cultural diversities are acknowledged, appreciated and represented by the State and State institutions, some of the stresses in the relationship of the state with its federating units, or those amongst the or those amongst the federating units manifests from time to time. The stresses, however, emanate mainly from perceived or real violation of political or economic rights of a province or territory.

The Article 20 of Pakistan states:

*Subject to law, public order and morality,-*

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

Under the 18<sup>th</sup> Amendment the Standing Committee on Minorities Affairs has been devolved to the provinces. Seats are reserved for non-Muslim minorities in the Senate, while these have already existed in the National Assembly and the four Provincial Assemblies. Non-Muslims can contest elections both on general seats and Provincial seats.

In the context of the protection of minorities the blasphemy laws in Pakistan are criticized internationally and somewhat nationally for being draconian and open to abuse. Section 295 of the Pakistan Penal Code deals with damage or defilement of a place of worship or a sacred object; Section 295-A deals with outrage to religious feelings; Section 295-B deals with the defiling of Holy Quran; and Section 295-C deals with defamation of Prophet Muhammad (peace be upon him). If a person is charged under 295-C, the trial must take place a Court of Session with a Muslim Judge presiding.

Section 298 states: *“whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be*

*punished with imprisonment of either description for a term which may extend to one year, or with fine or with both.”* Section 298-A prohibits the use of any derogatory remark or representation in respect of Muslim holy personages. Section 298-B and Section 298-C prohibits Qadianis from behaving as Muslims, calling themselves Muslims, proselytizing or “in any manner whatsoever” outraging the religious feelings of Muslims. Violation of any part of Section 298 makes the violator liable to imprisonment for up to three years and also liable to a fine.

Section 295, 295-A, 295-B and 295-C are equally applicable to any non-Muslim or Muslim who tries to defame religious personages or Quran. Section 295 and 295-A are equally applicable for the protection of religious other than Islam and are not limited to just Islam. Some parts of blasphemy law for example Article 295-C has been criticized internationally for not making any distinction between a deliberate action (intention) and an unintended mistake, thus rendering the laws vague and so open to abuse.

Although no judicial execution of any person charged under these laws has ever taken place in Pakistan; however such persons have been attacked or killed. The charges of desecrating the Holy Quran or the Prophet (peace be upon him) arouse such intense emotions that it is hard to carry out the due legal process in a fair manner.

In late 2010 the Government hinted at amendments to the blasphemy law. A Committee was also formed to review the laws under the then Federal Minister for Minorities Shabaz Bhatti.<sup>4</sup> A Private Members Bill was submitted to amend the laws in the National Assembly by Sherry Rehman, MNA from the PPPP. Some other leaders also talked about misuse of these laws.<sup>5</sup> These moves led to a number of protests by some religious parties as well. However, the controversy climaxed in January 2011 when Governor of Punjab, Salman Taseer was assassinated by his own guard. He had termed the blasphemy law as a 'black law' and had visited Aasia Bibi, a Christian woman who was sentenced to death for allegedly committing blasphemy.<sup>6</sup> Similarly, Federal Minister for Minorities Shahbaz Bhatti was murdered in the federal capital in broad daylight. Both of them had called for amendments to the blasphemy law. Following these murders the Government backtracked and said that it had no plans to amend the blasphemy law. Sherry Rehman also withdrew the bill on Prime Minister's insistence.<sup>7</sup>



The issue of blasphemy laws or blasphemy trigger such emotions that it becomes difficult to sustain a rational discourse on these laws. An example of this was seen when the murderer of Salman Taseer, Mumtaz Qadri was showered with rose petals by lawyers in public, as a symbol of support for his actions. Moreover, the judge who sentenced Qadri to death had to flee to Saudi Arabia after he started receiving death threats.<sup>8</sup>

During the year 2011 at least 20 cases have been reported under this law and five people who were involved in these cases have died.<sup>9</sup>

Hazaras, alongside Baloch and Pashtun population, have been especially targeted during 2011. During the year 2011 80 members of Shia Hazara community have been targeted and killed.<sup>10</sup> The militant group Lashkar-e-Jhangvi claimed responsibility for some of these attacks in Balochistan.<sup>11</sup> Despite these repeated attacks, both Provincial and Federal Government have failed to hold the culprits to account. In October after Shia pilgrims visiting Iran were attacked, the Government decided to regulate their visits and provide them with more security.<sup>12</sup>

In addition to religious minorities, some other sections of the population, for example, the Baloch and people from the South Punjab, have alleged discrimination. The Baloch population feels that its natural resources are being exploited by the centre. The 18<sup>th</sup> Amendment has tried to make amends by giving joint and equal ownership of minerals, oil and natural gas to the provinces. However, Baloch leadership demands a complete ownership over its natural resources. During the year 2011 at least 99 mutilated bodies of Baloch persons, allegedly killed by the security forces, have been found in the province.<sup>13</sup>

On June 17, 2011, Pakistan voted against a resolution passed by the UN Human Rights Council condemning discrimination against lesbian, gay, bisexual and transgender people. Pakistan's Ambassador to the UN said that the Resolution had "*nothing to do with fundamental human rights.*"<sup>14</sup>

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

This question was assigned a relatively high score of 67% by the Democracy Assessment Group compared to 61% in 2010.

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

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

This question was assigned an above average score of 59% by the Democracy Assessment Group compared to 56% in 2010.

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

A desire for autonomy has existed in different areas/provinces of Pakistan usually embedded in an ethnic identity. Although there is a general belief in Pakistan that Punjab which constitutes 56% per cent of the country's population, should be divided up in smaller administrative units as should be other provinces for making government accessible to people locally, the demands for newer provinces has taken a renewed ethnic shape in 2011.

Addressing a public gathering in Multan in March 2011, Prime Minister Syed Yusuf Raza Gilani said that Pakistan Peoples Party will make the creation of a Saraiki province a part of its next manifesto. He also said that the manifesto will also suggest setting up more provinces besides the Seraiki Province. This move by the ruling party is largely seen to be an attempt to cut to size the PML-N, the governing party in Punjab at the moment, which has a base of support across Punjab. While the demand for Saraiki province has been fanned by the ruling PPP, the PML-N chief Muhammad Nawaz Sharif has supported the reinstatement of the state of Bahawalpur.<sup>15</sup>

Although there is no formal definition or geographic

boundary of the South Punjab as it is not a formal entity. However it is generally accepted that South Punjab consists of three divisions: Bahawalpur, Dera Ghazi Khan and Multan, which are further subdivided into eleven districts of the Punjab province.<sup>16</sup> It is worth mentioning that the Seraiki belt is home to some 52 National Assembly constituencies and therefore is important to all political parties. The PPPP has announced that it wants to bring the issue of new provinces directly to the Parliament however such a move has been called illegal and unconstitutional.<sup>17</sup>

During the year, demands for creating the Hazara province in Khyber Pakhtunkhwa, re-drawing the boundaries of Sindh<sup>18</sup> and Balochistan<sup>19</sup> have also been raised intermittently. The PML-N as well as the fast-emerging PTI, however, believes that re-drawing the boundaries of the provinces should be decided through setting up a commission, on the lines of the Indian States Reorganisation Commission.<sup>20</sup>

The Constitutional procedure to alter the boundaries of the existing provinces of Pakistan essentially safeguards the autonomy of the existing provinces and virtually renders it impossible to change the boundaries without political consensus across the province in question as well as the Federal legislature. Unlike India, where boundaries of states can be changed through simple majority in the Parliament of India, not taking into account wishes of the states of India, Pakistan's Constitution requires a 2/3<sup>rd</sup> majority not only in the two Houses of the Parliament but also in the Provincial legislature whose boundaries are to be alerted.

Another key issue which dominates the current inter-provincial relations in Pakistan includes the continued disagreement over the use of Indus River Water and construction of reservoir on it despite the landmark 1991 Indus River Water Apportionment Accord among the provinces. The construction of reservoirs is crucial for Pakistan on many counts, including the generation of inexpensive electric power and storage of irrigation water.<sup>21</sup>

The key forum to moderate inter-province and federal-provincial relations is the Council of Common Interests (CCI). The incumbent Government and the Parliament have taken far-reaching steps in resolving the issues of provincial autonomy. All provinces have been demanding a greater share of economic and political rights especially Balochistan. 18<sup>th</sup> Constitutional Amendment, the 7<sup>th</sup> NFC

award and the Aghaz-e-Huqooq-e-Balochistan package have all been aimed at addressing the problems of Balochistan.<sup>22</sup> In November 2011 the Prime Minister said that 80% of the work on Aghaz-e-Huqooq-e-Balochistan is complete.<sup>23</sup> Earlier, on April 18, 2011, the Chief of Army Staff General Kayani announced that all forces will be withdrawn from the Sui town of Dera Bugti and replaced by Frontier Constabulary (FC). Furthermore, he said that no new cantonments would be established in Balochistan and that the earlier idea of making four cantonments was dropped. He also said that in the future no military operation will be carried out without prior approval of the Provincial Government. On November 2, 2011, the Federal Government transferred the control over Frontier Corps to the provincial Government. This is of particular importance since the provincial Government had repeatedly demanded the control of FC - which according to some is involved in enforced disappearances of political activists in the province.

Despite these seemingly serious structural reforms, very little improvement has been seen in the situation in Balochistan. The Baloch leaders and public at large have not admired these steps either. The insurgency has in fact intensified over these 3 years and Baloch leaders claim civil government both in the centre and in the province is not in-charge and has abdicated its constitutional responsibility to the security agencies.

Another forum to mitigate and oversee economic relations is the National Economic Council (NEC) which reviews the overall economic condition of the country. After the 18<sup>th</sup> Amendment provinces have been empowered to raise domestic and foreign loans with the permission of the National Economic Council.

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

In the 18<sup>th</sup> Constitutional Amendment, it has been stipulated that the NFC shall not reduce the share of resources allocated to the Provinces by the previous

Commission. In addition provinces have been entitled to the entire proceeds of the excise duty on oil as well as to the excise duty on natural gas.

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

This question was assigned a high score of 72% by the Group compared to 62% in 2010.

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

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

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

This question as assigned a score of 61% by the Group compared to 58% the past year.

Pakistan hosts the largest refugee population, i.e., 1.9 million in the world.<sup>24</sup> The cost on the economy is also proportionally large. Pakistan has the biggest impact with 710 refugees for each dollar of its per capita GDP, followed by the Democratic Republic of Congo with 475 and Kenya with 247. In comparison, Germany has 17 refugees for every dollar of per capita GDP.

After the Soviet invasion of Afghanistan in 1979, Afghan refugees began to enter Pakistan and by the fall of 1989 the number of refugees was estimated at 3.2 million. Additional refugees entered Pakistan after the UN invasion of Afghanistan in 2001, pushing the total refugees to over 5 million, including those who were born in Pakistan over the previous two decades.

About 3.6 million Afghans have been repatriated since 2002.<sup>25</sup> Around 1.7 million Afghans currently reside in Pakistan and they are to be repatriated by the end of 2012. From 2005 to late 2006 the Government of Pakistan attempted to register Afghans living in Pakistan, the interior Ministry issuing Proof of Registration (PoR) cards. By February 2007, the total number of registered Afghans stood at 2.15 million.

On the other hand, there are more than 200,000–500,000 Pakistani Biharis living in statelessness in Bangladesh, waiting for Pakistan to accept their repatriation. Housed in camps for more than 37 years, the Biharis were a part of West Pakistan prior to the 1971 fall of Dhaka. In 2008, Bangladesh granted citizenship to 15,000 Pakistani Biharis but many older Pakistani Biharis refused to accept Bangladeshi citizenship and have opted to wait for Pakistan to accept them as Pakistanis.

#### 1.2. Rule of law and Access to Justice

This sub-pillar was assigned a below average score of 47% by the Group compared to 43% in 2010.

**Overarching Question: *Are state and society consistently subject to the law?***

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

This question as assigned a below average score of 43% by the Group compared to 33% during 2010.

The operation of the rule of law continues to remain poor across the country. The prevalent militancy has also resulted in deterioration of law and order. The overall cost of War on Terror in Pakistan has been estimated at US \$70 billion.

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

On August 12, 2011 President Asif Ali Zardari signed amendments into the colonial Frontier Crimes Regulation (FCR). He also extended the Political Parties Act 2002 to FATA which will allow Political parties to operate in the tribal areas.<sup>26</sup> The Amendments made have allowed the right of appeal to the people of FATA against the decision of the Political Agents who earlier enjoyed almost absolute executive and judicial powers. Moreover, the funds at the disposal of political agents would now be audited by the Auditor General of Pakistan. Other amendments have been made to humanize the FCR, for example, collective punishment will not include women, children and people above the age of 65; the accused will have the right to bail; and compensation will be provided to those wrongfully punished in civil or criminal matters. This is a significant departure from the past.

However, according to some the situation in FATA is far from rosy. Draconian clauses like "collective punishment" still exist in the FCR. Moreover, the "Action in Aid of Civil Power Regulation Bill-2011," signed by President Zardari

on June 23, 2011, which allows the security forces to incarcerate miscreants for extended periods of time undermines the spirit of FATA reforms.<sup>27</sup>

During the year 2011 Security Forces launched three major offences in FATA. Operation Koh-e-Sufaid (Operation White Mountain) was launched in the Kurram Agency at midnight, July 2-3, 2011 and lasted till August 18, 2011.<sup>28</sup> An operation was launched in the Khyber Agency against Lashkar-e-Islam and TTP militants on October 21, 2011 and is continuing. Another targeted operation, without any designated name, is still going on in the selected areas of Orakzai and Mohammad Agencies.

Another insurgency this one by Baloch separatists, the fifth since Pakistan's creation, has also broken out in Balochistan since the murder of Baloch leader Nawab Akbar Khan Bugti in 2006. This insurgency is manifested in attacks on security forces and non-Baloch settlers while in the recent months a new pattern of killings has emerged in Balochistan. Young Baloch persons, mostly those who are known for their nationalist views and activism, suddenly go missing and after a few days their dead bodies bearing torture marks are found dumped in some isolated area. Since June 2010 bodies of at least 233 men have been found dumped in the so-called 'kill and dump' operations in Balochistan.<sup>29</sup> During 2011, 99 such bodies have been found in Balochistan.<sup>30</sup> While on one hand the number of bullet riddled bodies has gone up, the number of settlers killed in Balochistan has gone down this year. According to reports 59 settlers have been targeted this year compared to above 100 in 2010.<sup>31</sup> Since 2008, at least 1200 settlers have also been killed have been killed in Balochistan.<sup>32</sup>

According to Human Rights Commission of Pakistan and Human Rights Watch Frontier Corps (FC) is involved in enforces disappearances and murder of Baloch activists.<sup>33</sup> The provincial Government of Balochistan has been demanding that the control of Frontier Corps (FC) which has been approved by the Federal Cabinet on November 2, 2011.

Meanwhile, in Karachi 'target killings' with apparent ethnic and sectarian and political linkages have been witnessed since February 2008 election and have escalated since. Karachi has witnessed intermittent violence during 2011. At least 1,400 people have been killed in Karachi during this year in different incidents of targeted killings. According to certain estimates the economic cost of such

violence is estimated between Rs. 3 to 7 billion per day.<sup>34</sup> The Karachi carnage is usually termed as a “turf war” between the PPP, MQM and the ANP, the three major parties in the city.<sup>35</sup> The Supreme Court of Pakistan, which took a *suo moto* notice of Karachi killings in July and August, on October 06, 2011, said in its judgement *Suo Moto Case No. 16 of 2011* that “*violence in Karachi during the current year and in the past is not ethnic alone but it is also a turf war between different groups having economic, socio-political interest to strengthen their position/aggrandizement, based on the phenomenon of tit for tat with political, moral and financial support or endorsement of the political parties, who are claiming their representation on behalf of public of Karachi including components and non-components of Provincial Government/ Executive.*”<sup>36</sup>

The last four months of 2011 saw improvements in the law and order situation in Karachi after the Judicial intervention and deployment of Rangers.

According to an estimate a total of 7,107 people died in incidents of violence this year compared to 10,003 in 2010 and 12,632 in 2009. This shows a decrease of 30% compared to the previous year.<sup>37</sup> Similarly, terrorist attacks, perpetrated by militants, nationalists as well as sectarian violence claimed lives of 2,391 people compared to 2,912 people in 2010, registering a decrease of 18%. Forty-five suicide attacks were reported in 2011 compared to 68 suicide bombings 2010 and 87 in 2009. This shows a decrease of 34% this year. This year 75 CIA drone strikes have been made compared to 135 strikes the past year registering a decrease of 44%.<sup>38</sup>

The decrease in violent incidents can be attributed to several factors. On one hand the decrease can be attributed to the military action taken against militants in FATA while on the other the drone programme under the CIA has sent the militant organisations like Taliban and Al-Qaeda into disarray harming their ability to launch terrorist attacks.<sup>39</sup> Lastly, there are also some reports that the Government is holding talks with the Taliban which may have also contributed to the decline in militant violence.<sup>40</sup>

According to the World Governance Indicators (WGI) 2010 the percentile rank in Rule of Law has improved from 20.4% in 2009 to 25.6% in 2010. In South Asia Pakistan is ranked 6<sup>th</sup> with Nepal and Afghanistan trailing behind.

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

This question was assigned a low score of 40% by the Group compared to 39% during 2010.

There has been weak applicability of rule of law on public officials. While the National Accountability Bureau (NAB) was set-up by the Musharraf regime as the apex anti-corruption organisation of Pakistan in 1999, it was widely perceived, especially in political circles, to be politically motivated. The Pakistan Peoples Party, which had signed the Charter of Democracy with the PML-N in May 2006 and had pledged to “*replace politically motivated NAB with an independent accountability commission, whose chairman shall be nominated by the prime minister in consultation with the leader of opposition and confirmed by a joint parliamentary committee with 50 per cent members from treasury benches and remaining 50 per cent from opposition parties in same manner as appointment of judges through transparent public hearing. The confirmed nominee shall meet the standard of political impartiality, judicial propriety, moderate views expressed through his judgements and would have not dealt.*” Reiterating this pledge the Prime Minister of Pakistan, in his first address to the National Assembly, said that the Government intends to disband the NAB and constitute a National Accountability Commission in its place. The Government introduced the Holders of Public Office (Accountability) Bill, 2009 (HOPO Bill) in the Parliament on April 15, 2009,<sup>41</sup> a year after the Prime Minister's pledge, but the bill remained pending with the National Assembly Standing Committee on Law, Justice and Parliamentary Affairs throughout 2011 as well – even 32 months after its introduction in the National Assembly. The NAB, in the meantime, has remained in limbo<sup>42</sup> leaving practically no accountability organisation for public office holders in nearly 4 years of this Government.

In terms of accountability, the issue of National Reconciliation Ordinance 2007 (NRO)<sup>43</sup> took further twists but remained unresolved during 2011. The Government continued to resist full implementation of the Supreme Court judgment on the NRO which had declared it *void ab initio* in a landmark judgment on December 16, 2009.<sup>44</sup> The Supreme Court rejected the review petition of the Government on November 25, 2011 and directed the Government to implement its earlier decision in letter and spirit. It remains to be seen how the National

Accountability Bureau (NAB) would proceed against these cases when its own Chairman Admiral (Retd.) Fasih Bokhari also faces a case by the Leader of Opposition over his appointment.

According to the Transparency International Pakistan survey of 2010, 47% people think that lack of accountability is the main cause of corruption in government departments.

The PPP Government has continued to show its lack of commitment in upholding accountability not only for its own government officials but also for its coalition partners. On April 18, 2011, the Additional Director General of Federal Investigation Agency (FIA) and the Chief Investigation Officer of National Insurance Corporation Ltd. (NICL) scam, Zafar Qureshi was transferred to National Police Foundation. The transfer seemed politically motivated because the NICL scam involved Moonis Elahi –PML MPA in Punjab and son of former Chief Minister Punjab and leader of the PML Pervaiz Elahi. On July 02, 2011 Qureshi assumed charge as the Additional DG after the Supreme Court's order to reinstate him but was suspended again on July 03, 2011 on disciplinary grounds. On August 08, 2011, the Supreme Court quashed the suspension orders of Zafar Qureshi and reinstated him as the Additional DG of FIA. On September 30, 2011, the Chief Investigation Officer & Additional Director, Zafar Qureshi, retired submitting to the Supreme Court that he could not complete a Challan for the case because of obstacles created by the Director General FIA and Secretary of Interior.

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

This question as assigned a high score of 67% by the Group compared to 60% in 2010.

Historically, Judiciary-Executive relations have been characterised by tension in Pakistan. The independence of the incumbent judiciary of Pakistan should be looked at in the backdrop of the lawyers movement when the Chief Justice of Pakistan Iftikhar Muhammad Chaudhry declined to resign under the then President-cum-Chief of Army Staff General Pervez Musharraf. The second re-instatement of Chief Justice Iftikhar Chaudhry on March 16, 2009 as a result of lawyers movement heralded the beginning of a new Superior Judiciary which is independent and

assertive.

According to the mechanism laid out in the 18<sup>th</sup> Constitutional Amendment, a Judicial Commission and a Parliamentary Committee are to decide on Judges Appointment in the Superior Courts. The Judicial Commission's composition included Chief Justice of Pakistan, two most senior Judges of the Supreme Court, a former Chief Justice or a former judge of the Supreme Court of Pakistan, Federal Ministry for Law and Justice, Attorney General of Pakistan and senior Advocate of the Pakistan Bar Council. The Parliamentary Committee's composition included eight (8) members, out of which four were to be from the treasury and four from the Opposition benches. The Judicial Commission is responsible for sending out nominations for the judges to the Parliamentary Committee for confirmation and if the Parliamentary Committee does not confirm the nomination, the Commission is to send another nomination.

The Supreme Court's order on the 18<sup>th</sup> Amendment, known as the 18<sup>th</sup> Amendment Order given on October 21, 2010, advised the Parliament to increase the number of the senior judges from two to four in the Judicial Commission. It had also suggested a change in the mechanism which required that the Parliamentary Committee cite sound reasons if it rejects a nomination from the Judicial Commission and if the Judicial Commission re-sends the nomination after considering the reasons, that nomination shall be deemed final. Following the judgement, the Parliament passed the 19<sup>th</sup> Constitutional Amendment adopted by the Parliament on December 22, 2010, increasing the number of senior Judges in the Judicial Commission from two to four, in line with the order of the Supreme Court. The 19<sup>th</sup> Amendment agreed that nominations of the Commission will be sent to a Parliamentary Committee which can confirm or reject nominations but the Committee will have to cite reasons for rejections. However, according to the amendment, the Commission cannot re-send a nomination once rejected by the Committee and will have to send a new nomination in place of the one rejected. The 19<sup>th</sup> Constitutional Amendment also specified 15 years' experience for the concerned Bar Council representative in the Judicial Commission responsible for nominating High Court Judges.

However, despite the 19<sup>th</sup> Amendment, the row between the Judiciary and the executive gained new dimension

when on March 21, 2011, the Supreme Court ruled that the Parliamentary Committee on Judges Appointment in Superior Courts ignored its constitutional boundaries while rejecting one-year extension to four additional judges of Lahore High Court and two judges of the Sindh High Courts recommended by the Judicial Commission chaired by the Chief justice of Pakistan. The judgment ruled the decisions of the Parliamentary Committee “of no legal value.” On April 20, 2011 the Supreme Court, rather controversially, again set aside the Parliamentary Committee's decision to deny extension to six high court judges as recommended by the Supreme Court. The Government had filed a review petition asking the Court to re-visit its decision. Later on April 25, 2011 the Supreme Court told the Government that it knew how to get its decision implemented if the Government did not comply. Next day the Presidency issued a notification of extension for the six high court judges. This development has created yet another strain in the Judiciary-Parliament/Government relations. Interestingly, the Parliamentary Committee on Judges Appointment in Superior Courts chose not to show any public reaction or protest to the Supreme Court judgement of rendering the Committee's recommendation null and void. The Supreme Court's decision has been criticised by some circles outside the Parliament as a non-elected state institution encroaching upon the mandate of the elected Parliament.

A row developed between the judiciary and the executive over the issue of Establishment Secretary in July 2011.<sup>45</sup> The Supreme Court directed the Government to re-instate the Establishment Secretary who was transferred earlier because he had moved a summary in the court for transfer of IG Gilgit-Baltistan to the FIA without the Government's approval. However, the Government categorically decided not to do so. The clash was averted when the Supreme Court softened its stance and ordered that the ex-Establishment Secretary be given any position.

The Supreme Court is hearing a number of cases related to corruption in state organizations including the Hajj scam, National Insurance Corporation Ltd (NICL) scam, Pakistan Railways, Pakistan Steel Mill, Rental Power Plants, etc. While the Government has done little to ensure transparent governance and accountability many are looking towards the Supreme Court to somehow redress the issue of corruption.

There is also the impression that the Judiciary while assertive and active is reluctant to take on cases which

involve the security establishment. For example, Asghar Khan's case against the distribution of funds by the ISI among politicians and media persons was not taken up by the Judiciary in 2011. Cases such as these put a question mark on the effectiveness of the judiciary. It is recommended that in order to avoid any controversy the Judiciary should take up cases in chronological order.

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

This question was assigned a score of 45% by the Group compared to 43% in 2010.

Article 10 A of the Constitution states:

*“For determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.”*

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

In practice however, access to justice remains limited and unequally distributed. The justice system is a long, laborious and costly road which, there is a widespread public belief, should be avoided as far as possible.

The National Judicial Policy Making Committee had announced in its Judicial Policy of June 2009 that all pending cases will be finished within one year and new cases instituted within that year will be finished within one year of their institution.<sup>46</sup> At the time of implementation of the judicial policy there were 1.8 million cases pending in the Supreme Court, Federal Sharia Court and District courts of Pakistan however this has been reduced to 1.4 million, a decrease of 22% in June 2011.<sup>47</sup> Despite this, the judiciary failed to achieve its own targets set under the National Judicial Policy.

One of the issues is the corruption and inefficiency of the lower judiciary in Pakistan. The lower courts directly affect people because most cases are first filed in them regarding everyday issues.

As of March 2010 more than 1.2 million cases were

pending in the subordinate courts of Pakistan.<sup>48</sup> One of the issues is the understaffing in courts. According to an estimate there are 2,000 judicial officers in Pakistan. This number is very low compared the population of the country.<sup>49</sup> An example of this understaffing was seen when in September the Islamabad High Court was shut down because the only serving judge fell sick.

Another issue is the selective use of *suo moto* powers by the Supreme Court. The number of *suo moto* notices that the court has taken, largely based on media reports, show that there is a need to develop a transparent mechanism for *suo moto* notices.

There have also been instances of aggression by lawyers. Lawyers have gone to the extent of threatening and sometimes even physically assaulting judges.<sup>50</sup>

The 2011 perception survey conducted by Transparency International Pakistan shows that the rank of Judiciary has slipped from 6th in 2010 to the 4th most corrupt institution in 2011.<sup>51</sup>

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

This Group gave a below average score of 41% to this question in comparison to 40% in 2010.

According to the public opinion in Pakistan, crime is considered to be one of the greatest problems in the country. In July 2011 91% of the people consider crime to be a great problem, second only to terrorism while 87% thought it to be the biggest problem the previous year. Consequently only 26% say that the police have a good influence on the country while two-third it had a bad influence.<sup>52</sup> The police have been sliding in opinion: in 2010 29% thought the police had a good influence and in 2009 39% thought the same.

The ineffectiveness of police is illustrated by the low conviction rate in the country as well as the rising trend in crime and lawlessness in general. It is now widely acknowledged that the conviction rate is no more than 10% and the main reason for this is poor police investigation.<sup>53</sup>

Generally there are reasons are regarded for the inefficiency of the police. First is the political interference

in the functioning of police, second is absence of mechanism for accountability of the police and thirdly the lack of resources with the police.<sup>54</sup> The Police Order of 2002 was introduced without the consensus of the provinces. The Ordinance was tagged with the Local Government program of the military regime. The provincial government resisted both granting any powers to the local government and autonomy to the police and the federal Government introduced the Police Order (Amendment) Order 2004 which gave back the control of police to provincial Governments.

One of the biggest cases of abuse by police and paramilitary forces was the Kharotabad incident which involved murder of five foreign nationals.<sup>55</sup> Similarly, the murder of a young boy Sarfaraz Shah by paramilitary forces in Karachi was also captured on camera.<sup>56</sup> Many cases of abuse, torture and harassment by the police were reported in the media regularly throughout the year. There have been cases involving sexual abuse in police custody, torture and harassment of artists.<sup>57</sup>

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

This question received a score of 47% during the Assessment compared to 40% during 2010.

Lower courts that have most public access suffer from serious lack of confidence. Public surveys show that public confidence in the Judiciary is sliding. The Transparency International Pakistan's National Corruption Perception Survey 2011 ranked Judiciary as the fourth (4<sup>th</sup>) most corrupt public department. This is serious deterioration because Judiciary was the 6<sup>th</sup> most corrupt department in 2010 and 7<sup>th</sup> in 2009. When asked about Judiciary 46% of the respondents said that they felt compelled to pay a bribe.<sup>58</sup>

Higher judiciary, on the other hand enjoys greater trust. Pew poll shows that 41% believe the Court system was having a good influence. This is a significant change from 2010 when the Courts had an approval rating of 55%. Similarly, the Chief Justice of Pakistan Iftikhar Muhammad Chaudhry had a 51% favourable opinion compared to 61% in 2010.<sup>59</sup>

### **1.3. Civil and Political Rights**

This question received a score of 49% during the



Assessment compared to 47% the past year.

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

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

This question received a score of 41% during the Assessment compared to 34% in 2010.

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

Terrorism remains one of the key issues that disrupts human security. More than 38,000 Pakistanies have died in different activities of violence since 9/11. In 2011, 7107 people were killed while in 2010 10,003 people were killed in different incidents of violence.<sup>60</sup> This shows a decrease of 29% in the number of people killed. Terrorist attacks perpetrated by militants, nationalist insurgents as well as sectarian-related violence, claimed lives of 2,391 people compared to 2,913 people in 2010.<sup>61</sup> Although, fatalities in the past two years have dropped comparatively in the past two years the number is still very high.

The state of Human Rights in the insurgency-ridden province of Balochistan is far from normal. During the year 2011 107 incidents of enforced disappearances have been reported and missing persons are increasingly turning up dead. Moreover, at least 225 bodies have been found since July 2010. According to Human Rights of Commission of Pakistan *"It is scandalous that not a single person has been held accountable for these disappearances and killings."*<sup>62</sup>

Violence against women registered a sharp increase in 2011. During the first 9 month of 2011 675 'hounour killings' were reported compared to 791 in 2010 and 647 in 2009.<sup>63</sup> During 2011 8000 incidents of violence against women were recorded which is a 13% increase from past year.<sup>64</sup> As many as 3,152 incident of violence against women have been reported during July 2011 to December 2011 in Punjab alone.<sup>65</sup> In 2010 1,790 women were murdered compared to 1,404 women in 2009. 2,903 rape cases were reported in 2010 compreaed to 928 cases in 2009.<sup>66</sup>

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

This question received a score of 59% during the Assessment compared to 56% in 2010.

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

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

Use of force by the police and attacks by militants has impinged on the citizens' right to freedom of assembly to some extent during the period of assessment. The murder of Salman Taseer, Governor Punjab and Federal Minister for Minorities Shahbaz Bhatti has added to the insecurity of citizens to some extent. Despite this citizens have generally assembled for protests, rallies and protests without great interference by the state.

An example of this freedom of assembly is the large crowds that are present at the rallies of the Pakistan Tehreek-e-Insaf (PTI). PTI has been able to attract a great number of people to its anti-Government rallies.<sup>67</sup>

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

This question received a score of 47% during the Assessment compared to 48% during 2010.

Article 20 of the Constitution states:

*"Subject to law, public order and morality:-*

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

However, situation on the ground is painfully different. Even though the figures for sectarian attacks have gone

down recently they remain very high compared to the region. During the year 2011, 139 incidents of sectarian attacks were recorded compared to 152 in 2010 – decrease of 9%.<sup>68</sup> The number of fatalities went down by 40% with 397 people killed in these attacks compared to 662 in 2010.

Balochistan suffered the highest number of fatalities in sectarian-related attacks for any region, with 106 people killed in 21 attacks. One such issue is that of Shia Hazara minority in Balochistan. At least 80 members of the Shia Hazara community have been killed in Balochistan this year.<sup>69</sup>

Other instances such as the targeted killing of three Hindus in Shikarpur have been reported during the year.<sup>70</sup>

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

This question received a score of 50% during the Assessment compared to 48% during 2010.

With religious extremism on the rise NGOs and humanitarian groups are faced with growing intimidation. As many as 17 incidents of attacks on NGO offices and kidnapping of their staff were recorded in 2011.<sup>71</sup> During the year 2011 two Human Rights Commission of Pakistan (HRCP) activists were also killed in Balochistan.<sup>72</sup> Similarly, in April 2011 two NGO offices were attacked in Quetta<sup>73</sup>. Two HRCP activists were also killed in the province of Balochistan.<sup>74</sup>

### **1.4. Economic and Social Rights**

This sub-pillar received a score of 40% during the Assessment by the Democracy Assessment Group with no change from the past year.

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

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

This question received a score of 37% during the Assessment compared to 39% past year.

Part II of the Constitution of Pakistan deals with the

'Fundamental Rights and Principles of Policy.' Article 38 in this part emphasised the promotion of social and economic well being of the people.

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

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

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

After the 18<sup>th</sup> Amendment the EOBI had to be devolved to the provinces but most stakeholders were opposed its

devolution. They feared that it would lead to unequal distribution since the total contribution of Khyber Pakhtunkhwa and Punjab was less than the contribution of Faisalabad. The distribution is proportionate and hence would be unequal. In October the Chairman of EOBI said that it would not be devolved to the provinces as was the case with the 18th Amendment.<sup>75</sup> According to some this manifests the lack of preparation by the Government with regards to the devolution programme undertaken by it.

The present Government launched a programme of targeted subsidy for the poor in the shape of Benazir Income Support Programme (BISP) with initial allocation of Rs. 34 billion (USD 425 million, approximately) for the financial year 2008-09. The allocation for the fiscal year 2009-10 was 40.2 billion while the allocation for the fiscal year 2010-11 and 2012 has remained at 50 billion.<sup>76</sup> The programme aims at covering almost 15% of the entire population. The programme aims at covering almost 40% of the population below the poverty line with an allocation of Rs. 3.5 billion for the current fiscal year. Under this programme the enrolled families are paid cash assistance of Rs. 1,000 per month at their doorsteps. The BISP is being implemented in all four provinces (Punjab, Sindh, Balochistan and Khyber Pakhtunkhwa) including FATA, AJK and ICT. The BISP is the largest social safety net programme in Pakistan's history.

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

This question received a score of 35% during the Assessment compared to 31% in 2010.

Pakistan was ranked at 145 out of 187 countries under the UN's Human Development Index (HDI) in 2011 which is unchanged from 2009. Pakistan has slid from "Medium Human Development" to "Low Human Development" according to the latest report.<sup>77</sup>

Pakistan has been hit by floods second year in a row in 2011. The floods have killed 300 people and 1.3 million people have been displaced.<sup>78</sup> According to the Assessment Mission of the UN on Impact of Food Crisis, Pakistan is one of the 32 countries predicted to have a severe food crisis in the coming years; as a result the poorer class will switch to cheaper and less nutritional food.<sup>79</sup>

According to Food Security Risk Index Pakistan is ranked 30th which is "High Risk".<sup>80</sup> According to World Food Programme 50% of the population i.e. 83 million are food insecure.<sup>81</sup> In the aftermath of floods in 2010 and 2011 this number may have risen to upwards of 90 million.

Constant double digit inflation almost throughout this government's tenure has forced people to switch towards cheaper and less nutritional food. The Commodity Price Index inflation for the calendar year 2011 has remained constantly in double digits with an average of 11.9% compared to 13.85% in 2010.<sup>82</sup> In August Oxfam said that nearly 36% of Pakistanis are undernourished listing Pakistan among the 21 nations of the world which were found to be undernourished.<sup>83</sup> Pakistan was adjudged to be more undernourished than Tanzania (35 per cent), Niger (28 per cent) and Yemen (32 per cent) where nearly every third person was feared to be malnourished. According to a survey conducted by Oxfam 57% of the Pakistanis are not eating the same thing as they did 2 years ago, 44% of those said it was because the food is too expensive.<sup>84</sup>

Pakistan's the total Public Debt (US \$59.5 billion external and Rs 5462.2 billion domestic) of the Government increased by 13.1% in the first 9 months of the last fiscal year becoming more than Rs. 10 trillion.<sup>85</sup> Inflation in the past three fiscal years 2008-09, 2009-10 and 2010-11 has hovered around 20.8%, 11.75%, and 14.1%. According to some the source of Pakistan's economic woes lies in its inability to raise its tax-to-GDP ratio. The tax-to-GDP ratio has hovered around 9.1% to 8.9% to 8.5% during 2008-09, 2009-10 and 2010-11 respectively which is the lowest in Asia and developing countries.<sup>86</sup>

The 2011 floods have affected around 7 million people. In September 2011 the UN launched an appeal of US \$356 million for the flood affected people.<sup>87</sup>

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

According to Pakistan Council of Research in Water Resources (PCRWR) 44% of the population does not have access to clean drinking water. Moreover, 90% of the population in rural areas lacks such access. 200,000

children die every year of diarrheal diseases.

A public opinion poll in April 2011 showed that 30% of Pakistanis claimed to be deprived of public supply of drinking water. 44% of the rural respondents claimed so and 6% of the urban respondents said they were deprived of public supply of clean drinking water.<sup>88</sup>

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

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

This question received a relatively low score of 32% during the Assessment compared to 33% during 2010.

For the fiscal year of 2010-2011 the allocation for health under the PSDP was Rs. 10.152 billion.<sup>89</sup> After the 18<sup>th</sup> Amendment subject of Health has been devolved to the provinces. For the year 2011-2012 the allocation under the development expenditure for health is Rs. 20.110 billion for Punjab, Rs. 6.930 billion for Sindh, 2.392 billion for Khyber Pakhtunkhwa and 1.462 billion for Balochistan.<sup>90</sup>

Life expectancy in Pakistan stands at 64 years with a high infant mortality rate of 63.3/1000<sup>91</sup> live births while maternal mortality rate ranges between 350-400/100,000 live births. Women in reproductive age constitute 24% of total population and the sex ratio in Pakistan is adverse to women 108:100. Population growth rate is 1.9% annual with total fertility rate of 4.00. Pakistan thus lags behind its neighbours and other low-income countries in terms of health and population outcomes. The major reason for high maternal mortality is poor access to prenatal care and dearth of trained attendants at birth (80% babies are delivered at home without a trained birth attendant). The mother mortality rate is 276 per 100,000 births.<sup>92</sup>

The population per doctor in Pakistan was 1,225 in 2007 compared to 1,718 in 1995.<sup>93</sup> Moreover, it has 10 hospital beds per 10,000 people.

Under the Prime Minister's programme for Family Planning and Primary Care, the Government created the Lady Health Worker cadre in 1994. The aim was to provide essential primary health services in the community and fulfil the

unmet health needs in rural and urban slum areas. An external evaluation of the programme in 2000 found that the population served by Lady Health Workers had substantially better health indicators than the control population. It was estimated that 150,000 Lady Health Workers are needed to cover the country. By the end of 2006, there were 96,000 in the system, with another 14,000 to be trained through an extension of the programme to 2008. The Lady Health Worker Programme in Pakistan is considered one of the best in the world. According to a study published in a medical journal Lancet, the lady health workers' treatment of children with severe pneumonia in their homes worked better than the established practice of telling parents to take them to a hospital.<sup>94</sup>

The Dengue epidemic in Punjab in the last few months of this year has resulted in at least 390 deaths.

In April 2011 the Young Doctors Association, a group of young doctors in Pakistan, went on a strike, especially in Punjab, demanding an increase in salaries. This led to a situation of crisis in public hospitals and generated a debate around the code of ethics for medical professionals. The 37-day long strike ended after an agreement of the YDA with the Government of Punjab.<sup>95</sup>

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

This question received a score of 40% during the Assessment compared to 41% during 2010.

Through the 18th Constitutional Amendment in April 2010, the number of Fundamental Rights in the Constitution has been increased to provide Pakistanis with a constitutional right to universal education [Article 25A]. The State is now bound to provide free and compulsory education to all children from age 5 to 16 years in such manner as may be determined by law. Education has now become a right and no longer a privilege as it was previously. Article 25A sets up a possible scenario where a citizen can take the government to court for not providing them access to education, or it can even be the grounds for a *suo moto* action.

The Government of Pakistan has declared education in general and Education for All (EFA) in particular, a priority. According to the figures provided by the Education

Emergency Pakistan, there are 26 countries poorer than Pakistan but send more of their children to school, demonstrating the issue is not about finances, but of political will, policy priority and articulating demand effectively. Pakistan spent 2.5 per cent of its budget on schooling in 2005/2006. It now spends just 1.5 per cent in the areas that need it most. Provinces are allocated funds for education but fail to spend the money. Public school teachers get paid 2/3rds more than their equivalent private low cost school counterparts; they earn four times that of the average parent of a child in their school but despite this, on any given day 10-15 per cent of teachers will be absent from their duties teaching. There is demand for education that is partly being addressed by low cost private schools, even one third of all rural children go to these schools. Only six per cent of students go to Madrassahs. According to estimates approximately above 40 million children attend school in Pakistan.<sup>96</sup>

Pakistan is also a signatory to international commitments like the Millennium Development Goals (MDGs) signed by the world leaders in the year 2000 and the Dakar Framework of Action for Education For All (April 2000) by 2015, which includes free and compulsory primary education to all children.

Pakistan has not been able to bring all children to school. Low enrolment rate and rapid population growth have led to steady increase in out-of-school children and resultantly number of illiterates in the country gradually multiplied from 20 million during 1951 to 50 millions in 1998. It is estimated that at present about 55 million Pakistanis of age 10+ cannot read and write and 7 million children of age 5-9 years are out of school. In rural areas, about 52% girls are not enrolled in school, and 67% women are illiterate (PSLM Survey 2008-09).

Further legislation is needed to define and elaborate different modalities and rules for provision of free and compulsory education. These laws are yet to be framed and approved by the provincial Assemblies. On average Pakistan has been spending about 2% of the GDP on education. The National Education Policy (2009) has committed to raise education budget up to 7% of the GDP.

According to the UN Human Development Report 2010 more than 50% of people speaking Baluchi or Siraiiki have less than four years of education in contrast to roughly 10% for Urdu-speaking youth.

It is unfortunate that the provinces have not moved forward with required reform in this area. For the fiscal year 2010-2011, the Government of Punjab had allocated Rs. 34.8 billion for the development budget for education only used Rs. 23.328 billion while it left almost Rs 9.472 billion unspent.<sup>97</sup>

#### **1.4.5. How free are trade unions and other work-related associations to organize and represent their members' interests?**

This question received a score of 48% in the Assessment compared to 49% in 2010.

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

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

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

In light of the 18<sup>th</sup> Amendment, there are challenges in the enforcement of international conventions and treaties, especially with regards to labour rights such as ILO Conventions 87, 98, ILO Declaration on Fundamental Principles and Rights at Work. Future of worker unions and federations, which were functioning at the national levels, has also been in limbo after the devolution of labour

department.

The total labour force of Pakistan consists approximately of 55.88 million people out of a total population of approximately 180 million, with 47% within the agriculture sector, 10.50% in the manufacturing and mining sector and remaining 42.5% in various other professions.<sup>98</sup> Although there has been a reversal of declining trend in employment growth as was witnessed in the post-2000 period, there has also been a simultaneous increase in unemployment rates as employment growth has not kept pace with growth in labour supply. Unemployment rates have been high and increasing, especially amongst certain groups – such as youth, women and young graduates.<sup>99</sup>

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

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

This question was awarded a score of 50% during the Assessment compared to 48% in 2010.

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

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

The Competition Commission of Pakistan (CCP) was established on October 2, 2007 under the Competition Ordinance, 2007, and was later transformed into Competition Commission Act 2010. Major aim of this Ordinance was to provide for a legal framework to create a business environment based on healthy competition for improving economic efficiency, developing competitiveness and protecting consumers from anti-competitive practices.

In one of its first initiatives, the Competition Commission challenged the Pakistan Banks Association (PBA) on its decisions to 'collectively decide rates of profit and other terms and conditions regarding deposit accounts.' The PBA is a membership association to which only banks in Pakistan can be affiliated, and it advertised its decision openly in a daily newspaper on November 5, 2007. The terms of the agreement included a number of its member bank imposing a 4 percent profit on Rs. 20,000 deposits and a Rs. 50 charge on less than a Rs. 5,000 balance on bank accounts included in the new Enhanced Savings Accounts Scheme. Furthermore, holders of basic accounts that met the criteria would have their accounts changed to ESAs without their prior instruction or agreement of account-holders. In April 2008 the CCP ordered the culpable banks to discontinue the practice and the PBA was fined Rs. 30 million and the seven banks involved were fined Rs. 25 billion.<sup>100</sup>

In April 2011 the Securities and Exchange Commission of Pakistan (SECP) fined two defaulting companies as part of its enforcement and regulatory function.<sup>101</sup>

Recently inquiry report commissioned by the Competition Commission of Pakistan it was found large scale cartelization in the Electric Power Market. The Pakistan Electric Manufacturers Association (PEMA) had facilitated collusive bidding/bid rigging among its members for tenders offered by distribution companies (DISCOs).<sup>102</sup> The names involved have powerful corporations like Siemens Pakistan and Pak Electron Limited etc. The Report recommended action against PEMA, Switchgear Manufacturers, Energy Meter Manufacturers, Distribution Transformer Manufacturers, and LT CT Manufacturers.

## Representative and Accountable Government

During the Assessment this pillar received a score of 47% compared to 43% in 2010.

The following are some highlights:

- The Election Commission has made some progress with regards to making new Electoral Rolls but there is a need for clarity over issues such as unverified entries in the Voter's list. Nevertheless the Election Commission has made some major strides in achievement of the objective of 'one CNIC one vote'.
- There were widespread complains of rigging during the by-elections in 2011 and turnout remained low.
- The rise of PTI is a manifestation of the fact that candidates are free to join any party and the channels of communication between the people and political parties remain intact.
- It remains difficult for a person of average means to be elected to the Parliament. The average value of Assets of an MNA increased more than three-fold from 2003 to 2010.
- Democracy within political parties not yet achieved. Intraparty elections lack transparency and local leadership of political parties is not active.
- The multiple crises that country is grappled with include a dysfunctional economy, decay of public departments such as PIA, Pakistan Railways, Pakistan Steel Mills, deterioration in public services such as transport, fuel, clean water, food and healthcare. The Government's inability to raise revenues to meet its expenditures and liabilities such as circular debt are core financial problems. All of this has created a near consensus that the Government has failed in matters of governance. One of the core problems with the economy is Pakistan's low tax-to-GDP ratio which is the lowest in developing world.
- Laws regarding right to information such as Freedom of Information Ordinance (FOIO) 2002 need to be reformed in order to encourage use and transparency.
- The credibility of the Government to face crises has eroded recently. According to a survey only 20% believe the Government has the ability to face various crises while 79% believe it does not.
- Among other important laws passed by the Parliament, The Prevention of Anti-Women Practices (Criminal Law Amendment) Act, 2011 is historic as it deters anti-women practices.
- Political parties need to declare sources of funding and loans.
- Many questions regarding foreign policy have been referred to the Parliamentary Committee on National Security.
- Ratings for National and most Provincial governments remain extremely low.
- During an evaluation of the Parliamentary performance, carried out by PILDAT, the overall legislative capacity of the Parliament was awarded 49% marks in 2011 compared to 54% in 2010 and 53% in 2009. The inability to pass an effective Accountability Law remains so far its major failure. The same for the Senate was 48% during the three Parliamentary years. The Public Accounts Committee performed exceptionally well but little or no improvement has been seen in the budgetary process in the Parliament.
- The Parliamentary Committees have performed and are becoming aware of their responsibilities but the pace of exercising their responsibility remains slow.
- While Civil-Military relations deteriorated in the aftermath of the Memogate scandal the Prime Minister crossed the sound barrier by reminding every institution that they are accountable to the Parliament and no one could form "a state within a state".
- Ethnic composition of Pakistan army is more balanced than before.
- The objective of integrity in public life is far from achieved. The perceived rampant corruption in the country and the Government's reluctance to make any efforts to control it are major causes of embarrassment for supporters of democracy in the country. In 2011 the Hajj scam, the NICL scam have further dented the credibility of the incumbent Government.

## 2.1. Free and Fair Elections

This question received a score of 58% during the Assessment compared to 50% in 2010.

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

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

This question received an above average score of 54% during the Assessment in comparison to 50% in 2010.

For half of the country's life, in its 64 years of existence, it has been under indirect military rule or military dominated government. The latest military government led by General Pervez Musharraf lasted from 1999 to 2008. Given Pakistan's fledgling democracy, the country struggles to change governments through popular election. The first semi-democratic government and the National Assembly<sup>103</sup> to have been voted out of office were through 2008 General Election. The ruling coalition from 2002-2007 led by Pakistan Muslim League (PML) was routed through 2008 General Election, getting 50 or 15% of seats in the 13<sup>th</sup> National Assembly, and was replaced by the Pakistan Peoples Party as the party with most seats (127 or 37%).

The 13<sup>th</sup> National Assembly of Pakistan, the four Provincial Assemblies and the Peoples Party Coalition Federal Government have completed nearly 4 years of its term<sup>104</sup> at the end of 2011. The Constitution of Pakistan stipulates a 5 year term for the National Assembly. Article 52 states that: *The National Assembly shall, unless sooner dissolved, continue for a term of five years from the day of its first meeting and shall stand dissolved at the expiration of its term.* Constitutionally, the next General Election in Pakistan is due to take place within a period of 60 days immediately after the 13<sup>th</sup> National Assembly of Pakistan completes its term on March 16, 2013. However, there have been repeated calls by the opposition parties both in Parliament and outside for an early election. It now appears that the Federal Government may also opt for an Election in 2012 instead of 2013.<sup>105</sup>

President as the "head of State" of Pakistan and representing the "unity of the Republic" is elected

constitutionally for a term of 5 years by an electoral college consisting of the two houses of the Parliament and the 4 Provincial Assemblies. According to the Constitution, a person holding office as President is eligible for re-election for two consecutive terms only. Mr. Asif Ali Zardari, Co-Chairman of the Pakistan Peoples Party since after his wife Mohtarma Benazir Bhutto's assassination in December 2007, was elected as 11<sup>th</sup> President of Pakistan on September 6, 2008. His term of office expires in September 2013. According to Article 41 (4), election to the office of President "*shall be held not earlier than sixty days and not later than thirty days before the expiration of the term of the President in office.*" Next election for the post of President of Pakistan, therefore, will be held between July-August 2013.

Year 2011 has witnessed an intense debate in the media and the public whether a democratically elected government should continue in office for the sake of sustainability of democracy in Pakistan or if it has lost the right to govern due to its misgovernance and a mid-term Election should be called. The PPPP Government's popularity ratings continued to decline during 2011 and there is a near-consensus in Pakistan that it has failed to effectively govern. A cause of major chagrin for the opposition has been the upcoming Senate Election as half the members of the Senate complete their term in March 2012. The opposition parties felt that if Senate Election, constitutionally due a month before March 11, 2012, is held through the electoral college of current Provincial Assemblies, the ruling PPPP is likely to consolidate its position and is projected to gain around 40 seats in the House of 104.<sup>106</sup> The PPPP would not gain a majority seats in the Senate but will become the party with most seats and together with its allies including the ANP, PML and MQM, will control the Senate of Pakistan at least until 2015. Even if the PPPP does not return to the National Assembly with a majority seats after the next General Election, it will continue to exercise control over one House of the Parliament for 3 years. However, despite very strong sentiments against the Government, the end of 2011 has effectively seen the Government complete its 4 years in office.

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

This question received a high score of 61% during the



Assessment compared to 53% in 2010.

Article 219 of the Constitution of Pakistan stipulates that the Election Commission of Pakistan<sup>107</sup> has the duty of preparing Electoral Rolls for election to the National Assembly and the Provincial Assemblies and revising such rolls annually.

Under the Constitution, a person is entitled to vote if:

- He is a citizen of Pakistan
- Is not less than 18 years of age
- His name appears on the electoral rolls and
- He is not declared by the competent court to be of unsound mind

Almost similar qualification has been provided in the law meant for registration of voters with the addition that such person is or is deemed to be resident in the electoral area. The preparation and revision of electoral rolls is governed by the Electoral Rolls Act, 1974 (Act No. XXI of 1974) as amended by the Electoral Rolls (Amendment) Ordinance' (No. LI of 2000) dated 27th September 2000 and the Electoral Roll Rules, 1974. Correct and complete enrolment of all eligible voters throughout Pakistan is the *sine qua non* for the holding of free, fair and transparent elections.

Independence of the Election Commission of Pakistan from the Government control has received major boost in the shape of the 18<sup>th</sup> Constitutional Amendment which has changed the process of appointment of Chief Election Commissioner, completed the Election Commission by inducting 4 permanent members from 4 provinces and has given Parliament and the Opposition in the Parliament a key role in the appointment of these offices.

The ECP has been working to gain public trust by asserting its independence. On August 3, 2010, PILDAT had sought clarification from the Honourable Chief Election Commissioner through a letter whether Prime Minister's continuing election rallies and announcement of development projects constituted violation of an electoral law or code of conduct. The Prime Minister had addressed an election rally at Sillanwali on July 31, 2010 to campaign for a PPPP-supported candidate for the by-election in the National Assembly Constituency NA-68, Sargodha V; lent support to his party's candidate for the by-election in constituency NA-155, Lodhran II on August 2, 2010 at Kehrore Pacca and addressed the election rally at Bahawalpur on August 20, 2010 in support of a PPPP

candidate for the by-election from National Assembly constituency NA-184, Bahawalpur-II. In response to the PILDAT letter, Honourable Justice (Retd.) Hamid Ali Mirza, Chief Election Commissioner of Pakistan, barred the Prime Minister, Chief Ministers, Federal Ministers, State Ministers, advisers to the President and Prime Minister and advisers to the Chief Ministers from visiting the constituencies where by-elections are to be held. The CEC barred them from inaugurating or promise to inaugurate development schemes during the run-up to the by polls. The directive, termed as a landmark directive by PILDAT, issued by Honourable Chief Election Commissioner of Pakistan on September 28, 2010 (Para (v), (vi), (vii) of the directive) said the following:

*(v) After the issuance of Schedule of an election, the Prime Minister, Chief Ministers, Federal Ministers, State Ministers, Advisors to the President and the Prime Minister, Provincial Ministers and Advisors to the Chief Ministers will neither visit the area of any constituency where an election is being held nor shall openly or in secret give any subscription or donation or make promise for giving such subscription or donation to any institution of a constituency, nor shall inaugurate, commit to undertake or announce any development project therein for the advancement of the campaign of a candidate of his choice and thereby influence the results of that election.*

*(vi) The Prime Minister, Chief Ministers, Federal Ministers, State Ministers, Advisors to the President and the Prime Minister, Provincial Ministers and Advisors to the Chief Ministers or any person on their behalf shall not visit the Constituency or a polling station after the issuance of Schedule of an election till the completion of poll.*

*(vii) If any of the public office holders mentioned in Para (v) and (vi) above is found to have misused his official position to influence the result of an election in any manner whatsoever, legal action shall be taken against such person*

*in accordance with law under section 103A of the Representation of the People Act, 1976, relating to contempt proceedings.*

The above directives made it implicit that all public office holders need to adhere to the rules and code. No violation of the directive has been reported in 2011.

After the fiasco of Computerised Electoral Rolls 2007,<sup>108</sup> year 2011 has seen major developments in the preparation of computerised electoral rolls, a majority of which can be termed as positive developments. In 2011, after the completion of the composition of the ECP, it revived the preparation of the Computerised Electoral Rolls through the help of National Database and Registration Authority (NADRA). The objective behind the much-needed partnership between the ECP and NADRA was revision of Electoral Rolls through validation, authentication and marking duplicate and bogus voters' data of the ECP Electoral Rolls Database (2007) in conjunction with the NADRA CNIC Database.

On March 8, 2011, Mr. Ishtiaq Ahmad Khan, Secretary Election Commission of Pakistan, through a press release, said that out of total 81.2 million voters registered in 2007, only 44.02 million have been verified by NADRA. The break-up of unverified entries included invalid Computerized National Identity Cards (2,140,015), Duplicate CNIC entries (2,491,090), Duplicate Manual NIC entries (6,469,310) and Manual NIC that do not exist in NADRA database (11,056,775).<sup>109</sup> However, the media and political parties have largely interpreted these 37 million voters to be bogus or fake. Unfortunately, the Election Commission of Pakistan has not chosen so far to clarify this largely prevalent misunderstanding in Pakistan that 36 million voters unverified were simply not registered against their CNICs.

On September 24, 2011, the ECP issued details of verified/unverified and augmented voters and said that after deletion of the earlier 37 million unverified voters from the Draft Electoral Rolls, 2011, NADRA added 36 million who had obtained CNIC after preparation of Electoral Rolls-2007.<sup>110</sup> The updated Draft Electoral Rolls, at present, contain 80.7 Million voters based on NADRA's database of CNICs.

Earlier, in April 2011, the Parliament of Pakistan passed the Election Laws (Amendment) Act 2011 which amended

certain provisions of Electoral Rolls Act, 1974 and the Representation of the People Act, 1976. Main provision of the law has been that the Computerized National Identity Card (CNIC) issued by NADRA under NADRA Ordinance 2000 is considered as a pre-requisite for registration as a voter and for casting vote at a poll.<sup>111</sup> It is worth noting that whereas in January 2007, NADRA had issued around 53.7 Million CNICs to the adult population of Pakistan, the number of CNIC holders in Pakistan in December 2011 is 89.5 million - or in other words 95% of adult population holds CNICs in Pakistan.<sup>112</sup> Out to these 50.9 million are men and 38.5 million are women.

Based on the draft Electoral Roll prepared by NADRA, the ECP conducted a door-to-door verification process (from August to November 15, 2011) across the country to *Add consent of Voter about his/her Voting location; Remove Death cases and Verify or capture correct addresses*. There have been myriad complaints from citizens that ECP and its representatives have not reached a majority of citizens in the door-to-door verification process which raises questions about the value of the ECP exercise and the large cost to the exchequer based on which this exercise was launched. The ECP maintains, after the conclusion of the exercise, that if a citizen has not been approached by ECP in the verification process, his/her location in the Electoral Roll will be determined on the basis of his/her permanent address on the CNIC.

The developments in preparation of computerized electoral rolls in Pakistan, based on a civil registry (NADRA database), therefore, show that major strides have been made in Pakistan to include all eligible voters in the registration process. Computerised Electoral Rolls being prepared by NADRA have included all CNIC holders as of June 27, 2011 in the Draft Electoral Rolls. (*In the final electoral Roll, CNIC holders added after June 2011 will also be included ahead of General Election*.) This practically means that every Pakistani citizen who holds a CNIC is already part of the Electoral Rolls. For the first time in Pakistan, the Electoral Rolls include picture of the voter also.

On December 21, 2011 the Supreme Court ordered the Election Commission to complete the process of preparing electoral lists by February 23, 2012. However, the Election Commission has expressed its inability to do so citing technical issues.<sup>113</sup>

After the door-to-door verification process by the ECP, the

draft Electoral Roll is planned to be displayed by the ECP in 50,000 display centres around the country in February 2012 for 21 Days. It is at this stage that voters must visit Display Centres to verify they are placed at the right location in the Voters List. Any amendments to the Voters List will be undertaken in this period. An SMS service will also be launched by ECP and NADRA, combined with the display period, through which each voter will be empowered to check his/her Electoral Area through SMS. On December 29, 2011 NADRA issued a statement which said that it has developed a SMS service to facilitate citizens to verify their vote registration and particulars in the voters list. It also said that it was the first time such a system was being used for verification in the world.<sup>114</sup>

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

This question received a score of 67% during the Assessment compared to 56% in 2010.

Article 17 of the Constitution states that:

*“Every citizen, not being in the services of Pakistan, shall have the right to form or be a member of a political party, subject to any reasonable imposed by law in the interest of sovereignty or integrity of Pakistan and such law shall provide that where the Federal Government declares that any political party has been formed or is operating in a manner prejudicial to the sovereignty or integrity of Pakistan, the Federal Government shall, within fifteen days of such declaration, refer the matter to the Supreme Court whose decision on such reference shall be final.”*

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

- (1) Any elector of a constituency may propose or second the name of any duly qualified person to be a member for that constituency
- (2) Every nomination shall be made by a

*separate nomination paper in the prescribed form which shall be signed both by the proposer and seconder and shall on solemn affirmation made and signed by the candidate, accompany*

- (a) *A declaration that he has consented to the nomination and that he fulfils the qualifications specified in Article 62 and is not subject to any of the disqualifications specified in Article 63 or any other law for the time being in force being elected as a member;*

The procedures for registration of parties and candidates are generally fair. The rise of Pakistan Tehreek-e-Insaf (PTI) during 2011 is the biggest highlight of freedom of political parties to register and candidates to join political parties at will. While Mr. Imran Khan, chairman of PTI, enjoyed ascending public popularity ratings (nearly 68% have a favourable opinion of him, up from 52% in 2010), his popularity was best crystallised through the public meeting held by the PTI in Lahore on October 30, 2011 in which an estimated above 100,000 people, especially belonging to youth and middle-class of Pakistan joined him for a show of his public support. This show of support was further augmented in Karachi on December 25, 2011 where Imran Khan and his 15-year old party, albeit with many newly-joined yet old-faces of electoral politics, shared the public platform of the PTI. From October 30 to December 25, in the span of 2 months, at least 21 political stalwarts joined the PTI assessing its likely electoral gains in the coming Election. The most notable among these included PPPP's former Foreign Minister of Pakistan Makhdoom Shah Mahmood Qureshi who resigned his National Assembly seat to join the PTI, Makhdoom Javed Hashmi, who left PML-N to join PTI, Mr. Jehangir Tarin Khan, former Federal Minister in the PML government under Gen. Pervez Musharraf and the sons of former President Farooq Leghari currently members of the Parliament. Media coverage to the PTI and its public meetings, which incidentally stretched to over 7 hours in the case of the Karachi public meeting, is another testimony of the party and the media freedom to access and provide exposure freely to political parties in Pakistan.

PILDAT believes that while the country enjoys great degree of freedom in this respect, some reforms are required to ensure greater access to that information for the voter as well as the media prior to and during an election. The public access to disclosure and declarations by the candidates and parties before to an election proves helpful to voters. It is a standard practice in democracies that affidavits of candidates are uploaded on the Election bodies' websites prior to Election. For instance the Election Commission of India carries the affidavits containing details of assets, liabilities and taxes of all candidates contesting the elections. Although, in theory the information is classified as public and is available for scrutiny there is a lengthy bureaucratic process impedes access to such information. The ECP should take steps to make all such information on the ECP website before every election within three days after the publishing of final list of candidates. For example, the ECP made a commitment in its Five-Year Strategic Plan 2010-2014 to "Publish the financial statements of parliamentarians and political parties on the ECP website." The deadline for this task was October 2010 but the ECP has not yet uploaded any information on the website.

There is also a need for the ECP to electronically publish progressive polling station-wise election results. One of ECP's strategic goals is to "Publish polling station-wise results on the ECP website immediately after the results are available." The deadline for this is June 2013 which is the year for next General Elections.

The Election Commission of Pakistan took steps to operationalise the Constitutional bar on dual nationality holders to contest election of Parliament and Provincial Assemblies. Secretary ECP issued a press release on December 19, 2011, directing Returning Officers to obtain a declaration on oath from all the persons filing Nomination Papers for an election to a seat in the Parliament or a Provincial Assembly. Mr. Ishtiaq Ahmad Khan further said that the ECP, according to Article 63-1-(C) of the Constitution read with Section 99 (1A) (C) of the Representation of the People Act, 1976, has observed that the Constitution and law disqualify such a person from being elected, or chosen as, and from being a member of the Parliament, if "he ceases to be a citizen of Pakistan or acquires the citizenship of a foreign state."

PILDAT has since long demanded from ECP to effectively implement the Constitutional and legal provisions on dual nationality holders. In addition to its repeated demands

through its electoral reforms submitted to the ECP, PILDAT wrote a letter to the Secretary Election Commission on November 15, 2010 and proposed the following:

*"PILDAT would like to formally propose that an additional declaration be added to the Nomination Form required to be submitted by each candidate contesting the election for the membership of the National Assembly or Senate or any of the four Provincial Assemblies. It is proposed that each candidate should declare on oath the current (at the time of filing nomination papers) status of his / her citizenship and /or permanent residency of a foreign country. The declaration may include detail of the application, if any, made by the candidate to a foreign country seeking permanent residence and / or citizenship of the foreign country.*

*In our opinion, this declaration is important as the voters must know the residence / citizenship status of the candidates seeking their vote and trust for such an important public office. We feel that this information will have an important bearing on the opinion of the voters."*

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

This question was assigned an above average score of 55% in the Assessment compared to 51% in 2010.

As noted in 2.1.3, Article 17 (2) allows every citizen not being in the service of Pakistan to register a political party, subject to any reasonable restrictions placed by the Federal Government. Elections are therefore party-based. The Parliament has representation of political parties from a wide range of the political spectrum; from religious parties such as the JUI-F and the JI, to more liberal parties such as the ANP and the PPPP. Within these parties there are members who subscribe to a wide range of political

ideologies.

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

Pakistan's electoral system is based on First Past the Post (FPTP). Only reserved seats for women and Non-Muslims are allocated on the basis of a form of Proportional Representation System. The number of reserved seats is allocated on the basis of the proportion of general seats won by each party. The FPTP system allows a candidate winning a minority vote in a constituency to get elected as he or she may have won the largest number of votes among a large number of candidates. According to the prevailing system, a party which may have following in the entire country may end up without any representation in the Parliament. In the past, political parties with a smaller share of the popular vote have won a larger number of seats in the assemblies. For example, the PPP won 28.4% popular votes in the 2002 Election but could only win 23.16% of the National Assembly seats. The PML-Q meanwhile won only 26.6% votes but 33.82% of the seats.

The seven (7) by-elections held in 2011 have been marred with incidents of violence which sometimes resulted into deaths, women disenfranchisement and allegations of rigging.

An unfortunate episode regarding female participation in election was seen during the period of the Assessment. On November 24, 2011 a by-election was held in Kohistan district of Khyber Pakhtunkhwa on the Provincial Assembly constituency PK-61, Kohistan-1. Even though registered female voters in the constituency are 18,804 only three (3) were able to cast vote. Reportedly, an agreement between the political parties led to this disenfranchisement of female voters. In Shangla, a neighbouring district of Kohistan, women were also barred to cast their votes in PK-87 by-election held on January 29, 2011. Only around 100 women out of 59,711

registered female voters casted their votes. Similarly, in the by-election of NA-21 Mansehra-cum-Tor Ghar held in January, 2010 women voters were kept away from casting their votes.<sup>115</sup>

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

This question received a score of 50% during the Assessment compared to 42% in 2010.

Article 62 of the Constitution which deals with the qualification for membership of Majlis-e-Shoora is as follows:

A person shall not be qualified to be elected to or chosen as a member of the Majlis-e-Shoora (Parliament) unless—

- (a) he is a citizen of Pakistan;
- (b) He is, in the case of National Assembly, not less than twenty-five years of age and is enrolled in any electoral roll-in—
  - (i) any part of Pakistan, for election to general seat or a seat reserved for non-Muslims and
  - (ii) any area in a province from which she seeks membership for election to a seat reserved for women.
- (c) he is, in the case of the Senate, not less than years of age and is enrolled as a voter in any area in a Province or, as the case may be, the Federal Capital or the Federally Administered Tribal Areas, from where he seeks membership;
- (d) he is of good character and is not commonly known as one who violates Islamic Injunctions;
- (e) he has adequate knowledge of Islamic teachings and practices obligatory duties prescribed by Islam as well as abstains from major sins;
- (f) he is sagacious, righteous and non-profligate, honest and ameen, there being no declaration to the contrary by a court of law;
- (g) he has not, after the establishment of Pakistan, worked against the integrity of the country or opposed the ideology of Pakistan.

18<sup>th</sup> Constitutional Amendment made some positive and

some negative changes in Articles 62 and 63 relating to qualifications and disqualifications for election to the Parliament and the Provincial Assemblies. Earlier a person was not qualified if he had been convicted for an offence involving moral turpitude or giving false evidence. This has been removed.

On the positive side, time limits for disqualifications, i.e., five years from date of release in case of jail terms, five years from date of dismissal from public service, two years from date of compulsory retirement, have been re-introduced in place of Musharraf-era life-time bans.

While the law allows for a diverse group of Parliamentarians, in reality, the situation is quite different, with monetary terms playing an important role in who can contest elections. The average value of assets of a Member of the National Assembly (MNA) was just below Rs. 27 million in 2002-2003 which has increased to almost 94.6 million in 2009-2010 an above threefold increase in assets declared by the Members of the National Assembly (MNA) belonging to the 12<sup>th</sup> National Assembly (2002-2007) and the 13<sup>th</sup> (current) National Assembly of Pakistan from 2002-2003 to 2009-2010.

In November 2011, an evaluation of Parliament undertaken by a diverse group of Members of the National Assembly, gave the question "How easy it is for a person of average means to be elected to Parliament?" the second lowest score of the evaluation at 35%.<sup>116</sup>

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

This question received a score of 53% during the Assessment compared to 50% in 2010.

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

During 2011, 7 by-elections were held across Pakistan in which average voter turnout recorded was below 50% in most of them. There were reports of violence during the by-polls.

Before the 2008 General Election in Pakistan, average voter turnout in General Elections of Pakistan since 1947 stood at about 45 per cent. Voter Turnout was 57.96% in the first General Election in 1970 (55.09% in East Pakistan and 61.45% in West Pakistan) but in the following General Elections, it gradually decreased until the 1997 General Election. In the 1997 General Election voter turnout was 35.4%. Voter turnout in the 2002 General Election slightly recovered to 41.7%. In the Local Government Election held in 2000-2001, voter turnout was 52.3% which decreased to 47.5% in the 2005 Local Government Election.

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

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

By-elections in year 2011 have seen many allegations of rigging and incidents of violence. Moreover, the coalition partners PPPP and PML have adopted a joint strategy to defeat rival parties such as PML-N. On October 13, 2011 Mr. Khizar Hayat Khagga of PML-N won the by-election for the Punjab Assembly seat PP-220, Sahiwal-I seat against Mr. Muzaffar Shah Khagga, the joint candidate of PPPP and PML. The voter turnout was 48%.<sup>117</sup> Similarly, the PPPP and PML decided to field a joint candidate Chaudhry Ehsan ul Haq for PP-275, Bahawalpur-IX who won.<sup>118</sup>

On July 9, 2011 PPPP's candidate Mir Abdul Rehman Jamali was elected to the Balochistan Assembly seat PB-26, Jaffarabad-II.<sup>119</sup> The by-election for NA-172, D.G. Khan-II was held on March 29, 2011 with a voter turnout of

31.4%.<sup>120</sup> On November 24, 2011 elections for Khyber Pakhtunkhwa Assembly seat PK-61, Kohistan-I were held in which ANP's Mr. Sajjadullah won.<sup>121</sup>

An election tribunal comprising Justice Faisal Arab of the Sindh High Court ordered re-election in 47 polling stations of National Assembly constituency NA-203, Shikarpur-II in September. The re-election was held on November 4, 2011 in which 99% of the votes were bagged by PML's candidate Ghaus Bux Khan. The turnout remained at 79%.<sup>122</sup>

By-election for Khyber Pakhtunkhwa Assembly seat PK-69, Tank was held on March 22, 2011. The JUI-F's candidate Ghulam Qadir Khan Bittani won the elections. The total voter turnout during the elections was 37.4%.<sup>123</sup> On January 29, 2011 by-elections for the provincial Assembly seat of Khyber Pakhtunkhwa PK-87, Shangla-I was held. The PML candidate Muhammad Rashad Khan won while the voter turnout remained at 26%.<sup>124</sup>

The by-election for the Sindh Assembly seat PS-94, Karachi-VI, was held on October 17, 2010 amid violence that led to four people being killed. The ANP boycotted the elections citing Government's non-cooperation and rigging as reasons.<sup>125</sup> The voter turnout remained at 70%.<sup>126</sup>

In the 2008 General Election, a departure from earlier political reaction was seen when the former ruling party, the PML (in Government from 2002-2007) accepted the results and stated it would sit in the opposition. However, candidates from the two most successful parties, the PPPP and the PML-N, claimed that the election were not completely fair. Candidates for NA-219 and PS-49 accused the MQM of rigging elections and resorting to violence, while the former Prime Minister Nawaz Sharif accused the PML of fixing votes and attacking his supporters.

During 2011, General Election in Azad Jammu and Kashmir (AJK) presented a sorry saga of violation of the electoral code of conduct and the inability of the AJK Election Commission to uphold the rules and code of conduct. Despite a clear order by the AJK Chief Election Commissioner on May 16, 2011 that no participation of any Pakistani leaders holding public office should take place in AJK election campaign, the Prime Minister of Pakistan, and by other federal and state ministers earlier, addressed election rallies on state expense using the full

state-funded protocol. The Chief Election Commissioner of Azad Jammu and Kashmir (AJK) also expressed helplessness in stopping the AJK Prime Minister from using state resources to participate in the election campaign.

On June 26, 2011 election for the legislative Assembly of Azad Jammu and Kashmir (AJK) were held. The AJK Election Commissioner delayed the elections for three constituencies LA-40, LA-30 and LA-36 which led to MQM boycotting the election.<sup>127</sup> Similarly, the Election Commissioner also withdrew the mandatory condition for CNIC requirement for voting booths.<sup>128</sup> Earlier, in a bid to minimize rigging the Election Commission had announced that it would accept only CNICs as a legal identification on the voting booth. This led to an increase in fears of rigging during the elections. While the PPPP won a simple majority in the elections (19 out of 36 seats) there were widespread complaints of rigging both from the Government and the Opposition. The voter turnout in the election for the legislative Assembly of Azad Jammu and Kashmir was 57%.

## 2.2. The Democratic Role of Political Parties

This sub-pillar received a score of 52% during the Assessment compared to 51% in 2010.

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

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

This question received a score of 66% during the Assessment compared to 63% in 2010

Political parties in Pakistan come from wide range of the ideological spectrum. From right-wing parties to liberal and socialist parties all exist in Pakistan. Although there are around 15-20 major political parties which figure prominently in politics, the overall number is estimated to be over 80. The institution of political parties has historically been weak in Pakistan. Political parties have suffered from periodic restrictions on political activities under military rule, infrequent elections, weak organizational structure and poor discipline among the members, absence of attractive socio-economic programmes, paucity of financial resources and

factionalism within parties on the basis of personality, region and language.<sup>129</sup>

According to Transparency International's Global Corruption Barometer of 2010 the Political Parties are the third most corrupt institution in the country.<sup>130</sup> On a scale of 1 to 5 (1 for not at all corrupt and 5 for extremely corrupt) political parties scored a 4.1.

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

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

The ability of political parties to engage with public, campaign and lobby has been hampered to some extent by the overall law and order situation in the country. The assassination of ex-Governor Punjab Salman Taseer, Minister for Minorities Shahbaz Taseer and attack on Governor of Khyber Pakhtunkhwa can be recalled in this regard.<sup>131</sup> Despite this political activities have continued in the country in general.

In this regard a ray of hope has been seen lately. The Pakistan Tehreek-e-Insaf (PTI) led by Imran Khan, who, according to opinion polls released in July, 2011, is the most popular leader in the country,<sup>132</sup> has been able to generate some serious enthusiasm around the politics in the country. PTI rallies in Karachi, Lahore and other cities have successfully drawn large crowds which is a good sign for democracy and political participation overall.<sup>133</sup> It is generally believed that he is immensely popular among the young people who form a majority of voter base.

According to a survey held in January 2012 political parties have a net rating of -44% (negative).<sup>134</sup>

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

This question received a score of 56% during the

Assessment with no change from 2010.

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

(1) If a member of a Parliamentary Party Composed of a single political party in a House-

- (a) resigns from membership of his political party or joins another Parliamentary Party; or
  - (b) votes or abstains from voting in the House contrary to any direction issued by the Parliamentary party to which he belongs, in relation to-
    - (i) election of the Prime Minister or the Chief Minister; or
    - (ii) a vote of confidence or a vote of no-confidence; or
    - (iii) a Money Bill; or
- a C o n s t i t u t i o n  
(Amendment) Bill;

Article 63-A will come into effect from the next general election. After the 18<sup>th</sup> Amendment the disqualification for defection will be triggered on a reference made by the Head of the Party [by whatever name called] in place of the Head of a Parliamentary Party earlier, and the Speaker or Presiding Officer will not be able to 'sit on', i.e. delay, the reference. Thus, the position of Mr. Asif Ali Zardari in the PPPP, Mian Nawaz Sharif in the PML-N and Mr. Altaf Hussain in MQM has been strengthened.

While the presence of legislation against defection or switching loyalties helps sustain Governments, it does not necessarily mean that the majority party is always successful in forming the Government. A case in point is the Balochistan Assembly, where after the 2008 General Election the PML won the most seats yet the government was formed by the PPPP.

Similarly, in order to remove the PPPP from the Punjab cabinet, the PML-N decided to woo a group from within the PML to keep its majority in the Punjab Assembly intact. On



February 15, 2011 the Punjab Assembly speaker recognized a “unification bloc” from the PML as separate from the PML and PPPP.<sup>135</sup> According to the PML and PPPP this move is unconstitutional.

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

This question received a low score of 40% during the Assessment compared to 59% in 2010

With a few exceptions, political parties in Pakistan are personality driven and have very weak organizational structures. The political parties usually have centralised structures and dissent is hardly tolerated. Important decisions are taken by the top leadership with hardly any broad-based consultation within the rank and file of parties. This weak organizational structure renders them simply political movements for dislodging those in power.<sup>136</sup> Although structures exist in theory they are hardly implemented. Only at the time of elections are local party units activated by the leaders. Without institutionalization party candidates suffer from the internal feuds based on personal factors, region and political jealousies, intensification of which results in factions to become another party.

Political parties also suffer due to peculiar political history of Pakistan. The evolution of political parties was hampered by military intervention. Lengthy periods of military rule also stifled the institutionalization of political parties.

Apart from Jama'at-e-Islami (JI), which is a cadre party and maintains a party organization set-up and internal discipline, all major political parties are seen as personality driven. In the absence of strong internal organisation, parties depend on the appeal and clout of the leader. There are reports of party workers being disenchanted with the party leadership over the issue of intra-party elections.<sup>137</sup>

On July 27, 2011 the PML-N held its first intra-party elections in a decade in which Mian Muhammad Nawaz Sharif was elected unopposed as its President. All office bearers were elected unopposed as was expected. The process of elections within parties signifies their lack of transparency. The party's seven-member Election Commission was announced only three days prior to the

elections.<sup>138</sup> After two years, during which the PML-N was functioning without provincial office bearers, the PML-N also started holding elections for provincial office bearers. The elections held in Khyber Pakhtunkhwa in December resulted in a senior leader, Saranjam Khan, resigning from the Party's Central Executive Committee.<sup>139</sup>

Similarly, on November 30, 2011 ANP elected Asfandiyar Wali Khan as its Chief for the fourth time in a row. The ANP has not held any elections for provincial office bearers as of now.

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

The Pakistan Tehreek-e-Insaf (PTI) has seen a surge in its ranks after many political stalwarts started joining it. While some believe that these people are necessary for the electoral success that the PTI wants to achieve, some critics say that it has led to replacement of the old PTI guard by new entrants who want to capitalize on its popularity. The PTI has welcomed to its fold many such politicians who had remained associated of Gen. Pervez Musharraf even after his second Martial Law imposed on November 3, 2007. Some of these people include Khurshid Mahmud Kasuri, Mian Azhar and Jehagir Tarin Khan. Although national and provincial parliamentary selection boards are made to select the party candidates for national and provincial elections, the final decision is usually left to party heads. In general, the views of party members at the constituency level are considered while selecting candidates from the constituency but local party members do not play a decisive role in the selection of party candidates.

Although hereditary politics has historically been a part of the political culture in the country, the year 2011 saw the launching of some persons closely related to high political officials in Pakistan. The son of the President of Pakistan and Co-Chairperson of PPPP Bilawal Bhutto Zardari chaired several important meetings of the PPPP during the year.<sup>140</sup> In December, President Zardari left for Dubai, amid rumours of his ouster, and Bilawal was seen actively involved within the party. Another example is the nomination of the Prime Minister's son, Musa Gilani, by the PPPP for by-elections on the National Assembly seat NA-148.<sup>141</sup> This year also saw Maryam Nawaz, the daughter of

PML-N Chief Nawaz Sharif, engaging in political activities.<sup>142</sup>

The report on State of Democracy in South Asia 2008 while assessing the role of political parties in South Asia notes that “since most parties prefer an informal consensus model of decision taking, leaders become all-important in deciding the attitude and practice of parties. Almost no party, with the exception of the communist parties, has a proper register of membership or a record of decision making about office bearers or candidates, or about the ideology and policies adopted. Most of the parties are mass rather than cadre based. This implies that most parties cannot hold open democratic elections to various posts.”<sup>143</sup> Dynasty politics is another hallmark of political parties in Pakistan with very few exceptions. One family plays a key role in founding and day-to-day running of the party and the leadership passes on the next generation within the same family. However, this trait is found in most political parties in South Asia.<sup>144</sup>

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

This question received a score of 39% during the Assessment compared to 40% in 2010.

In 2002, General Pervez Musharraf issued the Political Parties Order 2002. Article 13 of the order required political parties to declare their source of funding. Table 2 carries the status of the assets of major political parties in Pakistan in 2009. After the submission of financial statements the Election Commission of Pakistan publishes them in the Gazette of Pakistan. However, despite the Election Commission's purported claims of transparency, the financial statements of political parties for the year 2010 and 2011 have not yet been published.

A new debate has been generated around the assets of political parties after PTI's successful rallies in Lahore and Karachi. PTI Chief Imran Khan declared all his assets in front of the media on December 4, 2011 and challenged all politicians to do so.<sup>145</sup> However, there has been no information whatsoever regarding the party's funding and expenses on its grand rallies. Nor has any party leader moved ahead with regards to declaring his/her assets. Political parties do not have to declare donations or loans according to law in Pakistan. In the UK, political parties have to declare loans and donations worth £ 5,000 or

**Table 1: Political Party Statement of Accounts 2009**

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

more.<sup>146</sup>

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

#### 2.2.5. To what extent do parties cross ethnic, religious and linguistic divisions?

This question received an above average score of 54% during the Assessment compared to 56% in 2010.

In 2011, PTI's rising popularity shows its mass-appeal across ethnic, religious and linguistic divisions. The party public meetings in Karachi and Lahore have seen participation by people from all ethnicities.

The PML-N which is generally perceived to be a party of Punjab has little electoral presence outside Punjab. Recently, though, the PML-N's Chief Mian Nawaz Sharif has started cultivating support outside Punjab, especially, in Sindh and Balochistan. As a departure from the past, Nawaz Sharif has spent some considerable time in Sindh. He has addressed rallies in flood-hit areas and strongly criticised the PPPP government's response to the disaster. He also addressed a rally in Larkana, PPPP's heartland, in November 2011. Similarly, Mian Nawaz Sharif also met nationalist leader and Balochistan National Party's (BNP) Chief Sardar Ataullah Mengal in December, 2011.<sup>147</sup>

An analysis of the results of the National Assembly 2008 General Elections shows that in terms of a presence in all

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

The increasing violence in the Karachi, the country's commercial hub, is seen as a manifestation of turf wars between political parties supporting particular ethnic groups. The MQM draws its support primarily from *mohajirs*, descendants of Urdu-speakers who migrated from India after Pakistan's birth in 1947, who are in a plurality in the metropolis while the Pakhtuns are generally associated with the Awami National Party.<sup>148</sup> Similarly, the PPPP supports the Baloch population. Recently, Karachi has seen a lot of migrants from Khyber Pakhtunkhwa and South Punjab which has threatened the MQM's electoral status. This is Karachi's main fault-line.<sup>149</sup> The ensuing violence in Karachi includes the killing of ordinary citizens on the basis of their ethnicity at the behest of armed groups working with the support of political parties.

### 2.3. Effective and Responsive government

This sub-pillar received a score of 39% during the Assessment compared to 38% in 2010.

#### Overarching question: Is government effective in serving the public and responsive to its concerns?

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

This question received a low score of 41% during the Assessment compared 36% in 2010.

There has been widespread consensus in Pakistan in 2011 that the coalition government of the Pakistan Peoples Party has failed to effectively govern the country. The multiple crises that country is grappled with include a dysfunctional economy, decay of public sector enterprises, such as PIA, Pakistan Railways, Pakistan Steel Mills, and deterioration in public services such as transport, fuel, clean water, food

and healthcare. All of these have created a near consensus that the incumbent Government has failed as far as matters of governance are concerned. The growing number of suicides in the country is a manifestation to some extent of the hopelessness in the country.<sup>150</sup>

Elected Governments in Pakistan are generally faced with three types of pressures which severely constrain their influence and control over matters that are important to people such as Employment, Inflation and Law and Order. These constraints have increased for incumbent Government with time.

The Parliamentary form of Government also forced the Government to make coalitions and compromise with sometimes unjustified demands of coalition partners. Large cabinets, employing more people than necessary in state-owned enterprises and blocking necessary reforms and announcing unrealistic employment packages are signs of a weak coalition Government.<sup>151</sup>

The Reformed General Sales Tax (RGST), which was tabled in the Senate and passed on November 26, 2010, was withdrawn by the Government after opposition from the coalition partners. Similarly, the Government was forced to roll back the increase in petroleum prices twice between January and February 2011 after pressure from coalition partners. Although the PML's entry into coalition has increased the confidence of the PPPP Government, the economy hangs in the balance as the Government has decided to stop asking for restoration of the loan programme from the International Monetary Fund (IMF).<sup>152</sup>

The ongoing war on terror and the Government's decision to form an alliance with the US has also complicated matters for the Government. The war has an immense impact on the law and order situation but also on the economy. According to Government estimates US \$70 billion has been lost on account of this war on terror<sup>153</sup> and 38,000 Pakistanis have lost their lives in terrorist activities since 2002.

According to the Pew Global Attitudes Project released in July 2011, 75% think that the national government does not have a good influence on the way things are going in the country, largely unchanged from 71% in 2010. The percentages describing Government's impact as positive has fallen from 72% in 2002 to 52% in 2007 to 40% in 2009 to 25% in 2010 and 2011.<sup>154</sup> Similarly, a poll conducted by Gallup Pakistan at the end of year 2010

showed that only 19% felt that the country is headed in the right direction while 80% did not believe so.<sup>155</sup> The Global Competitive Report of the 2010-2011 of the World Economic Forum which “assesses the ability of countries to provide high levels of prosperity to their citizens” has ranked Pakistan at 123<sup>rd</sup> out of 139 countries compared to 101 out of 134 countries in 2009-2010 and 89 in 2008-2009. This shows an overall deterioration of 18%.<sup>156</sup> Similarly, the Legatum Prosperity Index 2011 ranked Pakistan at 107 out of 110 countries. Legatum measures prosperity as a function of both income and wellbeing for 110 countries. Pakistan slid from 85<sup>th</sup> position in 2008 to 107<sup>th</sup> position in 2011 as a consequence of low economic growth (96<sup>th</sup>), failing education (105<sup>th</sup>) and extraordinary instability and insecurity (109<sup>th</sup>).<sup>157</sup>

During the period of the Assessment, two major scams have dented the Government's ability to address systemic issues of corruption. The Government's reluctance to implement decisions of the Courts in Hajj scam involving the ex-Federal Minister for Religious Affairs Hamid Saeed Kazmi, MNA (NA-192, Rahimyar Khan-I) and in a case against PML MPA Moonis Elahi have raised question marks on the Government's credibility.

The management of the Economy has been one of the glaring failures of the incumbent regime. For the year 2010-2011 almost all the targets set by the Government were not met. GDP growth was 2.4% against a target of 4.5% and fiscal deficit remained at 5.9%.<sup>158</sup> The population growth rate which is 2.1% (highest in South Asia) has also burdened scarce resources. Inflation has remained in double digits for almost entire tenure of the current Government. A low growth rate coupled with high inflation negatively affects human development in a country.

For the fiscal year of 2010-2011, the Government announced a federal Public Sector Development Programme (PSDP) of Rs. 280 billion. The Government further reduced it by 35.7% or 100 billion.<sup>159</sup> In the “Analytical Review of the PSDP Portfolio” the Government admitted that the reduction in PSDP 2010-2011 “adversely impacted the overall economy by further prolonging economic recession due to delay in meeting energy and water shortages, impending employment generation, delay in achieving MDGs, resulting cost and time overrun of projects, hindering poverty reduction measures and enforcing boom-bust cyclic behaviour in economy.”<sup>160</sup> The Government also admitted that around 83 development projects that were supposed to be

completed by July 2011 did not complete by then. For the fiscal year of 2011-2012 the federal PSDP is Rs. 300 billion and the Government is already considering cuts.<sup>161</sup>

Despite these challenges to the economic conditions of the country it has shown some signs of recovery during the calendar year 2011. The World Bank's Global Economic Prospects Report for 2012 points out that the country's economy firmed in the second half of 2011. Industrial production surged to grow at a robust 32.1% annualised pace during the three months ending in October, after falling at 9.1 and 10.1% rates during the first and second quarters, respectively. Along with an upswing in worker remittances inflows, robust exports have supported Pakistan's external positions and contributed to an improvement in the current account from a deficit of 0.9% of GDP in 2010 to a surplus of close to 0.5% of GDP in the 2011 calendar year.<sup>162</sup>

As soon as the current Government was elected to power it was challenged by an acute energy crisis in the country. One of the reasons for the energy crises is that during the Musharraf regime, the demand for energy increased but not enough avenues for increase in supply were created. The situation has deteriorated to a point where the energy shortfall hovered around 4,000–6,000 Megawatts in July. Another reason cited for the crises is the huge circular debt between companies. The Government disallowed the companies to raise the power tariff fearing a public backlash, promising these companies a subsidy. Later, the Government held back the subsidy after which the companies took loans until eventually they ran out of their limit to take loans. According to some the circular debt today stands at Rs. 400 billion.<sup>163</sup> In May 2011, the Government decided to pay Rs. 120 billion due in subsidies which took the budget deficit to 6.5%.<sup>164</sup> Due to the circular-debt power companies are producing less energy than their full capacity which has resulted in a public backlash which the Government was trying to avoid in the first place.

During the start of October 2011 protests over power outages broke out in different cities of Punjab, including Lahore.<sup>165</sup> This resulted in several people being arrested and many being injured. The protests subsided after the Prime Minister intervened. On August 7, 2011 the Government formed a high-powered commission to suggest ways out of the energy crisis. One of the reasons for circular debt was that the provinces were unwilling to pay their dues to power companies. In November 2011 the

Federal Government finally took over the Rs. 391 billion circular debt on account of loans to the power sector and brought commodity operations into public debt.<sup>166</sup> The debt swap will, however, result in a fiscal deficit of 1.8 percent of the GDP during the current financial year, over and above the targeted normal budget deficit of 4 percent of GDP. Moreover it is believed that Government will still have to increase the power tariffs by 14% or else a debt of Rs. 76 billion will accumulate over and above the budget subsidy.

The energy crisis has had a serious impact on Pakistan's economy. Some experts believe that Pakistan should look towards alternative avenues for energy such as wind and solar energy. According to experts the solar energy received in Pakistan is ideal for energy generation. Recently, Bangladesh witnessed the fastest growth in solar energy, which according to World Bank report "changed the face of the remote, rural areas of Bangladesh."<sup>167</sup> Bangladesh powered one million homes using solar energy from 2002 to 2010. On the other hand, Pakistan has the 5<sup>th</sup> largest reserves of coal in the world, which could theoretically provide energy to the country for hundreds of years. According to Government estimates, the Thar coal pilot project would be complete by December 2013.<sup>168</sup> Pakistan produces 96% of its energy through Oil, Gas and Hydropower with only 3% being produced through other means.

Other issues that are aggravating the energy crisis include the inefficiency of power producers and politics. A case in point is the Karachi Electric Supply Corporation (KESC)

**Table No. 2: Energy Production in Pakistan**

Type of Energy	Oil	Gas	Hydel	Other
Percentage	38	29	29	3

Source: Pakistan Energy Year Book (2000 – 2010)

which supplies electricity to the 18 million inhabitants of greater Karachi. The KESC tried to lay off as many as 4,500 workers in an attempt to cut costs and improve efficiency,<sup>169</sup> but the move was resisted by the employees. The Government holds 26% of the stake in the KESC and 71% is owned by a private consortium of companies.

On October 18, 2011 Prime Minister Yusuf Raza Gillani inaugurated the Diamer-Bhasha dam, the first big dam in almost five decades. The dam has the capacity to produce 4,500 MW of energy and is to be completed by 2021.<sup>170</sup> In April 2011 the Pakistan Energy Conference met in order to hammer out recommendations for the energy shortfall.

Currently, Pakistan faces a gas shortfall of 1 billion cubic feet per day (bcfd) which would be at 2.5 bcfd in 2016 and 8 bcfd in 2025. Most of the recommendations coming out of the Conference suggested that the Government should remove subsidies from gas prices which may result in a 500 percent increase in bills of a consumer. This will also result in power generation becoming three times more expensive.

Currently, many state-owned companies such as Pakistan Railways, Pakistan Steel Mills (PSM) and Pakistan International Air Lines (PIA) are running great losses and seeking bailout from the Government. On November 16, 2011 the PSM sought a bailout of Rs. 6 billion from the Ministry of Industries, a third bailout in three years.<sup>171</sup> The Government approved a Rs. 11.1 billion bailout package for Pakistan Railways in December 2010.<sup>172</sup>

Pakistan Railways has received over Rs. 200 billion from the Government in the past decade. Similarly, the Pakistan International Airlines (PIA) has sought a bailout of \$1.7 billion (Rs. 144 billion) from the Government in order to avoid bankruptcy. The Government has agreed to a restructuring programme of Rs. 38 billion but refused to inject Rs. 20 billion into the Airline.<sup>173</sup>

The policies pursued by the previous government pertaining to consumption of natural gas have been a cause of much concern. According to many the main reason for the serious gas shortage in the country is its artificial low price which is a disincentive for both exploration and import. The previous government encouraged industry to use cheap gas to generate its own electricity instead of buying it.<sup>174</sup> Moreover, it allowed for gas to be used as vehicular fuel because it failed to create a mass transit system. This has led to a situation where domestic consumers, transport sector, power sector and fertilizer sector are all wrangling for supply of gas. The approach of the incumbent government towards the issue is reactionary at best since there is no sign of a desire to increase gas prices, especially when 2012 is expected to be the year preceding elections. After street agitation over gas outages in December 2011, the government decided to supply domestic consumers and CNG stations at the expense of the fertilizer and power sectors.<sup>175</sup>

### **2.3.2. How effective and open to scrutiny is the control exercised by elected leaders and their ministers over their administrative staff and other executive agencies?**

This question received a score of 46% during the Assessment compared to 44% in 2010.

In general, the elected leaders such as the Prime Minister, Chief Minister, Federal and Provincial Ministers have a considerable control over the bureaucracy and administrative staff. This control is subject to scrutiny by the Supreme Court, which has recently exerted its influence in these matters. In general, the administrative staff compromise and follow the orders of the elected representatives in order to safeguard their careers. Elected Governments tend to give a greater role to elected legislators in posting, transfer and promotion of civil service officials which further enhances their control over the civil service.

During the period of assessment there have been incidents that highlight the control of the Government over the Civil Service. One is the transfer of the FIA Additional Director Mr. Zafar Qureshi (the NICL scam investigator) and the other is the transfer of Establishment Secretary Mr. Sohail Ahmed (the Hajj scandal).<sup>176</sup> There is an impression that the Government's interference has helped prevent successful prosecutions in both the NICL and Hajj corruption scandals.

### **2.3.3. How open and systematic are the procedures for public consultation on government policy and legislation, and how equal is the access for relevant interests to government?**

This question received a score of 44% during the Assessment compared to 39% in 2010.

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

On the other hand the Government has recently referred different issues regarding foreign policy to the Parliamentary Committee on National Security (PCNS). The PCNS is developing policy guidelines after reviewing the agreements that were made with the US under the previous regime.

Most Parliamentary Committees hold public meetings and they are adequately reported within the media. However, the Parliamentary Committee on National Security has held all of its meeting in-camera. Although, it is understandable that some of the meetings need to be held in-camera because of matters related to national security it should not be the overriding principle of the Committee's work.<sup>177</sup>

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

This question received a score of 35% during the Assessment compared to 34% in 2010.

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

The availability and reliability of public services in Pakistan has been a matter of concern throughout the country's history. The standard of delivery of basic public services such as education, health, police and land revenue has deteriorated since its independence in 1947.

The Pakistan International Airlines (PIA) is now widely perceived to be a white elephant which is haemorrhaging money. It has the highest employee-to-plane ratio in the world. It has also become very unreliable in the sense that its planes are experiencing technical problems. It has been reported that adequate measures for maintenance are not being taken which has led to fears that the European Union may once again be on the verge of banning the airline's A-310 planes. The EU had banned these planes in March 2007 but the ban was lifted in November 2007.<sup>178</sup> Part of the problem lies in the issue that the regulatory authority, the Civil Aviation Authority (CAA), and PIA come under the same ministry. Recently the fares for domestic flights were substantially raised by the PIA which has further made the national carrier inaccessible.

Respondents to the National Corruption Perception Survey (NCPS) 2011 carried out by the Transparency International Pakistan ranked Land administration as the most corrupt government department, Police as the second most corrupt, Education as least corrupt (10<sup>th</sup>) government department and Health as the eighth most corrupt department out of ten options presented to them. During the period of the Assessment the Annual State of Education Report (Rural) 2010 found that 43% of Government primary schools do not have safe drinking water and 55% did not have proper sanitation facilities.<sup>179</sup> According to a survey released in April 2011 30% of Pakistanis claimed that they are deprived of drinking water. 44% of the people in rural areas are deprived of public supply of drinking water while 6% of urban population have the same complaint.<sup>180</sup>

During the past two years, the country was faced with multiple energy crises and soaring fuel costs. During 2009-2010 the Oil and Gas Regulatory Authority (OGRA) resolved 1,907 complaints while 1778 complaints were received and 288 are in progress.<sup>181</sup> Similarly, during the year 2010-2011 the National Electric Power Regulatory Authority (NEPRA) received 2,345 complaints and out of which 2,101 were redressed and 244 are under process.<sup>182</sup>

According to different estimates approximately 85% people claim to have access to Electricity while the same claim to have access to "Pucca" road.<sup>183</sup>

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

This question received a score of 40% during the Assessment compared to 43% in 2010.

The 18th Constitutional Amendment has established the Right to Information as one of the fundamental rights by inserting the new Article 19-A in the Constitution. *"Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law."*

Citizens' access to government information in Pakistan is provided for by the Freedom of Information Ordinance 2002 (FOIO 2002), which was promulgated in response to 'policy actions' agreed with the Asian Development Bank. Although the Ordinance aims to 'provide for transparency

and freedom of information' and empowers citizens to request information from public bodies through employees designated by them, it has been criticized for being toothless. Firstly, it is only applicable to the federal Government and leaves out provincial and local Governments and departments.<sup>184</sup> Moreover, there are some serious exclusions, such as all records relating to the defence forces and private documents owned by Government departments. The Ordinance provides a weak mechanism of implementation and does not prescribe penalties for officers who delay or deny information. Moreover, the ordinance does not take precedence over other laws, meaning that the restrictions of the Official Secrets Act, 1923; Qanoon-e-Shahadat 1984 and Government Servants (Conduct) Rules, 1964 remain in force, due to which government officials are often reluctant to disclose information.

The PPP is vocal in its support for the right to information, with both the President and Prime Minister referring to it in their inaugural speeches. The former Federal Minister for Information Ms. Sherry Rehman's introduced the Right to Information 2011 bill in the Parliament on October 11, 2011. The bill while repealing the FOIO 2002 aims at simplifying the process of gaining access to information and also expands definitions. It also prescribes punishment for people who try to delay, deny or obstruct the access to information. The RTI 2011 makes the federal Ombudsman as the appellant which is, according to some experts, problematic since it does not have specialized officials.<sup>185</sup> In India, there is a Central Information Commission which not only has the powers to demand information but also imposes a fine on unlawful denials by the government and guides it on how to proactively provide information.

Although there are freedom of information laws at the national level and in the provinces of Sindh and Balochistan, the largest province Punjab and Khyber-Pakhtunkhwa do not have any such laws yet.

The Punjab Government inserted Rule 46 titled 'Protection and communication of official information' in May 2011 which disallows all Government employees to speak about official business to official media, unofficial persons and officials belonging to another government department.<sup>186</sup> This is being seen as attempt to curtail access to information and to limit the media's role as a government watchdog.

Despite the fact that the FOIO has been on the statutes books for about 8 years there has not been any significant effort to make use of the law by general public and media.

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

This question received a low score of 29% during the Assessment compared to 31% in 2010.

The credibility of the Government to address crises has further eroded. According to a survey only 20% believe the Government has the ability to address various crises while 79% believe it does not.<sup>187</sup> The incumbent political leadership has an overwhelming negative rating. President Asif Ali Zardari leads with a net rating of -59% followed by Prime Minister with a rating of -41%. MQM Chief Altaf Hussain has a rating of -47%, ANP Chief Asfandyar Wali Khan -42%, Maulana Fazl-ur-Rehman -33% and Chaudhry Shujaat Hussain at -43%.<sup>188</sup>

Similarly, only the Chief Minister of Punjab Mian Shahbaz Sharif enjoys a positive rating of +20% while the Chief Minister Sindh Syed Qaim Ali Shah has a rating of -30%, Chief Minister of Khyber Pakhtunhwa Ameer Haider Khan Hoti at -26% and Chief Minister Balochistan Nawab Muhammad Aslam Khan Raisani at -36%.

In a survey under the Pew Global Research Attitudes Project released in July 2011 roughly 92% are dissatisfied with the conditions in the country compared to 84% in 2010 and 89% in 2009.<sup>189</sup> In the same survey 85% said that the economic conditions in the country are bad compared to 78% in 2010 and 79% in 2009. In a Gallup survey conducted in January 2011 only one-fifth of the respondents said that they were hopeful that the next generation would have a safe and secure life while 44% remained fearful.<sup>190</sup>

The Pew Poll released in July 2011 indicates that 79% of the respondents deem corrupt political leaders to be a very big problem compared to 74% in 2010 and 71% in 2009.<sup>191</sup> This has changed significantly from 2002 when 58% considered corruption to be a big problem.

## 2.4 The Democratic Effectiveness of the Parliament

This sub-pillar received a score of 52% during the

Assessment compared to 50% in 2010.

### Overarching question: Does the parliament or legislature contribute effectively to the democratic process?

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

This question received a score of 53% during the Assessment compared to 54% in 2010.

The Article 66 (1) of the Constitution grants immunity to the Members of the Parliament from prosecution in a court of law for expressing their opinions inside parliament. According to the Article:

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

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

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

Constitutionally, MPs were required to vote along party lines on certain matters such as the election and vote of confidence or no-confidence of the leader of the House and a money bill (budget). However, the 18<sup>th</sup> Constitutional



Amendment has made it mandatory for MPs to vote along party lines on a constitutional amendment bill, a move that was criticised for further restricting MP's limited independence.

The 18<sup>th</sup> Amendment has changed Article 63-A so that the disqualification will only be triggered on a reference made by the Head of the Party, instead of the head of the Parliamentary party earlier. In this manner the position of Mr. Asif Ali Zardari in the PPPP, Mian Nawaz Sharif in PML-N and Mr. Altaf Hussain in the MQM has been strengthened. Therefore, the state of democracy within the political parties remains largely unchanged from 2008.

Lately, however a few faint signs of change have been seen in this regard. Some of the political parties now have a number of members who do not toe the party line unconditionally. Senator Mian Raza Rabbani in PPPP and Syed Ghous Ali Shah in PML-N are known for their diverging views within their parties. The top party leadership has also refrained from moving against these members, which is a positive sign.

Apart from development funds received by a parliamentarian from the Federal Government (usually Rs 15 million per year), all other funds are the discretion of the Prime Minister. The criteria for allocating these funds are also the domain of the Prime Minister. Therefore, wayward MNAs are told that in case they detract from the party line by constantly embarrassing the Government they would be denied development funds by the 'competent authority.'

During an evaluation of the Parliament for the 3<sup>rd</sup> Parliamentary year, undertaken by a diverse group of Members of the National Assembly, journalists, academics, civil servants, etc. on PILDAT's initiative, the question "*How secure is the right of all members to express their opinion freely and how well are members protected from executive or legal interference?*" received a score of the 68% for the National Assembly.<sup>192</sup>

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

This question received a score of 60% during the Assessment compared to 61% in 2010.

Under Article 70 of the Constitution, a Bill with respect to any matter in the Federal Legislative List shall originate in

either of the two Houses. If the bill is passed by one House it will be forwarded to the other House and if that House also passes the bill, it will be sent to the President for assent.

Although in theory the Parliament has significant powers to pass legislation, due to certain reasons the Parliament has been unable to perform to its fullest potential. Firstly, high expectations of constituents from Members of National Assembly leave them with little time to perform their duties as legislators. Secondly, lack of proper research staff and resources means that MPs do not have access to properly researched and analyzed counter positions or improvements to a Bill sponsored by the Government or a Private Member, with the result that pushing legislation through becomes the prerogative of the Government. Other aspects such as filibuster, sluggish committee work and inadequate Rules of Business all contribute to deterioration in the quality of legislation.

Among important Private Members' bills passed by the both Houses include The Prevention of Anti-Women Practices (Criminal Law Amendment) Act, 2011 introduced by Dr. Donya Aziz (NA-304, Punjab-XXXII, PML) which was passed by the National Assembly on November 15, 2011 and the Senate on December 12. This bill is deterrent to anti-women practices and acid-throwing crimes. Another bill passed by the National Assembly on February 1, 2011 is the Privatization Commission (Amendment) Act, 2010 which allows for direct parliamentary representation on the Board of the Commission which is supposed to develop policy guidelines for the cabinet on Privatization. The Amendment requires that two members from the Senate and two from the Opposition shall be members of the board at all times with equal representation from the Treasury and Opposition.

The incumbent National Assembly of Pakistan has performed better than previous Assemblies but a lot of room for improvement remains. The National Assembly passed 24 government bills in the 3<sup>rd</sup> Parliamentary year which ended in March 2011 compared to 29 bills passed in the 2<sup>nd</sup> year and 3 bills passed in the 1<sup>st</sup> year. Similarly, it passed 1 private members' bill in the 3<sup>rd</sup> Parliamentary year compared to 3 bills passed in the 2<sup>nd</sup> year and 1 bill passed in the 1<sup>st</sup> year. This gives an average of 20 bills passed per year, which is 100% more than the 12<sup>th</sup> National Assembly which passed 10 bills per year during its five years. During the third parliamentary year, 11 presidential ordinances

were promulgated by the President compared to 25 bills passed. This ordinance to bill ratio stands at 0.44:1, i.e. 0.44 ordinances issued for every law passed. The ordinance to bill ratio during the second Parliamentary year remained at 2.1:01 compared to 2:01 during the 1<sup>st</sup> year.

The Senate passed 25 Government Bills during the 3<sup>rd</sup> Parliamentary year which ended in March 2011 compared to 12 in the 2<sup>nd</sup> year and 2 in the 1<sup>st</sup> year. The number of private members' bills passed by the Senate remained at 0 during the 3<sup>rd</sup> year compared to 4 during the 2<sup>nd</sup> year and 6 during the 1<sup>st</sup> year.

Beginning its fifth and final year of the 5-year term in March 2012, the inability of the Parliament to pass an effective Accountability law remains as one of its major failures. As there remains serious difference of opinion between the ruling PPPP and the opposition PML-N on the draft of the Holders of Public Offices (Accountability) Bill 2009, perhaps the Parliament should consider strengthening the National Accountability Bureau (NAB) by revising the NAB Ordinance 1999 to make the NAB a transparent, objective and even-handed body. The Parliament may consider revising the NAB law to make the appointment of the Chairperson NAB through a Parliamentary Committee with equal representation from the Treasury and the Opposition benches instead of the present "consultation" with the Leader of the Opposition.

During an IPU based evaluation of the Parliament in November 2011 the overall legislative capacity of the National Assembly was awarded a score of 49% in the 3<sup>rd</sup> year compared to 54% in the 2<sup>nd</sup> year and 53% in the 1<sup>st</sup> year. The same for Senate was 48% in the 3<sup>rd</sup> parliamentary year.<sup>193</sup>

According to survey conducted in January 2012 the Parliament of Pakistan has a net rating of -35% (negative).<sup>194</sup> Despite the obvious room for improvement in Parliamentary performance, it has been observed that the Parliament has started taking its legislative duties more seriously than before.

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

This question received a score of 46% during the Assessment compared to 44% in 2010.

The principle of parliamentary Oversight is enshrined in the

Constitution of Pakistan mandated mainly through parliamentary powers of legislation and passage of the budget. These powers are further defined under respective rules of the National Assembly and the Senate of Pakistan that govern the functioning of the Parliamentary committees as well.

Currently, there exist 28 Ministries-related standing committees in the Senate, each comprising about 12 members and 34 Ministries-related Standing Committees in the National Assembly (17 were dissolved under the 18<sup>th</sup> Amendment).

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

Additionally, the Senate and National Assembly also have a Committee on Government Assurances respectively, which is responsible for taking note of "*the assurances, promises, commitments, and undertakings of the Government given by its Ministries from time to time on the floor of the House*" to report on the extent to which these commitments have been implemented and whether the implementation has taken place in a timely manner. The two committees have held 3 meetings each respectively. The National Assembly Standing Committee on Government Assurances has held 8 meetings compared to Senate Standing Committee on Governmental Assurances which has held 6 meetings during the 3<sup>rd</sup> Parliamentary year.

The National Assembly also has a Public Accounts Committee (PAC) with powers to "examine the accounts showing the appropriation of sums granted by the Assembly for the expenditure of the Government, the report of the Auditor General of Pakistan and such other matters as the Minister for Finance may refer to it." As the key accountability committee, formerly headed by the Leader of Opposition, the PAC performed exceptionally well compared to other committees. The Committee held 46 meetings during the 3<sup>rd</sup> year compared to 29 meetings in the 2<sup>nd</sup> year and 28 meetings in the 1<sup>st</sup> year. The

Committee has cleared the backlog of past nine years by presenting 9 audit reports and a Compliance Report.<sup>195</sup> The Committee's work help recovered Rs. 115 billion.<sup>196</sup> The Committee also successfully probed the financial irregularities in the National Logistic Cell (NLC).<sup>197</sup> Despite overall commendable performance of the PAC there has been some non-implementation of the directives of the Committee especially by the Defence Services.<sup>198</sup>

The Parliamentary oversight of the defence sector has historically remained weak due to the peculiar civil-military relations in Pakistan. The question of effective Parliamentary oversight of the defence sector gained special significance in the backdrop of Pakistan's role in the war on terror as it is widely understood that details of Pakistan's security relations with the US are little known in the civilian government sphere. Given the size of Pakistan's defence budget in proportion to other sectors and historic ascendancy of military in the political and national affairs, it was felt that the newly elected Government will make special efforts to ensure democratic and Parliamentary oversight of defence sector in Pakistan. However, more than 3 ½ years later, the democratic Government has failed to make any meaningful efforts for institutional improvements. Performance of the three Committees the National Assembly Standing Committee on Defence, Senate Standing Committee on Defence and Defence Production and Parliamentary Committee on National Security reveals that while the Parliament is gradually becoming aware of its responsibility, the pace of exercising this responsibility remains slow.

Similarly, despite enormous challenges in the domain of Foreign Policy including ever complex Pak-US and Pak-Afghan relations and the impasse with India over Mumbai attacks, the National Assembly Standing Committee on Foreign Affairs has shown little interest to oversee or contribute to the foreign policy adopted by the executive in the past three Parliamentary years.<sup>199</sup> The National Assembly Standing Committee on Foreign Affairs held only 17 meetings during three years out of which 10 times (59%) it only convened to meet visiting delegates.<sup>200</sup> Moreover, the overall attendance of the Committee members hovers around a disappointing 38%, with the Chairman attending only 41% of the meetings. During these three years the Committee did not table any report. The Inter-Parliamentary Union (IPU), a Geneva-based representative body of the world Parliaments of which Pakistan is also a member, considers Parliament's role in Foreign Policy so important that it has included this role as

one of the six major functions of a Parliament in its tool kit to evaluate the Performance of the Parliaments. The National Assembly of Pakistan had scored **37%**,<sup>201</sup> **44%**<sup>202</sup> and **33%** for its '*involvement in international policy*' in 2008-2009, 2009-2010 and 2010-2011 respectively as per the evaluation carried out by a 32-member committee consisting of 16 multi-party MNAs and 16 other citizens convened by PILDAT.

Following the NATO attack on Mohmand agency on November 26, 2011 the Parliamentary Committee on National Security also asked the Government to inform it of all cooperation agreements with the US, whether written or otherwise<sup>203</sup>. On December 24, 2011 nine pacts signed by the Musharraf regime after 2002 with the US with regards to the war on terror were presented to the Parliamentary Committee on National Security by the Ministry of Defence. This is for the first time these pacts were presented to the Parliament.

While there are some instances of committee work improving in some areas especially in oversight affairs in this Parliament, parliamentary committees still remain one of the weakest areas in the performance of the Parliament. When compared to other Parliamentary democracies the work of our Committees falls well short. Committees are often dubbed as workhorses of the Parliament. Non-partisan structure of committees with adequate research and qualified research staff of the committees is required for effective oversight.

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

This question received a score of 39% during the Assessment compared to 38% in 2010.

Article 7 of the Constitution states:

*"Definition of the State.-In this Part, unless the context otherwise requires, "the State" means the Federal Government, [Majlis-e-Shoora (Parliament)], a Provincial Government, a Provincial Assembly, and such local or other authorities in Pakistan as are by law empowered to impose any tax or cess."*

In the Fourth Schedule to the Constitution the federal government is empowered to levy tax on all income except

agricultural income, sales, capital value of assets, mineral oil, minerals, natural gas and production in a plant.

The 18<sup>th</sup> Amendment through entry No 49 of the Federal Legislative List has also removed sales tax on Services from the domain of the federation. However, there are some issues of harmonizing service taxes throughout the provinces. While Sindh has moved ahead by passing the Sindh Sales Tax on Services Act, 2011 and formed a Sindh Revenue Board, the federation is still collecting taxes on Services even in Sindh.<sup>204</sup> Another issue is that taxpayers in Sindh feel discriminated against since other provinces are still in the process of finalising the rates and categories of services deemed taxable Sindh has started collecting tax on Services.<sup>205</sup>

The Public Accounts Committee has significant powers to oversee public Government expenditure. The efficacy of the Committee depends on the performance of the Committee and the reports of the Auditor General which form the basis of the Committees work. The incumbent PAC has performed better than all other standing committees in the National Assembly. It has held the highest number of meetings, recovered Rs. 115 billion of public money, cleared backlog of 9 years and headed a successful inquiry into the National Logistics Scam. However, the work of the PAC hit a snag as the ex-Chairman PAC Chaudhry Nisar Ali Khan on August 24, 2011 dissolved all special committees and sub committees of the Public Accounts Committee (PAC) in protest over the appointment of the new Auditor General, Akhtar Buland Rana, appointed by the Government on August 23, 2011 in a controversial move.<sup>206</sup> The ex-Chairman Public Accounts Committee (PAC) Chaudhry Nisar Ali Khan said that "Mr. Rana had been brought to this constitutional position to protect the Government in PAC meetings when it will for the first time be taking up the accounts of the present Government."<sup>207</sup>

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

Pakistan's current budgetary process has for various reasons, attracted little input from parliamentarians, political parties or wider civil society. The budget process in consequence has become solely the domain of the government, leaving little scope for analysis or

accountability by the Parliament. PILDAT has been recommending changes to the budgetary process which include a wider role for the National Assembly in review of the budget proposals of the Government, giving significant role to Standing Committees to review demands for grants of their departments; and extending the budget session to a longer period, i.e. up to 90 days or longer to allow for meaningful input. However, despite promises little has changed over the past four years.

The present Federal Government presented its fourth (4<sup>th</sup>) annual budget for the fiscal year 2011-2012 in the 13<sup>th</sup> National Assembly of Pakistan on Friday, June 3, 2011. The budget session for fiscal year 2011-2012, lasted for a total of 21 days, while the actual number of working days was 17. This is in glaring contrast to our neighbouring country India, where the budget process – starting from the presentation of the budget to its passage – has been on the average 75 days long.<sup>208</sup> Similarly, the budget is tabled in the Canadian Parliament in February, while deliberations continue until June 23 and the final approval is granted by June 26, roughly four (04) months after it is tabled.<sup>209</sup> During the 2011 budget session 139 members took part in the discussion 84 (60%) of whom were from the treasury and 55 (40%) were from the opposition benches.<sup>210</sup> A sharp decline is seen in the number of MNAs participating in the discussion over the past 4 years of the 13<sup>th</sup> National Assembly. During 2008 a total of 229 MNAs participated in the budget session, which declined to 139 in 2011 indicating a 39% decline. 170 members participated in the budget session during 2009 and 161 members participated during 2010.

The general discussion on budget debate took place for 10 days consuming approximately 35 hours. A continuing decrease is seen in the time spent in budget debate over the past 4 years. In 2008, 41 hours were consumed which increased to 42 in 2009 but decreased to 39 hours in 2010. An overall 16% decrease has been seen in the time allocated to budget debate since 2008. An important development that took place this year was that for first time cut motions were introduced on the defence budget since 1962-69 and the opposition benches from the PML-N demanded that details of the spending on defence sector be made public.

During the evaluation of the National Assembly, undertaken on PILDAT's initiative, the question "How well is parliament able to influence and scrutinize the national budget, through all its stages?" received a score of 41% in

**Table 3: A Comparison of Budget Sessions in the National Assembly of Pakistan: 1999 - 2011**

	1999-2000	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012
Total Working Days of the Budget Session	13	5	9	8	13	11	19	10	15	17
No of Members participated	66	48	191	132	183	187	229	170	161	139
Total Working Hours	13.60 Hours	09.40 Hours	45.32 Hours	34.20 Hours	55.50 Hours	45.22 Hours	41.46 Hours	42 Hours	39 Hours	45 Hours

the third parliamentary year compared to 46% in the 2<sup>nd</sup> year and 44% in the 1<sup>st</sup> year.<sup>211</sup>

**2.4.5. How freely are all parties and groups able to organize within the Parliament or legislature and contribute to its work?**

This question received a score of 57% during the Assessment compared to 56% during the Assessment.

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

Parliamentary friendship groups have been established on the reciprocity basis with 67 Parliaments around the world and Parliamentary exchange program has been revitalized.

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

This question received a score of 47% during the Assessment compared to 42% in 2010.

The rules of procedure for the National Assembly and the Senate allow Standing Committees to examine public petitions related to ministries and associated bodies. Furthermore, "Public petitions (to standing Committees) may be presented on a Bill which has been introduced or

any matter connected with the business pending before the House, or any matter of general public interest which is primarily the concern of the Government." As per the rules the public can directly send their positions to the Parliamentary Committees for redressing their grievances but they seldom do as the Committee do not have the awareness, mechanism, staff and resources to deal with such petitions.

With a few exceptions, this inactivity of the Parliamentary Committees and therefore of Parliament has created a vacuum in the system of governance which has resulted in the weakening of public trust in Parliament and the democratic system. Other institutions try to fill the vacuum resulting in imbalance in the system. For example, the Supreme Court receives approximately 1,000 petitions every day directly from common people regarding their grievances which are then handled by the Supreme Court by approaching various institutions of the executive. This is a job which could and should have been handled by the Parliamentary Committees as these are supposed to act as the link between the public and the state institutions.

During the evaluation of the third Parliamentary year, undertaken by PILDAT based on a framework developed by the IPU, the National Assembly was awarded a score of 37% against the question "How much opportunity do citizens have for direct involvement in legislation (e.g. through citizens' initiatives, referenda, etc.)?"<sup>212</sup>

**2.4.7. How accessible are elected representatives to their constituents?**

This question received a score of 61% during the Assessment during 60% in 2010.

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

Conversely, this means that the constituents put little premium on the legislators performance in the Assembly but instead on what they can do for them at the constituency level. Voters hardly distinguish between the spheres of responsibility of federal government, provincial government and the local government nor do they care about the role of their representatives in the House, in Committees, in legislation, etc. The range of demands can extend from containing inflation to the provision of natural gas and from the provision of a Drinking Water Supply Scheme to the establishment of a School or the provision of government jobs. While there is no structured system for MNAs to maintain links with their constituents, they are expected to attend social gathering like weddings and funerals.

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

This question received a score of 55% during the Assessment compared to 48% in 2010.

Parliament's performance over the last 3 years and 9 months can signify its value as a forum for debate. In its 3<sup>rd</sup> year the National Assembly met for a total of 140 days in 12 sessions including two (2) joint sessions. The actual number of days the Assembly met was 104 as compared to same number of days in the second year and 97 in the first year. The third year shows deterioration in the average hours met per day; from 3 hours and 24 minutes in 2<sup>nd</sup> year to 2 hours and 53 minutes in the third year, a decrease of 15%. The average hours met per day during the first year was 2 hours and 51 minutes. The total Working Hours also decreased from 355 hours and 20 minutes during the 3<sup>rd</sup> year to 300 hours 30 minutes in the 3<sup>rd</sup> year, a decrease of 15%. The total hours during the 1<sup>st</sup> year were 277 hours and 15 minutes.

The number of questions asked by the members declined from 10,572 in the 2<sup>nd</sup> year to 8,321 in the 3<sup>rd</sup> year - a decline of 21%. The number of questions asked declined 2% in the 2<sup>nd</sup> year compared to the 1<sup>st</sup> year in which 10,843

Questions were asked. Only 28% of the questions asked were answered during the 3<sup>rd</sup> year while 33% were answered in the 2<sup>nd</sup> year and 28% were answered in the 1<sup>st</sup> year. This means that about three-fourth or 73% of the questions went unanswered and were wasted during the 3<sup>rd</sup> Parliamentary year.

In 2009-2010, the attendance of members continued to be a problem. The average attendance during the 3<sup>rd</sup> year was 66% compared to 62% during the 2<sup>nd</sup> year and 76% during the 1<sup>st</sup> year.

One very positive factor in the context of attendance, however, was the personal attendance of the National Assembly sittings by the Prime Minister of Pakistan Syed Yusuf Raza Gillani. The Prime Minister attended 95% of the sittings during the 3<sup>rd</sup> Parliamentary year compared to 87% in the 2<sup>nd</sup> year. This remains one of the highest attendance records among Pakistani Prime Ministers.

Some other significant steps taken by the 13<sup>th</sup> National Assembly include the presentation of details of defence budget in the Assembly during the Budget debate. For many years, the Defence budget was only a lump-sum figure without any details.

Even though this Assembly can generally boast better performance than the previous one, and key issues are raised and discussed in the Parliament, there have been instances when the Parliament has appeared as irrelevant or helpless. For example, the Parliament and other provincial assemblies of Pakistan have passed numerous resolutions rejecting drone attacks but they continue unabated.

It was a heartening moment for the Parliament when on May 13 three services Chiefs came to brief a Joint Session of the Parliament over the Osama bin Laden raid. According to media reports, the Armed Forces came under criticism by the members of the Parliament.

During the evaluation of the Parliament the question "How effective is parliament as a forum for debate on questions of public concern?" received score a score of 61% compared to 64% in the 2<sup>nd</sup> year and 66% in the 1<sup>st</sup> year.

#### **2.5. Civilian Control of the Military and Police**

This sub-pillar received an overall score of 42% in the Assessment compared to 35% in 2010.

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

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

This question received a low score of 35% during the Assessment compared to 26% in 2010.

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

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

The military had quickly regained the credibility after return to civilian rule. However, the military's credibility has been somewhat dented after the May 2 raid, the PNS Mehran base attack and Saleem Shehzad's murder. The Army Chief General Pervez Kayani has a 52% approval rating in 2011, down from 61% in 2010. The military is the most trusted institution in Pakistan in 2011, with 79% of respondents claiming that it has a good influence on the country's direction. However, the military's ratings have declined slightly from 84% in 2010. In contrast the National Government has an approval rating of 20% down from 25% in 2010. Moreover, President Asif Ali Zardari has an approval rating of only 11% down from 68% in 2008.

During the period of Assessment there have been certain very significant episodes that have underlined the discrepancies in the civil-military equation including the May 2 unilateral US operation to kill Osama bin Laden, the PNS Mehran base attack, the murder of journalist Saleem Shehzad allegedly by the Inter Services Intelligence and lastly that of Memogate. The first three issues led to an unprecedented amount of criticism directed at the armed forces from the media, civil society and some political parties, however the Government defended the role of

armed forces at the time. While these issues did highlight the incompetence within the military and its interference in political affairs, they have not necessarily shifted the balance in favour of the civilian leadership despite calls from many quarters to exert civilian control over the security establishment. For its part the civilian leadership has not asserted its supremacy over the armed forces either. One glaring example of lack of civilian leadership is the performance of the Parliamentary Committees on Defence and National Security, which has been average at best.<sup>213</sup>

Following the May 2 operation the Chiefs of Army, Air Force and Naval Staff attended a 12-hour in-camera joint session of Parliament on May 13. Despite the fact that the presence of Osama bin Laden was a major intelligence failure and the raid was a violation of Pakistan's territorial sovereignty, especially when US helicopter remained undetected for more than 2 hours in Pakistan,<sup>214</sup> the joint session resulted in a Resolution passed by Parliament which affirmed "*full confidence in the defence forces of Pakistan in safeguarding Pakistan's sovereignty, independence and territorial integrity and in overcoming any challenge to security, with the full support of the people and Government of Pakistan*".<sup>215</sup> The Resolution also called for the constitution of a Judicial Commission to probe the May 2 incident and the performance of the security agencies.<sup>216</sup> The Government took 16 days to notify the Commission. Similarly, the Commission for investigation of the journalist Saleem Shahzad's murder in May, allegedly by the Inter Services Intelligence, was formed only after the media staged a sit-in front of the Parliament.<sup>217</sup> In both of these episodes the Government seems to have come to the aid of the security forces when there were loud calls from the media and civil society to rein in the defence establishment.

On June 9, 2011 the 139<sup>th</sup> corps commander meeting ended with an unusual press release that ] touched upon many matters of policy. Moreover, it said that the "*Army has drastically cut down the strength of US troops stationed in Pakistan*" and that drone attacks were "*unacceptable*".<sup>218</sup> It seems that the civilian government is conspicuous by its absence as far as matters of foreign/security policy is concerned. The inability of the Government to take lead in security related issues or to rein in the security establishment can also be explained by its own poor performance legitimacy and/or in the fact that a weak civilian Government cannot take on the omnipotent Pakistani military establishment.

Recently, the Memogate scandal has further exposed the cleavages between the civilian and military leadership. The Memogate scandal revolves around an article written in The Financial Times on October 10, 2011, by a Pakistani-American businessman Mansoor Ijaz, according to whom President Zardari through a top Pakistani diplomat delivered a message (in this case a memorandum or memo) to the then US Chairman of Joint Chiefs of Staff Admiral Mike Mullen. According to the Article, the Pakistani President sought help of the US administration through Admiral Mullen in averting an imminent military coup in the country. If acted upon, the Pakistani side guaranteed a complete revamp of the national security team in accordance with United States' wishes. Moreover, it also promised dismantling the Section 'S' of Pakistan's Inter-Services Intelligence (ISI) which was in charge of maintaining contacts with Taliban, Haqqani network etc.<sup>219</sup> This led to a great concern in the military, media and opposition parties and resulted in Pakistan's Ambassador to the US Husain Haqqani's resignation on November 22, 2011, after he was summoned to Pakistan. It is widely believed that Mr. Haqqani resigned as a result of pressure from the Pakistani military, which took strong exception to the memo.<sup>220</sup>

The Government promised an inquiry into the issue and on November 27, 2011 the Prime Minister said that the Parliamentary Committee on National Security would lead the inquiry. PML-N chief Nawaz Sharif has also filed in the Supreme Court a petition requesting it to help unravel what he termed a "dreadful conspiracy" to demonise the armed forces.<sup>221</sup> Nawaz Sharif's petition raised a new debate over whether the Supreme Court should hear the petition or allow the Parliament to complete its inquiry. On December 30, 2011 the Supreme Court ruled that the petition filed by the Nawaz Sharif to request an inquiry into the Memogate scandal was maintainable. It also set up a Commission led by the Chief Justice of the Balochistan high court Qazi Faez Isa and comprising two other high court judges. Although the Government has taken the position that the Parliamentary Committee should be allowed to conduct the inquiry, there is no legal bar on the Supreme Court to initiate a parallel inquiry on the same.<sup>222</sup> On November 20, 2011 it was reported that the DG ISI Lt. General Shuja Pasha met Mansoor Ijaz on October 22, 2011 and received the record of exchanges between Husain Haqqani and Mansoor Ijaz.<sup>223</sup> These developments culminated into what could be called an extraordinarily hard-hitting speech by the Prime Minister in the National Assembly directed at the

Armed Forces. The Prime Minister, who a week before had rejected the notion of a stand-off between the army and the civilian leadership, chose the Parliament to defend his Government while reminding every institution that they were accountable to the Parliament and no one could form "a state within a state".<sup>224</sup> The Memogate controversy has underlined the military's predominance in political matters and it appears that the military has once again regained the stature and leverage which was lost in the aftermath of May 2. It has also led to strains surfacing between the military and the civilian leadership in a manner reminiscent of the Kargil operation in 1999 which led to the October 1999 coup. It remains to be seen whether the Parliament would be able to bridge the trust deficit between the Army and the executive.

There is an impression that issues of foreign policy and security, especially with reference to India, Afghanistan and the US, are under the control of the military and not the civilian leadership.<sup>225</sup> There is also an impression that issues relating to security and counter-terrorism are shrouded in unnecessary secrecy and there is very little transparency, if any. A manifestation of this was seen in the Raymond Davis affair.<sup>226</sup> Firstly, the presence of CIA operatives on Pakistani territory raised the question that under which contract, if there is any, were these contractors allowed to operate in Pakistan and whether the Parliament is aware of these terms of engagement or not? Secondly, the manner in which Raymond Davis was released and quickly flown out of Pakistan and the Government's claim that it had nothing to do with his release allowed for the impression that it was done at the behest of security agencies.<sup>227</sup> Another instance of this secrecy was witnessed when the Deputy Air Chief Marshal shocked the Parliament by reportedly saying during the in-camera Joint Session that the Shamsi base in Balochistan was under US control and it was used to carry out spy activities through drones.<sup>228</sup> The Parliamentary Committee on National Security has held all of its meetings in-camera. While it is recognized that committee meetings regarding national security sometimes need to be held in-camera but this should not be the norm or overriding principle.

Nevertheless, there have been a few faint signs of change from the Parliament's end. The National Assembly Standing Committee on Defence reviewed the Demands for Grants for 2011-2012 (Defence budget) for the first time in three years. Similarly, the Public Accounts Committee probed financial irregularities in the National Logistics Cell, a military run organization, and indicted two



retired Lt. Generals and one Major-General on July 1, 2011.

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

This question received a score of 37% during the Assessment compared to 33% in 2010.

Pakistan followed a police structure founded on the Police Act of 1861 until 2001, when a new police order was made.

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

Political manipulation and bribery have always been a hindrance towards providing justice to citizens. The National Corruption Perception Survey 2011 carried out by Transparency International ranked Police as the second-most corrupt among ten public departments.<sup>229</sup>

Recently, the province of Balochistan has seen a great deterioration in the state of human rights and law and order. The provincial Government of Balochistan has been demanding that the control of Frontier Corps (FC), which according to Human Rights Commission of Pakistan and Human Rights Watch is involved in enforces disappearances and murder of Baloch activists, be transferred from the federal to the provincial Government.<sup>230</sup> On November 2, 2011 the Federal cabinet decided to put the FC under the control of the Provincial Government of Balochistan. This major step may assuage the concerns of many Baloch people over the role of FC in Balochistan.

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

This question received a score of 56% during the Assessment compared to 51% in 2010.

Punjab is the most populace province followed by Sindh, KP and Balochistan. Historically Pakistan Army has been perceived as Punjab-dominated. The bulk was drawn from Punjab (about 71 – 75%), Pakhtuns (15 – 21%), Mohajirs and Sindhis (3 – 5%) and Baloch (about 0.3%).<sup>231</sup> On December 19, 2011, Baloch Nationalist leader Sardar Atallah Khan Mengal after meeting with PML-N Chief Nawaz Sharif while commenting about the Army said that, *“this is not Pakistan Army. Rather it is the Punjabi army that is indulging in such inhuman acts against the Baloch people.”*<sup>232</sup>

Latest figures from the Inter Services Public Relations, however, tell a different story. According to the current composition of the Army, Punjab (56% of the total population) represents 54% of the Army, down from 61.7% in 2001. Similarly, Balochistan (5% of the total population) has a representation of 4% which has doubled from 2% in 2001. However, it should be kept in mind that these numbers only indicate the domicile rather than the real ethnicity of a recruit (domicile signifies the city of birth or residence of a citizen which maybe different from his/her ethnicity).

Since the Police forces of the four provinces are independent, the question of representation gets addressed provincially. Senior positions in the police are filled from the Police Service of Pakistan (PSP). The Police Service is not an operational body; rather it is a career service similar to the Civil Service of Pakistan, from which

**Table 4: Ethnic Composition of Pakistan Army**

Class Composition	2001	2009	2011
Punjab	61.77	55.85	54.50
KPK	13.65	14.09	14.50
Sindh	13.00	15.92	17.00
Balochistan	2.00	3.62	4.00
Kashmir & Northern Areas	9.29	9.72	9.00
Minorities	0.29	0.80	1.00

officers are assigned to provincial services or, on rotation, to the central government agencies where their skills are needed. Appointments to the PSP are made by the Federal Public Service Commission (FPSC) in the same proportion as in other services that include merit 7.5% Punjab (including Federal Area of Islamabad) 50%; Sindh (including Karachi) 19% (the share of Sindh will be further sub-allocated in the following ratio: Urban Areas, namely Karachi, Hyderabad & Sukkur 40% of 19% or 7.6% and Rural Areas i.e. rest of Sindh 60% of 19% or 11.4%); KP 11.5% Balochistan 6%; Gilgit-Baltistan and FATA 4% and Azad Kashmir 2%. The Women Reserved Quota is 10% calculated from the share of each province/region in terms of Establishment Division's O.M. No. 4/15/2006-R-2, dated 22.05.2007

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

This question received a score of 36% during the Assessment compared to 33% in 2010.

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

However, there are many militias that are violating the law of the land and are operating through the overt or covert support of the state. The animosity between Pakistan and India has allowed for a policy of 'Strategic Depth' to prevail in the Pakistani policy elite, especially the military establishment. This policy is premised over maintaining a friendly Government, preferably Pakhtun led, in Afghanistan in order to keep the western border secure while the military can focus entirely on the hostile eastern border.<sup>233</sup> The United States has also been criticised for supporting mujahedeen or "freedom fighters" during the cold war in Afghanistan. Most of these groups now operate out of the border between Afghanistan and Pakistan.

On November 5, 2011 the Interior Ministry issued a list of 31 banned organizations. Those in the list include: Al Qaeda, Tehrik-i-Taliban Pakistan, Lashkar-i-Jhangvi, Sipah-i-Muhammad Pakistan, Tehrik-i-Nifaz-i-Shariat-i-Muhammadi, Jamiat-ul-Ansar, Jamiat-ul-Furqan, Hizb-ut-Tehrir, Khair-un-Naas International Trust, Islamic Students Movement, Lashkar-i-Islam, Haji Namdar Group, Balochistan Liberation Army, Balochistan Republican

Army, Balochistan Liberation Front, Lashkar-i-Balochistan, Balochistan Liberation United Front and Balochistan Musallah Difa Tanzeem. However, the list did not include Jamaatud Dawa, a name under which Lashkar-e-Taiba operates now. The United Nations proscribed Jamaatud Dawa as a terrorist outfit after the Mumbai attacks in November 2008.<sup>234</sup> Similarly, other sectarian organizations such as Haqqani Network, Quetta Shura, Hizb-ul Mujahedin, Harkat-ul Jihad al-Islami (HUJI), Harkat-ul Mujahidin etc. have not been banned apparently because the state perceives all or some of them as useful for its regional policies and goals. Some have termed this policy of selectively prosecuting militants as counter-productive because of established links between militants that are perceived both as friendly and un-friendly.<sup>235</sup>

In addition to these groups there are many criminal groups and mafias operation in the country. These include dacoits in interior Sindh and armed groups operating in Karachi supposedly under the influence of political parties. The bloodletting witnessed in Karachi in year 2010 and 2011 is believed to be a part of "political turf battles" and "ethnic animosities" getting jumbled up with "criminal syndicates," "sectarian mafias" and "Islamists terror groups."<sup>236</sup>

273 people were killed in target killings in 2009, which increased to 778 people in 2010, an increase of 184%.<sup>237</sup> At least 1,400 people have been killed this year in different incidents of targeted killings recording an increase of 80% over the previous year.

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

#### **2.6. Integrity in Public Life**

This sub-pillar received a low score of 33% during the Assessment compared to 34% in 2010.

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

##### **2.6.1 How effective is the separation of public office from the personal business and family interests of office**

**holders?**

This question received a low score of 31% during the Assessment compared to 36% in 2010.

One of the internationally recognised definitions of corruption is “owing or possessing property or resources disproportionate to one's means which cannot be reasonably accounted for,” a key definition missing from the draft bill of accountability moved by the PPPP government to the National Assembly in April 2009 that continues to be pending in the National Assembly Standing Committee on Law and Parliamentary Affairs at the end of 2011.

Parliamentarians of Pakistan are required by law to submit their statements of accounts and declaration of their and their immediate families' assets to the Election Commission of Pakistan (ECP) on an annual basis. This is a legal requirement under the Representation of People's Act 1976, passed on January 4, 1977 by the Pakistani Parliament then led by Prime Minister Zulfikar Ali Bhutto. The Act's Article 42A states: “*Every member shall ... submit a statement of assets and liabilities within the period specified... and by an order direct that such member shall cease to function till such statement is submitted.*” Every year, the ECP temporarily suspends legislators who fail to submit their statements by the due date till such time as they submit these statements. On October 21, 2011 the Election Commission of Pakistan suspended the membership of 232 legislators, about a dozen federal cabinet members among them, who failed to submit their statements.

According to clause 42 (a): “*Where a member submits the statement of assets and liabilities...which is found to be false in material particulars, he may be proceeded against under Section 82 for committing the offence of corrupt practice.*” Section 82 is titled for penalty of corrupt practice and states, “*Any person guilty of corrupt practice shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees or both.*” The Election Commission of Pakistan neither has the power nor is it staffed and equipped to scrutinise the statements submitted by legislators. The ECP's duty is to make the statements public through gazette notifications. It appears to have been left to the members of the public, especially those who may personally know the legislators, to file complaints if they find an incorrect statement by a

legislator.

However, on September 8, 2011, the Chief Election Commissioner said that a specialized political finance wing in the Election Commission will be formed to review the statements submitted by legislators.<sup>238</sup> Although there are reports that the National Accountability Bureau has used these statements to selectively initiate enquiries against some legislators in the past, no Parliamentarian has ever been punished or accused of misrepresenting his/her declaration under 42A(4).

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

This question received a score of 32% during the Assessment compared to 33% in 2010.

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

According to the annual report by the Transparency International, Corruption Perceptions Index Score (CPI) 2011 of Pakistan is 2.5 compared to 2.3 in 2010 which is a slight improvement.<sup>239</sup> Pakistan was ranked 134 out of 182 countries in 2011 compared to 143 out of 178 in 2010. However, according to another poll, an overwhelming majority, i.e. 79%, said corrupt political leaders are a big problem for the country in 2011 compared to 74% in the previous year.

There are no mechanisms which can gauge the protection of involvement of public office holders and public from involvement in bribery. In many cases, accusations against powerful government officials result in no action.

In the UK Parliament a Register of Member's Interest is maintained. The Register was set up following a Resolution of the House of May 22, 1974. The maintenance of the Register is one of the principal duties laid on the Parliamentary Commissioner for Standards by House of Commons Standing Order No. 150. Each member of the Parliament is required to register his/her business, interest or material benefit. The purpose of the Register is to encourage transparency, and through transparency, accountability. It is “to provide information of any pecuniary interest or other material benefit which a Member receives which might reasonably be thought by

others to influence his or her actions, speeches or votes in Parliament, or actions taken in the capacity of a Member of Parliament." The Register is not intended to be an indicator of a Member's personal wealth; nor is registration of an interest in any way an indication that the Member is at fault.

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

This question received a low score of 36% during the Assessment with no change from the previous year.

According to Section 49 of the Representation of the People Act 1976, the limit of election expenses is Rs. 1.5 million for a National Assembly seat and Rs. 1 million for a Provincial Assembly seat. However, the Election Commission of Pakistan, a constitutionally empowered independent body, fails to enforce the limit; it is commonly understood that actual election expenditures at both national and provincial levels exceed many times the prescribed limit.

Many reforms are required in this area. Given the large sums of money involved in electioneering and with no transparent or defined rule for financing the elections or candidates, it is generally understood that funding obtained by candidates at the time of elections results in corruption in the form of return of favours later and corruption in general for political subservience, especially for future elections. The absence of any state funding for political parties means that only a small percentage of the population has the option of electoral politics since election campaigns are extensive and expensive.

With the exception of a few cadre parties, major political parties do not fund candidates' elections and instead choose a candidate with strong financial background. Party funding is usually used for the election campaign and since there are always private sources and donations, the donor can influence the party for its interest. Gen. Hameed Gul has admitted to have formed an electoral alliance while he was serving as Chief of Inter Service Intelligence (ISI) in the 1990s.<sup>240</sup> In addition the case taken up by the Supreme Court of Pakistan under Article 184(3) of the Constitution, relating to the disbursement of public money and its misuse for political purposes contains affidavits signed by Lt. General (Retd.) Asad Durrani listing the politicians to whom money had been paid.

The Strategic Goal No. 12 in the ECP's Five-Year Strategic Plan 2010-2014 is "Reform legislation on political finance relating to political parties and candidates, strengthening financial accountability and enforcement mechanism with the deadline of December 2011."<sup>241</sup> However, this Goal is yet to be achieved.

The Chief Election Commissioner of Pakistan on September 8, 2011 said that the ECP will hold consultative meetings with political parties and candidates in order to take them on board so that a proposal for changes in the law does not require support when amendments are moved in the Parliament.

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

This question received a score of 39% during the Assessment compared to 37% in 2010.

Many perception surveys and indexes point towards a systemic problem of corruption in the country.<sup>242</sup> However, there is an impression that involvement of powerful corporations both public and private is not adequately reported. Pakistani media lays an undue emphasis on petty issues involving low level officials.<sup>243</sup>

The Pakistani military's business enterprise, which is estimated at around US \$20 billion, is one of the most powerful economic players in the country.<sup>244</sup> The Defence Housing Authority (DHA), administered by the Pakistan Army, routinely encroaches on provincial lands to replenish its stocks without either negotiation or payment.<sup>245</sup> In 2005 Khoski Sugar Mills, owned by Fauji Foundation, were sold for US \$300 million to a company that did not bid for it while the highest official bid was US \$387 billion.<sup>246</sup> According to former Parliamentarian Farhatullah Babar when the Senate Defence Committee asked the head of the Fauji Foundation to appear before it, he refused.

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

This question received a low score of 27% during the Assessment compared to 28% in 2010.

Corruption continues to be regarded as a big problem in

the country. According a survey conducted in May, 2011 79% claim corrupt political leaders to be a big problem.<sup>247</sup> Similarly, According to World Bank's Governance Indicators the percentile rank for Control of Corruption fell from 21.8% in 2008 to 12.4% in 2009 and 12.0% in 2010.<sup>248</sup>

The National Corruption Perception Survey 2011 carried out by Transparency International Pakistan issued in December 2011 measures the type and amount of corruption being faced by consumers of the following ten public sector departments: Land Administration; Police; Taxation; Judiciary/Courts; Power; Tender and Contracting; Customs; Health; Military and Education.<sup>249</sup> The Survey conducted in 2002, 2006, 2009 and 2010 ranked the Police as the most corrupt department. However, appreciation had been expressed for the Motorway Police the Traffic Police Warden System of Punjab, though some respondents in Punjab were of the view that even this system is increasingly affected by corruption and is no longer as effective. Land Administration has deteriorated to the most corrupt department.

## Civil Society and Popular Participation

This pillar received an average score of 53% during the Assessment with no change from the past year.

The following are the highlights of this section:

- The news media have become more pervasive, diverse and competitive, even if they are not always transparent in matters relating to their financial sources or fair and balanced in their treatment of various political forces. They have successfully **engaged large sections of the population in the affairs of the State**. Interestingly, while the engagement appears to be passive (e.g., just watching TV) they build up citizen power by connecting millions in cyberspace. Taken together the mass media and telecom have connected the citizenry and thus empowered them to become a check on state power.
- While the media remain generally free of manipulation by the Executive, there is an alarming increase in the threat to the lives and safety of journalists from state and non-state actors.
- The Press Council is active, but a similar body is needed for the Electronic media.
- There is a need for a voluntary code of conduct to be established by the media and strictly adhered to.
- The year saw many cases of citizens being harassed by the media.
- **Civil society and citizens groups** remain vibrant in the country and have countered, to an extent, the militancy and extremism in the society, which nevertheless remains a potent threat. However, some of them operate without effective application of common standards of audit, accountability and transparency.
- The 18<sup>th</sup> Amendment not only removed distortions from the Constitution but also started the process of devolution of power. However there are serious issues of implementation as also other questions relating to *uniform education curriculum, protection of labour and the maintenance of health standards* across the country in which the **Federation must exercise a coordinating, regulatory role**. There is also a need to activate the Council of Common Interests with a fulltime secretariat.
- Re-emergence of old bureaucratic system because of inability to establish elected local governments. This runs contrary to the very principle of democracy, devolution and decentralisation that the 18<sup>th</sup> Constitutional Amendment upheld and through which provinces' rights were enhanced. Whereas the Provincial Governments are entitled to make Local Government laws keeping in mind their own circumstances, the failure to revive these through Local Government election is a violation of Article 32 and 140-A of the Constitution.
- Women legislators fared better compared to their male counterparts in the Parliament. However, some unfortunate episodes of disenfranchisement of women were also witnessed this year.

### 3.1. The Media and Democratic Society

This sub-pillar received a score of 56% compared to 58% in 2010.

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

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

This question received a score of 56% during the Assessment compared to 62% in 2010.

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

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

News media in Pakistan enjoys freedom from government influence that is unparalleled in the history of Pakistan. However their ownership is largely concentrated in the hands of a few media companies.<sup>250</sup>

In April 2011, the sports channel Geo Super and entertainment channel AAG TV, both owned by the media conglomerate Jang Group, went off air. The Group blamed the Government and PEMRA for selectively targeting it because of its criticism of the government. Moreover, the Group ran propaganda campaign against PEMRA on its news channels and newspapers. In reaction PEMRA issued a public notice in which it took the position that it had nothing to do with taking Geo Super off air. It further said that Geo Super had requested 'uplinking rights'

(currently it only has 'landing rights') in reply to which PEMRA asked for details after which the channel turned its transmission off by itself. It further said that AAG TV was turned off by PEMRA because it started transmission of a cricket match, which was against the law.<sup>251</sup> Later, PEMRA issued notices to Geo News for falsely claiming that PEMRA had blocked Geo Super's transmission and also to Geo News for suspending its transmission.<sup>252</sup>

There have also been complaints regarding PEMRA for selectively targeting certain media channels while ignoring blatant violations of the PEMRA Ordinance and Licence Terms and Conditions.<sup>253</sup> One such violation is the large number of illegal cable channels showing pirated films all over Pakistan with immunity - in total violation of the PEMRA Ordinance.

Despite unprecedented freedom of media from the government, Pakistan media, especially electronic media, appeared to allow the undeclared influence of foreign governments and their donor agencies. An unfortunate trend, however, is that while the electronic media is apparently receiving funds from foreign donor agencies to run specific campaigns and programmes, it is not upholding the rules of media objectivity and transparency in disclosing the source of funding behind these funded campaign or programme – a practice which is both alarming as well as opposed to media ethics. The citizens of a democracy have a right to know when foreigners are bankrolling a domestic media campaign or the contents of a current-affairs programme.

Whereas the US government had increasingly begun to rely on Urdu language channels for interviews of leading US government officials visiting Pakistan,<sup>254</sup> the US State Department has funded projects through an intermediary non-profit organization American Media Abroad (AAM) to improve its image in Pakistan. This project also includes salaries of two Pakistani journalists from Dunya News and Express News who are reporting from Washington for Pakistani media houses.<sup>255</sup>

The incumbent Government moved to activate the Press Council of Pakistan by appointing the Chairman on September 5, 2011.<sup>256</sup> The Press Council Ordinance was promulgated in 2002 to implement the Ethical Code of Practice for the Press as set out in the schedule of the Ordinance. Although this is a welcome step a similar body has not been setup for the Electronic Media in Pakistan.

The media also remains popular in Pakistan with 76% saying that it has a good influence, unchanged from 2010. Media enjoys the second-best ratings after the military.<sup>257</sup>

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

This question received a score of 62% during the Assessment compared to 67% in 2010.

Pakistani media has seen a remarkable explosion ensuring a wide range of sources of information, print media, broadcasting channels, internet, the social media and cell phones, that provide a range of sources of information to the citizens. PEMRA has given licenses to 85 satellite television channels out of which 69 are operational.<sup>258</sup> Of the operational channels, 26 are news and current affairs, 12 of those in regional languages. There are 130 daily newspapers and 850 publications. According to the Internet Service Providers Association, internet broadband services are available in 170 cities and number of internet connection is over 5 million with average of 5 users per connection, with an approximate 25 million internet users in Pakistan (5.5 million on Facebook). Mobile phone connections have crossed 111 million users, making Pakistan the fastest growing cell phone market in Asia. According to estimates 62% have access to a mobile phone while only 9% have access to Internet.<sup>259</sup>

Media penetration depends on the number of TV sets in Pakistan. Currently the number of Television sets is 12 million. The media penetration in terms of broadcast private channels is considered to be only one-third of the population, mostly urban. PTV is the only terrestrial channel that geographically covers 100% of the country. According to estimates 81% of the population has access to Television while 45% have access to cable/satellite TV.<sup>260</sup> According to a survey only 11% of the rural population have access to satellite or cable television while the same is 69% in urban areas.<sup>261</sup> Pakistan gets a 3.2 average score, on a scale of 1 – 5 under the category of availability of wide range of sources of information accessible and affordable for citizens.

In terms of the media reflecting the ethnic, linguistic, religious, political and social diversity of the country, the media landscape presents a mixed picture. While public broadcast networks such as the PTV and Radio Pakistan broadcast in regional languages, there are also private

media channels operating in regional languages, those that focus on specific interest broadcast, religion-based channels and programming, and on women and youth, etc. However, the media is criticised for not fully representing societal diversity, such as gender (Pakistan scores 2.4 on a scale of 1-5 in terms of media reflective of voices of both women and men in 2009), labour, religious and societal diversity, etc., scoring 2.4 on a scale of 1-5 in this regard.

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

This question received a score of 62% during the Assessment with no change from 2010.

Media is playing the role of a catalyst in Pakistan. While some experts argue that the media has not helped alter or influence social behaviour, it is the media spotlight on incidents such as the case of a young boy Sarfaraz Shah's murder by paramilitary forces that led to action being taken against those involved.<sup>262</sup> Similarly, the media spotlight on the Kharotabad, Balochistan incident involving the killing of four foreign citizens is what led to an inquiry.<sup>263</sup> The reporting of wheat and sugar crises by the media have also helped greater understanding of underlying issues and have resulted in either administrative or judicial action on these issues.

Reporting on the state of affairs at Pakistan Railways also led to a *suo moto* action being taken by the Supreme Court of Pakistan against alleged corruption.<sup>264</sup> The media reporting also helped develop an understanding of the Hajj and NICL scam this year.

While the media enjoys relative freedom in Pakistan and it has contributed to unearthing scandals and corrupt practices relating to government bodies, it is still denied access in areas such as defence issues, war against militancy, etc. and has to depend on official and military sources for information. Moreover, journalism is a hazardous profession in some parts of the country (north and west) than in other parts and fear of political groups as well as state agencies hinders in-depth and independent reporting.

The Government also follows a carrot-and-stick approach though advertisement revenue to the media. Newspapers which earn the disfavour of the government do not receive



official advertising.

Although the media remains relatively independent in criticising the government, the same is not true in case of big and powerful corporations. Recently, an inquiry report commissioned by the Competition Commission of Pakistan found large scale cartelization in the Electric Power Market. The Pakistan Electric Manufacturers Association (PEMA) had facilitated collusive bidding/bid rigging among its members for tenders offered by distribution companies (DISCOs).<sup>265</sup> The names involved have powerful corporations like Siemens Pakistan and Pak Electron Limited etc. The Report recommended action against PEMA, Switchgear Manufacturers, Energy Meter Manufacturers, Distribution Transformer Manufacturers, and LT CT Manufacturers. Despite this, the media has not taken up the issue.

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

This question received a score of 51% during the Assessment compared to 48% in 2010.

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

On May 31, journalist Saleem Shahzad, who covered affairs relating to terrorism and security for the Asia Times, a Hong Kong-based online publication, was found dead after disappearing from Islamabad. Three days before his disappearance he had written an article in the Asia Times in which claimed that *"Al-Qaeda carried out the brazen attack on PNS Mehran naval air station in Karachi on May 22 after talks failed between the navy and al-Qaeda over the release of naval officials arrested on suspicion of al-Qaeda links."*<sup>266</sup> Immediately after his murder the Human Rights Watch issued a statement claiming that Saleem Shezad had been threatened by the ISI.<sup>267</sup> A Commission headed by a judge of the Supreme Court was formed by the Government on June 16 to probe Shahzad's murder after the media staged a sit in for 12 hours in front of the Parliament. On July 7, the then US Chairman of the Joint Chiefs of Staff Admiral Mike Mullen said the Pakistani

government "sanctioned" the killing of Saleem Shahzad, though he said he could not specifically tie his death to the ISI.<sup>268</sup>

Other than Saleem Shehzad two Geo News Television anchors and Senior Journalists Hamid Mir and Najam Sethi have reported that they been threatened possibly by intelligence agencies.<sup>269</sup> Another Geo News reporter Wali Khan Babar was shot dead on January 13, 2011 in Karachi.<sup>270</sup>

Pakistan was named the most dangerous country for journalists by by New York based Committee to Protect Journalists (CPJ)<sup>271</sup> in 2011, the second time in a row, with seven journalists killed compared to 2010 when eight (8) journalists were killed.

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

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

This question received a score of 49% during the Assessment compared to 52% the past year.

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

There have been incidents where media persons have misbehaved and flouted codes of conduct. On April 21, 2011 Supreme Court announced a verdict on Mukhtaran Mai's case setting free 5 out of 6 men accused of raping her. Mukhtaran Mai was invited to several TV channels for her comments. She was also invited to Dunya TV in one of

their shows. During the show the anchor used derogatory remarks against Mukhtaran Mai.<sup>272</sup> Similarly, in September 7, 2011 some major and small media channels reported that Dr. Nadeem Rizvi's, head of Jinnah Post Medical Centre, body was found without conforming it. On January 11, 2011 PEMRA imposed fines on two television channels for projecting terrorists and screening blood and gore in violation of PEMRA Rules, Regulations and Code of Conduct. However, the media flouted the Rules again by airing footage of Sarfaraz Shah's murder by paramilitary forces in June this year.

The assassination of Governor Punjab Salman Taseer in January 2011 led to another debate about media ethics and code of conduct. The issue revolved around an interview of the slain Governor on Samaa Television. During the interview the host's demeanour and language were inflammatory and provocative and, according to some analysts, may also be partially responsible for the Governor's murder. This led to PEMRA imposing a fine of Rs. 1 million on Samaa TV and also Waqt TV for projecting terrorists.<sup>273</sup> Although the TV host was subsequently sacked from Samaa, she was hired by another television channel, Dunya TV.

Due to the dramatic increase in the membership of the journalist profession, the need for common standards has become all the more pressing.

### 3.2. Political Participation

This sub-pillar received an above average score of 55% during the Assessment compared to 52% the past year.

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

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

This question received a high score of 65% during the Assessment compared to 63% in 2010.

The number of registered NGOs was estimated to be 45,000, up from 39,000 in 1999.<sup>274</sup> As of 2009 the total number of registered and un-registered NGOs has been estimated to around 100,000.<sup>275</sup> Citizen organizations, working in a variety of fields, employ approximately 300,000 persons, have 200,000 full-time volunteers and

engage in a wide array of activities, ranging from basic services delivery to sophisticated financial services to technical advice in areas like agriculture, water and sanitation and housing construction. Increasingly, non-profit organizations (NPOs) are engaged in lobbying for legal and fiscal reform and take a pro-active approach in defining issues for the national agenda. This new role is in part due to the comparatively large volume of resources the non-profit sector now commands. Despite this growth, a significant (38%) of citizen organizations are not registered under any law. Even registered organizations are not necessarily subject to monitoring and evaluation under the regulatory system.

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

Citizen organisations are regulated under four laws in Pakistan: the Voluntary Social Welfare Agencies (Registration and Control) Ordinance, 1961; the Societies Registration Act, 1860; the Companies Ordinance, 1984; and the Trust Act II, 1882. The Federal Ministry of Economic Affairs coordinates international donor assistance to Pakistan, which is also channelled into non-profits.

60% of the NGOs are registered under the Societies Registration Act, 1860, which is one of the lenient laws as far as registration and accounting and audit requirements are concerned.<sup>276</sup>

Much like the unbridled freedom of the media, lack of implementation of rule of law in Pakistan also means that voluntary organisations, NGOs and citizens groups, etc., enjoy unbridled freedom. While in theory, Pakistan's Federal Ministry of Economic Affairs sanctions all foreign aid coming into Pakistan, where that money is spent, whether this is disclosed or audited is not actively followed. Rules that make it binding on NGOs to declare local or foreign funding or to get their accounts audited are not enforced.

In neighbouring India, a flourishing, uninterrupted democracy, NGOs and voluntary groups have to declare their sources of funding regularly, while it is considered more difficult by all foreign donor agencies, compared to

Pakistan, to establish their offices and operations in India due to rules laid out by the Indian state. Interestingly, during 2011, Israel's Knesset approved an important transparency measure which now requires NGOs and aid providers to issue quarterly reports disclosing any foreign funding and to state on their websites and in advertisements that they are foreign-funded. Moves have also been afoot in the Knesset to restrict foreign funding of NGOs.

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

This question received an above average score of 56% during the Assessment compared to 53% in 2010.

The State has somewhat moved away from being the key provider of social services, abdicating its responsibility to citizens for social services delivery. This has created a large vacuum in provision of necessary social services to citizens – much of which is picked up directly by the citizens while creating room for a variety of non-state actors to deliver a wide range of social services. In addition, the fact that citizen organizations today capture a greater volume of resources, mainly through foreign donors, has helped widen the role of citizen organizations. A significant amount of foreign aid has come to the country through different donor agencies which has created incentives for new organizations to spring up. Under the Kerry-Lugar-Berman aid package, US \$488 million will be spent through USAID, which essentially means through international and Pakistani NGOs.<sup>277</sup>

Pakistani state has also witnessed a trend in diversification of philanthropic initiatives, beyond the traditional donations to mosques and madressahs, to initiatives such as the Shaukat Khanam Memorial Cancer Hospital and Research Centre and other similar initiatives established to serve the deserving segments of the society.

As far as philanthropic activities in Pakistan are concerned, some commendable work has been undertaken by different organizations. These activities range from free education to healthcare. Some notable groups include The Citizens Foundation (TCF), which aims at providing free basic education to all. As of 2011 TCF has established 730 schools nationwide with an enrolment of 102,000 students.<sup>278</sup> Edhi Foundation, the largest welfare organization in Pakistan, provides medical aid, family

planning and emergency assistance through its 300 centres across the country. It also provides homes to destitute children, runaways and those suffering from psychological illnesses.<sup>279</sup> As a result of the Foundations efforts 20,000 abandoned babies have been saved, 40,000 qualified nurses have been trained and 50,000 orphaned children are living in Edhi homes.

According to a Gallup survey released in October 2011, 27% Pakistanis claimed they contributed personally to flood relief in Sindh this year.<sup>280</sup>

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

This question received a score of 54% during the Assessment compared to 49% in 2010.

Women constitute 46% of the population of Pakistan.<sup>281</sup> For the first time in the history of Pakistan, a woman Speaker has been elected in the National Assembly, where 22% of members are women (16 directly elected and 60 indirectly elected). However, the 38-member Federal Cabinet has only 3 female Federal Ministers, while 3 out of 17 Ministers of State are women. None out of the six (6) Special Advisers to the Prime Minister of Pakistan are women. The Ambassador to United States is a woman and so is the Federal Minister for Foreign Affairs. Around the world Pakistan has 10 women ambassadors. Currently the Cabinet Secretary, the highest bureaucratic post in the country, is also a woman.

The total number of reserved seats for women in all 4 Provincial Assemblies in Pakistan is 128, while a 17% representation quota for women also exists in the Senate of Pakistan. The female labour force in Pakistan is 12.48 million, which is 23% of the total force.<sup>282</sup>

Despite being fewer in proportion, the female members of the National Assembly fare well compared to their male counterparts. A PILDAT analysis reveals that during the first three Parliamentary years women legislators introduced 25% more Private Members' bills in the National Assembly as compared to men, i.e. for every Private bill introduced by a male member, 1.25 bills were introduced by female legislators. Similarly, out of the 40 Resolutions passed during the three Parliamentary years, female members had an average of 0.22 Resolutions introduced per member while male members had an average 0.08 Resolutions introduced per member.<sup>283</sup> Among important

Private Members' bills passed by the both Houses include the Prevention of Anti-Women Practices (Criminal Law Amendment) Act, 2011 introduced by Dr. Donya Aziz (NA-304, Punjab-XXXII, PML) which was passed by the National Assembly on November 15, 2011 and the Senate on December 12. This bill is deterrent to anti-women practices and acid-throwing crimes.<sup>284</sup>

While no gender disaggregated voter data is made available by the Election Commission of Pakistan, there exist political electoral and cultural structures that obstruct women's participation as voters and candidates. *On November 24, 2011 a by-election was held in Kohistan district of Khyber Pakhtunkhwa for the Provincial Assembly constituency PK-61, Kohistan-1. Even though registered female voters in the constituency number 18,804, only three were able to cast their vote. Reportedly, an agreement between the political parties led to this disenfranchisement of female voters.* In Shangla, a neighbouring district of Kohistan, women were also barred from casting their votes in PK-87 by-election held on January 29, 2011.

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

This question received a score of 43% during the Assessment compared to 42% in 2010.

The average value of assets of a Member of the National Assembly (MNA) was just below Rs. 27 million in 2002-2003 which has increased to almost 94.6 million in 2009-2010, more than a threefold increase in assets declared by the Members of the National Assembly (MNA) belonging to the 12<sup>th</sup> National Assembly (2002-2007) and the 13<sup>th</sup> (current) National Assembly of Pakistan from 2002-2003 to 2009-2010. Contrast this with the estimated 60% living below the US \$2 a day poverty line<sup>285</sup> and it becomes abundantly clear that only very limited social groups have access to public office.

During the Evaluation of the 3<sup>rd</sup> Parliamentary year of the National Assembly, undertaken on PILDAT's initiative, the question "*How easy is it for a person of average means to be elected to Parliament?*" received a low score of 35%.<sup>286</sup> While geographical, ethnic and religious diversities maybe reflected to an extent in public institutions, the income disparity and the poverty levels preclude the poor from even aspiring to hold public office.

### 3.3. Decentralization

This sub-pillar received a score of 44% during the Assessment compared to 47% in 2010.

***Overarching question: Are decisions taken at the level of government that is most appropriate for the people affected?***

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

This question received a score of 48% during the Assessment compared to 53% in 2010.

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

After the 18<sup>th</sup> Constitutional Amendment, as per amendments made in Article 90, the Executive Authority of the Federation vests in the President though it is to be exercised by the Federal Government. In addition, the Concurrent List, containing subjects on which both Parliament and the Provincial Assemblies could legislate, has been omitted. However, Criminal Laws, Criminal Procedure and Evidence remain subjects on which both Parliament and the Provincial Assemblies legislate, has been omitted. A number of entries have been added to the domain of the Council of Common Interests. The Federation's power to entrust functions to Provinces will now be subject to ratification/approval of such entrustment by the Assembly of the concerned Province. An Implementation Commission headed by Senator Raza Rabbani was appointed by the Prime Minister in April 2010 and given a mandate of ensuring implementation, especially relating to transfer of subjects from the federation to the provinces, of the 18<sup>th</sup> Amendment within one year. On June 30, 2011 the Federal Government dissolved seven ministries to the provinces and thus the third and final phase of devolution initiated after the abolition of the concurrent legislative list under the 18<sup>th</sup> Constitutional Amendment was completed. In total, 17 subjects have been transferred to the provinces.<sup>287</sup>

Despite transfer of ministries and resources to the provinces most of the funds remain unutilized by the

provinces. In November 2011 the Federal Government reported non-utilisation by the four provinces of about 82 per cent of the allocation under Public Sector Development Programme over the past eight years.<sup>288</sup> According to verified record of the Ministry of Finance, an amount of Rs. 934.3 billion was allocated for the provinces from 2002-03 to 2010-11 under PSDP but only Rs 171.75 billion or 18.4 per cent of it was utilised. This lends credence to the view that although major powers have been transferred to the provinces they do not have the capacity to use them.

The completion of the process of devolution under 18<sup>th</sup> Constitutional Amendment, a landmark achievement of the current Parliament, has upheld the true principles of federalism and provincial autonomy. However there are some lingering questions including that of a uniform education curriculum, protection of labour and maintaining health standards across the country in which the federation must keep an umbrella regulatory role. There is also a need to activate the Council of Common Interests with a fulltime secretariat to revive the Federation's regulatory role.

### **3.3.2. How far are these levels of government subject to free and fair electoral authorization, and to the criteria of openness, accountability and responsiveness in their operation?**

This question received a score of 46% during the Assessment compared to 48% in 2010.

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

Although Local Government elections were scheduled to take place in 2009, no province moved ahead in this regard during the last three years. Provinces have instead chosen the Commissionerate system over establishing local government. The lack of initiative of all provincial Governments to hold Local Government elections and install elected local government, a crucial third tier of democracy, remains one of their biggest failings.

As Local Governments have been the favourites of the military rulers and mostly elected under military rules, Local Governments enjoy little support of political parties. However, the 18<sup>th</sup> Constitutional Amendment passed in

April 2010 by all parties represented in the Parliament had retained Article 140-A relating to devolution of power to local governments and expanded the provision to provide that elections to local governments shall be held by the Election Commission of Pakistan. In the past four years, however, new legislation for establishing a sustainable local government system in Pakistan has been hampered by sharp differences on the nature of the system among different provinces. The resultant delay has led to the re-emergence of the old bureaucratic system that denies the right to people to govern themselves at the local tier. This runs contrary to the very principle of democracy, devolution and decentralisation that the 18<sup>th</sup> Constitutional Amendment upheld and through which provinces got their due rights. Whereas the Provincial Governments are entitled to make Local Government laws keeping in mind its own circumstances, the failure to revive these through Local Government election is a violation of Article 32 and 140-A of the Constitution. Concentrating powers at the provincial tiers, without devolving to the local tier is denying dividends of democracy and devolution to the public.

Pakistan ratified the International Covenant on Civil and Political Rights (ICCPR) on June 23, 2010 which contains obligations relating to democratic elections at all levels. In addition to international standards, the laws and practices at all local level should take into account reform initiatives at the federal level. Holding local elections in line with international standards would buttress the provinces' aspirations to autonomy.

### **3.3.3. How extensive is the cooperation of government at the most local level with relevant partners, associations and communities in the formation and implementation of policy, and in service provision?**

This question received a low score of 37% during the Assessment compared to 41% in 2010.

The regime of General Musharraf introduced the Local Government Ordinance 2001 and local governments were elected accordingly. While Local Government is a provincial subject and only provincial legislatures can legislate on it, under the 17<sup>th</sup> Constitutional Amendment, a sunset clause was inserted into the Constitution barring the Provincial Assemblies to modify the existing law on Local Governments without prior consent of the President. The validity of this clause ended on December 31, 2009. The 18<sup>th</sup> Constitutional Amendment retained Article 140-A

according to which “*Each Province shall, by law, establish a local government system and devolve political, administrative and financial responsibility and authority to the elected representatives of the local governments,*” adding that “*Elections to the local governments shall be held by the Election Commission of Pakistan.*” However, provincial governments decided to govern through the bureaucracy, which gives politicians unchallenged control.

It is generally believed that the strength of a federation lies in decentralisation and while provinces have received unparalleled powers devolved to them as of June 2011, they continue to deny and devolve the powers to the local government tier.

In Sindh, the issue of local governments has caused much consternation between coalition partners. The MQM wants local government to be installed in Sindh because it believes it can exert its influence in Karachi and Hyderabad while the PPPP wants to retain the old bureaucratic system through which the provincial government can control the province, including Karachi and Sindh.<sup>289</sup>

## Democracy Beyond the State

This pillar received a score of 52% during the Assessment compared to 43% in 2010.

The following are the highlights of this section:

- The role of the US is not always conducive to democracy in Pakistan. The aid relationship remains fraught with issues over its objectives. The cooperation between the two countries is marked by mistrust and secrecy especially with regards to the war on terror.
- The government's treaties and commitments with international organizations and other countries are not subject to effective legislative oversight. However, of late a few signs of change have been seen and several issues have been referred to the Parliamentary Committee on National Security.
- An evaluation of the National Assembly Standing Committee on Foreign Affairs reveals that it has underperformed in the past three Parliamentary years.
- After the NATO attack on Pakistani forces in Mohmand Agency, the Parliamentary Committee for the first time reviewed pacts signed between the US and Pakistan since 2002.
- In October 2011, Pakistan was elected to a rotating seat on the United Nation Security Council for a two-year term with India's support.

### 4.1. External influences on the country's democracy

This sub-pillar received a score of 49% during the Assessment compared to 40% in 2010.

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

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

This question received a score of 52% during the Assessment 35% in 2010.

Pakistan's geographic location, its nuclear status, its Muslim ethos, and its role in the global war against terrorism have all combined to influence its relations in the region and the world at large. Coupled with this are Pakistan's dwindling human development indicators, which make it an aid-recipient country. Historically, therefore, external support has been part of Pakistan's governance landscape – and with support comes the influence. Successive civil and military governments have all sought and received external support and influence for the longevity of their rules. From 1999 to 2008, external influence, especially from the US, has been detrimental to the prospects of democracy in Pakistan. Saudi influence helped deposed Prime Minister Nawaz Sharif and held him to his pledge not to take part in Election in Pakistan for 10 years.

US influence is perceived to be the strongest in Pakistan's internal affairs. Although the US administration claims support for Pakistan's democratic government, its actions and statements during 2011 have served to undermine Pakistan's democratic government.

During the period of assessment issues such as the Raymond Davis affair, the unilateral raid in Abbottabad to kill Osama bin Laden and the final settlement (or end-game) in Afghanistan have increased scrutiny of Pakistan in the global community.

After the NATO attack on Pakistani security post on November 26, 2011, which killed 25 soldiers<sup>290</sup> an emergency meeting of the Defence Committee of Cabinet (DCC) was called by Prime Minister which decided to close with immediate effect the NATO/ISAF logistics

supply lines and to ask the US to vacate the Shamsi Airbase within 15 days. Pakistan reaction not only threatened the Pakistan-US relationship but also led to fears of jeopardizing the endgame in Afghanistan. However, Pakistan is looking for re-writing of rules of engagement with the US.<sup>291</sup> A US investigation report blamed 'inadequate coordination' for the attack and offered its 'deepest regret' and urged the United States and Pakistan to bridge their trust gap to prevent future incidents.<sup>292</sup> The Pakistan Army rejected key findings from the US investigation.<sup>293</sup>

The May 2 unilateral US operation in Abbottabad to kill Osama bin Laden marked a violation of territorial sovereignty of Pakistan, a gross failure of intelligence and security agencies in Pakistan and the worsening of the trust deficit between Pakistan and the US. While the US administration says it does not regret the unilateral raid inside Pakistan, the Pakistani Foreign Office has said that this incident should be treated as an 'exception and not the rule'.<sup>294</sup> In July, 2011, it was reported that the CIA started a fake vaccination drive in Abbottabad in order to obtain Osama bin Laden's family DNA.<sup>295</sup> It is feared that such reports would have adverse effects on vaccination programmes in Pakistan. Pakistan faces acute challenges in the domain of health and is one of the few countries with endemic polio. A Pew poll conducted immediately after the May 2 raid showed that 63% disapproved the killing of bin Laden while only 10% approved.<sup>296</sup> Moreover, only 14% said that it was a good that bin Laden is dead while 55% said it was bad.<sup>297</sup>

In January a CIA operative was arrested from Lahore for shooting two Pakistanis. Following his arrest a diplomatic row ensued between Pakistan and the US. Eventually Davis was released and flown to the US.<sup>298</sup> Despite the fact that there is no known public agreement between the US and Pakistan for allowing US forces to operate in Pakistan, Davis was released and flown away presumably because of American pressure.<sup>299</sup> The Raymond Davis affair further cemented opposition to the role of the US inside Pakistan. Moreover, while the extraordinary secrecy surrounding the war on terror is partly the Pakistani state's doing, it also paints the US in a negative light as well.

The issue of CIA operated drone attacks in FATA is another faultline in Pak-US relations. They continue to be a great cause of public unhappiness with American policies and add to the anti-Americanism in the country. The Pakistani Government publically condemns the drone attacks,

however, various media reports and Wikileaks cables point towards Pakistan's complicity in drone attacks. Following the May 2, 2011 raid, the three Chiefs of Staff along with the ISI Chief came to brief a joint in-camera session of the Parliament on May 13, 2011. Reportedly, the Deputy Chief of Air Staff Operations Air Marshall Muhammad Hassan told the Parliament that the Shamsi base in Balochistan is being used by the US to carry out spy activities through drones. According to the latest cables released by the Wikileaks, *COAS, General Kayani, in a meeting with CENTCOM Commander, Admiral William J. Fallon*, asked for continuous predator coverage of the conflict area.<sup>300</sup>

The US drone programme was started under the Bush administration and has intensified under the Obama administration. Since 2005, a total of 300 strikes have taken place in Pakistan, peaking in 2010.<sup>301</sup> This year 75 strikes have taken place as compared to 135 strikes the past year, registering a decrease of 44%.<sup>302</sup> The US administration maintains that there has not been a single civilian death this year due to the precision of these strikes.<sup>303</sup> However, independent observers have disputed this claim stressing that there has been a considerable civilian death toll. The London based Bureau of Investigative Journalism reported in August, 2011, that between 392 to 783 civilians have been killed since the start of the drone programme in 2004.<sup>304</sup> This year as many as 45 civilians may have been killed in 10 drone strikes<sup>305</sup>. Drone strikes, which are regarded as a breach of Pakistan's sovereignty, are unpopular in Pakistan. A poll conducted in the Federally Administered Tribal Areas (FATA) by the New America Foundation and Terror Free Tomorrow shows that nine out of ten people oppose U.S. pursuing al-Qaeda and Taliban militants in their area.<sup>306</sup>

Sometimes, as a consequence of the above-mentioned issues, cleavages between the civilian leadership and the military have also come out in the open. The Raymond Davis affair along with the May 2 raid are examples of the disconnect between the civilian and military leadership on policy issues.

Due to aforementioned reasons the US foreign policy and the US's role in the war on terror is not seen in favourable light by many Pakistanis. In a recent Poll it was showed that 62% oppose US-led efforts to fight terrorism while 69% US and NATO out of neighbouring Afghanistan. Only one-in-five (20%) think US gives any consideration to Pakistan when making its foreign policy decisions.<sup>307</sup> Another negative aspect of the war on terror is its impact on the civil-military relations in Pakistan. As long as Pakistan



plays the role of a frontline ally in the war against terror the role of the Pakistani military will be reinforced to some extent.

Public opinion in the US and Pakistan shows that there is a deep mistrust in the people of both countries regarding the other country. Public opinion polls in the US show that 74% of registered voters in the US do not believe Pakistan is a strong ally in the war on terrorism and 73% say that the US should cut off aid to Pakistan until it commits to a stronger effort to root out and capture terrorists.<sup>308</sup> America's overall image is viewed unfavourably by 73% of Pakistanis and favourably by just 12% while only 6% see it as a partner and 69% see it as an enemy.<sup>309</sup> Similarly, 68% had an unfavourable view while 17% had a favourable view of the US in 2010, which is largely unchanged from 2009 when 68% viewed it unfavourably and 16% as favourably.<sup>310</sup>

Pakistan receives heavy civil and military aid from the US. During the fiscal year 2011, Pakistan is supposed to receive US \$1.6 billion in security-related aid and US \$1.3 billion in economic aid.<sup>31</sup> In October, 2009, President Obama signed the Enhanced Partnership with Pakistan Act of 2009 (commonly known as the Kerry-Lugar Bill), a five year US \$7.5 billion aid package for Pakistan. During the past three years Pakistan's growing dependence on foreign aid for its economy has led observers to question if the national interest is being jeopardised. However, there have been some serious absorption issues in Aid. A report of the US Government Accountability Office stated that only US \$179.5 million of \$1.5 billion Aid for the fiscal year 2010 was disbursed by December 31, 2010.<sup>312</sup> Only \$285 million had been spent as of May 2011. Historically, military regimes in Pakistan have been highest recipients of US Aid. Some have argued that US aid for Pakistan was historically aimed at achieving immediate foreign policy objectives and thus weakened the democratic institutions in Pakistan. After 9/11 most of the US aid has been routed towards the Pakistani military. During 2001-2009 Pakistan received \$12.14 billion in aid out of which \$8.91 billion, or 73 percent, went to the Pakistan military and can be categorized as security-related aid.<sup>313</sup> A \$2 billion military aid package was announced in October 2010 which is meant for Pakistan "to buy American made arms, ammunitions, and accessories" from 2012 to 2016.<sup>314</sup> This imbalance in aid has strengthened the Pakistani military in the country's political economy and thus eroded the authority of civilian and democratic institutions. It is commonly understood that much of the objectives for this

aid have not been achieved. The objectives related to counterterrorism, of either Pakistan or the US, have not been achieved. Pakistani Government's estimates a loss of US \$70 billion since 2002 on account of the war against terror, which more than three times as much as the aid received.<sup>315</sup> Similarly, until now direct US aid has had a small impact on Pakistan's economy. Pakistani economist S. Akbar Zaidi notes that, "This assistance has not achieved the counterterrorism objectives of the United States or Pakistan, even acknowledging that the objectives have been inadequately defined. It has had the effect, however, of strengthening the praetorian state further—thus reinforcing the very weaknesses of Pakistan's democracy that the Americans decry."<sup>316</sup> Only recently the priorities have somewhat shifted and the share of economic-related aid has risen, but it is still less than half.<sup>317</sup> The Kerry-Lugar funds have now been focused on infrastructure, not civil-society investments as originally intended, which highlights an example of changing objectives midway and speaks to the relative ease of verifying infrastructure projects. There have been some serious absorption problems as well. It seems that currently the US is focused on the war on terror and it loses chances to enhance regional peace, stability and security by changing its strategies and priorities in Pakistan.

On June 26, 2011 the US Embassy in Islamabad held a Lesbian, Gay, Bisexual, Transgender (LGBT) pride celebration. In its press release US Embassy expressed the support for Lesbian, Gay, Bisexual and Transgender (LGBT) community in Pakistan.<sup>318</sup> This led to protests by some right-wing parties in the country.<sup>319</sup>

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

This question received a score of 57% during the Assessment compared to 41% in 2010.

In October 2011 Pakistan was elected to a temporary seat on the United Nation Security Council for a two-year term which will end in December 2011. It is worth mentioning that Pakistan was supported by India in the election.<sup>320</sup> Pakistan's earlier terms on the Council were in 2003-04, 1993-94, 1983-84, 1976-77, 1968-69 and 1952-53.

In November 2011, the Federal Cabinet granted approval to the Ministry of Commerce to reduce the sensitive list under

the South Asia Free Trade Association's (SAFTA) trade liberalisation programme. The withdrawal of items from the list would enhance trade with the SAARC member states at much lower cost because of the proximity and reduced cost of transportation. The liberalisation of trade regime would help SAARC to achieve its much-sought-out objective of regional integration and development.<sup>321</sup>

The Friends of Democratic Pakistan (FoDP) was launched in 2008. The founding members include Britain, France, Germany, the United States, China, the United Arab Emirates, Canada, Turkey, Australia and Italy plus the United Nations and the European Union. The FoDP is aimed at building political and support for Pakistan in the world. A Water Sector Task Force for Pakistan has also been set up by the FoDP.

The US \$7.5 billion Pak-Iran Gas Pipeline has been a source of tension between Pakistan and the United States. This project has been hailed as a partial answer to Pakistan's energy crisis. The US has urged Pakistan to abandon the project. However, rejecting US pressure, on September 08, 2011, Pakistan and Iran signed the Economic and Technical Cooperation Agreement.<sup>322</sup> This development led to US warning that Pakistan may be affected by sanctions on Iran.<sup>323</sup> Despite these pressures Pakistani authorities have assured Iran that they are committed to the project. While addressing a public rally the President of Pakistan Asif Ali Zardari said that the Government will trade with everyone.<sup>324</sup> The US has responded by saying that the gas pipeline deal can violate US restrictions on major financial deals with Iran.<sup>325</sup>

#### **4.1.3. How far are the Government's negotiating positions and subsequent commitments within these organisations subject to effective legislative oversight and public debate?**

This question received a score of 39% during the Assessment compared to 32% in 2010.

Parliament's role in overseeing the executive's negotiating positions and reviewing any pacts that the Government agrees to is non-existent. Unlike most other legislatures in the World, Pakistan's Parliament is not required to ratify any conventions or treaties that the Government agrees to internationally. This remains one of the weakest areas of Parliamentary oversight as it is consistently reflected in the poor score it gets in Parliamentary Performance evaluation every year. In the evaluation carried out in 2011, the

question "How effective is the Parliament in ensuring international commitments are fulfilled at the national level?" received a low score of 37%.<sup>326</sup>

The strategic partnership between Pakistan and the US is not subject to effective legislative oversight and has remained a subject of public and Parliamentary ire throughout 2011. This question has especially been raised time and again during 2011, including the Raymond Davis affair, the US unilateral strike on Pakistani soil that killed Osama bin Laden, US pressure on Pakistan's military, especially the ISI in the aftermath of attack on US embassy in Kabul, and the NATO attack inside Pakistan. These incidents raised many questions on the role of the security agencies and the requirement of civilian and Parliamentary oversight over them, especially the supreme role Parliament needs to play in the formulation and implementation of a comprehensive and integrated counter-terrorism and national-security strategy.

The Raymond Davis affair, which led to a diplomatic row between the Government of Pakistan and United States, was resolved without approval from Parliament or even the political leadership.<sup>327</sup> The Standing Committee on Foreign Affairs has not held any meeting over the issue.

Regarding the OBL raid, an unprecedented briefing by the Armed Forces was given to the Parliament. The Parliamentary Committee on National Security deliberated over the issue and also summoned officials from Ministry of Defence and Inter Services Intelligence (ISI).<sup>328</sup>

After the NATO attack on Pakistani forces in Mohmand agency, the Prime Minister ordered a review of the National Security paradigm and relations with the United States to be conducted by the Parliamentary Committee on National Security (PCNS).<sup>329</sup> In this regard the Parliamentary Committee on National Security also asked the Government to present before it all cooperation agreements with the US, whether written or otherwise.<sup>330</sup> On December 24, 2011 nine pacts signed by the Musharraf regime after 2002 with the US with regards to the war on terror were presented in front of the Parliamentary Committee on National Security by the Ministry of Defence. This is for the first time these agreements were presented to a Parliamentary panel.

More importantly, Parliamentary committees need to seek details of a formal *status of forces agreement*, if one exists, that Pakistan has entered into with United States of

America which establishes the framework under which Pakistan is cooperating with the United States in a comprehensive security arrangement. Such a mechanism ought to be placed before the Parliament so it can investigate the legal framework within which US security and intelligence personnel operate in Pakistan and how the domestic laws of Pakistan are applied toward them. If Pakistan has not entered into a formal *status of forces agreement* with the United States, the Parliament and its defence and national security committees need to demand comprehensive details of any written or otherwise agreement that applies on Pak-US relations and arrangements for security and intelligence cooperation. Both the military establishment and the foreign office keep referring to red lines that the US should not cross on cooperation on counter-terrorism<sup>331</sup> and the committees must demand details of all such cooperation that falls under green, amber or red lines.

PILDAT reports on Performance of Parliamentary Committees on Defence and National Security and Performance of the National Assembly Standing Committee on Foreign Affairs during 2011 revealed that these committees did not perform in accordance with the grand challenges faced in the domain of foreign affairs and national security.<sup>332</sup> Despite enormous challenges in the domain of Foreign Policy, including ever complex Pak-US and Pak-Afghan relations and the impasse with India over Mumbai attacks, the National Assembly Standing Committee on Foreign Affairs has shown little interest to oversee or contribute to the foreign policy adopted by the Executive in the past three Parliamentary years.

#### 4.2. The Country's Democratic Impact Abroad

This sub-pillar received a score of 53% during the Assessment compared to 45% in 2010.

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

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

This question received a score of 51% during the Assessment compared to 42% the past year.

In proportion to its ambit, capacity and resources Pakistan

has strived to lend support to democracy and human rights causes worldwide during the period.

In accordance with its longstanding policy and warm relations with the Muslim world, Pakistan has lent support to the rights of Palestinians. When Palestine applied for full UN membership on September 23, 2011 Pakistan expressed support to their bid.<sup>333</sup> Similarly, Pakistan played a role in supporting Palestine to get membership of the United Nations Educational, Scientific and Cultural Organization (UNESCO).<sup>334</sup>

The Pakistani Government supports the Kashmiri people in their right to self-determination, and doubly so in the wake of Human Rights abuses uncovered by the Jammu and Kashmir State Human Rights Commission.<sup>335</sup>

Historically, Pakistan's relations with Afghanistan have been rocky at best. As the US pullout approaches all regional players are vying for their interest in what is now referred to as the 'end-game' in Afghanistan. Pakistan, one of the key players in the end-game, supports the Haqqani Network and Quetta Shura which it thinks will best protect its interests. It is unclear what this support means for democracy in Afghanistan, especially when both Afghan and US authorities are engaging in dialogue with the Taliban. However, it can be said that there is a realisation in all quarters that engagement is the only way forward.<sup>336</sup>

On June 17, 2011, Pakistan voted against a resolution passed by the UN Human Rights Council condemning discrimination against lesbian, gay, bisexual and transgender people. Pakistan's Ambassador to the UN said that the Resolution had "nothing to do with fundamental human rights."<sup>337</sup>

During the Libyan civil war this year which led to Muammar Gaddafi's regime being overthrown Pakistan condemned the military intervention by western countries in Libya.<sup>338</sup> After regime change in Libya, Pakistan recognised the National Transition Council on November 3, 2011.<sup>339</sup>

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

This question received a high score of 65% during the Assessment compared to 54%.

In harmony with its commitment to norms of international

institutions Pakistan upholds the UN charter and engages actively in deliberations of many international and regional organisations.

During the year 2011, Pakistan retained its spot as one of the top contributors to the UN peacekeeping missions with

**Table 5: Ranking of Military and Police Contributions to UN Operations**

Pakistan's Ranking	Police	Military Experts on Missions	Troops	Total
02	889	117	9,650	10,656

Source: Monthly Summary of Contribution to UN Peacekeeping Operations as of September, 2011

contributors on ten missions.<sup>340</sup>

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

This question received a score of 58% during the Assessment compared to 48% in 2010.

During the period of the assessment, Pakistan contributed to the international relief efforts in disaster-hit areas. On January 26, 2011, the National Disaster Management Authority (NDMA) sent a C-130 aircraft containing 300 Tents and 1,000 Blankets for the flood affectees of Sri Lanka.<sup>341</sup> Similarly, on March 24, 2011, the Government of Pakistan dispatched two C-130 aircrafts carrying 24 metric tons of urgently needed food items to Japan for the victims of the earthquake. The humanitarian cargo included 13.5 tons of High Energy Biscuits, 9 tons (7200 litres) of Milk and 1.5 tons (500 bottles) of clean drinking water.<sup>342</sup>

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

This question received a score of 39% during the Assessment compared to 34% in 2010.

According to Rules of Business of Pakistan, made in pursuance of Article 90 and 99 of the Constitution, no important foreign policy decision can be taken without the approval of the Prime Minister [Article 5(1)]. While article 90 of the Constitution vests executive authority in the President, Article 48 binds him to "act in accordance with the advice of the Federal Cabinet or the Prime Minister."

However, under Article 16 of the Rules of Business, all proposals involving negotiations with foreign countries e.g. exchange of diplomatic and commercial representation, treaties and agreements, visits of goodwill missions, representation at international conferences and meetings, etc., shall be brought before the Cabinet. In addition, the Cabinet is required to consider all matters relating to vital political, economic and administrative policies.

The Ministry of Foreign Affairs is the centre for the initiation of all proposals relating to the conduct of Pakistan's foreign affairs with the exception of any matters that may be assigned to other Divisions/Ministries of the Government. This should be clear from the reading of the subjects allocated to the Ministry under the Rules of Business (Article 13 of Schedule 11 of the Rules of Business). In addition Rule 13 of the Rules of Business clearly lays down that the Ministry of Foreign Affairs shall be consulted on all matters which affect the foreign policy of Pakistan or the conduct of its foreign relations.<sup>343</sup>

As far as the Parliament's role in Foreign Policy is concerned, the Executive, that is, the Cabinet headed by the Prime Minister, is collectively responsible to the Parliament, both the Senate and the National Assembly of Pakistan.<sup>344</sup> The Parliament can influence the foreign policy formulation and implementation process by adopting non-binding resolutions on foreign policy issues; by holding hearings on crucial issues in the Standing Committees on Foreign Affairs; and by asking questions on foreign affairs in the House.<sup>345</sup>

However, Parliament and Parliamentary committees have played negligible role in this regard. A PILDAT report of the performance of the National Assembly Standing Committee on Foreign Affairs Committee from March 2008 to July 2011 reveals that the Standing Committee failed to live up to the enormous challenges in the domain of foreign affairs during this period. The National Assembly Standing Committee on Foreign Affairs held 17 meetings during three years out of which 10 times (59%) it only convened to meet visiting delegates.<sup>346</sup> The Chairman of the Committee, Mr. Asfandiyar Wali Khan, MNA, ANP (NA-7, Charsadda-I) had an average attendance of 41%. It is also of particular importance that the Standing Committee on Foreign Affairs held no meeting related to the unilateral strike by the US into Pakistan on May 2 or the Raymond Davis issue till July 2011.

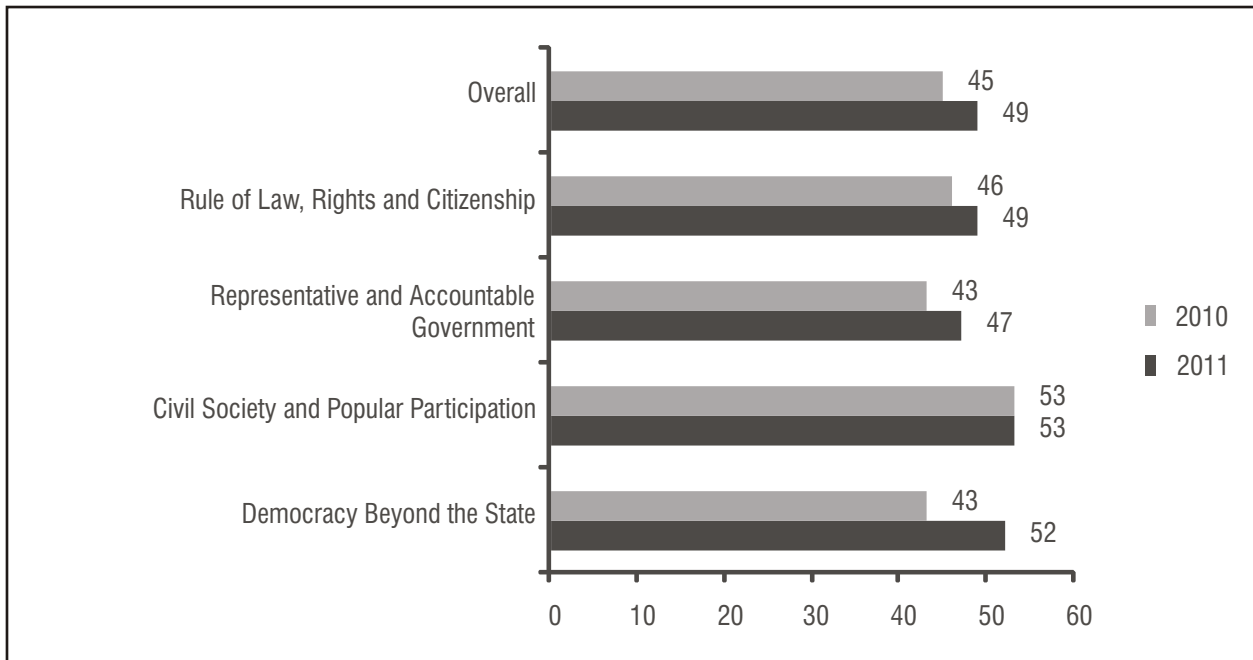
As mentioned in 4.1.1 above, there is a lot of ambiguity around the Pak-US relations and a very small part of this relationship is subject to Parliamentary oversight, if at all. During the year 2011, issues such as the arrest of the CIA operative Raymond Davis and US control of Shamsi base surfaced which mark the insufficient and ineffective Parliamentary oversight of foreign affairs. Moreover, there have been very complex and important developments in the region as the US deadline to pull out from Afghanistan approaches. Pakistan like other players is looking to safeguard and lobby for its interests in Afghanistan but these interests have not been premised with meaningful Parliamentary oversight/debate yet. The Parliament has not yet taken the lead in exercising rigorous oversight of foreign policy vis-a-vis the end-game in Afghanistan. Parliamentary Committees had not sought details of the status of forces agreement between the Governments of Pakistan and the United States to analyse the legal framework under which the US security and intelligence operatives work in Pakistan. Both the military establishment and the foreign office keep referring to red lines that the US should not cross on cooperation on counter-terrorism but the committees did not demand details of all such cooperation.

However, following the NATO attack on Mohmand agency in November, the Parliamentary Committee on National Security asked the Government to submit details on all cooperation agreements with the US, whether written or otherwise<sup>347</sup> It was the first time a Parliamentary Committee was presented with pacts signed between the US and Pakistan since 2002.<sup>348</sup>

## The Democracy Score Card

Democracy in Pakistan yielded an overall score of 183 out of a total of 375 which corresponds to 49% score. This is an improvement compared to 2010 when democracy was awarded an overall score of 45%. The results point out an improvement of 4 percentage points in the quality of democracy during the year 2011

**Figure 1: Score Card of the Assessment of the Quality of Democracy in Pakistan: Year 2011**



### The pillar receiving the highest score – Civil Society and popular Participation

Out of four pillars of framework, the pillar of Civil Society and Popular Participation received the highest score of 53% with no change from the previous year.

### The Role of the Media

The sub-pillar **role of the media** received a score of 56% which is the highest. Under the **role of media** the **independence of the media** and **representativeness of the media** received 56% and 62% marks respectively. The same was 62% and 67% in 2010. A low score was 49% was given to **freedom of private citizen from intrusion and harassment by the media** compared to 52% in 2010.

### Political Participation

**Political participation** by various groups of citizens received 55% which is an improvement compared to 2010 when 52% marks were given. The **equality of access for all social groups to public office** received a low score of 43% compared 42% in 2010.

### Decentralisation

The sub-pillar **decentralisation** received a score of 44% compared to 47%. The question regarding the **cooperation between government at most local level** received a low score of 37% compared to 41% in 2010.

### Democracy Beyond the State

The pillar Democracy beyond the State gets the second highest score i.e. 52% compared to 43% in 2010.

#### External Influence on country's democracy

The sub-pillar of **external influence over the country's democracy** got a score of 49% compared to 40% in 2010. The question regarding the **government's negotiating positions with the bilateral, regional and international organizations being subject to effective legislative oversight and public debate** had a score of 39% compared to 32% in 2010.

#### The country's democratic impact abroad

This sub-pillar received a score of 53% compared to 45% in 2010. Under this pillar the **government's international policy being subject to effective legislative oversight** got a low score of 39% compared to 34% the past year. The government's support for the UN agencies and international cooperation got a relatively high score of 65% compared to 54% in 2010.

### Citizenship, Law and Rights Pillar

The Citizen-State Relations pillar received a score of 49% compared to 46% in 2010.

#### Nationhood and Citizenship

This received an overall score of 59% compared to 54% in 2010. Under this sub-pillar the **protection of minorities** was assigned the lowest score of 41% compared to 40% in 2010.

#### Rule of Law and Access to Justice

**Rule of Law and Access to Justice** receives a score of 47% compared to 43% in 2010. The **application of rule of law** received a score of 43% from 33% in 2010. The **independence of the courts** has received a score of 67% which is the highest score awarded to any question.

#### Civil and Political Rights

**Civil and Political Rights** received a score of 49% compared to 47% in 2010. Under this the **protection of the freedoms of movement, expression, association and assembly** received a score of 59%. The **freedom of people from physical violation of their person** scored 41% compared to 34% in 2010.

#### Economic and Social Data

The sub-pillar **Economic and Social Rights** received a score of 40% unchanged from the year 2010. Under this sub-pillar the **protection of health** received a low score of 32% compared to 33% in 2010, guarantee of basic necessities of life such as **food, shelter and clean water** received a score of 35% compared to 31% in 2010.

### Representative and Accountable Government

The lowest score has been assigned to the **Representative and Accountable Government Pillar**. This is the most important of the four pillars as it commands the greatest weightage of 45%. The DAG assigned 47% marks to this pillar compared to 43% in 2010.

#### Free and Fair Elections

This sub-pillar received a score of 58% compared to 50% in 2010. Under this pillar the **fairness of procedures for registration of parties and candidates and their access to media** received the highest score of 67% compared to 56% the past year. The question regarding **legislature reflecting the social composition of the electorate** received a low score of 50% - 42% in 2010.

#### The Democratic Role of Political Parties

This sub-pillar was assigned a score of 52% compared to 51% in 2010. The **freedom of political parties to form and recruit members, engage with public for campaign for office** received a score of 66% (63% in 2010) which is one of the highest score of the Assessment. The **system for party financing** received a low score of 39% under this pillar which was 40% the past year.

**Effective and Responsive Government**

This sub-pillar was assigned a score of 39% by the Democracy Assessment Group which is the second lowest score of the Assessment - 38% in 2010. Under this pillar the **public confidence in the ability of the Government to solve their main problems** received the lowest score of 29%.

**The Democratic Effectiveness of the Parliament**

This sub-pillar received a score of 52% compared to 50% in 2010. The question regarding the accessibility of elected representatives to their constituents received a score of 61% compared to 60% the past year. The lowest score under this sub-pillar was given to the procedure for approval of taxation and public expenditure which was assigned a score of 39% compared to 38% in year 2010.

**Civilian Control of the Military and Police**

This sub-pillar was assigned a score of 42% by the democracy Assessment Group which is an improvement compared to 35% in 2010. The question of civilian **control over the armed forces** received a score of 35% compared to 26% the past year.

**Integrity in Public Life**

The sub-pillar for **Integrity in Public Life** was assigned the lowest score of 33% in the Assessment. In 2010 the same was assigned a score of 34%. The question regarding the **confidence of the people in public officials and services being free from corruption** was assigned the lowest score of 27% compared to 28% in 2010.



## Recommendations to Improve Quality of Democracy in Pakistan

There is still a need to recognise that democracy was restored only four years ago in the country and repeated interruption in the democratic process by military and quasi-military interventions have rendered democratic institutions fragile and weak. However, democracy is more of a process than outcome. Democracy may not always produce the best outcome by way of good governance, economic growth, welfare or even freedoms but it is generally seen to be the most decent and humane process to aspire and work towards those objectives.

Despite the above there are great challenges ahead. Democracy in Pakistan continues to be under threat for various reasons. It is important to identify the challenges to democracy for consideration and action by the State with its all branches and the citizens of Pakistan. The following are the recommendations which according to the Democracy Assessment Group will improve the quality of democracy in Pakistan.

### a. Perception of Corruption and delay in instituting an Accountability Mechanism

The question regarding the confidence of people in **public official and services and their freedom from corruption** received a score of 27% which is the lowest score assigned to any question in the Assessment. Moreover, the sub-pillar regarding the **integrity in public life** received a score of 33% which is the lowest in all sub-pillars.

Prime Minister of Pakistan, Syed Yousaf Raza Gilani, in his very first speech in the National Assembly on March 29, 2008, promised to disband the National Accountability Bureau (NAB) and create instead an independent Accountability Commission as envisaged in the Charter of Democracy signed by the PML-N and PPP leaders. Almost four years down the line this promise remains unfulfilled. Moreover, the Government has allowed the Holders of Public Offices (Accountability) Bill 2009 to stay with the National Assembly Standing Committee on Law, Justice and Parliamentary Affairs for over 33 months since its introduction on April 15, 2009. In this regard this year saw the resignation of the Leader of the Opposition from the Chairmanship of the Public Accounts Committee as a protest against the Government's hindrance in the Committee's. The Committee has picked up the audit reports for the year 2008-09 i.e. the first year of the incumbent government. The appointment of a controversial attorney general has also made matters worse.

As there remains serious difference of opinion between the ruling PPPP and the opposition PML-N on the draft of the Holders of Public Offices (Accountability) Bill 2009, perhaps the Parliament should consider strengthening the National Accountability Bureau (NAB) by revising the NAB Ordinance 1999 to make NAB a transparent, objective and even-handed body. The Parliament may consider revising the NAB law to make the appointment of the Chairperson NAB through a Parliamentary Committee equally representing the Treasury and the Opposition benches instead of the present mere "consultation" with the Leader of the Opposition.

### b. Socio-Economic Divide

The sub-pillar for **Economic and Social Rights** was given 40% marks by the Democracy Assessment Group which is the third lowest score for any pillar.

Double digit inflation, deteriorating public departments, lack of access to food, clean water, health services, *population growth rate of 2.1% (highest in South Asia) and scarce resources have eroded* the economic and social rights of the people. The incumbent government has done little to provide equal opportunities of work and social security for its people. Moreover, it has shown little or no will to take tough decisions to address the economic dysfunctionality in the country. As elections approach there is nearly no possibility that the government will take any austerity measures. This high-risk strategy is very dangerous for the economic stability and democracy in the country.

It is therefore important that the Government take measures to increase the tax-to-GDP ratio from 8.5% (lowest in Asia), cautiously use the available resources, spend on exploring resources such as gas, take necessary austerity measures to decrease rising public debt. During the Assessment the **confidence of people in the ability of**

**government to solve the main problems confronting society** had the second lowest score of 29% Assessment.

**c. Civil-Military Relations in Pakistan**

This year saw a lot of developments with regards to civil-military relations in the country. While the US unilateral raid on May 2 to kill Osama bin Laden and terrorist attack on PNS Mehran marked security and intelligence failures the Government publicly defended the Armed forces in face of criticism from the media and political parties. However, in the aftermath of the Memogate scandal the same government felt the need to remind the armed forces that they are not a 'state within a state'. This year also saw the Armed Forces heavily influencing issues of security and foreign policy. Although, the Government has made some attempts to exert control over the armed forces the objective of full civilian control over the armed forces in the country does not look attainable in the near future.

During the Assessment the **civilian control of the Armed forces** received a score of 35% which is one of the lowest scores assigned. Civil-military relations in the country are particularly important in the context of democracy in Pakistan. It is generally believed that the civil-military dynamic not only has potential to upset the democratic dispensation but also affects the security policy and foreign policy. It is important for growth of democracy that civil-military relations in the country improve and the all institutions of the state function within their defined role in the Constitution of the country. The federal Government of Pakistan and other institutions should work towards this end.

**d. Protection of Religious Minorities**

An alarming trend which was seen this year is the prosecution and attacks on minorities in the country. Although the total number of sectarian attacks has gone down recently certain areas such as Balochistan remain very volatile. Balochistan suffered the highest number of fatalities in sectarian-related attacks, with 106 people killed in 21 attacks. At least 80 members of the Shia Hazara community have been killed in Balochistan this year. The Government has failed to hold to account the people involved in these attacks which remains one of its glaring failures. During the year 2011 at least 20 cases have been reported under this blasphemy law and five people who were involved in these cases have died. During the Assessment the question on **protection of minorities** received a low score of 41%.

**e. Law and Order in Balochistan**

The **application of rule of law** received a low score of 43%. The law and order situation in Balochistan has sharply deteriorated during the year 2011. The kill and dump operations which involve Baloch persons being killed, allegedly by security forces increased this year. At least 99 bodies of Baloch person have been found during the year. Despite Government's many efforts from Aghaz-e-Huqooq-e-Balochistan package to transferring the control of Frontier Corps to the Provincial Government of Balochistan, the law and order situation has not improved and state of human rights remains a cause of concern. According to Baloch leaders the province has reached a point of no return. The situation in Balochistan, if allowed to deteriorate, could pose a threat to not only democracy but also to the very existence of Pakistan.

**f. Need to Channelize the Potential of Youth**

70% of the population of Pakistan is below 30 years of age, while 45% is below the age of 15 years. Although, these demographic indicators mean a more active citizenry and great workforce the Government for its part should find a way to channelize this huge potential.

**g. Chief Election Commissioner and caretaker Government**

The Group noted that the appointment of the new Chief Election Commissioner is due in March 2012 and advised that consultations should begin in the earnest to identify and appoint a consensus Chief Election Commissioner in line with the provisions of the 18<sup>th</sup> Constitutional Amendment. Moreover, it noted that whenever the next Elections take place the appointment of a neutral caretaker Government is absolutely necessary, especially in the presence of a partisan President. The Article 224 of the Constitution provides for a caretaker cabinet to be appointed by the President (Governor in case of province) in consultation with the outgoing Prime Minister (Chief Minister in case of province) and Leader of Opposition in the National Assembly. However, the appointment of two NAB Chairmans, Justice (Retd.)

Deedar Hussain Shah and Admiral (Retd.) Fasih Bokhari, according to a similar process of consultation, led to the Leader of Opposition challenging the appointment in the Supreme Court.

The Group notes with concern that if all stakeholders do not reach a consensus with regards to the appointment of a neutral caretaker cabinet, it will lead to a situation of deep crises in the country because elections are due in sixty days after the dissolution of Assemblies. Political Parties from both the opposition and the government should make serious efforts to reach a consensus over the appointment of a neutral caretaker cabinet before elections.

**h. Local Government Elections**

In the view of the Democracy Assessment Group, the sub-pillar on **Decentralisation** received a score of **44%**. The Provincial Assemblies and Governments have failed to establish elected **Local Governments**, a crucial third tier of democracy. This runs contrary to the very principle of democracy, devolution and decentralisation that the 18<sup>th</sup> Constitutional Amendment upheld and through which provinces got their due rights. It is also a violation of Article 32 and 140-A of the Constitution.

The Group recommends that provincial governments quickly move ahead to establish elected local Governments in order to achieve the objective of maximum devolution of power initiated under the 18<sup>th</sup> Amendment.

**i. Democracy within Political Parties**

During the Assessment the question regarding **political parties being effective membership organizations** received a score of 40%. The state of democracy within political parties remains abysmal. Membership registers are usually not maintained and local level bodies within parties are only activated during election times. Many parties do not hold intra-party elections at local levels. The intra-party elections even when held at the top level are never competitive. This year has also seen the rise in hereditary politics. The Group believes that in order for democracy to flourish the political parties will have to democratise further. It is recommended that political parties hold regular competitive elections at all levels and include local level leadership in the process of policy making.

# APPENDICES



**Appendix A**

**List of Members of Democracy Assessment Group**

	<b>Names</b>
1.	<b>Mr. Omar Khan Afridi</b> Former Care Taker Minister
2.	<b>Mr. Iftikhar Ahmad</b> Senior Journalist
3.	<b>Mr. Cyril Almeida</b> Analyst
4.	<b>Mr. Sartaj Aziz</b> Former Finance Minister
5.	<b>Senator Mir Hasil Bizenjo</b> Politician
6.	<b>Dr. Khalida Ghaus</b> Academician
7.	<b>Dr. Ijaz Shafi Gilani</b> Chairman , Gallup Pakistan
8.	<b>Mr. Javed Hafeez</b> Former Ambassador
9.	<b>Lt. Gen. (Retd.) Moinuddin Haider</b> Former Governor Sindh; former Federal Minister for Interior
10.	<b>Mr. Shahid Hamid</b> Senior Advocate Supreme Court; former Governor Punjab
11.	<b>Dr. Parvez Hassan</b> Hasan and Hasan Advocates
12.	<b>Sardar Khalid Ibrahim</b> Politician
13.	<b>Mr. Javed Jabbar</b> Former Senator; Federal Minister for Media Development
14.	<b>Mr. Wazir Ahmed Jogezeai</b> Former Deputy Speaker National Assembly
15.	<b>Lt. Gen. (Retd.) Talat Masood</b> Defence Analyst
16.	<b>Dr. Hasan-Askari Rizvi</b> Defence Analyst
17.	<b>Mr. Ghazi Salahuddin</b> Senior Analyst
18.	<b>Mr. Mujib-ur-Rehman Shami</b> Editor in Chief, Daily Pakistan
19.	<b>Mr. Illahi Bukhsh Soomro</b> Former Speaker, National Assembly
20.	<b>Prof. Mohammad Waseem</b> Analyst and Academician

21.	<b>Senator S.M Zafar</b> Constitutional Lawyer
22.	<b>Dr. Akbar Zaidi</b> Political Economist
23.	<b>Ms. Nasim Zehra</b> Senior Journalist
24.	<b>Mr. Ahmed Bilal Mehboob</b> Executive Director, PILDAT
25.	<b>Ms. Aasiya Riaz</b> Joint Director, PILDAT

**Appendix B**

**The Democracy Score Card 2011**

No.	Parameter and Sub-Are of Evaluation	% Score Assigned by DAG in 2011	% Score Assigned by DAG in 2010
<b>1</b>	<b>Citizenship, Law and Rights</b>	<b>49</b>	46
1.1	<b>Nationhood and Citizenship</b>	<b>59</b>	54
	<b>Overarching Question: Is there public agreement on a Common citizenship without discrimination?</b>		
1.1.1	How inclusive is the political nation and state citizenship of all who lives in the territory?	<b>57</b>	51
1.1.2	How far are cultural differences acknowledged, and how well minorities and vulnerable social groups protected?	<b>41</b>	40
1.1.3	How much consensus is there on state boundaries and constitutional arrangements?	<b>67</b>	61
1.1.4	How far do constitutional and political arrangements enable major societal divisions to be moderated or reconciled?	<b>59</b>	56
1.1.5	How partial and inclusive are the procedures for amending the constitution?	<b>72</b>	62
1.1.6	How far the government does the respect its international obligations in its treatment of refugees and asylum seekers, and how free from the arbitrary discrimination is its immigration policy?	<b>61</b>	58
<b>1.2</b>	<b>Rule of Law and Access to Justice</b>	<b>47</b>	43
	<b>Overarching Question: Are State and society consistently subject to law?</b>		
1.2.1	How far is the rule of law operative throughout the territory?	<b>43</b>	33
1.2.2	To what extent are all public officials subject to the rule of law and to transparent rules in the performance of their functions?	<b>40</b>	39
1.2.3	How independent are the courts and the judiciary from the executive, and how free are they from all kinds of interference?	<b>67</b>	60
1.2.4	How equal and secure is the access of citizens to justice, to due process and to redress in the event of maladministration?	<b>45</b>	43
1.2.5	How far do the criminal justice and penal systems observe due rules of impartial and equitable treatment in their operations?	<b>41</b>	40



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1.2.6	How much confidence do people have in the legal system to deliver fair and effective justice?	47	40
<b>1.3</b>	<b>Civil and Political Rights</b>	<b>49</b>	<b>47</b>
	<b>Overarching Question: Are civil and political rights equally guaranteed for all?</b>		
1.3.1	How free are all people from physical violation of their person, and from fear of it?	41	34
1.3.2	How effective and equal is the protection of the freedoms of movement, expression, association and assembly?	59	56
1.3.3	How secure is the freedom for all to practice their own religion, language or culture?	47	48
1.3.4	How free from harassment and intimidation are individuals and groups working to improve human rights?	50	48
<b>1.4</b>	<b>Economic and Social Rights</b>	<b>40</b>	<b>40</b>
	<b>Overarching Question: Are economic and social rights equal guaranteed for all?</b>		
1.4.1	How far is access to work or social security available to all, without discrimination?	37	39
1.4.2	How effectively are the basic necessities of life guaranteed, including adequate food, shelter and clean water?	35	31
1.4.3	To what extent is the health of the population protected, in all spheres and stages of life?	32	33
1.4.4	How extensive and inclusive is the right to education, including education in the rights and responsibilities of citizenship?	40	41
1.4.5	How free are trade unions and other work-related associations to organize and represent their members' interests?	48	49
1.4.6	How rigorous and transparent are the rules on corporate governance and how effectively are corporations regulated in the public interest?	50	48
<b>2</b>	<b>Representative and Responsible Government</b>	<b>47</b>	<b>43</b>
<b>2.1</b>	<b>Free and Fair Elections</b>	<b>58</b>	<b>50</b>
	<b>Overarching Question: Do election give the people control over governments and their policies?</b>		

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2.1.1	How far is appointment to governmental and legislative office determined by popular competitive election, and how frequently do elections lead to change in the governing parties or personnel?	<b>54</b>	51
2.1.2	How inclusive and accessible for all citizens are the registration and voting procedures, how independent are they of government and party control, and how free from intimidation and abuse?	<b>61</b>	53
2.1.3	How fair are the procedures for the registration of candidates and parties, and how far is there fair access for them to the media and other means of communication with the voters?	<b>67</b>	53
2.1.4	How effective a range of choice does the electoral and party system allow the voters, how equally do their votes count, and how closely does the composition of the legislature and the selection of the executive reflect the choices they make?	<b>55</b>	51
2.1.5	How far does the legislature reflect the social composition of the electorate?	<b>50</b>	42
2.1.6	What proportion of the electorate votes, and how far are the election results accepted by all political forces in the country and outside?	<b>53</b>	50
<b>2.2</b>	<b>The Democratic Role of Political Parties</b>	<b>52</b>	51
	<b>Overarching Question: Does the party system assist the working of democracy?</b>		
2.2.1	How freely are parties able to form and recruit members, engage with the public and campaign for office?	<b>66</b>	63
2.2.2	How effective is the party system in forming and sustaining governments in office?	<b>56</b>	56
2.2.3	How far are parties effective membership organizations, and how far are members able to influence party policy and candidate selection?	<b>40</b>	59
2.2.4	How far does the system of party financing prevent the subordination of parties to special interests?	<b>40</b>	39
2.2.5	To what extent do parties cross ethnic, religious and linguistic divisions?	<b>54</b>	56
<b>2.3</b>	<b>Effective and Responsive Government</b>	<b>39</b>	38
	<b>Overarching Question: Is government effective in serving the public and responsive to its concerns?</b>		
2.3.1	How far is the elected government able to influence or control those matters that are important to the lives of its people, and how well is it informed, organized and resourced to do so?	<b>41</b>	36

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2.3.2	How effective and open to scrutiny is the control exercised by elected leaders and their ministers over their administrative staff and other executive agencies?	46	44
2.3.3	How open and systematic are the procedures for public consultation on government policy and legislation, and how equal is the access for relevant interests to government?	44	39
2.3.4	How accessible and reliable are public services for those who need them, and how systematic is consultation with users over service delivery?	35	34
2.3.5	How comprehensive and effective is the right of access for citizens to government information under the constitution or other laws?	40	43
2.3.6	How much confidence do people have in the ability of government to solve the main problems confronting society, and in their own ability to influence it?	29	31
<b>2.4</b>	<b>The Democratic Effectiveness of Parliament</b>	<b>52</b>	<b>50</b>
	<b>Overarching Question: Does the parliament or legislatures contribute effectively to the democratic process?</b>		
2.4.1	How independent is the parliament or legislature of the executive, and how freely are its members able to express their opinions?	53	54
2.4.2	How extensive and effective are the powers of the parliament or legislature to initiate, scrutinize and amend legislation?	60	61
2.4.3	How extensive and effective are the powers of the parliament or legislature to oversee the executive and hold it to accountable?	46	44
2.4.4	How rigorous are the procedures for approval and supervision of taxation and public expenditure?	39	38
2.4.5	How freely are all parties and groups able to organize within the parliament or legislature and contribute to its work?	57	56
2.4.6	How extensive are the procedures of the parliament or legislature for consulting the public and relevant interests across the range of its work?	47	42
2.4.7	How accessible are elected representatives to their constituents?	61	60
2.4.8	How well does the parliament or legislature provide a forum for deliberation and debate on issues of public concern?	55	48
<b>2.5</b>	<b>Civilian Control of the Military and Police</b>	<b>42</b>	<b>35</b>
	<b>Overarching Question: Are the military and police forces under civilian control?</b>		

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2.5.1	How effective is civilian control over the armed forces, and how free is political life from military involvement?	<b>35</b>	26
2.5.2	How publicly accountable are the security services for their activities?	<b>37</b>	33
2.5.3	How far does the composition of the army and security services reflect the social composition of society at large?	<b>56</b>	51
2.5.4	How free is the country from the operation of paramilitary units, private armies, warlordism and criminal mafias?	<b>36</b>	33
<b>2.6</b>	<b>Integrity in Public Life</b>	<b>33</b>	34
	<b>Overarching Question: Is the integrity of conduct in public life assured?</b>		
2.6.1	How effective is the separation of public office from the personal business and family interests of office holders?	<b>31</b>	36
2.6.2	How effective are the arrangements for protecting office holders and the public from involvement in bribery?	<b>32</b>	33
2.6.3	How far do the rules and procedures for financing elections, candidates and elected representatives prevent their subordination to sectional interests?	<b>36</b>	36
2.6.4	How far is the influence of powerful corporations and business interests over public policy kept in check, and how free are they from involvement in corruption, including overseas?	<b>39</b>	37
2.6.5	How much confidence do people have that public officials and public services are free from corruption?	<b>27</b>	28
<b>3</b>	<b>Civil Society and Popular Participation</b>	<b>53</b>	53
	<b>Overarching Question: Do the media operate in a way that sustains democratic values?</b>		
3.1.1	How independent are the media from government, how pluralistic is their ownership, and how free are they from subordination to foreign governments or multinational companies?	<b>56</b>	56
3.1.2	How representative are the media of different opinions and how accessible are they to different sections of society?	<b>62</b>	67
3.1.3	How effective are the media and other independent bodies in investigating government and powerful corporations?	<b>62</b>	62
3.1.4	How free are journalists from restrictive laws, harassment and intimidation?	<b>51</b>	48

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3.1.5	How free are private citizens from intrusion and harassment by the media?	49	52
<b>3.2</b>	<b>Political Participation</b>	<b>55</b>	52
	<b>Overarching Question: Is there full citizen participation in public life?</b>		
3.2.1	How extensive is the range of voluntary associations, citizen groups, social movements etc. and how independent are they from government?	65	63
3.2.2	How extensive is citizen participation in voluntary associations and self-management organizations, and in other voluntary public activity?	56	53
3.2.3	How far do women participate in political life and public office at all levels?	54	49
3.2.4	How equal is access for all social groups to public office, and how fairly are they represented?	43	42
<b>3.3</b>	<b>Decentralization</b>	<b>44</b>	47
	<b>Overarching Question: Are decisions taken at the level of government that is most appropriate for the people affected?</b>		
3.3.1	How independent are the sub-central tiers of government from the centre?	48	53
3.3.2	How far are these levels of government subject to free and fair electoral authorization?	46	48
3.3.3	How extensive is the cooperation of government at the most local level with relevant partners?	37	41
<b>4</b>	<b>Democracy Beyond the State</b>	<b>52</b>	43
<b>4.1</b>	<b>Eternal Influences on the country's democracy?</b>	<b>49</b>	40
	<b>Overarching Question: Is the impact of external influences broadly supportive of country's democracy?</b>		
4.1.1	How free is the country from external influences which undermine or compromise its democratic process or national interests?	52	35
4.1.2	How equitable is the degree of influence exercised by the government within the bilateral, regional and international organizations to whose decisions it may be subject?	57	41
4.1.3	How far are the government's negotiating positions and subsequent commitments within these organizations subject to effective legislative oversight and public debate?	39	32

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<b>4.2</b>	<b>The Country's democratic Impact Abroad</b>	<b>53</b>	45
	<b>Overarching Question: Do the country's international policies contribute to strengthening global democracy?</b>		
4.2.1	How consistent is the government in its support for, and protection of, human rights and democracy abroad?	<b>51</b>	42
4.2.2	How far does the government support the UN and agencies of international cooperation, and respect the rule of law internationally?	<b>65</b>	54
4.2.3	How extensive and consistent is the government's contribution to international development?	<b>58</b>	48
4.2.4	How far is the government's international policy subject to effective parliamentary oversight and public influence?	<b>39</b>	34
	<b>Aggregate</b>	<b>49</b>	45

## Appendix C

### Methodology and Framework

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

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

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

The International Institute of democracy and Electoral Assistance (international IDEA) is an intergovernmental organization which supports sustainable democracy worldwide. International IDEA's mission is to support sustainable democratic change by providing comparative knowledge, assisting in democratic reform, and influencing policies and politics.

#### Principles and Key Features of the IIDEA Democracy Assessment Framework

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

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

The key features of the IIDEA framework approach are:

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

#### Democracy Assessment Framework

The framework has 4 key Pillars or Categories:

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

Each category is divided into sub-categories expressed through 15 overarching questions. Overarching questions are further specialized by search questions. These are total 75 questions. Each of the 75 questions is graded by the Democracy Assessment Group on a scale of 1 to 5: 1 being the lowest score and 5 as the highest score. Each of the sub-pillars is also expressed in the form of an over-arching question.

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

### Framework for the Assessment of the Quality of Democracy

#### 1. State-Citizen Relationship: 110 Scores (29 % of the Total Score)

##### a. Nationhood and Citizenship: 30

- i. Inclusive citizenship for all
- ii. Protection of Minorities and vulnerable groups
- iii. Consensus on State Boundaries and Constitutional Arrangements
- iv. Effectiveness of the Constitution to reconcile divisions in the society
- v. Inclusivity and Impartiality of the procedure to amend the constitution
- vi. Respect of international obligations regarding refugees by the Government

##### b. Rule of Law and Access to Justice: 30

- i. State of Rule of Law
- ii. Subordination of State Officials to Rule of Law; Transparency of Rules regarding performance of public officials
- iii. Independence of Judiciary
- iv. Citizens' Access to Justice and redressal of grievances in case of maladministration
- v. Adherence to due process in criminal justice and penal systems
- vi. Citizens' confidence in the legal system to deliver justice

##### c. Civil and Political Rights: 20

- i. Freedom from physical violation and fear of physical violation
- ii. Effectiveness of Freedom of Movement, Freedom of Expression, Freedom of Association and freedom of Assembly and application of this freedom to all citizens
- iii. Effectiveness of Freedom to practice one's own religion, language and culture
- iv. Freedom from harassment and intimidation for Human rights Activists

##### d. Economic and Social Rights: 30

- i. Access of Social Security to all
- ii. Effectiveness of the guaranteed supply of basic necessities of life like Food, Shelter and Clean water
- iii. Protection of Citizens Health
- iv. Inclusiveness of the right to education including civic education
- v. Freedom of Trade Unions and Associations
- vi. Transparency and Rigorousness of rules of Corporate Governance

#### 2. Representative and Accountable Government: 170 (45 % of the Total Score)

##### a. Free and Fair Elections: 30

- i. Election of public Office Holders and Possibility of Change of Government through election



- ii. Freedom and inclusiveness of Voter Registration and Vote Casting procedures
- iii. Fairness of registration of Political Parties and Candidates and their access to voters through media and otherwise
- iv. Fairness of the system of election to make legislatures truly reflect the public choices in elections
- v. Legislatures' reflection of the social composition of the electorate
- vi. Voter Turn-out and Acceptability of Election Results

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

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

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

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

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

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

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

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

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

- i. Effectiveness of separation of public office from the interests of public office holders
- ii. Effectiveness of arrangements to protect office holders and the public from involvement in bribery
- iii. Effectiveness of the Rules and Procedures for Election Finance to prevent candidates and elected representatives' subordination to interest groups

- v. and freedom of corporations and businesses from corruption and foreign influence
- v. Public Confidence in the integrity of public officials and public services that these are corruption free

### **3. Civil Society and Popular Participation: 60 (16 % of the total Score)**

#### **a. The Media in a democratic Society: 25**

- i. Independence of media from government, foreign governments, multinational companies and their pluralistic ownership
- ii. Representativeness of media of different public opinions and its accessibility to different sections of the society
- iii. Effectiveness of media and other independent bodies in investigating government and powerful corporations
- iv. Freedom of journalists from restrictive laws, harassment and intimidation
- v. Freedom of citizens from intrusion and harassment by the media

#### **b. Political Participation: 20**

- i. Extensiveness of the range of voluntary associations, citizen groups, social movements and their independence of the government
- ii. Extensiveness of Citizens Participation in voluntary associations and other voluntary public activity
- iii. Participation of women in political life and public offices at all levels
- iv. Equality of access for all social groups to public office and their fair representation in those offices

#### **c. Decentralization: 15**

- i. Independence of sub-national governments of the national government and their power and resourcefulness to carry out their responsibilities
- ii. Free and Fair Election of sub-national governments and their openness, accountability and responsiveness
- iii. Cooperation of government at the lowest tier of government with associations and communities to formulate and implement policies and service delivery

### **4. Democracy beyond the State: 35 (10 % of the Total Score)**

#### **a. External influence on the country's Democracy: 15**

- i. Freedom of the country from external influences which undermine or compromise its democratic process or national interest
- ii. Degree of equitable influence exercised by the government in bilateral, regional or international organizations whose decisions the country is subject to
- iii. Effectiveness of Legislative Oversight and public debate on government's negotiating positions and subsequent commitments within international organizations

#### **b. The Country's Democratic Impact Abroad: 20**

- i. Consistency of Government in its support for and protection of human rights and democracy abroad
- ii. Government's Support to the UN, agencies of international cooperation and respect for the rule of law internationally
- iii. Extensiveness and Consistency of Government's contribution to international development
- iv. Effectiveness of Parliamentary Oversight and public influence over Government's international policy

**Appendix D**

**Democracy Index 2011 by Economist Intelligence Unit**

The Democracy Index for year 2011 made by the Economist Intelligence Unit contains four classifications for democracy namely; full democracies, flawed democracies, hybrid regimes and authoritarian regimes.<sup>349</sup> The rankings are based on scores given under five categories. These categories include electoral process and pluralism, civil liberties, the functioning of government, political participation and political culture. Pakistan is ranked at 105 out 167 countries compared to India which is ranked at 39. Following is the comparison between Pakistan and India:

Country	Rank	Overall Score	Electoral Process & Pluralism	Functioning of government	Political Participation	Political Culture	Civil Liberties
Pakistan (hybrid)	105	4.55	5.17	5.71	2.22	4.38	5.29
India (flawed)	39	7.30	9.58	7.50	5.00	5.00	9.41

## End Notes

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  - ii. The definition of corruption has been narrowed from that contained in the NAO and does not include owning or possessing property disproportionate to one's means, misusing authority to seek a benefit or favour, and issuing any concession or benefit under any directive or order for the benefit of one's self or dependents.
  - iii. The bill also limits the investigatory powers of the anti-corruption agency. Provisions allowing the agency to question individuals, freeze assets and require individuals to produce bank documents, all of which were part of the NAO, have been removed in the HOPO Bill. Under the bill, there is no power of arrest and offences are bailable.
  - iv. The bill discards specialist courts and transfers jurisdiction to try corruption cases to session courts.
  - v. The bill reduces the penalties for corruption from 14 years imprisonment and a bar of 21 years from holding public office outlined in the NAO to a maximum of 7 years imprisonment and a 5-year bar from being a member of a national or

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- vi. The Bill has also been criticized for undermining Pakistan's international obligations under the UN Convention Against Corruption (UNCAC).
- 42 In October 2010, the President of Pakistan appointed Justice (Retd.) Deedar Hussain Shah as the NAB chairman. Justice (Retd.) Deedar Hussain Shah, former Judge of the Supreme Court, had twice been elected to the Provincial Assembly of Sindh on a PPP ticket and was therefore considered partisan. His appointment was challenged in the Supreme Court by the Leader of the Opposition Chaudhry Nisar Ali Khan, MNA (NA-53 Rawalpindi-IV, Punjab, PML-N). On March 10, 2011, a three-judge bench of the Supreme Court had ordered the removal of Justice (Retd.) Shah from the office in response to petitions challenging his appointment. President Asif Ali Zardari proposed the reappointment of Justice (Retd.) Deedar Hussain Shah as chairman of the National Accountability Bureau (NAB), a day after his removal from the post by the Supreme Court. On March 22, 2011, however, the Supreme Court blocked the Government's attempt to reappoint Justice (Retd.) Deedar Hussain Shah as chairman of the National Accountability Bureau terming Justice (Retd.) Shah disqualified to be appointed to the office again. Admiral (Retd.) Fasih Bokhari, former Chief of Pakistan Navy, was notified as Chairman of National Accountability Bureau (NAB) on October 16, 2011 despite objections raised by the Leader of the Opposition in the National Assembly that the legal process of "Consultation" had not been followed in his nomination for the post. The Opposition Leader in the National Assembly challenged the appointment of Admiral (Retd.) Fasih Bokhari as chairman of the National Accountability Bureau (NAB) in the Supreme Court on October 22, 2011. The matter is pending before the Supreme Court while Admiral (Retd.) Fasih Bokhari took charge of the office of Chairman NAB on October 17, 2011.
- 43 The National Reconciliation Ordinance (NRO) was promulgated by former President on October 5, 2007. Under the ordinance 8,041 individuals, including top bureaucrats, government officials and politicians, among them the former Prime Minister late Mohtarma Benazir Bhutto, had cases against them withdrawn. Notably, the list of NRO beneficiaries also included Mr. Asif Ali Zardari, the current President of Pakistan.
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**Pakistan Institute of Legislative Development And Transparency - PILDAT**

**Head Office:** No. 7, 9th Avenue, F-8/1, Islamabad, Pakistan

Tel: (+92-51) 111 123 345 | Fax: (+92-51) 226 3078

**Lahore Office:** 45-A, 2nd Floor, Sector XX, Phase III, Khayaban-e-Iqbal, DHA, Lahore, Pakistan

Tel: (+92-42) 111 123 345 | Fax: (+92-42) 3569 3896

Web: <http://www.pildat.org>