

Background

According to international law, all people are entitled to certain political rights, including a citizen's right to influence and participate in the public affairs of his/her society. Political participation can take many forms, the most notable of which is the right to vote. However, participation also extends to the right to join a political party; the right to stand as a candidate in an election; the right to participate in a demonstration; and freedom of association and expression. The political rights of women, minorities and persons with disabilities are recognized in the Constitution of the Islamic Republic of Pakistan and under the following international conventions and treaties to which Pakistan is a party:

- The International Convention on Civil and Political Rights (ICCPR)(Signed in 2008 and ratified in 2010)
- The Convention on the Political Rights of Women (Signed and ratified in 1954)
- The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) (Acceded to in 1996)
- The International Convention on the Elimination of All Forms of Racial Discrimination (Signed in 2008 and ratified in 2010)
- The International Convention on Rights of Persons with Disabilities (Signed in 2008 and ratified in 2011)

Minority populations in Pakistan

Religious minorities

The Islamic Republic of Pakistan is a majority Muslim country; however, according to the 1998 census report, religious minorities comprise approximately 3.7 percent of the total population. This number includes Hindus, Christians, Buddhists, Parsi, Bahai, Sikhs, Ahmedi, etc.

Over 80 percent of non-Muslims in Pakistan are either Christians or Hindus. Though they are spread throughout the country, the majority of non-Muslims are concentrated in a few geographic areas. The vast majority of the Hindu population is concentrated in a few areas in the Thar Desert and other parts of Sindh and Balochistan. In contrast, the majority of Pakistani Christians are living in the central districts of Punjab province. Sixty-two percent of Pakistani Christians live in urban areas, notably Lahore, Karachi, Faisalabad and Sialkot while the rest inhabit rural settlements.

Transgender community

Transgender persons in Pakistan are regularly and acceptably referred to as eunuchs, third-gender, *khawajasira*, she-male, he-male and *khasa-e-mushkil*. They are a non-religious minority group, roughly estimated to number between 80,000 and 300,000, who are often socially excluded and generally mistreated.

Like all societies, the question of gender identity in Pakistan is crucial, since identifying as a man or woman often determines a person's role in the community. The transgender community in Pakistan faces many problems since they are generally expected to declare themselves as a man or as a woman; their identity as transgender is not always accepted. The struggle with identity continues for transgender persons when it comes to securing their political rights guaranteed by the Constitution and international conventions.

Persons with disabilities

Recent official figures on the number of persons with disabilities in Pakistan are not available, but according to a 2002 estimate from the World Health Organization, they account for approximately 10 percent of the population. However, the National Census Report of 1998 estimates a much lower 2.49 percent.¹

In Pakistan, persons with disabilities face the same challenges as in most developing countries, including stereotypes that identify a person with a disability as a burden upon their family, as well as problems with access to basic health facilities, education and employment opportunities. Often, persons with disabilities have limited mobility, which can be a major obstacle when it comes to voter registration or participation on Election Day.

Constitutional rights

The Constitution guarantees fundamental rights, including political rights, for all citizens of Pakistan. It provides a complete chapter on fundamental rights, and Articles 8 to 28 of the Constitution specifically deal with human rights. Article 25 unambiguously states, "All citizens are equal before law and are entitled to equal protection of law." It goes further, specifying, "There shall be no discrimination on the basis of sex." Though not explicitly stated, this article provides for the legal protection of all citizens, regardless of religion, ethnicity and physical or mental disability.

Article 36 directs the State to safeguard minority rights, including due representation in the federal and provincial bodies. Other rights for religious minorities are enshrined in Articles 20 and 22, which provide that no one will be required to receive religious education other than his/her own and no one will be prevented from providing religious education to his/her own community through its own schools.

On 14 November 2011, the Supreme Court ordered the ECP to register eunuchs as legitimate voters. After receiving reports from all provinces, the Apex Court ruled that the eunuchs who had a National Identity Card (NIC) should be eligible to vote in the next general elections.

As voters

Voter eligibility criteria

All citizens of Pakistan, regardless of gender, religion or ethnicity, are eligible to vote if they meet the following criteria:

- 1) A citizen of Pakistan;
- 2) At least 18 years of age and in possession of a NIC issued by NADRA (National Database and Registration Authority);
- 3) Not declared to be of unsound mind by a competent court; and
- 4) A resident in the electoral area. (A voter is considered a resident if he/she resides in or owns a house or any other real-estate property in that electoral area. There are also residency considerations for civil servants, military and their spouses, and prisoners.² There is no minimum time requirement for residency).

¹ National Policy for Persons with Disabilities 2002. These numbers account for persons with one or more of the following: physical disability, mental disability and the insanity, visual impairment, hearing impairment and other disabilities that are not classified but included as a disability.

² The Electoral Rolls Act 1974, Section 7

Women

On Election Day, separate electoral rolls for men and women are used in the polling stations. In urban areas, because of the high population density, there may be separate polling stations for women and men. In rural areas, women and men generally go to the same polling station, but the polling booths are separate for each gender. Female polling staff is appointed at exclusively female polling stations and at female polling booths in combined polling stations to facilitate women voters.

The 2013 General Elections will be the first time that the ECP will collect gender-disaggregated data on voter turnout; figures on women's participation in previous elections have been based on estimates by various civil society organizations.

Transgender

In their 2011 ruling, the Supreme Court instructed NADRA to issue NICs to the unregistered transgender citizens, which is a prerequisite for registering to vote and participating on Election Day. NADRA has registered Pakistani citizens according to five self-selected gender categories:

- 1) Male (including those who are not open about their transgender status and identify as male)
- 2) Female (including those who are not open about their transgender status and identify as female)
- 3) Male transgender/eunuch
- 4) Female transgender/eunuch
- 5) *Khasa-e-mushkil*/transgender/third-gender³

There is no separate electoral roll or separate polling stations/polling booths for transgender voters. Therefore, the ECP requires voters to identify themselves as either as female or male. Unlike NADRA, the ECP provides three options for gender declaration in voter registration forms: male, female and transgender. If they select transgender, the voters must specify a female or male gender identity preference. Since the electoral roll is directly linked with NADRA's citizen database, gender information is usually automatically applied, unless a person applies to vote or changes his/her registration at an ECP office. When the NIC data is applied, the ECP automatically narrows NADRA's five gender options down to fit the gender binary requirements for the electoral roll accordingly:

Male	<ol style="list-style-type: none">1. Male (including those who are not open about their transgender status and identify as male)2. Male transgender/eunuch3. <i>Khasa-e-mushkil</i>/ transgender/ third-gender
Female	<ol style="list-style-type: none">1. Female (including those who are not open about their transgender status and identify as female)2. Female transgender/eunuch

The Final Electoral Roll 2013 recorded only 680 registered voters who openly declared themselves as male transgender or female transgender.

Religious minorities

Both Muslims and non-Muslims are on the same joint electoral roll, except, controversially, the Ahmadi, a religious minority that is included on a separate list. While Ahmadis consider themselves Muslim, the Constitution recognizes them as non-Muslim. All voters must declare their religion on their voter registration and when obtaining a NIC, and one of the options presented is Ahmadi. If a citizen declares him/herself Muslim, he/she is required to sign a declaration of faith in the finality of

³ <http://www.nadra.gov.pk/index.php/media/news-a-updates/325-nadra-deploys-mobile-vans-to-facilitate-eunuchs>

the prophethood of Prophet Muhammad (PBUH), a statement that goes against the beliefs of most Ahmadis.

Although the electoral rolls for Muslims and non-Muslims were combined in 2002, Chief Executive's Order No.7 of 2002 passed by General Pervez Musharraf maintains that Ahmadi status is to remain as non-Muslim, but they are to be kept on a "supplementary list." If an Ahmadi is placed on the main electoral list, his/her entry can be challenged. If someone files an objection against the entry, he/she will receive a notice to appear before the Revising Authority within 15 days to sign the aforementioned declaration of faith. If the voter refuses to sign the declaration, he/she shall be deemed a non-Muslim and his/her name will be deleted from the joint electoral rolls and added to "a supplementary list of voters in the same electoral area as non-Muslim."⁴ If the voter does not turn up in spite of service of notice, an order may be passed against him/her in absentia and the voter's name will be transferred to a separate list accordingly.

In 2007, Kanwar Idrees, a former Sindh Government official, filed a petition with the courts arguing that the use of separate lists only for Ahmadis is unconstitutional. In February 2013, the Supreme Court of Pakistan revived the pending case and appointed a three-member bench to review the issue. By 26 April 2013, no decision had been issued by the court.

Persons with disabilities

Persons with disabilities have the right to vote, however a person who is suffering from a mental disability and has been declared of unsound mind by a competent court cannot be registered as voter, and shall be removed from the electoral roll with the proper documentation if he/she is already registered.

Persons with disabilities may acquire a special NIC from NADRA with a disability logo. While the card bestows some benefits on the holder, it is not a requirement for voting. Persons with disabilities may vote using either a normal NIC or the special NIC.

On Election Day, security personnel standing outside the polling station are obligated to assist a person with a physical disability while he/she is waiting to enter the polling station; the disabled voter may even go to the front of the queue.⁵ If a person's disability physically prevents him or her from being able to vote on his/her own, the voter may bring someone to assist in the polling process.⁶ If there is no person accompanying such a voter, he/she may request assistance from the Presiding Officer.

However, many persons with disabilities cannot vote due to their limited mobility and the fact that when polling stations are assigned, easy access for persons with disabilities is often neglected and overlooked.

As candidates

As long as they fulfill the requirements of the Constitution and law for candidacy, there are no restrictions on women, religious minorities, transgender citizens or persons with disabilities being elected as representatives to the Parliament (National Assembly and Senate) or Provincial Assemblies.⁷ As with voting, a person suffering from a mental disability who a competent court has declared to be of unsound mind is not eligible to contest election.

⁴ Conduct Of General Elections Order, 2002

⁵ Code of Conduct for Security Personnel

⁶ The Representation of the People Act 1976, Section 33

⁷ The Constitution of the Islamic Republic of Pakistan, Articles 62 and 63

The 2013 General Elections mark two milestones for gender equality in Pakistan. A member of the transgender community, Bindya Rani, will compete for a general seat in the Sindh Assembly, and Badam Zari will be the first woman to contest a National Assembly seat in the Federally Administered Tribal Areas (FATA).

National and Provincial Assemblies

Women and religious minorities have two options for competing in General Elections for the National Assembly or Provincial Assemblies: they may run for a general seat, and/or for a reserved seat, as illustrated in Tables 1 and 2. Independent non-Muslim and women candidates may run for the general seats, but party backing is required for reserved seats. In practice, political parties allocate tickets to non-Muslim and women members to contest general seats, and simultaneously propose the names of the same members for the reserved seats.

Table 1 Seat composition of the National Assembly according to federating unit⁸

Seat Type	Punjab	Sindh	KPK	Balochistan	FATA	Islamabad	Total	
							#	%
General	148	61	35	14	12	2	272	79%
Women	35	14	8	3	0	0	60	18%
Non-Muslims	--	--	--	--	--	--	10	3%
Total	183	75	43	17	12	2	342	100%

Candidates to reserved seats for women and non-Muslims in the National Assembly are elected through an indirect proportional representation list system. The political parties file their lists of candidates for reserved seats with the ECP prior to candidate scrutiny during the nomination process. After the results for the general seats are finalized, women's reserved seats are allocated to parties in proportion to the number of general seats secured by each party in each of the provinces. Non-Muslim seats are allocated to political parties in proportion to the overall number of general seats secured.⁹

Table 2 Seat composition of Provincial Assemblies by number and percentage of seats¹⁰

Seat Type	Punjab Assembly (Lahore)		Sindh Assembly (Karachi)		KPK Assembly (Peshawar)		Balochistan Assembly (Quetta)	
	#	%	#	%	#	%	#	%
General	297	80%	130	78%	99	81%	51	78%
Women	66	18%	29	17%	22	17%	11	17%
Non-Muslims	8	2%	9	5%	3	2%	3	5%
Total	371	100%	168	100%	124	100%	65	100%

Provincial Assembly seats reserved for women and non-Muslims are filled through a proportional representation party list system. Reserved seats in both categories are allocated to political parties based on the total number of general seats they won.

⁸ The Constitution of the Islamic Republic of Pakistan, Article 51

⁹ The Constitution of the Islamic Republic of Pakistan, Article 51

¹⁰ The Constitution of the Islamic Republic of Pakistan, Article 106

Candidates to National Assembly and Provincial Assembly reserved seats must submit Nomination Form 1-A for non-Muslim seats and Form 1-B for women's seats. Separate ROs are appointed to collect nomination forms and carry out scrutiny for candidates to reserved seats.

Since the reserved seats for women and non-Muslims in the National and Provincial Assemblies are allocated through a party list system of proportional representation rather than direct election, the members elected to reserved seats are not accountable to a specific constituency; accountability to the electorate is replaced by accountability to the party leaders who select candidates for the reserved seats. Besides the lack of accountability associated with this method of election, candidates for the reserved seats might not have the contact with the electorate that candidates for general seats have, which can hamper their entry into mainstream politics.

The Senate of Pakistan

The Senate of Pakistan has reserved seats for non-Muslims, women and technocrats, as illustrated in Table 3.

Table 3 Seat composition of the Senate according to federating unit¹¹

Seat Type	Punjab	Sindh	KPK	Balochistan	FATA	Islamabad	Total	
							#	%
General	14	14	14	14	8	2	66	64%
Women	4	4	4	4	-	1	17	16%
Non-Muslims	1	1	1	1	--	--	4	4%
Technocrats including Ulema	4	4	4	4	-	1	17	16%
Total	23	23	23	23	8	4	104	100%

Members of the National Assembly and the Members of the Provincial Assemblies indirectly elect the 104 members of the Senate:

1. Each of the four Provincial Assemblies elect 14 Senators on general seats, four women, four technocrats including *Ulema* (religious scholars) and one representative for the seat reserved for non-Muslims;
2. The Members of the National Assembly from the FATA elect eight Senators to represent FATAs;
3. All Members of National Assembly elect two Senators on general seats, one woman and one technocrat or *Ulema* (religious scholar) to represent the Federal Capital (Islamabad).

Earlier, non-Muslims did not have reserved seats in the Senate. However, under the 18th Amendment to the Constitution, four seats for non-Muslims were reserved to give appropriate representation to non-Muslims in the Senate. These seats were filled for the first time in the March 2012 election to the Senate.

Prime Minister and President

There is no constitutional bar on a woman becoming President or Prime Minister of Pakistan. Fatima Jinnah was the first women to contest elections for the President in 1965. Pakistan was the first

¹¹ Constitution of the Islamic Republic of Pakistan, Article 59

Muslim country to elect a woman as Prime Minister in 1988 – Benazir Bhutto - and as Speaker of the National Assembly in 2008. Dr. Fehmida Mirza, Speaker of the National Assembly also acted as the President of Pakistan in the simultaneous absence of President and the Senate Chairperson.

While the highest governmental offices are open to women, the constitution prohibits religious minorities from being elected as President or Prime Minister. A person is not qualified for to serve as President unless he/she is a Muslim, at least forty-five years of age and is qualified to be elected as member of National Assembly.¹² Article 91 of the Constitution specifies that the National Assembly shall “...elect one of its Muslim members to be the Prime Minister.” There is no such bar on religious minorities serving as Governor or Chief Minister.

IFES' Supporting Electoral Reforms in Pakistan (SERP) project is funded by the Canadian International Development Agency, the European Union and UK aid through the UK Government. Contents of this document are the sole responsibility of IFES.

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¹² Constitution of the Islamic Republic of Pakistan, Article 41