



STATEMENT OF THE NDI PRE-ELECTION DELEGATION TO PAKISTAN

Islamabad, October 21, 2007

This statement is offered by an international delegation organized by the National Democratic Institute (NDI) that visited Pakistan from October 16 to October 21, 2007. The delegation reviewed the political environment and the framework for the upcoming elections for the national and provincial assemblies, expected in January 2008.

The delegation included Tom Daschle (United States), former Senate Majority Leader; Peter Manikas (United States), NDI Senior Associate and Director of Asia Programs; and Sue Wood (New Zealand), former President of the National Party. Sheila Fruman, director of NDI's Pakistan programs was the delegation's chief consultant. The delegation was also assisted by NDI staff members: Niaz Ahmed, Andrew Hall, and Mailis Orban. The delegation followed and built upon the work of a previous NDI mission that visited Pakistan from May 13 to 17.

The delegation sought to reflect the interest and concern of the international community in achieving democratic, civilian governance in Pakistan. It visited the Northwest Frontier Province (NWFP) as well as Islamabad and met with government and electoral officials, including the Prime Minister and Chief Election Commissioner, a broad spectrum of political party leaders and leaders from civic and human rights associations, representatives of the news media, and international organizations. The delegation offers its findings and observations in the spirit of international cooperation and recognizes that it is the people of Pakistan who will ultimately determine the meaningfulness of the upcoming elections. The delegation stresses that it did not seek to reach any final conclusions on the 2007/2008 electoral process.

The delegation would like to express its appreciation to everyone with whom it met. Without their taking time and sharing their knowledge and insights, the delegation would not have been able to accomplish its work.

SUMMARY OF FINDINGS AND OBSERVATIONS

As parliamentary and provincial elections approach, international attention is focused on Pakistan as never before. The stakes are high for the people of Pakistan, the region, and the world. If the elections enjoy the confidence of Pakistanis, they could help return the nation to a democratic path and end eight years of increasingly unpopular military rule. Elections that meet international standards could also help stabilize a nuclear power and an important strategic ally in the war on terror, which is threatened by escalating civil strife and political violence. If the integrity of the elections is seriously compromised and not seen as representative of the will of

the people, the nation could face increased civil conflict and the military could become further entrenched in the nation's political life.

Shortly after this delegation arrived, former Prime Minister Benazir Bhutto, in exile since 1999, returned to Pakistan. After being greeted by hundreds of thousands of supporters, her caravan was the target of a suicide bombing that killed approximately 140 people and left hundreds injured. The incident, which was described as the bloodiest political event in the nation's history, sadly reminded the delegation of the violent episode NDI's previous mission witnessed in May of this year. On the eve of that delegation's visit, demonstrators in Karachi, protesting the suspension of the Chief Justice of the Supreme Court, were attacked, resulting in the deaths of 47 persons.

These incidents, as well as the continuing political and religiously-inspired violence that plagues the nation, are deeply troubling and could increase as the election approaches. This delegation believes it is urgent for the government, election commission and political parties to take immediate steps toward providing a safer electoral environment.

On October 6, General Pervez Musharraf was reelected president by an electoral college. His decisions to seek reelection by the assemblies that previously elected him, and to do so while remaining army chief, were widely unpopular and the Supreme Court is currently hearing challenges to the constitutionality of his reelection. President Musharraf has pledged to resign his army post before his new term begins on November 15. The return to a civilian-led government would be a first step toward building public confidence in the electoral process.

The delegation views Benazir Bhutto's return to Pakistan as a positive step toward holding more credible elections. Nawaz Sharif, also a former prime minister and leader of the Pakistan Muslim League – Nawaz (PML-N), remains in exile. Many Pakistanis will not view the upcoming polls as credible without the presence of both party leaders in Pakistan contesting the elections.

NDI's previous delegation made several recommendations regarding election administration, including the need for the election Commission of Pakistan (ECP) to fill two provincial election commissioner vacancies through a consultative process; improve the process for hearing election complaints; and correct the electoral rolls. These problems remain. Regrettably, little has happened over the past five months. Further delays could have very negative consequences for the elections' success. The delegation was told by the ECP, however, that action would be taken on the delegation's recommendations.

Other problems identified in the previous delegation's report continue unaddressed. These include the need to open up the Federally Administered Tribal Areas (FATA) to normal political activity; adopt measures to protect the right of women to vote, especially in FATA, the Northwest Frontier Province (NWFP) and Balochistan; and to issue and publicize government orders preventing the security forces, including Inter-Services Intelligence (ISI), from interfering in the political process.

Elections alone will not solve the problem of intolerance, exemplified by the growing political violence; neither will they remedy the continuing problems of poverty, religious extremism, and ethnic and sectarian strife. The marginalization of the nation's large, secular political parties has prevented the establishment of a government able to build a national consensus around addressing these issues, which are destabilizing the nation.

POLITICAL ENVIRONMENT

The escalating violence and intimidation in Pakistan is creating an atmosphere of fear and threatens to curtail the ability of parties and candidates to freely engage in political activity. Since the President's attempt to remove the Chief Justice of the Supreme Court last March, the security situation in Pakistan has sharply deteriorated. As a result, the government's ability to maintain public order for the upcoming election is being questioned by many. As previously mentioned, demonstrations in Karachi last May and the attack on Benazir Bhutto this week resulted in dozens of deaths and hundreds of injuries. In July, the government stormed the Red Mosque in Islamabad, whose members had been terrorizing local shops they found offensive to Islam, and who had also illegally occupied land in the federal capital and taken Chinese nationals hostage. At least 70 persons were reported killed in the government's assault on the mosque. In late August, close to 300 Pakistani soldiers were taken hostage by pro-Taliban militants in FATA; some have been killed and the rest remain captives.

In addition, the violence that has persisted in FATA is now seeping into areas of the NWFP. Extremists in the southern districts of the NWFP have been attacking video shops and barber shops that shave beards in an effort to enforce their religious beliefs on residents of the province. Political violence has also increased in the Province's southern districts, which is discussed further in this statement. The abduction and disappearance of political activists in Balochistan, where an insurgency is calling for greater autonomy and control over a larger share of the area's resources, has been well-documented by Human Rights Watch and the Human Rights Commission of Pakistan, a well-respected non-governmental group.

As NDI's delegation in May noted, the government has frequently invoked Section 144 of the Code of Criminal Procedure, which permits local governments to ban political activity. The law has been used selectively against opposition parties. In addition, the government arrested many party activists in recent months. Thousands of Nawaz Sharif's supporters, for example, were arrested and some were beaten on the eve of his attempted return to Pakistan in September. The breakdown of public order, due to the actions of the government and extremists, threatens to disrupt and impact the legitimacy of the upcoming elections.

The election preparations of two large secular parties, the Pakistan Peoples Party (PPP) and PML-N, have been hindered because their leaders have been in exile for many years. Several of the nation's political parties have failed to develop as modern political organizations, in part because their activities have been subject to intervention by the military and security forces. Pakistan's parties, however, have also been the target of widespread criticism for corrupt practices, highly centralized and often undemocratic procedures, and for failing to fulfill their campaign promises while in office. This perception of the parties is one reason why the 1999 coup was initially welcomed by large segments of the population. While parties have taken some

initial reform steps, deeper changes are needed. The parties remain, however, the only organizations capable of mobilizing the population to support the policies needed to deal with the nation's pressing problems.

RULE OF LAW

The importance of preserving the independence of the judiciary has never been more critical in Pakistan and cannot be overstated. While the nation's lower courts are often viewed as subject to political interference, the higher courts – especially the Supreme Court – have been held in much higher esteem. The public reaction to the President's attempt to remove the Chief Justice of the Supreme Court reflects the importance of the principle of judicial independence to the people of Pakistan.

Pakistan's courts perform an important role in elections. Election Commissioners are drawn from the High Courts and Returning Officers are also recruited from the judicial system. Election Tribunals, which handle election complaints, are also staffed by judges. Furthermore, election disputes are reviewed by the High Courts and Supreme Court.

At least two critical election-related issues are now before the Supreme Court: the eligibility of President Musharraf to seek reelection and the constitutionality of the National Reconciliation Ordinance, which in effect removes the corruption charges against Benazir Bhutto. Decisions on these cases are expected in the coming weeks.

MEDIA

While newspapers frequently contain articles critical of the government and independent television channels have proliferated in recent years, disturbing trends are also developing. Numerous instances have been reported in which the government has failed to effectively enforce the rights of journalists or has actively sought to limit their activities. The International Federation of Journalists (IFJ) has reported that several journalists have been killed in recent years and Pakistani authorities have failed to solve a single case. IFJ has also reported that the families of journalists reporting on militants in the tribal areas have been targeted for retaliation. NDI's previous delegation noted that law enforcement officials failed to intervene when the offices of Aaj TV were attacked in Karachi during the May 12 riots.

According to Reporters Without Borders, in 2006 at least 10 journalists were kidnapped by security forces, some for a few days, but others for up to three months. The delegation is concerned about numerous reports of government attempts to intimidate the electronic and print media. In addition, a recent report of the International Committee to Protect Journalists states that Pakistani police filed complaints against approximately 200 journalists charging that they defied a government ban on political rallies.

ELECTORAL PROCESS

Election Commission of Pakistan

The ECP consists of five members appointed by the president and is responsible for administering elections in Pakistan. There are widespread concerns among opposition political parties and civic groups that the ECP lacks transparency and independence. Broad public confidence in the ECP is integral to public acceptance of the results of the upcoming election. In the long term, ensuring the independence of the ECP may require constitutional changes in the appointment of the Chief Election Commissioner and the Election Commission members.

NDI's previous delegation identified four major problems that needed to be addressed by the Election Commission: the failure to hold formal and regular meetings with the political parties to discuss ECP policies and procedures; the inaccuracy of the voters list; insufficient transparency during the vote count; and the long-standing vacancies on the Commission. The delegation was disappointed that these problems remain unresolved, although assurances were received from the ECP that some of them would be corrected.

Open dialogue between the ECP and political parties on election preparations could go a long way toward alleviating concerns about the election process. Although members of the ECP have occasionally met with representatives of the political parties, they have not engaged the parties in formal and regular meetings to share information and address concerns. The lack of a meaningful dialogue has resulted in a loss of confidence in the work of the ECP.

Throughout the mission, major concerns were raised about the quality of the voters list currently being prepared by the ECP, as they were during the Institute's mission in May. An accurate and complete voters list is a fundamental necessity for any credible election. Without a credible voters list, the election results could be suspect. The current electoral rolls, compiled through a process of door-to-door enumeration, resulted in a draft list with approximately 20 million fewer entries than the list used during the 2002 general elections, despite a lowering of the voting age. The omission of millions of eligible voters prompted the Supreme Court to order the ECP to add tens of millions of names from the previous list. While the current electoral rolls now contain many more names, elections experts have advised the delegation that they are no more accurate, with approximately 10 million entries that cannot be verified. Moreover, women are considerably underrepresented on the voters list.

NDI's pre-election mission in May recommended that the ECP make available electronic copies of the full voters list to political parties and provide the public with sufficient information on the voter registration process. This delegation believes the opportunity for addressing the flaws in the voters list is rapidly closing. It was a major oversight not to utilize the existing database of Pakistani citizens compiled and maintained by the National Database and Registration Authority (NADRA). NADRA has issued tens of millions of computerized national identity cards, but its database was not utilized in the preparation of the current voters list. Instead, millions of dollars in aid from international donors was spent in the construction of a voters list of questionable accuracy.

In light of concerns expressed by political parties and civic groups, the delegation is apprehensive about the administration of the vote counting procedures on election day. In past elections in Pakistan, election observers have been unable to track the tabulation of votes all the way from the polling station up to the election commission. The delegation welcomes the provisions in the recently promulgated National Reconciliation Ordinance (NRO) to address these issues, but it falls short of requiring the necessary transparency for a credible tabulation process.

The delegation received credible reports concerning attempts by ISI and other security forces to manipulate the electoral process. These attempts include efforts to influence local officials who are responsible for election administration at polling stations and to convince certain individuals not to seek their party's nomination or to switch party allegiances. NDI's previous delegation recommended that the government should issue and publicize orders to security forces, including intelligence services, stating that they must be politically neutral and not interfere in the political process in any way. The delegation continues to believe this recommendation is essential to enhancing confidence in the elections. In addition, ISI operates in a legal vacuum; it is not subject to laws adopted in a transparent manner by a democratically elected legislature. A legal framework for the activities of all intelligence agencies is currently lacking that would provide for the political neutrality of these organizations. That framework could then provide the basis for parliamentary oversight to ensure that intelligence agencies do not interfere in the political process.

Pakistan's constitution provides that each of the nation's four provinces will be represented on the ECP. Nevertheless, the seats for commissioners from Sindh and NWFP remain vacant. In May, the Institute's delegation recommended that the President fill the two vacancies at the ECP in consultation with the political parties and civil society. The ECP has informed the delegation that the President intends to fill the vacancies; however, there is no indication that this will be done in a transparent and broadly consultative manner.

Coordination of Electoral Activities

Coordination meetings involving many organizations supporting electoral activities are taking place. As the election approaches, these meetings will be of increasing importance in ensuring that electoral preparations are proceeding in a timely manner and that the activities of the various organizations involved in the elections are appropriately harmonized. Often these efforts at coordination are ineffective because specific timetables and benchmarks are lacking. More effective coordination can help to ensure that resources are used more effectively and efficiently.

Caretaker Cabinet

Pakistan's constitution provides that the President may appoint a caretaker cabinet upon the dissolution of parliament to administer elections in a neutral manner. The delegation was informed that the President plans on doing so. If the caretaker cabinet is appointed without reaching a consensus among the political parties, there is little public confidence that it will perform its responsibilities in an unbiased manner.

Security

Either by design or a lack of state capacity, the government's writ does not extend throughout much of the nation's territory. In addition to frequent incidents of political violence in various areas of the country, such as those in Karachi on May 12 and October 18, the delegation is deeply concerned about the persistent instability and lack of security in the FATA and southern districts of the NWFP. The delegation received reliable reports that threats have been made by religious extremists against the leaders of regional secular parties and moderate religious parties in NWFP. Voters and candidates in these regions must feel confident that they can safely exercise their rights, without fear of retribution or intimidation. Currently, political parties are concerned about the possible postponement of the election in numerous areas. In addition, there are concerns that, as in past elections, there will be "no go" areas, which were considered unsafe for some parties to campaign freely.

The ECP has indicated a code of conduct will be instituted for political parties, with the aim of establishing clear guidelines for party activities and candidates during the campaign period and on election day. If effectively implemented, adherence to the code of conduct will be a welcome development as it could reduce the incidence of political violence around the elections. With concerted effort, election stakeholders could eliminate violence and instability from the electoral period and create an environment in which credible elections can be held.

Protecting the Rights of Women

The constitution of Pakistan guarantees the right to vote for all citizens, including women. The delegation was troubled to learn about a recent by-election in the Baujar Agency of FATA where the contesting parties – both secular and religious – mutually agreed that women would be prohibited from casting votes. This coordinated mass disenfranchisement undermines the fundamental principle of democratic elections. The ECP has the authority to nullify such elections, but has not done so.

Concerns about the right of women to participate on election day have also been raised in other parts of the country, such as Balochistan and NWFP. The delegation received reliable reports that women in many areas have not had the opportunity to cast votes without fear or intimidation. In many instances, polling stations for women have not been adequately staffed and operated in full accordance with the law in past elections.

DOMESTIC ELECTION MONITORING AND INTERNATIONAL OBSERVING

The delegation learned that the Free and Fair Election Network (FAFEN), a network of 26 civil society organizations, will be deploying 24,000 non-partisan election monitors in all 272 constituencies. With the use of mobile units, the FAFEN team will visit approximately 30,000 polling stations on election day. FAFEN also plans to monitor and report on violations of the code of conduct, and it promotes political electoral reforms.

International observers will also be present during the upcoming elections. The delegation strongly supports these efforts and encourages the international observers to

coordinate their efforts with domestic election monitors. Moreover, given its size and the importance of these elections, Pakistan would benefit from the participation of a large number of international observation missions.

RECOMMENDATIONS

The delegation offers the following recommendations in the spirit of international cooperation and with the hope that they will be helpful in promoting inclusive, transparent and credible elections:

Election Integrity

The Election Commission should:

- develop a formal process of regular and timely consultations with the political parties and civil society sharing views on routine election procedures and policies; regular meetings should also be held with the political parties at the national and provincial levels to discuss security issues and identify areas expected to be especially troublesome as the elections approach;
- gain access to NADRA's database of identity card holders in order to strengthen the accuracy of the voters list;
- publish the final voters list in an electronic format, thereby avoiding the time-consuming printing of the voters list that narrows the window during which improvements can be made prior to the calling of elections;
- establish procedures in a timely manner whereby domestic and international observers will be guaranteed access to all stages of the vote counting process;
- instruct that election results announced at the district level include a breakdown by polling station to improve the transparency of the vote tabulation;
- require polling officials at each polling station to post the results in a manner that is visible to the public immediately after the count at each station is concluded;
- revise the procedures for handling electoral disputes to ensure timely adjudication and if necessary, timely redress; and
- ensure adequate training for election day workers.

Governance

- the government should take all necessary steps to prevent election-related violence and promptly investigate and prosecute all attempts to disrupt the electoral process;
- the involvement of the intelligence agencies in the electoral process must be terminated;
- the government should create a legal framework for the security forces, including intelligence services, requiring that they be politically neutral and not interfere in the political process in any way; such a framework should then provide the basis for parliamentary oversight to ensure compliance with the law;
- criminal laws should not be used to impede political activity and no law designed to protect public order should be selectively applied;
- the President should fill the two current vacancies on the ECP in full consultation with the political parties and civil society;

- the President should use the authority in the Constitution to establish a neutral caretaker Cabinet in consultation with political parties and civil society;
- the government should review the ban on political parties operating in FATA and work with tribal leaders and political parties to normalize the political situation in the tribal areas; and
- the government should cooperate with judicial inquiries investigating the killing and abduction of journalists and political party workers.

Electoral Rights

- the government should use its full authority to improve the law-and-order situation, particularly in FATA and southern districts of NWFP, to ensure that campaigning can take place prior to, and voting on, election day;
- political parties and other participants in the electoral process should adhere to a code of conduct and refrain from employing violence during the electoral period; and
- the government and police should use their full authority to enforce the right of women to vote and the right of the media to cover the elections in all areas of the country.

Election Coordination and Observation

- coordination of all election-related efforts, including the work of the ECP, should include specific timetables and benchmarks to ensure that resources are effectively and efficiently utilized; and
- the government, the ECP and political parties should fully cooperate with domestic monitoring and international observation efforts.

For any questions, please contact Kathy Gest in Washington at +1 202 728 5535 or Sheila Fruman in Islamabad at +92 51 285 3548.