

Global Integrity Scorecard:

Pakistan

2008

Reporter's Notebook: Pakistan

By Mahmood Iqbal

Fourteen-year-old Hedayatullah sobs his heart out, along with his mother and five sisters. Recently, his father, Noor Sher Khan, a driver by profession, was killed by a suicide car bomber. He had been riding in a friend's truck near a security force base camp outside the gun-manufacturing town of Darra Adamkhel. They were on the Indus Highway, which links Pakistan's northern territory to the central Punjab province and the coastal provinces of Sindh and Balochistan.

Hedayatullah is only one among thousands of children orphaned by recent man-made disasters, which have deprived families all across Pakistan of their breadwinners -- disasters that have struck for reasons the grieving survivors will perhaps never understand.

Tidal Waves of Trouble

Today, ordinary Pakistanis are beset with seemingly overwhelming problems: growing discontent with state institutions; mounting extremism and insecurity; rising prices; worsening food shortages; deepening fuel and power crises; increasing unemployment; lackluster social development; escalating political instability; increasing inequity; endemic corruption; and, above all, the Pakistani government's inability to cope with few, if any, of these crises.

The steady spillover of militancy from the tribal areas along the border with Afghanistan into the mainland and the continuing military operations in different parts of the country have taken a heavy toll on social and economic activities. A sense of uncertainty blankets the entire country as most state institutions seem to have failed in their duty to protect the lives and property of their citizens.

A handful of militants have destroyed educational institutions and health care facilities, forcing people to abandon their homes. They blow up innocent people and target government installations with impunity, even in the face of a supposedly highly professional and well-equipped army and law enforcement agencies.

These attacks have raised doubts in the hearts and minds of citizens about the effectiveness of the institutional mechanisms in place in the country, complained Sayeed Gul, a small trader from Kurram tribal region, who migrated to Kohat for security reasons.

Security forces' counteroffensives to stem growing Talibanization have, so far, proven counterproductive. They trigger mass migrations from different parts of Frontier province, tribal belt and Balochistan to relatively safe areas, leaving the most vulnerable to bear the brunt of a catastrophic situation. The government has yet to devise a feasible strategy to eliminate the monster of militancy and corruption, which is more abominable than ever before.

Failing Schools

One area of Pakistani society that has suffered grievously is education. Approximately 15,000 schools throughout the country, including 7,500 in Sindh, have been closed due to ongoing militant activities, military operations, facilities and staff shortages, and tribal feuds.

Bombs and arson attacks destroyed at least 118 schools in different parts of the North West Frontier Province (NWFP) and its adjacent tribal belt during the past year. An unspecified number of educational institutions, particularly those in the rural and remote areas, have been turned into private guest houses, warehouses and cattle pens by a few influential people.

To make matters worse, about 1,000 contract teachers were fired after serving more than a year. "The government plans to recruit fresh employees for these posts while those who were already serving, and had both the experience and the required qualifications, have been thrown out," one teacher said.

Government for the Well Connected?

"The government seems to be doing nothing for those people who have lost all hope because of the ongoing unrest and the natural calamities, except for putting up temporary settlements where hunger and disease afflict the internally displaced people," a junior police officer said. "We can see relief assistance steadily trickling in from donor organizations, but only for those who have some link to the

elected representatives or for those in the upper echelons of the government. The remaining multitudes have to run from pillar to post to find shelter." This officer, like many others he knows, lost his home to flash floods that took place in July.

"Trucks loaded with relief items have gone unaccounted for after reaching the affected localities," he continued, adding that stashes of relief goods have been recovered from the *hujras* (private guest houses) and warehouses of some influential people.

Government acts as a benefit for the well-connected. Much legislation in Pakistan is written to favor specific individuals, as is evident from the National Reconciliation Ordinance of 2007, which, according to some lawyers, was introduced mainly to protect corrupt politicians and bureaucrats and others involved in corruption cases.

A People Burdened by Bribery

The Punjab province, which produces the bulk of the country's food staples, restricts inter-province shipments of wheat and flour. As a result, organized crime and corrupt officials squeeze even more from needy people already reeling from the surging prices of living essentials. "Every vehicle heading out of Punjab is subjected to a search for flour, and if someone is fortunate enough to have bought a present for his family, he will have to pay bribes lest the officials confiscate it," said a passenger coach driver, who had been waved over to be searched at the checkpoint set up on the road that runs from Rawalpindi to the Kohat district of the NWFP.

Truckers contend that food officials and law enforcement officials are making millions from the illegal sale of flour and wheat inside the country, and by smuggling these commodities across the border. Paying bribes at checkpoints can keep the wheels turning, but if a trucker can't pay up, even a single sack of flour is enough to send him to jail: "You have to pay bribes to the officials, whether you have flour on you or not, but if you are not prepared, your truck can get impounded for checking, which will involve long delays."

The Pakistani government, instead of creating and enforcing effective legislation to resolve the crisis, only proposes to open more outlets of the Utility Stores Corporation (USC) where everyday commodities are sold at subsidized rates. But, at the same time, the government removed consumer subsidies for fuel and power, triggering a price hike.

Today, many districts in Sindh, Balochistan and the NWFP are facing an acute wheat shortage, and flour mills are not able to operate at full grinding capacity. The Federal Food Committee warns that the crisis will persist and urges provincial food departments to maintain a certain level of supply to the mills, but no other action is being taken to rectify the situation.

The "Unhealthy" Care System

Corruption is also prevalent in the health sector. Doctors and owners of clinical laboratories subject poor patients to expensive medicines and specialized lab tests — including cumbersome bone marrow examinations — for minor ailments, such as fevers and sore throats. "It is highly unprofessional for a doctor to order a specialized test for a patient without cause and also without consultation. But this is how the doctors do business with pharmaceutical companies and laboratory owners," a senior doctor said.

The Pakistani government is unwilling to formulate or enforce legislation to check unethical and corrupt practices in the health sector. It also has failed to promulgate the Transplantation of Human Organs and Tissues Ordinance of 2007, already approved by the cabinet, which regulates commercial dealings in organs. Instead, it introduced a bill in the National Assembly, ostensibly under pressure from the industry lobby, which promotes trade in human organs.

Ignoring the People

As the struggle for survival becomes more arduous with every passing day, the government's incompetence in resolving the country's multitude of crises has triggered protest demonstrations throughout Pakistan. In fact, 2007 and 2008 will go down in history as years dominated by civilian protest demonstrations regarding bomb attacks, shortages of wheat and flour, and severe inflation across the board.

It is clear that Pakistan does not suffer from terrorism alone. A dearth of equitable social development coupled with high unemployment rates ail the country. But despite all these problems, the central government and the four provincial capitals remain preoccupied with consolidating their grip on their illusory power.

[Editor's Note: Sources interviewed throughout this report are unnamed to protect their personal and job security.]

Pakistan: Corruption Timeline

August 1988 — President Muhammad Zia ul-Haq, U.S. Ambassador Arnold Raphael and several high ranking military officials die in a mysterious plane crash. Senate Chairman Ghulam Ishaq Khan becomes acting president.

November 1988 — Benazir Bhutto leads the Pakistan People's Party (PPP) to a resounding victory in parliamentary elections. Bhutto is named prime minister, becoming the first woman ever to lead a modern Islamic nation.

August 1990 — Alleging corruption and incompetence, President Khan unilaterally dismisses the Bhutto government and calls for new elections. The Islamic Democratic Alliance (*IJI-Islami Jamhuriat Itehad*) sweeps the elections in October, winning a two-thirds majority in the National Assembly and control of all provincial parliaments. Muhammad Nawaz Sharif becomes prime minister. The government initiates an economic reform program calling for deregulation and privatization.

May 1991 — The Sharif government incorporates Islamic Shari'a law into the legal code.

April 1993 — President Khan dismisses the Sharif government, charging it with maladministration and corruption, but the Supreme Court reverses Khan's action the following month. The ensuing deadlock between Sharif and Khan is resolved when, under pressure by the military, both men resign their offices in July. An interim government headed by former World Bank Vice President Moeen Qureshi takes office.

October 1993 — In parliamentary elections, the PPP wins a plurality of seats and Benazir Bhutto again becomes prime minister. Bhutto's close ally, Farooq Ahmed Leghari, is elected president in November.

November 1996 — President Leghari dismisses Bhutto's government, citing corruption and mismanagement of the economy.

February 1997 — Nawaz Sharif returns as prime minister after his party, the Pakistan Muslim League (PML), wins an overwhelming electoral victory. A month later, Sharif, with the National Assembly's unanimous support, amends the constitution to strip the president of the power to dismiss the government and to curb the president's power to appoint military service chiefs and provincial governors.

December 1997 — President Leghari resigns after a protracted power struggle with Prime Minister Sharif. Muhammad Rafiq Tarar is elected president in early January.

January 1998 — Corruption charges are filed against former Prime Minister Benazir Bhutto and her family, who are alleged to have received kickbacks from government contracts and siphoned off public money to foreign bank accounts.

April 1999 — Benazir Bhutto and her husband are convicted of taking millions of dollars in kickbacks and are sentenced to five years in prison. Their convictions are set aside in April 2001, but both remain under investigation in other cases. Two months later, she is sentenced in absentia to three years in prison for failing to appear in court to face corruption charges.

October 1999 — Pakistan again comes under military rule after a coup led by Gen. Pervez Musharraf ousts the increasingly unpopular civilian government. Gen. Musharraf declares himself chief executive and appoints an eight-member National Security Council to function as the supreme governing body, in addition to a National Reconstruction Bureau to enact structural reforms and a civilian cabinet. The coup is widely condemned around the world and leads to the suspension of Pakistan from the Commonwealth for five years.

April 2000 — Former Prime Minister Sharif is sentenced to life imprisonment on hijacking and terrorism charges for trying to prevent an airplane carrying Gen. Musharraf from landing in Karachi in October 1999 when it was running out of fuel. Sharif is granted a pardon in December and goes into exile in Saudi Arabia.

May 2000 — The Supreme Court unanimously validates the October 1999 coup and gives Musharraf legislative and executive authority for three years. In June 2001, Musharraf declares himself president

and is sworn in.

April 2001 — The Supreme Court orders changes to the anti-corruption law enacted by the military government after taking power in 1999. The Court reduces the period of detention without formal charge from 90 to 15 days and upholds the right of the National Accountability Bureau, the country's chief anti-corruption body, to decide when and where to try suspects.

September 2001 — Following the September 11 terrorist attacks on the United States, Musharraf drops his support of the Taliban regime in neighboring Afghanistan and pledges close cooperation with the United States in its war against terrorism. Musharraf deploys tens of thousands of troops along the restive Pakistani-Afghan border to pursue suspected al-Qaeda and Taliban-linked militants.

April 2002 — Musharraf wins five more years in office in a controversial referendum. During the summer, Musharraf amends the constitution to give himself sweeping new powers and sets an October date for parliamentary elections.

November 2002 — Parliamentary elections bring about a handover of power from military to civilian rule. Mir Zafarullah Khan Jamali is named prime minister.

July 2003 — A Swiss investigative magistrate finds Benazir Bhutto and her husband guilty of money laundering and accepting bribes and sentences them to six-month suspended jail terms. They are ordered to return to the Pakistani government the nearly 727 million rupees (US\$12 million) in bribes they accepted from two Swiss companies seeking contracts in 1995, which they laundered through Swiss banks.

August 2003 — Former Pakistani Prime Minister Benazir Bhutto and her husband Asif Zardari are convicted by a Swiss judge of laundering millions of dollars while Bhutto was in office. Both receive six month suspended jail terms and fines of US\$50,000. The ruling orders Bhutto to return roughly US\$12 million and a diamond necklace worth \$188,000 to Pakistan. Both deny misappropriating the money and plan to appeal.

Zardari had been in prison since 1996 when his wife's government was dismissed following allegations of corruption. Bhutto had been sentenced in absentia for corruption in Pakistan, and had been living in self imposed exile in Britain and the United Arab Emirates since 1999.

December 2003 — President Musharraf narrowly escapes two assassination attempts in less than two weeks.

June 2004 — Prime Minister Jamali resigns. An interim prime minister, Chaudhry Shujaat Hussain, assumes the post until Finance Minister Shaukat Aziz is elected prime minister in August.

December 2004 — President Musharraf announces he will remain head of the army despite an earlier pledge to relinquish the role.

October 2005 — A 7.6 magnitude earthquake in Pakistani-administered Kashmir kills tens of thousands of people. Children killed in school building collapses reportedly account for nearly half of the death toll, and systemic corruption in government construction projects is blamed for the shoddily-constructed schools and other public buildings that disintegrated during the earthquake.

November 2005 — The Pakistan Electronic Media Regulatory Authority (PEMRA) raids a private radio station in Karachi and shuts it down after the station broadcasts a news program on the October earthquake produced by the BBC. PEMRA officials claim the station violated a law requiring radio stations to broadcast only news and current affairs programs produced by state-run radio networks.

May 2006 — Exiled former Prime Ministers Benazir Bhutto and Nawaz Sharif meet in London and sign a "charter for democracy" in preparation for the 2007 elections. Despite facing serious legal consequences, both say they will return to Pakistan to take part in the elections. Under the charter, Bhutto and Sharif pledge to respect each other's political mandate, revive the 1973 constitution and restrict the military's power over civilian government.

March 2007 — President Musharraf suspends Pakistan's top judge, Chief Justice Iftikhar Mohammed Chaudhry, for alleged misuse of office. The judge is a controversial figure noted for his firm line on government misdeeds and human rights abuses. The president supposedly received "numerous complaints and serious allegations for misconduct, misuse of authority and actions prejudicial to the

dignity of office of the chief justice of Pakistan". Lawyers, opposition parties, human rights activists and some judges condemn the move as unconstitutional and a blow to the independence of judiciary. Many in the legal community believe the judge's dismissal is linked to his unpopularity with the government since he filed a petition to recover missing people, allegedly abducted by intelligence agencies, and he overturned the recent sale of Pakistan's state-run steel mill.

Following his dismissal, lawyers boycott courts across Pakistan, protest against the dismissal and as a result several are injured in clashes with the police. Witnesses claim the demonstration is one of the largest ever by High Court lawyers in the Pakistani city of Lahore. Chaudhry is reinstated later that year.

June 2007 — President Musharraf signs into immediate effect a measure to increase control over media. Information Minister Mohammad Ali Durrani tells a press conference that private TV channels must seek prior permission to cover sensitive live events and that Pakistan Electronic Media Regulatory Authority (PEMRA) rules prohibit the broadcast of programs "against the armed forces and judiciary".

A Presidential ordinance is enacted that gives PEMRA the power to halt broadcaster transmissions, close offices, seize equipment and revoke licenses. The measure also increases the fines for violation of PEMRA regulations from 1 million rupees (US\$16,665) to 10 million rupees (US\$166,650). Since Justice Chaudhry' suspension in March, President Musharraf has openly criticized the media for its coverage of opposition protests.

October 2007 — Former Prime Minister Benazir Bhutto returns to Pakistan to prepare for the 2008 elections. Shortly after her return, suicide bombers attack her slow-moving convoy. The attack kills 136, and injures about 450, mainly Bhutto supporters. Bhutto is uninjured.

Bhutto is placed under house arrest; she is later released.

November 2007 — Pervez Musharraf, acting as Chief of the Army Staff, declares a state of emergency and suspends the constitution. National television stations go off the air. Chief Justice Chaudhry is suspended again. Judges and lawyers protest, and demonstrations against the state of emergency are violently repressed by government forces.

November 2007 — Opposition leader Nawaz Sharif returns to Pakistan from exile in Saudi Arabia. In December, Musharraf bans Sharif from participating in the upcoming election, citing corruption charges against him.

December 2007 — Polling suggests two-thirds of Pakistanis want Musharraf to quit. Musharraf indicates the state of emergency will be lifted in December, but only after modifications to the constitution ensuring his immunity from prosecution. The Pakistan Electronic Media Regulatory Authority warns satellite TV stations not to carry "baseless propaganda against Pakistan" and threatens journalists with arrest.

Bhutto is assassinated at a campaign rally in Rawalpindi.

January 2008 — Elections are postponed until the Feb. 18.

February 2008 — In the postponed parliamentary elections, the two main opposition parties, PPP (Pakistan People's Party) and PML-N (Pakistan Muslim League), gain a clear majority. They later agree to form a coalition government.

March 2008 — People's Party nominee Yusuf Raza Gillani becomes prime minister.

A Pakistani court cancels the last of seven corruption cases against Asif Zardari, widower of assassinated former Prime Minister Benazir Bhutto. The charges are withdrawn as part of an amnesty agreed to in 2007 between Bhutto and President Pervez Musharraf.

Zardari developed a reputation for allegedly taking kickbacks when he served in Bhutto's governments in the '90s. Bhutto had formed a deal with Musharraf to win immunity from prosecution in exchange for her support to him. According to the BBC, there were indications that the chief justice would declare this pact unconstitutional before Musharraf sacked the chief justice in November 2007, when he introduced emergency rule.

April 2008 — Senior members of Pakistan's governing coalition try to reach agreement on the reinstatement of judges fired by Musharraf. Both PPP and PML-N agree on restoration of the judges by the end of the month. Key divisions remain, however, about the details of the reinstatement. Questions that had not been reconciled include whether Chief Justice Iftikhar Chaudhry should get his job back, whether judges should only be allowed to rule on cases brought before them and whether there should be limits to the terms they serve.

August 2008 — Pakistan's governing coalition continue its discussion on the impeachment of Musharraf. According to the BBC, Musharraf is accused of misconduct and violating the constitution, and the governing coalition urges him to resign. A presidential spokesperson indicates that Musharraf has no plans to resign. The list of alleged constitutional violations and examples of the president's misconduct extends to more than 100 pages. The government insists that it has enough votes to impeach him.

Pakistan: Facts

The Global Integrity Report provides a mix of qualitative and quantitative information. To encourage comparisons between our data and other international datasets, we have collected a listing of some of our favorite third-party datasets below. We encourage our readers to use this data to make comparisons to the Integrity Indicators, and to use our source data in their original research. If you have done work based on the Integrity Indicators, or are considering it, we want to [hear from you](#).

[Press Freedom Index](#)

Assessment of how free media is at the national level. **Source:** Freedom House. **More Recent Year Published:** 2008. **Year Data Gathered:** 2007. **Methodology:** Expert Assessment, Scale from 0 (best) to 100 (worst).

[Economic Freedom Index](#)

Assesses the degree of market-oriented freedoms in a country at the national level. **Source:** Heritage Foundation. **Most Recent Year Published:** 2008. **Year Data Gathered:** Second half of 2006 and first half of 2007. **Methodology:** Composite data from various sources, Scale from 0 (worst) to 100 (best).

[Human Development Index](#)

Measures achievement in three basic dimensions of human development (life expectancy, educational level, and GDP per capita) at the national level. **Source:** United Nations Development Programme. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2005. **Methodology:** Composite data from various sources, Scale from 0 (worst) to 1 (best).

[Bribe Payers Index](#)

Assessment of the propensity of firms to bribe when operating abroad. **Source:** Transparency International. **Most Recent Year Published:** 2006. **Year Data Gathered:** 2006. **Methodology:** Original business firm survey, Scale from 0 (worst) to 10 (best).

[Corruption Perceptions Index](#)

Measures the perception of the level of corruption in countries at the national level. **Source:** Transparency International. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2007 and 2008. **Methodology:** Composite data from various sources, Scale from 0 (worst) to 10 (best).

[Open Budget Index](#)

Assesses how open, transparent, and accessible national budgets are to their citizens. **Source:** International Budget Partnership. **Most Recent Year Published:** 2006. **Year Data Gathered:** 2005; **Methodology:** Expert Assessment, Scale from 0 (worst) to 100 (best).

[Failed States Index](#)

Aggregates three types of indicators (social, political and economic) which are believed to cause state failure (e.g. massive movement of refugees, internally displaced persons creating complex humanitarian emergencies, etc.). **Source:** Fund for Peace. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2007. **Methodology:** Composite data from various sources utilizing a software tool that indexes and scans international and local media reports and other public documents for keywords, low (best) to high (worst).

[Worldwide Governance Indicators: Control of Corruption](#)

Measures the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as "capture" of the state by elites and private interests. **Source:** World Bank Institute. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2007 and 2008. **Methodology:** Composite data from various sources, Scale from -2.5 (worst) to 2.5 (best).

[Worldwide Governance Indicators: Voice and Accountability](#)

Measures the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media. **Source:** World Bank Institute. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2007 and 2008. **Methodology:** Composite data from various sources, Scale from -2.5 (worst) to 2.5 (best).

[GDP Per Capita \(PPP\)](#)

Gross domestic product based on purchasing power parity (PPP) per capita. **Source:** International

Monetary Fund. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2007. **Methodology:** Official government data.

Foreign Aid Per Capita (USD)

A measure of aid per capita, which includes both official development assistance (ODA) and official aid, and is calculated by dividing total aid by the midyear population estimate. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2006. **Methodology:** Composite data from official government data, Scale from 0 (worst) to 100 (best).

Unemployment Total (% of labor force)

A measure of the estimated unemployment rate. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2005. **Methodology:** Official government data, Scale from 0 (best) to 100 (worst).

Gross External Debt (USD millions)

Calculation consists of all loans and other types of borrowing (such as bonds and export credits) by the debtor owed to non-residents of the economy. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2005. **Methodology:** Composite data from official government data.

Poverty Rate

A measure of the percentage of the population living below the poverty line. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** Latest available data from period 1990 to 2004. **Methodology:** Official government data, Scale from 0 (best) to 100 (worst).

Gini Index

The Gini coefficient measures income inequality at the national level. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** unavailable. **Methodology:** Official government data, Scale from 0 (perfect equality) to 100 (absolute inequality).

Foreign Direct Investment, Net Inflows (as % of GDP)

Calculations based on World Bank data on foreign direct investment. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2005. **Methodology:** Official government data, Scale from 0 (low) to 100 (high).

Life Expectancy

Annual estimate of life expectancy at birth at the national level. **Source:** United Nations. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2006. **Methodology:** Official government data, Scale from 0 (worst) to 100 (best).

Legatum Prosperity Index (Economic Competitiveness)

Measures factors that help to create economic growth and wealth accumulation. **Source:** Legatum Institute. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2008. **Methodology:** Composite data from various sources, Scale from low (worst) to high (best).

Legatum Prosperity Index (Comparative Liveability)

Measures individual well-being of a country's citizens. **Source:** Legatum Institute. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2008. **Methodology:** Composite data from various sources, Scale from low (worst) to high (best).

Religious Freedom

Assesses the degree of religious freedom at the national level in a country. **Source:** CIRI Human Rights Data Project. **Most Recent Year Published:** 2004. **Year Data Gathered:** 2003. **Methodology:** Expert assessment, 0 (government places some restrictions on religious practices) and 1 (government places no restrictions on religious practices).

Pakistan: Integrity Indicators Scorecard

Overall Score: 72 - Moderate

Category I	Civil Society, Public Information and Media	79	Moderate
I-1	Civil Society Organizations	91	Very Strong
I-2	Media	72	Moderate
I-3	Public Access to Information	73	Moderate
Category II	Elections	63	Weak
II-1	Voting & Citizen Participation	66	Weak
II-2	Election Integrity	80	Moderate
II-3	Political Financing	42	Very Weak
Category III	Government Accountability	69	Weak
III-1	Executive Accountability	59	Very Weak
III-2	Legislative Accountability	68	Weak
III-3	Judicial Accountability	69	Weak
III-4	Budget Processes	81	Strong
Category IV	Administration and Civil Service	68	Weak
IV-1	Civil Service Regulations	62	Weak
IV-2	Whistle-blowing Measures	75	Moderate
IV-3	Procurement	62	Weak
IV-4	Privatization	75	Moderate
Category V	Oversight and Regulation	78	Moderate
V-1	National Ombudsman	82	Strong
V-2	Supreme Audit Institution	81	Strong
V-3	Taxes and Customs	83	Strong
V-4	State-Owned Enterprises	80	Moderate
V-5	Business Licensing and Regulation	63	Weak
Category VI	Anti-Corruption and Rule of Law	78	Moderate
VI-1	Anti-Corruption Law	100	Very Strong

VI-2	Anti-Corruption Agency	69	Weak
VI-3	Rule of Law	74	Moderate
VI-4	Law Enforcement	69	Weak

1: Are anti-corruption/good governance CSOs legally protected?

1a *In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.*

Score: YES

References: Constitution of 1973, articles 14 through 19
Voluntary Social Welfare Agencies (Registration and Control Ordinance) 1961
Societies Registration Act, 1860
Trusts Act 1882
Companies Ordinance 1984

1b *In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.*

Score: YES

References: [\[LINK\]](#)
[\[LINK\]](#)

**Social Scientist's
Comments:**

The general perception is that most NGOs receive foreign funding directly and promote foreign agendas. Information on foreign funding is generally not made available either to the public or the state. According to a Civicus survey, only a quarter of survey respondents (civil society knowledge bearers) agreed that civil society organizations (CSOs) make information about their general activities publicly available, while only 10% agreed that financial accounts were disclosed.²¹ The study, quoting the Human Rights and Democratic Development in Pakistan Report, states, With a few exceptions, CSOs do not have well-defined governance, transparency and accountability structures issues that are at the heart of public and government concerns about Pakistani CSOs. As a general rule, the Asian Development Bank (ADB) tends to work directly with the governments of its developing member countries to provide support for NGO activities and those of other CSOs. Project proposals for ADB's consideration typically pass through the relevant public authorities. However, certain channels for funding NGO activities exist.

Peer Reviewer's Comments: Transparency International Pakistan (<http://www.transparency.org.pk>) is active and is free in principle to accept funding from national and international donors who share similar values with the organization.

1c *In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.*

Score: YES

References:

[\[LINK \]](#).

**Social Scientist's
Comments:**

Leading NGOs publish their annual reports but largely give information regarding their programs, projects, achievements, success stories. etc. Generally, a page on the budget and funding resources is also included in the report but in such a way that it cannot be analyzed.

The general perception is that most NGOs receive foreign funding directly and promote foreign agendas. Information on foreign funding is generally not made available either to the public or the state. According to a Civicus survey, only a quarter of survey respondents (civil society knowledge bearers) agreed that civil society organizations (CSOs) make information about their general activities publicly available, while only 10% agreed that financial accounts were disclosed.²¹ The study, quoting the Human Rights and Democratic Development in Pakistan Report, states, With a few exceptions, CSOs do not have well-defined governance, transparency and accountability structures issues that are at the heart of public and government concerns about Pakistani CSOs.

2: Are good governance/anti-corruption CSOs able to operate freely?

2a *In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.*

Score: 75

References: Riaz Ali Shah, advocate
Masoodur Rehman, advocate

2b *In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.*

Score: 50

References: Riaz Ali Shah, advocate
Masoodur Rehman, advocate

Social Scientist's Comments: Civil society organizations are not involved in policymaking. They can make proposals and give suggestions to the government on a proposed policy, but they cannot actually influence any policy decision.

2c *In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.*

Score: YES

References: Riaz Ali Shah, advocate
Masoodur Rehman, advocate

3: Are civil society activists safe when working on corruption issues?

3a *In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.*

Score: YES

References: Riaz Ali Shah, advocate
Masoodur Rehman, advocate

Peer Reviewer's Comments: Activists were not not imprisoned but an interview with a few key journalists revealed that government officials tried to bribe activists to stop criticizing the government.

3b *In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.*

Score: YES

References: Riaz Ali Shah, advocate
Massoudur Rehman, advocate

3c *In practice, in the past year, no civil society activists working on corruption issues have been killed.*

Score: YES

References: Riaz Ali Shah, advocate
Masoodure Rehman, advocate

4: Can citizens organize into trade unions?

4a *In law, citizens have a right to organize into trade unions.*

Score: YES

References: Constitution of 1973, article 17

Social Scientist's Comments: Still, there are some restrictions in some government departments and corporations where workers cannot organize into a trade union. A ban also exists on student unions in colleges and universities.

Peer Reviewer's Comments: During my professional career, I have interacted with trade/labor unions and have found them very influential in Pakistan, which shows that they enjoy enough freedom.

4b *In practice, citizens are able to organize into trade unions.*

Score: 75

References: Riaz Ali Shah, advocate
Masoodure Rehman, advocate

5: Are media and free speech protected?

5a *In law, freedom of the media is guaranteed.*

Score: YES

References: Pakistan Penal Code 1860, sections 499, 500, 501
Criminal Procedure Code 1863
Constitution of 1973, articles 16-19
Press Council of Pakistan Ordinance 2002
Pakistan Electronic Media Regulatory Authority (PEMRA) 2007 regulates electronic media
Ordinance No. XIII of the 2002 Ordinance to regulate broadcast media in Pakistan
Freedom of Information Ordinance 2002
Freedom of Information Rules 2003

Social Scientist's Comments: Pakistan government set to undo Musharraf media curbs, April 11, 2008
Islamabad (AFP) Pakistan's new government Friday moved to lift harsh restrictions on the media that were imposed by President Pervez Musharraf under a state of emergency in November, a minister said.
Information minister Sherry Rehman introduced a parliamentary bill proposing an end to curbs on live broadcasts and punishments for journalists ranging from heavy fines to imprisonment and confiscation of equipment.
Rehman, formerly the spokeswoman for slain opposition leader Benazir Bhutto, is part of the new government that took office last month after trouncing Musharraf's allies in elections.
"The amendments will remove the entire apparatus of restrictions imposed on the press," Rehman told reporters outside the National Assembly, or lower house of parliament.
Under the laws introduced by Musharraf, reporters currently face jail terms as well as a \$5 million rupee (US\$63,000) fine for any live program or publication that "defames" him, the army or the government.
Images of terrorist activities, including the aftermaths of the rash of Islamist suicide bombings that have hit the country in the past year, were also banned.
Several private news channels were also taken off the air for several weeks under the state of emergency that Musharraf imposed on November 3 and then lifted on December 15.
Rehman, herself a former journalist, said that Musharraf's regime had imposed "silence" on the media instead of improving its own performance, adding: "We will do no such thing."

"We will put our own house in order and we will allow the press to broadcast not just live telecasts but all that they feel fit to broadcast," she said.

The minister added, however, that the media's freedom "naturally places a heavy responsibility on the members of the press itself" and suggested forming a press council made up of members of the media.

Before the elections, journalists across Pakistan held almost daily protests against the curbs.

5b *In law, freedom of speech is guaranteed.*

Score: YES

References: Constitution of 1973, article 19

6: Are citizens able to form print media entities?

6a In practice, the government does not create barriers to form a print media entity.

Score: 50

References: Arbab Faridullah, journalist, lawyer, PHC, Peshawar. Aug. 4, 2008
Interview with Karim Mahsud, advocate, Peshawar High Court, Peshawar, Aug. 4, 2008

Social Scientist's Comments: The Pakistan Electronic Media Regulatory Authority (PEMRA) issues licenses for forming an electronic media entity. A number of applications have been pending approval at PEMRA: For example, the license for GEO TV to set up an English news channel was granted after a lengthy wait in June. Applications for the formation of print media entities are submitted to the deputy commissioner (or district coordination officer, as titled under Local Government Ordinance 2002), and the office, after properly vetting the application, grants or refuses the license. The procedure and requirements for forming a media entity are so complicated and difficult to meet that they do not encourage individuals or groups to form media entities. In majority of cases, the application is approved after fulfilling the requirements.

Peer Reviewer's Comments: I agree and have to add that the famous English daily Dawn even faced difficulties securing a license for its TV channel. Plus, during the Musharraf era, Dawn wasn't getting any advertisements from government agencies.

6b In law, where a print media license is necessary, there is an appeal mechanism if a license is denied or revoked.

Score: YES

References: Interviews with Arbab Faridullah and Karim Mahsud, advocates, Peshawar

Social Scientist's Comments: If an electronic media outlet license is denied, an appeal can be made to the Pakistan Electronic Media Regulatory Authority (PEMRA). It decides on appeals within a reasonable time period. If a license for a print medium is denied, then the appeal is made to the concerned District Coordinator Officer (DCO); they used to be made to the Deputy Commissioner of the district in which the publication is intended to be brought out). If the DCO denies the license, an appeal is made to the high court of the concerned province.

Peer Reviewer's Comments: Also see the Pakistan Electronic Media Regulatory Authority (Appeal & Review) Regulations 2008. [http://www.pemra.gov.pk/pdf/PEMRA%20\(Appeal%20and%20Review\)%20Regulations%202008.p](http://www.pemra.gov.pk/pdf/PEMRA%20(Appeal%20and%20Review)%20Regulations%202008.p)

6c In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

Score: 50

References: Interview with Arbab Faridullah
Karaim Mahsud, advocate, PHC, Peshawar

Social Scientist's Comments: A print media license can be obtained within three months from the day of its submission to the concerned district administration. However, the granting of licenses may be delayed.

6d In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

Score: 50

References: Interview with Arbab Faridullah, advocate and journalist
Interview with Karim Mahsud, advocate

Social Scientist's Comments: Illegal graft or payment of a bribe to the concerned officials may expedite the license-issuance process. In most cases, the license is difficult to be obtained in a reasonable period of time without payment of a bribe. The amount of illegal graft, in cash or in kind, can vary according to the financial health of the license applicant(s).



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7: Are citizens able to form broadcast (radio and TV) media entities?

7a *In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.*

Score: 50

References: Arbab Faridullah, journalist and advocate
Karim Mahsud

**Social Scientist's
Comments:**

The government has been accused of creating barriers to gag the press and electronic media through its media watchdog, the Pakistan Electronic Media Regulatory Authority (PEMRA), which was established in 2007 through the PEMRA Ordinance. The ordinance gives the government unprecedented and sweeping powers to gag the media, close down a media organization, hold up issuing a license for an unreasonably long time or even deny a license to a media entity. The government's trying to pass new laws to strangle the free press are often condemned by media persons around the country. The media scene during the past year has not looked promising.

New legislation has been drafted for the formation of a Press Council, an Access to Information Ordinance, and a Press, Newspapers and Books Registration Act. On May 16, 2002, the minister of information, along with the Council of Pakistan Newspaper Editors and the All Pakistan Newspaper Society, released drafts of the legislation for comment and debate. Newspaper editors urged that the Press Council Ordinance, the Freedom of Information Act and the amended Registration of Printing Press and Publication Ordinance also be promulgated by the government.

Peer Reviewer's Comments: In the past there have been examples of difficulties faced by the Dawn and the Geo groups in launching their TV channels due to their conflict with people in the government.

7b *In law, where a broadcast (radio and TV) media license is necessary, there is an appeal mechanism if a license is denied or revoked.*

Score: YES

References:

**Social Scientist's
Comments:**

For electronic media, the appeal for a denied or revoked license is made to the Pakistan Electronic Media Regulatory Authority (PEMRA). If a print media outlet license is denied or revoked, the appeal is filed with the district coordination officer (DCO) (formerly the deputy commissioner) of the district where the licence is required. If the DCO or PEMRA does not redress the appellant's grievances, the appeal goes to the high court of the concerned province.

7c *In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.*

Score: 50
References: Arbab Faridullah
Karim Mahsud

7d *In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.*

Score: 50
References: Arbab Faridullah
Karim Mahsud

8: Can citizens freely use the Internet?

8a *In practice, the government does not prevent citizens from accessing content published on-line.*

Score: 50

References: Arbab Faridullah
Karim Mahsud

Social Scientist's Comments: In some cases, the government restricts access to certain Internet through its watchdog, the Pakistan Electronic Media Regulatory Authority (PEMRA), by creating firewalls that prevent users from accessing pornographic sites. Other Internet sites, such as those from India, cannot be accessed in a majority of cases.
The Constitution of Pakistan guarantees the freedom of expression and freedom of the press, subject to "reasonable restrictions" that may be imposed by law. It is the judiciary's responsibility to determine the scope and parameters of the permissible freedoms and the extent of restrictions placed on their enjoyment. The judiciary can play a full and effective role only if it is free and independent of any and every form of control or influence.

Peer Reviewer's Comments: Also see these websites:
1- <http://www.newkerala.com/topstory-fullnews-47342.html> 2- Internet Censorship in Pakistan - Naval Chief misusing his powers
<http://www.apc.org/en/blog/freedom/asiapacific/internet-censorship-pakistan-naval-chief-misusing->

8b *In practice, the government does not censor citizens creating content on-line.*

Score: 50

References: Arbab Faridullah
Karim Mahsud

Social Scientist's Comments: Citizens can create content online without any barriers, subject to reasonable restrictions as may be deemed fit by the government or its organ regulating the media or online content, including the Pakistan Electronic Media Regulatory Authority (PEMRA). However, certain content, such as blasphemous, defamatory or derogatory content, cannot be created or, if created, would be punishable by law.
Censorship pervades online content and journalism history in Pakistan. The blackest censorship period came during General Muhammad Zia-ul-Haq's 10-year military regime. Almost all journalists point out the press advice system as one of the most insidious means of censorship. It specified that whoever "contravenes any provision of this regulation shall be punished with rigorous imprisonment, which may extend to 10 years, and shall be liable to fine or stripes [lashes] not to exceed 25." Prime Minister at the time Mian Muhammad Nawaz Sharif used additional means to ensure press compliance, including intelligence operatives to infiltrate newsrooms and press unions. With so many spies doubling as reporters, and journalists moonlighting as government agents, trust became difficult for all.

Peer Reviewer's Comments: Also, see this article on Internet Censorship in Pakistan - Naval Chief misusing his powers
<http://www.apc.org/en/blog/freedom/asiapacific/internet-censorship-pakistan-naval-chief-misusing->

9: Are the media able to report on corruption?

9a *In law, it is legal to report accurate news even if it damages the reputation of a public figure.*

Score: YES

References: The Press, Newspapers, News Agency and Book Registration Ordinance 2002
Pakistan Press Council Ordinance 2002
Defamation Ordinance 2002
Constitution of Pakistan 1973, article 19

Peer Reviewer's Comments: According to an interview with a prominent journalist in Pakistan, President Asif Ali Zardari called him and in a threatening tone asked why he was criticizing his government.

9b *In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.*

Score: 50

References: Arbab Faridullah
Karim Mahsud

Social Scientist's Comments: Pakistan Newspaper Employees' Confederation (APNEC). These groups have been actively involved in reviewing the government's draft of the Press Council of Pakistan Ordinance 2002 and the draft of the Press, Newspaper Agencies Registration Ordinance 2002. At the time, APNEC, PFUJ and all their affiliated unions and units rejected the proposed setting up of a press council and press regulatory laws that the government decided to introduce to regulate the press.
New legislation has been drafted for the formation of a Press Council, an Access to Information Ordinance, and a Press, Newspapers and Books Registration Act. On May 16, 2002, the Minister of Information, along with the Council of Pakistan Newspaper Editors and the All Pakistan Newspaper Society, released drafts for the legislation for comment and debate. Newspaper editors also urged that the Freedom of Information Act, Press Council Ordinance, and the amended Registration of Printing Press and Publication Ordinance be promulgated by the government.

9c *In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.*

Score: 50

References: Arbab Faridullah
Karim Mahsud

**Social Scientist's
Comments:**

Different media groups and journalists bodies have been looking with suspicion at the government drafts of the Press Council of Pakistan Ordinance 2002 and the Press, Newspaper Agencies Registration Ordinance. When developing corruption-related stories, journalists generally try to reach out to the people in question, who, in turn, use all coercive methods to make the story go into the dustbin. And government agencies and departments spring into action the moment they become aware of the likely publication of a corruption-related story, moving heaven and earth to stop its publication.

10: Are the media credible sources of information?

10a *In law, print media companies are required to publicly disclose their ownership.*

Score: YES

References: Pakistan Press Council Ordinance 2002
Press, Newspapers, News Agencies and Book Registration Ordinance 2002

10b *In law, broadcast (radio and TV) media companies are required to publicly disclose their ownership.*

Score: YES

References: Pakistan Electronic Media Regulatory Authority (PEMRA) Ordinance 2007
Pakistan Press Council Ordinance 2002

10c *In practice, journalists and editors adhere to strict, professional practices in their reporting.*

Score: 50

References: Arbab Faridullah
Karim Mahsud

Social Scientist's Comments: Journalists and editors infringe upon their own professional duties and don't necessarily adhere to strict professional practices. In most cities, journalists act as spokesman for individuals, departments or political parties, which calls into question their professional integrity. Also, crime reporters are derogatorily called police reporters, and they are mostly paid by the police. District journalists are also said to likely be taking bribes in cash and in kind from persons who want to highlight something in the press. Also, in Pakistan, media coverage of certain prevailing issues, like terrorism or the war on terrorism, can not be covered or highlighted properly or without any bias.

Peer Reviewer's Comments: Interactions with journalists and their reports show that they are dedicated and most of them reporting very well.

10d *In practice, during the most recent election, political parties or independent candidates received fair media coverage.*

Score: 50

References: Arbab Faridullah
Karim Mahsud

Social Scientist's Comments: During the general election held on Feb. 18, 2008, the media, state-owned as well as private, played clear partisan roles when covering political parties and candidates during the campaign. State-owned Pakistan Television is alleged to have blacked out all political parties during its coverage except the Pakistan Muslim League, which is the king's party. However, some private TV

channels and newspapers were objective and unbiased in their coverage.

10e *In practice, political parties and candidates have equitable access to state-owned media outlets.*

Score: 25

References: Arbab Faridullah
Karim Mahsud

Peer Reviewer's Comments: In the most recent elections, state-owned media outlets all supported the ruling party (PML-Q). Opposition parties even had concerns that government funding was going into PML-Q election campaigns through the state-owned PTV.

11: Are journalists safe when investigating corruption?

11a *In practice, in the past year, no journalists investigating corruption have been imprisoned.*

Score: YES

References: Arbab Faridullah
Karim Mahsud

Peer Reviewer's Comments: There is a lack of investigative journalism in Pakistan.

11b *In practice, in the past year, no journalists investigating corruption have been physically harmed.*

Score: YES

References: Arbab Faridullah
Karim Mahsud

Peer Reviewer's Comments: I have a few journalist friends who were attacked and beaten up, but those stories were not published and did not come to light.

11c *In practice, in the past year, no journalists investigating corruption have been killed.*

Score: YES

References: Arbab Faridullah
Karim Mahsud

12: Do citizens have a legal right of access to information?**12a In law, citizens have a right of access to government information and basic government records.****Score:** YES**References:** Freedom of Information Ordinance 2002
[\[LINK\]](#)**Social Scientist's Comments:** Freedom of Information Ord. 2002 repeal likely
By Akhtar Amin

Peshawar The federal government is going to repeal the Freedom of Information (FOI) Ordinance 2002 introduced by President Pervez Musharraf and has instead submitted an FOI 2008 Bill in the National Assembly to enact a national law with substantive improvements, Daily Times learned on Thursday. Sources said that FOI 2008 is a modified version of the Pakistan Peoples Partys (PPP) 2004 FOI Bill, which was initiated by Sherry Rehman in 2004 when her party was in opposition. The objective of the FOI 2004 was to repeal the FOI 2002, but the Pakistan Muslim League (PML) government did not consider it when enacting a national law, sources said.

After PPP was voted into power in the 2008 general election, Rehman became the federal minister for information and broadcasting. She again took up the matter and has proposed FOI 2008, which is expected to be tabled for discussion soon as a treasury bill in the National Assembly. The proposed FOI 2008 Bill draft comprises nine pages, which state that it is expedient to provide a law so that the people of Pakistan have access to public documents and records. In the proposed bill, it is stated that this act shall be called the Freedom of Information Act 2008 and shall extend to the whole of Pakistan. It states that the act shall come into force at once.

Under the bill, a requester can obtain information from public documents and records, but the bill does not include the records exempted under section 8 of this act, disclosure of which may infringe upon the right of privacy of any individual. Under section 19 of the bill, if the applicant is not given the information or a copy of a record declared public record within a given time frame, he may file a complaint with the Mohtasib, which, after hearing the applicant and the designated official, may direct the designated official to give the information to the applicant or may reject the complaint. In addition, all such applications shall be disposed of within 14 days of being filed.

The Ministry of Information and Broadcasting hurriedly convened a consultation with civil society organizations (CSOs) and media on FOI 2008 on May 15, 2008, but CSOs called this effort fruitless to a great extent, as strengths and weaknesses of the bill could not be debated in the consultation. Daily Times, Friday, July 25, 2008

12b In law, citizens have a right of appeal if access to a basic government record is denied.

Score: YES

References: Constitution of Pakistan 1973, article 199
Freedom of Information Ordinance 2002

Social Scientist's Comments: If access to official information is denied, the person denied access or someone else looking out for the public interest can use a writ to petition the high court to change the decision.

12c *In law, there is an established institutional mechanism through which citizens can request government records.*

Score: YES

References: Freedom of Information Rules 2003, part 1

Social Scientist's Comments: Information can be accessed by approaching the Wafaqi Mohtasib, which, acting in the public interest, issues directions to the concerned department as necessary. The Archives and Information Department also keeps records and can be accessed.

13: Is the right of access to information effective?

13a *In practice, citizens receive responses to access to information requests within a reasonable time period.*

Score: 50

References: Interview with Riaz Ali Shah, advocate, PHC, Aug. 5, 2008, Peshawar
Masoodur Rehman, advocate, PHC, Aug. 5, 2008, Peshawar

13b *In practice, citizens can use the access to information mechanism at a reasonable cost.*

Score: 50

References: Riaz Ali Shah, advocate
Masoodur Rehman, advocate

13c *In practice, citizens can resolve appeals to access to information requests within a reasonable time period.*

Score: 50

References: Riaz Ali Shah, advocate
Masoodur Rehman, advocate

13d *In practice, citizens can resolve appeals to information requests at a reasonable cost.*

Score: 50

References: Riaz Ali Shah, advocate
Masoodur Rehman, advocate

13e *In practice, the government gives reasons for denying an information request.*

Score: 25

References: Riaz Ali Shah, advocate
Masoodur Rehman

**Social Scientist's
Comments:**

The reason most government officials are often reluctant to disclose information and records to citizens can be explained by the large number of laws, rules and regulations requiring secrecy of official information. However, disclosing information to the media is solely based on the concerned officer's goodwill. Generally, no reason is given when denying access to information.

For decades, the print and electronic media were under severe restrictions imposed by media- and information-related laws and by strict and arbitrary regulations coming from successive governments. Pakistan has approximately 10 media-related laws, only 2 of which have been debated on and passed by national parliament, making the rest of the laws non-representative. These non-representative laws instituted without consultation of the stakeholders are a major reason working conditions for journalists are tough in Pakistan. Slapped with charges ranging from blackmail to treason and hounded by police, government authorities, religious groups and various mafias, journalists find that media freedoms are difficult to exercise if

they fall on the wrong side of organized interests.

Peer Reviewer's Comments: It depends on the person requesting the information.

14: Is there a legal framework guaranteeing the right to vote?

14a *In law, universal and equal adult suffrage is guaranteed to all citizens.*

Score: YES

References: Manual of Elections Laws, Ishfaq Ali, Danial Law Publishers, Lahore
Conduct of General Elections Order 2002, article 7A

Social Scientist's Comments: A citizen who has attained the age of 18 years on the first day of January 2002 shall be eligible to vote.

14b *In law, there is a legal framework requiring that elections be held at regular intervals.*

Score: YES

References: Constitution of Pakistan 1973, articles 52, 224
Senate, article 59

Manual of Elections Laws, Ishfaq Ali

Social Scientist's Comments: The duration of parliament is fixed under the Constitution of 1973: 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.
According to the constitution, election of National Assembly and provincial assemblies is held after five years. The members of upper house of parliament (Senate) are elected for six years. Election for half of the total seats is held after every three years. But, in practice, elections have never been held at the proper time. Gen. Pervez Musharraf's regime dissolved the Senate, which is never disbanded under the constitution.

15: Can all citizens exercise their right to vote?

15a *In practice, all adult citizens can vote.*

Score: 75

References: Interview with Dr Mushtaq, July 25, 2008, Peshawar High Court Bar Room, Peshawar
Daily, The News International, Feb. 19, 2008
Daily Express, Feb. 19, 2008

Social Scientist's Comments: Women in many districts across the country, especially in the tribal belt and the most conservative districts of northwestern Pakistan, were barred from going to polling stations on election day, Feb. 18, 2008. All local media reported the ban on women voters. TV channels also ran news and features to highlight the discrepancy between the law and the practice of voting in elections.

Peer Reviewer's Comments: People were able to vote. Whether they were stopped or there was violence is a separate issue. According to The News on Feb. 19, people participated very well:
http://www.thenews.com.pk/arc_default.asp

15b *In practice, ballots are secret or equivalently protected.*

Score: 75

References: Interview with Dr. Mushtaq, July 25, 2008, Peshawar High Court Bar Room, Peshawar
Daily, The News International, Feb. 19, 2008
Daily Times, Feb. 19, 2008
DAWN, Feb. 19, 2008
Daily Express, Feb. 19, 2008
Daily Aaj, Feb. 19, 2008
Daily Mashriq, Feb. 19, 2008

Social Scientist's Comments: Reports published in the local media after the Feb. 18, 2008, general election show that ballots were either snatched on their way to the polling stations or from the staff at the polling stations.

Peer Reviewer's Comments: Some reports show that no party claimed any violation of secrecy.
http://www.thenews.com.pk/arc_default.asp

15c *In practice, elections are held according to a regular schedule.*

Score: 25

References:

Daily News International, Feb. 20, 2008
Interview with Dr. Mushtaq, July 25, 2008, Peshawar High Court Bar Room, Peshawar

**Social Scientist's
Comments:**

According to the constitution, elections to the National Assembly, Senate and the four provincial assemblies are held at regular intervals. The election to the National Assembly and provincial assemblies are held every five years. Half the members of the Senate are elected after three years on the basis of proportional representation by the respective provincial assembly. However, in practice, elections have never been held according to the schedule. In the 1990s, elections were held after two and three years. After 1999, when the elected government was dismissed by the army chief, elections were held in 2002. The last election was held in February 2008.

Peer Reviewer's Comments: The by-elections in 2008 were postponed on numerous occasions.

16: Are citizens able to participate equally in the political process?

16a *In law, all citizens have a right to form political parties.*

Score: YES

References: Constitution of Pakistan 1973, articles 15, 16, 17
Constitution of Pakistan 1973: Fundamental Rights, part II, chapter I

16b *In law, all citizens have a right to run for political office.*

Score: NO

References: Constitution of Pakistan 1973, article 41
Political Parties Order 2002, section 5.

Social Scientist's Comments: A non-Muslim citizen of Pakistan cannot run for the office of prime minister. The president shall also be a Muslim under the constitution. A person who has held the office of prime minister for two terms can not run for the office for a third time, under the Political Parties Order 2002.

16c *In practice, all citizens are able to form political parties.*

Score: 25

References: Qaiser Khan, leader of the Mazdoor Kissan Party, July 25, 2008, Peshawar High Court, Peshawar
Interview with Dr Said Alam Mahsud, provincial leader of the Pakhtunkhwa Milli Awami Party (PkMAP), July 26, 2008, Peshawar University Campus, Peshawar
Constitution of Pakistan 1973, articles 15-18
Political Parties Order 2002, chapter-II, Formation of Political Parties, etc.

Social Scientist's Comments: In law, all citizens have the right to form and register a political party. But, in practice, forming and organizing a political party or a political group is not an easy task. It completely depends on the person's financial position and political status.

16d *In practice, all citizens can run for political office.*

Score: 0

References: Interview with Mohammad Tariq Tariq, provincial coordinator, Bacha Khan Foundation, July 27, 2008, Peshawar,

Social Scientist's Comments: In law, the president and the prime minister must be Muslims. In practice, not all citizens can run for a political office. Doing so is purely a finance matter, and not every citizen can afford to. Even running in a local election is a money matter, completely dependent on the individual's financial health.

16e *In practice, an opposition party is represented in the legislature.*

Score: 75

References: Interview with Mohammad Tariq Khan, provincial coordinator, Bacha Khan Foundation, July 27, 2008, Peshawar
Interview with Qaiser Khan, provincial leader, Mazdoor Kissan Party, Peshawar

Social Scientist's Comments: The opposition leader represents the opposition party in the legislature. In practice, however, there can be delays in nominating the opposition leader, as in the case in the Punjab Assembly after the general elections of Feb. 18, 2008.

17: Is there an election monitoring agency or set of election monitoring agencies/entities?

17 *In law, is there an election monitoring agency or set of election monitoring agencies/entities?*

Score: YES

References: The Election Commission of Pakistan
Constitution of Pakistan 1973, article 213
Election Commission Order 2002.
Chief Executive's Order No. 1 of 2002
Gazette of Pakistan, extraordinary part one, January 14, 2001

18: Is the election monitoring agency effective?

18a *In law, the agency or set of agencies/entities is protected from political interference.*

Score: YES

References: Election Commission Order 2002, section 2
Constitution of Pakistan 1973, article 213, clause 2F; article 177, clause 2

18b *In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.*

Score: 50

References: Interview with Mohammad Tariq Khan, provincial coordinator for education, Bacha Khan Foundation, Peshawar
Interview with Qaiser Khan, provincial leader of Mazdoor Kissan Party

18c *In practice, the agency or set of agencies/entities has a professional, full-time staff.*

Score: 50

References: Mohammad Tariq Khan, Bacha Khan Education Foundation, Peshawar
Qaiser Khan, leader of Mazdoor Kissan Party and worker of Awami National Party, Peshawar

Social Scientist's Comments: The Election Commission does not have a full-time professional staff. When preparing the election rolls and at election time, teachers, revenue officials, police and low-ranking officials of other government departments are given training to conduct the election process.

Peer Reviewer's Comments: It is important to note that the Election Commission of Pakistan, with its central office in Islamabad, has a full-time working staff and operates in the presence of full-time working members from four provincial high courts of Pakistan. There are four Provincial Election Commissioners in each province of Pakistan to support regional electoral matters. However, at the time of elections, most of the staff is hired only for the elections.

Peer Reviewer's Comments: Agencies have professional staff. Most of the high officials are educated in Western countries. However, it is a pity that when they hold open offices, they don't act professionally.

18d *In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.*

Score: 100

References: Interview with Mohammad Tariq Khan, coordinator of education, Bacha Khan Foundation, July 27, 2008, Peshawar
Qaiser Khan, leader of the Mazdoor Kissan Party and worker of Awami National Party, Peshawar

Social Scientist's Comments: Election results are announced soon after the ballots are counted at the individual polling stations. The polling officer immediately reports the result to the returning officer, and the district returning officers make unofficial results available to the public. Official results are announced by the Election Commission of Pakistan soon after the process is completed.

18e *In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.*

Score: 25

References: Mohammad Tariq Khan, Bacha Khan Foundation
Qaiser Khan, Mazdoor Kissan Party and Awami National Party

Social Scientist's Comments: In practice, candidates who violate election rules or conduct-of-general-election rules and conditions are seldom penalized. However, offenders guilty of major offenses are barred from running for office or are otherwise penalized.

19: Are elections systems transparent and effective?

19a *In practice, there is a clear and transparent system of voter registration.*

Score: 50

References: Interview with Mohammad Tariq Khan, Bacha Khan Foundation, Peshawar
Qaiser Khan, political leader, Awami National Party, Mazdoor Kissan Party

[\[LINK \]](#)

DailyTimes, June 19, 2007

PILDAT Analysis

**Social Scientist's
Comments:**

The Election Commission of Pakistan (ECP) paid special attention to the constituency of Mohtarma Benazir Bhutto, chairperson of the PPP, and Senator Asif Ali Zardari. More than 250,000 voters were not included in the fresh voter lists in the Larkana district alone. Consider that during local elections, the number of registered voters in Larkana was 601,200, but the new voter lists contained 349,000 names, a difference of 251,000 voters. The reduction in the number of voters indicated that the government was indulging in pre-poll rigging to cause the PPP to lose in the ensuing general elections.

Why there is a huge decline in the number of voters in the current, draft computerized voter list? It is important to note that there were 71.86 million voters on the electoral rolls used in the 2002 general election, and that this number should have increased to around 82 million, based on a 2.7% per year voter population growth rate. The gap between currently registered voters and the number to which the voting population should have risen is an alarming 27 million, or 33%.

Display centers have so far received 7-10 complaints from voters, and only 12-17 registration forms have been submitted since the centers were opened.

The number of registered women voters has decreased a full 96% in FATA, 41% in Sindh, 37% in Punjab and 19% in the Islamabad Capital Territory. From PILDAT Analysis

The ECP has been saying that everyone possessing Computerized National Identity Cards (CNICs) has now completed the registration process. But not everyone, particularly those in rural areas, has been able to obtain this card for a variety of reasons, mainly related to cost and accessibility. Last year, the ECP permitted the use of both old National Identity Cards and the new computerized ones for registration purposes. Why can't the ECP allow the use of any of the multiple identifications cards currently available, such as drivers licenses and passports, as this would enable many more voters to register?

19b *In law, election results can be contested through the judicial system.*

Score: YES

References: Representation of People Act 1976, section 52

19c *In practice, election results can be effectively appealed through the judicial system.*

Score: 100

References: Manual of Elections Laws, by Ishfaq Ali, Danial Law Publishers, 2008, Lahore
Representation of People Act 1976, section 67 (3)

Qaiser Khan, leader of Mazdoor Kissan Party and Awami National Party

[\[LINK \]](#)

Pakistan Supreme Court steps in to Sharifs election dispute, Laura King, June 25, 2008

**Social Scientist's
Comments:**

"The Supreme Court today postponed voting in a constituency where popular politician Nawaz Sharif wants to contest a parliamentary seat, reviving his hopes of someday regaining the post of Pakistan's prime minister. The ruling represented the latest twist in what has become a debilitating power struggle between the two main parties nominally allied in the countrys new ruling coalition.

Sharif, who leads the junior party in the coalition, had been disqualified Monday by a provincial court in the city of Lahore from contesting a by-election scheduled to take place Thursday. Holding a parliamentary seat is a prerequisite for becoming prime minister. From Pakistan Supreme Court steps in to Sharifs election dispute

The Election Commission of Pakistan appoints election tribunals to resolve disputes related to election results. The tribunals take up the cases as and when the dispute arises and decide it to the satisfaction of all parties to the dispute. The election tribunal's decisions can be appealed in the higher courts, and the Election Commission notifies the position accordingly.

19d *In practice, the military and security forces remain neutral during elections.*

Score: 50

References: Interview with Mohammad Tariq Khan, coordinator, Bacha Khan Education Foundation, Peshawar
Qaiser Khan, political leader, Peshawar

**Social Scientist's
Comments:**

The security forces are often seen by the majority of voters as favoring those political parties or candidates who enjoy the favor of the establishment. But, the agency or set of agencies can not totally influence the outcome of elections.

Peer Reviewer's Comments: In Pakistan, the ISI (intelligence services) are deeply involved in elections and are accused of manufacturing results.
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<http://intellibriefs.blogspot.com/2007/10/pakistan-musharraf-appoints-isi-chief.html>

19e *In law, domestic and international election observers are allowed to monitor elections.*

Score: YES

References: Election Commission Order 2002, section 7(b), section 9(f)

19f *In practice, election observers are able to effectively monitor elections.*

Score: 50

References: Interview with Mohammad Tariq
Interview with Qaiser Khan

**Social Scientist's
Comments:**

Election observers cannot visit a polling station on their own. They are mostly taken to selected polling stations, which does not give them a fair way of effectively monitoring the election.

Peer Reviewer's Comments: In the 2008 elections, foreign election observers were restricted to certain polling stations due to so-called security concerns.

20: Are there regulations governing the financing of political parties?

20a *In law, there are regulations governing private contributions to political parties.*

Score: YES

References: Political Parties Order 2002, article 13
Submission of Statement of Accounts. Political Parties Rules 2002, article 4

20b *In law, there are limits on individual donations to political parties.*

Score: NO

References: Political Parties Order 2002, article 13

Social Scientist's Comments: In law, there is no limit or ceiling on individual donations to political parties which are bound to submit a statement of accounts to the Election Commission, clearly mentioning the sources of the funds. Individual donations are shown in the accounts book but no specific limit is imposed on it.

Peer Reviewer's Comments: Also, see:
<http://www.civiceducation.org/downloads/Political%20Parties%20Order.pdf>
There is no limit on the number of contributions if those are legal, but they must be declared to the election commission.

20c *In law, there are limits on corporate donations to political parties.*

Score: YES

References: Political Parties Order 2002, article 13, clause 1(b)

20d *In law, there are limits on total political party expenditures.*

Score: YES

References: Political Parties Order 2002, article 13, clause 1(a)

20e *In law, there are requirements for the disclosure of donations to political parties.*

Score: YES

References: Political Parties Order 2002, article 13, clause 2(b)

20f *In law, there are requirements for the independent auditing of the finances and expenditure of political parties.*

Score: YES

References: Political Parties Rules 2002, article 13
Political Parties Order 2002, article 6

Political Parties Order 2002, Chief Executive's Order No. 18 of 2002, Gazette of Pakistan, Extraordinary Part One, June 28, 2002, article 1

Political Parties Rules 2002, Gazette of Pakistan, Extraordinary Part II, July 23, 2002: articles 4, 5, 6



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**Social Scientist's
Comments:**

The Political Parties Order 2002 contains rules of business for political parties.

Each political party is to submit statements of its accounts to the Election Commission of Pakistan (ECP) within 60 days from the close of each financial year. A consolidated statement of accounts of the party containing annual income and expenses, sources of funds, and assets and liabilities duly audited by a chartered accountant, is submitted to the ECP. The statement of accounts of the party is required to be accompanied by a certificate signed by the party leader stating that the party received no funds from any source prohibited under Political Parties Order 2002 and that the statement contains an accurate financial position of the party. Political parties are required to submit statement of accounts in Form-I, free printed copies of which are available in the Election Commission Secretariat, Islamabad, and in the offices of the Provincial Election Commissioners, Punjab, Sindh, NWFP and Balochistan. From Article 13

A member of a political party shall be required to pay a membership fee provided in the party's constitution and may, in addition, make voluntary contributions toward the party's funds. (2) Contributions made by members or supporters of any party shall be duly recorded by the political parties. From Article 6

(1) Every political party shall, in such manner and in such form as may be prescribed or specified by the Chief Election Commissioner, submit to the Election Commission, within 60 days from the close of each financial year a consolidated statement of accounts of the party audited by a Chartered Accountant containing (a) annual income and expenses; (b) sources of its funds; and (c) assets and liabilities. From Chief Executive's Order No. 18

Every political party shall maintain its accounts in the manner set out in Form-I indicating its income and expenditures, sources of funds, assets and liabilities and shall, within 60 days from the close of each financial year (July-June), submit to the Election Commission a consolidated statement of accounts of the party audited by a Chartered Accountant, accompanied by a certificate, duly signed by the Party Leader to the effect that no funds from any source prohibited under the order were received by the party and that the statement contains an accurate financial position of the party. From Article 4

All financial transactions within a party shall be entered in the statement of accounts submitted under rule 4.

Where the Election Commission decides that the contributions or donations, as the case may be, accepted by the political parties are prohibited under clause (3) of article 6, it shall, subject to notice to the political party concerned and after giving an opportunity of being heard, direct the same to be confiscated in favor of the State to be deposited in Government Treasury or sub-Treasury in the following head of the account: "3000000-Deposits and Reserves-B-Not Bearing interest, 3500000-Departmental and Judicial Deposits, 3501000-Civil Deposits, 3501010-Deposits in connection with Elections. From Article 6

20g *In law, there is an agency or entity that monitors the financing of political parties.*

Score: YES

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References:

Political Parties Rules 2002
Election Commission Order 2002, article 13

**Social Scientist's
Comments:**

The Election Commission of Pakistan monitors the financial affairs of political parties.
Every political party shall, in such manner and in such form as may be prescribed or specified by the Chief Election Commissioner, submit to the election commission within 60 days from the close of each financial year consolidated statement of accounts of the party audited by a Chartered Accountant containing (a) annual income and expenses; (b) sources of its funds; and (c) assets and liabilities. From Article 13

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21: Are there regulations governing the financing of individual political candidates?

21a *In law, there are regulations governing private contributions to individual political candidates.*

Score: YES

References: Political Parties Order 2002, articles 6(2) and 6(4)
Manual of Elections Laws, Ishfaq Ali, page 49.

Social Scientist's Comments: The contribution made by members or supporters of any party shall be duly recorded by the political parties. From Article 6(2)
Any contribution or donation that is prohibited under this order shall be considered in favor of the State in the manner as may be prescribed. From Article 6(4)

For the purpose of this section, a "contribution" or "donation" includes a contribution or donation made in cash, kind, stocks, hospitality, accommodation, transport, fuel and provision of other such facilities. From Manual of Elections Laws

21b *In law, there are limits on individual donations to political candidates.*

Score: YES

References: Political Parties Order 2002
Political Parties Rules 2002

Social Scientist's Comments: Private or individual donations to the political party shall be duly recorded in the accounts register. Donations made in contravention of the Political Parties Order 2002 shall be considered in favor of the state. Limit or ceiling on individual donations can be lowered or raised by the election commission under the relevant law.

21c *In law, there are limits on corporate donations to individual political candidates.*

Score: YES

References: Political Parties Order 2002

21d *In law, there are requirements for the disclosure of donations to individual political candidates.*

Score: YES

References: Political Parties Orders 2002, article 13

21e *In law, there are requirements for the independent auditing of the campaign finances of individual political candidates.*

Score: YES

References: Representation of the People Act 1976, Chapter VI: Election expenses
Pakistan Legal Decisions (official court documents) 1989, Supreme Court, page 760

**Social Scientist's
Comments:**

Campaign finances are submitted to the election commission for audit and verification. But, in practice the finances violate the rules and no actual finances incurred on electoral or political campaign is submitted to the authority.

From Pakistan Legal Decisions (PLDs): Allegations in an election petition alleging that actions of returned candidates constitute corrupt and illegal practice are true. Specifically, the candidates exceeded the election-expenses limit, took assistance from someone in a service of Pakistan to further his election, provided transport to voters going to polling stations and indulged in bogus polling.

21f *In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.*

Score:

YES

References:

.Election Commission Order 2002

**Social Scientist's
Comments:**

The Election Commission of Pakistan monitors the financing of individual political candidates' campaigns.

22: Are the regulations governing the political financing of parties effective?

22a *In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.*

Score: 25

References: Jamilur Rehman, schoolteacher, district Karak, July 28, 2008
Interview with Kamal Jan, schoolteacher, district Karak, July 28, 2008

**Social Scientist's
Comments:**

Jamilur Rehman, who was deputed at a polling station for polling duty on Feb 18, 2008, said that the rules and regulations regarding individuals ability to finance a political party or campaign are not effective. Political parties and individual candidates election expenses are seldom checked, unless a returned candidate's expenses are challenged in the election tribunals appointed by the election commission. Background interviews and personal experiences also show that neither political parties nor candidates' finances are monitored or probed. Donations to political parties are seldom made public by the parties leadership. However, they submit a statement of accounts to the Election Commission of Pakistan on a regular basis. Media reports suggest that the actual assets and liabilities of political parties are never made public or declared in the statement of accounts. Background interviews with individual political party workers also pointed to the lack of transparency in the record of donations made to political parties.

22b *In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.*

Score: 25

References: Jamilur Rehman
Kamal Jan

Dr. Said Alam Mahsud, political leader, Peshawar

**Social Scientist's
Comments:**

This is true for corporate donations as for individual donations to financially support political parties. The sizes of donations are never made public or declared in the statements of accounts. And the political parties visibly spend huge amounts funding election campaigns and, in the majority of cases as witnessed across the country this spending is more than that set forth by the ECP under the election laws. Hence the assets, sources of funds and liabilities of political parties are held in question across the country.

22c *In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.*

Score: 25

References: Jamilur Rehman
Kamal Jan

Dr. Said Alam Mahsud

Social Scientist's Comments: The ceiling set by by the Election Commission of Pakistan (ECP) on total expenditures is mostly violated by the political parties when funding election campaigns and/or politically related activities. The political parties are supposed to submit a statement of expenditures on the election campaign within 60 days after the poll close, but, the statements do not mention the actual amount spent on the election campaign or political activities.

22d *In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.*

Score: 25

References: Jamilur Rehman
Kamal Jan
Dr. Said Alam Mahsud

Social Scientist's Comments: In practice, the Election Commission of Pakistan has never initiated independent investigations into the expenditures of political parties or election candidates. Some action is taken when a candidate brings to the election authorities an objection to an opponent's expenditures.

22e *In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.*

Score: 25

References: Jamilur Rehman
Kamal Jan
Dr. Said Alam Mahsud

Social Scientist's Comments: Cases involving penalties placed on political parties for violating rules regulating political activity finances are never known to have been noticed by the Election Commission of Pakistan.

22f *In practice, contributions to political parties are audited.*

Score: 25

References: Dr. Said Alam Mahsud, political leader, Peshawar

Social Scientist's Comments: The political parties submit statements of accounts, including corporate or individual contributions and audited by a Chartered Accountant, to the election commission under the relevant law regulating the political parties. But interviews conducted with district-level leaders of political parties suggest that in practice, no such thing is or has ever been done.

23: Are the regulations governing the political financing of individual candidates effective?

23a *In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.*

Score: 25
References: Dr. Said Alam Mahsud
 Jamilur Rehman
 Kamal Jan

23b *In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.*

Score: 25
References: Dr. Said Alam Mahsud
 Jamilur Rehman
 Kamal Jan

23c *In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.*

Score: 25
References: Dr. Said Alam Mahsud
 Jamilur Rehman
 Kamal Jan

Social Scientist's Comments: The Election Commission of Pakistan (ECP) regulates the political parties and holds elections. Under law, it can initiate proceedings against individual candidates or political parties contesting elections to monitor their spending on political campaigns or election rallies. In practice, all political parties and individual candidates spend more for campaign financing than the limits set by the ECP, but no effective action having been taken against candidates or political parties has ever been reported in the media.

23d *In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.*

Score: 25
References: Dr. Said Alam Mahsud
 Jamilur Rehman
 Kamal Jan

Social Scientist's Comments: Under political parties laws, the Election Commission of PPakistan can impose penalties on offenders, but in practice no such action has ever been taken.

23e *In practice, the finances of individual candidates' campaigns are audited.*

Score: 25

References: Dr. Said Alam Mahsud
Jamilur Rehman
Kamal Jan

**Social Scientist's
Comments:** In practice, candidates' finances are not audited. However, every candidate and political party crosses the expenditure limit set by the Election Commission of Pakistan (ECP), and offenders are not punished.

24: Can citizens access records related to the financing of political parties?

24a *In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.*

Score: 25

References: Dr. Said Alam Mahsud
Jamilur Rehman
Kamal Jan

24b *In practice, citizens can access the financial records of political parties within a reasonable time period.*

Score: 0

References: Dr. Said Alam Mahsud
Jamilur Rehman
Kamal Jan

24c *In practice, citizens can access the financial records of political parties at a reasonable cost.*

Score: 0

References: Dr. Said Alam Mahsud
Jamilur Rehman
Kamal Jan

25: Can citizens access records related to the financing of individual candidates' campaigns?

25a *In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.*

Score: 25

References: Dr. Said Alam Mahsud
Jamilur Rehman
Kamal Jan

25b *In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.*

Score: 0

References: Dr. Said ALam Mahsud
Jamilur Rehman
Kamal Jan

25c *In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.*

Score: 0

References: Dr. Said Alam Mahsud
Jamilur Rehman
Kamal Jan

26: Can citizens sue the government for infringement of their civil rights?

26 *In law, can citizens sue the government for infringement of their civil rights?*

Score: YES

References: Constitution of Pakistan 1973, article 8, article 199, sections 1- 5

Social Scientist's Comments: Based on the application of any aggrieved party, the High Court may make anyone who works within the territorial jurisdiction of the court, and is connected with the affairs of the federation, a province or a local authority, refrain from doing anything he is not permitted by law to do or to do anything he is required by law to do. Or, the court can declare of no legal effect any act done or proceeding undertaken by anyone described above that was done or undertaken without lawful authority.

27: Can the chief executive be held accountable for his/her actions?

27a *In practice, the chief executive gives reasons for his/her policy decisions.*

Score: 50

References: Saeed Baig, advocate, Supreme Court, Pakistan, July 29, 2008, Peshawar High Court Bar Room, Peshawar
Ismail Fehmi, advocate, Supreme Court, July 29, 2008, Peshawar High Court Bar Room, Peshawar

Social Scientist's Comments: The president or the chief executive may or may not give timely or complete reasons for his government's policy decisions. In addition, government ministers never agree on reasons why certain actions were taken.

27b *In law, the judiciary can review the actions of the executive.*

Score: YES

References: Constitution of Pakistan 1973, article 199

27c *In practice, when necessary, the judiciary reviews the actions of the executive.*

Score: 75

References: Saeed Baig, advocate, Supreme Court, Pakistan, July 29, 2008, Peshawar High Court Bar Room, Peshawar
Ismail Fehmi, advocate, Supreme Court, July 29, 2008, Peshawar High Court Bar Room, Peshawar

27d *In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.*

Score: 50

References: Saeed Baig, advocate, Supreme Court, Pakistan, July 29, 2008, Peshawar High Court Bar Room, Peshawar
Ismail Fehmi, advocate, Supreme Court, July 29, 2008, Peshawar High Court Bar Room, Peshawar

28: Is the executive leadership subject to criminal proceedings?

28a *In law, the heads of state and government can be prosecuted for crimes they commit.*

Score: YES

References: Constitution of Pakistan 1973, article 47

**Social Scientist's
Comments:**

The president, who is the head state, can be removed and prosecuted according to Article 14: (1) Notwithstanding anything contained in the Constitution, the president may, in accordance with the provision of this Article, be removed from office on the ground of physical or mental incapacity, or impeached on a charge of violating the Constitution or gross misconduct; (2) Not less than one-half of the total membership of either house may give to the Speaker of the National Assembly or, as the case may be, the chairman, written notice of its intention to introduce a resolution for the removal of or to impeach the president; and such notice shall set out the particulars of his incapacity or the charge against him. The prime minister can also be removed from his position by a vote of no confidence and prosecuted for misconduct or other offenses in a court of law.

28b *In law, ministerial-level officials can be prosecuted for crimes they commit.*

Score: YES

References: Constitution of Pakistan 1973, article 47

29: Are there regulations governing conflicts of interest by the executive branch?

29a *In law, the heads of state and government are required to file a regular asset disclosure form.*

Score: YES

References: Constitution of Pakistan 1973, articles 41-49

29b *In law, ministerial-level officials are required to file a regular asset disclosure form.*

Score: YES

References: Representation of the People Act 1976

29c *In law, there are regulations governing gifts and hospitality offered to members of the executive branch.*

Score: YES

References: Government Servants (Conduct) Rules 1964, article 5

29d *In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).*

Score: YES

References: Representation of People Act 1976

29e *In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.*

Score: NO

References: Interview with Saeed Baig, advocate, Supreme Court, Pakistan
Ismail Fehmi, advocate, Supreme Court, Peshawar

29f *In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.*

Score: 0

References: Saeed Baig, advocate
Ismail Fehmi, advocate

Social Scientist's Comments: Restrictions on post-governmental-service private-sector employment are never imposed. In practice, all government employees and servants, including the heads of state and government, can enter post-government private-sector employment or business.

29g *In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.*

Score: 50

References: Saeed Baig, advocate
Ismail Fehmi, advocate

Social Scientist's Comments: In law, gifts received by members of the executive branch, like those made to members of the legislature, are deposited in the government's Toshakhana, and the names of receipts are duly recorded. But in practice, these laws are seldom followed.

29h *In practice, executive branch asset disclosures (defined here as ministers and above) are audited.*

Score: 25

References: Saeed Baig, advocate, Supreme Court, Pakistan
Ismail Fehmi, advocate, Supreme Court

Social Scientist's Comments: In practice, asset disclosures of ministers or those above them are not audited.

30: Can citizens access the asset disclosure records of the heads of state and government?

30a *In law, citizens can access the asset disclosure records of the heads of state and government.*

Score: NO

References: Representation of People's Act 1976

Social Scientist's Comments: The prime minister files asset-disclosure statements with the Election Commission of Pakistan as required, but not all citizens can access these records. The president is not required to file an asset-disclosure statement.

30b *In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.*

Score: 0

References: Saeed Baig, advocate, Supreme Court
Ismail Fehmi, advocate, Supreme Court

30c *In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.*

Score: 0

References: Saeed Baig, advocate, Supreme Court
Ismail Fehmi, advocate, Supreme Court

31: Official government functions are kept separate and distinct from the functions of the ruling political party.

31 *In practice, official government functions are kept separate and distinct from the functions of the ruling political party.*

Score: 25

References: Saeed Baig, advocate, Supreme Court
Ismail Fehmi, advocate, Supreme Court

Social Scientist's Comments: The functions of the ruling political party are kept separate from the government's official functions, but the bureaucracy acts as an organ and extension of the political party. Hence, the distinction between an official government function and ruling party function is difficult to make.

32: Can members of the legislature be held accountable for their actions?

32a *In law, the judiciary can review laws passed by the legislature.*

Score: YES

References: Constitution of Pakistan 1973, articles 184(3), 199

32b *In practice, when necessary, the judiciary reviews laws passed by the legislature.*

Score: 100

References: Interview with Moazzam Butt, advocate
Amin Khan, advocate, Peshawar

32c *In law, are members of the national legislature subject to criminal proceedings?*

Score: YES

References: Criminal Procedure Code
Pakistan Penal Code

Social Scientist's Comments: Based on the nature of the crime, criminal laws are equally applicable to members of the national legislature.

33: Are there regulations governing conflicts of interest by members of the national legislature?

33a *In law, members of the national legislature are required to file an asset disclosure form.*

Score: YES

References: Representation of People Act 1976
Conduct of General Elections Order 2002

33b *In law, there are restrictions for national legislators entering the private sector after leaving the government.*

Score: NO

References: Interview with Moazzam Butt, advocate

33c *In law, there are regulations governing gifts and hospitality offered to members of the national legislature.*

Score: YES

References: N/A

Social Scientist's Comments: Gifts received by members of the national or provincial legislature are deposited in the Toshakhana. Responsibility of reporting the receipt of gifts from foreign dignitaries or delegations including the names of the recipients lies with the chief of protocol or ambassador in the concerned foreign country. For foreign delegations with whom the chief of protocol is not associated, the ministry sponsoring the visit is responsible for supplying the details of gifts and the list of recipients.

33d *In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.*

Score: YES

References: Rules of National Assembly
Election laws of the Representation of People Act 1976
Conduct of General Elections Order 2002

33e *In practice, the regulations restricting post-government private sector employment for national legislators are effective.*

Score: 0

References: Interview with Moazzam Butt, advocate
Interview with Amin Khan, advocate, High Court, Peshawar

Social Scientist's Comments: There are no regulations governing post-government-service private-sector employment of national legislators. In practice, members of parliament run private businesses and companies even when they are sitting members of parliament. Former Prime Minister Shaukat Aziz is a case in point: He left the country to take up his job in an international bank.

33f *In practice, the regulations governing gifts and hospitality offered to national legislators are effective.*

Score: 50
References: Moazzam Butt, advocate, Peshawar
Amin Khan, advocate, Peshawar

33g *In practice, national legislative branch asset disclosures are audited.*

Score: 50
References: Moazzam Butt, advocate, Peshawar
Amin Khan, advocate, Peshawar

Social Scientist's Comments: Asset disclosures by members of the legislative branch are audited, but audits are limited or do not follow auditing standards, or there are exceptions. The audits are never made public. In practice, assets are not declared.

34: Can citizens access the asset disclosure records of members of the national legislature?

34a *In law, citizens can access the asset disclosure records of members of the national legislature.*

Score: YES

References: Representation of the People Act 1976
Election Commission Order 2002
Interview with Moazzam Butt, advocate

34b *In practice, citizens can access legislative asset disclosure records within a reasonable time period.*

Score: 25

References: Interview with Moazzam Butt, advocate

Social Scientist's Comments: In 99% of cases, citizens cannot access legislative asset-disclosure records.

34c *In practice, citizens can access legislative asset disclosure records at a reasonable cost.*

Score: 25

References: Moazzam Butt, advcoate

35: Can citizens access legislative processes and documents?

35a *In law, citizens can access records of legislative processes and documents.*

Score: YES

References: Moazzam Butt, advocate

Social Scientist's Comments: Under the Rules of Business of the National Assembly or rules of provincial assemblies, copies of bills and proceedings are to be distributed among the media for distribution to the public.

Peer Reviewer's Comments: Most of them are available on the National Assembly website as well.

35b *In practice, citizens can access records of legislative processes and documents within a reasonable time period.*

Score: 50

References: Moazzam Butt, advocate

Social Scientist's Comments: Records of legislative processes can be accessed, but not all citizen can do so. It takes a fair amount of time and money to get to the relevant places to access legislative-process records. Practically, it depends on individuals' connections to the circles keeping those records.

Peer Reviewer's Comments: Though computers and media have played a vital role in educating people, they still need more education to enable them to get information through websites.

35c *In practice, citizens can access records of legislative processes and documents at a reasonable cost.*

Score: 50

References: Interview with Moazzam Butt, advocate

36: Are judges appointed fairly?

36a *In law, there is a transparent procedure for selecting national-level judges.*

Score: YES

References: Constitution of Pakistan 1973, article 193/1

Social Scientist's Comments: There is a transparent procedure for selecting national-level judges. The chief justice of a high court or the Supreme Court recommends names of prospective judges to the governor and the president who, in consultation with the chief minister or prime minister, appoint judges to the high court or Supreme Court. Judges of the high court are also elevated to the Supreme court on the recommendation of the chief justice of the Supreme Court and of the high court.

36b *In practice, professional criteria are followed in selecting national-level judges.*

Score: 75

References: Interview with Shakil Ahmad, advocate, Supreme Court of Pakistan, July 22, 2008, Peshawar

Peer Reviewer's Comments: In the recent history, the president of Pakistan tried to convince the Supreme Court judge to resign as he wasn't comfortable with him. The president then tried unsuccessfully to remove the chief justice from office.

Peer Reviewer's Comments: "In August 1994, the Benazir government filled several long-standing vacancies in the four provincial High Courts. Of the 20 new judges appointed to the Lahore High Court, 13 were former activists in the ruling Pakistan People's Party, one of them a former minister (Saeed Awan against whom a murder case was pending). Three were supporters of the Muslim League faction which supports Miss Bhutto's coalition government. In November 1994, Miss Bhutto threw tradition overboard when she by-passed two senior judges and appointed Sajjad Ali Shah as Chief Justice of the Supreme Court. Mr. Shah was the lone dissenter in the 11-member bench whose decision restored Mr. Sharif to power in May 1993 after he had been booted out by the president a month earlier.[26] "

"The rulers generally kept vacancies in the higher judiciary in order to oblige favorites whenever an occasion arose for it or expediency so demanded. When Benazir Bhutto took over in November 1993, there were 34 vacancies in the superior courts: two in the Supreme Court, 17 in the Lahore High Court, 10 in the Sindh High Court, four in the Peshawar High Court and one in the Balochistan High Court. While thousands of cases were pending, what justification was there to keep these vacancies unfilled?[27]"

http://www.ghazali.net/book1/Chapter11a/page_2.html

36c *In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).*

Score:

YES

References:

Constitution of Pakistan 1973, article 197
Interview with Shakil Ahmad, advocate, Supreme Court of Pakistan,
July 22, 2008, Peshawar

**Social Scientist's
Comments:**

An additional judge is appointed to fill a permanent vacancy. After approval of the president, additional judges are confirmed to the satisfaction of the chief justice of the Supreme Court or high court.

37: Can members of the judiciary be held accountable for their actions?

37a *In law, members of the national-level judiciary are obliged to give reasons for their decisions.*

Score: YES

References: Constitution of Pakistan 1973, article 209, clauses 7, 8

37b *In practice, members of the national-level judiciary give reasons for their decisions.*

Score: 100

References: Shakil Ahmad, advocate, Supreme Court, Peshawar

37c *In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.*

Score: YES

References: Constitution of Pakistan 1973, article 209

37d *In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.*

Score: YES

References: Constitution of Pakistan, article 209

Social Scientist's Comments: No political interference can be made by political or other agencies, except by the mechanism framed under article 209.

37e *In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.*

Score: 100

References: Shakil Ahmad, advocate, Peshawar

37f *In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.*

Score: 100

References: Shakil Ahmad, advocate
Constitution of Pakistan, article 209(6)

Social Scientist's Comments: If, after inquiry into the matter, a court believes that a judge is incapable of performing the duties of his office or guilty of misconduct, the court reports to the president.

38: Are there regulations governing conflicts of interest for the national-level judiciary?

38a *In law, members of the national-level judiciary are required to file an asset disclosure form.*

Score: YES

References: Government Servants (Conduct) Rules 1964
Interview with Shakil Ahmad, advocate, Supreme Court

38b *In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.*

Score: YES

References: Interview with Shakil Ahmad, advocate

Social Scientist's Comments: All gifts, irrespective of their prices, must be reported to the Toshakhana, Cabinet Division. The chief of protocol is responsible for reporting the receipt of gifts to members from foreign dignitaries or delegations, including the names of recipients.

38c *In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.*

Score: YES

References: Constitution of Pakistan 1973, articles 7(b) and 207
Shakil Ahmad, advocate

38d *In law, there are restrictions for national-level judges entering the private sector after leaving the government.*

Score: YES

References: Constitution of Pakistan 1973, article 2
Shakil Ahmad, advocate

38e *In practice, the regulations restricting post-government private sector employment for national-level judges are effective.*

Score: 75

References: Shakil Ahmad, advocate
Interview with Zakir Hussain, advocate, High Court, July 23, 2008, Peshiwar

38f *In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.*

Score: 50

References: Shakil Ahmad, advocate
Zakir Hussain, advocate

38g *In practice, national-level judiciary asset disclosures are audited.*

Score: 75

References: Shakil Ahmad, advocate
Zakir Hussain, advocate

39: Can citizens access the asset disclosure records of members of the national-level judiciary?

39a *In law, citizens can access the asset disclosure records of members of the national-level judiciary.*

Score: **NO**

References: Shakil Ahmad, advocate
Zakir Hussain, advocate

39b *In practice, citizens can access judicial asset disclosure records within a reasonable time period.*

Score: **0**

References: Shakil Ahmad, advocate
Zakir Hussain, advocate

39c *In practice, citizens can access judicial asset disclosure records at a reasonable cost.*

Score: **0**

References: Shakil Ahmad, advocate
Zakir Hussain, advocate

40: Can the legislature provide input to the national budget?

40a *In law, the legislature can amend the budget.*

Score: YES

References: Constitution of Pakistan 1973, article 81
Shakil Ahmad, advocate, Supreme Court, Peshawar

40b *In practice, significant public expenditures require legislative approval.*

Score: 75

References: Constitution of Pakistan 1973, articles 78-84
Shakil Ahmad, advocate, Supreme Court, Peshawar

40c *In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.*

Score: 75

References: Constitution of Pakistan 1973, articles 81-84
Shakil Ahmad, advocate, Supreme Court, Peshawar

41: Can citizens access the national budgetary process?

41a *In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).*

Score: 75

References: Constitution of Pakistan 1973, articles 84-85
Shakil Ahmad, advocate, Supreme Court, Peshawar

41b *In practice, citizens provide input at budget hearings.*

Score: 50

References: Saeed Baig, advocate, Supreme Court
Ismail Fehmi, advocate, Supreme Court

41c *In practice, citizens can access itemized budget allocations.*

Score: 75

References: Saeed Baig, advocate, Supreme Court
Ismail Fehmi, advocate, Supreme Court

42: Is there a separate legislative committee which provides oversight of public funds?

42 *In law, is there a separate legislative committee which provides oversight of public funds?*

Score: YES

References: Constitution of Pakistan 1973, article 88

43: Is the legislative committee overseeing the expenditure of public funds effective?

43a *In practice, department heads regularly submit reports to this committee.*

Score: 75

References: Public Accounts Committee of the National Assembly
Saeed Baig, advocate, Supreme Court
Ismail Fehmi, advocate, Supreme Court

Social Scientist's Comments: Heads of government departments regularly, or when required to, submit account statements to this committee for approval and authentication.

43b *In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.*

Score: 75

References: Saeed Baig, advocate, Supreme Court
Ismail Fehmi, advocate, Supreme Court

Social Scientist's Comments: The Public Accounts Committee of the National Assembly, which is the legislative committee overseeing the expenditure of public funds, knows how public funds are spent. The committee includes both ruling party and opposition party legislators, and acts in a fairly non-partisan manner.

43c *In practice, when necessary, this committee initiates independent investigations into financial irregularities.*

Score: 75

References: Saeed Baig, advocate, Supreme Court
Ismail Fehmi, advocate, Supreme Court

Social Scientist's Comments: The Public Accounts Committee of the National Assembly, in the lower house of parliament, initiates proceedings into the illegal spending of public funds, but its investigations into financial irregularities are not imposed effectively enough to prosecute offenders.

44: Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

44a *In law, there are regulations requiring an impartial, independent and fairly managed civil service.*

Score: YES

References: Civil Servant Act 1973, section 23
Civil Servants (validation of rules) Ordinance 2001

Social Scientist's Comments: In law, civil services are impartial and carry out their duties without interference from political parties. The Civil Servant Act provides regulations, rules and safeguards to enable civil servants to perform their duties fairly.

44b *In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.*

Score: YES

References: Civil Servants Act 1973, section 24

44c *In law, there is an independent redress mechanism for the civil service.*

Score: YES

References: Civil Servants (Appeals) Rules 1977
Services Tribunals Act 1973

Social Scientist's Comments: The Public Service Tribunals at the provincial level and the Federal Service Tribunal at the national level provide effective mechanisms for independently redressing public servants' grievances.

44d *In law, civil servants convicted of corruption are prohibited from future government employment.*

Score: YES

References: Government Servants (Efficiency and Discipline) Rules 1973, section 8

45: Is the law governing the administration and civil service effective?

45a *In practice, civil servants are protected from political interference.*

Score: 50

References: Masood Iqbal, advocate, High Court, Peshawar, July 30, 2008, PHC Bar Room, Peshawar

Social Scientist's Comments: In practice, civil servants are commonly influenced by political and personal matters. Relationships are a main factor influencing civil servants, as is political interference, which has changed the whole structure of the civil service due to threats, personal loyalty, undue influence and bias.

45b *In practice, civil servants are appointed and evaluated according to professional criteria.*

Score: 50

References: Masood Iqbal, advocate
Shahzada Shapoor Jan, advocate, PHC, Peshawar, July 30, 2008

Social Scientist's Comments: In practice, civil servants are appointed and evaluated according to their political approach, family relationships, friendships, personal loyalty and connections in the corridors of power.

Peer Reviewer's Comments: There is a quota system for the civil services to hire people from four provinces of Pakistan for the central and the provincial governments.

45c *In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.*

Score: 50

References: Masood Iqbal, advocate
Shahzada Shapoor Jan, advocate, PHC, Peshawar, July 30, 2008

45d *In practice, civil servants have clear job descriptions.*

Score: 75

References: Masood Iqbal, advocate
Shahzada Shapoor Jan, advocate

45e *In practice, civil servant bonuses constitute only a small fraction of total pay.*

Score: 50

References: Masood Iqbal, advocate
Shahzada Shapoor Jan, advocate

Social Scientist's Comments: In practice, most civil servants receive bonuses that represent a significant amount of their total pay.

45f *In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.*

Score: 100

References: Masood Iqbal, advocate
Shahzada Shapoor Jan, advocate

45g *In practice, the independent redress mechanism for the civil service is effective.*

Score: 75

References: Masood Iqbal, advocate
Shahzada Shapoor Jan, advocate

Social Scientist's Comments: Public Service Tribunals at the provincial level and the Federal Service Tribunal at the national level provide effective mechanisms for independently redressing public servants' grievances. However, the process is not altogether free from pressure from the executive or the bodies that manage civil servants.

45h *In practice, in the past year, the government has paid civil servants on time.*

Score: 100

References: Masood Iqbal, advocate
Shahzada Shapoor Jan, advocate

Social Scientist's Comments: In the past year, the government has frequently paid salaries to civil servants, but in some cases, the disbursement was delayed for various reasons.

45i *In practice, civil servants convicted of corruption are prohibited from future government employment.*

Score: 100

References: Masood Iqbal, advocate
Shahzada Shapoor Jan, advocate
Government Servants (Efficiency and Discipline) Rules 1973, section 8

46: Are there regulations addressing conflicts of interest for civil servants?

46a *In law, senior members of the civil service are required to file an asset disclosure form.*

Score: YES

References: NWFP Government Servants (Conduct) Rules 1987, sections 12-14

46b *In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.*

Score: YES

References: Government Servants (Conduct) Rules 1964

46c *In law, there are restrictions for civil servants entering the private sector after leaving the government.*

Score: YES

References: N/A

Social Scientist's Comments: The Auditor General is restricted by law from joining the private sector for two years after retirement from government service.

46d *In law, there are regulations governing gifts and hospitality offered to civil servants.*

Score: YES

References: Civil Servants Act 1973
Government Servants (Conduct) Rules 1964
NWFP Civil Servants (Conduct) Rules 1987, section 5, sub-sections 1-8

46e *In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.*

Score: YES

References: Government Servants (Conduct) Rules 1964, section 13

46f *In practice, the regulations restricting post-government private sector employment for civil servants are effective.*

Score: 0

References: Masood Iqbal, advocate
Shahzada Shapoor Jan, advocate

Social Scientist's Comments: Ex-public servants can enter private-sector employment, but the Auditor General is restricted for two years after his retirement from the government.

46g *In practice, the regulations governing gifts and hospitality offered to civil servants are effective.*

Score: 75

References: Masood Iqbal, advocate
Shahzada Shapoor Jan, advocate

Social Scientist's Comments: It is true that in Pakistan, certain individuals or officials in their own capacity might misappropriate the gifts or hospitality offered to civil servants. However, in a majority of cases, the regulations are practiced strictly.

Peer Reviewer's Comments: I believe it is not the case and that the system is not effective to govern. From the Daily Star:
"Pakistan is hindered by corruption on both systematic and societal levels.

In the professional realm, for example, when a woman competes for a position in the country's civil service, she is often held back by corrupt individuals who - whether through bribery or connections - promote their own preferred candidate. Capable women, who are relatively new to politics, are often unable to manipulate

the system in this same manner.

In the healthcare sector, female civil servants who do not accept bribes are often overlooked for promotions; positions further along the "corporate ladder" are instead given to men who are considered more bribable. This not only affects women, but has an adverse affect on the country's overall healthcare performance."

http://www.dailystar.com.lb/article.asp?edition_id=10&categ_id=5&article_id=96425

46h *In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.*

Score: 50

References: Masood Iqbal, advocate
Shahzada Shapoor Jan, advocate

Peer Reviewer's Comments: Also see:
http://www.dailystar.com.lb/article.asp?edition_id=10&categ_id=5&article_id=96425

46i *In practice, civil service asset disclosures are audited.*

Score: 50

References: Masood Iqbal, advocate
Shahzada Shapoor Jan, advocate

Social Scientist's Comments: The Audit General Office audits asset disclosures by public servants, but the audits are made using inadequate auditing standards or with pressure from the executive branch or the bodies regulating public servants. Proceedings are initiated by the National Accountability Bureau (NAB) against public servants who have accumulated assets beyond their known sources of income.

47: Can citizens access the asset disclosure records of senior civil servants?

47a *In law, citizens can access the asset disclosure records of senior civil servants.*

Score: **NO**

References: There are no such specific laws.

47b *In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.*

Score: **0**

References: Masood Iqbal, advocate
Shahzada Shapoor Jan, advocate

47c *In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.*

Score: **0**

References: Masood Iqbal, advocate
Shahzada Shapoor Jan, advocate

48: Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

48a *In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.*

Score: YES

References: National Accountability Ordinance 1999

48b *In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.*

Score: 50

References: Moazzam Butt, advocate, Peshawar, August 1, 2008
Barkatullah, advocate, PHC, Peshawar

Social Scientist's Comments: In some cases, whistleblowers in the public sector who report cases of corruption to higher authorities or to the media walk away without any negative consequences. But in most cases, they come in for uninvited trouble, recrimination or other negative consequences. It depends on the nature of the case, who it involves, and how and where those involved are connected.

48c *In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.*

Score: YES

References: National Accountability Ordinance 1999

48d *In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.*

Score: 50

References: Moazzam Butt, advocate, Peshawar
Barkatullah, advocate, PHC, Peshawar

Social Scientist's Comments: In practice, private sector employees who report cases of corruption, power abuse, or graft are punished. If the case involves people with access to the corridors of power, the whistleblower is made the scapegoat in that he or she loses his or her job and may find more trouble in future when struggling to find other employment.

49: Is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

49 *In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?*

Score: YES

References: NAB Ordinance 1999
Moazzam Butt, advocate, Peshawar
Barkatullah, advocate, PHC, Peshawar

Social Scientist's Comments: Civil servants can report corruption to the National Accountability Bureau or provincial offices on the phone, in written form or through email, along with documentation claiming to support the allegation of corruption.

50: In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

50a *In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.*

Score: 50

References: Moazzam Butt, advocate
Barkatullah, advocate

50b *In practice, the internal reporting mechanism for public sector corruption receives regular funding.*

Score: 50

References: Moazzam Butt, advocate
Barkatullah, advocate

50c *In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.*

Score: 50

References: Interview with Moazzam Butt, advocate
Barkatullah, advocate

50d *In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.*

Score: 50

References: Moazzam Butt, advocate
Barkatullah, advocate

51: Is the public procurement process effective?

51a *In law, there are regulations addressing conflicts of interest for public procurement officials.*

Score: YES

References: Pakistan Public Procurement Regulatory Authority (PPRA) 2002
Interview with Wilayat Khan, advocate, PHC, Peshawar, Aug. 7, 2008

Interview with Mian Faisal, planning officer, NWFP Emergency Rehabilitation Project, Planning and Development Department, Peshawar, Aug. 7, 2008

51b *In law, there is mandatory professional training for public procurement officials.*

Score: YES

References: Pakistan Public Procurement Regulatory Authority.
Wilayat Khan, advocate

Mian Faisal, planning officer, NWFP Emergency Rehabilitation Project, Planning and Development Department

51c *In practice, the conflicts of interest regulations for public procurement officials are enforced.*

Score: 25

References: Wilayat Khan, advocate
Mian Faisal, planning officer, NWFP Emergency Rehabilitation Project, Planning and Development Department

Social Scientist's Comments: Conflict-of-interest regulations guiding public procurement officials are rarely enforced. The official machinery often oversteps and violates the rules and regulations of governing procurement.

51d *In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.*

Score: YES

References: Public Accounts Committee of the National Assembly of Parliament of Pakistan
Wilayat Khan, advocate

Mian Faisal, planning officer, NWFP Emergency Rehabilitation Project, Planning and Development Department

51e *In law, major procurements require competitive bidding.*

Score: YES

References: Public Procurement Rules of the Pakistan Public Procurement Regulatory Authority 2002
 Wilayat Khan, advocate
 Mian Faisal, planning officer, NWFP Emergency Rehabilitation Project, Planning and Development Department

51f In law, strict formal requirements limit the extent of sole sourcing.

Score: YES

References: Procurement Division invites sealed bids from Sales and Income Tax departments authorized agents of manufacturers/suppliers companies.
 Interview with Wilayat Khan, advocate
 Mian Faisal, planning officer, NWFP Emergency Rehabilitation Project, Planning and Development Department

Social Scientist's Comments: The Procurement Division invites sealed bids from manufacturers'/suppliers' Sales and Income Tax Department authorized agents.

51g In law, unsuccessful bidders can instigate an official review of procurement decisions.

Score: NO

References: Mian Faisal, planning officer, P&D Department, Peshawar Wilayat Khan, advocate
 Interview with Mian Faisal, planning officer, NWFP Emergency Rehabilitation Project, Planning and Development Department

Social Scientist's Comments: The public sector purchasing department can accept, reject or cancel any bid, or cancel the process of procurement, without incurring any liability to unsuccessful bidders.

51h In law, unsuccessful bidders can challenge procurement decisions in a court of law.

Score: NO

References: Wilayat Khan, advocate
 Mian Faisal, planning officer, NWFP Emergency Rehabilitation Project, Planning and Development Department

Social Scientist's Comments: The public sector purchasing department can accept, reject or cancel any bid, or cancel the process of procurement, without incurring any liability to unsuccessful bidders.

51i In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

Score: YES

References: Wilayat Khan, advocate
 Mian Faisal, planning officer, NWFP Emergency Rehabilitation Project, Planning and Development Department

51j *In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.*

Score: 25

References: Wilayat Khan, advocate
Mian Faisal, planning officer, NWFP Emergency Rehabilitation Project,
Planning and Development Department

Social Scientist's Comments: Companies or firms found guilty of violations in public procurement are blacklisted from taking part in future bidding. However, the system is infested with flaws. Some procurements or companies may not be affected by regulations.

52: Can citizens access the public procurement process?

52a *In law, citizens can access public procurement regulations.*

Score: YES

References: Public Procurement Rules 2002, Pakistan Public Procurement Regulatory Authority (PPRA)
Wilayat Khan, advocate

Mian Faisal, planning officer, NWFP Emergency Rehabilitation Project, Planning and Development Department

52b *In law, the government is required to publicly announce the results of procurement decisions.*

Score: YES

References: Public Procurement Rules 2002
S.R.O. Finance Division Notification, June 8, 2004

Wilayat Khan, advocate

Mian Faisal, planning officer, NWFP Emergency Rehabilitation Project, Planning and Development Department

Social Scientist's Comments: S 4: Principles of procurements: Procuring agencies shall ensure that the procurements are made in a fair and transparent way and that the procurement process is efficient and economical.

52c *In practice, citizens can access public procurement regulations within a reasonable time period.*

Score: 25

References: Wilayat Khan, advocate
Mian Faisal, planning officer, NWFP Emergency Rehabilitation Project, Planning and Development Department

52d *In practice, citizens can access public procurement regulations at a reasonable cost.*

Score: 25

References: Wilayat Khan, advocate
Mian Faisal, planning officer, NWFP Emergency Rehabilitation Project, Planning and Development Department

52e *In practice, major public procurements are effectively advertised.*

Score: 50

References: Wilayat Khan, advocate
Mian Faisal, planning officer, NWFP Emergency Rehabilitation Project, Planning and Development Department

52f *In practice, citizens can access the results of major public procurement bids.*

Score: 50

References: Wilayat Khan, advocate
Mian Faisal, planning officer, NWFP Emergency Rehabilitation Project,
Planning and Development Department

53: Is the privatization process effective?

53a *In law, all businesses are eligible to compete for privatized state assets.*

Score: YES

References: Privatization Commission, July 31, 2001
S.R.O. (I)/2001, section 40

Privatization Commission Ordinance 2000, sections 22 and 25

Privatization (Modes and Procedure) Rules 2001

53b *In law, there are regulations addressing conflicts of interest for government officials involved in privatization.*

Score: YES

References: Privatization Commission, 2001
S.R.O. (I)/2001, section 40

Privatization Commission Ordinance 2000, sections 22 and 25

Privatization (Modes and Procedure) Rules 2001

53c *In practice, conflicts of interest regulations for government officials involved in privatization are enforced.*

Score: 25

References: Zakir Hayat, advocate, PHC, Peshawar, Aug. 9, 2008
Interview with Tariq Usman, government-approved private contractor,
district Karak. Peshawar High Court Bar Room, Aug. 9, 2008

Social Scientist's Comments: Conflict-of-interest regulations for government officials involved in privatization are flawed and not effectively enforced. Some violations may not be prosecuted, or some officials may be exempt from the regulations.

54: Can citizens access the terms and conditions of privatization bids?

54a *In law, citizens can access privatization regulations.*

Score: YES

References: Privatization (Modes and Procedure) Rules 2001

54b *In practice, privatizations are effectively advertised.*

Score: 75

References: Zakir Hayat, advocate, PHC, Peshawar, Aug. 9, 2008
Tariq Usman, government-approved private contractor

54c *In law, the government is required to publicly announce the results of privatization decisions.*

Score: YES

References: Privatization (Modes and Procedure) Rules 2001
Interview with Zakir Hayat, advocate, PHC, Peshawar
Tariq Usman, government-approved private contractor

54d *In practice, citizens can access privatization regulations within a reasonable time period.*

Score: 50

References: Zakir Hayat, advocate, PHC
Tariq Usman, government-approved private contractor

Social Scientist's Comments: Privatization regulations can be accessed in a reasonable time period, depending the individual's connections with those involved in the privatization process. It may take a fair amount of money and time to access the regulators.

54e *In practice, citizens can access privatization regulations at a reasonable cost.*

Score: 50

References: Privatization Commission Ordinance 2000
Privatization (Modes and Procedure) Rules 2001
Privatization Commission of Pakistan, [\[LINK\]](#)
Zakir Hayat, advocate, PHC, Peshawar, Aug. 9, 2008
Tariq Usman, government-approved private contractor

Social Scientist's Comments: It may cost an unreasonably large amount of money to access the privatization regulators, but it all depends on the person seeking access to such regulators.

55: Is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

55 *In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?*

Score: YES

References: National Ombudsman (Wafaqi Mohtasib)
Wafaqi Mohtasib Order 1983

56: Is the national ombudsman effective?

56a *In law, the ombudsman is protected from political interference.*

Score: YES

References: Establishment of the Office of Wafaqi Mohtasib, Order 1983, section 30

56b *In practice, the ombudsman is protected from political interference.*

Score: 50

References: Interview with Barkatullah, advocate, PHC, July 30, 2008, Peshawar
Interview with Riaz Khan, advocate, PHC, July 30, 2008, Peshawar

Social Scientist's Comments: The Wafaqi Mohtasi, or National Ombudsman, carries out independent investigations and hears cases, but sometimes political forces or the executive branch may influence in its work.

56c *In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.*

Score: 75

References: Establishment of the Office of Wafaqi Mohtasib Order 1983, article 6, sub-article 2
Barkatullah, advocate, PHC
Riaz Khan, advocate, PHC

Social Scientist's Comments: The ombudsman can be removed from office by the president on the grounds of misconduct or of being incapable of properly performing the duties of his office by reason of physical or mental incapability.

56d *In practice, the ombudsman agency (or agencies) has a professional, full-time staff.*

Score: 100

References: Barkatullah, advocate, PHC
Riaz Khan, advocate, PHC

56e *In practice, agency appointments support the independence of the ombudsman agency (or agencies).*

Score: 50

References: Barkatullah, advocate, PHC
Riaz Khan, advocate, PHC

Social Scientist's Comments: Political pressure or incentives from the executive branch may influence its appointments.

56f *In practice, the ombudsman agency (or agencies) receives regular funding.*

Score: 100

References: Barkatullah, advocate, PHC
Riaz Khan, advocate, PHC

56g *In practice, the ombudsman agency (or agencies) makes publicly available reports.*

Score: 100

References: Barkatullah, advocate, PHC
Riaz Khan, advocate, PHC

Social Scientist's Comments: The ombudsman presents annual reports to the president. They are then available to the public.

56h *In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.*

Score: 75

References: Barkatullah, advocate, PHC
Riaz Khan, advocate, PHC

Wafaqi Mohtasib Order 1983, article 14

Social Scientist's Comments: In those cases that are sub judice before any court of law or tribunal, the ombudsman cannot take action on public grievances. The ombudsman mainly takes action in cases relating to the Water and Power Development Authority or other utilities, or corporations or government departments vital to the public interest.

56i *In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.*

Score: 75

References: Barkatullah, advocate, PHC
Riaz Khan, advocate, PHC

56j *In practice, the government acts on the findings of the ombudsman agency (or agencies).*

Score: 75

References: Barkatullah, advocate, PHC
Riaz Khan, advocate, PHC

56k *In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.*

Score: 75

References: Barkatullah, advocate, PHC
Riaz Khan, advocate, PHC

57: Can citizens access the reports of the ombudsman?

57a *In law, citizens can access reports of the ombudsman(s).*

Score: YES

References: Barkatullah, advocate, PHC
Riaz Khan, advocate, PHC

Social Scientist's Comments: Reports presented to the executive or the legislature are not easily available to the citizens.

Peer Reviewer's Comments: Citizens should be able to access reports online:
<http://www.policy.hu/bokhari/Reports.html>

57b *In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.*

Score: 50

References: Barkatullah, advocate, PHC
Riaz Khan, advocate, PHC

Social Scientist's Comments: Access to these reports totally depends on the individual status of the person who seeks this information.

57c *In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.*

Score: 50

References: Barkatullah, advocate, PHC
Riaz Khan, advocate, PHC

Peer Reviewer's Comments: This score should be 75-50.

58: Is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

58 *In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?*

Score: YES

References: Constitution of Pakistan 1973, article 108

59: Is the supreme audit institution effective?

59a *In law, the supreme audit institution is protected from political interference.*

Score: YES

References: Constitution of Pakistan 1973, article 168

59b *In practice, the head of the audit agency is protected from removal without relevant justification.*

Score: 100

References: Constitution of Pakistan 1973, article 168(5)
Interview with Sher Bahadar, senior auditor, Auditor General Office, Peshawar, July 20, 2008

Social Scientist's Comments: The Auditor General shall not be removed from office except by a judge of the Supreme Court.

59c *In practice, the audit agency has a professional, full-time staff.*

Score: 100

References: Interview with Sher Bahadar, senior auditor, Auditor General Office, Peshawar, July 20, 2008

59d *In practice, audit agency appointments support the independence of the agency.*

Score: 75

References: Sher Bahadar, senior auditor, Auditor General Office, Peshawar

59e *In practice, the audit agency receives regular funding.*

Score: 100

References: Sher Bahadar, senior auditor, Auditor General Office, Peshawar

59f *In practice, the audit agency makes regular public reports.*

Score: 100

References: Constitution of Pakistan 1973, article 171
Sher Bahadar, senior auditor, Auditor General Office, Peshawar

59g *In practice, the government acts on the findings of the audit agency.*

Score: 75

References: Sher Bahadar, senior auditor, Auditor General Office, Peshawar

59h *In practice, the audit agency is able to initiate its own investigations.*

Score: 100

References: Sher Bahadar, senior auditor, Auditor General Office, Peshawar

60: Can citizens access reports of the supreme audit institution?

60a *In law, citizens can access reports of the audit agency.*

Score: YES

References: Constitution of Pakistan 1973, article 171

Social Scientist's Comments: These reports are discussed in the National Assembly and are available to the Public Accounts Committee.

60b *In practice, citizens can access audit reports within a reasonable time period.*

Score: 25

References: Sher Bahadar, senior auditor, Auditor General Office, Peshawar

60c *In practice, citizens can access the audit reports at a reasonable cost.*

Score: 25

References: Sher Bahadar, senior auditor, Auditor General Office, Peshawar

61: Is there a national tax collection agency?

61 *In law, is there a national tax collection agency?*

Score: YES

References: Federal Bureau of Revenue (FBR)

62: Is the tax collection agency effective?

62a *In practice, the tax collection agency has a professional, full-time staff.*

Score: 100

References: Arbab Faridullah, advocate
Interview with Gulab Shah, advocate, PHC, Peshawar July 27, 2008

62b *In practice, the tax agency receives regular funding.*

Score: 100

References: Arbab Faridullah, advocate
Gulab Shah, advocate, PHC, Peshawar

Social Scientist's Comments: The tax collection agency receives regular funding from the government., but corruption is rampant in the agency. Workers often taking from and/or forcing citizens to give them illegal bribes.

63: Are tax laws enforced uniformly and without discrimination?

63 *In practice, are tax laws enforced uniformly and without discrimination?*

Score: 50

References: Arbab Faridullah, advocate
Gulab Shah, advocate, PHC, Peshawar

Social Scientist's Comments: The possibility of abuse of power cannot be ruled out, because big industrial concerns or individual groups may evade tax laws. The Federal Bureau of Revenue oversees implementation of tax laws, but tax officials are allegedly notorious for applying the tax laws as they see fit.

64: Is there a national customs and excise agency?

64 *In law, is there a national customs and excise agency?*

Score: YES

References: Customs Act 1969
Customs Rules 2001

Social Scientist's Comments: The Customs and Excise Department and the Income Tax Department work under the Federal Bureau of Revenue (FBR).

65: Is the customs and excise agency effective?

65a *In practice, the customs and excise agency has a professional, full-time staff.*

Score: 100

References: Arbab Faridullah, advocate
Gulab Shah, advocate, PHC, Peshawar

Social Scientist's Comments: The customs and excise agency has a full -time professional staff. Officers are selected through competitive examinations conducted by the Federal Public Service Commission and are properly trained for revenue collection.

65b *In practice, the customs and excise agency receives regular funding.*

Score: 100

References: Arbab Faridullah, advocate
Gulab Shah, advocate, PHC, Peshawar

66: Are customs and excise laws enforced uniformly and without discrimination?

66 *In practice, are customs and excise laws enforced uniformly and without discrimination?*

Score: 50

References: Arbab Faridullah, advocate
Gulab Shah, advocate, PHC, Peshawar

Social Scientist's Comments: Customs and excise laws are infested with lacunas, and officials seldom enforce them uniformly or without favor or fear.

67: Is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

67 *In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?*

Score: YES

References: Federal Ministry of Commerce and Industry
Constitution of Pakistan 1973, article 153

68: Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

68a *In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.*

Score: YES

References: Federal Ministry of Commerce and Industry
Interview with Shoaib Jally, advocate, PHC, Peshawar, Aug. 10, 2008
Behlol Khattak, advocate, former general secretary, High Court Bar Association, Peshawar

Social Scientist's Comments: Production is protected from political interference.

68b *In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.*

Score: 75

References: Ministry of Commerce and Industry
Privatization Commission of Pakistan
Cabinet Division, Government of Pakistan
Interview with Shoaib Jally, advocate, PHC, Peshawar
Interview with Behlol Khattak, advocate, former general secretary, High Court Bar Association, Peshawar

68c *In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.*

Score: 100

References: Interview with Shoaib Jally, advocate, PHC, Peshawar
Behlol Khattak, advocate, former general secretary, High Court Bar Association, Peshawar

68d *In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.*

Score: 50

References: Shoaib Jally, advocate, PHC, Peshawar
Behlol Khattak, advocate, former general secretary, High Court Bar Association, Peshawar

Social Scientist's Comments: The Federal Bureau of Revenue and its subordinate tax and excise departments initiate investigations, but they are slow or unwilling to act. Investigations are ineffective and are enforced in a discriminatory way.

68e *In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.*

Score: 50

- References:** Shoaib Jally, advocate, PHC, Peshawar
Behlol Khattak, advocate, former general secretary, High Court Bar Association, Peshawar
- Social Scientist's Comments:** The Federal Bureau of Revenue enforces the rules, but the rules are occasionally applied unequally to all the offenders.

69: Can citizens access the financial records of state-owned companies?**69a** *In law, citizens can access the financial records of state-owned companies.***Score:** YES

References: Shoaib Jally, advocate, PHC, Peshawar
Behlol Khattak, advocate, former general secretary, High Court Bar Association, Peshawar
Freedom of Information Rules 2003

Social Scientist's Comments:

Subject to sub-section 2 of section 12 of the ordinance, any citizen of Pakistan can apply on the prescribed form (Appendix-I) to obtain the required record or information held by a public body. The application shall contain particulars of the requester. This will be accompanied by receipt of the required fee deposited under the relevant head of account in the State Bank of Pakistan, National Bank of Pakistan, the local post office or the treasury, as given in the Appendix-I. When an application is made in an electronic form, the requester will ensure that receipt of the requisite fee deposited, as suggested in section 12 of these rules, reaches the designated official within 10 days of the request. If a requester fails to do so, his or her application will be treated as withdrawn. The required fee for an access to information will be 100 rupees (US\$1.27) (non-refundable). Receipt of the fee deposited in the relevant head of account will be attached with the application or, if the request is made electronically, will be sent to the designated official within 10 days after the electronic request is made. An amount of 1 rupee (US\$0.01) per page of the photocopied record or information shall be deposited in the relevant head of account for every additional page if the number of the pages of the record requested exceeds 20 pages per requisition. In case the requester opts to access information or records in the form of a CD, diskette or another electronic form, the requester shall deposit a cer

69b *In practice, the financial records of state-owned companies are regularly updated.***Score:** 100

References: Shoaib Jally, advocate, PHC, Peshawar
Behlol Khattak, advocate, former general secretary, High Court Bar Association, Peshawar

69c *In practice, the financial records of state-owned companies are audited according to international accounting standards.***Score:** 75

References: Shoaib Jally, advocate, PHC, Peshawar
Behlol Khattak, advocate, former general secretary, High Court Bar Association, Peshawar

69d *In practice, citizens can access the financial records of state-owned companies within a reasonable time period.***Score:** 25

References: Shoab Jally, advocate, PHC, Peshawar
Behlol Khattak, advocate, former general secretary, High Court Bar Association, Peshawar

69e *In practice, citizens can access the financial records of state-owned companies at a reasonable cost.*

Score: 25

References: Shoab Jally, advocate, PHC, Peshawar
Behlol Khattak, advocate, former general secretary, High Court Bar Association, Peshawar

70: Are business licenses available to all citizens?

70a *In law, anyone may apply for a business license.*

Score: YES

References: Interview with Shoaib Jally, advocate, PHC, Peshawar
Shabbir Jan, businessman, exporter and importer, Peshawar, Aug. 5, 2008
Security Exchange Commission of Pakistan
Companies Ordinance 1984, amended in 1986

Social Scientist's Comments: Before launch of a business concern, the citizen must have a properly registered company or firm for that business.

70b *In law, a complaint mechanism exists if a business license request is denied.*

Score: YES

References: Securities and Exchange Commission of Pakistan
Shoaib Jally, advocate, PHC, Peshawar
Shabbir Jan, businessman, exporter and importer, Peshawar

70c *In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.*

Score: 25

References: Shoaib Jally, advocate, PHC, Peshawar
Shabbir Jan, businessman, exporter and importer, Peshawar

Social Scientist's Comments: It depends purely on the individual's financial and social status and his or her connections in the government and political circles.

70d *In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.*

Score: 25

References: Shoaib Jally, advocate, PHC, Peshawar
Shabbir Jan, businessman, exporter and importer, Peshawar

Social Scientist's Comments: This depends on the individual's financial and social status.

71: Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

71a *In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.*

Score:	YES
References:	International Standard Organization (ISO) 9000 ISO 14000 ISO/IEC 17025 Quality Standard (QS) 9000 Shoab Jally, advocate, PHC, Peshawar Shabbir Jan, businessman, exporter and importer, Peshawar
Social Scientist's Comments:	ISO/IEC 17025 assists in certification of other regulatory requirements, for example Food and Drug Administration, MDCA, Monopoly Control Authority and public-health-sector schemes in industries.

71b *In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.*

Score:	YES
References:	Shoab Jally, advocate, PHC, Peshawar Shabbir Jan, businessman, exporter and importer, Peshawar
Social Scientist's Comments:	Basic business regulatory requirements for meeting public safety standards are transparent, for example ISO/ IEC 17025, which ensure health and basic environmental standards.

71c *In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.*

Score:	YES
References:	ISO 9000
Social Scientist's Comments:	ISO 9000 and other regulatory standards are transparent and publicly available. Basic business regulatory requirements for meeting public safety standards are transparent, for example ISO/ IEC 17025, which ensure health and basic environmental standards.

72: Does government effectively enforce basic health, environmental, and safety standards on businesses?

72a *In practice, business inspections by government officials to ensure public health standards are being met are carried out in a uniform and even-handed manner.*

Score: 25

References: Shoaib Jally, advocate, PHC, Peshawar
Shabbir Jan, businessman, exporter and importer, Peshawar

72b *In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.*

Score: 25

References: Shoaib Jally, advocate, PHC, Peshawar
Shabbir Jan, businessman, exporter and importer, Peshawar

72c *In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.*

Score: 25

References: Shoaib Jally, advocate, PHC, Peshawar
Shabbir Jan, businessman, exporter and importer, Peshawar

73: Is there legislation criminalizing corruption?

73a *In law, attempted corruption is illegal.*

Score: YES

References: Pakistan Penal Code, sections 148, 149, 109

73b *In law, extortion is illegal.*

Score: YES

References: Pakistan Penal Code, sections 383-389

73c *In law, offering a bribe (i.e. active corruption) is illegal.*

Score: YES

References: Pakistan Penal Code, sections 160

73d *In law, receiving a bribe (i.e. passive corruption) is illegal.*

Score: YES

References: Pakistan Penal Code, section 161

73e *In law, bribing a foreign official is illegal.*

Score: YES

References: Pakistan Penal Code, section 108

73f *In law, using public resources for private gain is illegal.*

Score: YES

References: Pakistan Penal Code, section 268

73g *In law, using confidential state information for private gain is illegal.*

Score: YES

References: Pakistan Penal Code, section 175
Official Secrets Act

73h *In law, money laundering is illegal.*

Score: YES

References: State Bank of Pakistan National Seminar on Anti-Money Laundering and Counter: Terrorist Financing; Rick McDonell, head, Asia/Pacific Group on Money Laundering (APG) Secretariat; The Asia/Pacific Group on Money Laundering (APG), Islamabad, March 29, 2005, [\[LINK\]](#)

Anti-Money Laundering and Terrorist Financing Activities in the Asia/Pacific Region: Pakistan to tighten anti-money laundering laws, Marcus Simpson, June 12, 2007. [\[LINK\]](#)

Analysis of Pakistan's Anti-Money Laundering Bill, Taimur Malik, executive director of the Research Society of International Law (RSIL) Pakistan, [\[LINK\]](#)

**Social Scientist's
Comments:**

73i *In law, conspiracy to commit a crime (i.e. organized crime) is illegal.*

Score: YES

References: Pakistan Penal Code, section 120

74: Is there an agency (or group of agencies) with a legal mandate to address corruption?

74 *In law, is there an agency (or group of agencies) with a legal mandate to address corruption?*

Score: YES

References: The Federal Investigation Agency Rules 1975
National Accountability Bureau (NAB) Ordinance 1999
Pakistan Legal Decisions (official court documents) 2003

Social Scientist's Comments: The NAB ordinance can come into a play against a person who has (1) remained in political power, (2) is or has been in public office or (3) processing administrative power, or his or her associates, or those who have looted public funds or financial institutions by means of their status or power.

Peer Reviewer's Comments: This is also known in Pakistan as the anti-corruption police.

75: Is the anti-corruption agency effective?

75a *In law, the anti-corruption agency (or agencies) is protected from political interference.*

Score: YES

References: National Accountability Bureau (NAB) Ordinance 1999
NAB (Recovery and Reward) Rules 2002
NAB Employees Terms and Conditions of Services TCS 2002

Social Scientist's Comments: The NAB is Pakistan's top anti-corruption organization. It is responsible for eliminating corruption and is protected from political interference.

75b *In practice, the anti-corruption agency (or agencies) is protected from political interference.*

Score: 50

References: Interview with Fazal Elahi Advocate, PHC, Peshawar, Aug. 2, 2008
Interview with Zar Mohammad Afridi, advocate, PHC, Aug 2, 2008, Peshawar

Social Scientist's Comments: The primary anti-corruption prime agency in Pakistan is the National Accountability Bureau (NAB), which was set up by dispensation of former president Gen. Pervez Musharraf after he came to power in a bloodless coup in October 1999. The NAB, which initiates investigations into corruption charges and corrupt practices, is not altogether free from political interference. The agency was put in place to frame corruption cases against opposition party leaders and is alleged to have been a partisan agency.

75c *In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.*

Score: 50

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: The head of the state or the head of the government can remove the head of the National Accountability Bureau without any relevant justification.

75d *In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.*

Score: 50

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: No professional criteria are followed when appointments are made in the anti-corruption agency. Since its inception under of National Accountability Bureau Ordinance 1999, the head of the agency or the majority of its top staff were taken from the armed forces.

75e In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

Score: 50

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: Not in all agencies, for example the of National Accountability Bureau.

Peer Reviewer's Comments: While most of staff are professional and know their skills, they are not allowed to use them or are forced to misuse them.

75f In practice, the anti-corruption agency (or agencies) receives regular funding.

Score: 75

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: The agency receives regular funding from the government. But the new government has totally sidelined the National Accountability Bureau, and it seems to have gone into hibernation.

75g In practice, the anti-corruption agency (or agencies) makes regular public reports.

Score: 50

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: The of National Accountability Bureau (NAB) makes some reports public, but reports related to corrupt practices of public officeholders or anyone recognizable under the NAB ordinance may not be made public. Most of the reports and statements are posted on the NAB website, [\[LINK\]](#).

75h In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

Score: 50

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: The powers are sometimes misused by the official machinery.

75i In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

Score: 50

References: Fazal Elahi Advocate, PHC, Peshawar
Zar Mohammad Afridi Advocate, PHC, Peshawar

**Social Scientist's
Comments:**

The National Accountability Bureau (NAB) initiates investigations into charges of corruption or corrupt practices, but the progress of an investigation depends on the individual's status or his or her connections in the power corridors. The NAB is seen by many as a partisan agency.

76: Can citizens access the anti-corruption agency?

76a *In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.*

Score: 50

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: The National Accountability Bureau (NAB) acts on complaints of corruption, but in practice, it depends who is making the complaint and against whom. This completely depends on the officials concerned or the powers that be at the time the complaint is made.

76b *In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.*

Score: 50

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: Citizens can report corruption cases without fear of recrimination, but, again, it depends on who is alleged to have committed the corruption. Most citizens just ignore any wrong or corrupt practice for fear of personal or job security.

77: Is there an appeals mechanism for challenging criminal judgments?

77a *In law, there is a general right of appeal.*

Score: YES

References: Criminal Procedure Code (CrPC) 1898, chapter VII of appeals, references and revision

77b *In practice, appeals are resolved within a reasonable time period.*

Score: 50

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: Appeals against decisions of the lower courts are made in the High Court and then the Supreme Court. Appeals may take longer to decide than the original case did; it depends on the nature and importance of the case. If the matter is of public interest, the appeal may be decided in a reasonable period of time, but if it is related to corruption charges or corrupt practices, it may take even longer.

77c *In practice, citizens can use the appeals mechanism at a reasonable cost.*

Score: 50

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: The appeals cost is most reasonable, but locating a case file in a court of law may incur extra charges and may even involve kickbacks to the concerned officials. Hence, the appeal mechanism and its cost depends on the nature of the case.

78: Do judgments in the criminal system follow written law?

78 *In practice, do judgments in the criminal system follow written law?*

Score: 100

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

79: Are judicial decisions enforced by the state?

79 *In practice, are judicial decisions enforced by the state?*

Score: 75

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

80: Is the judiciary able to act independently?

80a *In law, the independence of the judiciary is guaranteed.*

Score: YES

References: Constitution of Pakistan 1973, part VII, chapter 1
 Constitution of Pakistan 1973, article 175, section 2
 Supreme Court (Pakistan Legal Decisions 2000 SC 869)

80b *In practice, national-level judges are protected from political interference.*

Score: 50

References: Fazal Elahi, advocate, PHC, Peshawar
 Zar Mohammad Afridi, advocate, PHC, Peshawar

80c *In law, there is a transparent and objective system for distributing cases to national-level judges.*

Score: YES

References: Constitution of Pakistan 1973

Social Scientist's Comments: Powers and functions of the chief justice of the high court or the supreme court.

80d *In law, national-level judges are protected from removal without relevant justification.*

Score: YES

References: Constitution of Pakistan 1973, articles 209 and 210, section 4

Social Scientist's Comments: Judges of superior courts are subject to accountability only in accordance with the methodology laid down in Article 209. This article provides for a Supreme Judicial Council, which can take action with respect to judges of superior courts on the grounds of misconduct or inability to perform the duty of his office for reasons of physical or mental incapability. The Supreme Judicial Council (SJC) itself cannot grant any relief to someone aggrieved by the illegal or unconstitutional appointment of a judge to a superior court. The finding of the SJC in such an enquiry is to be made by the president on the advice of the prime minister or the cabinet. The case of Chief Justice Iftikhar Mohammad Chaudhry, who was removed from office for the second time on Nov. 3, 2007, is one that validates the notion that a judge cannot be removed from office without relevant justification.

81: Are judges safe when adjudicating corruption cases?

81a *In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.*

Score: NO

References: Interview with Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Peer Reviewer's Comments: In March 2007, Chief Justice Iftikhar M. Chaudhry was manhandled by the police in Islamabad. Dur that time he was not allowed to sit in his office pending corruption charges against him; he was late exonerated. Mainly the issue was that he accepted important corruption and governance cases age the Musharraf government.

http://en.wikinews.org/wiki/Chief_Justice_of_Pakistan_manhandled,_gag_order_issued_by_govern
<http://www.nytimes.com/2008/01/30/world/asia/31letter.html?pagewanted=print>

Peer Reviewer's Comments: See this example:
<http://www.justicedeniedpk.com/JDP/post/2008/05/14/Syed-Hamad-Raza.aspx>

81b *In practice, in the last year, no judges have been killed because of adjudicating corruption cases.*

Score: YES

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Peer Reviewer's Comments: Also see: <http://www.justicedeniedpk.com/JDP/post/2008/05/14/Syed-Hamad-Raza.aspx>



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82: Do citizens have equal access to the justice system?

82a *In practice, judicial decisions are not affected by racial or ethnic bias.*

Score: 75

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: Judges often decide cases on merit. In most cases, judicial decisions are free from any bias or unaffected by racial or ethnic basis. But, in some cases, including corruption cases, or those related to sectarian or ethnic issues, decisions may be affected depending by the integrity of the individual judge.

Peer Reviewer's Comments: Also see:
<http://www.unhcr.org/refworld/country,,HRW,,PAK,,47a87c0ec,0.html>

82b *In practice, women have full access to the judicial system.*

Score: 50

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: Women in big urban centers have free access to courts, but those in rural and far-off areas find it difficult to approach a court of law for redressal of their grievances. Women are also restricted by the distance to a court and, in some cases, by the conservative values of the local society.

Peer Reviewer's Comments: Also see:
<http://www.unhcr.org/refworld/country,,HRW,,PAK,,47a87c0ec,0.html>

82c *In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.*

Score: YES

References: Constitution of Pakistan 1973, article 10, section 5

82d *In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.*

Score: 75

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: Defendants, if they so desire, can avail themselves of legal counsel at the state's expenses; the state is bound to provide legal counsel to defendants in criminal cases if they cannot afford to hire an attorney. But there have been instances when defendants went without any legal counsel.

82e In practice, citizens earning the median yearly income can afford to bring a legal suit.

Score: 50

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: In most cases, citizens earning the median yearly income try to avoid bringing lawsuits because doing so incurs heavy costs. People are mostly concerned with survival.

82f In practice, a typical small retail business can afford to bring a legal suit.

Score: 50

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: Like citizens with median yearly incomes, small retailers prefer to avoid landing in a legal battle or bringing any lawsuits to the courts.

82g In practice, all citizens have access to a court of law, regardless of geographic location.

Score: 50

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: In practice, not all citizens have easy access to courts due to their geographical locations or the distance to the courts.

83: Is the law enforcement agency (i.e. the police) effective?

83a *In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.*

Score: 50

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: Professional criteria are mostly bypassed when making appointments to law enforcement agencies. Appointments are mostly made on personal likes and dislikes and the status of the individual seeking appointment.

Peer Reviewer's Comments: These are appointments purely motivated by political considerations.

83b *In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.*

Score: 50

References: professional criteria is mostly bypassed.

Social Scientist's Comments: Law enforcement agencies in most cases have a sufficient budget to carry out their professional obligations. But the police department is always short of funds and barely equipped to carry out its mandatory duty. This is one of the reasons for rampant corruption in the police department. When a citizen seeks a police action, for example, he or she would have to give illegal graft to the official to do the job.

Peer Reviewer's Comments: The Pakistan army, the ISI and police receive most of the budget in the country. <http://www.paktribune.com/news/index.shtml?148353>

83c *In practice, the law enforcement agency is protected from political interference.*

Score: 50

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

Social Scientist's Comments: Law enforcement agencies and the police are infested with political interference.

Peer Reviewer's Comments: "The new civilian government has inherited a police force with a well-deserved reputation for corruption, high-handedness and abuse of human rights, which served the military well for over eight years, suppressing Musharraf's civilian opposition and more than willing to accept any task, from extrajudicial killings and torture to rigging elections."
1-
<http://www.forumpakistan.com/pakistan-police-corruption-report-t316.htm>
2-<http://www.ahrchk.net/pr/mainfile.php/2004mr/84/>
3-<http://www.crisisgroup.org/home/index.cfm?id=5570>

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84: Can law enforcement officials be held accountable for their actions?

84a *In law, there is an independent mechanism for citizens to complain about police action.*

Score: YES

References: Criminal Procedure Code (CrPC) Pakistan. section 22A

84b *In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.*

Score: 75

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

84c *In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.*

Score: YES

References: National Accountability Bureau (NAB)

84d *In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.*

Score: 75

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar

84e *In law, law enforcement officials are not immune from criminal proceedings.*

Score: YES

References: Criminal Procedure Code 1898, sections 7, 22A, 29, 32 and other relevant sections
Civil Servants Act 1973
Government Service (Conduct) Rules
Police Order 2002

Social Scientist's Comments: Criminal proceedings can be initiated against law enforcement officials for gross misconduct.

84f *In practice, law enforcement officials are not immune from criminal proceedings.*

Score: 75

References: Fazal Elahi, advocate, PHC, Peshawar
Zar Mohammad Afridi, advocate, PHC, Peshawar