

CIVIL SOCIETY CALL FOR 2ND GENERATION CHARTER OF DEMOCRACY (CoD 2.0)



August, 2023

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Context

Pakistan has a chequered political history replete with phases of weak democratic dispensations, four democratic disruptions, and numerous hybrid experimentations. However, the people of Pakistan have never abandoned their dreams, desires and aspirations to be governed democratically through their elected representatives and parliamentary institutions.

Recognizing the perennial and persistent problems that plagued Pakistani democracy since 1947, two leading political parties of that time, namely: Pakistan People's Party and Pakistan Muslim League-N jointly authored and signed the Charter of Democracy (CoD) on May 14, 2006 in London. The Charter paved paths for unique political cooperation and mutual accommodation. Its scope was expanded through parliamentary cooperation during 2008-2018.

After 17-year one can count following major dividends of the post-CoD politics and political cooperation:

- Adoption of historic 18th Constitutional Amendment in 2010,
- Agreement on 7th National Finance Commission Award with first-ever multi-factor formula for distribution of resources,
- Signing and ratification of major human rights conventions and covenants, including International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention Against Torture etc.,
- Creation of an indigenous infrastructure of civility in the form of National Commission for Human Rights, National Commission on the Status of Women, National Commission for the Rights of Child, Right to Information Commissions etc
- Passage of over a dozen rights based laws, particularly, pertaining to free and compulsory education, against corporal punishment, child abuse, domestic labour, against harassment of women at work places, and women's inheritance rights etc.,
- First-ever civilian-to-civilian transfer of power in 2013 and the second in 2018, besides completion of the terms of assemblies,
- Enactment of Election Act in 2017, and
- Merger of erstwhile Federally Administered Tribal Areas in to Khyber Pakhtunkhwa in 2018.

However, with the emergence and electoral success of third-political party in Election-2018, namely, Pakistan Tehrik-e- Insaf (PTI) the party that viewed the CoD in pejorative terms, the political situation changed. Resultantly, today we are once again experiencing a vertically and horizontally divided and highly polarized polity. This does not augur well for the future of already flawed democracy in Pakistan. The Economist's annual Democracy Index-2022 ranked Pakistan at 104 out of the 167 countries and put us in the category of 'hybrid regime' gradually inching towards the category of 'authoritarianism'.

It is in this context that civil society in Pakistan under the aegis of Pakistan Development Alliance has started conversations on the need and urgency of the second generation of Charter of Democracy. Endorsing the efficacy of the CoD-the civil society urge upon all major political parties to join hands and heads to author a new Charter of Democracy before Election-2024. Pakistan badly needs 24 x 7 governance to offer a better deal to Pakistanis. Culture of 24 x 7 politics of hatred and chaos is only eclipsing the dreams the fifth most populous country in the world.

Here we the members of civil society would like to emphasize that only a futuristic democratic compact among all major political parties can offer us-we the people, a better future. Therefore, the new Charter of Democracy must agree on stable and predictable rules of the game to make Pakistani democracy work for 250 million Pakistanis. Secondly, the civil society calls upon the political protagonists to realize that democracy is a bird with two wings-political and economic. For a balanced and smooth way forward, the 2nd generation of Charter of Democracy along with tweaking the political wing must dedicate its prime focus to bring the nation out of the economic quagmire.

Many in Pakistan opine that the CoD like consensus in political sphere among the major political parties is the real way forward. While celebrating the 17th anniversary of the CoD-amid challenging political circumstances the Pakistan

Development Alliance (PDA) considers that we need the 2nd generation of CoD. Therefore on October 31, 2022 & July 22, 2023 eminent civil and political rights advocates, prominent journalists, bar council members from different spheres of life met for an in-depth debate and discussion on the theme. These suggestions emerged and evolved at this meeting as CSOs Call for 2nd generation Charter of Democracy.

2nd Generation Charter of Democracy

- **We the representatives** of civil society organizations, social and development alliances, human rights networks, women rights forums, journalist unions, press clubs, humanitarian organizations, bar councils, traders associations, chambers of commerce and industries, academic institutions, marginalized groups, labour and workers unions fully support and endorse the call for 2nd generation Charter of Democracy.
- **We acknowledge** the efforts and unwavering commitment of two pioneer political parties, namely, Pakistan People's Party and Pakistan Muslim League-N for their vision about the CoD and partial adherence to it since 2006.
- **We appreciate** what has been implemented during the last 17-year and call for making sincere and renewed efforts and enthusiasm to implement what is still the pending agenda of the CoD. We honestly consider that many of the contemporary problems are due to deviation from the original spirit of the CoD. Therefore, we have included all un-implemented points in this call.
- **We understand** that since 2006 country's political landscape has significantly changed and some new political parties have emerged on political scene and earned citizen's electoral trust. Therefore, it is imperative to expand the scope of the 2nd generation Charter of Democracy. Broader consensus among political parties will provide impetus to translate the CoD in to tangible gains for the nation.
- **We sincerely feel** that the increased polarization among political community as well as imbalance of power among civil & military stakeholders has affected the supremacy of the Constitution, centrality of parliamentary institutions and independence of judiciary. Resultantly, the perennially imbalanced civil- military equilibrium is further disturbed. Moreover, all this is promoting only troubled trichotomy and odd judicialization of politics.
- **We emphasize** that the time has come to initiate a dialogue and meaningful deliberations for the 2nd generation Charter of Democracy. We urge that this process should be inclusive and participatory and shall involve all relevant stakeholders. This politics-led initiative will inspire the confidence of the electorate during Election 2024.

With a desire to be part of this vital national process we the members of civil society are articulating our points and suggestions for the consideration of political parties interested in the 2nd generation of Charter of Democracy.

(a) Constitutional reforms:

While celebrating the Golden Jubilee of the Constitution of 1973 and looking at the recent constitutional interpretations by the Supreme Court of Pakistan, especially during the times of political crises-we have realized that in order to address the grey areas in the Green book we need to embark on a comprehensive constitutional review. This exercise is vital to reclaim original spirit of the Constitution of 1973 and delete all aberrations incorporated in to it during non-democratic disruptions in 1977 and 1999.

Additionally we demand:

- i. Creation of a Federal Constitutional Court,
- ii. More firm constitutional cover for the Local Governments by amending Article 140-A to ensure their uninterrupted continuity,
- iii. While Pakistan has signed and ratified all major international conventions and covenants on civil, political, economic, social and cultural rights, therefore time has arrived to convert the Principles of Policy (Article 29-40) in to justiciable fundamental rights and make it mandatory to present an annual report on their implementation, and
- iv. We need to amend Article 254 that help condone 'failure to comply with requirement as to time does not render an act valid'. Majority of the constitutional deviations, including non-adherence to the periodicity of the quarterly meetings of the Council of Common Interests and the biannual meeting of the National Economic Council are condoned through this article. Time has arrived to make the delays-time bound as well.
- v. Reforms to strengthen independent and autonomous Election Commission of Pakistan (ECP)
- vi. Make Jinnah's speech of 11th August preamble of the constitution, and a mention of this in Article 2 A, before Objectives resolution (although removing the latter would be the most appropriate as it was undemocratically adopted in 1949 and made a substantive part of the constitution in 1985).
- vii. Amend Article 2 and should add, a sentence after "*Islam shall be the State religion of Pakistan*" however, "the State shall ensure equal status and equal right in the practice of all other religions in the jurisdiction of Pakistan".
- viii. Add a definition of the term "discrimination" to article 260 since the constitution guarantees non- discrimination in several of its Articles in chapter II.

- ix. The condition of being a Muslim should be removed for the offices of president in Article 41 (2) and Prime Minister in Article 91(3). Likewise the oath for all offices in 3rd schedule should carry no suggestion or condition of belonging to any religion but allegiance to Pakistan and its people.

(b) Political parties:

Political parties are considered as the nurseries of democracy. Their vibrancy and inclusiveness enrich nations' democratic experiences. We call upon the political parties to:

- x. Consider creation of 'National Commission for Democracy' as envisaged in the CoD-2006 to support civic education, study circles and training of future leaders and cadre through the political parties,
- xi. All political parties shall in their manifestos and policy documents ensure that all citizens irrespective of their gender, class, economic background and creed are valued and equally involved in the affairs of the party.
- xii. There shall be equal opportunities for all to excel for the leadership positions in the party through intra-party elections and parliamentary boards. Political parties must ensure equal electoral opportunities to all segments of the society. Affirmative steps must be taken to increase women's presence on every table where major policy decisions are taken. At least 10 percent general seats in all elections shall be allocated to women,
- xiii. Political parties shall sign a consensus-based 'Bill of Rights for Pakistani Citizens' for the protection and promotion of their existing fundamental rights and work on continuous expansion in these rights with emerging contemporary consciousness, and
- xiv. All political parties need to sign an "Electoral Results Acceptance Agreement" to respect the mandate of each other and allow the winners to serve the nation well-without 24x7 political chaos and instability.

(c) Parliamentary Reforms

The parliamentary institutions are regarded as the brain of the nation. Their centrality is significant to offer a better legal framework, oversight mechanisms, taxation and pro-people resources appropriation.

- xv. Pakistan is the fifth populous country and here parliamentary community is witnessing unique family planning. After the merger of erstwhile Federally Administered Areas (FATA) in 2018 through the 25th Constitutional

Amendment, the Senate of Pakistan will have only 96 members instead of 104 in 2018. Similarly, the 342-member National Assembly of Pakistan will be reduced to 336-member in Election-2024. Only Khyber Pakhtunkhwa Assembly's membership has witnessed an increase from 124 in 2018 to 145 after the merger of erstwhile FATA. We need smaller constituencies to make them feasible for citizens with modest financial resources.

- xvi. Senate of Pakistan be given equal right to discuss and approve finance bill of the country. We support direct election for the Senate of Pakistan,
- xvii. Close the gate of so-called development funds for MPs and divert all development resources towards the Local Governments.
- xviii. Population is considered as one the major indicator for division of resources through federal exchequer under NFC Award however “capping population” as an indicator would bring healthy controls over population growth in Pakistan

(d) Judiciary

- xix. We need an increased role of Parliamentary Committee for Judicial appointments to oversee the appointments in the higher judiciary.
- xx. There shall be a culture of proper parliamentary hearing to judge their track record of judgements, especially their track record about adherence to the constitution.

(e) Extremism

In recent history, Pakistan has successfully fought war against terrorism. Peaceful Pakistan is necessary for prosperous Pakistan. We demand:

- xxi. All political parties unequivocally oppose reemergence of extremism and the problem of terrorism and this menace should be dealt unitedly.
- xxii. Periodic review on the implementation of all clauses of National Action Plan 2014 and corresponding debate and discussion in the parliament shall be made mandatory.

(f) Socio-economic

- xxiii. All parties must commit to take concrete measures to implement women protection laws in their letter and spirit as their first priority.
- xxiv. Advocate for marriageable age of all boys and girls irrespective of their religion to be increased to 18 years.

- xxv. **Free & Compulsory Education** be ensured for all boys and girls between the age of 5-16 according to the Article 25-A of the Constitution of Pakistan.
- xxvi. Food security for all be considered as fundamental right.
- xxvii. **Universal Health Coverage** be ensured and health be considered as a fundamental human right
- xxviii. Landless farmers and marginalized rural women agricultural workers be given 2-1/2 acre of land instead of corporatization of agriculture in Pakistan

(g) Accountability

- xxix. Establishment of self-governing independent accountability commission with constitutional cover with powers for across the board accountability including the accountability of public office holders in civil, military and judicial institutions.
- xxx. Mandatory declaration of assets by all public office holders including civil and military.

(h) Media

Free and independent media offers oxygen to nation's democratic process.

- xxxi. All parties must ensure that state should provide just, peaceful, secure and dignified life to the citizens of Pakistan and should not silence voices of dissent. It should fulfill its constitutional and international commitments.

(i) Rights

- xxxii. Implement legislation on enforced disappearances on urgent basis and in letter and spirit.
- xxxiii. Commitment to create enabling environment for Civil Society Organizations and respect the mandate of civil society sector in the light of international obligations.
- xxxiv. Commitment to ensure the autonomy of all Rights commissions in the light of Paris Principles. Moreover, provide them ample resources so that they can fulfill their mandate.

(j) Resources

- xxxv. Constitutional cover for periodic National Finance Commission awards capping division of federal resources on the basis of population.
- xxxvi. Constitutional cover for periodic Provincial Finance Commission awards to ensure devolution of resources at local / district level.
- xxxvii. Respect the provincial right to use natural resources first besides accepting joint and equal ownership in the light of Article 172 (3) of the Constitution.

(k) General

xxxviii. Establishment of the Truth and Reconciliation Commission to ascertain facts and fix the responsibility regarding extra constitutional moves and offer recommendations to avoid such instances in future.

- **We expect** the commencement of a **Grand National Dialogue** on behalf of political parties, civil society, media, academia and other stakeholders in the course of action to achieve 2nd generation Charter of Democracy.
- **We further expect** a comprehensive mechanism on behalf of all stakeholders to do regular follow up and accountability processes towards the commitments made under 2nd generation Charter of Democracy.
- **We emphasize** all political parties should adopt the civil society demands under 2nd generation Charter of Democracy in their forthcoming political manifestoes.
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We commit for a regular civil society oversight and citizens tracking on our submissions under 2nd generation Charter of Democracy.

_____ Concluded _____

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