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**BEFORE THE LEARNED SECRETARY ELECTION**  
**COMMISSION OF PAKISTAN**

Representation No. \_\_\_\_\_/2018

Muhammad <sup>Hani</sup> Khan Nasar, S/o Sardar Muhammad Yaqoob Khan  
Nasar R/o Nasarabad District Dukki

Applicant/Petitioner

**REPRESENTATION AGAINST THE PRELIMINARY**  
**CONSTITUENCY OF NA-258**

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Nasar R/o Nasarabad District Dukki

Applicant/Petitioner

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REPRESENTATION UNDER SECTION 21(3) OF THE ELECTION  
ACT, 2017 AGAINST THE PROPOSED CONSTITUENCY OF NA-258  
LORALAI DISTRICT -cum- MUSAKHAIL DISTRICT -cum- ZIARAT  
DISTRICT -cum- DUKI DISTRICT -cum- HARNAI DISTRICT

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Respectfully submitted:

1. That the Petitioner, namely Muhammad Hanif Khan Nasar S/o Sardar Muhammad Yaqoob Khan Nasar R/o Nasarabad District Dukki is a registered voter of NA-258 Loralai District -cum- Musakhail District-cum- Ziarat District -cum- Duki District -cum- Harnai District as per the notification dated 05.03.2018 (hereinafter referred to as the "Impugned Constituency").

*Copy of NA-258 the Impugned Constituency  
is attached herewith as "Annexure-A"*

2. That the Petitioner intends challenge the Impugned Constituency and as the preliminary delimitation of the Impugned Constituency serves to add to the deprivation and inconvenience of the local citizens of the concerned area hence the instant representation.

3. That the Impugned Constituency as constituted by the Hon'ble Election Commission of Pakistan ("ECP") is reproduced hereunder for want of convenience:

Srl. No.	District	Population
1.	Loralai District	244400
2.	Musa Khail District	167017
3.	Ziarat District	160422
4.	Dukki District	153000
5.	Harnai District	97017
Total		<b>821856</b>

4. That "District Ziarat" comprises of two Teshils namely "Teshil Ziarat" and "Teshil Sinjawi". It is imperative at this point to note that prior to and during 1998 "Teshil Ziarat" was and had always been a standalone District whereas "Teshil Sinjawi" was never part of the same. Tehsil Sinjawi was in fact a Tehsil or sub-division of District Loralai and a contiguous part of Tehsil or sub-division "Duki" as it administratively was earlier and currently Tehsil Duki being upgraded to the status of "District Duki".
5. That it is worth-wile to note that previously the Impugned Constituency was numbered as NA-263 and has now been amended and numbered as NA-258.
6. That the underlying contention of the Petitioner, vide the instant representation, is to challenge the inclusion of Tehsil Ziarat to the Impugned Constituency. Moreover the Petitioner's proposal for amending the Impugned Constituency is that Tehsil Sinjawi may remain in NA-258

and that Tehsil Ziarat may be removed from the Impugned Constituency and included in the proposed constituency of Pishin District i.e. NA-263.

**HISTORICAL SUMMARY OF THE IMPUGNED  
CONSTITUENCY**

7. That before delving into the grounds for challenging of the Impugned Constituency, it is pertinent to narrate a historical back-drop of the Impugned Constituency in light of the previous notifications and amendments made thereto vide the notifications issued by this Hon'ble ECP dated 28.06.2002, 09.06.2007 and 08.03.2013.
8. That District Ziarat as it stands today comprises of two Tehsils namely Tehsil Ziarat and Tehsil Sinjawi. According to the 2017 statistics issued by the Pakistan Bureau of Statistics, the total population of District Ziarat is **160,422**, wherein Tehsil Ziarat comprises of a total population of **67,871** whereas Tehsil Sinjawi's total population is **92,561**.

*Copy of 2017 Census of Balochistan is  
attached as "Annexure-B"*

*Copy of 1998 Census of Balochistan is  
attached as "Annexure-C"*

9. That it is most pertinent to note that in 2002 the Hon'ble ECP issued a preliminary delimitation list whereby the Tehsil Ziarat as it stands today was included into the constituency of Loralai. The present Petitioner being aggrieved filed a representation praying for the exclusion of Tehsil Ziarat as it stands today. The said representation was heard on 24.05.2002 and the Hon'ble ECP was pleased to accept the said representation whereafter a notification No. F.10(116)/2002-Cord., dated 28.06.2002 was published in the Gazette of Pakistan. Part III of the said notification at page 921 thereof provides as follows:

- |     |                             |   |
|-----|-----------------------------|---|
| i.  | NA-261<br>Pishin-cum-Ziarat | (a) Pishin District; and<br>(b) Ziarat District |
| ii. | NA-263<br>Loralai           | Loralai District                                |

*Copy of relevant excerpt of the Notification dated 28.06.2002 is attached herewith as "Annexure-D"*

10. That thereafter vide notification No.F.10(1)/2006-Cord., dated 09.05.2007 certain amendments were made to the NA-263. The said constituency comprised of Loralai District, Musakhel District and Barkhan District. It is pertinent to note that Ziarat District was not included with NA-263 and it remained a part of NA-261 along with Pishin District up till now.

*Copy of relevant excerpt of the Notification dated 09.05.2007 is attached herewith as "Annexure-E"*

11. That it is evident from the above that "Tehsil" Ziarat has never been a part of the Impugned Constituency. The one occasion on which Tehsil Ziarat was intended to be made part of the Impugned Constituency, this Hon'ble ECP intervened and reverted Tehsil Ziarat back to its original constituency which was with District Pishin which is evident from Notification dated 28.06.2002 annexed herewith as Annexure-D.
12. That it is further apparent that the Tehsil Sinjawi had always remained a part of the constituency of Loralai as it shares a long historical, cultural, demographical and geographical affiliation with District Loralai. It would thus be expedient on part of this Hon'ble ECP that Tehsil Sinjawi may be kept part of to its original historically affiliated region of Loralai-cum-Duki; and that Tehsil Ziarat may be removed from the Impugned Constituency as was done so in 2002 by this Hon'ble ECP because it has never been part of the Impugned Constituency. The Petitioner reserves the right to raise further grounds during the course of arguments and

challenges the Impugned Constituency on *inter alia* the following grounds:

### GROUNDS

- A. That it is settled law that the legality and correctness of delimitation of a constituency is to be carried out on the touchstone of the principles of delimitation as provided under section 20 of the Election Act, 2017 read with Rule 10 of the Election Rules, 2017. The said provisions are reproduced hereunder for want of convenience:

***“Section 20 Election Act, 2017. Principles of delimitation.—***

- (1) All constituencies for general seats shall, as far as practicable, be delimited having regard to the distribution of population in geographically compact areas, physical features, existing boundaries of administrative units, facilities of communication and public convenience and other cognate factors to ensure homogeneity in the creation of constituencies.*
- (2) For the purpose of delimiting constituencies for the general seats of the National Assembly for the Tribal Areas two or more separate areas may be grouped into one constituency.*
- (3) As far as possible, variation in population of constituencies of an Assembly or a local government shall not ordinarily exceed ten percent.*
- (4) If the limit of ten percent under sub-section (3) is exceeded in an exceptional case, the Commission shall record reasons thereof in the delimitation order.”*

***“Rule 10, Election Rules, 2017. Draft proposals for delimitation of constituencies.—***

- (1) A Delimitation Committee constituted under rule 9 shall, immediately after its constitution, proceed to obtain from Pakistan*

*Bureau of Statistics, population data of last census officially published along with relevant maps showing therein census charges, census circles and census blocks along with description, relating to a Province, a district, an agency, or any other administrative or revenue unit as it may require.*

*(2) The Delimitation Committee shall also obtain district maps along with description, duly authenticated by Pakistan Bureau of Statistics, or, as the case may be, the district head of Revenue Department, prepared on a uniform scale as may be determined by the Commission indicating therein details of all administrative and revenue units in the district to the level of a Patwar Circle or, as the case may be, a Tapedar Circle, as well as prominent geographical and physical features, such as rivers and mountains and any other information as may be determined by the Commission or required by the Committee.*

*(3) In preparing draft proposals for delimitation of constituencies, the Delimitation Committee shall follow the principles of delimitation as laid down in section 20, procedure given in this Chapter and the guidelines provided by the Commission from time to time.*

*(4) The constituency for an Assembly shall not ordinarily extend to more than one district except in exceptional circumstances for reasons to be recorded by the Delimitation Committee: Provided that a Patwar Circle or, as the case may be, a Tapedar Circle shall be the basic unit for delimitation and it shall not be broken under any circumstances:*

*Provided further that in case of urban areas census circle shall not be broken under any circumstances.*

*(5) As far as possible, the delimitation of constituencies of an Assembly shall start from the Northern end of the district, or, as the case may be, the agency and then proceed clock-wise in zigzag manner keeping in view that population among the constituencies*

*of an Assembly shall remain as close as may be practicable to the quota:*

*Provided that the quota under this sub-rule shall be determined by dividing total population of the district or the agency with number of seats allocated to that district or agency: Provided further that the variation in population between two or more constituencies shall not ordinarily exceed ten percent and the Delimitation Committee shall record reasons if, in exceptional circumstances, the variation has to exceed the limit.*

*(6) For the purpose of preparation of draft proposals for delimitation, the Delimitation Committee may require assistance from any Federal, Provincial or, as the case may be, a Local Government Authority.*

*(7) After the draft proposals for delimitation of constituencies are finalized on Form-5, the Delimitation Committee shall send the same to the Commission, within the time specified and in the manner as may be determined by the Commission."*

- B.** That the preliminary delimitation of the Impugned Constituency has been carried out in violation of the principles narrated above especially with regards *inter alia* facilities of communication, public convenience, homogeneity and historical affiliations.
- C.** That Rule 10(4) of the Election Rules provides that a Patwar Circle or, as the case may be, a Tapedar Circle shall be the basic unit for delimitation. The Petitioner proposes that the District Ziarat may be broken into two distinguishable parts i.e. Ziarat Tehsil and Sinjawi Tehsil and that the Ziarat Tehsil may be made part of NA-263 with Pishin District and that Sinjawi Tehsil may remain as part of NA-258. As the law provides that the basic unit for delimitation shall be the Patwar Circles hence a narration of all the Patwar Circles of District Ziarat are narrated hereunder:



Srl. No.	Patwar Circle	Tehsil
1.	Kech	Ziarat
2.	Kwas	Ziarat
3.	Sadr Samaln Sinjawi	Sinjawi
4.	Baghao	Sinjawi
5.	Chauter	Sinjawi
6.	Pui	Sinjawi

It is evident that the 04 number of Patwar Circles namely Sadr Samaln Sinjawi, Baghao, Chauter and Pui fall within the Tehsil of Sinjawi. Furthermore, Tehsil Sinjawi shares more than 75 % of its Eastern border with Loralai District and Duki District. On the other hand the Western side of the Tehsil of Ziarat contains two Patwar Circles namely Kech and Kwas which shares more than 50 % of its Northern Western border with Pishin District. It is thus evident that should this Hon'ble ECP accept the Petitioner's proposal then it shall be perfectly in line with the principles narrated under S.20 of the Election Act 2017 and R.10 of the Election Rules, 2017.

*Map of District Loralai in 1998 is attached as "Annexure-F"*

*Map of District Pishin is attached herewith as "Annexure-G"*

*Map of District Ziarat is attached herewith as "Annexure-H"*

**D.** That Tehsil Sinjawi has a long standing affiliation with Districts Loralai and Duki in terms of its geographical location, trade, culture, language, demographics, communication and heritage. On the other hand Tehsil Ziarat as it stands today has never been part of the constituency of Districts Loralai and Duki as it is at a considerable distance. It is pertinent to note that Tehsil Ziarat was proposed to be included with Districts Loralai and Duki in 2002 but then subsequently was included with District Pishin as it

had always been a part of District Pishin. The same is evident from notification dated 28.06.2002 which is annexed herewith as Annexure-D. The preliminary Impugned Constituency seeks to again include Tehsil Ziarat with Districts Loralai and Duki which is not only in derogation of the principles narrated under the aforementioned law but also in utter disregard to this Hon'ble ECP's previous ruling on the same Tehsil Ziarat dated 28.06.2002 annexed as Annexure-D.

E. That NA-263 comprises of a **single district** namely Pishin District which has a total population of **736,481**. The Petitioner's proposed constituency of NA-258 comprises of **05 districts** with a total population of **821,856**. The considerable difference in the population of two adjacent constituencies is evident from the above narration alone. The Petitioner's proposal is in line with the 'population per constituency' formula and it does not violate the 10% leverage provided under section 20(2) of the Act of 2017. Should the Petitioner's proposal be accepted there shall be greater parity and an equal distribution of population between the two constituencies as can be seen below:

<b>Proposed Table of the Constituencies</b>		
<b>No. and Name of constituency</b>	<b>Extent of constituency</b>	<b>Population</b>
NA-258	a) Loralai District	244,400
	b) Musa Khail District	167,017
	c) Dukki District	153,000
	d) Harnai District; and	97,017
	e) Sinjawi Tehsil	92,561
	<b>Total</b>	<b>753,995</b>
NA-263	a) Pishin District; and	736,481
	b) Ziarat Tehsil	67,871
	<b>Total</b>	<b>804,352</b>

It is evident from the above that should the proposal be accepted, the difference of population between NA-263 and NA-258 would be reduced to **50,357** from a difference of **85,357**. It has been held by the superior courts that it is essential that an imbalance of population across districts is to be avoided and that greater parity with regards adjacent districts' population should be reached. It has also further been held that unbalance or discriminatory delimitation of constituencies is "gerrymandering" and that such practice must be avoided. Reliance in this regard is placed on **2014 CLC Sindh 335**. It is thus submitted that the proposal if accepted shall be more in line with the law and the principles narrated under s.20 of the Act of 2017 and shall create more balance of population across the districts.

- F. The in view of the statutory principles it is expedient to shed some light on the actual area allocated in the Impugned Constituency. In the Pakistan Bureau of Statistic Census 1998, the area that is recorded and therefore factually evident therein for the Impugned Constituency are listed down below:

Sr.	<b>Area of population per Sq.Km of Districts comprising Constituency NA-258 as per the Pakistan Census 1998</b>	
1.	District Loralai	9830 Sq.Km
2.	District Duki	6045 Sq.Km
3.	District Musakhel	5728 Sq.Km
4.	District Harnai	2492 Sq.Km
5.	Tehsil Ziarat (excluding Tehsil Sinjawi).	1489 Sq.Km
6.	Tehsil Sinjawi	Not recorded
	<b>Total</b>	<b>25,584 Sq.Km (Sinjawi not included)</b>

The table above shows that the total area covered in the Impugned Constituency is **25,584Sq.Km** (Excluding Tehsil Sinjawi, because the area for it has not been recorded). On the other hand the area for the Constituency of NA-263 i.e. District Pishin is merely **7819 Sq.Km**. The petitioner through the instant Petition against the Impugned Constituency is aggrieved that despite the fact of the vastness of the area that is covered in the Impugned Constituency, the Delimitation Committee has not even considered distributing the population in line with the geographical compactness as enumerated in the Proposal. The Delimitation Committee has failed to adhere to the public convenience factor and any other cognate factors to ensure homogeneity. It is evident that in vast area of the Impugned Constituency, without having due regard to geographical compactness there are serious concerns in relation to the facilities and communication which the voters want to seek from its elected Legislature, which cannot be achieved through the present form of Impugned Constituency, hence the proposal be deemed considered.

G. That in addition to the above it would be germane at this juncture to note that the Impugned Constituency of NA- 258 comprises of **05 Districts** whereas the adjacent constituency of NA-263 comprises of **01 District**. If the density of population is compared between the two said proposed Constituencies it is fairly evident that N-258 suffers a great loss in this regard as the total population of **821,856** is spread over a vast area of **25,584Sq.Km** whereas the lesser population of NA-263 which is **736,481** is spread over a much lesser area of **7819 Sq.Km**. This shall in turn cause a great amount of inconvenience to the local public and shall be the cause for poor administrative control over the area and an ineffective representation of the local peoples. The readjustment proposed by the Petitioner if implemented would be cause for greater homogeneity, facilitation of communication, a population more geographically compact and shall aid public convenience.

H. That it is imperative to form the constituency having utmost regard to the territorial, geographical and cultural history of the area. The Historical Summary of the Impugned Constituency explained above from paragraphs 7 to 14 of this petition seeks indulgence of this Hon'ble ECP to consider the aspect of "communities of interest" a term that has been coined by the superior courts in case cited as **2014 CLC Sindh 335**. As has been narrated above the Sinjawi Tehsil has a long history of affiliation with Loralai District since the independence of Pakistan. Whereas on the other hand Ziarat Tehsil has never been made part of Loralai District as it shares no historical and cultural affiliation with Loralai District. It would thus be apt for this Hon'ble ECP and in line with the principles of geographical, historical and cultural homogeneity and it shall facilitate the concept of "communities of interest" to include Tehsil Sinjawi to NA-258 excluding Tehsil Ziarat.

#### PROPOSAL

- 1) The Petitioner proposes that delimitation of the Impugned Constituency should be carried out in accordance with the basic unit of Patwar Circles as provided in Rule 10(4) of the Election Rules, 2017.
- 2) The Petitioner proposes that Ziarat District should be divided into two Tehsils namely Ziarat Tehsil and Sinjawi Tehsil. The Sinjawi Tehsil (containing 04 patwar circles namely Sadr Samaln Sinjawi, Baghao, Chauter and Pui) should remain in NA-258 and the remaining Ziarat Tehsil (containing 02 patwar circles namely Kech and Kwas) should be merged with NA- 263 comprising of Pishin District. The proposal is narrated hereunder in a table form:

<b>Proposed Table of the Constituencies</b>		
No. and Name of constituency	Extent of constituency	Population
NA-258	<b>a) Loralai District</b>	244,400
	<b>b) Musa Khail District</b>	167,017

	<b>c) Dukki District</b> <b>d) Harnai District; and</b> <b>e) Sinjawi Tehsil (Containing Patwar Circles:</b> i. Sadr Samaln Sinjawi, ii. Baghao, iii. Chauter; and iv. Pui.)  <b>Total</b>	153,000 97,017 92,561 <b>753,995</b>
NA-263	<b>a) Pishin District; and</b> <b>b) Ziarat Tehsil (Containing Patwar Circles:</b> i. Kech; and ii. Kwas.)  <b>Total</b>	736,481 67,871  <b>804,352</b>

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Through:



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