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BEFORE THE HON'BLE ELECTION COMMISSION OF PAKISTAN, ISLAMABAD

Representation No. _____/2018

In the matter of de-limitation of constituencies:

1. **Ajmir Khan** s/o Hakim Khan
(CNIC.15602-1548411-7)
Dewlai, Sarkhazana, Tehsil Bahrain
District Swat
2. **Habib Ali Shah** s/o Bakht Taj Mian
(CNIC.15602-6846719-1)
Jalalabad, Odigram
District Swat
3. **Irshad Ali** s/o Abdul Khaliq
(CNIC.15602-2240794-3)
Muhala Abdul Qader, Faizabad
District Swat
4. **Abdullah Khan** s/o Faridoon Khan
(CNIC.15602-1036101-9)
RahatKot, Tehsil Matta,
District Swat
5. **Sarwar Khan** s/o Sher Alam Khan
(CNIC.15602-0366275-7)
Zenatgram, Manglawar, Teh.Babozai
District Swat
6. **Syed Sajjad Ali** s/o Ali Haider
(CNIC.15602-0660666-7)
Nangolai, Tehsil Kabal,
District Swat

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-----Petitioners

Representation under § 21(3) of the Election Act, 2017 r/w the Provisions of Chapter-III, Part.A of Election Rules, 2017 on behalf of Petitioners for making appropriate amendments, alterations or modification in the Preliminary List of Proposed Constituencies of District Swat, KPK, *inter alia*, proposed PK.4 (Swat-III)

The Petitioners respectfully submit as follows:

1. The Petitioners are registered voters of District Swat, KPK and enjoy good reputation and are known for their dedication, integrity and public work. The relevant record of their being registered voters now Proposed as PK.4 to PK.8 (Swat-III to Swat-VII) is being appended herewith.
2. As far as relevant and material to the titled presentations, it is submitted that Article 51 of the Constitution provides that there shall be 342 of the National Assembly, including seats reserved for women and non-Muslims. According to

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this Art.51, 39 General Seats and 9 reserved seats for Women have been allocated to the Province of Khyber Pakhtunkhwa (KPK) for National Assembly. According to Art.106 of the Constitution, 99 General Seats, 22 Reserved Seats for Women and 3 Seats Reserved for Minority have been allocated to the Province of KPK for Provincial Assembly.

3. As far as District Swat, KPK, is concerned, it had been allocated two National Assembly Constituencies (NA.29 (Swat-I) and NA.30 (Swat-II)) in the earlier elections held in 2002, 2008 and in the last General Elections 2013. While for the Province of KPK, District Swat was having seven constituencies as PK.80 (Swat-I) to PK.86 (Swat-VII).
4. Now in light of Census Report 2017, District Swat has been allocated three seats for National Assembly, now Proposed as NA.2 (Swat-I), NA.3 (Swat-II) and NA.4 (Swat-III) as District Swat has a population of 2,309,570. Provincial Constituencies have been proposed for District Swat as PK.2 (Swat-I) to PK.9 (Swat-VIII).
5. The titled presentation is basically about the Provincial Constituencies, proposed PK.4 (Swat-III), PK.5 (Swat-IV), PK.6 (Swat-V), PK.7 (Swat-VI) and PK.8 (Swat-VII) of which the Petitioners are all registered voters. To be very precise, it may be added that the Petitioners suggest that the aforesaid constituencies should be altered and modified as being 'suggested' by the Petitioners hereinbelow. The Petitioners on their behalf and on behalf of general public of (now Proposed PK.4 to PK.8) file the titled presentation as the 'proposed constituencies would adversely affect the rights and interests of the people of the area for several reasons as, *inter alia*, summarized hereinafter.
6. Art.222 of the Constitution provides that 'Parliament may by law provide for, (a) the allocation of seats in the National Assembly as required under Art.51 (3) and (4) of the Constitution (in case of provincial assemblies as provided in Art.106), and (b) the delimitation of constituencies by the Election Commission of Pakistan. It is thus, constitutional obligation of this Hon'ble Commission to delimit the constituencies in accordance with law. Now, Section 17 of the Election Act, 2017 provides that '*Election Commission shall delimit the constituencies after every census officially published*'.
7. To delimit a constituency, the broader principles have been summarized in § 20 of the Election Act, 2017 that as far as practicable, be delimited having regard to

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the (i) distribution of population in geographically compact areas, (ii) physical features, (iii) existing boundaries of administrative units, (iv) facilities of communication and public convenience and (v) other cognate factors to ensure homogeneity in the creation of constituencies. It has also been provided that 'as far as possible, variation in population of constituencies of Assembly shall not ordinarily exceed ten percent'.

- 8. Now according to the Preliminary Report on Proposed Constituencies issued by this Hon'ble Commission, Province of KPK has been divided into 99 territorial constituencies on the Census of 2017. The quota per seat in respect of each Provincial Assembly seat has been determined in relation to KPK as under:

Total Population of KPK: 30,523,371
 Total PA Seats of KPK: 99
 Quota Per Seat: $30523371/99 = 308,317$

- 9. Based on the aforesaid population and seat quota with a variation of about 10% as provided in § 20 of the Election Act, 2017, eight constituencies have now being proposed for District Swat out of the 99 seats allocated to the entire Province of KPK, have been drawn up as under:

- 1) PK.2, Swat-I - (Population, 290,443)
- 2) PK.3, Swat-II - (Population, 288,768)
- 3) PK.4, Swat-III - (Population, 291,863)
- 4) PK.5, Swat-IV - (Population, 301,697)
- 5) PK.6, Swat-V - (Population, 287,973)
- 6) PK.7, Swat-VI - (Population, 297,219)
- 7) PK.8, Swat-VII - (Population, 276,811)
- 8) PK.9, Swat-VIII - (Population, 274,796)

- 10. As far as relevant here, in the proposed 'constituencies' for District Swat, regardless of the variation in the total population allocation for each seat, the Map as drawn up or prepared and marked with boundaries of these constituencies does not represent the actual area of those constituencies. If the 'proposed constituencies of ECP' are finalized, actually one area would fall in the middle of another constituency and great inconvenience would be caused to the general public of the area. Changes are therefore suggested in the Proposed constituencies of PK.4, PK.5, PK.6, PK.7 and PK.8.

- 11. It is submitted on behalf of the Petitioners that the constituencies as suggested by the Petitioners and MAP whereof attached herein shall be finalized by the Hon'ble Commission as this 'suggested' constituencies are better than the 'proposed' constituencies. In the suggested constituencies, the Petitioners are suggesting certain inclusion and certain exclusion in view of the compactness of the area, proportionate population and more convenience of the general public

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especially to reflect the actual presentations of the people in each constituency as suggested or proposed as summarized hereinbelow.

- (a) In PK-4, Swat-III, especially in view the geographical compactness and public convenience, it is suggested that, (i) Shahdara Circle No. 6 & 7; (ii) Navaykalay Circle No.1 and (iii) Ingaro Dahrai Circle No. 2 be included in this PK.4 (Swat-III). These included areas would come from PK.5. The exclusion of (i) Gulkada Circle No. 24, and (ii) PC Qambar. This way the population of PK.4 would come upto 292,002.
 - (b) In PK.5, (Swat-IV), it is suggested that the aforesaid Gulkada Circle.24 of MC Mingora be included in this PK.5 and (i) Shahdara Circle No. 6 & 7 of MC Mingora, (ii) Navaykalay Circle No. 1, and (iii) Ingaro Dahrai Circle No. 2 be excluded from this PK.5. This will make up the entire population of PK.5 (Swat-IV) as 267591.
 - (c) In PK.6, (Swat-V), it is suggested that PC Qambar be included in PK.6 and, (i) PC Kotali, and (ii) PC Gadi of Kabal Qanungo be excluded from this PK.6. This will make up its population as 284396.
 - (d) In PK.7, (Swat-VI), it is suggested that (i) PC Gadi and (ii) PC Kotali, and (iii) PC Taghma be included in this PK.7. It is also suggested that Circle No. 5,6 & 7 of MC Kabal be excluded from this PK.7. This will change its population to 303394.
 - (e) In PK.8 (Swat-VII), the inclusion of Circle No. 5,6 & 7 of MC Kabal and exclusion of PC Taghma is suggested. This will finally make up the constituency with a population of 308180.
12. It is submitted that it is settled law and international practice in delimitation of the constituencies that 'totality of circumstances' to be taken into account also known or called as 'redistricting standard'. Accordingly, in view of the 'totality of circumstances' standard, the best presentation is what has been suggested hereinabove. It may be added that, *inter alia*, it is the constitutional right of the general public of the area under Article.17 to have "real representatives". In case, the 'proposed constituencies' are not reviewed, altered and modified as suggested, the rights and interests of the people of the area would be adversely affected and prejudiced. This is reflected in the suggested map as filed herewith.

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Hence, this presentation before the Hon'ble Commission of Pakistan for directions as suggested hereinabove.

It is therefore most respectfully prayed that the Hon'ble Commission may kindly be pleased to consider and allow the titled presentation and finalized, *inter alia*, PKA (Swat-III), PK.5 (Swat-IV), PK.6 (Swat-V), PK.7 (Swat-VI), PK.8 (Swat-VII) (as suggested hereinabove by the Petitioners and may further be pleased to make all appropriate adjustment, amendment, alteration and modification as may be required for the aforesaid in the interest of justice.

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Petitioners

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Barrister Gohar Ali Khan, ASC

Dated: 30-03-2018