

BEFORE THE HONOURABLE ELECTION COMMISSION OF PAKISTAN

In Re: Representation under Section 21(3) of the Election Act, 2017 read with Rule 12(1) of the Election Rules, 2017 in relation to the Provincial Assembly Constituency PK-89 (Bannu-III)

It is respectfully submitted as under:

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1. This is a representation under Section 21(3) of the Elections Act, 2017 ("Elections Act") read with Rule 12(1) of the Election Rules, 2017 ("Election Rules") with reference to the draft proposal for delimitation by the Honourable Election Commission of Pakistan ("Commission") of the Provincial Assembly constituency PK-89 (Bannu III) (and other constituencies proposed within District Bannu) as contained in the draft proposal of delimitation of the said constituency prepared and notified by the Commission pursuant to Section 17 and 20 of the Elections Act and Rule 7 and 10 of the Election Rules as its Preliminary Proposal for delimitation as provided for in Rule 11(2) of the Election Rules ("Preliminary Proposal").
2. This representation is filed with the learned Secretary of the Commission in compliance with Rule 12(4) of the Election Rules by Mr. Adnan Khan son of Mr. Muhammad Ali Khan (hereinafter referred to as the "Petitioner") who is a permanent resident and voter of the constituency PK-89 (Bannu III) with Block Code Number 051041003. Furthermore, the Petitioner has remained a Member of the Provincial Assembly from Khyber Pakhtunkwa for this very constituency having been elected in the 2008 General Election to PF-72 (Bannu III) (which is now PK 89).
3. Without prejudice to the prayers, submissions, averments and statements made hereinafter, the grievance of the Petitioner relates essentially to the exclusion of the Haved Khaas Patwaar Circle from PK-89 and the inclusion thereof in PK-88. Through this representation, the Petitioner *inter alia* prays that the Haved Khas Patwaar Circle ("Haved Khas PC") be removed from PK-88 and included in PK-89 and thereby is praying that the existing and

established boundaries of PK-89 (previously PF-72) may be intact and no change may be brought therein.

4. The principal grounds on which this representation is moved and on the basis of which amendments, alterations and modifications in the preliminary proposals of delimitation by the Commission to the delimitation of PK-89 (and other constituencies proposed within District Bannu) are as under:

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- (i) It is submitted that there has been no substantial change in the District of Bannu except proportional increase in population and all other factors and principles were and are intact up to the satisfaction of voters. There has been no change (whether increase or decrease) in the number of constituencies (whether National or Provincial) that exist within the District of Bannu. Therefore, there was no need to change the existing and established boundaries and the change in boundaries suggested in the Preliminary Proposal would adversely alter the scenario and disturb the established and already settled down factors. It is submitted that the contents of this Memorandum of Representation will establish that the removal of Haved Khas PC from PK-89 and the inclusion thereof in PK-88 not only has no legal justification but also defies all logic and offends the established principles of delimitation. It is further submitted that it would be in the public and national interest these should be kept the same as they have been for the past three general elections (and 16 years) since the year 2002. It is most respectfully requested that this may be taken by this Honourable Commission to be the primary prayer of the Applicant.
- (ii) That the preliminary proposals for delimitation by the Commission were essentially supposed to be based on the Census Report of 2017. There are substantial discrepancies and contradictions between and errors *inter alia* in the preliminary proposals of delimitation by the Commission to the delimitation of PK -89, the Census Report 2017, as well as the maps drawn and circulated by the Commission for the district of Bannu ("Map of Bannu"). To begin with, it is brought to the attention of this Honourable Commission that traditionally the District of Bannu had only two Tehsils, namely: (1) Tehsil Bannu; and (2) Tehsil Domel. This position was altered

substantially when the Provincial Government of Khyber Pakhtunkhwa ("KPK") introduced two new Tehsils in Bannu District namely; (1) Tehsil Bakka Khel; and (2) Tehsil Kaki. This is essentially the fundamental reason for the differences and discrepancies in the Census Report 2017 and Preliminary Proposal, where the Census Report 2017 only recognizes two Tehsils in the district of Bannu, while the preliminary proposals of delimitation treat the Tehsils in the District as four. Furthermore, the increase in the number of Tehsils in the District of Bannu, has resulted in a substantial change in a number of other administrative units in the districts (such as an increase in the number of Patwaar Circles ("PCs")) which is also not reflected in the Census Report 2017 and which also results in significant contradictions and discrepancies. In addition to the foregoing there are actual errors apparent and established on the face of the record in: the Census Report 2017, the Preliminary Proposal and the Map of Bannu. It is submitted that these very errors, discrepancies and contradictions constitute a valid ground for annulling all of the changes made to the District of Bannu and this Honourable Commission is liable to set aside the same. A summary of some of these contradictions, discrepancies and factual inaccuracies is given below:

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- (a) The Census Report 2017 only recognizes two Tehsils in the district of Bannu where in reality there are four Tehsils;
 - (b) The Census Report 2017 recognizes less PCs than in reality and in what is being accepted by and being relied upon in the Preliminary Proposal as well as the Map of Bannu. While the Preliminary Proposal states that the Haved Khas PC will not be a part of PK-89, but rather PK-88, the Census Report 2017 does not even recognize a Haved Khas PC;
 - (c) The Preliminary Proposal while prescribing the extents of the constituency of PK-89 states that the constituency shall comprise of: *Bakka Khel Tehsil, excluding the Haved Khas Patwar Circle of Gharbi Qanungo Halqa of Bannu District*. Neither the Census Report 2017 nor the Map of Bannu accept and recognize a PC named *Haved Khas*. Both these documents only recognize a PC named *Haved* and

Haved Khaas only as a subsidiary administrative unit therein. Furthermore, both *Haved* and *Haved Khas* admittedly (and according to the Census Report 2017) fall within the Qanungo Halqa ("QH") of Khwaja Mad (or spelt otherwise as Khoaja Mad) QH ("Khwaja Mad QH") and not within Gharbi QH. It is submitted that this error alone makes the Preliminary Proposal completely unworkable and impracticable and calls for the intervention of this Honourable Commission.

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- (d) The Census Report 2017 does not recognize the PC of Landidak which according to the Map of Bannu prepared, accepted and circulated by the Commission is a PC of PK-89.
- (e) The Census Report 2017 lists under Dardariz PC the following areas: (1) DarDariz; (2) Landi Dak Barak Zai; (3) Landi Dak Bazid; (4) Landi Dak Khan Suba; (5) Landi Dak Khwajamad; (6) Landi Dak Mamakhel; (6) Landi Dak Mamashkhel; (7) Landi Dak Mamashkhel; (8) Landi Dak Mamat Wazir; (9) Landi Dak Niamat Garh; (10) Landi Dak Sardhi Khel; and (11) Landi Dak Shah Najib. It is submitted that only five of the foregoing areas listed at numbers (1), (2), (6), (7) and (10) fall within the Dardariz PC. The rest of the foregoing all fall within the PC Landi Dak, which although shown on the Map of Bannu made by the Commission, has no mention in the Census Report 2017.
- (f) The Map of Bannu as prepared by the ECP itself suffers from many errors. One of the most glaring of these errors is that the border of PK-88 with PK-89 does not meet at the Haved area. This border, if depicted correctly and accurately would fall in the Landidak area.
- (g) While the Preliminary Proposal states that only the Haved Khas PC is to be excluded from PK-89, the Map of Bannu appears to be excluding all of the Haved area from PK-89 and including it in PK-88.

(h) The Preliminary Proposal while prescribing the extents of the adjoining constituency PK-88 (Bannu-II) also suffers from errors. It erroneously states that the entire Khwaja Mad QH falls within this constituency when parts of this QH admittedly fall within PK-89. Furthermore and without prejudice, if all of Khwaja Mad QH fell within PK-88 then there would have been no need to also mention the Haved Khas PC at Sr. No. (d) which already falls within this QH.

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(i) Even otherwise there are many significant errors in the Preliminary Proposal, the Census Report 2017 and the Map of Bannu which require correctly, amendment and intervention by this Honourable Commission.

(iii) The delimitation of PK-89 is not compliant with the requirements of Section 20 of the Elections Act as, *inter alia*, the constituency has not been properly, correctly and lawfully delimited by giving due weight and regard to the following statutorily prescribed factors:

(a) Distribution of population in geographically compact areas:

The area of Haved (including the smaller areas contained therein) have a clear connection with the areas in PK-89 and PK-88;

(b) Physical features:

Haved forming a natural part of PK-89 is separated from PK-88 by lack of any road or other networks but also a water body which forms a natural barrier between Haved and the areas comprising of PK-88;

(c) Existing boundaries of administrative units:

The Bakka Khel Tehsil consists of a total of nineteen (19) PCs of which in the Preliminary Proposal, eighteen (18) have been included in PK-89 and only one (1) has been included in PK-88. There appears to be no viable justification for breaking the boundaries of Bakka Khel Tehsil between two constituencies by only one PC. Furthermore the Union Council of Haved consists of three (3) PCs, namely; Dardariz PC, Landidak PC and Haved PC. There appears to be no viable

justification for removing the Haved PC from the otherwise intact Union Council of Haved;

(d) Facilities of communication and public and voter convenience:

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The people of Haved depend upon the road and other networks and facilities of the areas defined in PK-89. As an example, for the people of Haved to travel to the areas set out in PK-88 would have to use the road network of PK-89 and would have to first travel through PK-89 to get to PK-88. Similarly, any person who would want travel from PK-88 to the Haved area would have to travel through an expansive area of PK-89 before getting to the Haved area.

(e) Other cognate factors to ensure homogeneity in the creation of constituencies in District Bannu:

It is submitted that the state of homogeneity requires a state of uniformity, similarity and consistency. The people of Haved PC are essentially the same people of Tehsil Bakka Khel by inter alia tribe, blood ties, culture, social ties and history. It is an admitted fact that the people of Haved PC have the same road and other transport links to Bakka Tehsil to the extent that these places are almost in differentiable.

- (iv) The constituency PK-89 has not been delimited in accordance with the principles set out in Rule 10(5) of the 2017 Rules *vis-à-vis* the requirements of starting from the Northern end of the District and then proceeding clock-wise in zigzag manner keeping in view of the population quota prescribed therein. From a bare perusal of the Map of Bannu it is evident that the very exclusion of the Haved area from PK-89 forms a peculiar shape and does not conform to the principles of keeping geographical areas within a compact shape. According to the 2017 Census the total population of District Bannu is 1,167,892 so the population "quota" for four Provincial Assembly seats in the district of Bannu under Rule 10(5) of the Election Rules is 291,973.
- (iv) That PK-89 as proposed in the preliminary proposals of delimitation includes almost all of the Bakka Khel Tehsil (including a total of 18 Patwar Circles) but excludes only one Haved PC. This offends the principles of *inter alia* distribution of population in geographically compact areas; existing boundaries of

administrative units; and facilities of communication and public and voter convenience.

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5. The Petitioner seeks and prays for the following amendments, alterations and modifications to the preliminary proposal of the Commission for delimitation of PK-89 (Bannu-III):

(a) Since there is no need to change the existing and established boundaries of PK-89, the Honourable Commission may annul the amendments proposed in the Preliminary Proposal;

(b) The Petitioner hereby prays that all of the area described and known as Haved falling within QH Khwaja Mad may be included in the constituency PK-89.

6. Due to the discrepancies, contradictions and errors in the Census Report 2017 (outlined and described hereinabove), details of population are not being given herein as it is difficult to ascertain what the population (according to the Census Report 2017) is of different administrative units. Without prejudice to the foregoing, it is submitted that according to Preliminary Proposal the current population as proposed of PK-89 is 296,212 and according to the Census Report 2017 the population of the Haved PC is 16,370. If Haved PC is included in PK-89 the total population thereof will reach 312,582. It is submitted that this figure is within the range of 10 percent of the quota of the district which is 291,973, hence the proposal of the Petitioner is within the parameters set by law.

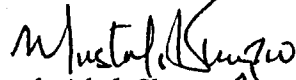
PRAYER

Wherefore the Petitioner respectfully prays that the instant representation be graciously accepted by the Commission and that the Commission graciously make the amendments, alterations and modifications sought to the draft proposal for delimitation of PK 89 (Bannu-III) by the Petitioner (and all make all applicable and consequential amendments, alterations and modifications sought to the draft proposal for delimitation of PK 89 and consequentially PK-88) all as detailed in this representation and as also depicted in the map at Annexure B hereto.

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Petitioner

Through: **Sikandar Bashir Mohmand**
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