

BEFORE THE ELECTION COMMISSION OF PAKISTAN

Handwritten signature and date: 1-4/04/2018

Representation No...../2018

- 1 **Saleem Khan** Member Provincial Assembly KPK (Existing PK-89) Chitral.
- 2 **Sardar Husain** Member Provincial Assembly KPK (Existing PK-90) Chitral.
- 3 **Fawzia Bibi**, Member Provincial Assembly KPK (Against reserved Seat for Women).
- 4 **Shahzada Iftikhar uddin** Member National Assembly Existing (NA-32) Chitral.
- 5 **Haji Mafirat Shah**, District Nazim Chitral.
- 6 **Maulana Abd ul Shakoor** District Naib Nazim Chitral
- 7 **Advocate Naa Baig**, Member (Minorities) District Council Chitral.
- 8 **Abdul Latif Khan** Member District Council Chitral from UC-Lot Oveer
- 9 **Shahzada Khalid Pervez** Member District Council Chitral from UC-Drosh.
- 10 **Moulana Jamshed** District Council Chitral from UC- Chitral-1.
- 11 **Rahmat Ghazi** Member District Council Chitral from UC-Charun.
- 12 **Advocate Ghulam Mustafa**, Member District Council Chitral from UC-Kosht.
- 13 **Moulana Abdul Akbar Chitrali**, EX-MNA (NA-32) Chitral.
- 14 **Saeed Ahmad**, EX-MPA (PK-90) Chitral.
- 15 **Haji Ghulam Muhammad** EX-MPA (PK-90) Chitral.
- 16 **Sartaj Ahmad**, EX- Tahsil Nazim Chitral and Chairman Chairman Chitral Community Development Network.
- 17 **Advocate Abdul Wali Khan**
- 18 **Sadiq Ameen**
- 19 **Haji Abdul Razaq**
- 20 **Qari Wazir Ahmad**,

H/09/09/2018

21 Advocate Ameen ur Rahman Chughtaie, All voters, Political and Social Workers of Chitral.

.....Petitioners

VERSUS

Committee for Delimitation of PK-89 and PK-90, through Provincial Election Commission of Pakistan.

.....Respondent

MEMO OF REPRESENTATION UNDER SECTION, 21 (3) OF THE ELECTION ACT, 2017, R/W THE PROVISIONS OF CHAPTER, 3 PART-A OF THE ELECTION RULES, 2017 ALONG WITH OTHER LAWS, RULES AND EXERCISE OF POWERS APPLICABLE ON THE SUBJECT.

PRAYER;

On acceptance of the instant Representation, the existing 02 Seats of Provincial Assembly from Chitral be maintained keeping in view all the cognate factors followed by exceptional facts and grounds of the instant representation through appropriate amendment, alteration or modification in preliminary proposed draft list (Form-5) of Constituencies for Provincial Assembly at Khyber Pukhtunkwa, whereby the two seats of Provincial Assembly from (under divided) District Chitral (PK-89 & PK-90) have been limited and merged into one seat i.e. PK-1.

Any such relief which this honourable Commission deems proper and just be granted to the petitioners with effect to assure the electoral justice to the inhabitants of the most largest and backward District of KPK.

Respectfully Sheweth;

Brief facts and grounds giving rise to the instant Representation are as under;

1. That petitioners are Public representatives-Petitioner No.1 is incumbent Member of Provincial Assembly from Constituency PK-89 Chitral-I, Petitioner No.2 is incumbent Member of Provincial Assembly Constituency PK-90-Chitral-II, Petitioner No.3 is Member Provincial Assembly KPK against reserved seat for women, Petitioner No.4 is elected member National Assembly (NA-32-Chitral), Petitioners No.5 & 6 are Nazim and Naib Nazims of District Council Chitral, Petitioners No.7 to 12 are members District Council Chitral and remaining Petitioners are Ex-Members, Social and

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Political workers hailing from Chitral. All the petitioners have unanimously authorized their counsel to file the instant representation and their interest is also similar and same.

(Copies of Identity cards etc are Annexure "A")

2. That petitioners are bonafide residents and voters from their respective constituencies and enjoy high confidence and trust amongst all inhabitants and are known for their dedication to representation of public. It is the prima facie duty of the Petitioners to fight for protection of basic interests and Constitutional rights of all individuals in their constituencies and localities with effect to uplift their Social, political and economic condition through every legal means including to file the instant representation.
3. That in connection to conduct General Election, 2018, under haste census was conducted, Election Act, 2017 was promulgated, Election Rules, 2017 were framed, execution of all the administrative and revenue programs of Provincial Government of KPK including already announced and under execution Notification for establishment of District (Upper Chitral) were stayed and consequently a so called Delimitation Committee was constituted to delimit the existing constituencies of PK-89-Chitral and PK-90-Chitral resultantly a complete existing seat of Provincial Assembly out of two has been abolished and establishment of one Constituency (PK-1-Chitral) has been recommended to this Honourable Commission through the impugned "Draft List of Constituencies".
(Copy of impugned Draft List of Constituencies for KPK Assembly is annexure "B")
4. That Petitioners with the afore mentioned cause of action, being aggrieved like other individuals of their constituencies and having statutory and Constitutional rights; approach this Honourable Commission through the instant Memo of Representation inter alia amongst other grounds.

G R O U N D S:

- A. That as per Article, 222 of the Constitution of Islamic Republic of Pakistan, 1973, Parliament may by law provide; (b) the delimitation of the Constituencies by the Election Commission, (d) the decisions of doubts and disputes arising in connection with election & (f) all other matters necessary for the due constitution of the two houses and provincial Assemblies; but no such law shall have the effect of taking away or abridging any of the powers of the Commissioner or an Election Commission, therefore this Honourable Commission has absolute and exclusive Constitutional Power to exercise in accordance with the provision of objective resolution;
"Wherein adequate provision shall be made to safeguard the legitimate interests of backward and depressed classes"

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B. That according to Sub Section (4) of S.19 of the Election Act, 2017 **“For the purpose of Election to Provincial Assemblies, the commission shall divide each province into as many separate territorial Constituencies as the number of general seats specified in Article,106”** of the Constitution of Pakistan, 1973 and number of General Seats as per Article, 106 of the Constitution are not reduced from the existing number of 99, rather some points have been increased, therefore it is a fit case for adjudication under Sub Section (4) of Section, 21 of the Act mentioned above and total numbers of District in KPK are 27.

C. That through the impugned Draft List of Constituencies, the committee has ignored Principles of delimitation enshrined under Section, 20 of the Election Act, 2017. For the convenience of this Commission relevant portions of the same are re produced here;

(1). All Constituencies for general seat 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 .

(3) As far as possible, variation in population in constituencies of an Assembly shall not ordinarily exceed 10 percent.

(4) If the limit of ten percent is exceeded in an exceptional case, the commission shall record reasons thereof in the delimitation order.

D. That it is an admitted fact that District Chitral is the largest District of Khyberpukhtunkwa spread over an area of 14850 Sq.Kms having 04 administrative Tehsils (two existed) and 02 newly created and 463 Mouzas but the delimitation committee has ignored all these factors. **(Copies of official & proposed Maps are annexure “C”& “C/1”)**

E. That the resolution of the Provincial Assembly KPK **(Annexure “D”)** with this regard is a self speaking ground for kind consideration of this Honourable Commission.

F. That for long time the people of Chitral were demanding for division of District Chitral into two Districts and establishment of Upper Chitral keeping in view the administrative and access to representatives problems; which, was lastly agreed by the Provincial Government and was also publically announced by the Chief Executive of the province last year. Accordingly notifications of establishment of two additional Tehsils and revenue circles were notified **(annexure “E”)** Directives were issued to Chief Secretary KPK by Chief Minster **(Annexure “F”)** and in compliance appointments of District Coordination Officer, District Police Officer, District Judicial office, and heads of basic line departments were also assigned to Administration and

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Establishment Departments as well as Finance department was working to release necessary funds for establishment of the same prior to issue under process notification but due to delimitation process the notification of the same remained stayed.

- G. That legally speaking the principles laid down under Section, 20 of the Election Act, 2017 are similar to Section, 9 of the Delimitation of Constituencies Act, 1974 substituted by Delimitation of Constituencies (Amendment) Act, 2012, Act No-XII of 2012, dated 8th May, 2012, No.F.22 (18)/2008-Legis and the representation of backward chitral at Provincial Assembly through PF/PK 89 and 90 is availed right of the people since its merging to Islamic Republic of Pakistan. Furthermore with the passage of time the people living at eastern and Northern Mountains of Arandu situated at more than Hundred KM from Chitral Town, Borgoul and Wakhan about 300 KM away from Chitral Town have also been recognized as Pakistani Citizens but a major population are holding no Identity cards.
- H. That due to backward status of the area, lack of resources for survival, to avail the facilities of health and education etc more than about half population of Chitral are temporally residing outside of Chitral mostly at Karachi, Lahore, Islamabad and Peshawar etc and the only way to get proportionate number in census was the recognition through Language of "Khowar" at the census Form but due to lack of such column the census of 2017 has remained disputed to Chitrali National at every forum like previous census including being challenged before Peshawar High Court (**Annexure "G"**).
- I. That even though the impugned preliminary draft list of the Constituencies to the extent of KPK is in violation of principle of delimitation laid down in Section, 20 of the Election Act, 2017 because;
- a. The existing two seats of Pk-89 and PK-90 with accumulative population of 447362 have been merged into one seat of PK-1 by abolishing complete seat of Provincial assembly only based on population and without considering other principles.
 - b. Existing 11 seats of Provincial Assembly from Peshawar (PK-1 to 11) have been enhanced to 14(PK-66 to PK-79) with about 30 percent increase.
 - c. Old (Mansehra-vi) District Torghar, Existing PK-58 with population of only 1,71,395 has been similarly maintained as PK-35 by exercising the principles for other grounds. Similar factors have been applied and PK-83 Hangu-1 with 270295 and PK-84 Hangu-II with population of 248503 have been maintained.

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- J. That it is prime responsibility of the state to promote social justice under Article, 37 of the Constitution of Pakistan, 1973 and to promote Social and Economic well being of the people under Article, 38, hence; the state shall;

“Provide for all citizens, within the available resources of the country, facilitate for work and adequate livelihood with reasonable rest and leisure”.

- K. That the petitioners seek leave of this honourable commission to argue/raise additional grounds at the time of arguments.

It is, therefore, most humbly prayed that the instant representation be accepted as prayed on the heading and under the proposed map/delimitation.

No. and name of Constituency	Extent of Constituency	Population
Pk-I Chitral-I	i. Tehsil Mastuj ii. Teshil Mulkhaw Torkhow	169240
PK-II Chitral-II	i. Tehsil Chitral ii. Tehsil Darosh	278122

(Copy of Population Detail is annexure “H”)

All Petitioners

Through,

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