**EVMs: the missing details**

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Election reforms have never been as contentious as they have become today. The debate over the use of Electronic Voting Machines (EVMs) in the next general election has not only deepened the polarisation in society and further thickened political divisions, but has also overshadowed more critical issues which have traditionally compromised the fairness and transparency of the electoral processes.

These issues that merit serious parliamentary attention include under-registration of voters, particularly women; constituencies of unequal populations; unbridled use of money in elections; influence of government and state officials in the electoral process, and outcomes and restrictions of the Election Commission to penalise such officials; undemocratic political party structures; unending post-election disputes resolution processes; discretionary space available to election officials in the result management process; and obsoleteness of the existing election system to translate the maximum number of votes into representation.

The hype of the electronic voting machines has been created in such a way that the general public has really started to believe that this technology is the panacea for all electoral ills and will alter the power dynamics in the country to bring in a representation that reflects the cross-section of its complex diversity. However, these public expectations are only to be dashed if the required legal detailing is not done by parliament before the initiation and introduction of the machines. The one-liner amendment allowing the Election Commission to procure EVMs for General Elections 2023 will not suffice.

Detailing may involve legal changes in the voting and counting processes as a result of the proposed use of EVMs. Areas that need consideration include changes in the process of challenged, tendered, invalid and spoiled ballots; counting inside the polling stations as apparently it will be a two-step process since the EVMs are standalone and placed at every booth inside the polling stations – automatically at the booth level and manual consolidation of all booth counts in the second step. Consideration is also needed regarding dispute resolution in case the EVMs and ballot receipt counts have a difference; use of biometric and corresponding amendments such as treatment of voters whose thumb impressions are unreadable or persons with physical disabilities; the role of polling agents, etc. Without such rigour, the success that is being trumpeted may just turn into a disaster of proportions that may even reverse an otherwise fragile process of democratic consolidation in the country.

Alongside such legislative thoroughness, the government also needs to fix the systemic infirmities that adversely impact the quality and outcome of any election, which are beyond the scope of the EVMs but critical in shaping the stage in the lead up to the election day and subsequent result management process. Take for instance, the limitations to the Election Commission’s powers to penalise public servants and persons in the service of Pakistan even in cases where they are found to have been involved in as serious offences as interfering or influencing the election process in a way that it obstructs the conduct of impartial and fair polls. Under the Elections Act, 2017, the ECP can only suspend or withdraw such officials, but not penalise them just as it can penalise officials appointed on election duty under their respective disciplinary and efficiency rules.

EVMs cannot and are not expected to control officials who otherwise allegedly interfere in the election process at any level of influence. A stricter regime on controlling the undue interference of officials before, during, and after the elections needs to be developed to effectively ensure the sanctity of the vote and safeguard it from theft. Issues of ballot stuffing and other election day illegalities and irregularities including during the counting and consolidation processes are not possible without the active connivance of officials who are otherwise deputed to guard the integrity of the process. Similarly, postal ballot frauds also involve government officials, who get away scot-free in the absence of any legal checks. Most doors to fraudulent electoral activities pass through official corridors, which need to be sealed closed in order for the EVMs to deliver the results that truly reflect the will of the people.

These are relevant matters, especially in the context of Pakistani elections which have become competitive, registering close contests with razor-thin margins of victories. In 2018 alone, 15 national and 43 provincial assembly constituencies had a margin of victory which was less than 1,000; 11 national and 45 provincial assembly constituencies less than 2,000; and eight national and 36 provincial assembly constituencies less than 3,000.

Similarly, in the 2018 General Elections, according to Gallup Pakistan, more than 107,995 postal ballots were counted across 272 constituencies. Six of these constituencies had postal ballots more than the margin of victory, indicating their potential of changing the constituency-level result. In such contests, for instance, a few hundred postal ballots issued fraudulently can change the results as well as sour the EVM miracle. The recent ECP investigation into the by-election held in NA-45 (Kurram Agency) established postal ballot fraud that involved government officials.

Equally important is the issue of ballots that are rejected and not counted in favour of any candidate due to a list of legal reasons including double marking, unsigned or stamped by relevant election officials, etc. As many as 149 national and provincial assembly constituencies had more rejected votes than the margins of victories in 2018. Although, according to what the government has been suggesting, EVMs will ensure all ballots are validly cast and none are rejected, there still are possibilities that need to be addressed through legislative measures. For instance, what will happen if a voter spoils/rips the paper receipt before casting it in the ballot box, and there is a discrepancy between the tally of machine votes and those found in the box? The provision of the invalid ballot may have to be retained to cater to such situations.

Another relevant issue is the limitation of EVMs to automatically restrict one voter to one vote as biometric is not used at the time of casting of the ballot for the right reason that it will breach the constitutionally given right to secrecy of vote to voters. As a result, a machine can always be calibrated after a defined duration to cast another ballot – that is: a voter can be enabled to cast one or more ballots, again leading to stuffing but this time leading to more complex problems. In case the tallies of machine votes and those crossed out on the electoral rolls at the time of identification of voters inside the polling stations by both the polling officer and polling agents are found different, will the machine count still hold and be considered official or will it become an election dispute leading to the withholding of constituency result until it is resolved?

The list of such legal detailing is long and essential to avoid any untoward situations at polling stations on election day, which remain the hotspots for violence in a heated political environment. Such delicate details must be considered before placing the entire trust on EVMs, which will solve only part of the problem, provided the election officials on the election day use them with honesty and by the law. The government and the opposition parties need to show more collective maturity and develop a consensus on such details before agreeing on the use of EVMs as the current election law expressed the bipartisan consensus only on the piloting of EVMs.

The Election Commission of Pakistan will need to step up and explain the fine changes that the law and the rules require to enable it to use machines in the next election. Only a more constructive, forward-looking engagement among the government, opposition, and the Election Commission will steer the country out of the current confusion and lead to reforms for freer and fairer elections in future.