[**Foreign funding consequences**](https://www.dawn.com/news/1604446/foreign-funding-consequences)

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FOUR major political parties of Pakistan, including the ruling party, are facing charges of receiving prohibited funds from foreign sources. The PTI was the first to face the complaint filed by one of its founder members in 2014. Some years later, when PTI funding became a hot media subject, complaints against the PML-N and PPP were also filed by their opponents. Just a few days ago, some dissidents from the JUI-F blamed the party chief for receiving funds from some foreign countries based on which a complaint has been filed before the Election Commission.

The charges, if proven, may have serious consequences for the party concerned, its elected legislators, in fact, for the entire political system of the country. Pakistan is not the only country where funding of political parties from foreign sources is prohibited. An international political finance database of some 180 countries indicates that 123 or 63 per cent of countries prohibit foreign funding of political parties in one form or the other. A slightly less number of countries — 103 or 57pc — do not allow foreign funding to individual election candidates as well. A greater degree of international consensus, however, seems to exist on prohibiting corporate funding to political parties as 128 or 71pc of countries do not allow funding of political parties by businesses and corporations.

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Pakistani laws have all along prohibited foreign funding of political parties and election candidates. The prohibition, which was first spelled out in the erstwhile Political Parties Act (PPA) 1962, continued in the Political Parties Order (PPO) 2002 and has now been included in the present Elections Act 2017. Although, there have been some minor though significant variations in the three laws, funding of political parties and candidates from foreign sources is clearly disallowed in all of them.

PPA 1962, while defining a foreign-aided political party, included “substantial portion of its funds from foreign nationals” among the attributes of foreign-aided political party but PPO 2002 and now Elections Act 2017 omitted the word “substantial” from the relevant provisions of the laws and substituted this with another word “any”. This change seems to be ominous in the sense that even a very small amount contributed by a foreign national can include a party that falls within the definition of a “foreign-aided political party” indicating serious consequences. The same phrase from PPO 2002 has been used in the current Elections Act 2017.

Another key departure from past legal funding provisions is the omission of the ban on domestic corporate funding to political parties in Pakistan as the words “domestically incorporated public or private company” used in PPA 1962 and PPO 2002 have been dropped from the prohibited sources of funding for political parties in the Elections Act 2017.

Article 17(3) of the Constitution of Pakistan stipulates that “Every political party shall account for the source of its funds in accordance with law”. The law in this respect is the Elections Act 2017 at present and more specifically its Chapter XI dealing with political parties. Earlier, PPO 2002 was the relevant law and probably still is in the context of the complaints of alleged foreign funding made against the four political parties because that was the law prevailing at the time of the alleged violations regarding foreign funding.

Section 204 of the Elections Act 2017 deals with the funding of political parties and its sub-section 3 exclusively relates to foreign sources of funding. According to this sub-section, “Any contribution or donation made, directly or indirectly, by any foreign source including any foreign government, multinational or public or private company, firm, trade or professional association or individual shall be prohibited”. This provision, therefore, makes it very clear that funding even by foreign individuals is also prohibited. In a later part of this section, it is, however, explained that overseas Pakistanis holding a Nicop issued by Nadra are not included in “Foreign Source” and therefore any funding by them will be considered legitimate. Sub-section 4 of the same section prescribes the penalty for accepting the prohibited funding and that is the confiscation of all such funds in favour of the government.

The story, however, doesn’t end here. There can be further and more serious consequences in case it is confirmed that a party has accepted funding from a foreign source. Section 212 (1) of the Elections Act, 2017 states that “Where the Federal Government is satisfied on the basis of a reference from the Commission or Information received from any other source that a political party is a foreign-aided political party … the Government shall, by a notification, in the official Gazette, make such declaration”. Sub-sections 2 and 3 of this section further state that the Government shall refer the matter to the Supreme Court within 15 days of making the declaration and when the Supreme Court upholds the declaration made against the party, such political party shall stand dissolved. Section 213 explains that the elected legislators who are members of a dissolved party shall be disqualified for the remaining term of the legislature.

The definition of a “foreign-aided political party” given in Section 212 is also interesting. Besides many other attributes, it is explained that a “foreign-aided political party” means a political party which receives “…any portion of its funds from foreign nationals”. This once again reiterates that irrespective of the amount, any foreign funds received from foreign nationals may render the party “foreign-aided” and the serious consequences mentioned earlier may follow.

There will, of course, be a number of legal battles and the courts may also interpret the law if a party is declared by the government and upheld by the Supreme Court as ‘foreign-aided’. It is, however, clear that, at least on paper, there are extremely serious consequences for accepting even small amount of funds from a foreign national.

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