



FAFEN PARLIAMENT MONITOR

Provincial Assembly of the
Khyber Pakhtunkhwa (KP)

23rd Session
(February 15 to 22, 2012)

List of Abbreviations

ANP	Awami National Party
CAN	Calling Attention Notice
EDO	Executive District Officer
IND	Independent Member
KP	Khyber Pakhtunkhwa
MMAP	Mutihida Majlis-e-Amal Party
PML	Pakistan Muslim League
PMLN	Pakistan Muslim League(Nawaz)
PO	Point of Order
PPPP	Pakistan People's Party Parliamentarians
PPPS	Pakistan People's Party (Sherpao)
PWP	Parliament Watch Program
QoP	question of Privilege
SRSP	Sarhad Rural Support Program
US	United States



This report is based on direct observation of proceedings of Provincial Assembly of Khyber Pakhtunkhwa, conducted by **PAIMAN Alumni Trust**, a member organization of FAFEN.

Executive Summary

The 23rd session of Khyber Pakhtunkhwa Assembly unanimously passed two Resolutions – one calling upon the federal government to legislate to set up an authority to regulate drugs and the other condemning a congressional hearing in the United States House of Representatives on Balochistan.

The first Resolution was moved in the backdrop of deaths in Punjab because of use of spurious drugs in January this year. A US congressional panel on foreign affairs held a hearing on Balochistan on February 8, which was termed an “ill-advised move” by Pakistan.

The session comprising five sittings passed the Khyber Pakhtunkhwa Publication of the Holy Quran (Elimination of Printing and Recording Errors) Bill 2012. However, it referred the National Disaster Management (Khyber Pakhtunkhwa) Amendment Bill 2012 to the relevant Standing Committee.

Overall Legislators' participation and attendance in the session was low.

Only 28 MPAs – 24 male, four female (less than 25% of the 124 Members) – participated in the session by either submitting an agenda item for the Orders of the Day or by taking part in the on-floor debates.

A party-wise analysis shows that 47% of MMAP's Parliamentarians took part in the proceedings, followed by PMLN's 44%, PML's 29%, and PPPS's 17%. However, only 16% of the ANP Legislators, which is the largest party in the House with 48 MPAs, attended the proceedings. None of the Independents took part in any parliamentary business conducted during the session.

To gauge Members' attendance, FAFEN observers conduct a headcount at the start and end of each sitting. On average, 40 Legislators were present at the start and end of each sitting.

Speeches by Members and Treasury rejoinders on Points of Order took 16% of the total session time, dipping into the time otherwise allocated for agenda items on the Order of the Day. Unless the Speaker gives a formal ruling on a Point of Order, speeches and rejoinders do not contribute to any assembly output and only provide media with news pegs.

FINDINGS

Participation

The business of a legislature can only be meaningful with the active and responsible participation of its Members. Indicators of effective participation include, for example, attendance of parliamentary leadership and other Members and active involvement in parliamentary discussion and activities. The findings include:

- The four sittings of the 23rd session spanned five hours and 51 minutes.
- None of the sitting started on time. Each sitting started an average of 54 minutes late.
- The average length of a sitting was an hour and 18 minutes. The shortest sitting lasted 55 minutes.
- The Speaker chaired the entire session.
- Many Members who were technically “present” for sittings actually left the House Chamber to conduct other business.
- Less than one-third of MPAs (28 Members out of a total of 124¹) took part in parliamentary discussions.
- On average, 40 Members were present at the outset and end of each sitting.

Representation and Responsiveness

Representation and responsiveness includes taking action on issues of provincial and national interest by drafting legislation or Resolutions as well as putting forward Call

Parliament Watch Project

An essential component of democracy is publicly accessible information about the political decision-making processes, such as parliamentary deliberations among elected representatives. Citizens must have information about whether, and how their representatives are performing in the Assembly in order to hold those elected leaders accountable.

The Parliament Watch Project (PWP), an initiative of the Free and Fair Election Network (FAFEN), aims to collect and publish information about the job performance of Members of the National Assembly (MNAs), Provincial Assemblies (MPAs) and Senate by observation of these directly elected representatives' actions. FAFEN intends to foster informed engagement between constituents and elected representatives in Pakistan by providing objective and statistically-sound information on parliamentary processes and decisions.

The methodology of the PWP is to deploy trained observers to the National Assembly in order to monitor their performance using a detailed, standardized checklist and reporting forms covering all types of parliamentary business. The information gathered is measured against the neutral and objective framework of the rules of parliamentary procedure.

FAFEN's PWP focuses on directly-observed parliamentary procedure in addition to parliamentary output. In other words, FAFEN's criteria for assessing parliamentary effectiveness are primarily process-oriented and secondarily results-oriented.

¹ See the Election Commission of Pakistan website at www.ecp.gov.pk/Misc/PartyPosition/PAPosition.pdf for details. A total of 99 Members of the Khyber Pakhtunkhwa Assembly are elected through universal adult suffrage, 22 seats are reserved for women, and three seats are reserved for minorities.

Attention Notices (CANs), and keeping an eye on the executive through the Question Hour and in parliamentary committees. The findings are:

- Three Call Attention Notices on the Orders of the Day were taken up. Two of them were directed to the Ministry of Elementary and Secondary Education and one to the Ministry of Planning and Development.
- Two MMAP and a PMLN Legislators moved the notices.
- Twenty-four questions were put forward during the Question Hour in three of the four sittings² during the session.
- All questions were Starred questions, which require oral reply by the relevant ministries.
- Of the 24 queries, only one question was asked by a female MPA.
- The Ministry of Agriculture completely responded to all the five questions.
- An Adjournment Motion on the US congressional hearing on Balochistan was debated by three MPAs.

Output

Parliamentary output primarily comes in the form of legislation and Resolutions. The quantity of such output is indicative of a legislature's efficiency. The quality of output is equally important.

- Two Bills appeared on the Orders of the Day for the session. The National Disaster Management (Khyber Pakhtunkhwa) Amendment Bill 2012 was introduced and sent to the respective Standing Committee while the Khyber Pakhtunkhwa Publication of the Holy Quran (Elimination of Printing and Recording Errors) Bill 2012 was passed.
- Two Resolutions were adopted by the House

Order & Institutionalization

Order and institutionalization of Members are important for an efficient and productive House. Order may be measured, for example, by the conduct of Members, the Chair's effective management of parliamentary business. Institutionalization refers to Members' understanding and compliance with rules of procedure for parliamentary business. FAFEN's observers' findings include:

- Twelve Points of Order were raised which consumed 57 minutes of the sitting time.
- There was one instance of in-House protest by a PMLN Member.
- Three Questions of Personal Privilege were raised.

Transparency

It refers to the amount and quality of information available in the public domain as well as timely and clear information within legislative bodies. Informed, inclusive decisions can only be made when all Legislators are well-informed about parliamentary proceedings.

- Orders of the Day were consistently available to Legislators and others.
- Information about the parliamentary calendar, draft legislation under consideration, Members' attendance and quorum, and other important matters was partially or entirely unavailable to FAFEN observers and the public.

1.0 Session Time and Members' Participation

This section deals with duration of the session and the attendance of Members, their participation and maintenance of Quorum – at least 1/4th (31) of the total Membership. The participation of a Member is recorded when he or she takes part in the proceedings of the House, or submits an Agenda item. It also reviews the presence of the Speaker, Deputy Speaker, Chief Minister, the Leader of the Opposition and parliamentary leaders.

1.1 Session Time

The 23rd session comprising four sittings was held from February 15-22, 2012. The House met for a total of five hours and 51 minutes with each sitting starting 54 minutes late. The shortest sitting lasted 50 minutes (February 22) while the longest sitting spanned an hour and 29 minutes (February 20).

Sitting No.	Day and Date	Late Starts	Hours	Minutes
1st	Wednesday, February 15	41	0	50
2nd	Friday, February 17	58	1	43
3rd	Monday, February 20	58	1	49
4th	Wednesday, February 22	60	1	29
Total		Average 54 minutes	Five hours and 51 minutes	

1.2 Members' Participation

Participation has been classified into three categories – Parliamentarians who only submitted agenda item (s) on the Orders of Day; Legislators who did not submit any agenda item but took part in discussions and deliberations in the House, and Members who submitted agenda items and also participated in debates.

Overall, only 22% of Members – 24 male and four female – participated in the session by submitting agenda items on the Orders of the Day or by taking part in debates. Female MPAs' participation was 18% of their total Membership – 22 – while male Legislators' participation was 23% of their total Membership – 102.

A party-wise analysis shows that 47% of MMAP's Parliamentarians took part in the proceedings, followed by PMLN's 44%, PML's 29%, and PPPS's 17%. Only 16% of the ANP Legislators, which is the largest party in the House with 48 Members, took part in the proceedings. None of the Independents took part in any parliamentary business conducted during the session.

Party	Members Who Only Submitted Agenda Items	Members Who Took Part in Debates	Members Who Participated in Debates as well as Submitted Agenda Items	Percentage of Members Who Only Submitted Agenda Items	Percentage of Members Who Participated in Debates	Percentage of Members Who Submitted Agenda Items And Participated in Debates	Members in Assembly by Party
ANP	2	1	5	4%	2%	10%	48
IND (Government Coalition)	0	0	0	0%	0%	0%	2
IND (Opposition)	0	0	0	0%	0%	0%	7
MMAP	3	3	1	20%	20%	7%	15
PML	1	0	1	14%	0%	14%	7
PPPP	1	0	5	3%	0%	17%	30
PMLN	0	1	3	0%	11%	33%	9
PPPS	0	0	1	0%	0%	17%	6
Total	7	5	16	6%	4%	13%	124

1.3 Attendance

The Khyber Pakhtunkhwa Assembly does not make public the attendance record of Members. As attendance of Members is one way of showing their interest in the parliamentary proceedings, FAFEN conducts a headcount of Legislators present at the start and end of each sitting.

The Members' attendance was observed low during the session with an average 40 Members present at the outset and end of each sitting.

The third sitting witnessed the lowest attendance when 40 Members were there at the start and only 17 at the close.

Sitting No.	Members present at the outset	Members at the end
1st	45	65
2nd	40	21
3rd	40	17
4th	35	56
Average	40	40

1.4 Key Members' Attendance

The presence of the Speaker, Deputy Speaker, Chief Minister, the Leader of the Opposition and the parliamentary leaders in the House highlights their interest in the proceedings.

The Chief Minister did not attend any of the sittings while the Leader of the Opposition attended one for 103 minutes.

The Speaker chaired all the sittings, whereas his Deputy kept away during the proceedings of the session.

The parliamentary leaders of the PPPP and PML remained away from the entire session. The leader of the PML attended all the four sittings, followed by three by the leader of PPPS.

A panel of not more than four Members of the Assembly is nominated by the Speaker at the commencement of each session. A

Member of this Panel of Chairpersons presides over a sitting of the Assembly in the absence of the Speaker and the Deputy Speaker. During the 23rd session, the Members of Panel of Chairpersons attended all the sittings.

2.0 Representation, Responsiveness and Government Oversight

This section is concerned with Members' efforts to represent the interests of their constituents through Call Attention Notices (CANs) and to hold the government accountable through Question Hour. The section also reviews the government's response to the Members' questions. In this report FAFEN did not observe the Standing Committees, another important mechanism for oversight of the executive.

2.1 Questions and Responses

The Question Hour gives Legislators, especially those in the Opposition, opportunity to question the Government or other Members, such as a Ministry's follow-up on a certain Resolution or implementation of a particular piece of legislation.

This section contains salient information on session-wise Question Hour proceedings, such as the number of questions and supplementary questions asked, the nature of questions asked, etc.

All the 24 questions, except for two Starred (requiring oral answers/ six per sitting), were taken up by the House. Additionally, a total of 39 Supplementary questions were raised. MMAP Members asked 20 Starred question during the session, followed by PML (three) and PPPP (one).

Sitting No.	Date	Starred questions	Starred questions actually taken up by the House	Supplementary questions
1st	February 15	<i>Private Members' Day</i>		
2nd	February 17	10	8	18
3rd	February 20	10	10	11
4th	February 22	4	4	10
Total		24	22	39

Of the 24 questions, five were directed toward the Ministry of Agriculture, followed by the Ministries of Labour, and Local Government and Rural Development (four each).

Sr. No	Ministry	Starred	Unstarred	Total	Fully Answered	No Response	Total
1	Agriculture	5	0	5	5	0	5
2	Environment	3	0	3	3	0	3
3	Hajj & Auqaf	1	0	1	1	0	1
4	Irrigation	3	0	3	3	0	3
5	Labour	4	0	4	3	1	4
6	Livestock	2	0	2	2	0	2
7	Local Government and Rural Development	4	0	4	4	0	4
8	Revenue	2	0	2	1	1	2
Total		24	0	24	22	2	24

2.2 Call Attention Notice

Call Attention Notices (CANs) draw the attention of a Minister towards a matter of urgent public importance. Through this notice, a Member can request a Minister to pay attention to a particular matter and take necessary steps to address it.

Of the three notices discussed during the session, two were directed to the Ministry of Elementary and Secondary Education while one was directed to the Ministry of Planning and Development. All three received brief statements/assurances by the relevant ministries.

Sitting No.	Issues Raised	Ministry Concerned	Status
1st	Abolishment of theology teachers posts in new upgraded middle schools	Elementary and Secondary Education	Taken Up
3rd	Vacant EDO position in Mardan	Elementary and Secondary Education	Taken Up
3rd	Rehabilitation of earthquake victims in district Mansehra	Planning & Development	Taken Up

2.3 Adjournment Motions

Adjournment Motions are raised to temporarily adjourn the Assembly business to address a matter of immediate importance.

The PMLN, PML and MMAP Legislators jointly raised an Adjournment Motion against the congressional hearing in the House of Representatives of United States seeking independence for the Baloch people. Three Members (one each of PMLN, PML and MMAP) spoke on the motion.

3.0 Parliamentary Output

This section is concerned with legislation and Resolutions debated and decided during the legislative session.

3.1 Legislation

Considering legislation on matters of national significance through careful debate and discussion is arguably an assembly's chief and most important function. Legislation comes in the form of Government Bills, Private-Member Bills and Ordinances.

3.1.1 Government Bills

Two Government Bills appeared on the Orders of the Day during the session.

The Khyber Pakhtunkhwa Publication of the Holy Quran (Elimination of Printing and Recording Errors) Bill 2012, which aims to ensure error-free publication and recording of the text of the Holy Quran was passed by the House.

While, the National Disaster Management (Khyber Pakhtunkhwa) Amendment Bill 2012 assuring dedicated staff for the Provincial Disaster Management Authority along with an effective disaster management system at district level and mechanism for relief, rehabilitation and settlement of the disaster affected people was introduced. It was sent to the respective Standing Committee for further deliberations.

No Private Members' Bill appeared on the Agenda for the session.

Sr. No	Bills	Bills Debated	Status of Bills		
			Introduced	Passed	Rejected/ Not Taken Up/ Deferred
1	The National Disaster Management (Khyber Pakhtunkhwa) Amendment Bill, 2012	-	✓	-	-
2	The Khyber Pakhtunkhwa Publication of the Holy Quran (Elimination of Printing and Recording Errors) Bill, 2012	✓	-	✓	-

3.2 Resolutions

Through Resolutions, the House expresses its opinion, makes recommendations, or conveys a message on a definite and important issue. The House can also commend, urge, or request action upon a situation under consideration by the Government. Resolutions may be moved by Ministers or Private Members.

The Resolution regarding the drugs regulatory authority was adopted unanimously by the House. Before the passage of the 18th amendment, which has devolved many federal subjects to the provinces, drugs control was regulated by the Federal Ministry for Health. Since the subject of health has been transferred to the federating units along with the powers to regulate drugs, it raises uncertainties about the effectiveness of drugs control at the provincial level. The Resolution was moved under Article 144 of the Constitution, which permits the provincial assemblies to make such a request to the parliament.

The other Resolution was adopted to condemn the US congressional hearing on Balochistan during which demand for independence for the province was made. The Resolution states that Pakistan is a sovereign and independent country and will not tolerate any foreign interference in its domestic affairs.

Sr. No	Resolutions
1	Resolution calling the Federal government to legislate for a Drug Regulatory Authority
2	Resolution condemning the US Congressional Resolution about Baloch independence

4.0 Order and Institutionalization

This section deals with issues raised through Points of Order and the time consumed by them. It also reviews the questions of Privileges, the instances of protests, walkouts or boycotts during the session.

4.1 Points of Order

A Point of Order is raised to address an apparent breach in the rules of parliamentary procedure while an Assembly's business is underway, and usually requests the Speaker's or Chair's ruling on the issue.

Twelve Points of Orders consumed almost an hour (57 minutes or 16% of time) of the total session time. However, none of the Points of Order raised attracted the formal ruling of the Chair. Unless the Chair gives a formal ruling on a Point of Order it does not lead to any assembly output.

Sr. No.	Sitting No	Points of Order	Time Consumed
1	1st	9	35
2	2nd	1	2
3	3rd	1	10
4	4th	1	10
Total		12 POs	57 minutes

4.2 Question of Privilege

Questions of Privilege are concerned with the rights or privileges of the Assembly or any of its Members. In the latter case, they are known as Points of Personal Privilege, as they concern a single Member of the Assembly. Questions of Privilege may address, for example, matters of comfort, amplification or safety in the House, requests for assistance, appeals to be excused due to illness or personal emergencies, abuse of privileges, etc.

A total of three questions of Privilege were brought to the notice of the House during the four sittings. The QoPs did not appear on the Orders of the Day.

During the first sitting, a PMLN Member claimed a Point of Personal Privilege, saying an EDO education provided him incorrect information. The matter was referred to the Committee on Rules of Procedure and Privilege (CRPP). Two QoPs (personal privilege) were raised during the 3rd sitting to report unethical and defamatory comments about a Member of the Assembly and misbehavior by official of SRSP, Mansehra. Both of the QoPs were sent to the Committee on Rules of Procedure and Privilege.

Sr. No	Questions of Privilege (QoP)	Party
1	Information provided by EDO Education Abbottabad	PMLN
2	Maltreatment at SRSP office in Mansehra	PML
3	Unethical and defamatory report in newspaper	ANP

4.3 Protests, Boycotts and Walkouts

The session witnessed a single walkout by a PMLN Member against the absence of the concerned Minister to respond to his Question of Privilege.

GLOSSARY

Adjournment Motion

A motion to adjourn the business of the Assembly for the purpose of discussing a definite matter of recent and urgent public importance.

Assembly

Provincial Assembly

Chairperson

In relation to a sitting, any person who is presiding at that sitting.

Calling Attention Notice

A notice by which a special question of public importance involving law and order may be raised.

Chair

The Presiding Officer at a meeting of the House.

Committee

A parliamentary committee constituted under Rules of Procedure, comprising of various Members of Parliament.

Deputy Speaker

When the office of Speaker is vacant or Speaker is absent or is unable to perform his functions due to any cause the Deputy Speaker acts as the Speaker of the House.

Leader of the Opposition

"Leader of the Opposition" means a Member who, in the opinion of the Speaker, is the leader of the majority of Opposition Members for a certain time period.

Legislation

The process of crafting law.

Member

A Member of the Assembly and for purposes of moving or opposing a Bill, an amendment, a motion or a Resolution, includes a Minister.

Minister

May refer to the Chief Minister a Provincial Minister or a Parliamentary Secretary in respect of any function delegated or entrusted to him by a Minister.

Opposition

The party or parties who do not belong to the governing party.

Orders of the Day

"Orders of the Day" means the list of business to be brought before the Assembly on any day.

Point of Order

Relates to the interpretation or enforcement of parliamentary rules of business or articles of the Constitution that regulate the business of the Assembly. The mover of a Point of Order raises a question which is within the cognizance of the Chair.

Private Member's Bill

A proposed law introduced by a Private Member.

Proceedings

The actions taken by the House or by a committee, the most important parts of the proceedings are the decisions that are taken.

Quorum

Quorum is the minimum number of Members of Assembly necessary to conduct the business of the Assembly. Under Article 55 of the Constitution 1/4th of the total Membership of the Assembly is required for Quorum.

Question Hour

A time fixed under the rules for asking and answering questions.

Resolution

A motion for the purpose of discussing and expressing an opinion on a matter of general public interest.

Starred question

A question that requires an oral answer in addition to a written reply.

Sitting

A meeting of the Assembly on a day.

Table

The Table of the House.

About FAFEN

Free and Fair Election Network (FAFEN), established in 2006, is a coalition of 42 leading civil society organizations, working to strengthen all forms of democratic accountabilities in Pakistan. Governed by Trust for Democratic Education and Accountability (TDEA), FAFEN's key achievements are:

- Observed the public display of Pakistan's draft electoral rolls and conducted the country's first statistically-valid voters' list audit in 2007
- Deployed more than 18,829 trained, neutral Election Day observers nationwide to watch the February 18, 2008 polls and 264 long-term observers to monitor the pre-election process
- Fielded long-term observers nationwide and published 19 pre-election reports
- For the February 18, 2008, General Elections, FAFEN conducted 260 simultaneous Parallel Vote Tabulations (PVTs)- the largest effort in the world
- Conducted its first survey, Constituents Aspirations Survey, in December 2008 with a sample size of 3,124 respondents to get the description of the state of public opinion and also to get a deeper understanding of the values, attitudes and beliefs of people living in the constituencies
- Conducted mapping of organizations working for human rights within Pakistan
- Observed general elections at Gilgit-Baltistan in 2009 and by-elections in various constituencies of the Punjab, Balochistan and Khyber Pakhtunkhwa in 2010
- Implemented a unique methodology to observe parliamentary proceedings under its Parliament Watch Project
- Monitors public institutions across Pakistan and issues monthly reports on the state and performance of educational, health and other local level institutions. In addition, monthly reports on prices, crimes, incidence of disease, caseload in lower courts and political and electoral violence are issued

FAFEN continues to implement robust programs in-between elections related to monitoring parliamentary affairs, connecting constituents to their elected representatives, monitoring the performance of public and elected institutions and advocating electoral and democratic reforms. FAFEN is also monitoring political and electoral violence, peace activities and promoting active citizenry through ongoing civic education activities across the country. FAFEN is currently implementing Supporting Transparency, Accountability and Electoral Processes in Pakistan (STAEP) in 200 National Assembly constituencies in 119 districts across Pakistan.

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