



FAFEN PARLIAMENT MONITOR



SIXTH SESSION

Provincial Assembly of Khyber Pakhtunkhwa
(October 7-11, 2013)

Free and Fair Election Network
www.fafen.org

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List of Abbreviations

ANP	Awami National Party
APML	All Pakistan Muslim League
AJIP	Awami Jamhuri Ittehad Pakistan
IND	Independent Member
JIP	Jamaat- e- Islami Pakistan
JUI-F	Jamiat Ulema-i-Islam (Fazal-ur-Rehman)
PML-N	Pakistan Muslim League(Nawaz)
PPPP	Pakistan People's Party Parliamentarians



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 sixth session of the Khyber Pakhtunkhwa Assembly witnessed the introduction of two important government bills on the local government system and the establishment of an accountability commission, amidst government and opposition walkouts.

The Khyber Pakhtunkhwa Local Government Bill, 2013 provides for holding the local government elections on party basis at district and tehsil council levels while the village council will be elected on non-party basis. The new local government system will do away with the concept of union council and village councils will be introduced. According to the bill, the task of delimitation, which will start after the legislation is passed, will take two months.

Also laid during the proceedings, the Khyber Pakhtunkhwa Ehtesab Commission Bill 2013 seeks to provide for the “establishment of the Khyber Pakhtunkhwa Ehtesab Commission, for good governance and to create an effective institutional structure for the prevention of corruption and corrupt practices and to hold accountable all public office holders, accused of such practices.”

The provisions of the bill will extend to all public office holders performing their functions in connection with the affairs and the employment of government funds in the province. Once the bill comes into force, an Accountability commission comprising five commissioners nominated by the search and scrutiny committee would be established within 30 days to overcome corrupt practices.

As the Standing Committees have still not been formed in the Khyber Pakhtunkhwa Assembly, the two bills were sent to select committees for review.

The opposition and government staged five walkouts consuming 63 minutes - 8% of the session time. Women MPAs from the treasury and opposition benches walked out from the last sitting over the alleged discrimination in the allocation of funds. Similarly, a PML-N lawmaker protested the delay in action on a privilege motion against the Secretary Local Government.

Two Joint walkouts were over the transfer of district police officer, Mansehra; the opposition members not given the chairmanship of District Development Committees and the issue of political transfers and appointments of teachers in Buner. Additionally a PTI lawmaker staged a 16 -minute walkout when the Speaker disallowed him to speak.

The House adopted a single resolution calling upon the provincial and federal governments for the dissolution of ERRA

Introduction

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 Parliament in order to hold those elected leaders accountable.

The Parliament Watch Project (PWP), launched in 2008, aims at generating objective and statistically-sound information about parliamentary performance to foster informed engagement between the constituents and their elected representatives. Universal access to information about national legislative processes is an essential component of democracy. A society cannot be truly democratic until constituents know about the person they are voting for, and whether or not the elected representatives are fulfilling their responsibilities. Since there is a dearth of publicly accessible information about the political decision-making processes, such as parliamentary deliberations, the PWP is an effort to bridge this gap. This report will be a contribution towards creating a more informed citizenry and an increasingly responsible parliament.

The PWP employs direct observation as one of the tools to evaluate parliamentary proceedings with the following indicators:

Transparency: Government's accountability requires transparency in decision-making and policy implementation. Transparency refers to the amount and quality of information available to the public as well as timely and clear information communicated within legislative bodies themselves. Inclusive and strong decisions can only be made when all legislators are well-informed about parliamentary proceedings.

Participation: Only the active and responsible participation of all the Members can make the business of parliament meaningful. The participation can be judged through various indicators like attendance of parliamentary leaders and other members and their active involvement in parliamentary discussion and activities.

Responsiveness: Parliament's responsiveness means Members' collective actions on the issues of public interests which are raised and discussed on the floor of the house through legislation, resolutions or any other agenda item. Responsiveness of government to the public is measured in terms of parliamentary oversight and effective implementation of policy decisions. Parliament's executive oversight function is mainly carried out through questions and parliamentary committees.

Parliamentary Output: Parliamentary output primarily comes in the form of legislation and resolutions. The quantity of such output is indicative of parliament's efficiency. The quality of output is equally important. Considering legislation on matters of national significance through careful debate and discussion is arguably a parliament's chief and most important function.

Order and Institutionalization: Order and institutionalization of members are important for an efficient and productive parliament. Order may be measured, for example, by the conduct of members and the chair's effective management of parliamentary business. Institutionalization refers to members' understanding and compliance with rules of procedure for parliamentary business.

and allocation of the funds for the rehabilitation of the 2005 earthquake victims to the provincial government. The resolution was jointly sponsored by legislators of PTI, PML-N and JUI-F.

From October 7-11, 2013, the sixth session met for 13 hours and 25 minutes. Each of the four sittings on average lasted three hour and 21 minutes. Thirty-one percent of the session's time was consumed in four breaks.

The Speaker was absent throughout the session whereas the Deputy Speaker presided over the entire session. The Chief Minister was present in the first sitting only while the Leader of Opposition attended two sittings.

FAFEN observed that members' attendance remained low during the session. On average, there were 31 members at the outset and 48 at the time of adjournment of the sittings. Lack of quorum was pointed out four times by the JUI-F and PPPP legislators during the brief session.

The House took up all of the ten calling attention notices tabled in the session. Five of them were sponsored by JUI-F members. The rest of the notices were moved by the legislators of PPPP, PML-N, PTI, JI and ANP. Among other issues, the notices were related to education, toy weapons, health, finance and employment.

A total of 13 reports were presented in the fourth sitting of the session. Of them, 12 were the annual reports of the Council of Islamic Ideology from 1997 to 2009. The other report was about the Khyber Pakhtunkhwa Public Service Commission for the year 2010.

Two members debated the sole adjournment motion of the session for seven minutes. Tabled by an ANP member, the motion was on the delay in work of power generation in Machai district, Mardan after a no objection certificate (NOC) has been granted for this purpose.

1.0 Session Time and Attendance

This section deals with the duration for which the assembly met, the attendance of members, their participation and maintenance of quorum – at least 1/4th (31) of the total membership in the Khyber Pakhtunkhwa Assembly. It also reviews the presence of the Speaker, Deputy Speaker, Chief Minister, and the Leader of the Opposition.

1.1 Time and Duration

The four-sitting session from 7-11 October 2013 met for 13 hours and 25 minutes. On average, all sittings were delayed by 64 minutes. Similarly every sitting on average lasted three hours and 21 minutes. The House observed four breaks during the session, consuming four hours and 12 minutes – 31% of the session's time.

Table 1.1: Time and Duration

Sr. No.	Day and Date	Sitting No.	Late Starts	Hours	Minutes
1	Monday, October 7	1st	57	3	16
2	Tuesday, October 8	2nd	53	3	41
3	Wednesday, October 9	3rd	65	2	21
4	Friday, October 11	4th	80	4	7
Total			Average 64 Minutes	13 hours and 25 minutes	

1.2 Members' Attendance

As the Khyber Pakhtunkhwa Assembly secretariat does not share the members' attendance record with the public, FAFEN observer conducts a headcount of MPAs at the beginning, the end and at the time of maximum attendance during a sitting.

Member's attendance was low during the session. On average, 31 MPAs were recorded at the start and 48 at the adjournment of a sitting. All three non-Muslim legislators attended the whole session.

The quorum was pointed out four times during the session – twice during the second sitting – by the PPPP and JUI-F legislators. On the first two occasions, the proceedings resumed after two minutes as the quorum was found complete. Similarly in the fourth sitting also the proceedings resumed after five-minutes after a PPPP legislator pointed out lack of quorum.



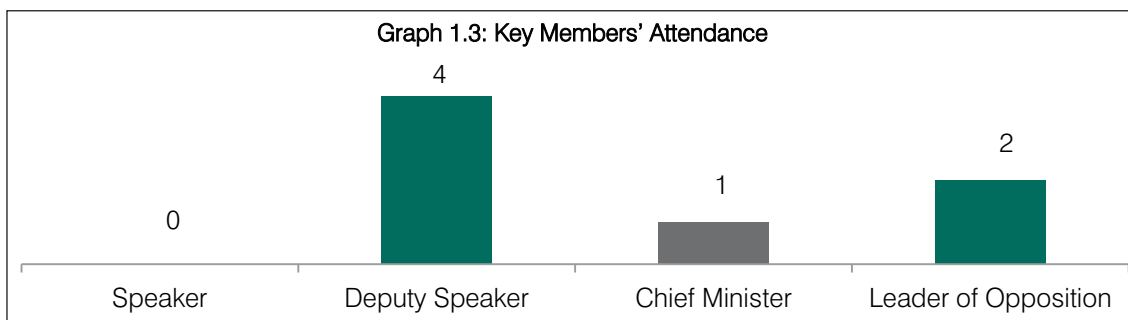
Table 1.2: Members' Attendance

Sitting No.	Members at the Outset	Members at the End	Maximum Members present	Minority Members Present
1st	44	46	69	3
2nd	26	38	62	3
3rd	19	35	43	3
4th	35	74	74	3
Average	31	48	62	3

1.3 Key Members' Attendance

Attendance in sittings is crucial for members, especially those holding important positions (Speaker, Deputy Speaker, Chief Minister and the Leader of the Opposition) to perform their leadership and representative roles.

In the absence of the Speaker, the Deputy Speaker chaired all four sittings - 69% of the session. The remaining time (31%) was consumed by four breaks. The Chief Minister attended the first sitting (three hours and 60 minutes, 24% of the session) while the Leader of the Opposition was present during two sittings for nearly two hours, attending 16% of the proceedings.



2.0 Representation, Responsiveness and Government Oversight

This section reviews the members' efforts to represent the interests of constituents through adjournment motions and calling attention notices.

2.1 Calling Attention Notices

A member may call the attention of a minister to any matter of urgent public importance and the minister may make a brief statement or ask for time to make a statement at a later hour or date¹.

The House took-up all ten calling attention notices on the agenda during the session. The opposition party JUI-F tabled five of the notices while the remaining five were raised by members of JI, PTI, ANP, PPPP and PML-N.

Two of the ten members raising calling attention notices were female legislators of JUI-F while the rest of the notices were moved by male legislators.

The five notices by legislators of JUI-F were about the delay in promotions in forest department, lack of anti-hepatitis vaccine in the province, increment for employees ordered by Federal Services Tribunal, irregularities in transfer of teachers in Buner and the government not upgrading senior stenographers as assistant private secretary in all the departments of the province.

Issues such as regulating private educational institutions, toy weapons affecting child psychology, ceasing of funds in Zakat and Usher department, redefining two union councils in constituency PK-98 and shortage of medicine and mosquito nets in Bannu were tabled through notices by the members of JI, ANP, PML-N, PPPP and PTI, respectively.

The departments of Finance, Health and Elementary and Secondary Education each received two calling attention notices. The other four notices were directed to the Forest, Zakat and Ushr, Local Government and Home departments.

¹ Chapter X-A, Rule 52-A of The Rules and Procedures of the Khyber Pakhtunkhwa Assembly

Table 2.1: Calling Attention Notices

Sr. No.	Calling Attention Notices	Party
1.	Raising concern over not functioning Private Regulatory Authority (PRA). To control and regularize private schools in the province, last government established a Private Regulatory Authority. The owners of private schools protested against the establishment of the said authority and the authority has now been demolished.	Jl
2.	Toy guns in the market affecting child psychology and inciting criminal behavior in them. It is demanded from the government to take steps and ban the manufacturing, import and buying of this type of toys through implementing the law or by using government authority	ANP
3.	Delay in promotion in the forest department in different regions and circles in KPK province. The promotion of the forester is through the regional DPC. No foresters have been promoted since 2009 to till date in Hazara region but promotions have been made in Malakand division.	JUI-F
4.	Funds ceased on the instructions of the Secretary of Zakat and Ushr department. Due to the non-provision of funds poor people cannot fulfill their basic needs and go for their treatment and also the Scholarships of school and colleges couldn't be released.	PML-N
5.	Redefining two union councils in constituency PK-98.	PPPP
6.	Non-availability of anti-hepatitis vaccine all over the province.	JUI-F
7.	Employee's increment orders by Federal Services Tribunal and the Supreme Court and the Finance Division notifying the allowances and raise of salary of the employees who are up-graded in the period of 2002-2013. The summary which is sent by provincial Finance division to Chief Minister is still pending.	JUI-F
8.	Shortage of medicine and mosquito nets in three hospitals in Bannu affecting poor people.	PTI
9.	Issue of irregularities in transfer of PBS-15 teachers in Buner against the Merit and policy.	JUI-F
10.	Ignorance of the government on notification to up-grade the senior stenographers to grade 16. The notification was to up-grade the scale of senior stenographers and changing their designation as "Assistant private Secretary" by Finance Division on 28 February 2013 on the request of Establishment Division of Islamabad. It is stated that the provincial government and Establishment department is only up-grading the scale of civil secretariat employees which is unjust with the employees who are on same scale in the other departments of the province. It is demanded to up-grade the designation of scale 16 employees' and service structure of the other departments of the province as well.	JUI-F

2.2 Adjournment Motion

According to Rule 69 of the Khyber Pakhtunkhwa Assembly rules of procedure, "a motion for an adjournment of the business of the assembly for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the Speaker."

Two lawmakers spoke on an ANP sponsored adjournment motion regarding delay in power generation in Machai, district Mardan even after the issuance of a no objection certificate (NOC).

3.0 Parliamentary Output

This section is concerned with the bills introduced and passed and the resolutions tabled during the session. It also details the committee reports presented during the proceedings.

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.

During the fourth sitting two government bills on important issues of accountability and local government system were introduced. As the Standing Committees have still not been formed in the Khyber Pakhtunkhwa Assembly, the bills were sent to Select Committees for review.

The Khyber Pakhtunkhwa Ehtesab Commission Bill 2013 seeks to provide for the "establishment of the Khyber Pakhtunkhwa Ehtesab Commission, for good governance to create an effective institutional structure for the prevention of corruption and corrupt practices and to hold accountable all public office holders, accused of such practices." The provisions of the bill will extend to all public office holders performing their functions in connection with



the affairs and the employment of government funds in the province. Once the bill comes into force, an Ehtesab commission comprising five commissioners nominated by the search and scrutiny committee would be established within 30 days to overcome corrupt practices.

The Khyber Pakhtunkhwa Local Government Bill 2013 provides for holding the local government elections on party basis at district and tehsil council levels while the village council will be elected on non-party basis. The new local government system will do away with the concept of union council and village councils will be introduced. According to the bill, the task of delimitation, which will start after the legislation is passed, will take two months.

3.2 Reports

Thirteen reports were laid during the session. Twelve of them were annual reports of the Council of Islamic Ideology from 1997 till 2009. The other report was on the Khyber Pakhtunkhwa Public Service Commission for the year 2010.

3.3 Resolutions

Through resolutions, the House expresses its opinion, make recommendations, or convey a message on a definite and important issue. During the second sitting, the House adopted a resolution jointly tabled by the PTI, PML-N and JUI-F legislators calling upon the provincial and federal governments to abolish the Earthquake Reconstruction and Rehabilitation Authority (ERRA) and transfer all its funds to the provincial government to reconstruct the affected areas of the 2005 earthquake in Khyber Pakhtunkhwa through its own departments.

4.0 Order and Institutionalization

This section deals with issues raised on 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 under way, and usually requests the Chair's ruling on the issue. However the members mostly speak on points of order on issues than point out any breach of rules in the House business.

Lawmakers spoke on three points of orders consuming 10 minutes of the proceedings. A point of order about giving animal skins to the organizations involved in terrorist attacks was raised in the first sitting. The other two were on offering prayers for 2005 earthquake victims and nepotism.

Table 4.1: Points of Order

Sitting No.	Points of Order	Time Consumed (Mins.)
1st	1	3
2nd	1	3
3rd	1	4
4th	0	0
Total	3	10

4.2 Questions of Privilege

The Speaker shall, after the disposal of questions and before the List of Business is entered upon, call upon a member who tables a question of privilege on an observed violation of the privileges of a member, committee or the assembly.

During the second sitting a JUI-F lawmaker presented a question of privilege, complaining about the misconduct of the Deputy Commissioner Bannu. A JI member also presented a motion against the Forest Division Manager, Dir, over his misbehavior with the MPA. The motions were referred to the Privileges Committee which is yet to be formed in the Khyber Pakhtunkhwa Assembly.

4.3 Protests, Boycotts and Walkouts

The session witnessed five walkouts consuming 63 minutes (8% of the session time). Women MPAs from the treasury and opposition benches staged a ten-minute walkout in the last sitting, saying they were facing discrimination over the allocation of funds for the legislators.

A walkout was staged by PML-N lawmakers on the delay in action on a privilege motion against the Secretary Local Government. A PTI lawmaker walked out of the proceedings for 16 minutes when the Speaker disallowed him to speak.

Two joint walkouts were over the transfer of district police officer, Mansehra, the opposition members not given the chairmanship of District Development Committees and the issue of political transfers and appointments of teachers in Buner.

Table 4.3: Protests and Walkouts

Sitting No.	Reason	Party	Time (Mins.)
1st	No action taken on the privilege motion against the Secretary Local Government	PML-N	9
2nd	The transfer of district police officer, Mansehra, and the opposition members not given the chairmanship of District Development Committees	PPPP, JUI-F, ANP PML-N	16
4th	The Chair did not allow him to speak	PTI	17
	Discrimination against women MPAs over not allocating development funds to them	APML, ANP, JUI-F, PML-N PPPP, IND(opposition)	11
	On discrimination against women MPAs in the Khyber Pakhtunkhwa Assembly	Female lawmakers belonging to government and opposition parties	10

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.

Amendment

A motion to amend an earlier motion before that earlier motion is put to the assembly for its decision.

Assembly

National assembly or a provincial assembly

Assent

Refers to the power of the Governor to assent the Bill passed by the assembly or return the same to the assembly for reconsideration.

Chairperson

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

Chair

The presiding officer at a meeting of the house or a committee.

Committee

A parliamentary committee constituted under Rules of Procedure, comprising of various members of parliament.

Constitution

Means the Constitution of the Islamic Republic of Pakistan 1973.

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.

Motion

A proposal made by a member or a minister relating to any matter, which may be discussed by the assembly and includes an amendment.

Mover

The mover of a bill, a resolution, a motion or an amendment of a bill, a resolution or a motion and in the case of a government bill, a resolution, a motion or an amendment, a minister or a parliamentary secretary acting on behalf of the government.

Opposition

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

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 Speaker.

Private Member

A member who is not a minister or a parliamentary secretary.

Private Member's Bill

A proposed law introduced by a private member.

Quorum

Quorum is the minimum number of members of assembly necessary to conduct the business of the assembly. Under Article 55(2) 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.

Speaker

The Speaker of the assembly, including the Deputy Speaker or any other member acting as the Chairperson on a particular sitting or number of sittings.

Starred Question

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

Sitting

A meeting of the assembly or that of a committee on a day.

Table

The table of the house.

Unstarred Question

"Unstarred Question" means a question for a written answer.



FAFEN Election Observation Secretariat
House 145, St 37, F-10/1, Islamabad

(P) 051-84 66 230-32
(F) 051-84 66 233

(E) secretariat@fafen.org
(Twitter) [@_FAFEN](https://twitter.com/_FAFEN)

www.fafen.org

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 include:

- Observed the public display of Pakistan's 2007 draft electoral rolls and conducted the country's first statistically-valid voters' list audit
- Deployed 18,829 trained, neutral Election Day observers nationwide to monitor the February 18, 2008, General Elections
- Fielded 264 long-term observers nationwide and published 19 pre-election reports
- Conducted 260 simultaneous Parallel Vote Tabulations (PVTs)- the largest PVT effort in the world
- Conducted a Constituent Aspirations Survey in December 2008 with 3,124 respondents regarding attitudes and beliefs of people living in the constituencies
- Observed Gilgit-Baltistan 2009 General Elections and 2010-2012 By-Elections in various constituencies of the Punjab, Balochistan and Khyber Pakhtunkhwa
- Implements a unique methodology to observe and report on legislative proceedings and performance under a Parliament Watch Project
- Monitors public institutions across Pakistan and issues monthly reports on the state and performance of educational, health and other local institutions as well as reports on prices, crimes, incidence of disease, caseload in lower courts, and political and electoral violence

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 and promoting active citizenship through ongoing civic education activities across the country. FAFEN is currently implementing Supporting Transparency, Accountability and Electoral Processes (STAEP) in 200 National Assembly constituencies in 119 districts across Pakistan.