

### Backgrounds

The last local government elections in Pakistan were held under Musharraf's system in 2005 and the local governments continued working until 2010. New national and provincial governments came to power in 2008 and wanted to put their own local government systems in place in each of the provinces, so in 2010, each province dissolved the local government system prevailing at that time, and there have been no local government systems in place since. In December 2014 Balochistan became the first province to hold new local elections.



### The Legal Framework for Local Government Elections in KP

Under the Constitution of the Islamic Republic of Pakistan, it is the State's responsibility to encourage local government institutions composed of elected local representatives and to provide special representation for peasants, workers and women.<sup>1</sup> The 18<sup>th</sup> Amendment to the Constitution, adopted in 2010, requires provinces to pass legislation establishing local government systems and to devolve political, administrative and financial responsibility and authority to the elected local representatives.<sup>2</sup> The Election Commission of Pakistan (ECP) has constitutional mandate to hold local government elections in the provinces.

However, most of the previous provincial governments did not make serious attempts to develop local government systems. While hearing a case of law and order in Balochistan in April 2012, the Supreme Court directed the provinces to establish local government systems as mandated by the Constitution in order to solve socio political problems of the people<sup>3</sup>. Under immense pressure from the Supreme Court, Balochistan, Punjab, Sindh and Khyber Pakhtunkhwa (KP) provinces have adopted local government legal frameworks. In KP, the Khyber Pakhtunkhwa Local Government Act, 2013 (KPLGA) was notified by the provincial government on 7 November 2013 and the Khyber Pakhtunkhwa Local Councils (Conduct of Elections) Rules, 2014 were published on 10 March 2014.

### Powers of Local Councils

The institution of local government is essentially established to carry out development activities at local levels and provide basic civic amenities to citizens, and local councils in KP are mandated with these functions.

To achieve the desired results, it is essential that local government institutions have sufficient autonomy in political, administrative and financial matters. Although the local councils may not be ideally vested with these powers under the local government framework, there are no major restrictions on their functions as local bodies. Some of the powers enjoyed by local councils are:

<sup>1</sup> The Constitution of Islamic Republic of Pakistan-Article 32.

<sup>2</sup> Ibid. Article 140A.

<sup>3</sup> Civil Miscellaneous Application No.6882/13 in Constitution Petition No.77 of 2010

- Approving by-laws for performance of functions devolved to district governments <sup>4</sup>;
- Approving and levying local taxes<sup>5</sup>;
- Developing and approving long and short term development schemes for the local area<sup>6</sup>;
- Enforce municipal laws;
- Prepare budgets and collect taxes, fines and penalties provided under the law.<sup>7</sup>

Local councils are also responsible for providing and maintaining infrastructure and civic amenities; implementing development plans in the social sector and for performing regulatory functions.

Under the existing legal framework, the Government of KP has the authority to exercise general supervision and control over the local councils. The government can exercise this authority in a number of ways, including inspection of local councils, audit of accounts, issuing directions, suspension of Nazims and Naib Nazims of local councils, and control over budget. If implemented to the full extent, these provisions may essentially render the local government subordinate to the provincial government and thus effectively powerless.

## Electoral Systems, Structures and Compositions

The local government system in KP has a rural-urban divide; separate institutions have been designed for rural and urban populations of the province. Local elections in KPK for District Councils and Tehsil Councils will be held on party-basis. However, the Village Councils and Neighborhood Councils are multimember wards, and election of these members will be held on non-party basis.

### Reserved Seats for Special Interest Groups

The electoral systems at all levels of local government in KPK have seats reserved for women, peasants/workers, non-Muslims and youth, in addition to the general seats. The number of reserved seats in the City Districts/District Councils<sup>8</sup> and Tehsils/Town Councils<sup>9</sup> vary depending on the size of the body and the composition of the local population, but all have at least one reserved seat in each category. By contrast, the number of reserved seats at the village/neighborhood level are explicitly set in the law. The table below shows the seats reserved for each category in the local bodies.

Level	Women <sup>10</sup>	Peasants/ Workers	Minorities	Youth
District	20-24%	3-6%	3-6%	3-6%
Tehsil/town	11-24%	3-11%	3-11%	3-11%
Village/neighborhood	2 members	1 member	1 member	1 member

### Local Bodies in Khyber-Pakhtunkhwa

There are three tiers of local government in Urban Khyber-Pakhtunkhwa. The Neighborhood Council is the lowest tier in urban areas, the Town Council is the second and the City District Council Peshawar is the highest. In rural KPK, local bodies are divided into the same three tiers with different names. The lowest tier is the Village Council, then the Tehsil Council, and the highest tier is the District Council.

Urban/Rural body	Composition	Number of general seats	Electoral system
Urban:	"Neighborhood" means	5-10 general members,	A Neighborhood/Village

<sup>4</sup> Section 18 of the Khyber-Pakhtunkhwa Local Government Act, 2013

<sup>5</sup> Section 25 of the Khyber-Pakhtunkhwa Local Government Act, 2013

<sup>6</sup> Section 18 & 25(d) of the Khyber-Pakhtunkhwa Local Government Act, 2013

<sup>7</sup> Section 18 of the Khyber-Pakhtunkhwa Local Government Act, 2013

<sup>8</sup> Part A of the Second Schedule of the Khyber-Pakhtunkhwa Local Government Act, 2013

<sup>9</sup> Part B of the Second Schedule of the Khyber-Pakhtunkhwa Local Government Act, 2013

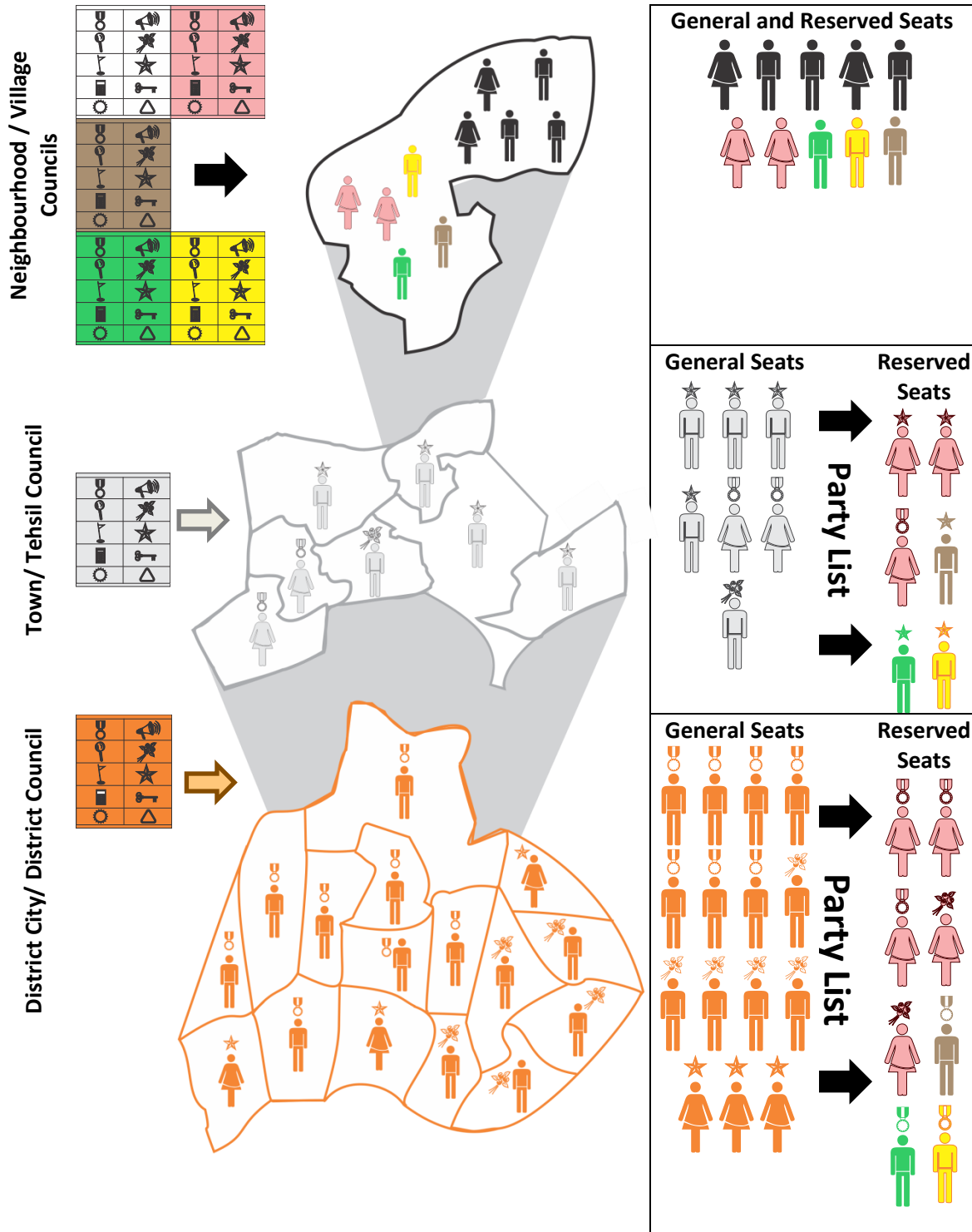
<sup>10</sup> The percentages are calculated based on the number of reserved seats out of the total number of seats in each district/ tehsil.

Urban/Rural body	Composition	Number of general seats	Electoral system
<b>Neighbor-hood Council</b>  <b>Rural: Village Council</b>	<p>a mohallah, a group of streets, lanes or roads, in areas with urban characteristics, designated as a Neighborhood by the Government.</p> <p>Neighborhood and Village councils generally have a population size of 2,000-10,000.</p>	based on the size of the population.	<p>Council is a multi- member constituency, and all seats, including reserved seats, are directly elected. The system used for elections is single non-transferable vote (SNTV).</p> <p>Under SNTV, each voter casts one vote for a candidate but - unlike a first past the post system (FPTP) - there is more than one seat to be filled in each electoral district. Those candidates with the highest number of votes fill these positions.</p> <p>The candidates securing highest and second highest number of votes in election to general seats shall be the Nazim and Naib Nazim of the Neighborhood Council.</p>
<b>Urban: Town Council</b>  <b>Rural: Tehsil Council</b>	The provincial government may declare a whole number of contiguous village councils and neighborhood councils to be a Town or Tehsil in the District.	The number of general seats varies depending on the population size. Currently, the size of all Town and Tehsil Councils are 5-92 members. <sup>11</sup>	<p>Wards for general seats in a City District/ District Council or a Town/ Tehsil Council are single member wards, and members will be elected directly under the FPTP system.</p> <p>Members for reserved seats will be elected indirectly through a proportional representation party list system based on the total number of general seats secured by each political party in the Council, as is the case in the National and provincial assemblies for election to reserved seats.</p>
<b>Urban: City District Council</b>  <b>Rural: District Council</b>	The provincial government by notification declares districts notified under <i>The West Pakistan Land Revenue Act, 1967</i> to be districts under the KPKs local government laws.	The number of general seats varies depending on the population size. Currently, the size of all City District and District Councils are 16-92 members. <sup>12</sup>	

<sup>11</sup> Part B of the Second Schedule of the Khyber-Pakhtunkhwa Local Government Act, 2013

<sup>12</sup> Part A of the Second Schedule of the Khyber-Pakhtunkhwa Local Government Act, 2013

If elections for all of the above local councils are held on the same day, a voter will cast seven ballots: one for the general member to represent his/her ward in the City District/ District Council; one for the general member of his/her Town/ Tehsil Council; and five for **general members**, and reserved seats for **non-Muslims**, **women**, **peasants/ workers** and **youth** in the Neighbourhood/ Village Council.



## Qualifications for Candidates and Elected Members<sup>13</sup>

The requirements for candidate and representative eligibility are listed in Section 78 of KPLGA. Of these, the most prominent are he/she:

- is a citizen of Pakistan;
- is at least 21 years of age on the last day for filing nomination papers. A candidate for a seat reserved for youth should be below 30 years of age;
- is enrolled as a voter in the electoral roll of the relevant ward or council from which he/she is competing;
- is of good character and is not commonly known to violate Islamic injunctions, or if he/she is non-Muslim, the candidate should have a good reputation;
- has not been declared of an unsound mind by a competent court;
- has not been removed or dismissed from public service on the grounds of moral turpitude within the past 5 years; and
- Is not a willful defaulter of any tax or other financial dues.

## Voter Eligibility

According to Section 77 of KPLGA, a citizen is entitled to vote in local government elections in KPK if he/she:

- is a citizen of Pakistan;
- is at least eighteen years of age; and
- fulfils such other conditions as the Election Commission may specify.

## Current Status of LG elections

ECP is making preparations to conduct local government elections in Khyber Pakhtunkhwa on 30 May 2015. The Provincial Government has foregone its earlier demand of introducing biometric voter verification and the use of electronic voting machines in local government elections for technical reasons. A key challenge in the logistics of conducting the election is the production of ballot papers and the flow in the polling stations and booths, as each voter will be issued and mark seven different ballot papers. This will slow down the process and may cause delays, queues and potentially prompt extension of poll hours if the turnout is high.

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<sup>13</sup> Section 78 of the Khyber Pakhtunkhwa Local Government Act, 2013.