

AN ASSESSMENT OF LOCAL GOVERNMENT DYNAMICS IN KHYBER PAKHTUNKHWA: 2015 AND 2022 ELECTIONS

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ABSTRACT

This paper has explore the power dynamics of local-level governance in Khyber Pakhtunkhwa after the 2015 and 2022 elections. Labaree's typology is used as a framework for examining literature through historical and theoretical perspectives employing a case study method. Moreover, interviews with experts, stakeholders, and the public were conducted to gain further insights into the research. This research contributes to a deeper understanding of the power dynamics within local governance systems, particularly in the context of Khyber Pakhtunkhwa. The research findings explore the impact of the electoral process at the local level on power sharing and the functioning of local governance. The study also emphasizes the issue of addressing power imbalances and promoting the presence of local institutes for more representation. Based on the analysis, the study recommends more decentralization and less intervention from Provincial governments to give the real essence of power-sharing at the grass root level. Overall, it also contributed to a deeper understanding of the power dynamics in local governance and the hurdles faced by the system in the devolution of power. In addition to this, findings suggest more devolution of power to local governments and less interference by the provincial government that will increase public service efficiency, and the spirit of democracy will be witnessed by the general public as well.

Keywords: Local Government Elections, Election Commission of Pakistan, Local Governance, Local Government in Khyber Pakhtunkhwa.

1. INTRODUCTION

Decentralization is explained as policy reforms of transferring authority, resources, and responsibilities from higher to lower levels of government (Agrawal, Arun, 2001). According to the World Bank, decentralization is defined as transferring the authority of planning, managing, and raising resources from the central government to its subordinate levels or units of government. The United Nations Agenda 2030 also aims to strengthen local institutions and to ensure equal decision-making at all levels as envisaged in Sustainable Development Goals 16.6 16.7 (Bisogno et al, 2023).

The modern trend in local government consists of elected members from a specific area aiming to administer and serve the public without the interference of federal or provincial government (Ola, 2009). Local Governments have been found useful in developed countries and provided fruitful results at lower levels of governance in public services (Dr. Bakhtiar et al, 2020). As most of the local government systems were introduced in military regimes hence they used the local government system in order to keep roots in the general public and to accumulate power (Nadeem Malik, Ahsan Rana, 2019). The reluctance of the political elite regarding the devolution of power to the local level is that it was a courageous step from Political parties to allow transferring of power to the local level through the 18th Amendment (Mr. Asmat Kakar, 2019). The local government elected members lack any education requirement for elections to local governments thus education must be added for elections to the local councils to get well-versed in technical issues regarding financial and governance aspects in local bodies.

If we see decentralization in terms of Pakistan, Khyber Pakhtunkhwa (KPK) province has been witnessed to implement decentralization to provide better services (Aftab, Meshal, 2019). This research paper strives to analyze the devolution process in KPK province and to compare the powers of the elected representatives of the Local Government in 2015 and 2022 and their effectiveness to serve the

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public in the province of KPK. The paper aims to review the devolution of power to the local institutes after the 2015 and 2022 elections. Although the above researchers tried to explore the local governance in KPK however, no specific research has been conducted regarding a comparative analysis of the devolution of powers provided to the councilors in KPK after the 2015 and 2022 elections.

2. METHODOLOGY

Labaree typology has been used for theoretical and historical review using the case study method. The historic perspective is used to review the history of local government in Khyber Pakhtunkhwa and the theoretical perspective will review previous and in-field laws of local governments. Data collection has been done through interviews being primary sources and through books, legislations, articles, official reports, and journals being secondary sources.

3. LOCAL GOVERNMENT SYSTEM IN KPK

Since the independence of Pakistan, several attempts have been made to devolve powers to the local governments in Pakistan. The first one was in the form of Basic Democracies (BD) in 1959, followed by the second model introduced in the military regime in 1979. This system was replaced by the local government system in 2001 under the Musharraf era under the devolution plan (GIZ, 2013). In 2010, Musharraf's local government system was dissolved after the enactment of the 18th Amendment (IFES, 2013).

The current system was introduced in 2013 after the enactment of the 18th Amendment to the Constitution of the Islamic Republic of Pakistan and the Election Commission of Pakistan (ECP) was also mandated under Article 219 (d) to conduct Local Government Elections (Constitution of Islamic Republic of Pakistan, 1973). The first elections to the local governments of KPK were held on 30th May 2015 (ECP, 2015). The four-year tenure of the first local government under the current system ended on 29th August 2019. Under the current local government system, the Election Commission of Pakistan held the elections in two phases holding elections in 17 districts of the province on 24th December 2021 and 31st March 2022 in 18 districts of the province, respectively (ECP, 2022).

3.1 Composition of Local Government KPK in 2015

The first Local Government Act, 2013 (LG Act, 2013) was enacted by KPK Government on 7th November 2013 introducing a three-tier local government:

- i. City District Council / District Councils.
- ii. Tehsil / Town Councils.
- iii. Village / Neighbourhood Councils.

Before this system, delimitation of the constituency for previously held elections was done by the Provincial Government which was, in 2013, entrusted to the Election Commission of Pakistan by the Lahore High Court in a writ Petition (Lahore High Court, 2013) Although the Government was seen reluctant to hold elections on an immediate basis, however, after the deadlines given by the Supreme Court of Pakistan the election to the first local government institutions under the current system was held on 30th May 2015 (ECP, 2015).

The composition of District Councils, Tehsil / Town Councils, and Village / Neighbourhood Councils as provided in Schedule 2 of the Local Government Act, 2013 were as below:

Serial No.	Name of Council	Numbers
1	District Council / City District Council	24
2	Tehsil / Town Councils	70
3	Village Councils	3339
4	Neighborhood Councils	579

Table 1: Composition of Councils in 2015 Elections[†]

3.2 Categories & Mode of Elections in 2015

Various categories were provided for direct and indirect elections which are tabulated below:

Serial No.	Name of Council	Categories
1	District Council / City District Council	i. General Member
2	Tehsil / Town Councils	ii. Minorities

[†] Researcher's Primary data

3	Village Councils	iii.	Peasant / Workers
4	Neighborhood Councils	iv.	Women
		v.	Youth

Table 2: Categories of Councils in the 2015 Elections[‡]

3.2.1 Mode of Elections District Council

According to Section 74 of the LG KP Act of 2013, the general seats of the district council were held by the joint electorate and the party base. The elections to the reserved seats were through a system of proportional representation based on seats secured by political parties in the district council (KP LG Act, 2013).

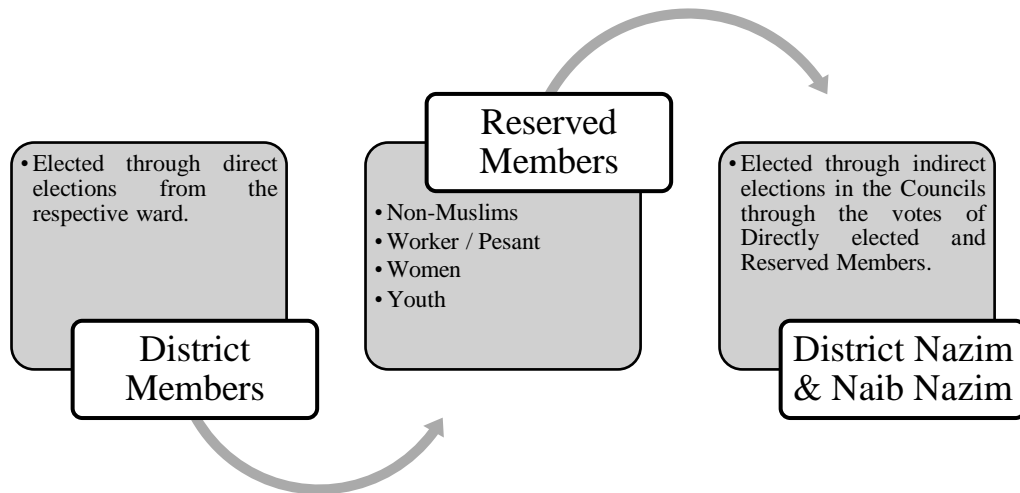


Fig I: Composition and Mode of Elections in District Council[§]

The elections to the seat of District / City Nazim and Naib Nazim were held based on indirect elections having an electoral college containing members of the respective district council.

3.2.2 Mode of Elections for Tehsil / Town Councils

Similarly, the mode of elections for tehsil councils was also provided in Section 74 of the Act, 2013 which was single-member territorial wards on a party basis. Similarly, the elections to the reserved seats were held based on the system of proportional representation.

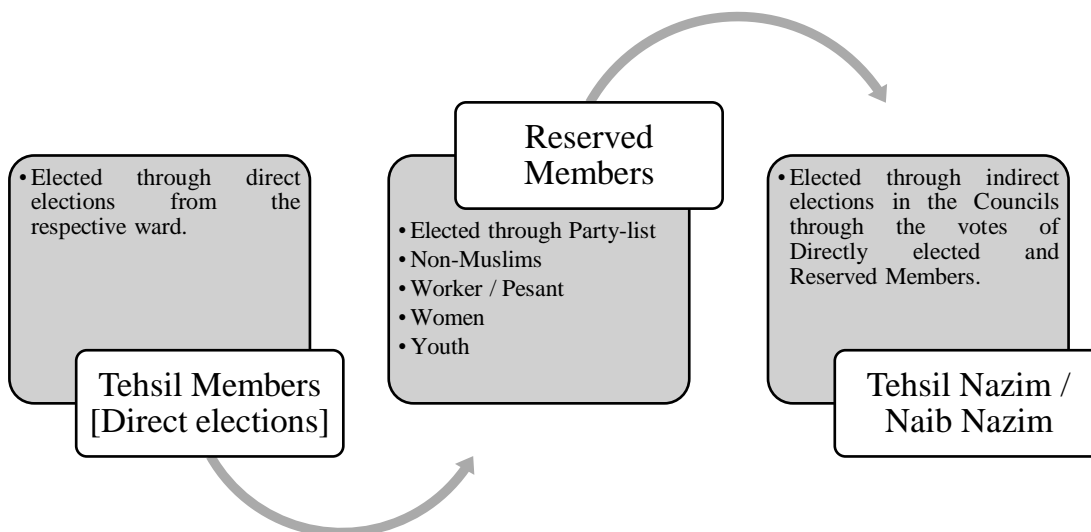


Fig II: Composition and Mode of Elections in Town / Tehsil Council^{}**

[‡] Researcher’s Primary data

[§] Researcher’s Primary data

^{**} Researcher’s Primary data

The elections to the seat of Tehsil / Town Nazim and Naib Nazim were held based on indirect elections having an electoral college containing members of the respective Tehsil council.

3.2.3 Mode of Elections for Village / Neighbourhood Councils

According to original Section 27 of the KP Local Government Act, 2013 each village and neighborhood council comprises ten to fifteen members having representation of women, peasants and workers, youth, and non-muslim members in each council.

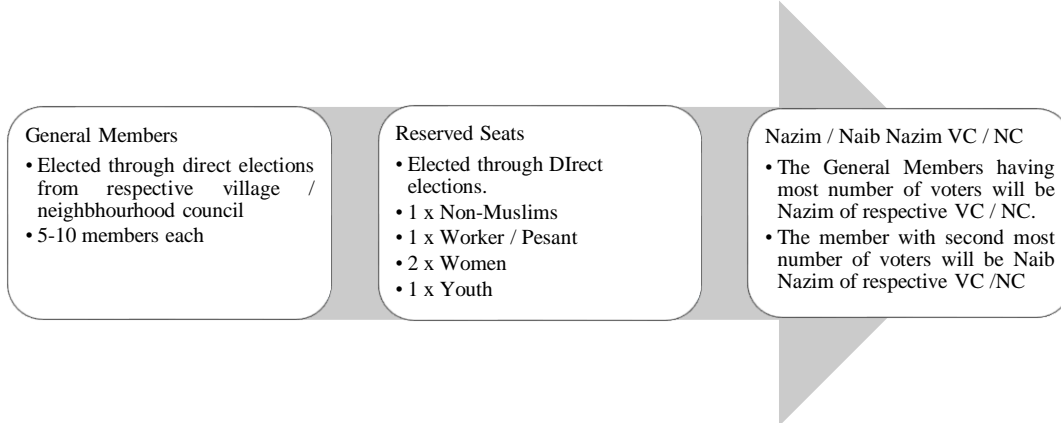


Fig III: Composition and Mode of Elections of Members of VC /NC^{††}

These elections were held directly based on multi-member wards on a non-party base. The contesting candidates with the highest and second highest votes in the respective Village / Neighbourhood council were the Nazim and Naib Nazim of said council respectively.

3.3 Powers of Nazim District Government

According to the original Section 11 of the KP LG Act, 2013, the District Government was notified of having a district council and administration made up of the notified devolved offices. An interesting factor was seen in Section 12 of the Act of 2013 wherein seven departments and municipal services were devolved under the administrative and financial control of the district Government.

3.3.1 Powers of Nazim Tehsil Council

As per Section 21 of the Original KP Local Government Act, 2013, a Tehsil Government consisted of Tehsil Municipal Administration having a Tehsil Council and other officers and Officials of the local council. The Nazim Tehsil Government has been authorized to be the Executive Authority of the Tehsil Municipal Administration (KP LG Act, 2013).

3.3.2 Powers of Nazim Village / Neighborhood Council

As per Section 27 of the Original KP Local Government Act, 2014, a village or neighborhood council, as the case may be, consisted of ten to fifteen members. The Nazim Village / Neighbourhood Council was authorized to be the Executive Authority of the respective council (KP LG Act, 2013). The Nazim of the council was authorized to submit reports to the district and tehsil government on the performance of functionaries of offices in the premises of the respective council including offices of Education, Public Health Engineering, Agriculture, Health, Livestock, Police, and Revenue departments.

3.4 Accountability before the Law

Section 54 of the Local Government Act, 2013 provided an accountability mechanism in the form of a Local Government Commission. The Commission consists of seven members including a Chairman.

^{††} Researcher's Primary data

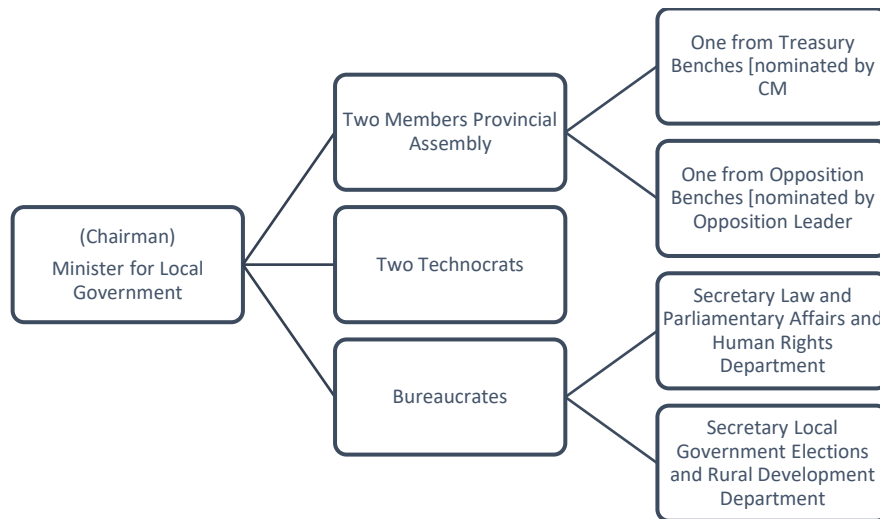


Fig-IV Composition of Local Government Commission^{##}

The Commission was empowered to conduct special or annual inspections of the local governments and to conduct inquiry through its motion, through a reference, inquiry, or directions by the Chief Secretary into any matter relating to local government. The mandate of the Commission was also to resolve disputes that arose between local governments and to take steps in case of any violation of law by any local government in the province (Section 55, LG ACT 2013).

3.4.1 Internal Control Mechanism

The Chief Minister was also empowered under Section 58 to issue directions to any Nazim District Government and upon violation or non-compliance of orders, the former may direct the Chief Secretary to initiate action required during the situation and to set aside any order. The Commission was also authorized to complete the inquiry within 60 days and may quash the order/decision of the concerned Nazim as well.

Similarly, the Nazim District Government was also empowered under Section 61 of the LG Act 2013, subject to the approval of the District Council to designate an officer for the purpose of inspecting the performance of a tehsil, village, and neighborhood councils with regard to public service.

3.4.2 Power of Councils to Set Aside Orders

The provincial Government under Section 64 was empowered to suspend any doing of local councils after recording the reason thereof if found that it is not in conformity with the law. The district council upon the motion of Nazim District Government was empowered to set aside any order or resolution of a tehsil council under its jurisdiction by a simple majority. Similarly, a tehsil council, on the same analogy as the district council may set aside the order or decision taken by Nazim Village and Neighborhood Council.

3.4.3 Removal of Nazim & Members of the Councils

As per the original LG Act 2013, four methods for the removal of members of local councils were provided. These options include personal resignation, through the vote of no confidence, and Removal by the Election Commission and the Local Government Commission.

^{##} Researchers Primary data

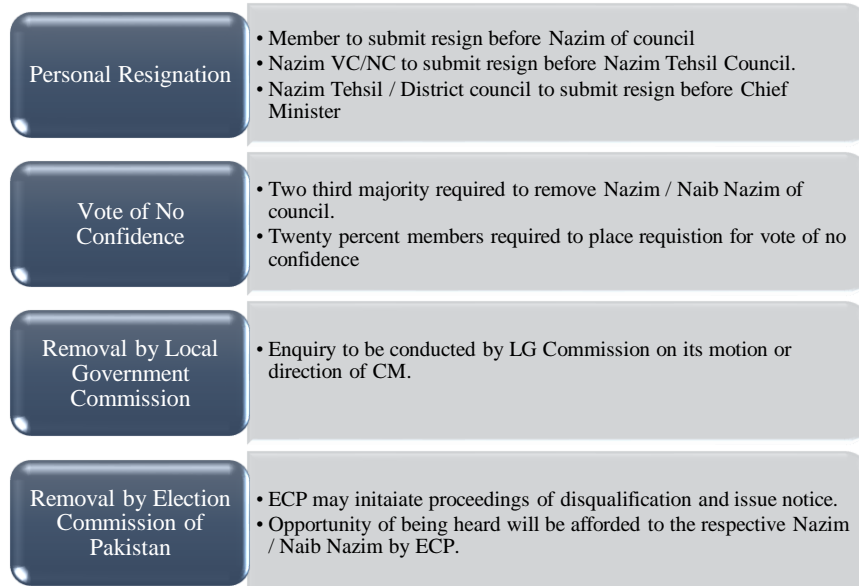


Fig-V Method of Removal of Nazim / Naib Nazim.^{§§}

3.5 Finance Commission

The LG Act, 2013 in 2015 was provided with a Finance Commission comprising 12 members and the composition may be seen in Fig-VI. The Commission was empowered to make recommendations to the Government regarding grants for local governments out of consolidated funds and provide a formula for the distribution of grants and other finance-related matters.

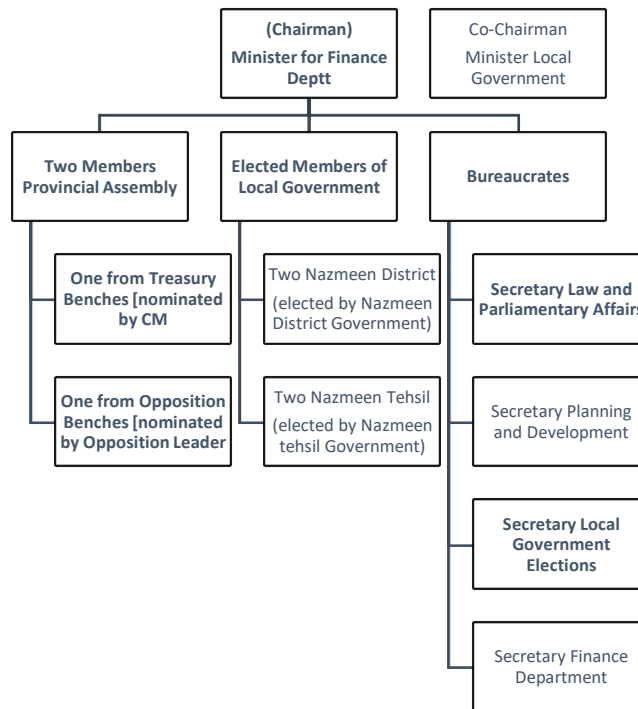


Fig-VI Composition of Finance Commission^{*}**

3.6 Composition of Local Government in 2022

PTI led Government after assuming the government again in 2018 amended the already enacted LG Act, 2013 on 29th May 2019 (KP Assembly, 2019). The three-tier local government system was replaced with two-tier local governments by completely removing district governments across the province.

^{§§} Researchers Primary data

^{***} Researchers Primary data

As the district government was abolished after the recent amendments, hence the total number of tehsil, village, and neighborhood councils are tabulated hereafter (Ninth Schedule of LG KP Amended Act, 2013):

Serial No.	Name of Council	Numbers
1	Tehsil / Town Councils	131
2	Village Councils	3633
3	Neighborhood Councils	579

3.6.1 City / Tehsil / Town Councils

The major change in the tehsil and village council is the change of the nomenclature of the Nazim of councils to Chairman of the Councils. The mode of the election to the office of Chairman Tehsil Government was changed from indirect elections to direct elections making the whole tehsil a single ward constituency for the respective tehsil (Section 74 of the amended Act, 2013). All the chairmen of neighborhood and village councils are members of respective tehsil councils. Similarly, the minorities, peasants/workers, women, and youth members of village/neighborhood councils obtaining the highest number of votes in the respective tehsils are elected in the indirect mode of election.

Another key change was made in the LG Act 2013 by adding a category of Deputy Chairman with an indirect mode from the respective council in November 2022. However, no election to such a category has been held to date.

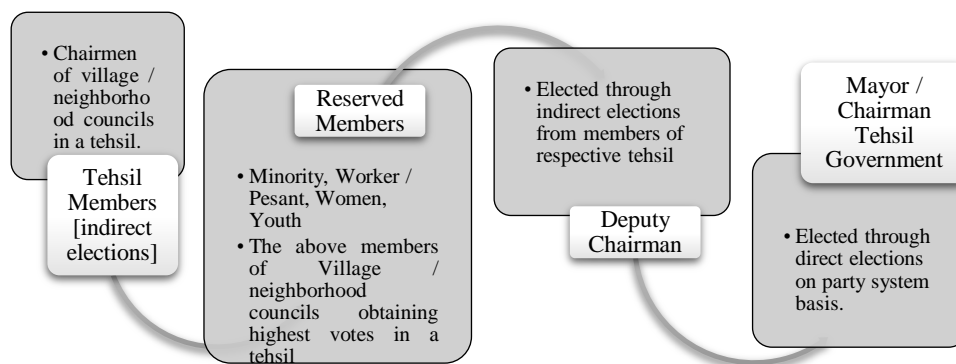


Figure VII: Composition and Mode of Elections in City Local Government / Tehsil Council⁺⁺⁺

3.6.2 Village / Neighbourhood Councils

Another change in the composition of the village and neighborhood councils was found. The part II of the Eleventh Schedule as provided in Section 27 of the amended Act 2013, the number of total members was reduced.

S#	Category	Number of Members
1	General	03
2	Minority	01
3	Peasant	01
4	Woman	01
5	Youth	01

Table III: Composition of a Village / Neighborhood Council

⁺⁺⁺ Researchers Primary data

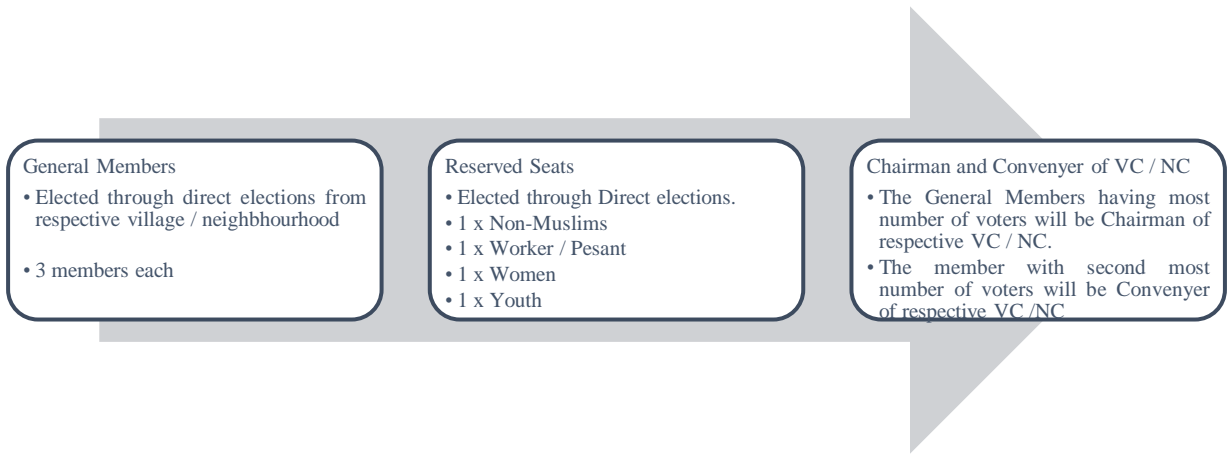


Figure VIII: Composition and Mode of elections of members of VC /NC after the 2022 elections^{*}**

3.6.3 Powers of Mayor City Local Government / Chairman Tehsil Government

Several changes were also made in the powers of the City Local Government and Chairman tehsil government. However, a major development was made by the government in another amendment enforced on 8th June 2022 by taking all powers of the Mayor City Government and Chairman Tehsil Government by substituting Section 23A and adding powers and functions through rules(LG KP (Amendment) Act, 2022).

3.6.4 Powers of Chairman Village / Neighborhood Council

A specific amendment was made in Section 28 of the amended Act, 2013 in 2019 enabling the Chairman village and neighborhood council to present the annual budget before the respective council. However, the amendment Act in 2022 has been substituted and powers are to be devised in rules (LG KP (Amendment) Act, 2022).

3.7 Accountability Process

Some specific addition has been made regarding Local Government Commission by the addition of a member of the Finance Department regarding budget-related. Moreover, Local Government Commission is empowered to approve the budget of a council if it has been rejected by a simple majority or non-approval of the budget within ten days of presentation.

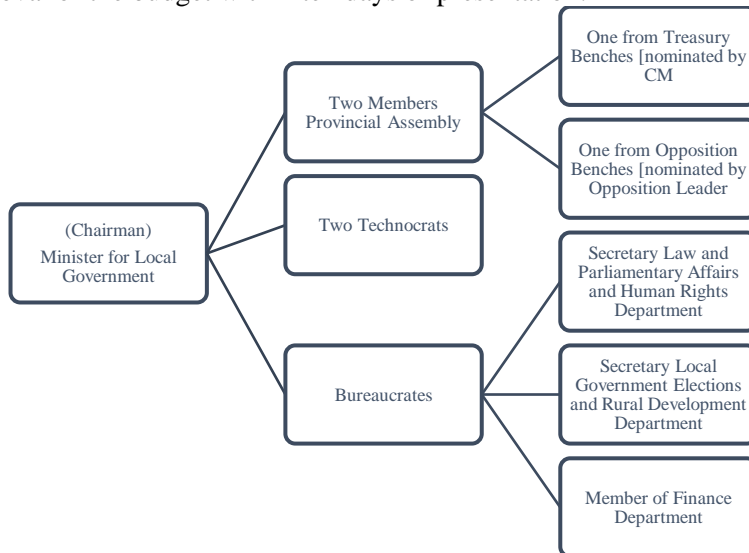


Figure-XI Composition of Local Government Commission^{§§§}

3.7.1 Removal of the Chairman of the Councils

The LG Act 2013 has been amended to the extent of a vote of no-confidence which has been substituted with the impeachment of the Chairman of the local council. A two-thirds majority will be required for the impeachment of the Chairman.

^{***} Researchers Primary data

^{§§§} Researchers Primary data

3.8 Finance Commission

The amendments were also made to the composition of the Finance Commission by increasing the number of Chairman in the Commission to five.

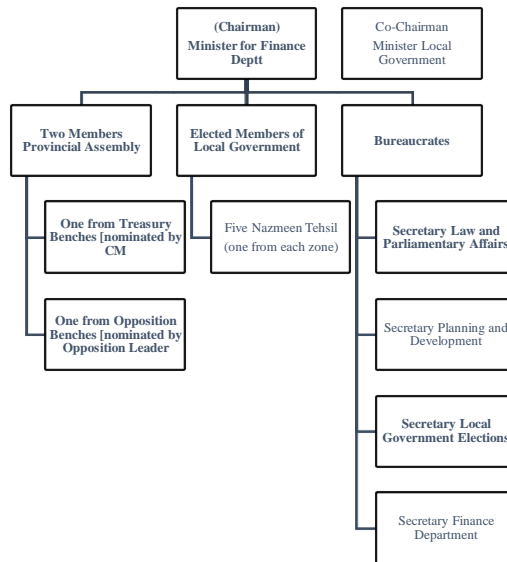


Figure-XII Composition of Finance Commission****

3.9 Other Major Amendments

For the settlement of disputes and reconciliation process at the Village/neighborhood level, a mediation council has been established at each respective council, however, the same for erstwhile FATA has been established at the sub-division level (Section 118A KP Act, 2013) The government is authorized to provide guidelines and advice to the local governments through the district administration and the respective local government must act on them (Section 57 of KP Act, 2013) The annual internal audit has been made compulsory through Section 37 of the Amended Act.

4. FINDINGS & DISCUSSION

This research has revealed that the Chief Minister has kept some extraordinary powers enabling intervention in local governance. In the original Act of 2013, Section 58 was found to give power to the Chief Minister to issue directions. Section 115A of the Act also allows the government to outsource any of the functions assigned to Local Governments which is also not the true essence of devolution.

Similarly in the amended Act, Section 57 has been amended allowing the government to issue guidelines bounding the local governments to act on those similarly the power of issuance of directions by the Chief Minister has been added. Similarly, Section 3(3) of the amended Act allows the Government to give a policy framework bounding the local government to act in accordance with the policy. After the amendments made in 2022, the powers of Chairman tehsil council and Chairman Village / Neighbourhood councils have been substituted and Government is authorized to provide the powers in the rules which seems to be intervention in the powers given in the Act.

Another lacune is no education qualification for the candidates. There must be prescribed education for the candidates of Chairman tehsil government and Chairman village/neighborhood councils as a fundamental for running a local government requires education.

4.1 Assessments of Experts and Stakeholders

The interviews of experts as well as the local councilors were also conducted to get their viewpoints. Open-ended questions were asked regarding the current system and the previous system. A questionnaire was developed for each stakeholder and major opinions were taken as follows:

Stakeholders	Opinion
Experts	<ul style="list-style-type: none"> • Operationally the system is centralized whereas, in terms of an administrative point of view, the system is decentralized. • More control of Government either in the Finance Commission or Local Government Commission.

**** Researchers Primary data

	<ul style="list-style-type: none"> • Chief Minister has been provided with a procedure for intercession in the business of local governments. • Revenue through municipal services is the main source of generating funds. • Further powers may be decentralized to local councils for generating funds. • The meditation councils at each village and neighborhood level decrease the pressure on police stations and local courts.
Local Representative	<ul style="list-style-type: none"> • The amount of fund released in 2015-19 was not sufficient which require reconsideration. • The oath was taken in August 2022, however, no fund has been allocated to date concerning the local councilors. • From 2015 to 2019, the councils were allowed to present and approve the budget, however, after amendments in 2022, the power has been taken back. • Interference of Parliamentary members was witnessed in the previous term in the affairs of councils which is also expected. • Less awareness is provided for the running of businesses of the councils by the Government.
Public	<ul style="list-style-type: none"> • The system in the field is better than previous ones, however, the funds are lesser for the development work. • Not to look toward members of Parliament for small developmental works which is a good initiative. • No development work has been seen after the current elections. • The elections to village and neighborhood councils should be held on a party basis. • The publication of audit reports for the general public in 2022 is a good step in making the elected members accountable before the public.

5 CONCLUSION

To conclude, this study has delved into the power dynamics of governance at the local level in KPK, specific examination of the roles of local councils, Chairman / Mayor, Tehsil Government, and Chairman Village and neighborhood councils as given in the KP LG Act, 2013. After an extensive analysis encompassing legislation, reports, books, journals, and primary data collected through interviews, it becomes efficient to conclude that devolution of power at the local level faces serious challenges due to interference by the Provincial government. The research underscores special measures to reinforce the principles of devolution of power and autonomy of local institutes. The elected government must recognize the significance of empowering local governments and providing full autonomy to service the local communities. This study has also emphasized the importance of education and expertise in local governance to ensure competent leadership for effective decision-making. To put a look at the future, it seems crucial for policymakers, legislators, and stakeholders to collaborate for the enactment of reforms to provide a transparent and accountable local government system. By addressing the hurdles provided in the study and implementing innovative strategies, KPK province can pave the way for a more empowered and flourishing local governance system.

6 RECOMMENDATIONS

Upon the findings of the research it is recommended that amendment is required to be made in Section 57 (2) of the KP LG Act, 2013:

- Section 57 (2) of the KP LG Act, 2013 may be amended as: The government may provide guidelines and render advice to local administration, through Local Government Commission, for promoting the economic social, and environmental security of the province.

[Provided that local governments, if found that such instructions are based on politically motivated objectives, may present the same before the council, and after getting approval by a simple majority, the council shall refer its decision of non-compliance to the direction to Local Government Commission]

Similarly, an addition to Section 78 (s) is recommended regarding the addition of educational criteria regarding educational criteria as a eligibility criteria to contest the elections of Chairman / Deputy Chairman Tehsil Council and Chairman / Vice Chairman Village Council.

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