

ELECTIONS IN NEWLY MERGED DISTRICTS (NMDS) OF KHYBER PAKHTUNKHWA (KP)

Free & Fair Election Network – FAFEN
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1. Introduction

Free and Fair Election Network (FAFEN) initiated its assessment of the political environment and implementation of election-related laws, rules and regulations in April 2019 as part of its multi-phase observation of Provincial Assembly (PA) elections in Newly Merged Districts (NMDs) in Khyber Pakhtunkhwa (KP). The purpose of observation is to contribute to the evolution of an election process that is free, fair, transparent and accountable, in accordance with the requirements laid out in the Elections Act, 2017. The information provided in this update is based on the direct and systematic observation by FAFEN's 16 long term observers (LTOs) deployed in each constituency to observe the pre-election phase including the scrutiny process of the nomination papers at Returning Officers (ROs) offices.

FAFEN Election Observation Update focuses on the observation of scrutiny process of nomination papers submitted by 275 candidates for provincial assembly elections in NMDs. FAFEN LTOs were completely barred from observing the scrutiny process in four constituencies including PK-103 (Mohmand-I), PK-104 (Mohmand-II), PK-114 (South Waziristan II) and PK-115 (Ex-Frontier Regions). Moreover, the observation was partially restricted in PK-108 (Kurram I), PK-109 (Kurram II), PK-111 (North Waziristan I) and PK-112 (North Waziristan II).

FAFEN LTOs observed that the ROs followed a uniform process to scrutinise the nomination papers of candidates as per the legal and regulatory requirements. For conducting the NMDs' elections, the ECP had earlier appointed District Returning Officers (DROs) and ROs from its cadre of officials¹. DROs and ROs deployed were already serving as District Election Commissioners (DEC) in either the NMDs or other regions of Pakistan. FAFEN observers reported that ROs did not ask any undue, irrelevant or subjective questions for ascertaining the candidates' eligibility. ROs were observed to be fulfilling the minimum administrative criteria of checking the legal-age and voter registration of candidates vying to contest election, and did not seek assistance from relevant authorities/organizations in verifying/validating the information provided by candidates².

In some constituencies the security officials lacked the requisite understanding regarding domestic observation. In four constituencies, security officials did not allow FAFEN observers to observe the scrutiny process, while in four other constituencies, they were partially barred to enter the ROs offices and observe the scrutiny process on specific days. Following sections include FAFEN's findings and analysis:

2. Examining the Nomination Papers

FAFEN observers witnessed that in 96 percent (264 out of 275 the observed) cases, ROs examined the particulars of proposers and seconders during the scrutiny of nomination papers to ensure that proposers and seconders were registered voters of the same constituency. However, in nine cases – six in North Waziristan, two in Khyber Agency and one in Bajaur Agency –the ROs did not examine the particulars of proposers and seconders during the presence of FAFEN observers.

Any voter of a constituency may propose or second the name of any qualified person to be a candidate for Member for that constituency: Provided that no voter shall subscribe to more than one nomination papers either as proposer or seconder.

Section 60 (1) of the Election Act, 2017

2.1 Objections Raised by Voters

Similarly, in a majority of the observed cases (96 percent or 265 out of 275), ROs did not raise any objections on candidates' nomination papers. However, in five observed cases, the ROs questioned the authenticity of information provided on nomination papers raising the question of the proposer or seconder not belonging to same constituency.

¹ See at: <https://www.ecp.gov.pk/shedule.jpg> for the details of appointment of DROs and ROs along with the election schedule for NMDs' election to be held on July 20, 2019

² Section 62 (5) of the Election Act 2017

2.2 Information provided by Contesting Candidates on/with the Nomination Papers

FAFEN observers reported that some candidates did not provide complete information with the nomination papers submitted to the ROs. Of the 275 observed cases, a total of 110 candidates declared their Pakistani-Passport numbers on their nomination form, while the remaining 165 candidates either did not have a Pakistani Passport or did not mention the passport number. Similarly, as many as 117 (observed) contesting candidates' nomination papers did not have the necessary assets' details, while the remaining candidates had provided this information. FAFEN observed that a total of 224 candidates did not provide their National Tax Number (NTN) details, while 67 out of 130 nominated candidates did not provide details about the amount contributed for the party-fund.

3. Overall Conduct of ROs during the Nomination Process

Overall FAFEN observers witnessed a professional and positive attitude by ROs towards the candidates or their representatives during the observation of the scrutiny period. Observers reported that all the ROs deployed in 12 PA constituencies, where observation was allowed, refrained from asking any undue, irrelevant or subjective questions regarding candidates' eligibility while scrutinizing their nomination papers.

3.1 Assistance from State Authorities/Organizations for Validating Candidates' Information

In 78 percent of observed cases (214), RO did not seek assistance from any state authority to validate the candidates' information provided in their nomination papers. However, in 61 instances – 52 from Kurram, seven from Orakzai and two from North Waziristan – ROs sought the assistance of authorities for verification of candidates' nomination papers. See figure-1 for a district-wise analysis of the FAFEN's Observation concerning ROs seeking assistance from state authorities or organizations in verification of candidates' nomination papers

The Returning Officer may, for the purpose of scrutiny, require any, authority or organization, including a financial institution, to produce any document or record or to furnish any information as may be necessary to determine facts relating to an objection to the candidature of a candidate.

Section 62(5) of the Election Act, 2017.

Figure-1: ROs seeking assistance from authorities

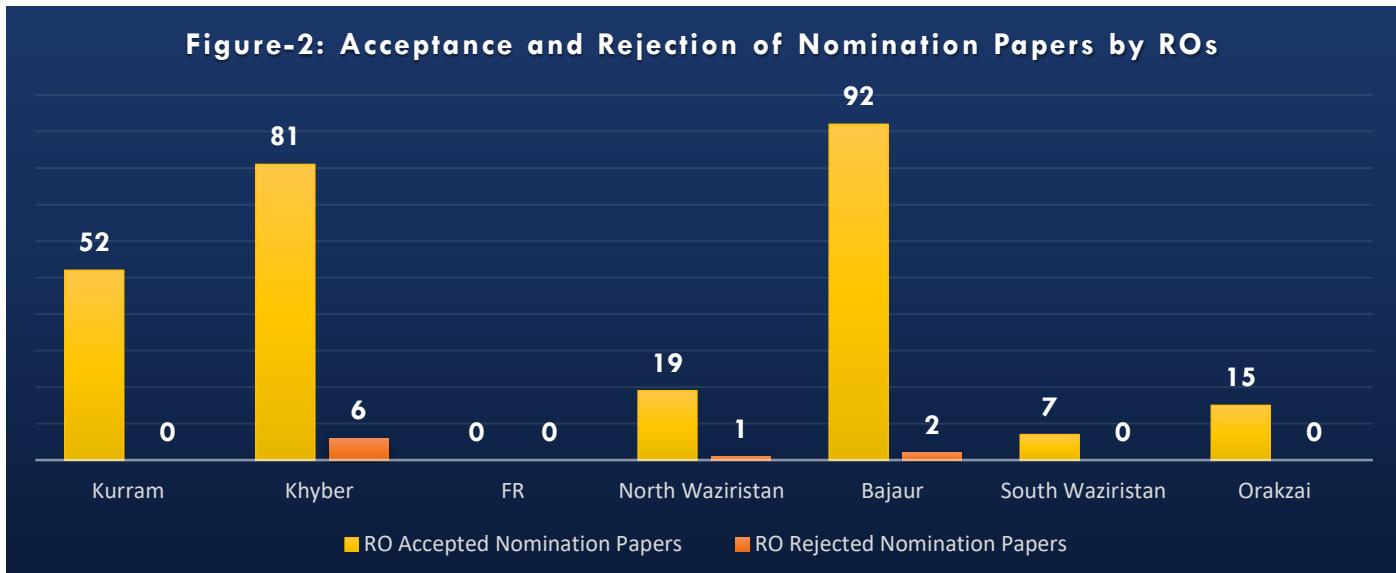


3.2 Acceptance/Rejection of Candidates' Nomination Papers

According to the ECP's official website, 476 nominations were received by ROs for 16 PA constituencies, four reserved seats for women and one reserved seat for a non-Muslim. Of these, 425 nomination papers were accepted and 51 were rejected.³

As many as 97 percent (266 out of the total 275 observed) cases observed, the nomination papers were accepted by the ROs, while the remaining three percent (nine observed) cases were rejected on technical grounds. Nomination papers were mostly rejected on the grounds of incomplete documentation, bank default, different constituencies of proposers and seconders and incorrect statements provided in the affidavits. Figure-2 presents a district-wise analysis of the cases accepted or rejected by ROs.

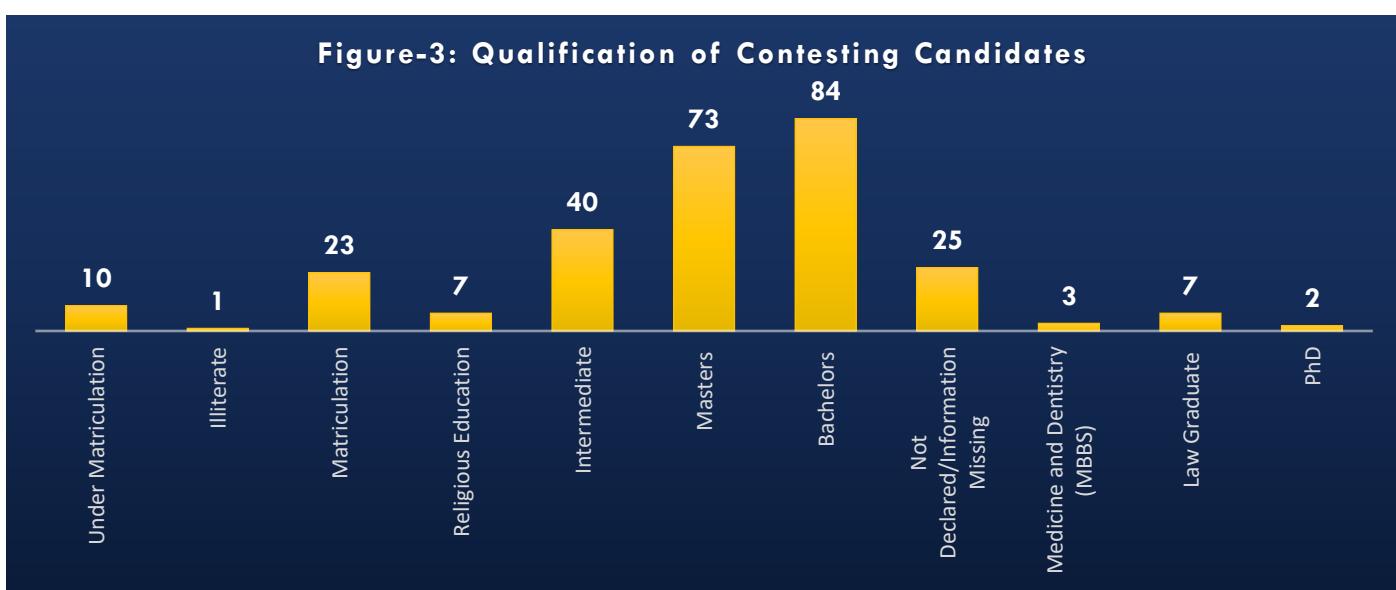
³ See Link for details <https://www.ecp.gov.pk/PrintDocument.aspx?PressId=66080&type=PDF>

Figure-2: Acceptance and Rejection of Nomination Papers by ROs


4. Profiles of Observed Contesting Candidates

4.1 Qualification of Contesting Candidates

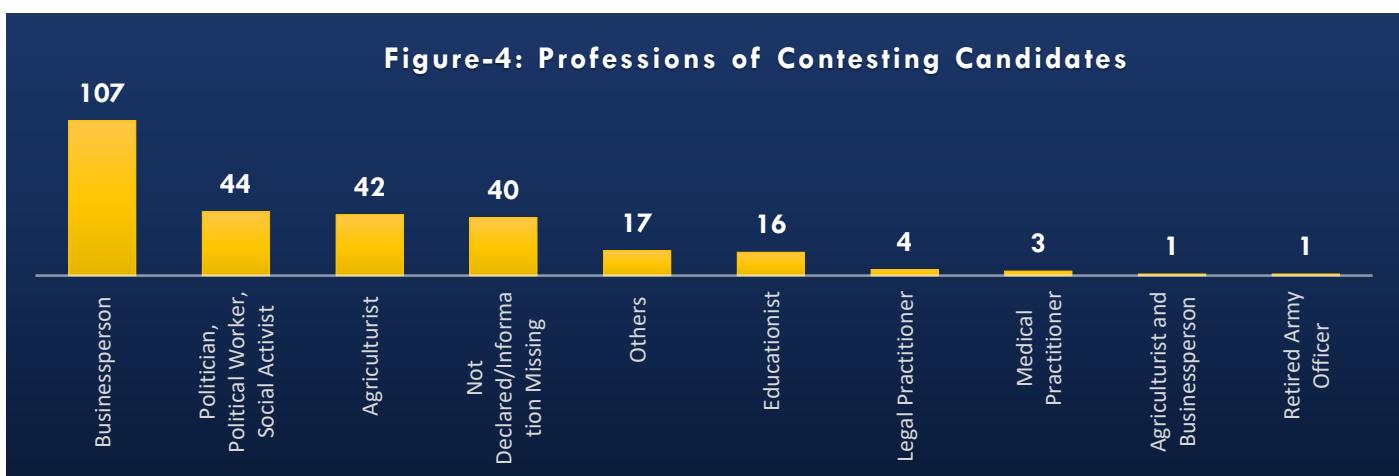
Of the total 275 observed cases, as many as 84 contesting candidates hold a Bachelor's Degree (BA, BSc., BBA, BE Electric, B.Tech, Architecture Engineer), followed by 73 with a Master's Degree (MA, MSc., Masters, MBA, BBA (Honours), BSc Honours, DAE, BS), 40 intermediate (F.A. FSc.), 23 matriculate, while ten candidates had declared their education/qualification as below matric. Similarly, a total of seven contesting candidates had a degree in Religious Education, another seven with Law Degrees, three with Medicine and Dentistry (MBBS) Degrees, two with Ph.D, while one candidate declared that he was illiterate. There were 25 contesting candidates who did not declare this information on their nomination papers. Following Figure-3 illustrates the qualification of contesting candidates:

Figure-3: Qualification of Contesting Candidates


4.2 Professions of Contesting Candidates

Of the total 275 observed cases, a majority of contesting candidates (107) were businessmen by profession (business owner, shop owner, business investor, contractor, and real estate dealer), followed by politicians, political workers and activists (44), agriculturists (42), engineers (17), educationists – religious scholars, teachers (16), legal practitioners (four), medical practitioners – doctor, homeopathic, dermatologist (three) and retired army officer (one). In addition, there were 17 contesting candidates who are either working as retailers, social workers, housewife or were jobless. A total of 40 candidates did not declare their profession on the nomination papers.

Figure-4 shows the professions of contesting candidates:

Figure-4: Professions of Contesting Candidates


5. Restriction to FAFEN Observations

As shown in Figure 5, FAFEN observers were completely barred to observe process in four constituencies throughout the six-day scrutiny of nomination papers by the security staff and ROs. In PK-103 Mohmand-I, PK-104 Mohmand-II, PK-114 South Waziristan II and PK-115 Ex-Frontier Regions (FR), FAFEN observers did not observe the process. Similarly, there were sporadic instances within different constituencies (PK-108 Kurram I, PK-109 Kurram II, PK-111 North Waziristan I and PK-112 North Waziristan II) on specific days where the observers were partially barred to observe the process due to overcrowding in RO offices. Figure-5 illustrates the day-wise, district-wise analysis of the bar of observers.

The Commission, at its own motion or upon an application made in this behalf, may allow any domestic or international election observation organization to observe the process of conduct of election, having an access to polling station, counting of votes and consolidation of results allows the domestic or international election observation organization to observe the process of conduct of election, having an access to polling station, counting of votes and consolidation of results.

Section 238 (1) of the Election Act 2017

Figure-5: District-Wise Permission to Observe Scrutiny Process

District	Cases Observed					
	MAY 13	MAY 14	MAY 15	MAY 16	MAY 17	MAY 18
PK_100	2	3	3	8	7	1
PK_101		9	6			
PK_102	1	3	4	17	5	2
PK_103						
PK_104	OBSERVATION COMPLETELY DENIED					
PK_105		8	10	10		
PK_106		11	7	11	3	
PK_107		4	6	13	3	1
PK_108	11	Observation Partially Denied	7	Observation Partially Denied	5	Observation Partially Denied
PK_109	6		5	4	1	
PK_110				4	14	1
PK_111	2	1	2	6	Observation Partially Denied	Observation Partially Denied
PK_112	Observation Partially Denied					8
PK_113	4	3				
PK_114	OBSERVATION COMPLETELY DENIED					
PK_115						