



## Inter-Parliamentary Union's Framework

PARLIAMENT WATCH AND REFORMS

# Performance of the 13th National Assembly

(2008-2013)



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13th National Assembly (2008-2013)

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This report is based on direct observation of  
National Assembly proceedings conducted by  
CPDI-Pakistan, a member organization of FAFEN.





## LIST OF ABBREVIATIONS

<b>AM</b> -Adjournment Motion	<b>NPP</b> -National Peoples' Party
<b>ANP</b> -Awami National Party	<b>PAC</b> -Public Accounts Committee
<b>APA</b> -Asian Parliamentary Assembly	<b>PILDAT</b> -Pakistan Institute of Legislative Development and Transparency
<b>APC</b> -All Parties Conference	<b>PIPS</b> -Pakistan Institute of Parliamentary Studies
<b>BNPA</b> -Baluchistan National Party Awami	<b>PML</b> -Pakistan Muslim League
<b>BTWC</b> -Biological and Toxin Weapons Convention	<b>PML-F</b> -Pakistan Muslim League Functional
<b>CAN</b> -Calling Attention Notices	<b>PML-N</b> -Pakistan Muslim League-Nawaz
<b>CEDAW</b> -Convention on the Elimination of All Forms of Discrimination against Women	<b>PPPP</b> -Pakistan Peoples' Party Parliamentarians
<b>CPA</b> -Commonwealth Parliaments' Association	<b>PPP-S</b> -Pakistan Peoples' Party-Shaheed
<b>EAD</b> -Economic Affairs Division	<b>PO</b> -Point of order
<b>ECP</b> -Election Commission of Pakistan	<b>PSDP</b> -Public Sector Development Programme
<b>ETBP</b> -Evacuee Trust Property Board	<b>PUIC</b> -Parliamentary Union of Islamic Countries
<b>FAFEN</b> -Free and Fair Election Network	<b>QOP</b> -Question of Privilege
<b>FATA</b> -Federally Administered Tribal Areas	<b>RTI</b> -Right to Information
<b>FATF</b> -Financial Action Task Force	<b>SAARC</b> -South Asian Association for Regional Cooperation
<b>FCR</b> -Frontier Crimes Regulation	<b>TDEA-FAFEN</b> -Trust for Democratic Education and Accountability-Free and Fair Election Network
<b>ICT</b> -Islamabad Capital Territory	<b>UN</b> -United Nation
<b>IDEA</b> -Institute of Democratic and Electoral Assistance	<b>USAID</b> -United States Agency for International Development
<b>IMF</b> -International Monetary Fund	<b>US</b> -United States
<b>IND</b> -Independent	<b>WB</b> -World bank
<b>IPU</b> -Inter-Parliamentary Union	
<b>KPK</b> -Khyber Pakhtunkhwa	
<b>MDG</b> -Millennium Development Goals	
<b>MKP</b> -Mazdoor Kissan Party	
<b>MMAP</b> -Mutahida Majlis-e-Amal Pakistan	
<b>MNA</b> -Member of National Assembly	
<b>MPA</b> -Member of Provincial Assembly	
<b>MQM</b> -Mutahida Qaumi Movement	
<b>NA</b> -National Assembly	



## Executive Summary

The 13th National Assembly brought yet another transition to democracy in Pakistan. Pakistan faced uncertainty and lingering political instability from 2008 to 2013. The defining feature of this period in Pakistan's history was the executive-judiciary tussle. President Zardari, who took over as a civilian President from General Musharraf in 2008, did not initially restore the sacked higher judiciary. It was eventually done due to the intense mobilization of the lawyers and opposition political parties. However, seeds of the executive-judiciary tussle mushroomed into political instability. It forms the backdrop to the way the 13th National Assembly functioned and completed its tenure.

The judiciary took the executive to task by nullifying the National Reconciliation Ordinance (NRO) passed by the previous Musharraf government. The Supreme Court also dismissed the elected PPP Prime Minister Yousaf Raza Gillani in June 2012 over contempt of court charges for not writing a letter to Swiss authorities regarding corruption cases of President Zardari.

However, despite the intense executive-judiciary tussle, 13th National Assembly was highly productive in terms of its legislative output. The 13th National Assembly passed 135 bills in its five years tenure; 116 were government bills and 19 were private members bills. Out of total of 135 bills, 61 were amendments to laws. Passage of 135 bills is a mammoth legislative achievement and the 13th National Assembly could be ranked amongst the best performing parliaments in terms of its legislative contribution.

A key achievement of the 13th National Assembly was the passage of the 18th constitutional amendment which curtailed the powers of the President to dissolve the Parliament. It strengthened the supremacy of the Parliament by removing Article 58-2(b) from the Constitution. Given the fact that the executive have used the presidential powers to dissolve the elected assemblies throughout the 1990s, it was a historical development to give up the executive power.

Contribution of female parliamentarians to the proceedings of the 13th National Assembly was phenomenal. Out of total 116 government passed bills, four (3%) were introduced by women. Out of 19 private members' bills, 15 (79%) were introduced by women. Out of total 102 government introduced (but not passed) bills, six (6%) were introduced by women. Out of 189 private members' bills introduced (but not passed) bills, 104 (55%) were introduced by women and 38 (20%) were introduced by women in collaboration with men. Nearly eighty percent of passed private members' bills were introduced by female members. It speaks volumes of their involvement in the legislative output. Women parliamentarians were also active members of standing committees, and promoted public interest agendas outside the parliament. However, it is also evident that women contribution in the government passed bills is 3% which is much less than their 23% representation in the National Assembly and their roughly 50% representation of the population of Pakistan. It is evident that the government worked through its male members to introduce legislation.

Women parliamentarians also introduced pro-women bills which were also passed later on. They include bills such as the Domestic Violence (Prevention and Protection) Bill 2009, the Criminal Law (Third Amendment) Bill 2010, the Protection against Harassment of Women at the Workplace Act 2010, the Criminal Law (Second Amendment) Bill — and the Prevention of Anti-Women Practices Bill 2011.

Women also contributed to other legislative outputs. Total of 16,178 questions were asked in the National Assembly during the Question Hour in the 13th National Assembly. Women members asked 8,212 (51%) questions. Given their 23% representation in the National Assembly, their overwhelming contribution during Question Hour reflects their seriousness in oversight of the executive.

During the 13th National Assembly, several bills relating to human rights, in its broader purview, were passed. Eight government bills relating to women rights, custody of minor children, sectarianism and formation of human rights and women rights commissions were passed by the 13th National Assembly. The National Assembly passed two bills on women rights in recognition of international law and being a signatory to the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), protecting them from harassment in the workplace, and providing safety from discrimination in general. It is important to note that these two bills are in addition to some landmark legislation in the purview of women rights. These two have been singled out because of specific compliance with international law/conventions etc.

We give details of women-specific bills. The Acid Control and Acid Crime Prevention Bill 2010 calls for 14-year jail term and fines up to Rs. one million for committing the crime. The Prevention of Anti-Women Practices (Criminal Law

Amendment) Bill 2008 provides protection from anti-women practices such as wanni, sawara, badal-e-suhl etc and depriving women of inheritance. The Domestic Violence Prevention and Protection Act 2009 makes domestic violence a punishable offence, whether against women or children, and promotes zero tolerance for violence against women as reflected in the National Policy for Development and Empowerment of Women. The Protection against Harassment of Women at the Workplace Act 2010 provides safe working environment to women in accordance with all religious norms of Pakistan, the Committee on the Elimination of Discrimination against Women, and International Labour Organisation resolutions, and appoints officers at the provincial and federal level for receiving and addressing complaints. The Guardians and Wards (Amendment) Act 2008 gives the right of custody to mothers in all cases where a male child has not reached the age of seven years and a female the age of sixteen years, and visiting rights to the father.

Four per cent of the population of Pakistan comprises of Christians, Hindus, Sikh, Scheduled Castes and other religious communities (Parsis, Bahais, Jains, Buddhists, etc.), with Christians and Hindus in roughly equal numbers (1.6% of total population).

In the National Assembly, ten seats are reserved for minorities. These seats are filled through a proportional share of the elected political parties. In other words, minority members of the ruling party have a bigger share in the 10 reserved seats than others. The 10 minority members in the 13th National Assembly belonged to four political parties – four to the ruling PPPP, three to the major opposition PML-N, two to the PML and one to the MQM.

There are obviously issues with such a mechanism to represent the religious minorities in the National Assembly. There are no quotas within the reserved seats for the various religious communities in the country. In addition, due to the reserved seats being decided on the proportion of political parties' seats in the House, minority voters can be ignored by the candidates. Due to indirect elections, members elected on reserved seats tend to highlight the party agenda in the Parliament rather than speaking on issues that effect the minority communities directly. A case in point is that throughout 2008-13 period, only a single bill pertaining to registration of Hindu marriages was introduced (but not passed) by a minority member and no other significant legislation was done on issues pertaining to minorities.

Hence, minority issues were not discussed in any great detail in the 13th National Assembly. Given the deepening retrogressive trends in the post 9/11 Pakistan with escalating Taliban insurgency, it is often very difficult to express opinion on sensitive issues concerning the minorities such as the misuse of blasphemy law. Sherry Rehman, former Minister and PPPP MNA, introduced amendments in the blasphemy law to stop its misuse as a private member's bill in 2010 and it was sent to the National Assembly secretariat. However, it was later withdrawn as the government could not support it due to the intense pressure by the religious lobby. Governor of Punjab Salman Taseer and the Minorities Minister Shahbaz Bhatti were killed later for their opposition to the misuse of the blasphemy law. After their murders, the space to discuss minority issues shrunk further. It also reflects in the Assembly's proceedings. Other than a single legislation introduced on minority rights, lack of focus on minorities is also reflected in other interventions as well. Calling Attention Notices (CANs) are a significant means for the Parliament members to bring important issues to the House floor. A total of 573 CANs were tabled in the 13th National Assembly, only one CAN was related to the rights of minorities. Similarly, the performance of minority members has been low in the 13th National Assembly. Minority members are 3% of the strength of the Assembly. They asked 1% (234) of the total questions (16,178) in the tenure of the Assembly, according to the FAFEN data.

The Mumbai attacks took place in November 2008, less than a year after the 13th National Assembly had been sworn in in March 2008, and the House also inherited the internal insurgency in the North-West, requiring several army operations during the course of its term. Law-makers presented resolutions to address these issues and foster political dialogue for conflict resolution. A resolution was adopted in the first parliamentary year condemning the 2008 Mumbai attacks and offering condolences to the victims, as well as pledging full support and willingness for joint investigations. In another resolution adopted in the fifth parliamentary year to condemn the attack on Salala checkpoint by international coalition forces, law-makers stressed the need for justice for the deceased, respect for international borders, and reaffirmed commitment to preventing the use of Pakistani territory for the supply of arms and ammunition to Afghanistan.

While the government conducted negotiations with internal militants, specifically the Swat Taliban resulting in the passage of the controversial Nizam-e-Adl (Order of Justice) regulation in April 2009 which allowed the imposition of Shariah law in Malakand, it proved to be a short-lived reprieve from violence. The army had to conduct an operation against the Swat Taliban less than a fortnight after the peace deal after the latter had begun expanding their network into neighbouring areas.

In order to analyse the Parliament's oversight capacity, it was observed that the House continued to be unable to hold



non-elected public bodies to account. For instance, in most settled democracies, special parliamentary committees are formulated for the oversight of intelligence agencies, regrettably the exercise could not take place in Pakistan's legislative history. Hence, the intelligence agencies were not effectively held accountable for their failure to prevent Osama Bin Laden taking up residence near the Pakistan Military Academy for several years before being shot dead in a US raid in May 2011. It serves as an example of the lack of monitoring authority exercised by the Parliament of public bodies like intelligence agencies etc.

The Federally Administered Tribal Areas (FATA) are part of the territory of Pakistan and are administered by the Governor of Khyber-Pakhtunkhwa on behalf of the President. The National Assembly has no powers to legislate for the FATA unless so directed by the President, as under article 247 of the Constitution. The colonial era Frontier Crimes Regulation (FCR) is the main legal framework still in place in the region, despite criticism for being obsolete and against basic human rights due to provisions of collective punishment, and infringement of the right to request a change to a conviction in any court, the right to legal representation and the right to present reasoned evidence. In terms of marginalized regions, the 18th Amendment in the Constitution done by the 13th National Assembly did not make any constitutional changes to the distinctive status of the FATA or Gilgit-Baltistan.

However, some positive developments took place regarding the representation of the marginalized regions. The PPPP led government introduced several reforms in both FATA and Gilgit-Baltistan. One positive step was the extension of the Political Parties Order 2002 to FATA, giving political parties the freedom to campaign in the general elections. Prior to this, only independent candidates used to fill the 12 seats reserved for FATA in the National Assembly. In addition, amendments to the FCR setting up a FATA Tribunal obliged to resolve disputes within 90 days of them being brought to it.

The PPPP-led government has also introduced some political reforms in Gilgit-Baltistan. The Ministry of Kashmir Affairs and Northern Areas issued the Gilgit-Baltistan Empowerment and Self-Governance Order in 2009. Apart from renaming what had previously been known as the Federally Administered Northern Areas, the order provided for a measure of self-government through the creation of a legislative assembly. The 2009 reforms brought the status of Gilgit-Baltistan broadly in line with that which has prevailed in the Azad Kashmir since 1970.

Elections to the Gilgit-Baltistan Legislative Assembly were held for the first time in November 2009 and the main political parties participated in the elections. Real power in Gilgit-Baltistan continues to reside with a federally-nominated council. In 2012, the National Assembly passed a resolution calling for Gilgit-Baltistan to be made Pakistan's fifth province.

The 13th National Assembly made an amendment to Rule 201 of the Assembly's rules of procedure, towards the end of its tenure, empowering standing committees to have an input in the national budget. Prior to sending their budget to the Ministry of Finance, each ministry needs to submit its budgetary proposals relating to the Public Sector Development Programme (PSDP) for the next financial year to the relevant standing committee not later than the 31st January of preceding financial year and the standing committee shall make recommendations not later than the 1st March. In case that deadline passes, all budgetary proposals will be considered to have the standing committees' endorsement. However, as the amendment was made in the 49th session in January 2013 (the second last session of the Assembly's term), the budget for the year 2013-14 was not made with the committees' recommendations.

There were several issues of public importance raised in the Parliament during its five year tenure. Issues such as the law and order, power and energy shortages, water shortages, trade, agriculture were discussed. The members submitted 1,124 interventions on the floor of the House within the regulatory framework discussed above: 573 CANs, 408 Motions under Rule 259, 88 Matters of Public Importance and 55 Adjournment Motions.

In order to raise issues of public importance, legislatures submitted 573 CANs in last five years. The top five themes include power and energy, law and order, economy, foreign affairs and women rights.

Out of total 573 CANs, 436 (92%) were taken up by the House during 13th National Assembly. Some themes attracted more attention than others. These include 87 CANs on power and energy, 22 on law and order, nine on economy, eight on women rights and four on foreign affairs.

In all, 408 motions under rule 259 were moved on different themes including agriculture, employment, inflation, load-shedding, law and order, clean drinking water, local bodies' elections, the performance of Pakistan International Airlines and railways, natural calamities, trade and women's rights.

The foremost measures of the performance of the Parliament in conducting executive's oversight are the rigour of the procedure employed: timeline of submission of question and their responses, presence of relevant Ministers for furnishing responses, issuance of notifications etc. and adequacy of the answers given by the Ministers:

completeness, relevance to questions asked, supplemental information given, and evidence produced, such as records, documents, annexures etc. The FAFEN data shows that 15% questions that were fully answered were responded to later than the day on which they were on the agenda – referred to as old questions. However, 63% questions were fully answered on the very sitting in which they were on the Orders of the Day. As many as 13% new questions and 8% old questions did not receive any response. The Ministers presented 2,880 annexures and documents in support of their answers and on members' requests.

From a party-wise and provincial perspective, water and power remained the predominant issue on members' minds, as nearly all the parties asked most questions related to the Ministry of Water and Power. This trend was reflected in the provincial breakdown, as legislators from all provinces directed the major chunk of their questions to the Ministry of Water and Power and the Cabinet Secretariat. The exceptions were parliamentarians from FATA and the ICT (Islamabad Capital Territory), who addressed most questions to the ministries of State and Frontier Regions and Law and Justice, respectively.

The Ministries for Local Government and Rural Development, Professional Technical Training, Kashmir and Gilgit-Baltistan Affairs, National Harmony, Women Development, Special Initiatives, Livestock and Dairy Development, Culture and Social Welfare etc. responded to 95% questions addressed to them. Notable exceptions were Planning and Development, Law and Parliamentary Affairs and Religious Affairs and Auqaf, which also answered all questions put to them. On the other hand, Ministry of Petroleum and Natural Resources did not respond to about one-fifth of the questions addressed to it, while Water and Power Ministry did not answer 40% of the questions.

In 13th National Assembly, members of the Parliament expressed their views by raising 6,091 points of order. Lawmakers also used POs to erroneously bring issues of public importance to the floor. Since the process of bringing up issues of public importance is lengthy and cumbersome, members often use the short-cut of points of order. It is tantamount to mis-using points of order. POs do not contribute to any assembly output, and naturally it is impossible to effectively seek assurances or implementation from the executive through POs.

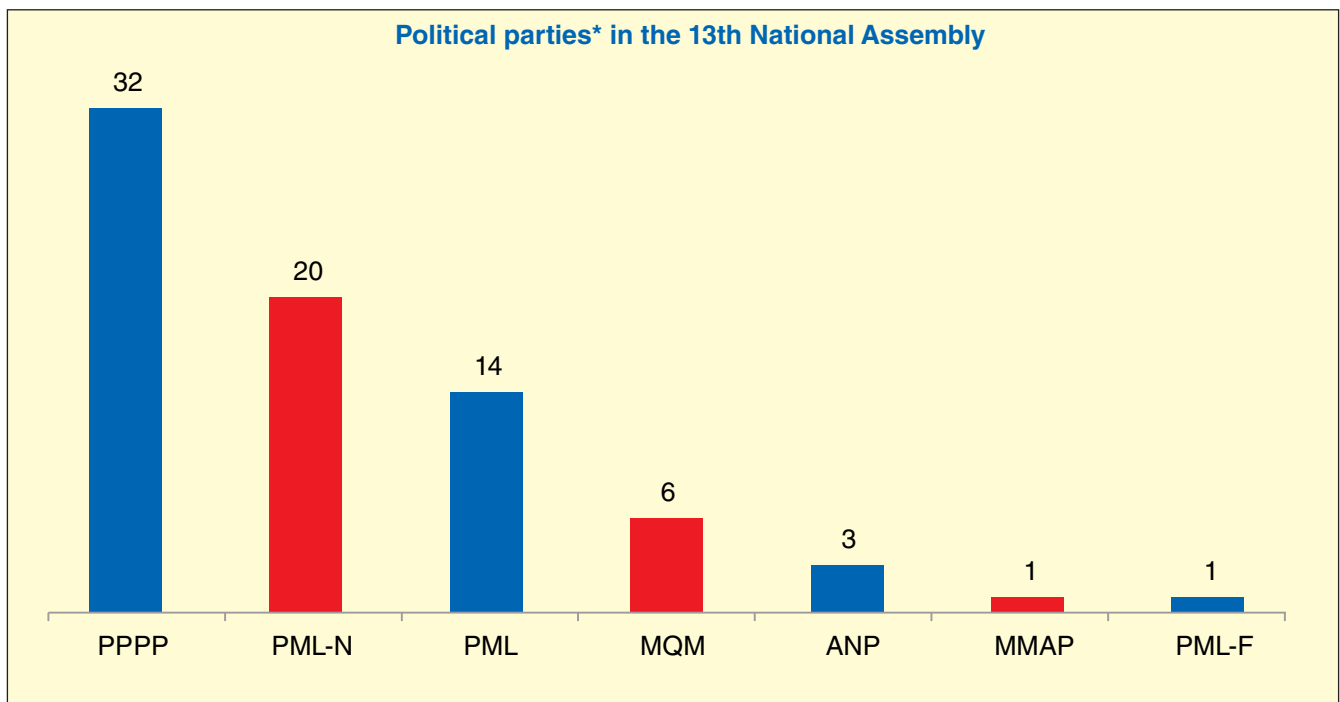
Legislators raised issues on points of orders to highlight the energy crises prevailing in the country, law and order, natural calamities, floods, privilege of members, unemployment and issues related to their respective constituencies.



## 1. The Representativeness of Parliament

### 1.1 How adequately does the composition of parliament represent the diversity of political opinion in the country (e.g. as reflected in votes for the respective political parties)

Regional, ethnic and linguistic heterogeneity and variation, as well as vast socio-economic differences guarantee variety and vibrancy of political opinion in Pakistan, evidenced by the 250 registered political parties in the country.<sup>2</sup> From the land-owning and agrarian classes to the business community and industrialists, the religious right, as well as nationalist movements in the smaller provinces, there is a political party for every interest and agenda among 180 million people of the country. Thirty six political parties contested the 2008 general elections while 106 did so in 2013. More than 80 million voters were registered in the 2008 general elections, and turnout was 44%<sup>3</sup>, with the following parties making up the 13th National Assembly for the five-year term 2008-13.



\* Pakistan Muslim league Nawaz (PML-N), Pakistan Muslim League (PML), Mutahida Qaumi Movement (MQM), Pakistan Peoples' Party Parliamentarians (PPPP), Awami National Party (ANP), Mutahida Majlis-e-Amal Pakistan (MMAP), Independent (IND), Pakistan Muslim League-Functional (PMLF), Balochistan National Part-Awami (BNPA), National Peoples' Party (NPP), Pakistan Peoples' Party-Shaheed Bhutto (PPP-S).

The heterogeneity of political opinion was reflected in the sheer diversity of the contesting political parties and it points to a vibrant political culture. However, there is political economy of the diverse representation of political opinion in the country. The center-left Pakistan Peoples' Party Parliamentarian (PPPP) dominates the rural Sindh and the southern Punjab due to its ethno-historic roots and its appeal amongst the rural areas. The Pakistan Muslim League-Nawaz banked on its strong following among urban middle class and the business community in the Punjab, while the centre-left Awami National Party was voted in the Khyber Pakhtunkhwa (KP) after the religious Mutahida Majlis-e-Amal Pakistan (MMAP)'s stint in the previous term. Karachi as part of the urban Sindh is dominated by the Urdu-speaking ethnicity-driven party, the Mutahida Qaumi Movement (MQM). Nationalist parties from Sindh and Baluchistan also got one seat each. Ten political parties and 18 Independents were elected in the National Assembly in 2008.

<sup>2</sup> List of political parties in Pakistan. Retrieved from the website of the Election Commission of Pakistan: <http://ecp.gov.pk/Misc/ListPolPartiesWithaddresses.pdf>

<sup>3</sup> National Assembly Turnout. Retrieved from the website of the Election Commission of Pakistan: [http://ecp.gov.pk/TurnOut/NA/NA\\_turnout.pdf](http://ecp.gov.pk/TurnOut/NA/NA_turnout.pdf)

### Composition of National Assembly:

The bicameral federal legislature consists of the National Assembly (lower house) and Senate (upper house). Elected representatives are elected by registered citizens of at least 18 years of age. Seats for the National Assembly are allocated on the basis of the population. Sixty seats are reserved for women and ten for religious minorities. Women and minorities are elected indirectly through the political parties' representation in the assemblies. Reserved seats for religious minorities are filled up through the system of separate electorate and the entire country is considered a single constituency.<sup>4</sup>

#### Composition of Seats in the National Assembly

Area	General Seats	Women on reserved seats	Religious Minorities	Total
Baluchistan	14	3	-	17
Khyber Pakhtunkhwa	35	8	-	43
Punjab	148	35	-	183
Sindh	61	14	-	75
Federally Administered Tribal Areas	12	0	-	12
Federal Capital	2	0	-	2
-	-	-	10	10
<b>Total</b>	<b>272</b>	<b>60</b>	<b>10</b>	<b>342</b>

The 10 minority members in the 13th National Assembly belonged to four political parties – four belonged to the ruling PPPP, three to the major opposition PML-N, two to the Pakistan Muslim League-Q (Quaid) and one to the MQM. Two members were Christians and the remaining eight were from the Hindu community.

### 1.2 How representative of women is the composition of Parliament?

Women are elected to the National Assembly both directly and on the sixty reserved seats. There are established patterns of political and electoral marginalization that prevent women from running as candidates as well as from casting votes. However, women do manage to get elected by bypassing the obstacles. Women who get elected on direct or reserved seats are known to have affinity with traditional political families in the country. There is a perception that women belonging to traditional political families got elected due to their prominent male members. There is a need for creating greater awareness about the importance of reserved seats for women. Affirmative action in the form of reserving seats for women is a global strategy to increase their presence in legislatures and to combat the gender bias in the society. The prevalence of 'political families' is a part and parcel of Pakistani politics and reflects in the election of male parliamentarians as well – the influential Saifullah brothers from Lakki Marwat in the KP have served variously as federal ministers and in the provincial assembly and belong to different parties, yet continued to be elected for office by the same voters from the same area, showing that people vote not only for political parties but for local prominent families. The election of women from families enjoying similarly strong local patronage, such as Hina Rabbani Khar from the PPPP, is merely a testament to the established political culture of the country irrespective of gender.

Comparative inability of women to be directly elected in the assemblies is not a reflection of their abilities; it is a comment on the patriarchal socio-political culture that prevents women representation. Increased women representation needs to be pushed through electoral and political reforms. There is also a need to change selection of women on reserved seats through the proportion of seats of political parties in the assemblies; it needs to be replaced through direct election of women on the reserved seats. There should also be amendments to the Political Parties Order 2002 to ensure ten percent quota of women in all political parties.<sup>5</sup>

In 2008 general elections, 18 women<sup>6</sup> joined the National Assembly on general seats (through direct election). There were 195 women contestants in total, of whom 78 were running from party platforms and the remaining as independent candidates.<sup>7</sup> PPPP had the highest number of ten female winners followed by three each from PML-N and PML. One woman returned on MQM ticket and another as Independent. Sixty women were elected on reserved seats.

<sup>4</sup> Articles 50, 51 of the Constitution of Pakistan. Retrieved from the website of the Punjab government: <http://punjablaws.punjab.gov.pk/public/dri/CONSTITUTION%20OF%20PAKISTAN.doc.pdf>

<sup>5</sup> The Political Parties Order (Amendment) Bill 2012. FAFEN data

<sup>6</sup> FAFEN data

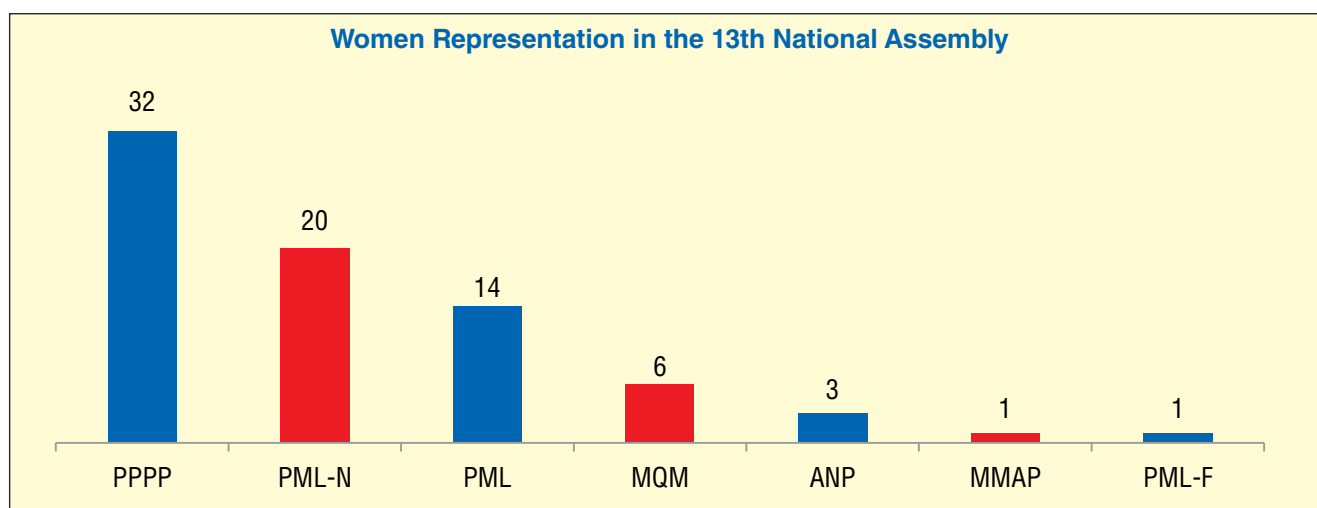
<sup>7</sup> Paragraph 3, executive summary, 'Observation report of Women Contested Constituencies General Elections 2008 – Pakistan'. Retrieved from the website of The Researchers: [http://www.theresearchers.org/Publications/EleObser\\_MonReport/Pakistan%20EO%20Report.pdf](http://www.theresearchers.org/Publications/EleObser_MonReport/Pakistan%20EO%20Report.pdf)

### Directly elected women in the 13th National Assembly

Sr. No.	Name of Members	Party	Constituency	Province
1	Mrs. Sumera Malik	PML	NA-69 Khushab-I	Punjab
2	Ms. Rahela Baloch	PPPP	NA-78 Faisalabad-IV	Punjab
3	Ms. Ghulam Bibi Bharwana	PML	NA-87 Jhang-II	Punjab
4	Ms. Saima Akhtar Bharwana	Ind	NA-90 Jhang-V	Punjab
5	Mrs. Farkhanda Amjad	PML	NA-92 T.T.Singh -I	Punjab
6	Mrs. Saira Afzal Tarar	PML-N	NA-102 Hafizabad-I	Punjab
7	Dr. Firdous Ashiq Awan	PPPP	NA-111 Sialkot -II	Punjab
8	Mrs. Sumaira Yasir Rasheed	PML-N	NA-115 Narowal -I	Punjab
9	Mrs. Samina Khalid Ghurki	PPPP	NA-130 Lahore-XIII	Punjab
10	Mrs. Tehmina Daultan a	PML-N	NA-169 Vehari -III	Punjab
11	Ms. Hina Rabbani Khar	PPPP	NA-177 Muzaffargarh -II	Punjab
12	Mrs. Khadija Aamir Yar Malik	PPPP	NA-184 Bahawalpur-II	Punjab
13	Mrs. Faryal Talpur	PPPP	NA-207 Larkana-IV	Sindh
14	Dr. Azra Fazal Pechuho	PPPP	NA-213 Nawabshah-I	Sindh
15	Mrs. Shamshad Sattar Bachani	PPPP	NA-223 Hyderabad-VI	Sindh
16	Dr. Fehmida Mirza	PPPP	NA-225 Badin-II	Sindh
17	Ms. Khush Bakht Shujaat	MQM	NA-250 Karachi-XII	Sindh
18	Ms. Natasha Daultana	PPPP	NA-168 Vehari -II	Punjab

Sixty seats were reserved for women in the National Assembly in 2002, while the total strength of the House is 342. The election of 18 women on general seats as a result of direct election was a positive development. Similarly, the election of the first female speaker, Dr. Fehmida Mirza, was also a welcome development. However, 18 directly elected women out of the total strength of 342 only represents 5% of the House. The total female members in the 13th National Assembly were 78 (18 directly elected and 60 on the reserved seats) which is around 23%. With women being roughly 50% of the population, their overall representation being only 23% even after an affirmative action speaks volumes about the need to push for electoral and political reforms that can increase female representation and lead to change in the overall socio-political attitudes in the society.

### Women Representation in the 13th National Assembly



### 1.3. How representative of marginalized groups and regions is the composition of parliament?

There are several marginalized groups and regions in Pakistan, however, for the purposes of this analysis, the case of minorities, as well as the regions of Gilgit-Baltistan, and the Federally Administered Tribal Areas is reviewed.



Four per cent of the population of Pakistan comprises of Christians, Hindus, Sikh, Scheduled Castes and other religious communities (Parsis, Bahais, Jains, Buddhists, etc.), with Christians and Hindus in roughly equal numbers (1.6% of total population).<sup>8</sup>

In the National Assembly, ten seats are reserved for minorities. These seats are filled through a proportional representative system of the elected political parties. In other words, minority members of the ruling party have a bigger share in the 10 reserved seats than others. The 10 minority members in the 13th National Assembly belonged to four political parties – four to the ruling PPPP, three to the major opposition party PML-N, two to the PML and one to the MQM.

There are obviously issues with such a mechanism to represent the religious minorities in the National Assembly. There are no quotas within the reserved seats for the various religious communities in the country. In addition, reserved seats are decided on the proportion of political parties' seats in the House. Minority voters can be ignored by local candidates. Due to indirect elections, members elected on reserved seats tend to highlight the party agenda in the Parliament rather than speaking on issues that effect to the minority communities directly. A case in point is that throughout 2008-13 period, only a single bill pertaining to registration of Hindu marriages was introduced by a minority member and no other significant legislation was done on issues pertaining to minorities.

The Federally Administered Tribal Areas (FATA) are part of the territory of Pakistan and are administered by the Governor of KP on behalf of the President. The National Assembly has no powers to legislate for the FATA unless so directed by the President, as under article 247 of the Constitution. The colonial era Frontier Crimes Regulation (FCR) is the main legal framework still in place in the region, despite criticism for being obsolete and against basic human rights due to provisions of collective punishment, and infringement of the right to request a change to a conviction in any court, the right to legal representation and the right to present reasoned evidence. In terms of marginalized regions, the 18th Amendment in the Constitution passed by the 13th National Assembly did not make any constitutional changes to the distinctive status of the FATA or Gilgit-Baltistan.

However, some positive developments took place regarding the representation of the marginalized regions. The PPPP led government introduced several reforms in both FATA and Gilgit-Baltistan. One positive step was the extension of the Political Parties Order 2002 to FATA, giving political parties the freedom to campaign in the general elections. Prior to this, only independent candidates used to fill the 12 seats reserved for FATA in the National Assembly. In addition, amendments to the FCR setting up a FATA Tribunal obliged to resolve disputes within 90 days of them being brought to it.

The PPPP-led government has also introduced some political reforms in Gilgit-Baltistan. The Ministry of Kashmir Affairs and Northern Areas issued the Gilgit-Baltistan Empowerment and Self-Governance Order in 2009. Apart from renaming what had previously been known as the Federally Administered Northern Areas, the order provided for a measure of self-government through the creation of a legislative assembly. The 2009 reforms brought the status of Gilgit-Baltistan broadly into line with that which has prevailed in the Azad Kashmir since 1970.<sup>9</sup>

Elections to the Gilgit-Baltistan legislative assembly were held for the first time in November 2009<sup>10</sup> and the main political parties participated in the elections. Real power in Gilgit-Baltistan continues to reside with a federally-nominated council. In 2012, the National Assembly passed a resolution calling for Gilgit-Baltistan to be made Pakistan's fifth province.<sup>11</sup>

#### 1.4 How easy is it for a person of average means to be elected to parliament?

According to the rules, there is no bar on any Muslim citizen of Pakistan to contest elections as long as he/she is a registered citizen, enrolled as a voter and is at least 25 years of age. However, it is not easy. According to sub-section (2) of Section 49 of the Representation of the People Act 1976, the contesting candidates are given the limit of Rs. 1,500,000/- (rupees one million and five hundred thousand) of election expense for the National Assembly Constituency and Rs. 1,000,000/- (rupees one million) for a Provincial Assembly constituency.<sup>12</sup>

Despite the fact that the law sets the upper limit of election expense, it is not implemented as oversight and

<sup>8</sup> Population by religion. Retrieved from the website of the Census of Pakistan: <http://www.census.gov.pk/Religion.htm>

<sup>9</sup> Constitutional Reforms in Gilgit-Baltistan. Retrieved from the website of ViewPointOnline:

<http://www.viewpointonline.net/site/component/content/article/3303-constitutional-reforms-in-gilgit-baltistan.html>

<sup>10</sup> ECP announces election schedule for Gilgit-Baltistan. Retrieved from the website of Geo TV: <http://www.geo.tv/9-23-2009/49650.htm>

<sup>11</sup> Gilgit-Baltistan becomes fifth province, no relation with Kashmir: Chief Minister. Retrieved from the website of the Gilgit-Baltistan Times: <http://gltimes.wordpress.com/2009/12/27/gilgit-baltistan-becomes-fifth-province-no-relation-with-kashmir-chief-minister/>

<sup>12</sup> Election Expenses- <http://www.ecp.gov.pk/ViewPressReleaseNotific.aspx?ID=1834&TypeID=1>

monitoring is difficult. The actual election expense is often much more than the prescribed limit. It makes it difficult for a person of average means to contest elections.

Even if the rules regarding the election expense are implemented in the letter and spirit, even then it might not be possible for a person of average means to contest election unless they are financed through political parties' donations.

### **1.5 How adequate are the internal party arrangements for improving imbalances in parliamentary representation?**

The internal party arrangements for improving imbalances in parliamentary representation are not adequate. Political parties often do not hold genuine internal elections. Even if the elections are held, they are mostly used to rubber-stamp the party leadership rather than bringing change in the structures of the party. Imbalances in parliamentary representation of the minorities and women are often not addressed through the internal party arrangements.

### **1.6 How effective are arrangements for ensuring that opposition and minority members can effectively and adequately contribute to the work of Parliament?**

The rules provide equal rights to the opposition parties and minority members to contribute to the work of Parliament. However, there is a chasm between the rules and practice in developing countries like Pakistan.

Minorities' representation in the House in terms of the legislative output is limited to the point of being non-existent. Except for one Hindu Marriage Bill introduced in 2011, no other legislation on minorities was introduced. Other than complacency of the majority members, it points to the very skewed system through which minorities are elected in the House through the proportional seats of the successful political parties. Such a system ties the minorities' members to adhere to party agendas rather than representing the minorities' interests.

However, the opposition has traditionally remained vocal throughout Pakistan's democratic history and the 13th National Assembly was no exception, with the major opposition PML-N's active participation in debates and discussions. On-floor criticism is often political point-scoring. However, the opposition used question hour to make the government address their queries.

On the basis of the Free and Fair Election Network (FAFEN)'s data, we draw the contours of the contribution of Opposition and Minorities in the 13th National Assembly (2008-2013) through the following indicators:

#### **1.6.1. Calling Attention Notices:**

Calling Attention Notices (CANs) are a significant means for the Parliament members to bring important issues to the House floor.

Total of 573 CANs were tabled. The PML-N tabled 231<sup>13</sup> CANs (40%). PML-N raised issues of power and energy, health, economy, Hajj fare, textile industries, interior and other affairs of public concern.<sup>14</sup> One CAN was related to the rights of minorities during the 13th National Assembly.

#### **1.6.2. Question Hour**

In 13th National Assembly, lawmakers asked 16,178 questions<sup>15</sup> on the floor of the House according to FAFEN data. 234 (1%) by minorities, PML-N 10,017 (62%). Other opposition parties raised questions as well, in addition to those described above.

#### **1.6.3. Legislation**

The Hindu Marriage Bill was introduced by a single male minority member and it emphasized filling a much needed gap in the registration of Hindu marriages.

In the 13th National Assembly 189 private members' bills were introduced in the lower house, of which 135 sought amendments in existing laws. The opposition party PML-N introduced 53 (28%) of private members' bills. These introduced bills were not passed.

<sup>13</sup> FAFEN data

<sup>14</sup> FAFEN data

<sup>15</sup> FAFEN data

#### 1.6.4. Resolutions

In the five years of the 13th National Assembly, 530<sup>16</sup> resolutions were moved of which 85 (16%) were adopted by the House. The main opposition party PML-N<sup>17</sup> raised 317 (60%) of these resolutions, of which 17 (5%) were adopted —. These resolutions focused on women rights, missing persons in Balochistan, employment generation, and blasphemy among others.

#### 1.7 How conducive is the infrastructure of parliament, and its unwritten mores, to the participation of women and men?

Women remained very active participants in the functioning of the 13th National Assembly. All 78 women participated in the proceedings of the Assembly.

Out of total 116<sup>18</sup> government passed bills, four (3%) were introduced by women. Out of 19<sup>19</sup> private members' bills, 15 (79%) were introduced by women. These introduced bills were not passed.

Out of total 102 government introduced<sup>20</sup> bills, six (6%) were introduced by women. Out of 189 private members' bills, 104 (55%) were introduced<sup>21</sup> by women and 38 (20%) were introduced by women in collaboration with men.

Active participation of women in the legislation is amply evident in the figures quoted above. More importantly, 79% of private members' bills were introduced by women. It is an overwhelming contribution of women in the legislative agenda setting of the Assembly. They were also active members of standing committees, and also promoted public interest agendas outside the parliament<sup>22</sup>. However, it is also evident that women contribution in the government introduced<sup>23</sup> and passed bills hovers around 5% which is much less than their 23% representation in the National Assembly and their roughly 50% representation of the total population of Pakistan. It is evident that the government trusts its male members to introduce majority of its bills and not the female members.

Women parliamentarians also introduced pro-women bills which were also passed later on. They include bills such as the Domestic Violence (Prevention and Protection) Bill 2009, the Criminal Law (Third Amendment) Bill 2010, the Protection against Harassment of Women at the Workplace Act 2010, the Criminal Law (Second Amendment) Bill<sup>24</sup> — and the Prevention of Anti-Women Practices Bill 2011.<sup>25</sup> We give details of these key bills below:

**Domestic Violence (Prevention and Protection) Bill 2009:** This act was passed to make domestic violence a punishable offence, whether against women or children, and to promote zero tolerance for violence against women as reflected in the National Policy for Development and Empowerment of Women. The Bill introduced punishment of one-year imprisonment and a fine of PKR 200,000 for perpetrators of domestic violence.

**The Protection against Harassment of Women at the Workplace Act 2010:** This Act addressed the issue of safe working environment to women in accordance with all religious norms of Pakistan, the Committee on the Elimination of Discrimination against Women, and the International Labour Organisation resolutions. It appointed officers at the provincial and federal level for receiving and addressing complaints.

**The Prevention of Anti-Women Practices Bill 2011:** The Bill introduced punishment for depriving women of their share in property, forced marriages (including practices such as vani and swara), and the so-called “marriage” with the Holy Quran.

**The Acid Control and Acid Crime Prevention Bill 2010:** This Bill recommended 14-years to lifetime imprisonment sentences and fine up to Rs. 1 million for acid throwing.

Total of 16, 178 questions were asked in the National Assembly. Women asked 8,212 (51%) questions during the Question Hour.

<sup>16</sup> FAFEN data

<sup>17</sup> This is in addition to the resolutions that the party tabled in collaboration with other parties.

<sup>18</sup> Out of 116, 56 bills were amendments.

<sup>19</sup> Out of 19, 5 bills were amendments.

<sup>20</sup> These bills were introduced but not passed.

<sup>21</sup> These bills were introduced but not passed.

<sup>22</sup> Mirza, N. and Wagha, W. (2009) Performance of Women Parliamentarians in the 12th National Assembly: a Five Year Report. Aurat Foundation. Islamabad: Pakistan.

<sup>23</sup> These introduced bills were not passed.

<sup>24</sup> Earlier tabled as the Acid Control and Acid Crime Prevention Bill 2010.

<sup>25</sup> FAFEN data



## 1.8 How secure is the right of all members to express their opinions freely and how well are members protected from executive and legal interference?

The National Assembly Rules of Procedure and Conduct of Business 2007 provide rights to all members to express their opinions. However, Pakistan is an evolving democracy. The members often follow the respective party agendas, even if they disagree with them in private. Political parties are personality and family driven and impersonalized political culture is lacking. Personality-oriented party culture often makes it formidable to hold the executive accountable without facing the consequence. Similarly, socio-cultural barriers are a constraint that members have to bear while expressing their opinions. Given the deepening retrogressive trends in the post 9/11 Pakistan with a deepening Taliban insurgency, it is often very difficult to express opinion on sensitive issues such as the blasphemy law. Governor of Punjab Salman Taseer and the Minorities Minister Shahbaz Bhatti were killed for their opposition to the misuse of the blasphemy law.

A key achievement of the 13th National Assembly was the passage of the 18th constitutional amendment which curtailed the powers of the President to dissolve the Parliament. Although, it did not directly relate to the ability of members to express their opinions, it strengthened the supremacy of the Parliament by removing Article 58-2(b) from the Constitution. Given the fact that the executive have used the presidential powers to dissolve the elected assemblies throughout the 1990s, it was a historical development to give up the executive power.

We discuss other parliamentary means through which the members express their opinions:

### 1.8.1. Questions of Privilege

A member has right to raise a Questions of Privilege (QoP) involving the breach of privilege of member, committee and Assembly.<sup>26</sup> In the last five years, only 32% of the questions of privilege<sup>27</sup> were referred to the concerned committees.

In the 13th National Assembly, most of the members pursued their personal and constituency-related issues through QoP. We give some examples below:

A member of the main opposition party PML-N moved the privilege motion to complain about the attack on his Gujranwala office. The issue was taken up by the House and it was later referred to the concerned committee. Other two members of the PML-N also moved two Privilege Motions on the basis of the newspaper reports allegedly defaming the members by referring to them as defaulters. Both of these motions were also sent to the relevant committee. An independent member also moved motion over the issue of not getting the permission by the political administration to speak on the occasion of Governor Khyber Pakhtunkhwa's visit to his constituency.

### 1.8.2. Points of Order

Points of order (POs) relate to the enforcement of the rules of procedure of the House. The decision of the Speaker as to whether a point raised is a point of order or not, is final. No debate is allowed on a point of order.<sup>28</sup>

In 13th National Assembly, members of the Parliament expressed their views by raising 6,091<sup>29</sup> points of order. Lawmakers also used POs to erroneously bring issues of public importance to the floor. Since the process of bringing up issues of public importance is lengthy and cumbersome, members often use the short-cut of points of order. It is tantamount to mis-using points of order. Legislators raised issues on points of orders to highlight the energy crises prevailing in the country, law and order, natural calamities, floods, privilege of members, unemployment and issues related to their respective constituencies.

### 1.8.3. Adjournment Motions

In last five year, members brought 55 adjournment motions<sup>30</sup> before the House, of which 30 (60%) were discussed. When adjournment motions are admitted, it leads to the regular agenda being adjourned.

### 1.8.4. Calling Attention Notices

The National Assembly received 89 calling attention notices<sup>31</sup> during the fifth parliamentary year; 66 were taken up. In the fourth year, a total of 122 calling attention notices were presented of which 90 received responses from the

<sup>26</sup> Rules and Procedures of National Assembly

<sup>27</sup> FAFEN data

<sup>28</sup> Rules and Procedure of National Assembly

<sup>29</sup> FAFEN data

<sup>30</sup> FAFEN data

<sup>31</sup> FAFEN data

concerned ministries. Similarly, 130 such notices were observed in the third parliamentary year, of which 102 were taken up, 120 in the second year of which 87 were taken up, and 112 in the first parliamentary year of which 91 were taken up.

### 1.8.5. Resolutions

Out of 530 resolutions<sup>32</sup> presented in the House over five years the 13th National Assembly adopted 85. Fifteen resolutions each were adopted in the first and second parliamentary year out of 90 and 126 presented in the House, respectively. Out of 92 and 88 presented in the House in the third and fourth parliamentary year, 12 and nine were adopted, respectively. Additionally, 34 were adopted out of a total 133 in the fifth year. It shows that the member's representation and involvement in the Assembly increased with the passage of their term in the Parliament.

### 1.8.6. Questions

The Question Hour is a tool of the executive oversight. Members ask both starred and un-starred questions. Starred questions require both oral and written response while the concerned Ministry only provides written response to the un-starred questions. FAFEN data indicates that 16,178 questions were put on the agenda of the House during the tenure of the 13th National Assembly.<sup>33</sup>

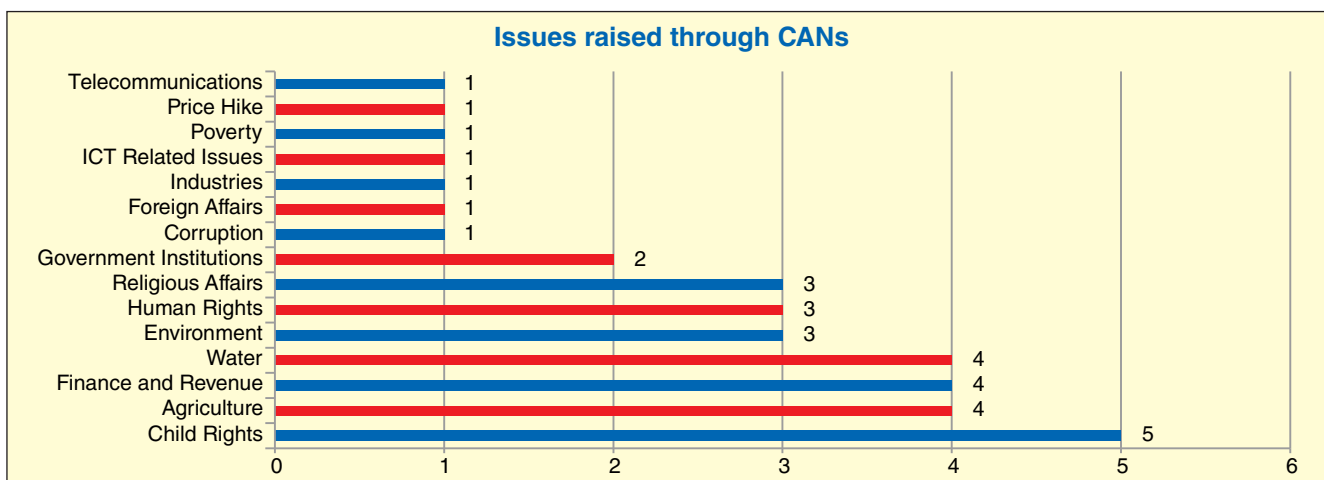
## 1.9 How effective is Parliament as a forum for debate on questions of public concern?

The rules of procedure provide several mechanisms to bring issues of public importance on the floor. Legislators can draw executive's attention towards such issues by raising Calling Attention Notices (CANs), the planned proceedings can be suspended to discuss a matter of urgent importance through Adjournment Motions, and members can also move Motions under Rule 259 to discuss any policy, situation, statement or other matter. In addition, the rules also provide for members to receive statements from Ministers after raising matters of public importance.

Rules 88 to 94 list the procedure to be followed for calling the attention of a Minister to a matter of urgent public importance, who is required to make a brief statement in response, or ask for time to give a response at a later date. No more than two CANs can be raised in a single sitting, and a day's notice is required for them to be put on the agenda. Similarly, Rule 109 to 117 list the procedure to be followed for moving an Adjournment Motion, from admissibility criteria, time limits and the number of Adjournment Motions to be taken up in a single sitting. The House may only spend two hours in discussion on one Adjournment Motion only during a sitting.

There are constraints on the admittance of issues of public importance through the tools discussed above. No more than two Calling Attention Notices can be taken up in a single sitting, and each of these tools may only pertain to a single issue. There are stringent conditions governing the admissibility of these tools, to ensure, among other things that no sub-judice matter is discussed in the House.

There were several issues of public importance raised in the Parliament during its five year tenure. Issues such as the law and order, power and energy shortages, water shortages, trade, agriculture were discussed. The members submitted 1,124 interventions on the floor of the House within the regulatory framework discussed above: 573 CANs, 408 Motions under Rule 259, 88 Matters of Public Importance and 55 Adjournment Motions.



<sup>32</sup> FAFEN data

<sup>33</sup> FAFEN data

*\*Economy, housing, land, ICT related affairs, railways, women rights, telecommunications, black-marketing, child rights, Hajj affairs, narcotics, natural disasters, development funds, foreign affairs, sports, art and culture, aviation, human trafficking, labour, passports, polio, beggary, heritage, IDPs, information and broadcasting, overseas Pakistanis, smuggling, blasphemy, CSS examinations, elections, fisheries, illegal immigrants, law and justice, media, military operation, minorities, municipal bodies, NADRA, narcotics, NGOs, obscene websites, PEC, PSO, religious affairs, trade, utility stores.*

In order to raise issues of public importance, legislatures submitted 573<sup>34</sup> CANs in last five years. The top five themes include power and energy, law and order, economy, foreign affairs and women rights.

Out of total 573 CANs, 436 (92%) were taken up by the House during 13th National Assembly. As evident from the above graph, some themes attracted more attention than others. These include 87 CANs on power and energy, 22 on law and order, nine on economy, eight on women rights and four on foreign affairs.

### 1.9.1. Power and Energy

Lawmakers expressed their concern over energy crises, power outages, and fuel shortages - by bringing in 87 CANs. Parliamentarians also highlighted the rising prices of petroleum products and the sale of petrol on the black market. It was suggested that government focus on constructing small dams, and developing coal and nuclear energy resources.

### 1.9.2. Law and order

Members raised 22 CANs on law and order in 13th National Assembly in light of the many cases of bomb explosions, suicide attacks, firing on the innocent civilians, religious clashes etc. during the Assembly's term.

### 1.9.3. Economy

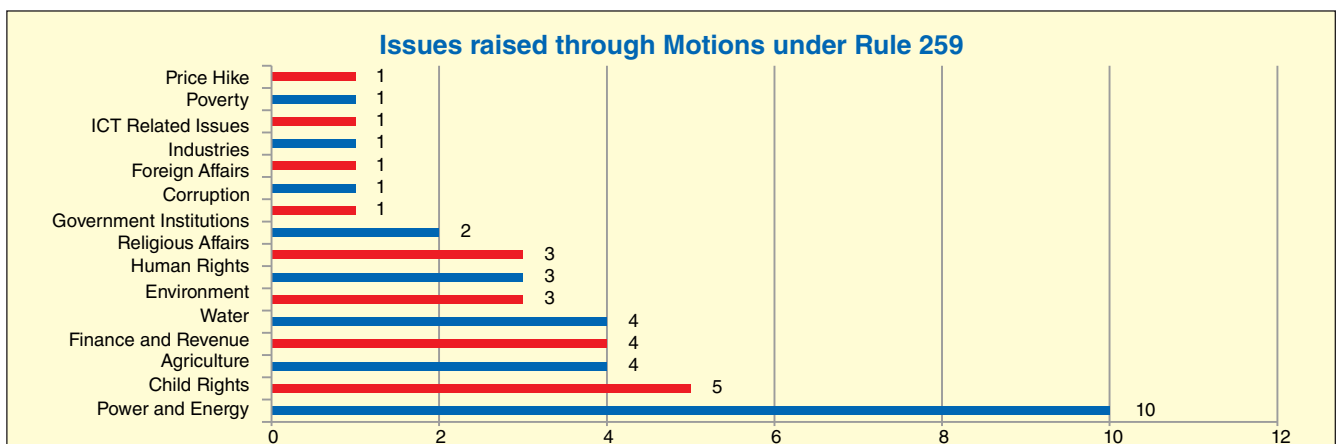
Taxation, increased public debt, and not releasing funds and loans targeted towards areas hit by natural disasters were the subjects of nine CANs in 13th National Assembly. Eight out of nine CANs were taken up and responded to by the Ministry of Finance and Revenue.

### 1.9.4. Women Rights

Members drew attention towards women rights by submitting eight calling attention notices in last five years. Four of the total eight CANs that received responses from the Ministry of Human Rights were about violence against women, including one about an international organization ranking the country as the fifth most unsafe place for women. Two CANs were on the practice of barring women from casting votes and delay to prepare the voters' lists for 2013 general elections in various parts of the country.

### 1.9.5. Foreign Affairs

Four CANs were submitted related to foreign affairs, regarding the Israeli attack on the Freedom Flotilla carrying relief goods for the Palestinians, placement of a permanent American official at the U.S. Embassy in Pakistan to deal with Pakistan's nuclear issues, refusal of visa to 300 Sikh pilgrims, and MNAs being compelled to pass through the scanner at Reagan International Airport.



*\*Government institutions, Black marketing, Privatization, Trade, Water, Narcotics, Power and energy/ Health/Price hike, Pakistan post, Banking, Corruption, Environment, Hajj affairs, Industries, Livestock, Media, Natural calamities, Religious affairs, Women rights, Communications, Kashmir issue, Local government, NADRA, Police, Social welfare, Sports, BISP, ERRA, FBR, Housing, Intelligence agencies, Kerry-Lugar bill, Labour, Minorities, NEPRA, NGOs, Parliamentary affairs, PIMS, Telecommunications, Tourism.*

<sup>34</sup> FAFEN data



Under Rule 259 of the rules and procedure of the National Assembly<sup>35</sup>, “any Minister or a Member may give notice of a Motion that any policy, situation, statement or any other matter may be taken into consideration. No Question shall be put at the conclusion of the debate unless any Minister or a Member, with the consent of the Chair, moves a substantive Motion immediately after in appropriate terms, in which case a Question shall be put.”

In all, 408 Motions under Rule 259 were moved on different themes including agriculture, employment, inflation, load-shedding, law and order, clean drinking water, local bodies' elections, the performance of Pakistan International Airlines and railways, natural calamities, trade and women's rights.

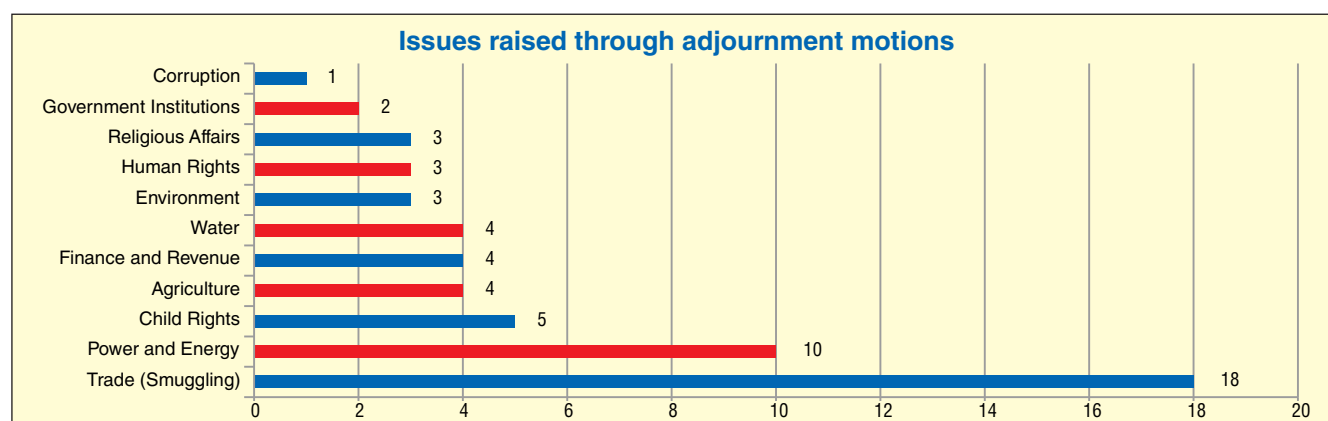
As evident from the above graph, some themes attracted more attention than others. Some Motions under Rule 259 were submitted by more than one member.<sup>36</sup>

### 1.9.6. Energy and Power

Thirty-three motions were moved by lawmakers in 13th National Assembly about petroleum prices, policy of government on petroleum, un-scheduled load shedding etc. and problems faced by industries due to the same.

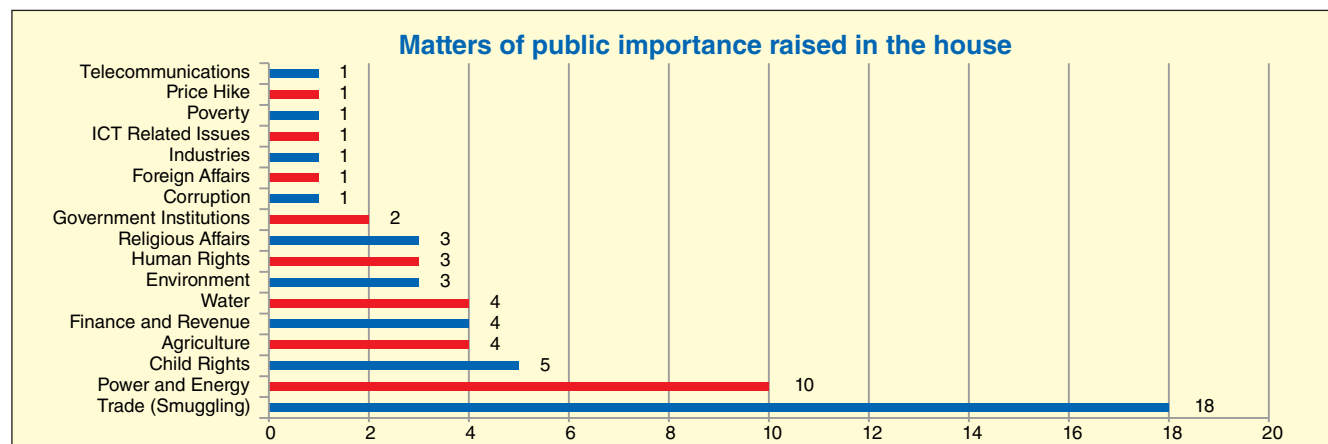
### 1.9.7. Law and Order

Lawmakers shared 17 issues related to law and order regarding incidents of violence such as bomb blasts and suicide attacks, mostly in Karachi and Quetta.



Through an Adjournment Motion, legislators seek to adjourn the routine business of the National Assembly for a two hour debate on any matter of recent occurrence and urgent importance. At the end of the debate, the concerned Minister is required to respond to the issues raised by members. Under Rule 109 (Chapter XIII) of the Rules of Procedure and Conduct of Business of the National Assembly, “a Motion for an adjournment of the business of the House for the purpose of discussion on a definite matter of an urgent public importance may be made with the consent of the Chair.”

Fifty-five motions were presented in the House in the last five years; twenty eight adjournment motions were submitted by the major opposition PML-N. The motions were about blasphemy, Dr. Afia Siddique case, corruption, law and order, power and energy, and water.



According to Rule 87 of the Rules of Procedure of the National Assembly, the Chair may allot the last half hour of a sitting on a Private Members' Day (Tuesday in the National Assembly) for raising discussion on a matter of urgent public importance.

Eighty-eight matter of public importance were discussed in the House in last five years. Among these, 24 were related to public health. Others were about poverty, energy crisis, child rights, smuggling, agriculture, water, and health etc.

#### **1.9.8. A special case: Points of Order**

Data gathered from direct observation of the five years of the 13th National Assembly shows that in addition to the interventions mentioned above (CANs, Adjournment Motions, Motions under Rule 259, Matters of Public Importance), the lawmakers raised 6,091 Points of Orders (POs) on similar issues. According to the rules, POs can only be used to point out breaches in parliamentary discipline. However, perhaps due to the limited number of CANs, Adjournment Motions etc. that can be admitted in a single sitting, the lawmakers used POs to erroneously bring issues of public importance and constituency level problems to the floor. These do not contribute to any assembly output, and naturally it is impossible to effectively seek assurances or implementation from the executive through POs.

#### **1.9.9. Improvements and deficiencies**

Among the biggest improvements in the above is the selection of a member of the opposition party as chairman of the Public Accounts Committee, and perhaps the successful lobbying by the minority members to keep the Ministry of Minorities from being devolved to the provinces, resulting in the formation of the Ministry of National Harmony. Similarly, the elections of a female speaker as well as a female foreign minister are also parliamentary triumphs. In addition, existing rules of procedure, in theory at least, allow the participation and representation of women, minorities and opposition members.

However, the general lack of electoral and political reforms, continuation of the party-based allocation of reserved seats for both women and minorities, and the practice of party agenda taking precedence over constituents' needs remain to be addressed.

Similarly, a combined effort of increasing the number of Assembly sittings during the year, increasing the number of times important public matters can be brought to the floor through tools provided in the regulatory framework such as CANs, Adjournment Motions, Motions under Rule 259 and Matters of Public Importance, and cutting short the necessity to raise constituency level issues through POs by lobbying for better and systematic local governance, can improve the quantity of issues of public importance addressed by the House.

## 2. Parliamentary oversight over the executive

### 2.1 How rigorous and systematic are the procedures whereby members can question the executive and secure adequate information from it?

Legislative oversight over the executive is an important part of the duties of elected representatives to hold the government accountable, by scrutinizing the national budget at all stages, and seeking statistical and qualitative information regarding service delivery and assurances given on issues of public importance. The rigour of the procedures developed to attain this end can be gauged from an examination of the relevant sections of the Assembly rules.

In the National Assembly, parliamentarians hold the executive (ministers) accountable in three ways -- through asking questions, through submission of CANs and (also perhaps most importantly) through proceedings of the standing committees, in place for all ministries/departments for advice and review, as well as for legislative and budgetary review.

The 13th National Assembly made an amendment to Rule 201<sup>38</sup> of the assembly's rules of procedure, towards the end of its tenure, empowering standing committees to have an input in the national budget. Prior to sending their budget to the Ministry of Finance, each ministry will submit its budgetary proposals relating to the Public Sector Development Programme (PSDP) for the next financial year to the relevant standing committee not later than the 31st January of preceding financial year and the standing committee will make recommendations not later than the 1st March. In case that deadline passes, all budgetary proposals will be considered to have the standing committees' endorsement.

However, as the amendment was made in the 49th session in January 2013 (the second last session of the assembly's term), the budget for the year 2013-14 was not made with the committees' recommendations.

Rules 67 to 86 of the Assembly list the system to be followed for asking questions from the executive. The first hour of each sitting, after the recitation of the Holy Quran and oath-taking of members, is reserved for asking questions, except on Tuesdays, which are private members' days in the Lower House. The procedure to be followed for dealing with questions – from the stage of submission to being taken up on the floor – is quite systematic, with 15 days clear notice required before presentation in a sitting, issuance of copies of the questions to the secretary, including the exact designation of the Minister for whom it is intended. The relevant Minister is also given ample time to prepare his response as no question is placed on the agenda of a sitting until 10 days have lapsed since its notice of admission was given to the Minister. List of questions are regularly published and Ministers have to furnish reasons for not responding. Members also have to specify whether they require both oral and written responses (Starred Questions), and only written answers (Un-starred Questions). Only two Starred Questions (including a short notice question for which less than 15 days' notice may be given) and two Un-starred Questions may be included on the agenda of a sitting from the same member. In addition, each sitting can only entertain questions put to a single government division e.g. railways, education etc. There are also stringent admissibility criteria in place in the rules of procedure to ensure, among other things, that no sub-judice matters are brought on the floor, and that the question is concise, legible, free from unnecessary information, remarks, comments etc.

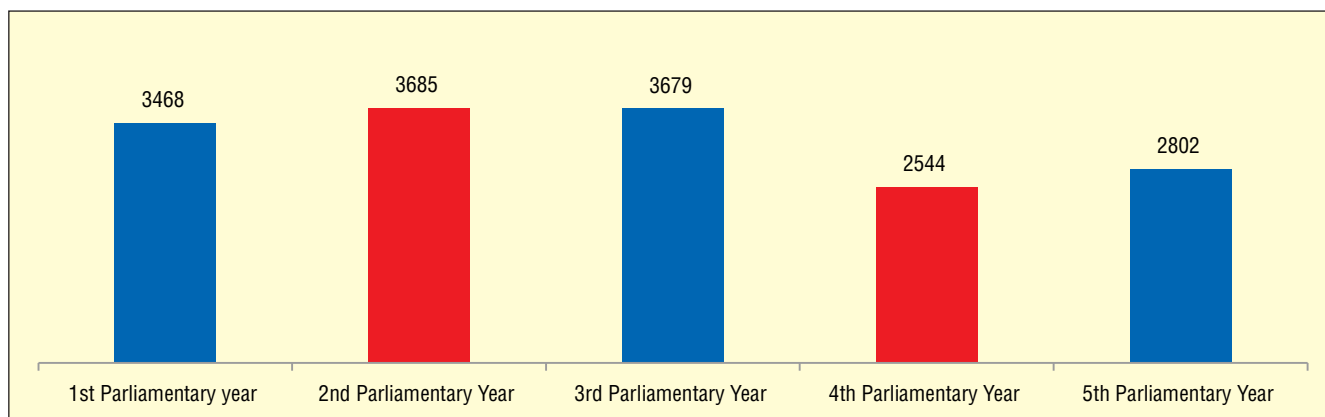
A detailed analysis of questions submitted in 2008-13 follows:

#### 2.1.1. Questions

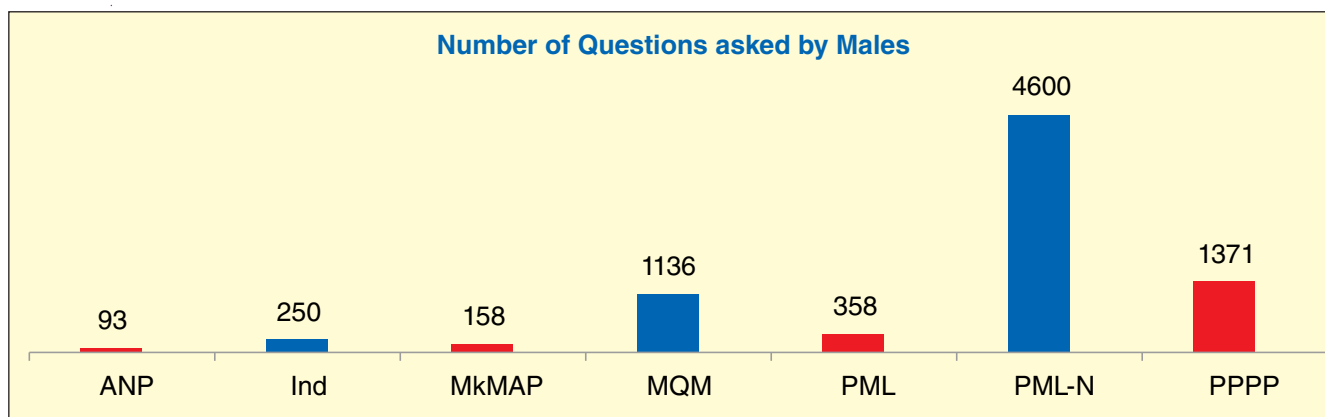
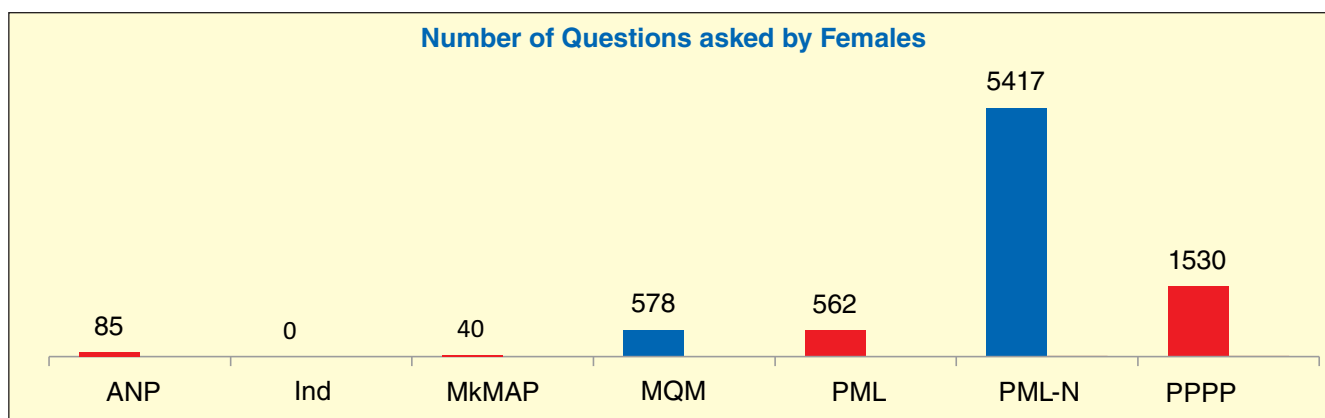
Over 16,178 questions were asked by the lawmakers during the five-year term of the 13th National Assembly. As many as 11 per cent of these questions were addressed to the Ministry of Water and Power, 9% to the Cabinet Secretariat, 8% to Finance and Revenue, 7% each to Petroleum and Natural Resources and the Interior, 5% to Defence and 4% each to Health, Education, Commerce, Housing and Works, Railways and Communications. Out of these total 16,178 questions, 44% (7,164) were Starred Questions requiring both oral and written responses from Ministers on the floor of the House, while the remaining 9,014 (56%) were Un-starred Questions, requiring only written responses.

<sup>38</sup> Rules and Procedure of National Assembly





During the five-year period, 55 out of 78 women parliamentarians submitted 8,212 questions compared to 7,966 by 162 of the total 263 of their male colleagues. In addition, 234 questions were submitted by minority members.



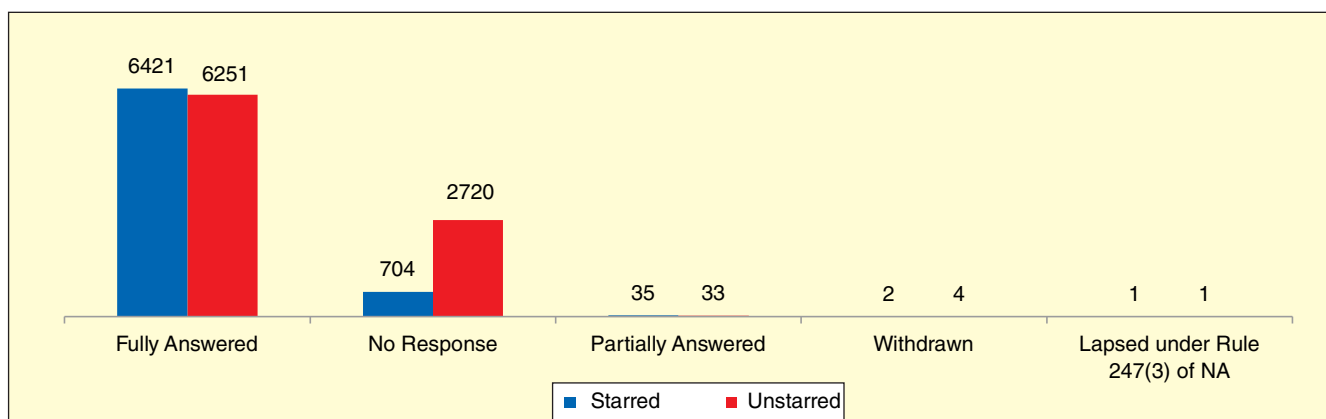
The foremost measures of the performance of the Parliament in conducting executive's oversight are the rigour of the procedure employed: timeline of submission of questions and their responses, presence of relevant Ministers for furnishing responses, issuance of notifications etc. and the adequacy of the answers given by the Ministers: completeness, relevance to questions asked, supplemental information given, and evidence produced, such as records, documents, annexures etc.

### 2.1.2. Rigour of procedure

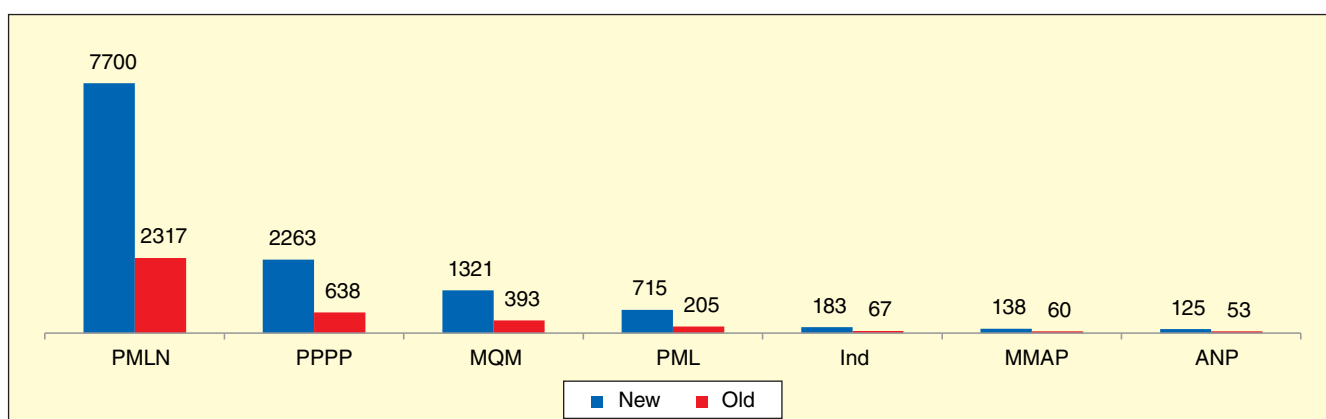
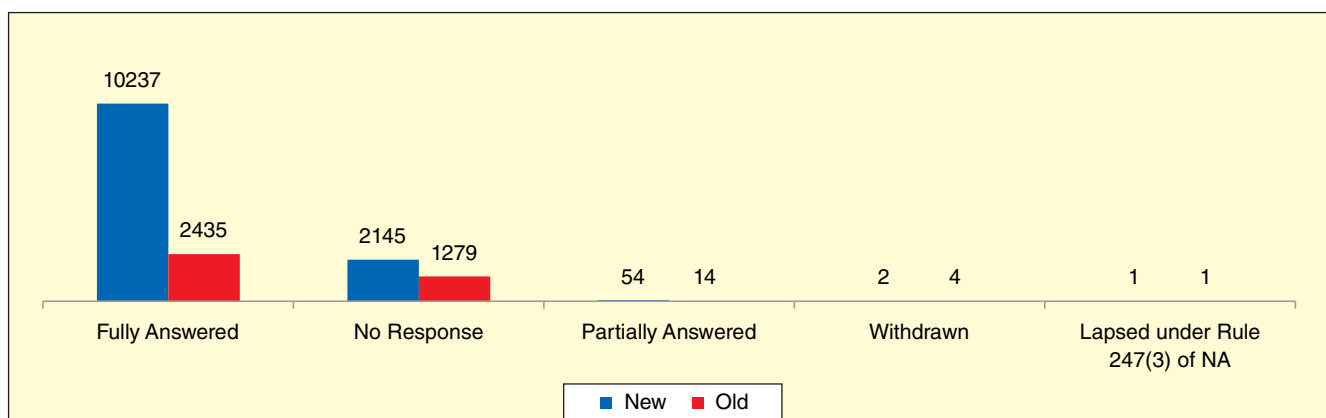
Evident from the following graph, 78% questions (both starred and un-starred) were fully answered, while 21% did not receive any response. However, it is important to note that starred questions need to be responded orally by the relevant Minister on the floor of the House as well as in writing, and FAFEN's observation of National Assembly sessions shows that this is sometimes not the case; due to shortage of time, or Ministerial absence, or both; some Starred Questions receive full written responses, but fail to be taken up on the floor for oral responses by the

Ministers.<sup>39</sup> Starred Questions not taken up at a sitting are deemed to be Un-starred Questions and receive written replies in the next sitting.

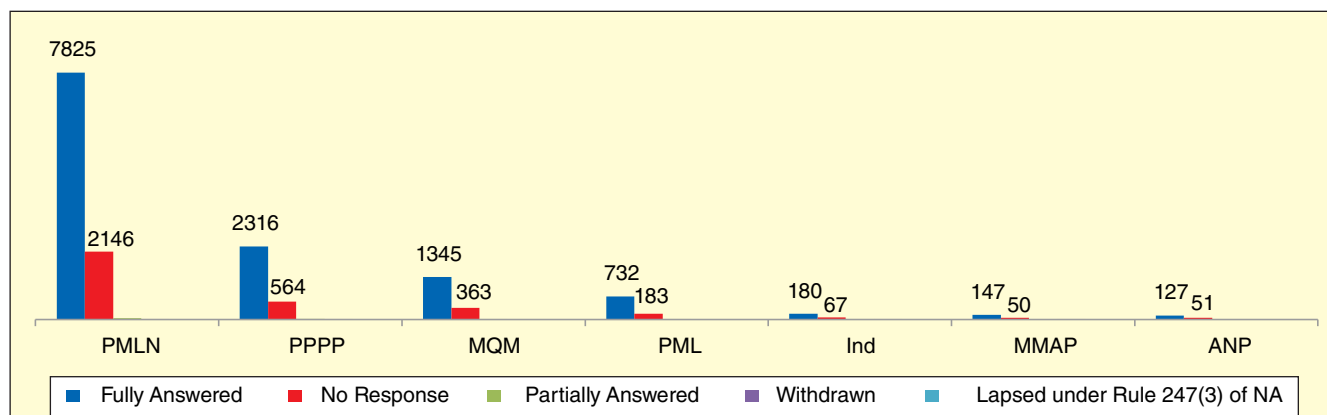
According to Rule 247(3), questions are lapsed if a member is appointed as a Minister after submission of questions.



The data shows that 15% questions that were fully answered were responded to later than the day on which they were on the agenda – referred to as old questions. However, 63% questions were fully answered on the very sitting in which they were on the Orders of the Day. As many as 13% new questions and 8% old questions did not receive any response.



<sup>39</sup> FAFEN Parliament Monitor 48th session, p. 09, and FAFEN Parliament Monitor 49th session, p. 09.



### 2.1.3. Adequacy of responses

The Ministers presented 2,880 annexures and documents in support of their answers and on Members' requests, as the case may be, during the Assembly's five-year term. Of these, 64 per cent were presented by the Cabinet Secretariat and the Ministries of Finance and Revenue, Water and Power, Interior, Petroleum and Natural Resources, Housing and Works, Commerce, Health, Education and Defence.

Ministry	Annexure to the Library	Documents to the House	Total
Cabinet Secretariat	196	126	322
Finance & Revenue	145	98	243
Water and Power	76	111	187
Commerce	116	66	182
Interior	100	77	177
Petroleum and Natural Resources	84	64	148
Industries and Production	66	46	112
Housing and Works	79	33	112
Communications	59	50	109
Information and Broadcasting	69	27	96
Defence	51	44	95
Health	67	28	95
Foreign Affairs	62	29	91
Education	51	38	89
Sports	45	26	71
Railways	30	37	67
Food and Agriculture	37	21	58
Law and Justice	27	21	48
Postal Services	29	14	43
Religious Affairs and Zakat and Ushr	23	12	35
Environment	18	16	34
Narcotics Control	23	8	31
Labour, Manpower and Overseas Pakistanis	16	14	30
Science & Technology	21	7	28
Social Welfare & Special Education	16	10	26
Economic Affairs and Statistics	14	11	25



Ministry	Annexure to the Library	Documents to the House	Total
Tourism	15	8	23
Women Development	11	11	22
Industries	5	14	19
Culture	11	6	17
Special Initiatives	12	4	16
Inter Provincial Coordination	10	5	15
Ports & Shipping	3	12	15
States & Frontier Regions	12	2	14
Overseas Pakistanis	6	8	14
Capital Administration and Development	7	3	10
Local Government & Rural Development	6	4	10
Population Welfare	9	1	10
Human Rights	5	4	9
Education and Trainings	6	3	9
Zakat and Ushr	2	7	9
Information Technology	8	1	9
Privatization	2	6	8
Human Resources	2	6	8
Planning & Development / Planning Commission	2	5	7
Climate Change	4	3	7
Textile Industries	4	3	7
National Regulations and Services	6	1	7
Religious Affairs	4	2	6
Youth Affairs	4	1	5
National Disaster Management	3	2	5
Livestock and Dairy Development	4	1	5
Housing		4	4
Investment	1	3	4
Professional and Technical Training	3	1	4
Production	3	1	4
Works	2	1	3
Establishment Department	2	1	3
Parliamentary Affairs	1	2	3
National Heritage and Integration	2	1	3
National Food Security and Research	1	1	2
National Harmony	2		2
Minorities	1	1	2
Kashmir Affairs and Northern Areas	1		1
Kashmir Affairs and Gilgit-Baltistan		1	1
Religious Affairs and Auqaf	1		1
<b>Total</b>	<b>1703</b>	<b>1174</b>	<b>2877</b>

From a party-wise and provincial perspective, water and power remained the predominant issue on parliamentarians' minds, as nearly all the parties asked most questions related to the Ministry of Water and Power. This trend was reflected in the provincial breakdown, as legislators from all provinces directed the major chunk of their questions to the Ministry of Water and Power and the Cabinet Secretariat. The exceptions were parliamentarians from FATA and the ICT (Islamabad Capital Territory), who addressed most questions to the ministries of State and Frontier Regions and Law and Justice, respectively.

The Ministries for Local Government and Rural Development, Professional Technical Training, Kashmir and Gilgit-Baltistan Affairs, National Harmony, Women Development, Special Initiatives, Livestock and Dairy Development, Culture and Social Welfare etc. responded to 95% questions addressed to them. Notable exceptions were Planning and Development, Law and Parliamentary Affairs and Religious Affairs and Auqaf, which also answered all questions put to them. On the other hand, Ministry of Petroleum and Natural Resources did not respond to about one-fifth of the questions addressed to it, while Water and Power Ministry did not answer 40% of the questions.

## 2.2 How effective are the specialist committees in carrying out their oversight function?

Oversight is required to hold the executive answerable for their activities and guaranteeing that the policies are implemented in agreement with the rules of the Parliament. The Standing Committees of the House play an important role of oversight and watch the working of the relevant Ministries of the government. They raise the matters of concern and refer to special committees.

The National Assembly Rules of Procedure permit the Standing Committees to scrutinize the expenses, administration, bills, and policies of the concerned Ministry and forward recommendations to the Ministry or present such reports to Parliament.

National Assembly can establish, in agreement with the requirements of Rule 244<sup>40</sup>, Special Committees to carry out functions specified in the motion, which may include oversight. The Special Committees are not formulated by constitutional procedure but under the order of standing committees of Parliament.

During 13th National Assembly, twelve Special Committees<sup>41</sup> were constituted. In a joint sitting on 22nd October, 2008, a fourteen point resolution was passed for setting up Special Committees. The details of committees are given below.<sup>41</sup>

Sr. No.	Name of Committee	No. of meetings held
1	Special committee on energy crises	8
2	Special committee to consider the increase in prices of petroleum products	4
3	Special committee to oversee the implementation of resolutions of All Parties Conference (APC)	2
4	Special committee to investigate the threats to journalists and media personnel	5
5	Special committee on delay in all flights including Hajj flights and grounding of the aircrafts of PIA	10
6	Special Committee on Millennium Development Goals (MDGs)	13
7	Special committee on law and order situation in Karachi and Balochistan	8
8	Special committee to look into the alleged allotment of plots to the officers of Ministry of Minorities Affairs and others by the Chairman Evacuee Trust Property Board (ETBP)	1
9	Special committee to look into the matter of delay in construction work on Gandhi - D. I. Khan road	1
10	Special committee on foreign and domestic loans	7
11	Special committee on missing persons	2
12	Parliamentary forum on child rights <sup>42</sup>	3

<sup>40</sup> Rules and Procedure of National assembly

<sup>41</sup> "Five Years Performance Report: 13th National Assembly of Pakistan, National Assembly Secretariat, Parliament House, 2013.

<sup>42</sup> Pg. 57, The Committees of the 13th National Assembly, Five Years Performance Report.

There is no direct oversight function of Special Committee. Standing Committee refers specific tasks to them. The Special Committees formulated in 13th National Assembly facilitated the Standing Committees in their oversight function if so specified by the Standing Committee. Special Committees met 64 times to discuss counter-terrorism, missing persons, child rights, loans, communications, energy crises and price hike of petroleum.

### **2.3 How well is the parliament able to influence and scrutinize national budget, through all its stages?**

There are four stages of budget process which is cyclical in nature – as soon as one cycle is completed the next begins:

1. Formulation – preparation of budget proposals by the executive/government.
2. Enactment – Formal authorization by the Parliament/legislators.
3. Execution – Implementation to ensure that expenditures reflect the enacted budget.
4. Audit – Examination and verification of both receipts and expenditures at the end of the financial year (1st July – 30th June).<sup>43</sup>

In Pakistan, the role of a legislator has historically been limited to the second stage of the budget process i.e. authorization of the budget. During this stage, the budget is tabled before the National Assembly for a debate with little time allowed.

At the audit stage, the Public Accounts Committee (PAC) of the National Assembly plays an important role to scrutinize all expenditures authorised by the National Assembly based on its examination of the report of the Auditor General of Pakistan. The deliberations and findings made by the PAC are then presented in the form of a report to the National Assembly.

The debate on budget in the National Assembly lasted for 82 sittings during the five parliamentary years – 19 in the first, 14 in the second, 22 in the third, 17 in the fourth and 10 sittings in the fifth parliamentary year. On average, the budget debate lasted 16 sittings in each parliamentary year.<sup>44</sup>

### **2.4 How effectively can parliament scrutinize appointments to executive posts, and hold their occupant to account?**

The margin of scrutiny by the Parliament of appointments to executive posts role increased in 13th National Assembly through the passage of constitutional amendments setting down criteria for appointments to executive posts. As a result, the Prime Minister made appointment of the chief justices of the provincial and supreme courts based on duration of service, competence and reputation.

### **2.5 How far is the parliament able to hold non-elected public bodies to account?**

In order to analyse the last parliament's oversight capacity, it was observed that the House continued to be unable to hold non-elected public bodies to account. For instance, in most settled democracies, special parliamentary committees are formulated for the oversight of intelligence agencies, regrettably the exercise could not take place in Pakistan's legislative history. Hence the intelligence failure which resulted in Osama Bin Laden taking up residence near the Pakistan Military Academy for several years before being shot dead in a US raid in May 2011. In general this serves as an example of the lack of monitoring authority exercised by the Parliament of public bodies like intelligence agencies etc.

### **2.6 How far is the parliament autonomous in practice from the executive, e.g. through control over its own budget, agenda, timetable, etc.?**

According to the feedback that FAFEN got, the Parliament plays a role in controlling its budget, agenda and timetable. However, there are limitations in terms of agenda-setting. There is only one private members day (Tuesday) on which private members' agenda can be taken up.

<sup>43</sup> <http://www.pips.org.pk/PIPS%20Publications.htm>

<sup>44</sup> FAFEN Data



**2.7 (a) How adequate are the numbers and expertise of professional staff to support members, individually or collectively, in effective performance of their duties?****(b) How adequate is the research, information and other facilities available to all members and their groups?**

Based on interviews conducted with parliamentarians, TDEA-FAFEN learned that only some parliamentarians, mostly Ministers, chairpersons of committees etc. are provided support staff for technical expertise and other tasks as required. There is a House library within Assembly premises, a resource centre in the parliamentary lodges and the Pakistan Institute of Parliamentary Services (PIPS) at the parliamentarians' disposal to use as they see fit, whether while conceptualizing and drafting legislation or for other parliamentary activities. However, dedicated staff is not assigned to all parliamentarians.

**2.7.1. Improvements and deficiencies**

Arguably the most important improvements in the 13th National Assembly in the purview of the Inter-Parliamentary Union's framework is an amendment to Rule 201 of the Rules of Procedure and Conduct of Business in the National Assembly which increases the involvement of Standing Committees in the formulation of budget. According to the new rule, standing committees of each government department shall scrutinize and suggest amendments, if necessary, and recommend the respective Ministry's recommendation for Public Sector Development Programme for the next financial year before the same is sent to the Ministry of Finance for inclusion in the next year's budget. The implications of this amendment are likely to be seen in the second annual budget presented by the new 14th National Assembly in 2014. The other key improvements were the 18th constitutional amendment and establishment of PIPS which strengthened the federation and enabled the provision of services to the parliamentarians.

The on-going deficiencies in parliamentary oversight in the 13th National Assembly were lack of committee involvement in the budget review, non-provision of offices and research assistant staff to parliamentarians, dominant role of the executive over parliament in term of agenda, time table, and parliamentary deficiency in holding non-elected bodies accountable.

The remedies to improve the parliamentary oversight include strengthening the standing committee to play proactive role in budget review and other tasks as set down in the rules of procedure and increasing the number of private members days to bridge the gap between Parliament and executive.

### 3. Parliament's Legislative Capacity

#### 3.1 How satisfactory are the procedures for subjecting draft legislation to full and open debate in parliament?

The procedure is that subsequent to introduction, the bill is referred to the relevant standing committee for technical review and scrutiny. However, the member-in-charge may dispense with this rule. In any event, copies of bills are supplied to the members upon introduction in order to commence debate and discussion on the bill and its consideration clause by clause. These discussions cannot take place until two days have passed since the bill's copy is supplied to the legislators. It is also the parliamentarians' prerogative to propose that the bill be circulated for eliciting opinions on a date specified by them.<sup>45</sup>

Mixed trends were seen in the last five years. Several bills were rushed through such as the anti-terrorism bill passed in the 50th session at the end of the 13th National Assembly's term. The Anti-Terrorism Amendment Bill 2013, the Anti-Terrorism (Second Amendment) Bill 2013, and the National Counter-Terrorism Authority Bill 2013, were among the 14 bills passed in the 50th session of the 13th National Assembly, which comprised of 19 sittings. Hence, each bill was on average accorded only a day and a half in the Assembly. Given the varied nature of the other bills on the agenda during the session (on health, education, economy etc.), the time spent on bills dealing with the crucial issue of terrorism seems to be too limited. Both the amendments to anti-terrorism law were regarding measures taken to combat financing of terrorism, with the second amendment empowering law enforcement agencies to freeze assets used to such ends and to detain accused persons for a period of 30 days. The National Counter-Terrorism Authority Bill sought to establish a National Counter Terrorism Authority, a focal institution to integrate the state's effort in countering terrorism and devising comprehensive counter terrorism strategies.

Contrasting the rushed manner through which the anti-terrorism bills were passed, the Domestic Violence Bill was subjected to very slow progress. It was presented in the House in 2008 and passed several months later in 2009, after which it was returned by the Upper House since it could not be passed within 90 days. In fact, the Senate only passed the bill in 2012.

The larger point is that some bills were properly debated in the House while others were rushed through without an adequate consideration.

#### 3.2 How effective are committee procedures for scrutinizing and amending draft legislation?

As per rule 201(1) of the rules of business of the National Assembly, committees are to examine bills and submit their recommendations and suggestions in report form to the Assembly. However, actual practice in the Assembly points towards a weak committee system as several important bills, including the Contempt of Court Bill 2012 hastily drafted after the disqualification of ex-prime minister Yousaf Raza Gilani by the Supreme Court to protect the new Prime Minister from similar judicial action<sup>46</sup> was passed on the same day it was introduced to the floor (9th July 2012). Similar examples include the Islamabad High Court Bill 2010, introduced and passed in the lower house on the same day (10th May 2010). The bill deals with the composition, jurisdiction, practice and procedure of the Islamabad High Court. Moreover, the 19th constitutional amendment (The Constitution (Nineteenth Amendment) Bill, 2010) dealing with appointments of judges in superior courts was also introduced and passed on the same day (22nd December, 2010).

#### 3.3 How systematic and transparent are the procedures for consultation with relevant groups and interests in the course of legislation?

According to the Rule 227(3) of the National Assembly, after a bill has been referred to the standing committee for review, the latter can seek input from experts or other persons having special interest in the legislation under question. There are no formal mechanisms for relevant groups and interests to give their input to legislation under consideration in the House. There were incidences of clashes between parliamentarians and women rights'

<sup>45</sup> See chapter XIV of the Rules of Procedure and Conduct of Business of the National Assembly.

<sup>46</sup> Contempt of Court Bill Rushed through Assembly. Retrieved from the website of Dawn: <http://www.dawn.com/news/733047/contempt-of-court-bill-rushed-through-national-assembly>

activists<sup>47</sup> while the Domestic Violence Bill was under review, with the latter advocating for its passage on their own initiative – the Bill remained in the lurch for over a year before being passed by the House. However, apart from this informal involvement by civil society on their own initiative, there is no evidence of the House having taken any groups or interests on board during the course of legislation in the plenary sessions, and while government officials were called for explanations, feedback etc. during the meetings of the standing committees, there is no recorded instance of civil society organisations or other groups being invited to the meetings while bills were under review and scrutiny.

### **3.4 How adequate are the opportunities for individual members to introduce draft legislation?**

According to the rules of procedure, MNAs, whether they are private members or Ministers have equal rights to draft and introduce legislation in their individual capacity. However, there are some differences, e.g. a private member has to give notice of the bill to the Secretary ten days beforehand and private members' business, including draft legislation, is generally only taken up once a week (Tuesdays in the National Assembly). Therefore, government members get more time in plenary sessions for their agenda items to be taken up – while this is a universal feature of parliaments, there is nevertheless need to increase the amount of time and space given to private members.<sup>48</sup>

Nineteen private member bills and 116 government bills were passed during the 13th National Assembly. While the presenters of these bills on the floor of the House are for obvious reasons single members, and in most cases the MNA chosen to present the bill on the floor has participated crucially in the development of the legislation, many times the latter is the handiwork of parliamentarians working together, whether on a party basis, or on the basis of an issue on which several parties are in agreement. Additionally, drafting of the bills is done by staff in the legislative section of the NA secretariat, relevant ministry etc. These are informal practices which vary from legislator to legislator, as gleaned from interviews with parliamentarians and secretariat staff.

However, while the rules of business protect the right of members to introduce draft legislation on individual basis, in practice, it is a difficult task, especially dependent on the subject matter of the bill. A case in point is the withdrawal of a bill seeking amendments in the blasphemy law by a PPP member who was unable to garner party support for the legislation.<sup>49</sup>

### **3.5 How effective is parliament in ensuring that legislation enacted is clear, concise and intelligible, and consistent with the constitution?**

The National Assembly Secretariat has a dedicated legislative section, where secretaries and their support staff aid parliamentarians with drafting legislation according to the Constitution.

However, the drafting leaves much to be desired. The bills are often drafted in overly legalistic language and they are often difficult to understand for the members of the Parliament, leave aside the general public. Similarly, there is need to make the bills of technical nature to be more clear, concise and intelligible.

### **3.6 How careful is parliament in ensuring that legislation enacted is consistent with the human rights of the population?**

Pakistan has been a member of the United Nations since its independence and a signatory to various international laws and treaties. Pakistan has also ratified various conventions of the UN, which are legally binding in nature.

During the 13th National Assembly, several bills relating to human rights, in its broader purview, were passed. Eight government bills relating to working women, custody of minor children, sectarianism and formation of human rights and women rights commissions were passed by the 13th National Assembly. In addition, landmark private members' legislation against acid crime, domestic violence and forced marriages as well as other anti-women practices were passed by the National Assembly. These bills were presented by the women parliamentarians.

The Acid Control and Acid Crime Prevention Bill 2010 called for 14-year jail term and fines up to Rs. one million for committing this crime. The Prevention of Anti-Women Practices (Criminal Law Amendment) Bill 2008 provided protection from anti-women practices such as wanni, sawara, badal-e-suhl etc and depriving women of inheritance.

<sup>47</sup> Civil society, JUI-F exchange harsh words over domestic violence bill. Retrieved from the website of The News: <http://www.thenews.com.pk/Todays-News-6-101618-Civil-society-JUI-..>

<sup>48</sup> Rules 118, 119 and 129 of the Rules of Procedure of the National Assembly 2007.

<sup>49</sup> Blasphemy law amendment: Sherry Rehman to withdraw bill, says PM. Retrieved from the website of the Express Tribune: <http://tribune.com.pk/story/113445/blasphemy-law-amendment-sherry-rehman-to-withdraw-bill-says-pm/>



The Domestic Violence Prevention and Protection Act 2009 was passed to make domestic violence a punishable offence, whether against women or children, and to promote zero tolerance for violence against women as reflected in the National Policy for Development and Empowerment of Women.

The Protection against Harassment of Women at the Workplace Act 2010 provides safe working environment to women in accordance with all religious norms of Pakistan, the Committee on the Elimination of Discrimination against Women, and International Labour Organisation resolutions, and appoints officers at the provincial and federal level for receiving and addressing complaints.

The Guardians and Wards (Amendment) Act 2008 gives the right of custody to mothers in all cases where a male child has not reached the age of seven years and a female the age of sixteen years, and visiting rights to the father.

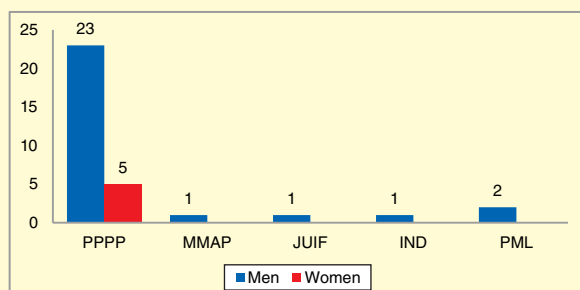
The West Pakistan Regulation and Control of Loudspeakers and Sound Amplifiers (Amendment) Act was passed to control the misuse of the amplifiers and loudspeakers for promoting sectarianism etc. The punishments set down in the old West Pakistan Regulation and Control of Loudspeakers and Sound Amplifiers Ordinance of 1965 were enhanced to imprisonment for three months or less, a fine of one thousand rupees, or both.

### 3.7 How careful is parliament in ensuring a gender-equality perspective in its work?

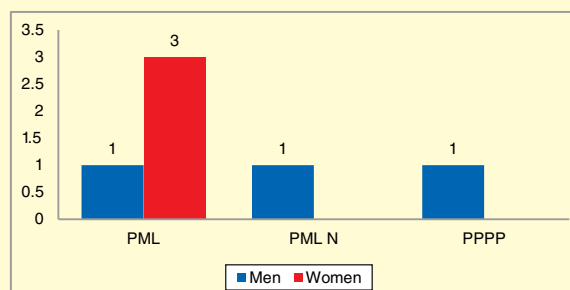
The 13th National Assembly provided a welcome change from its predecessors by passing 19 private members' bills submitted by lawmakers. In addition, 15 of these bills were presented by four women from the government and coalition parties. In contrast, the remaining four bills, presented by men, including two from opposition.

Among 116 bills presented by the government members, six bills were presented by five women belonging to the ruling PPPP. (As mentioned in 3.4, presenters are not necessarily the only law-makers to have worked on a particular bill, but there are other crucial participants in the development of the bill).

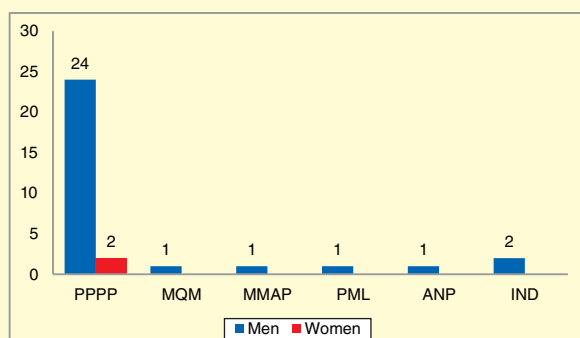
**Passed government bills (by gender)**



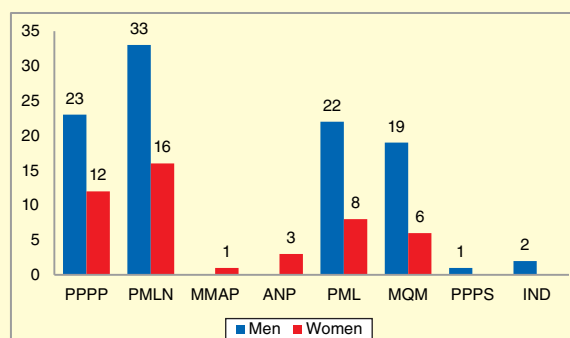
**Passed private members' bills (by gender)**



**Parliamentarians introducing government bills (by gender)**



**Parliamentarians introducing private bills (by gender)**



### **3.7.1. What has been the biggest recent improvement in the above?**

The biggest improvement in the legislative capacity of the Parliament has been the increased introduction and passage of private members' bill – 19 were passed in the 13th National Assembly. Increased involvement of women in the legislative process was also evident as the majority of private members' bills passed during the term were introduced by women.

### **3.7.2. What is the most serious ongoing deficiency?**

From a regulatory point of view, the most serious deficiency continues to be lack of compliance with rules requiring bills to be sent to the standing committees for debate and technical review – members take advantage of rule 122 to dispense with this requirement and bills are often rushed through the House. According to the rule, a bill has to be sent to the standing committee upon introduction (with the exception of the Finance Bill), but the same rule allows the member-in-charge to dispense the requirement of this rule and continue with the consideration of the bill in the plenary.

### **3.7.3. What measures would be needed to remedy this deficiency?**

On a broader note, law-makers continue to avoid introducing legislation on controversial issues and ignoring long-existing legal lacunae such as the obsolete Frontier Crimes Legislation.

In order for legislation to be more meaningful, adherence to the rules about review and recommendations in standing committees and increasing the number of days for private members to present their legislative work are required to enhance capacity. The rules of procedure should be enhanced so that public feedback on introduced bills, whether directly through the National Assembly website, or on regulated forums open to experts representing groups and interests, is included in the consideration stages of the bills as laid down in rules 122 to 126 of the rules of procedure.

## 4. The Transparency and Accessibility of Parliament

### 4.1 How open and accessible to the media and public are the proceedings of parliament and its committees?

Citizens have the right to physically access parliament and its plenary sessions. National Assembly is located in the red zone of Islamabad where security is very strict, making it difficult for citizens to observe parliamentary proceedings. While rule 227(3) of the National Assembly rules of procedure allows standing committees to hold public hearings, these are at the standing committees' own invitation. The only way for citizens to observe the proceedings of the House or meetings of the standing committees in general is to use contacts and go along with ministers, members and secretariat officials, as the case may be.

Journalists gain access to the galleries of the House during plenary sessions (but not in-camera sessions, which are held in secret) and to meetings of the standing committees (barring a few, e.g. meetings of the committee on defense production) through ad-hoc means mentioned above for coverage of parliamentary proceedings on state and private TV channels, however, there is no formal provision in the rules of procedure regarding formal accreditation for observation of Parliament, either by journalists or citizen observers. On the other hand, there are installed cameras in the House which telecast live coverage of proceedings within the Parliament secretariat. Telecasting the coverage of proceedings on dedicated parliamentary channel could make the parliamentary process more transparent to a larger segment of the electorate.

### 4.2 How free from restrictions are journalists in reporting on parliament and the activities of its members?

As such, there is no restriction on media reportage with regards to plenary sessions of the National Assembly as well as meetings of select Standing Committees. This is aided further by the flourishing private TV channel industry that does not face the limitations of state television. However, in-camera sessions and meetings of standing committees on defense production for example remain off limits to the media. For better, easy and fast reporting of media there is fax, internet and television facility for media in the parliament. Media persons can observe live proceedings of Assembly on television set outside the hall.

### 4.3 How effective is parliament in informing the public about its work, through a variety of channels?

The National Assembly has a dedicated website containing all the detailed debates, bills, as well as other outputs and proceedings of the house. However, a point of concern is that the website does not have similar information of the previous assembly (the 13th in this case). There is also no online archive separate from the main website for reasons of space where such material can be accessed by the public. The Parliament does maintain a library containing copies of the sessions in book format containing debates, drafts of bills, calling attention notices etc. However access to the Parliament's library is subject to the same problems as of general access.

Similarly, only the Public Accounts Committee has a website, which does not contain transcriptions of its meetings, however, PAC reports and other publications are available for public consumption.

Through the assistance of a USAID funded project broadcasting equipment's were installed at National Assembly of Pakistan for dedicated coverage of the Parliament in 2009, but transmission has not started yet.<sup>50</sup>

According to Article 19A of the Constitution of Pakistan, every citizen has the right to access information, including public records, which covers the plenary sessions and meetings of the standing committees of parliament at the very least, subject to regulation and reasonable restrictions imposed by law. However, attendance records of members are not available to public. Several organizations working on the Parliament and Right to Information (RTI) laws have submitted requests seeking out the attendance record of the lawmakers and all of them have been denied. And those who appealed to the Federal Ombudsman have their petitions either pending or turned down.<sup>51</sup>

<sup>50</sup> USAID Pakistan Legislative Strengthening Project Quarterly Report (July 1 – September 30, 2009), retrieved from the website of USAID: [http://pdf.usaid.gov/pdf\\_docs/Pdacn981.pdf](http://pdf.usaid.gov/pdf_docs/Pdacn981.pdf), and Strategic Plan 2010-2012 National Assembly of Pakistan, retrieved from the website of the Pakistan Institute of Parliamentary Services: <http://www.pips.org.pk/Publications/NA%20Strategic%20Plan%202010-2012.pdf>

<sup>51</sup> NA asked to provide attendance record of MPs. Retrieved from the website of The News: <http://www.thenews.com.pk/Todays-News-2-205812-NA-asked-to-provide-attendance-record-of-MPs>



#### 4.4 How extensive and successful are attempts to interest young people in the work of parliament?

There are no special initiatives by Parliament to interest and engage the youth, however, a youth parliament was arranged and implemented by a civil society organisation PILDAT<sup>52</sup>, as well as by popular singer and philanthropist Abrar-ul-Haq.<sup>53</sup> The focus of these gatherings was to engage youth in healthy political and democratic discourse and expose them to the democratic process and practices.

#### 4.5 How adequate are the opportunities for electors to express their views and concerns directly to their representatives, regardless of party affiliation?

Rules are silent regarding representatives' meetings and public hearings with constituents. Interaction of constituents depends on representatives' personal discretion and vary from member to member. However, parliamentarians are often contacted through their phone. Representatives also meet their constituents in person, but again, this depends on the member's personal discretion and these meetings between elector and elected representative are of a patron-client nature: constituents mostly talk about services promised as a result of local development projects, job applications, conflict resolution etc. Due to the nature of this relationship, lack of awareness about their constitutional rights prevails and more pressing local demands of services are addressed. There is little or no feedback from constituents regarding the members' legislative or other parliamentary functions.

Conclusively, it can be stated that there are no formal procedures or opportunities for electors to engage directly with their representatives and raise demands, however, this happens in practice through informal channels depending on the frequency of the members' visits to the constituency, the nature of public accessibility to the member, and willingness to engage with constituents.

#### 4.6 How user-friendly is the procedure for individuals and groups to make submissions to a parliamentary committee or commission of enquiry?

According to Rules 227(3) of Procedure and Conduct of Business in the National Assembly "a committee may invite or summon or allow to appear before the Committee any member or any other person having a special interest in relation to any matter under its consideration and may hear expert evidence and hold public hearing".

Sometimes committees invite specialists of a specific field e.g. a civil society organisation working on that area for input. For instance, the committee for 18th amendment asked FAFEN to present its recommendations on electoral reforms which later became part of 18th amendment.

#### 4.7 How much opportunity do citizens have for direct involvement in legislation (e.g. through citizens' initiatives, referenda, etc.)?

As a representative democracy rather than a participatory one, there is no formal mechanism through which citizens can directly participate in legislation. Informal channels to influence legislation are available to interest groups, think tanks, civil society and the public at large, mostly through advocacy efforts or successful engagement with like-minded law-makers. For example, several women rights activists including Dr. Farzana Bari and Dr. Fouzia Saeed demonstrated several times in front of Parliament House to pressurize for passing a bill to prevent domestic violence.<sup>54</sup>

##### 4.7.1 What has been the biggest recent improvement in the above?

As of the end of the 13th National Assembly's term, no visible changes were observed in the practices of the Parliament with regards to transparency.

##### 4.7.2 What is the most serious ongoing deficiency?

The most serious ongoing deficiency remains lack of access to public records, whether through adequacy and comprehensiveness of official websites or lack of formal accreditation procedures so that media and citizen observers can be present in parliamentary proceedings.

<sup>52</sup> PILDAT's Youth Parliament: <http://www.youthparliament.pk/>

<sup>53</sup> Abrar-ul-Haq's youth parliament: <http://www.youthparliament.org.pk/>

<sup>54</sup> Civil Society and JUI-F engage in a shouting match. Retrieved from the website of Dawn: <http://www.dawn.com/news/708483/civil-society-and-jui-f-engage-in-a-shouting-match>

#### 4.7.3. What measures would be needed to remedy this deficiency?

Therefore, amendments and/or inclusions in the rules of procedure of the National Assembly and its standing committees are required as a first step to increase transparency of the Parliament by allowing observation and reportage by journalists and citizen observers by devising formal accreditation procedures for entry. Similarly, formal membership procedures should be set up for the House library for non-parliamentarians or members of the general public. In addition, all proceedings of Parliament should be available on the website, or an online archive, including that of previous assemblies.

## 5. The Accountability of Parliament

### 5.1. How systematic are arrangements for members to report to their constituents about their performance in office?

Accountability of members is a basic requirement of democracy. Parliamentarians have two roles; to hold Ministers and other members of the executive accountable with respect to their duties of state, and to be accountable themselves to their constituents. Naturally the latter requires engagement from the demand side by the citizenry, however public driven accountability of elected representatives is only effective if formal rules and procedures and monitoring mechanisms are in place.

In Pakistan, there is no formal system of reporting to constituents, with interaction between the representatives and constituents varying from person to person, and hence reportage about performance as well. The National Assembly does publish five years' performance report of Assembly, which is available in the library of National Assembly, however, this means of reporting is not inclusive and/or accessible due to low literacy levels and access to the internet.

Attendance of members is the basic requirement of making the members accountable, but the National Assembly does not share this information with the public as well as civil society organizations.

### 5.2. How effective is the electoral system in ensuring the accountability of parliament, individually and collectively, to the electorate?

The periodicity and regularity of elections is the primary albeit indirect measure of parliamentarians' accountability both individually and collectively. The vibrancy of the media has increased the dissemination of facts, yet largely anti-politicians narratives were meant to de-popularize the elected governments. In the absence of formal procedures for citizens to conduct the parliament's accountability, conduction of free and fair elections remains the only mechanism available for people to vote out the non-performers. This was observed in the 2013 General Elections when the incumbent Pakistan Peoples' Party Parliamentarians (PPPP) were voted out because of rapid de-popularization and non-performance in terms of law and order, inflation, economy, employment etc.

### 5.3. How effective is the system for ensuring the observance of agreed codes of conduct by members?

Members of the House are obliged to follow rules of procedure and code of conduct of the Parliament and it is the Speaker's responsibility to ensure it. Additionally chief whips of parties ensure attendance and conduct of their members.

Under section 5 of the rules of procedure and code of conduct of National Assembly "If under clause (2) of Article 55, at any time during a sitting, attention of the Chairperson is drawn to the fact that less than one-fourth of the total membership of the Assembly is present, he shall either suspend the business of the Assembly until at least one-fourth of such membership is present." In case lack of quorum is observed by any member, they can draw the Speaker's attention to it, who can take measures provided to him under rule 55 until quorum is complete. Members do exercise this right, but often for political point-scoring rather than to follow the code of conduct.<sup>55</sup> In addition, during the sittings, members are seen to move around and talk on their mobile phones, but the rules are silent on this issue.

<sup>55</sup> Retrieved from the website of FAFEN: [http://www.fafen.org/site/v6/press-releases/low\\_interest\\_in\\_budget\\_session\\_2012\\_06\\_06\\_760](http://www.fafen.org/site/v6/press-releases/low_interest_in_budget_session_2012_06_06_760), [http://www.fafen.org/site/v6/press-releases/only\\_six\\_legislators\\_take\\_part\\_in\\_budget\\_debate\\_2012\\_06\\_07\\_768](http://www.fafen.org/site/v6/press-releases/only_six_legislators_take_part_in_budget_debate_2012_06_07_768) and [http://www.fafen.org/site/v6/press-releases/five\\_legislators\\_debate\\_budget\\_as\\_pmln\\_boycotts\\_sitting\\_2012\\_06\\_11\\_781](http://www.fafen.org/site/v6/press-releases/five_legislators_debate_budget_as_pmln_boycotts_sitting_2012_06_11_781)

#### **5.4. How transparent and robust are the procedures for preventing conflicts of financial and other interest in the conduct of parliamentary business?**

There are some rules which prevent conflicts of interest between the executive and the parliament, especially in the standing committees, e.g. rule 200(2) whereby a member who is a Minister and therefore an ex-officio member of the committee can only vote if he/she is also a member of Parliament. Similarly, sub-judice matters cannot be discussed on the floor through any agenda item. However, there are no formal rules or mechanisms to prevent other types of conflicts of interest e.g. access to information by virtue of ministerial portfolio that could offer undue advantage in financial or other transactions.

When interviewed, a senator responded “there is no mechanism to prevent members' conflict of interest. We are a developing democracy; after three or four democratic government transitions, we will be able to see better parliamentary systems and rules of procedures” Given that Pakistan saw 31 years of military rule, civil institutions including the Parliament did not have time and space to develop and mature tools for greater transparency. It is an evolving process in Pakistan.

#### **5.5. How adequate is the oversight of party and candidate funding to ensure that members preserve independence in the performance of their duty?**

The Political Parties Order, 2002 section 6 and 13 outlines political parties funding and expenses, whereas section 30 of the Representation of the People (Conduct of Election) Rules 1977 deals with candidate expenditure. Expenditure limit for candidates of National Assembly is Rs. 1.5 million but there is no mechanism to monitor it.

During General Elections 2013, contestants belonging to major political parties termed the decision of expenditure limit impractical. They said that Election Commission of Pakistan (ECP) would not be able to implement its decision as the candidates might be forced to look for illegal options to evade this harsh conditionality.<sup>56</sup> In addition to direct funding, ECP must take account of indirect funding to parties, including free or subsidized media access, arranging public gathering, donating vehicles, etc.

The unwritten mores and actual practices of political and electoral culture further limit the independence of individual parliamentary activity. While there have been political parties in Pakistan driven by collective interests or ideologies e.g. the Mazdoor Kissan Party (Worker Peasant Party) or the urban Sindh-based Muttahida Qaumi Movement (MQM), for the most part leadership of most political parties continues to be drawn from the landed elite.<sup>57</sup>

In addition, since local government at district and union council level remains absent and is not comprised of politically elected representatives where it does exist, the political leadership's view of local needs is myopic at best. Without a public stake in political parties at the non-elite level, there is no public financing of parties, who then give tickets to affluent people of the constituency to use traditional influence and cultural prestige in order to garner voters' support. Lack of third-tier of governance adds to the parliamentarians' focus on service-delivery-oriented development projects e.g. construction of link roads, rebuilding school walls etc. while broader and long-term political and social development needs remain largely un-addressed.

Since the winning candidate of the constituency has used his own resources to ensure party representation in the federal and provincial legislatures, it is not in political parties' interests to question their performance. By the same logic, legislators do not deviate from the party line to get government favours and retain the chance of being given tickets in future elections as well.

#### **5.6. How publicly acceptable is the system whereby members' salaries are determined?**

Salaries of members of Parliament are defined in the Member of Parliament (Salaries and Allowances) Act, 1974. According to this Act, a member is entitled to receive a monthly gross salary of Rs. 71,326, excluding a modest daily allowance, conveyance allowance, housing allowance, telephone and medical facility.<sup>58</sup>

<sup>56</sup> Retrieved from the website of The Nation:

<http://www.nation.com.pk/editors-picks/29-Mar-2013/candidates-in-a-fix-how-to-control-expenditures>

<sup>57</sup> Country Report based on Research and Dialogue with Political Parties: Retrieved from the website of Institute for Democracy and Electoral Assistance: [http://www.idea.int/parties/upload/Pakistan\\_report\\_March06.pdf](http://www.idea.int/parties/upload/Pakistan_report_March06.pdf)

<sup>58</sup> The Members of parliament (salary and allowances) act, 1974, Retrieved from the website of National Assembly: [http://www.na.gov.pk/uploads/documents/1363871600\\_486.pdf](http://www.na.gov.pk/uploads/documents/1363871600_486.pdf)



In an interview, a Senator said “after deduction of taxes Senators are receiving salary of around Rs. 60,000, which is not more than salary of a gazetted officer. Due to misreporting of media, there is a general public perception that parliamentarians are getting large salaries and other allowances”

He further added “salary of bureaucrats, media personnel and army officials is much more than parliamentarians and nobody talks about it”

### 5.7. How systematic is the monitoring and review of levels of public confidence in parliament?

Confidence in political institutions is crucial for the stability of societies and for the functioning of democracy. It also shapes people's willingness to cooperate in achieving collective goals and financing public goods. In Pakistan there is no mechanism to gauge public confidence in parliament. A Senator opined “...we are a developing democracy, it will take some time to put such mechanisms in place”

Generally, voter turn-out is an indicator of public confidence in democracy and Parliament. Voter turn-out was 55% in the General Elections 2013. In a study of voter turnout by IDEA<sup>59</sup>, Pakistan has been ranked at 164 out of 169 countries with an average turnout of 45.3%.

## 6. Parliament's Involvement in International Policy

### 6.1 How effectively is parliament able to scrutinize and contribute to the government's foreign policy?

Given the fact that Pakistan has been under the direct or indirect military rule for roughly half of its existence, foreign affairs are de facto dealt by the military. At the formal level, Ministry of Foreign Affairs is responsible for looking after foreign affairs and international policy. With Pakistan being a praetorian state, the military has a huge stake in foreign policy especially with regards to India and Afghanistan as well as territorial and national sovereignty, often complicated by the disconnect between the security apparatus's official public position and internal domestic and international agreements; a dichotomy reflected in the foreign policy mostly devised by the executive.

Nevertheless, at the de jure level, no important foreign policy decision can take place without the Prime Minister's approval, a right guaranteed both under the Constitution (articles 90 and 99) as well as the government's rules of business (articles 5(1)). However, the involvement of other parliamentarians in foreign and international policy is limited to those with ministerial portfolios (in other words, members of the executive) in the Cabinet, under rule 16(h) of the government's rules of business which require all proposals involving negotiations with foreign countries to be brought before the Cabinet.

Parliamentarians comment and air opinions on foreign policy and international affairs through the interventions provided in the regulatory framework such as Calling Attention Notices (CANs), Questions, Adjournment Motions (AM), Motions under Rule 259 etc. and also table domestic legislation when required by virtue of being signatories or having ratified international conventions, treaties, resolutions etc. However, their formal mode of scrutinizing and contributing to the government's foreign policy is only enabled in the Standing Committee on Foreign Affairs.

The Standing Committee of Foreign Affairs was formed on April 24, 2008 for the 13th National Assembly. Since the chairman was elected five months later, it was only functional from September onwards. According to a PILDAT report<sup>60</sup>, the committee only met 17 times in first three parliamentary years of the 13th National Assembly, and failed to produce any reports on subjects within its area of focus.

<sup>59</sup> Voter Turnout Rates from a Comparative Perspective, Retrieved from the website of IDEA International: <http://www.idea.int/publications/vt/upload/Voter%20turnout.pdf>

<sup>60</sup> Performance of the National Assembly Standing Committee on Foreign Affairs. Retrieved from the website of PILDAT: <http://www.pildat.org/publications/publication/Democracy&LegStr/PerformanceoftheNASStandingCommitteeonForeignAffairsJuly2011-CitizensReport.pdf>



## 6.2 How adequate and timely is the information available to parliament about the government's negotiating positions in regional and universal/global bodies?

Similar to other countries, formation of both foreign policy and state's position in regional and global bodies such as the United Nations (UN), the World Bank (WB), the International Monetary Fund (IMF), as well as multilateral fora such as the Commonwealth Parliaments' Association (CPA), the Inter-Parliamentary Union (IPU), the South Asian Association for Regional Cooperation (SAARC) etc. is predominantly the domain of the executive<sup>61</sup> – the ministries of Foreign Affairs, the Interior, Defence, and attached departments including the Economic Affairs Division, Planning and Development, and Defence Division.

The Cabinet in the National Assembly is the leading authority of the executive, and as per rules 10 to 26 of the government's rules of business of 1973. No important policy decision or departure from policy can take place without taking the Prime Minister into consultation, and issues are to be brought before the Cabinet for approval before implementation. Rule 16(h) specifically states that all proposals for entering into any cultural or other agreements with any foreign government will, in the first instance, be submitted to the Cabinet for approval in principle and actual negotiations will be initiated only after the proposal has been approved by the Cabinet. This includes treaties and agreements, and representation at international conferences and meetings.

On the other hand, private members' access to this information and their consequent engagement in these matters are not reliant upon formal procedures but rather level of interest and expertise, as well as willingness to bring such issues on the floor for discussion through interventions provided in the regulatory framework such as CANs, resolutions, questions, AMs etc. Therefore the nature of private members' involvement in the state's negotiating position in regional and global bodies is limited to debate and discussion, which may or may not lead to changes in policy which remains the domain of the executive.

Standing committees are another forum in which parliamentarians (both private members and those with ministerial portfolios) can be involved with the policies of the executive and offer suggestions for improvements. According to the Rule 198(2) of the rules of procedure of the National Assembly, 'each committee shall deal with the subject assigned, under the rules for the allocation and transaction of business of the government to the division of the Ministry with which it is concerned...' and Rule 201(4) states 'A committee may examine the expenditures, administration, delegated legislation, public petitions and policies of the Ministry concerned and its associated public bodies and may forward its reports of findings and recommendations to the Ministry and the Ministry shall submit its reply to the committee.' However, the rules are silent on the subject of submission of such matters by the executive branch to the standing committee – in its oversight role. The standing committee is expected to keep abreast of executive developments with regards to the government's negotiating position to formulate its recommendations. However, since Ministers are ex-officio members of each respective standing committee, it is logical to assume that keeping up to date with executive developments, specifically as they relate to the government's negotiating position in regional and global bodies, is not especially difficult.

## 6.3 How far is parliament able to influence the binding legal or financial commitments made by the government in international fora, such as the UN?

Parliamentarians are able to address international commitments made by Pakistan but their role in the 13th National Assembly remained limited to completing necessary paperwork. Although, Parliament as a whole, and its standing committees established for all ministries and departments in particular, can and are required to suggest improvements in all areas of focus, the national position on both legal and financial international commitments is in effect developed by the executive.

This is evident from the fact that only 10 government bills touching upon international commitments were passed during the term, off-set by private members' minimal involvement in tabling agenda touching specifically upon international commitments. However this may be a symptom of the dominance and ease of admittance of agenda tabled by the executive portion of Parliament in such matters, rather than a measure of private member's disinterest, especially given that private members' introduced and subsequently passed landmark bills on women rights while not touching upon a specific international commitment, were in line with the spirit of relevant conventions signed at international fora.

<sup>61</sup> Parliamentary Diplomacy (Five Years Performance Report 13th National Assembly, 2013).

Parliamentarians can bring considerations of international commitments made by the government of Pakistan to the Assembly floor through various interventions provided in the regulatory framework. The most effective way to uphold these is through relevant legislative action.

In the five years of the 13th National Assembly, 10 government bills<sup>62</sup> were passed and four were introduced, presented by parliamentarians due to the need for domestic legislation in lieu of Pakistan being signatory to or having ratified international conventions, treaties, resolutions etc.

Sr. No.	Passed bills	Introduced bills
1.	The Protection against Harassment at the Workplace Bill, 2009	The Plant Breeder's Rights, Bill, 2010
2.	The National Commission for Women Bill, 2011	The Anti-Money Laundering (Amendment) Bill, 2009
3.	The National Command Authority Bill, 2009	The Agricultural Pesticides Bill, 2009
4.	The Arbitration (International Investment Disputes) Bill, 2010	The Pakistan Trade Control of Wild Fauna and Flora Bill, 2010
5.	The Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Bill, 2010	
6.	The Pakistan Trade Control of Wild Fauna and Flora Bill, 2010	
7.	The Anti-Money Laundering Bill, 2009	
8.	The Carriage by Air Bill, 2011	
9.	The Intellectual Property Organization of Pakistan Bill 2012	
10.	The National Commission for Human Rights Bill, 2012	

The National Assembly passed two bills on women rights in recognition of international law and being a signatory to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), protecting them from harassment in the workplace, and providing safety from discrimination in general. It is important to note that these two bills are in addition to some landmark legislation in the purview of women rights to prevent acid crime, domestic violence, forced marriages and other anti-women practices. The two have been singled out because of specific compliance with international law/conventions etc.

Similarly, the Assembly passed a bill on nuclear safety in lieu of having signed the UN Security Council's resolution 1540 regarding the non-proliferation of nuclear weapons by empowering the National Command Authority to exercise full control and safety measures over all matters concerning nuclear and space technologies. Another bill regarding Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BTWC) which Pakistan signed and ratified this convention in 1974 was introduced (not passed), as the convention requires domestic legislation for taking necessary legislative, regulatory and administrative steps to prevent the proliferation of weapons of mass destruction, including biological weapons and their delivery systems and related technologies.

Two bills were passed to facilitate foreign investment in the country by systemizing the settlement of international investment disputes since Pakistan is a signatory to the United Nations Convention on Recognition and Enforcement of Foreign Arbitral Awards.

Changes were made in an earlier bill dealing with money laundering in the purview of financing terrorism after reservations were raised by the Financial Action Task Force and the Asian Pacific Group which are responsible for monitoring compliance of anti-money laundering and combatting financing of terrorism. The Anti-Money Laundering Bill, 2009 expanded the list of offences and provided the law's applicability in the area of countering financing of terrorism in line with internationally accepted standards.

The 13th National Assembly also passed domestic legislation to regulate the trade of endangered species internationally. Pakistan has signed the United Nations Convention on International Trade in Endangered Species of

<sup>62</sup> Some bills are amended various times during the assembly's term; wherever this is the case, the terminal and final version of the bill has been included.

Wild Fauna and Flora, and member states are required to develop domestic legislation for the same. On a somewhat related note, bills on plant breeders' rights and agricultural pesticides, both stressing on relevant international conventions signed by Pakistan and the need for adequate domestic legislation, were also introduced during the term, but not passed.

The Carriage by Air bill was passed to unify various international laws governing international carriage by air such as the Warsaw Convention 1929, the Hague Protocol 1955, the Guadalajara Convention of 1961 that Pakistan is party to. A similar bill regarding carriage of goods by sea was also introduced in the house, but not passed.

The Parliament also passed a bill which unified the Trade Marks Registry, the Copyright Office and the Patent Office into a single body for the protection of intellectual property rights in the country which is required by all members of the World Trade Organisation.

Under the UN General Assembly resolution no. 48/134 and similar others, UN member states are under obligation to establish independent national human rights institutions, which was initiated by the passage of the National Commission on Human Rights Bill.

Parliamentarians also raised matters which touched upon Pakistan's international commitments, or those of other countries with respect to Pakistan through other interventions. For example, two adjournment motions were raised by MNAs regarding India's violation of the Indus Water Basin Treaty by India. Members also raised the matter of construction of Baglihar Dam by India, human rights violations in occupied Kashmir, the Kerry-Luger Bill as well as the performance of the Ministry of Foreign Affairs through Motions under Rule 259. Similarly the imprisonment of 18 Pakistani military personnel in Indian jails since 1965 was also raised as a matter of public importance.

#### **6.4 How effective is parliament in ensuring that international commitments are implemented at national level?**

In the strictest of sense, the Parliament is not an implementing body - legislation enacted in the Parliament is sent to the relevant ministries and by-laws are made by departments in the third tier of governance, mostly at provincial or district level. However, in some cases, the effectiveness of Parliament in terms of implementation can be measured.

As detailed in the earlier section, the Parliament passed 10 bills in cognizance of international obligations in 2008-2013, on human and women rights, nuclear safety, terrorism financing, international trade, intellectual property, and carriage by air.

In terms of implementation, the National Commission on the Status of Women was actually established as a permanent statutory body in 2000 through an ordinance.<sup>63</sup> This was in fulfilment of an international obligation to do so since all countries who are signatories to CEDAW are required to embody the principle of the equality of men and women in their national constitutions or other appropriate legislation and through law and other appropriate means, the practical realization of this principle, as well as to ensure through public institutions the effective protection of women against any act of discrimination.<sup>64</sup> The 13th National Assembly's passage of the relevant bill provided legal cover to the ordinance, as the latter are promulgated when there is lack of relevant legislation in the existing law, which needs to be filled by law-makers within a period of 90 days after which the ordinance lapses.

On the other hand, establishment of a permanent Commission on Human Rights remains to be seen, with the Ministry of Law, Justice and Human Rights currently the sole governmental body working for human rights, whereas core human rights activism remains the domain of independent non-profit and/or civil society organisations such as the Human Rights Commission of Pakistan.

Similarly, the National Command Authority was also established in 2000 by Pakistan's National Security Council and here as well the 13th National Assembly's role, evident also from the bill's statement of objects and reasons, was to provide comprehensive legal basis for the functions and powers of the National Command Authority and the personnel working under it.

As Pakistan is a member of both the Financial Action Task Force and the Asia/Pacific Group who broadly work to set standards and promote effective measures to counter financing of terrorism, especially in the post 9/11 climate, the 13th National Assembly passed a relevant money-laundering bill addressing the reservations expressed by the APG to optimize counter terrorism financing mechanisms. However, in a public statement issued by the FATF in February

<sup>63</sup> Retrieved from the website of the National Commission on the Status of Women: <http://www.ncsw.gov.pk/about-ncsw.php>

<sup>64</sup> The Convention on the Elimination of All Forms of Discrimination Against Women, Article 2(a) and 2(c). Retrieved from the website of the United Nations: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>



2013 (towards the end of the Assembly's five year term in office), Pakistan was one of the countries with strategic deficiencies in making progress and committing to an action plan with respect to countering the financing of terrorism. The FATF highlighted the need to amend the Anti-Terrorism Act to ensure that it meets the standards of the FATF regarding terrorist financing offence<sup>65</sup>, and the ability to identify and freeze terrorists' assets.<sup>66</sup>

In a similar instance of lack of implementation, illegal trade in endangered species was prevalent as late as December 2012<sup>67</sup>, a mere few months short of the Assembly's completion of term in office.

Despite the passage of the Intellectual Property Organisation of Pakistan Bill 2012, the country remains on the Priority Watch List of the US Trade Representative's 2013 Special Report, among the 10 worst violators of intellectual property rights, along with Algeria, Argentina, Chile, China, India, Indonesia, Russia, Thailand and Venezuela, mostly due to counterfeiting and piracy.<sup>68</sup>

### **6.5 How effectively is parliament able to scrutinize and contribute to national reports to international monitoring mechanisms and ensuring follow-up on their recommendations?**

With respect to international obligations and keeping in mind the influence exercised by Parliament to uphold and implement these commitments as highlighted in earlier sections, the executive branch submitted reports on women rights in the purview of CEDAW at the federal level, and on the millennium development goals at the provincial level.

The four reports on CEDAW were submitted by the National Commission on the Status of Women, while four reports on the Millennium Development Goals were submitted by the provincial governments of Punjab, Sindh, Khyber Pakhtunkhwa and Balochistan. Hence, Parliament's involvement specifically in scrutinizing and contributing to these reports was not evident through the interventions provided in the regulatory framework, as the federal and provincial executive branches – ministries and departments e.g. Planning and Development – took the responsibility of these tasks.

However, there was parliamentary contribution in terms of legislation regarding health and education, which are some core areas to be addressed in the MDGs, e.g. the Reproductive Healthcare and Rights Bill and the Right to Free and Compulsory Education Bill (both tabled by private members and passed by the House). However, while this is a positive reflection of the Parliament's focus on these areas which have immense bearing on the human development index, it would be erroneous to assume that law-makers presented this bill due to Pakistan's commitment to the MDGs. Had that been the case, it would have formed a crucial part of the text of the statement of objects and reasons. They were introduced and passed due to domestic recognition of deficiencies in the health and education sector, rather than a direct response to the MDGs.

### **6.6 How effective is parliamentary monitoring of the government's development policy, whether as “donor” or “recipient” of international development aid?**

Pakistan receives military, economic and development aid from several countries, the biggest donor being the United States. During the 13th National Assembly's term in office, law-makers discussed the passage of the Kerry-Luger bill in three sittings in a single session in the second parliamentary year. Apart from this, there is no record of members having submitted agenda regarding development policy or aid during the 2008-2013 period through interventions provided in the regulatory framework.

Here as well, the process of receiving international development aid as well as policy-making is heavily executive-centric, and evident from the data, there was next to no oversight of the same by the parliamentarians, except in their capacity as relevant Ministers in the Cabinet; primarily the Ministers for Economic Affairs, and Planning and Development. The subsequent regulation, monitoring, and processing and implementation of international development aid is undertaken by the Ministry, its attached department, and finally the subcontractors.

<sup>65</sup> As a point of interest, the current parliament has also failed to improve the counter-mechanisms against financing terrorism, as similar reservations were aired in a public statement by the FATF in October 2013 as well.

<sup>66</sup> Retrieved from the website of the Financial Action Task Force:

<http://www.fatf-gafi.org/countries/n-r/pakistan/documents/fatfpublicstatement22february2013.html#pakistan>

<sup>67</sup> Retrieved from the website of the Daily Times:

[http://www.dailytimes.com.pk/default.asp?page=2012%5C12%5C05%5Cstory\\_5-12-2012\\_pg13\\_7](http://www.dailytimes.com.pk/default.asp?page=2012%5C12%5C05%5Cstory_5-12-2012_pg13_7)

<sup>68</sup> Retrieved from the website of the US Trade Representative:

<http://www.ustr.gov/sites/default/files/05012013%202013%20Special%20301%20Report.pdf>



## 6.7 How rigorous is parliamentary oversight of the deployment of the country's armed forces abroad?

Two institutions participate in UN Peacekeeping Missions abroad – the Pakistan Army, which provides troops and military observers, and the Ministry of Interior, which provides police personnel for peacekeeping assignments. Barring the UN and its instruments as well as internal departments of the host nation, the process whereby these personnel are deployed – from formal requests by the UN Security Council, agreements between host nations, the UN and members providing the peacekeepers – is carried out by the relevant Ministries (Defence and Interior) and their attached departments, as well as the Pakistan Army and Police. As explained in 6.2, the Cabinet is privy to all this information, and apart from questions submitted by parliamentarians, the oversight role of the parliament is limited.

## 6.8 How active is parliament in fostering political dialogue for conflict resolution, both at home and abroad?

The Mumbai attacks took place in November 2008, less than a year after the 13th National Assembly had been sworn in in March 2008, and the House also inherited the internal insurgency in the North-West, requiring several Army operations during the course of its term. These factors combined with Pakistan's image in the international media pressurized the Assembly to promote better relations with India and Afghanistan, the latter in the context of the war on terror.

Law-makers presented resolutions to address these issues and foster political dialogue for conflict resolution. A resolution was adopted in the first parliamentary year condemning the 2008 Mumbai attacks and offering condolences to the victims, as well as pledging full support and willingness for joint investigations. In another resolution adopted in the fifth parliamentary year to condemn the attack on Salala checkpoint by international coalition forces, law-makers stressed the need for justice for the deceased, respect for international borders, and reaffirmed commitment to preventing the use of Pakistani territory for the supply of arms and ammunition to Afghanistan.

On a more qualitative level, while the government conducted negotiations with internal militants, specifically the Swat Taliban resulting in the passage of the controversial Nizam-e-Adl (Order of Justice) regulation in April 2009 which allowed the imposition of Shariah law in Swat, it proved to be a short-lived reprieve from violence. The army had to conduct an operation against the Swat Taliban less than a fortnight after the peace deal after the latter had begun expanding their network into neighbouring areas. Until there is greater synergy between the security apparatus and the elected representatives, the likelihood of dialogue succeeding on both national and international levels is small.

## 6.9 How effective is parliament in inter-parliamentary cooperation at regional and global levels?

The 13th National Assembly took initiative in fostering parliamentary diplomacy in addition to conventional diplomacy. One of the aspects of this venture was the development of multilateral diplomacy through active participation in international parliamentary bodies such as the Commonwealth Parliamentary Association (CPA), the Inter-Parliamentary Union (IPU), Parliamentary Union of the OIC Member States (PUIC), the Asian Parliamentary Assembly etc. The speaker of the 13th National Assembly led delegations to 65 different international meetings and fora to talk about a variety of issues.

The speaker visited Vienna in 2009 as a representative of Pakistan in the 5th World Women Speakers' Conference, where she spoke about militant attacks on girls schools to garner international support for reconstruction. Similarly, the speaker visited India in 2010 for the 20th Conference of Commonwealth Speakers' Conference where she spoke about need for composite dialogue and seeking consensus over conflict. This was the first visit by a high ranking public official to India after the Mumbai 2008 attacks.

It is a measure of the effectiveness and level of participation of Pakistan in inter-parliamentary cooperation at regional and global levels, that nine lawmakers were elected to executive committees and as office bearers of numerous forums including the IPU, CPA PUIC etc.<sup>69</sup> The Parliament also hosted the 6th conference of the Association of SAARC speakers and parliamentarians during its tenure.

<sup>69</sup> *Parliamentary Diplomacy (Five Years Performance Report 13th National Assembly, 2013).*

## **6.10 How far is parliament able to scrutinize the policies and performance of international organisations like the UN, World Bank and the IMF to which its government contributes financial, human and material resources?**

The Economic Affairs Division has dedicated desks for dealing with international organisations including the UN, World Bank and the IMF. Here as well, the rules provide for the Cabinet's inclusion in all matters. According to a section officer speaking on condition of anonymity, due to the burden of different agreements signed between various international organisations and the government of Pakistan in any given month, the EAD and other relevant departments exercise discretionary powers and do not always bring these agreements to the Cabinet's notice. However, where there are drastic changes or amendments in policy or the government's position, the executive takes the Cabinet into confidence.

The Parliament is not in a good position to scrutinize the policies and performance of international organizations. There is a need to involve the Parliament more in the work of the international organisations. However, the executive mostly keeps control of the dealings with the international bodies.

### **6.10.1. What has been the biggest recent improvement in the above?**

The major improvement in parliament's involvement in international policy was the passage of domestic legislation in cognizance of international obligations. Pakistan has been a member of the United Nations since its independence and a signatory to various international laws and treaties. Pakistan has also ratified various conventions of the UN, which are legally binding in nature. The Parliament developed domestic legislation in lieu of these international laws, treaties and conventions related to human and women rights, countering financing of terrorism, settlement of international investment disputes, intellectual property, trade control of endangered species of animal and plant life, etc.

### **6.10.2. What is the most serious ongoing deficiency?**

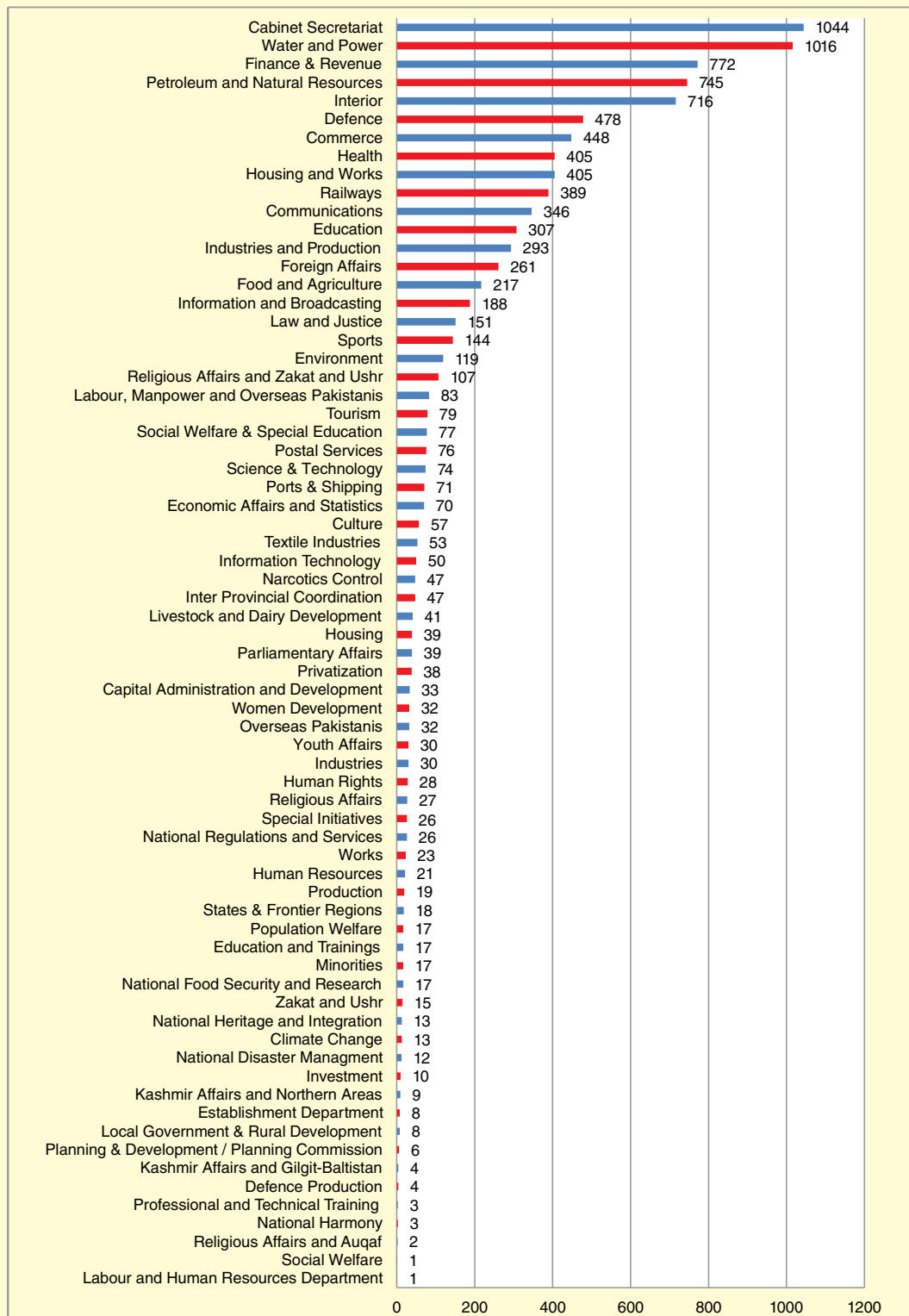
The most serious ongoing deficiency is the weakness of the committee system. As mentioned in earlier sections, the ministry of Foreign Affairs was formed after five months of the formation of the 13th National Assembly, and despite provisions for involvement and scrutiny in government rules of business 1973 as well as the National Assembly's rules of procedure, more engagement between the standing committees with the executive branch is required as they are a bridge between the former and the Parliament in this regard.

### **6.10.3. What measures would be needed to remedy this deficiency?**

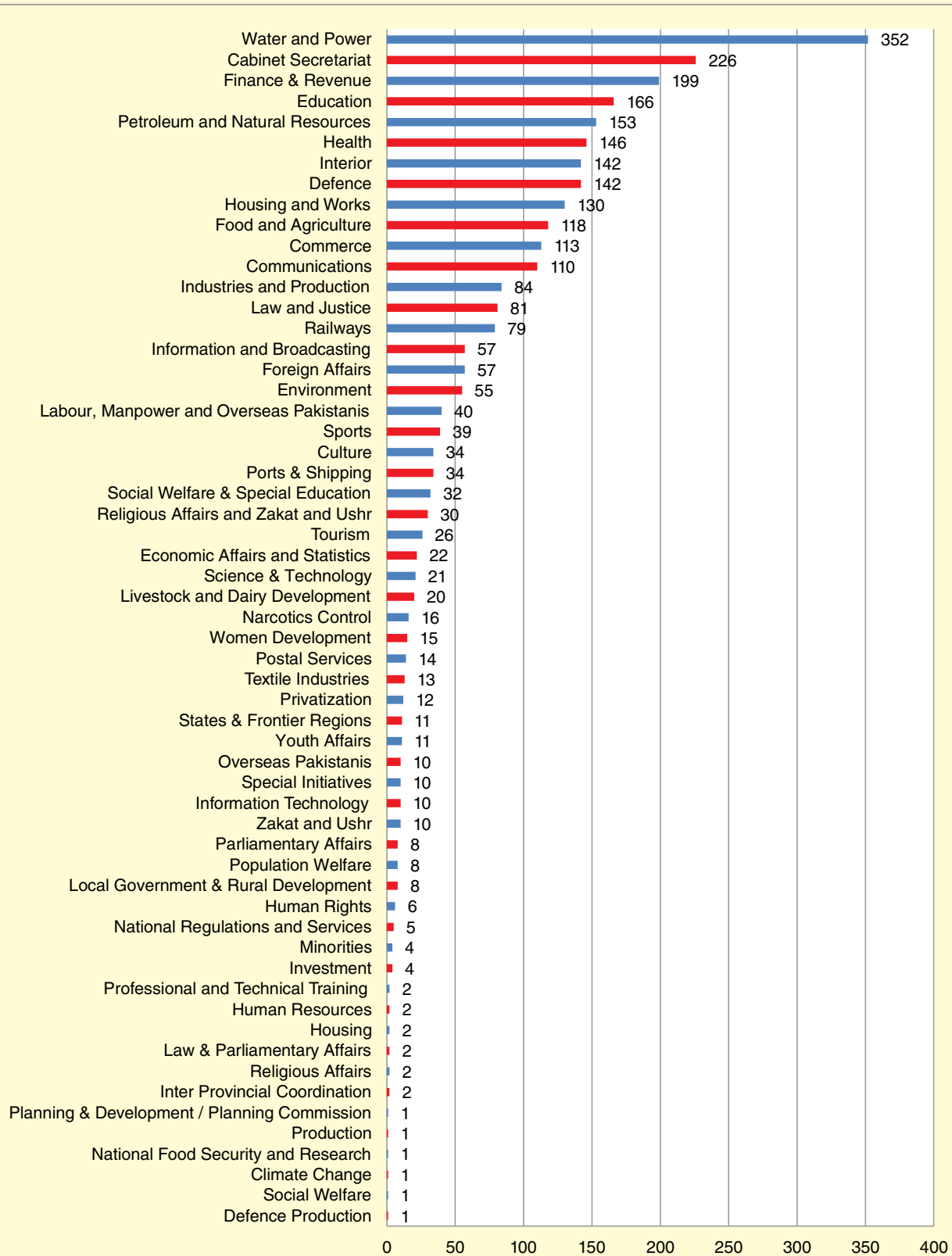
Strengthening the standing committees, increasing the number of days on which private members' agenda is taken up (currently private members' agenda is taken up on Tuesdays), increasing the strength of private members and setting aside seats for technocrats in standing committees, awarding ministries in the Cabinet by virtue of technical expertise and/or interest rather than on political bases, are some of the measures that may bridge the gap between the parliament and the executive regarding international policy, and ensure their equal involvement in the task.

## Annex 1: Details of Questions: Party-Wise

### Pakistan Muslim League (Nawaz)

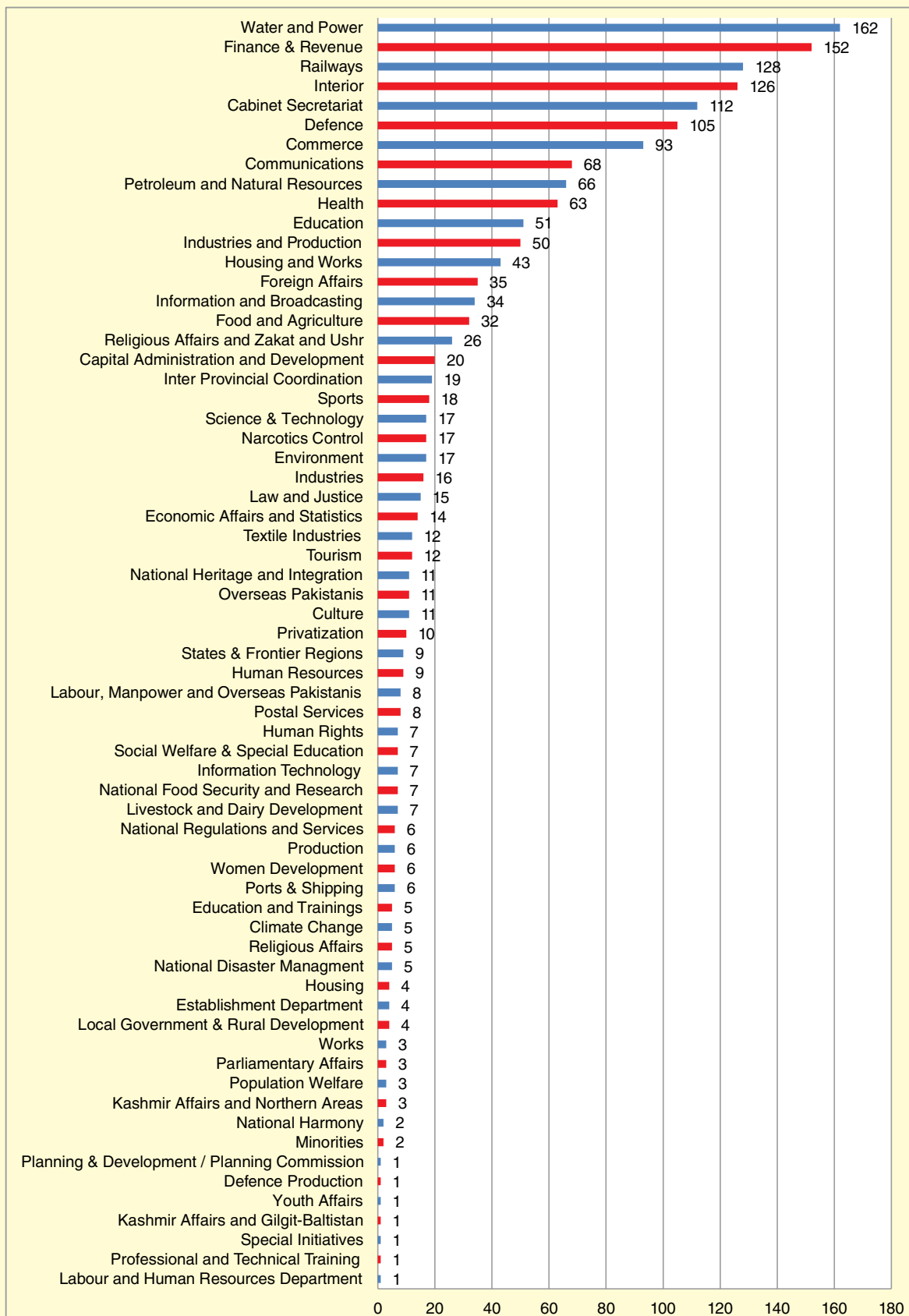


### Pakistan Peoples' Party Parliamentarians

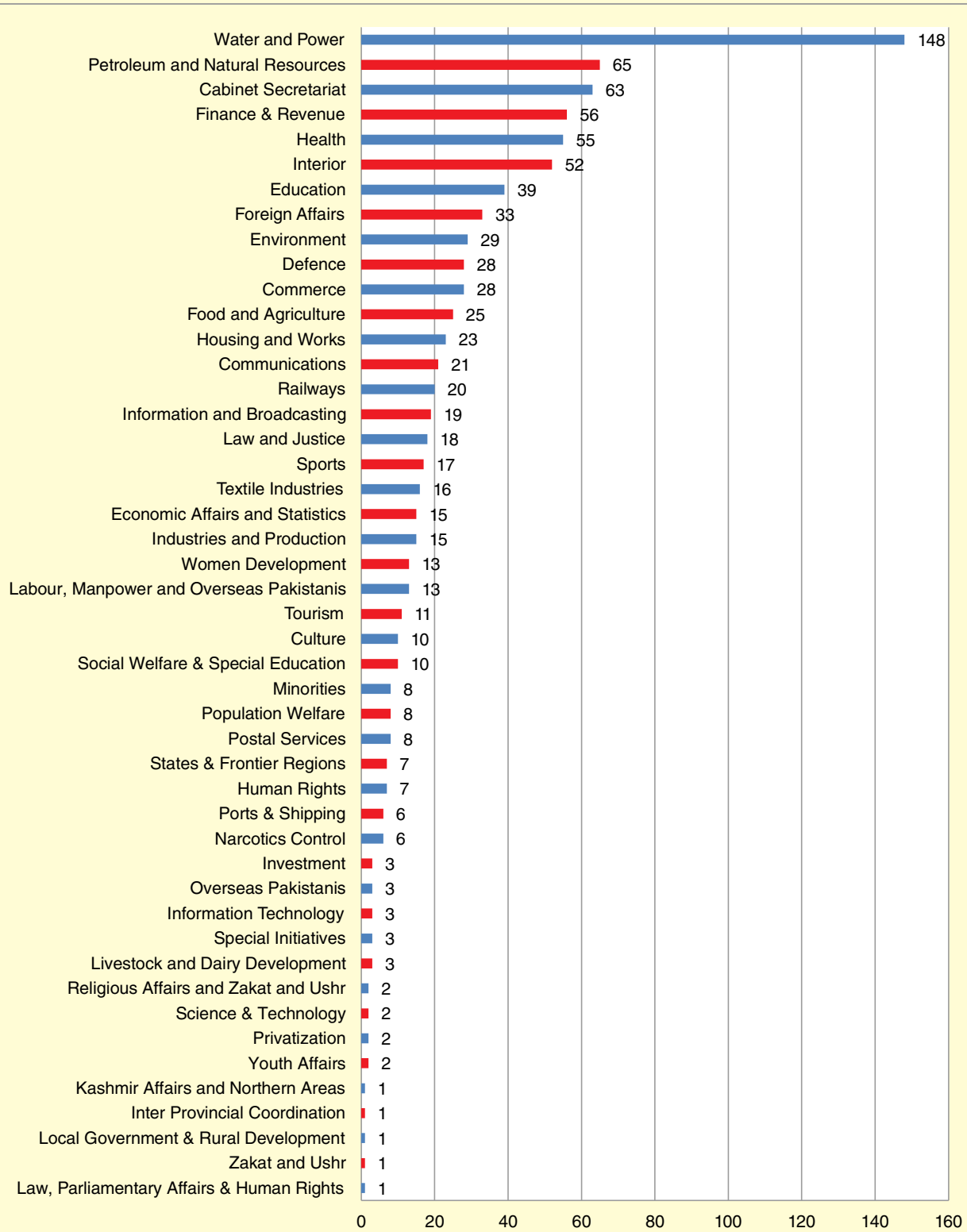




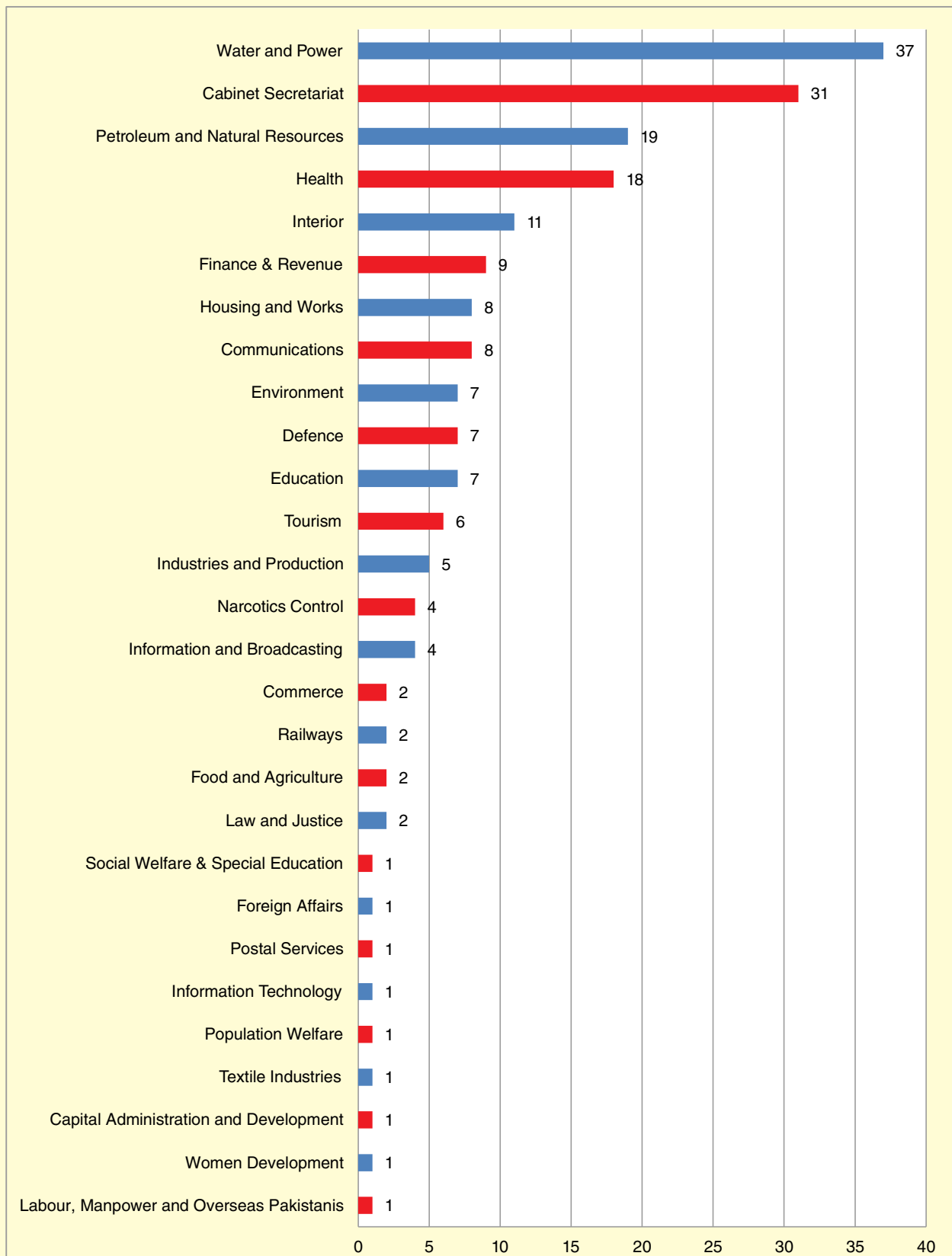
### Muttahida Quami Movement



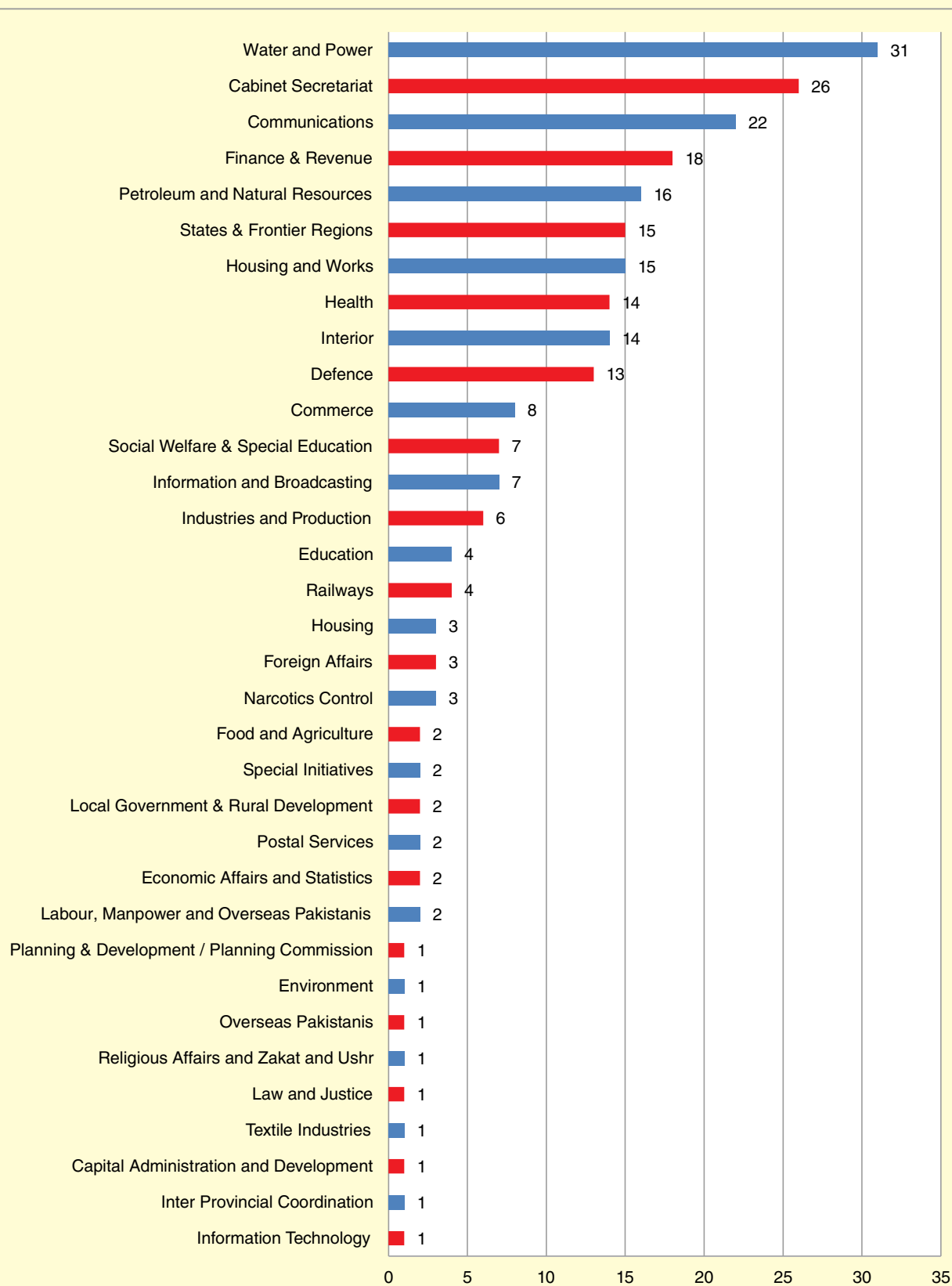
### Pakistan Muslim League



### Pakhtoonkhwa Milli Awami Party

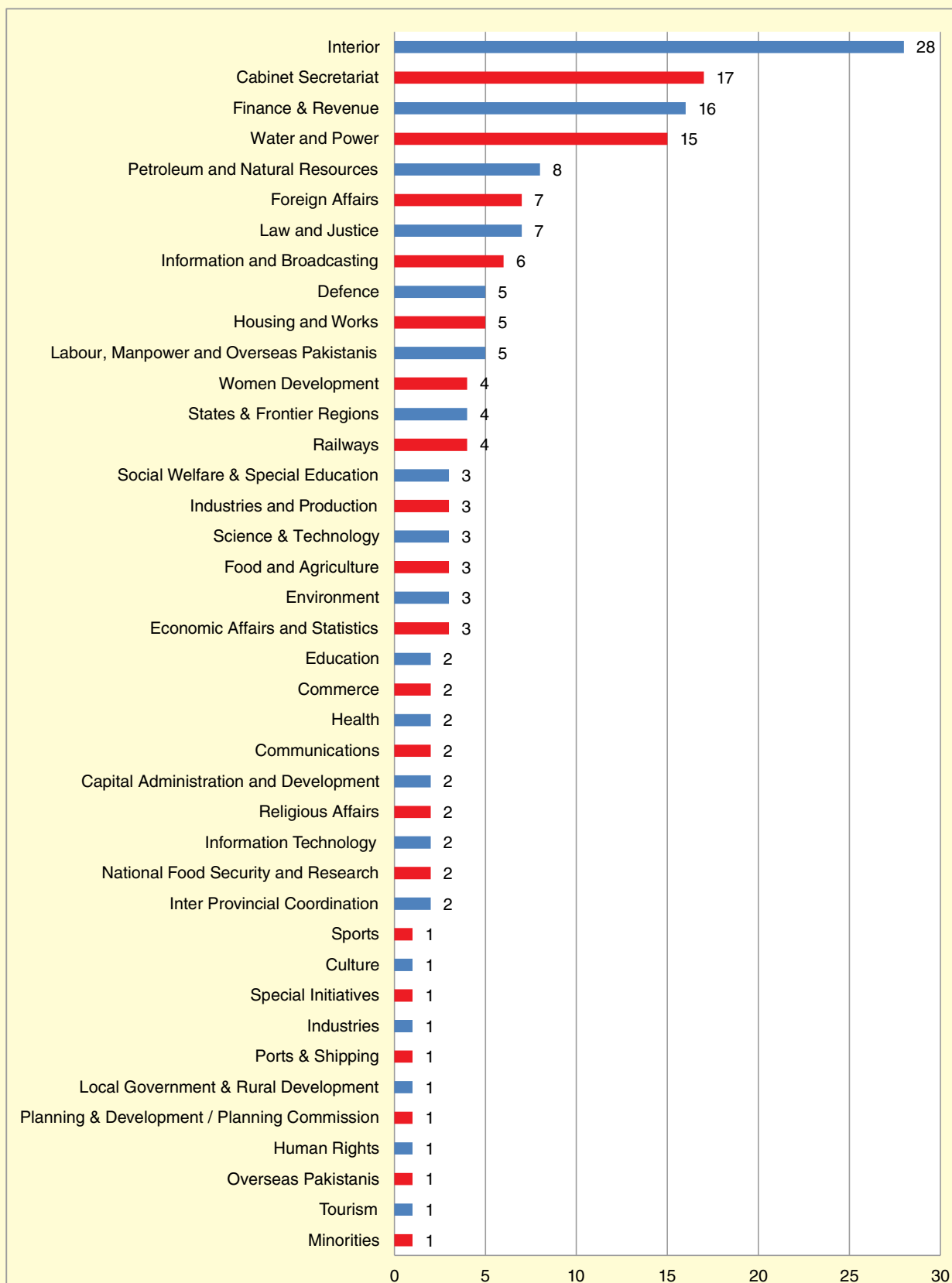


## Independents

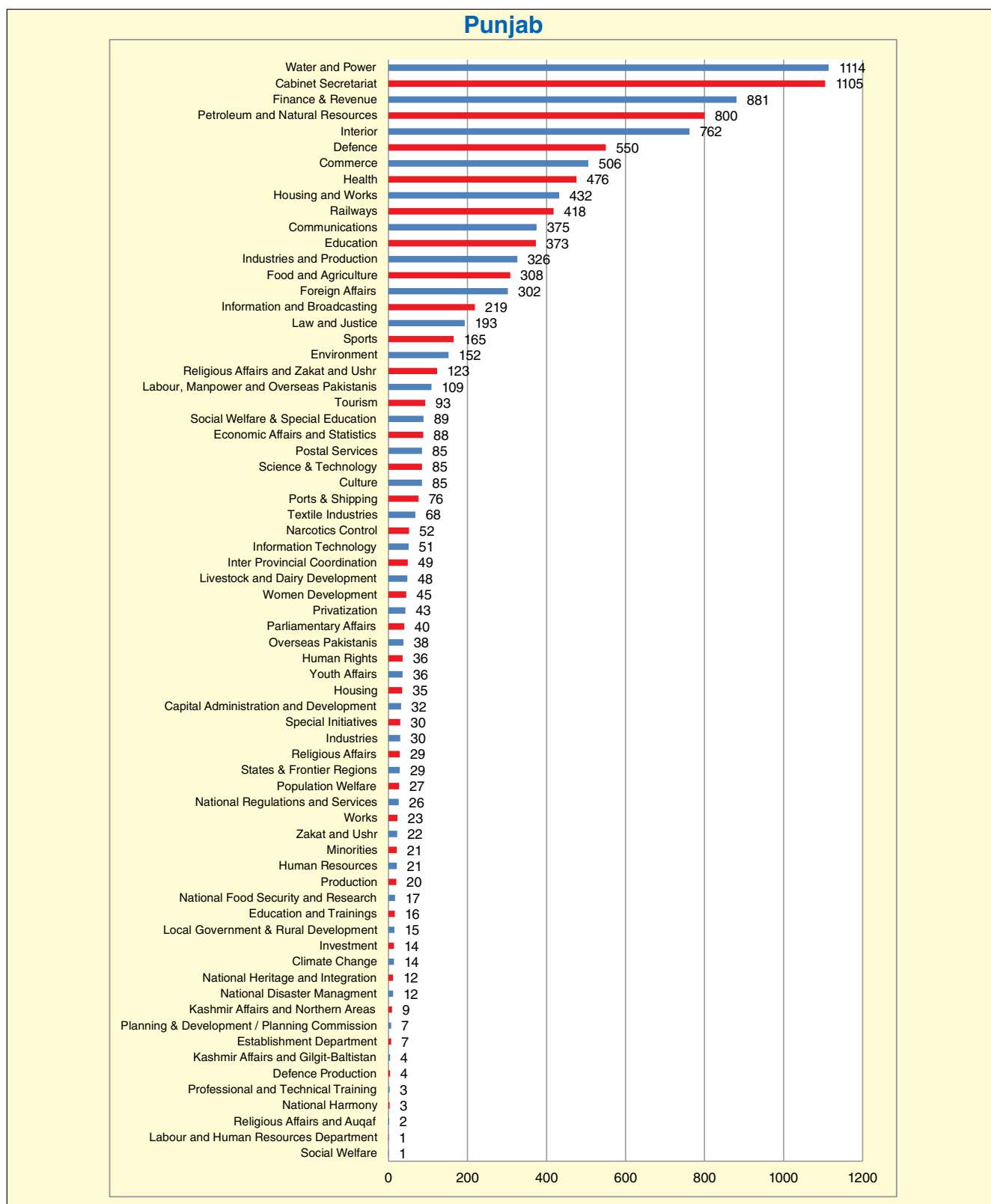




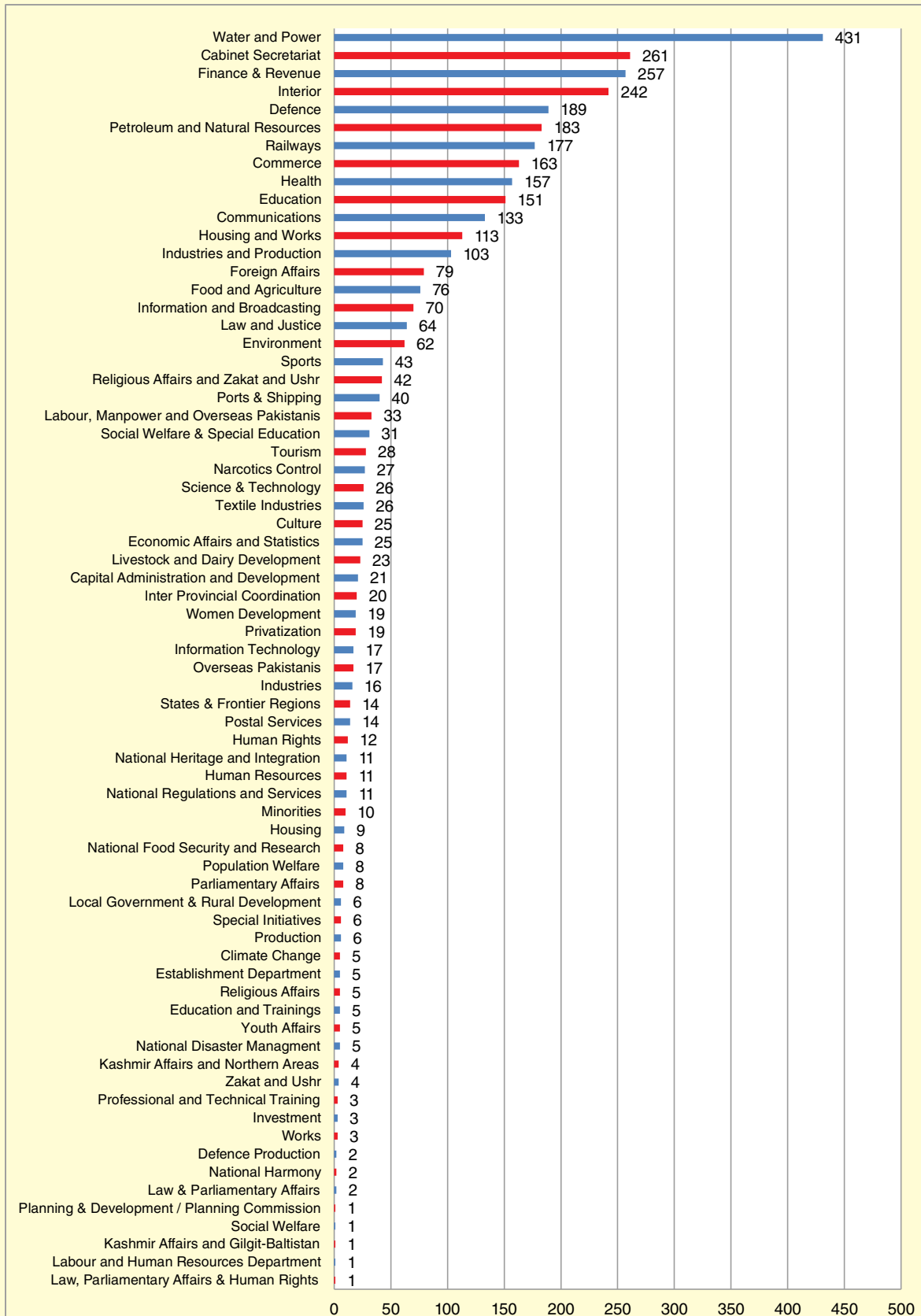
### Awami National Party



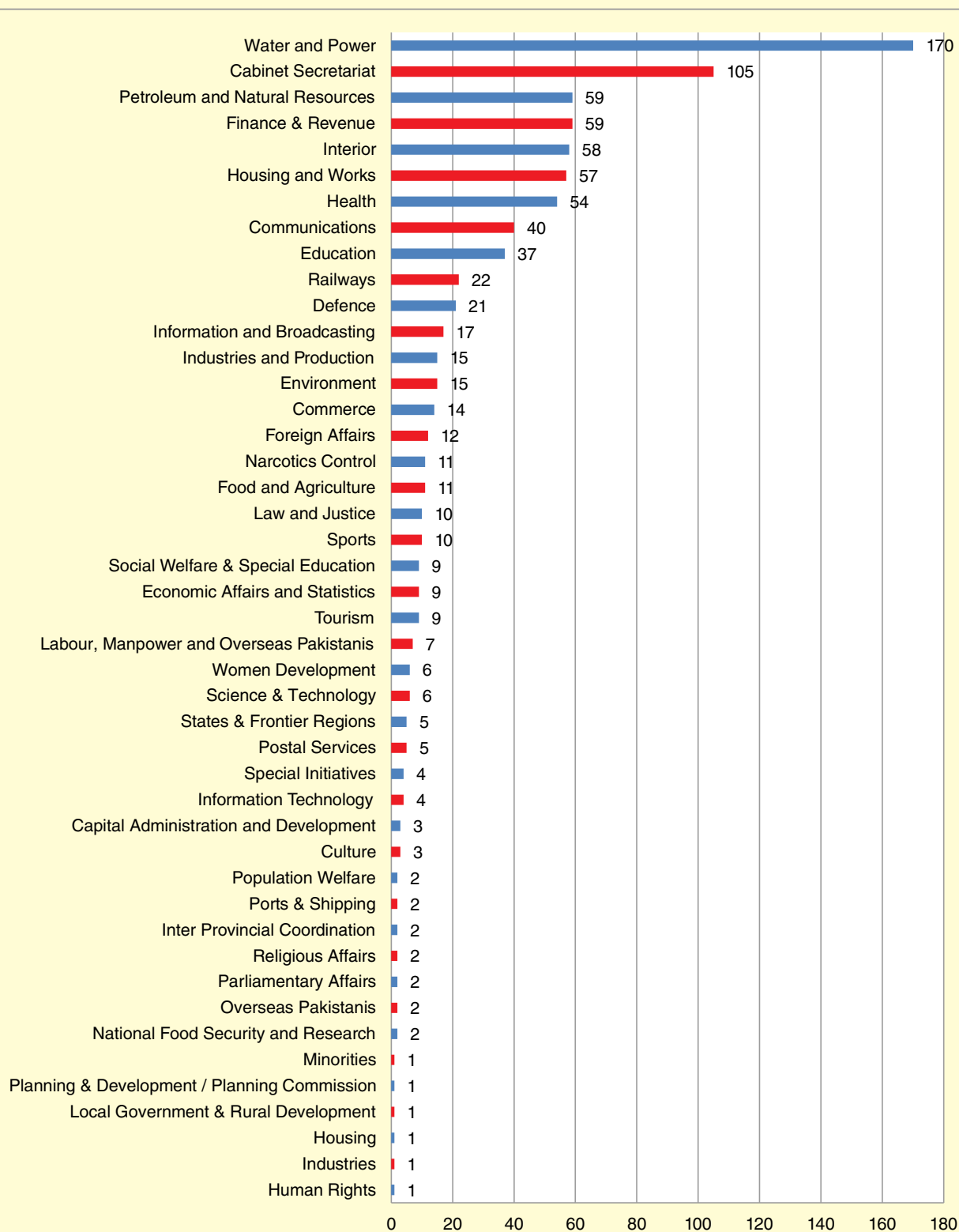
## Annex 2: Details of Questions: Region-wise



## Sindh

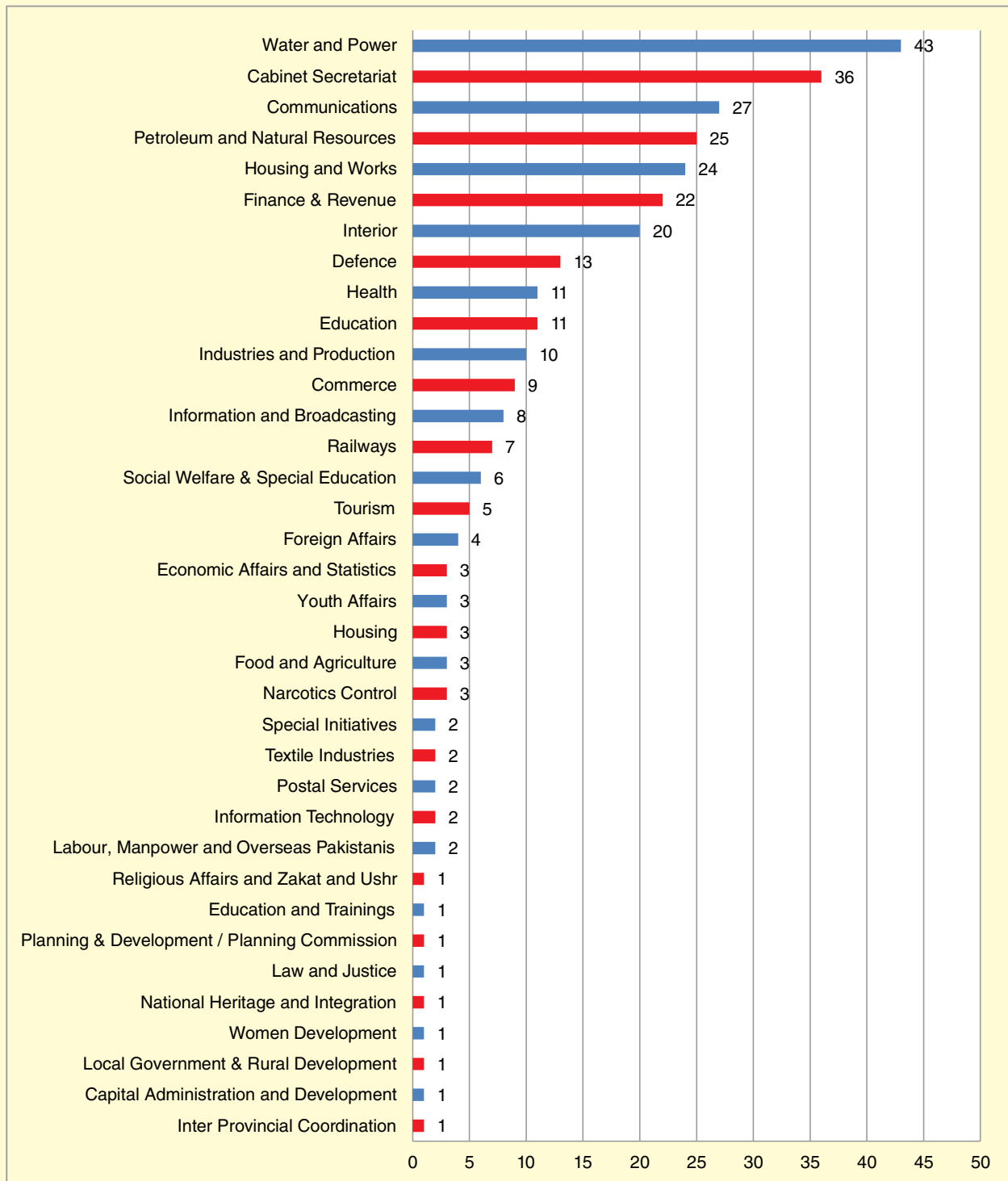


### Khyber Pakhtunkhwa

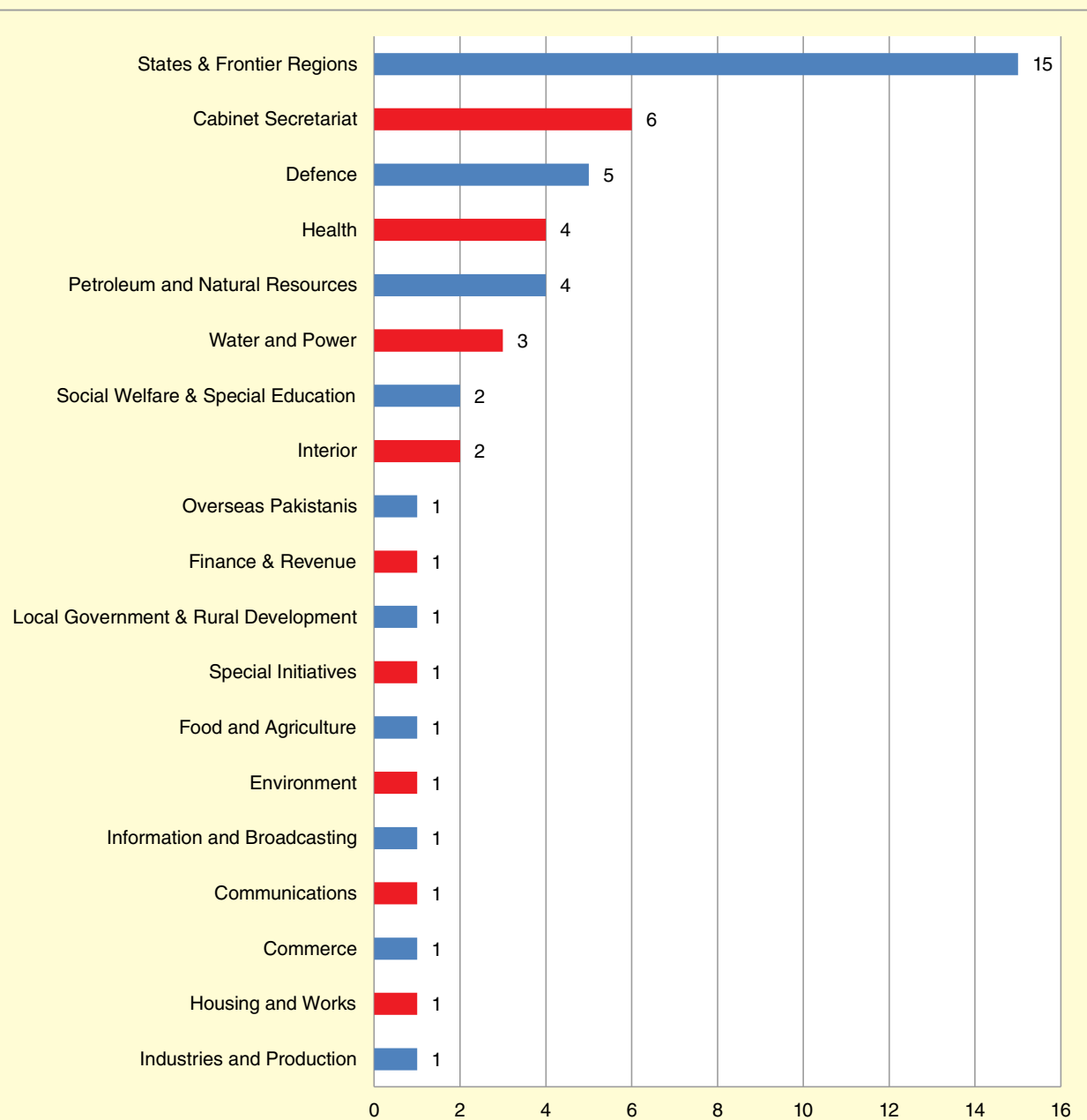




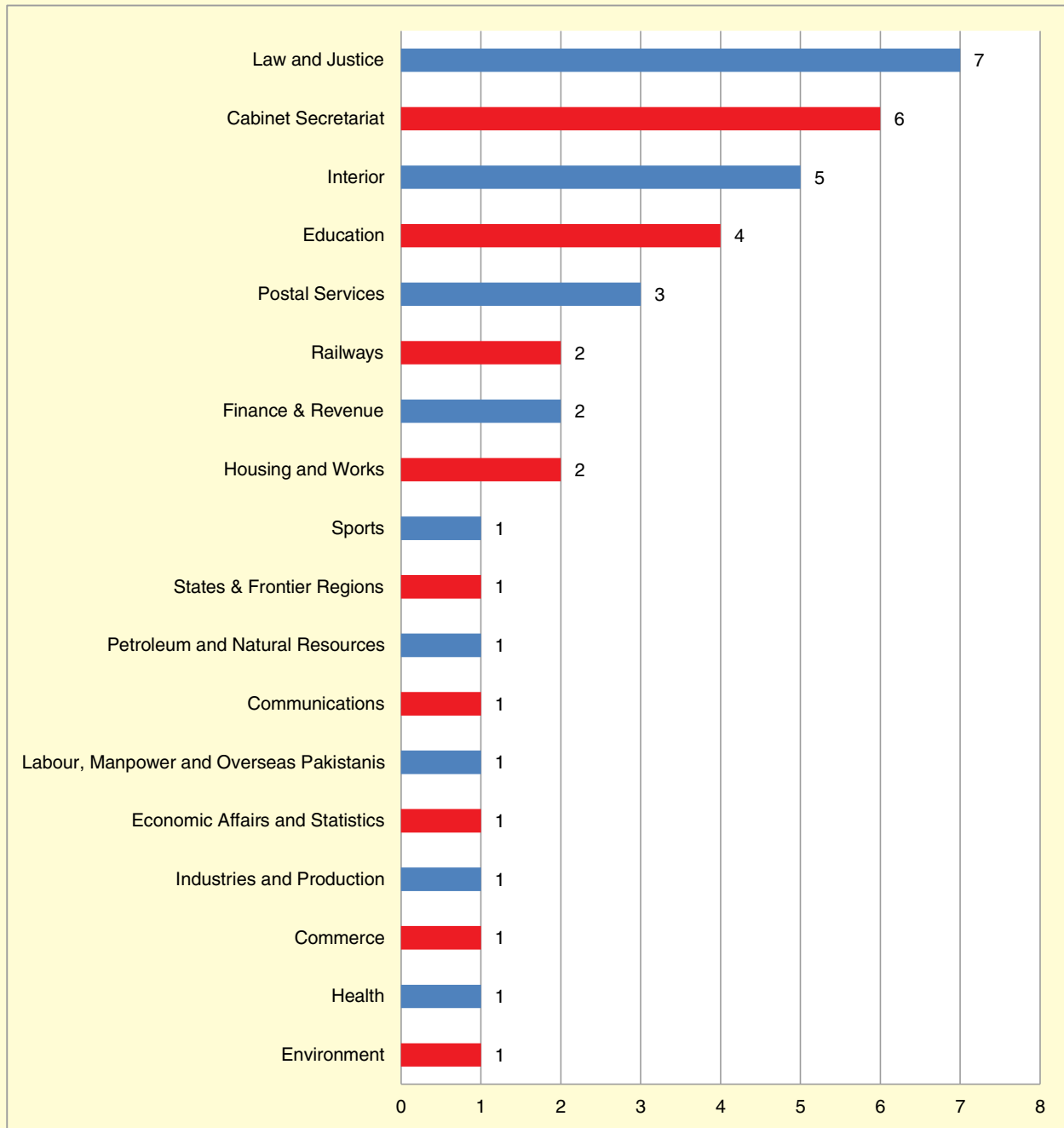
### Balochistan



### Federally Administered Tribal Areas



### Islamabad Capital Territory









# About FAFEN

Free and Fair Election Network (FAFEN) is a nationwide network of 42 Pakistani civil society organizations. It has been working since 2006 to strengthen democratic systems and promote active citizenship and is now governed by Trust for Democratic Education and Accountability (TDEA). With its primary mandate to observe elections and seek reforms to improve the quality of elections, FAFEN managed unprecedented long-term voter education and election observation initiatives that got 20,000 Pakistani citizens from every district of the country directly involved in the general election process in 2007-08.

In 2013, FAFEN deployed more than 40,000 trained, non-partisan long- and short-term observers to monitor all phases of general election. FAFEN election observation has yielded valuable insights into the quality of the electoral process and enabled generation of critical recommendations for reforms in the constitutional, legal and procedural frameworks that govern elections in Pakistan.

In addition to its vibrant Electoral Oversight, Research and Reforms Program, FAFEN has developed innovative techniques to observe the functioning of Parliament and Provincial Assemblies in order to advocate for parliamentary reforms for a more accountable, transparent and responsive legislative governance. Under its Parliament Oversight, Research and Reforms Program, FAFEN directly observes and objectively reports on the proceedings of all elected Houses in Pakistan.

FAFEN mobilizes and facilitates citizens engagements with elected and public institutions across Pakistan as a prerequisite for strengthening democratic accountabilities as part of its Electoral Governance Oversight, Research and Reforms Program. These activities fit in with the core FAFEN's objective of promotion of active citizenry—a critical ingredient of a vibrant democratic system.

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