

ELECTION COMMISSION OF PAKISTAN

PRELIMINARY REPORT OF DELIMITATION OF CONSTITUENCIES IN RESPECT OF KHYBER PAKHTUNKHWA PROVINCE (Ex-FATAs)

No.F.8(8)/2018-Elec-I.— For the purpose of the delimitation of constituencies of the Provincial Assemblies in respect of 16 general seats allocated to the erstwhile Federally Administered Tribal Areas vide 25th Constitutional Amendment promulgated on 4th June, 2018, a Delimitation Committee was constituted vide Election Commission's Office Order No.92/2018 dated, the 28th August, 2018, comprising following Officers:

S. No.	Name and Designation	Remarks
1	Sharifullah , Additional Director General (Elections), ECP Secretariat, Islamabad.	Convener
2	Mr. Shamshad Khan , Additional Director General (TRE), ECP Secretariat, Islamabad	Member
3	Ch. Nadeem Qasim , Director (Elections), ECP Secretariat, Islamabad	Member
4	Mr. Asif Ali Yasin , PS to AS (TRE), ECP Secretariat Islamabad	Member
5	Mr. Tabassum Javed , Draughtsman, ECP Secretariat Islamabad.	Member

2. For working out district-wise ratio and population quota for a constituency, the provisional results of 6th Population Census, 2017, officially published by Pakistan Bureau of Statistics vide Notification No.1(2)/2004PBS (C) dated the 3rd January, 2018, were used as base figure.

3. In accordance with rule 8 of the Election Rules 2017 Election Commission allocated the seats to the districts of erstwhile Federally Administered Tribal Areas keeping in view their population as mentioned in para-2 above. The said rule-8 in pursuance whereof the share of seats was determined is reproduced as follows:

“8. Determination of quota.— (1) *The Commission shall, after allocation of seats referred to in rule 7, determine the average population (hereinafter referred to as “quota per seat”) of a constituency for each Province and the Federal Capital by dividing total population thereof by general seats in the National Assembly allocated to a Province or, as the case may be, the Federal Capital.*

(2)

(3) *The Commission shall divide total population of a Province by the number of general seats in the Provincial Assembly to determine quota per seat in that Assembly.*

(4) *The Commission shall determine and notify the share of a district or districts by dividing total population thereof with the quota per seat of the Provincial Assembly concerned as determined under this rule:*

Provided that a fraction of more than 0.5 shall be counted as one seat and a fraction of less than 0.5 may be ignored:

Provided further that the Commission may deviate from the principle laid down in the first proviso in exceptional cases for reasons to be recorded.”

4. According to rule 9(3) of the Election Rules, 2017, aforesaid share of seats was communicated to the Delimitation Committee vide ECP u.o. note No.8(8)/2018-Elec-I dated 20th December, 2018.. This provision is reproduced below:

*“(3) The Commission shall convey the share of seats for each district or districts 3[***] in the National Assembly or, as the case may be, the share of seats for each district or districts in the Provincial Assembly, to the concerned Delimitation Committees constituted under sub-rule (1) and sub-rule (2) and shall also provide guidelines and timeframe for functioning of the Committee.”.*

5. According to the contents of the ECP letter referred to in para-3, the share of seats for the Provincial Assembly in respect of erstwhile Federally Administered Tribal Areas was calculated as here under:

KHYBER PAKHTUNKHWA PROVINCE

Quota per Provincial Assembly seat = Population of ex-FATAs ÷ Number of seats in PA
= 5,001,929 ÷ 16

Quota per Provincial Assembly seat = 312,621

Table-I (Ratio and share of seats in District)

S. No.	District	Population as 2017 Census	Share of PA seat: Dist. Population ÷ PA Quota i.e. 312,621)	Share of PA Seats
1.	Bajaur	1093684	3.49843	3
2.	Mohmand	472357	1.51096	2
3.	Khyber	986973	3.15709	3
4.	Kurram	619553	1.98180	2
5.	Orakzai	254356	0.81362	1
6.	North Waziristan	543254	1.73774	2
7.	South Waziristan	674065	2.15617	2
8.	Frontier Regions	357687	1.14416	1

6. In pursuance of Section 19(1) and (4) of the Elections Act, 2017 (Act No.XXXIII of 2017) read with rule 8 of the Election Rules, 2017, the said share of ratio in respect of each District and areas falling in erstwhile Federally Administered Tribal Areas for allocation of seats in the Provincial Assembly, Khyber Pakhtunkhwa has been notified by the the Election Commission of Pakistan vide Notification No. F.8(8)/2018-Elec-I dated the 2nd January, 2018.

7. Delimitation is required for General seats in the National and Provincial Assembly, being single member territorial constituencies and in this regard, Article 106 (3) of the Constitution provides as under:

“(3) For the purpose of election to a Provincial Assembly,—

(a) the constituencies for the general seats shall be single member territorial constituencies and the members to fill such seats shall be elected by direct and free vote”

8. While drawing constituencies, District has been taken as basic territorial unit. The Principles of Delimitation laid down in the Section 20 of the Elections Act, 2017, together with population was adopted as basic criteria, as far as practicable and relevant in the case of each district and constituency. The principles laid down in Section 20 *ibid* are reproduced as following:

"20. Principles of delimitation.— (1) All constituencies for general seats shall, as far as practicable, be delimited having regard to the distribution of population in geographically compact areas, physical features, existing boundaries of administrative units, facilities of communication and public convenience and other cognate factors to ensure homogeneity in the creation of constituencies.

(2) For the purpose of delimiting constituencies for the general seats of the National Assembly for the Tribal Areas two or more separate areas may be grouped into one constituency.

(3) As far as possible, variation in population of constituencies of an Assembly or a local government shall not ordinarily exceed ten percent.

(4) If the limit of ten percent under subsection (3) is exceeded in an exceptional case, the Commission shall record reasons thereof in the delimitation order."

9. As per initial timelines the draft list of constituencies were required to be published by 5th October, 2018 whereas the final publication was scheduled for 5th December, 2018. However due to a legal lacuna regarding inclusion of erstwhile Frontier Regions (FRs) in the delimitation or otherwise, a meeting of Hon'ble Commission with Minister for Law and Justice was held in ECP secretariat on 03-10-2018 wherein it was agreed that an Ordinance for amendment in section 20 of the Elections Act 2017 is required to be issued to cover the said lacuna enabling the Commission to carry out the delimitation accordingly. However, due to non-issuance of said Ordinance, the timelines were required to be extended by 30 days each on 8th October, 2018, 1st November, 2018 and 28th November, 2018 consecutively. The said Ordinance re amendment in section 20 of the Elections Act 2017 was issued by the Federal Government on 1st January, 2019.

10. In order to carry out the delimitation in accordance with the Law and prescribed principles, the Delimitation Committee also took into account various measures and steps stipulated in the Rule 10 of the Election Rules, 2017, which is reproduced below:

"10. Draft proposals for delimitation of constituencies.— (1) A Delimitation Committee constituted under rule 9 shall, immediately after its constitution, proceed to obtain from Pakistan Bureau of Statistics, population data of last census officially published along with relevant maps showing therein census charges, census circles and census blocks along with description, relating to a Province, a district, an agency, or any other administrative or revenue unit as it may require.

(2) The Delimitation Committee shall also obtain district maps along with description, duly authenticated by Pakistan Bureau of Statistics, or, as the case may be, the district head of Revenue Department, prepared on a uniform scale as may be determined by the Commission indicating therein details of all administrative and revenue units in the district to the level of a Patwar Circle or, as the case may be, a Tapedar Circle, as well as prominent geographical and physical features, such as rivers and mountains and any other information as may be determined by the Commission or required by the Committee.

(3) In preparing draft proposals for delimitation of constituencies, the Delimitation Committee shall follow the principles of delimitation as laid down in section 20, procedure given in this Chapter and the guidelines provided by the Commission from time to time.

(4) The constituency for an Assembly shall not ordinarily extend to more than one district except in exceptional circumstances for reasons to be recorded by the Delimitation Committee: Provided that a Patwar Circle or, as the case may be, a Tapedar Circle shall be the basic unit for delimitation and it shall not be broken under any circumstances: Provided further that in case of urban areas census circle shall not be broken under any circumstances.

(5) As far as possible, the delimitation of constituencies of an Assembly shall start from the Northern end of the district, or, as the case may be, the agency and then proceed clockwise in zigzag manner keeping in view that population among the constituencies of an Assembly shall remain as close as may be practicable to the quota:

Provided that the quota under this sub-rule shall be determined by dividing total population of the district or the agency with number of seats allocated to that district or agency:

Provided further that the variation in population between two or more constituencies shall not ordinarily exceed ten percent and the Delimitation Committee shall record reasons if, in exceptional circumstances, the variation has to exceed the limit.

(6) For the purpose of preparation of draft proposals for delimitation, the Delimitation Committee may require assistance from any Federal, Provincial or, as the case may be, a Local Government Authority.

(7) After the draft proposals for delimitation of constituencies are finalized on Form 5, the Delimitation Committee shall send the same to the Commission, within the time specified and in the manner as may be determined by the Commission."

11. The constituencies were delimited using the district-wise provisional population data of 6th Census, 2017 provided by the Pakistan Bureau of Statistics, whereas, maps were provided by the Revenue Department, Government of Khyber Pakhtunkhwa, reflecting thereon updated Administrative and Revenue Units, authenticated by the respective authorities of the District Administration/Deputy Commissioners. For the purpose of actual delimitation of constituencies in a district, the total population of the respective district was divided by the total number of seats allocated to the district in the Provincial Assembly. The average population so calculated was taken as mean for all constituencies of Provincial Assembly in that district, allowing limit for variation more or less that 5% of the mean, so that the total variation is kept within the range of 10% in accordance with provisions of Section 20 *ibid* read with rule 10(5) of the Election Rules, 2017. The range of variation was worked out in respect of Provincial Assembly seats in respect of each district as per detail given below:

Table-III (Variation for PA)

S.No	District	Population	PA	District Quota PA	Variation +/- 5%	
					Maximum	Minimum
1	Bajaur	1093684	3	364,561	382789	346333
2	Mohmand	472357	2	233,492	245167	221817
3	Khyber	986973	3	328,991	345441	312541
4	Kurram	619553	2	309,776	325265	294287
5	Orakzai	254356	1	254,356	267074	241638
6	North Waziristan	543254	2	271,627	285208	258046
7	South Waziristan	674065	2	337,032	353884	320180
8	Frontier Regions	357687	1	357,687	375571	339803

12. Utmost efforts were made to make sure that the variation among the constituencies is kept within the permissible range of 10% within a district, however due to inevitable geographic or demographic features of 3 districts, the range of 10% was exceeded the justification whereof is given as under:

- a. In Bajaur district, there are three provincial assembly constituencies namely PK-100 Bajaur-I, PK-101 Bajaur-II and PK-102 Bajaur-III which have the population of 351,555, 348,386 and 393,743, respectively. The variation among these three constituencies is

12.44% which has exceeded slightly from 10% allowed variation, however, this was done due to peculiar tribal affiliations of the district.

- b. In Khyber district, there are three provincial assembly constituencies namely PK-105 Khyber-I, PK-106 Khyber-II and PK-107 Khyber-III which have the population of 314,569, 348,756 and 323,648, respectively. The variation among these three constituencies is 10.39% which has exceeded minutely from 10% allowed variation, however, this was done to avoid the breaking of large administrative units of the district.
- c. In Kurram district, there are two provincial assembly constituencies namely PK-108 Kurram-I and PK-109 Kurram-II which have the population of 339,247 and 280,306 respectively. The variation among these two constituencies is 19.44% which has significantly higher from 10% allowed variation, however, this was done due to several reasons which inter alia include the following:
 - (i) Kurram district has history of religious clashes which demanded much prudence.
 - (ii) The tribal affiliations were required to be kept in view while delimiting the constituencies.
 - (iii) Presently there are two National Assembly constituencies namely NA-45 Kurram-I and NA-46 Kurram-II on which recently representatives have been elected during General Elections 2018;
 - (iv) The extent of both National Assembly constituencies has been kept intact in respect of Provincial Assembly constituencies as well as the electorate is well aware to their constituencies thanks to successful conduct of election in recent past.

13. The extent of each constituency has been described in terms of major administrative/revenue units as far as possible. However, sub-administrative/revenue units were described wherever a higher administrative/revenue unit was bifurcated. For the purpose of description, the administrative/revenue units were used i.e. Districts, Tehsils, Qanungo Halqas and Patwar Circles in the settled areas; and Census Charges and Census Circles in the urban areas. In the non-settled districts, the units adopted by the Pakistan Bureau of Statistics for the purpose of census e.g. Sub-Divisions, Tehsils and Union Councils. While doing so, utmost care was taken that major Administrative/Census units were not broken or bifurcated, as far as possible but wherever such bifurcation was inevitable, it was resorted to pursue population criteria. Patwar Circle in settled areas and Union Council in the non-settled areas has been kept intact as unbreakable unit.

14. The lists of constituencies of the Provincial Assembly, Khyber Pakhtunkhwa in respect of erstwhile Federally Administered Tribal Areas, specifying the areas proposed to be included in each constituency on **Form 5**, as Draft List of Constituencies is attached.

15. The provincial assembly of Khyber Pakhtunkhwa had already 99 seats which were given the numbers from PK-1 to PK-99 whereas 16 constituencies demarcated in respect of erstwhile FATAs have been numbered starting from the PK-100 (Bajaur district) and ending at PK-115 (ex-FRs). Due care has been taken to ensure the continuity of serial numbers.

16. All proposals are subject to representations in terms of Section 21 of the Elections Act, 2017, which provides as given below:

“21. Reports of Commission and list of constituencies.—(1) For the purpose of delimiting constituencies, the Commission may receive and consider representations, hold inquiries, summon witnesses and record evidence, and shall prepare and publish

in the official Gazette a preliminary report and list of constituencies specifying the areas proposed to be included in each constituency.

(2) The Commission shall invite representations in respect of the preliminary report within a period of thirty days from the date of publication.

(3) A voter in a constituency may, within the period specified in subsection (2), make a representation to the Commission in respect of the delimitation of that constituency proposed in the preliminary report.

(4) The Commission shall, after hearing and considering the representations, if any, received by it, make such amendments, alterations or modifications in the preliminary list of constituencies published under subsection (1) as it thinks fit or necessary, and shall, within a period of thirty days from the last date fixed for making representation under subsection (2), publish in the official Gazette and on its website, the final report and list of constituencies showing the areas included in each constituency.”

17. The procedure and methodology for submission of representation is elaborated in rules 12 and 13 of the Election Rules, 2017, as given below:

“12. Manner of making representation.— (1) A voter in a constituency may, within a period of thirty days from the publication of the preliminary proposals, make a representation to the Commission in respect of the delimitation of constituencies of the district or the agency, as the case may be, wherein his vote is registered.

(2) A representation shall be in the form of a memorandum giving therein the grounds for such representation and the details of how the constituencies of an Assembly in the district or agency may be delimited if representation is accepted by the Commission.

(3) The representation shall be signed by the person making it and be presented either in person or by an agent duly authorized in writing.

(4) A representation referred to in sub-rule (1) shall be filed with the Secretary to the Commission and shall be accompanied by eight copies thereof along with duly marked equal number of relevant maps to be obtained from the Commission, Pakistan Bureau of Statistics or, the revenue department, as the case may be, on the scale approved by the Commission indicating therein all existing administrative and revenue units in the district or the agency: Provided that a person making representation may obtain copies of maps against payment of a fee of one thousand rupees per map from the Commission or an officer authorized by it:

Provided further that a person making representation shall rely only on the figures of population taken from the last census officially published.

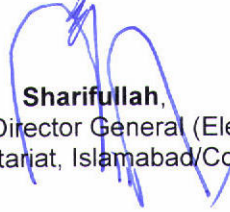
(5) While submitting a representation under sub-rule (4), a district or agency as a whole shall be taken as minimal unit for the purpose of preparing maps wherein all constituencies of the district or agency, including the constituency in respect whereof representation has been filed, shall be marked on the basis of suggestion made in the representation and highlighted to distinguish them from each other.

(6) The representations filed with the Secretary to the Commission shall be entered in a register in Form 6.

13. Hearing and disposal of the representations by the Commission.—
The Commission, on receipt of representations, shall hear the same in such manner and within such time as it may deem fit: Provided that the Commission may hold inquiries, if so required, and summon any record or witness as may be necessary for the disposal of a representation.”



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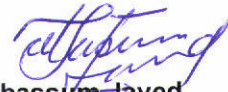
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