

ASPIRE-KP REPORT on Legislative Assistance Provided to Provincial Assembly on the Khyber Pakhtunkhwa Mines and Minerals Bill, 2025

Date: April 23, 2025

Venue: Provincial Assembly Peshawar

Organized by: Advocacy for Sustainable Policy and Implementation Reforms – Khyber Pakhtunkhwa (ASPIRE-KP)

1. Introduction

Advocacy for Sustainable Policy and Implementation Reforms (**ASPIRE-KP**) undertook a structured legislative assistance initiative in relation to the proposed **Khyber Pakhtunkhwa Mines and Minerals Bill, 2025**, in response to widespread legal, constitutional, and stakeholder concerns surrounding the draft legislation.

In pursuance of its institutional mandate and a Memorandum of Understanding with the **Office of the Speaker, Khyber Pakhtunkhwa Provincial Assembly**, ASPIRE-KP engaged with legislators and relevant stakeholders to provide objective, professional, and non-partisan input aimed at facilitating informed parliamentary deliberation.

This report documents that engagement, with particular reference to:

- The presentation made to the Standing Committee on Minerals Development on 23 April 2025, and
- The written brief subsequently submitted to the Hon'ble Speaker for record and consideration.

2. Background and Context

In early 2025, a draft **Mines and Minerals Bill, 2025** was prepared at the federal level and circulated to provincial governments for enactment. In Khyber Pakhtunkhwa, the Bill was approved by the Provincial Cabinet for introduction in the Provincial Assembly.

Following its tabling, the proposed legislation became the subject of extensive discussion across political, legal, academic, and stakeholder forums. Concerns were raised regarding its implications for:

- Provincial legislative competence,
- Federal–provincial balance, and
- Governance of mineral resources, a subject constitutionally devolved to the provinces.

Public debate, stakeholder feedback, and internal deliberations highlighted the need for careful scrutiny of the Bill prior to any further legislative action. It was within this broader context that ASPIRE-KP undertook a detailed review and offered legislative assistance to the Provincial Assembly.

3. Objectives of the Engagement

The objectives of ASPIRE-KP's engagement with the Standing Committee were to:

- Assist legislators through **objective, research-based analysis** of the draft Bill
- Examine the Bill's **alignment with the Constitution**, particularly the post-18th Amendment framework
- Identify **legal, institutional, and drafting issues** requiring clarification or reconsideration
- Highlight **stakeholder and community-level implications**, especially for small-scale miners and local populations
- Provide constructive inputs aimed at strengthening transparency, clarity, and provincial ownership of the proposed framework

The engagement was conceived strictly as **legislative assistance**, not political advocacy.

4. Institutional Role of ASPIRE-KP

ASPIRE-KP is a registered research and policy platform committed to:

- Evidence-based policymaking
- Constitutional adherence
- People-centric governance

The forum is **non-partisan** and does not pursue political or commercial objectives. Its work focuses on bridging gaps between policy intent, constitutional requirements, and implementation realities.

Under its MoU with the Speaker's Office, ASPIRE-KP provides technical and legislative assistance to parliamentary committees when requested or deemed appropriate, particularly on complex policy and legal matters.

5. Standing Committee Engagement

5.1 Date and Forum

On **23 April 2025**, ASPIRE-KP made a formal presentation to **Standing Committee No. 35 on Minerals Development Department**, Khyber Pakhtunkhwa Provincial Assembly.

5.2 Participation

The session was attended by:

- Members of the Standing Committee

- Representatives of the Minerals Development Department
- Subject-matter experts
- Representatives of miners' and stakeholders' associations

5.3 Nature of Proceedings

While introducing the ASPIRE-KP team, it was explicitly noted that:

- ASPIRE-KP is a **non-partisan forum**
- The assessment being presented was **professional and constitutional in nature**
- The objective was to assist legislators by highlighting implications of the draft Bill for informed consideration

The engagement was deliberative and technical rather than ceremonial.

6. Issues Presented and Discussed

The presentation titled “**The Khyber Pakhtunkhwa Mines and Minerals Bill, 2025 – A Critical Review**” examined the draft legislation within the constitutional framework of Pakistan, particularly Articles **2A** and **142**, governing federal–provincial legislative competence.

Key issues highlighted included:

6.1 Preamble and Legislative Intent

Concerns were raised that language referring to “substantial consistency” with frameworks of other provinces could create an impression of externally driven harmonisation, potentially diluting provincial legislative autonomy.

6.2 Interpretation and Drafting Issues

- Ambiguous and carelessly drafted definitions
- Sub-section (2) of Section 2 equating the Act with subordinate rules, raising concerns regarding legislative hierarchy and the inherent powers of the Provincial Assembly

6.3 Role of Federal Entities

The constitutional propriety of assigning roles to a **Federal Mineral Wing** within a provincial statute governing a devolved subject was questioned, with attention drawn to multiple provisions where such references appeared.

6.4 Classification of Minerals

Concerns were expressed regarding the introduction of categories such as **Strategic Minerals** and **Rare Earth Minerals** without an articulated management or policy framework, and without clarity on provincial control mechanisms.

6.5 Institutional and Administrative Arrangements

Issues discussed included:

- Omission of the Energy Mineral Group from the functional assignment of the Directorate
- Use of “seniority-cum-fitness” criteria for appointments rather than promotions
- Functional scope of District Liaison Committees and the need to safeguard local interests

6.6 Mineral Investment Facilitation Authority (MIFA)

The presentation suggested:

- Recasting of functions and procedures
- Inclusion of sector experts
- Clear delineation of MIFA’s role as a provincial policy and facilitation forum

6.7 Appellate and Review Provisions

Concerns were raised regarding:

- Composition and jurisdiction of the Appellate Tribunal
- Vesting statutory review of the Act in an executive authority rather than the Provincial Assembly

6.8 Stakeholder and Community Concerns

Specific attention was drawn to issues faced by small-scale miners and local communities, including:

- Tenure of licenses and leases
- Procedural complexity
- Disproportionate penalties for minor irregularities
- Limited representation in decision-making forums

7. Submission of Written Brief to the Speaker

Following the Standing Committee presentation, ASPIRE-KP forwarded a **detailed written brief** to the **Hon’ble Speaker, Khyber Pakhtunkhwa Provincial Assembly**, for official record and consideration.

The brief consolidated:

- Inputs from informal consultations
- Views of legal experts, academia, and sector stakeholders
- Section-wise observations and proposals

The document addressed, inter alia:

- The Preamble and interpretation clauses
- Institutional design and federal–provincial interfaces
- Mineral classifications and governance modalities
- Environmental, archaeological, and community safeguards
- Procedural simplification and protection of small-scale miners

8. Observations and Key Takeaways

The engagement underscored the importance of:

- **Constitutional fidelity** in sectoral legislation
- **Clarity and precision in drafting** to avoid future disputes
- **Stakeholder-inclusive governance** in mineral development
- Preservation of **provincial ownership and accountability** in a devolved subject

Convergence of Views from Other Quarters

During the course of deliberations on the Khyber Pakhtunkhwa Mines and Minerals Bill, 2025, views and observations were also expressed by other quarters, including legal experts, sector specialists, representatives of miners' associations, and research forums, through separate submissions, analyses, and discussions.

While ASPIRE-KP did not seek to adopt or represent the positions of these quarters, it was observed that **a significant degree of convergence existed between the concerns independently articulated by them and the issues highlighted by ASPIRE-KP** in its presentation and written brief.

For record purposes, this convergence broadly related to the following thematic areas:

- **Constitutional Competence and Devolution**
Concerns regarding legislative alignment with the post-18th Amendment framework and preservation of provincial jurisdiction over mineral resources.
- **Federal–Provincial Interfaces**
Apprehensions about the role and placement of federal entities within a provincial regulatory framework governing a devolved subject.
- **Institutional Design and Role Clarity**
The need for clearly defined mandates of regulatory and facilitation bodies to avoid overlap, discretion, and future disputes.
- **Stakeholder and Community Inclusion**
Emphasis on meaningful participation of local communities, small-scale miners, and district-level stakeholders in mineral governance.
- **Safeguards and Accountability Mechanisms**
Calls for stronger procedural safeguards, transparent decision-making, and accountability within licensing, facilitation, and review processes.
- **Drafting Precision and Legal Certainty**
Shared concern that vague or ambiguous drafting could expose the legislation to litigation and implementation challenges.

This thematic convergence was recorded as an indication that the matters raised during the Standing Committee engagement reflected **broader professional and stakeholder apprehensions**, warranting careful and considered legislative examination.

9. Conclusion and Way Forward

ASPIRE-KP's engagement with the Standing Committee on Minerals Development constituted a **constructive legislative assistance exercise**, aimed at strengthening parliamentary scrutiny of a complex and consequential piece of legislation.

The presentation and written brief were intended to:

- Support informed decision-making
- Highlight areas requiring reconsideration or refinement
- Assist legislators in aligning the proposed framework with constitutional principles and stakeholder realities

ASPIRE-KP reaffirmed its readiness to continue providing technical and legislative support to the Provincial Assembly in any further deliberations on the Mines and Minerals Bill, 2025.

10. Supporting Documents and Record Material

In order to facilitate reference, verification, and future review, the key documents forming the basis of the legislative assistance provided by ASPIRE-KP are appended as annexes to this report. These documents constitute the primary material presented to, and submitted before, the relevant parliamentary forum and the Hon'ble Speaker of the Khyber Pakhtunkhwa Provincial Assembly. The Presentation to Standing Committee (**Annex-I**) and Brief for Hon'ble Speaker (**Annex-II**) are included for record purposes and to support informed consideration of the issues discussed in detail in the foregoing sections.

In addition, ASPIRE-KP has also appended, for broader contextual reference, an analytical paper examining the state of development, exploration, and governance of the mines and minerals sector in the **Merged Districts of Khyber Pakhtunkhwa**. While this paper does not bear a direct relationship with the proposed Khyber Pakhtunkhwa Mines and Minerals Bill, 2025, nor with the presentation made to the Standing Committee, it provides a relevant sectoral backdrop by documenting the historical underinvestment, delayed implementation of policy commitments, and structural constraints affecting mineral development in the Merged Areas.

The inclusion of this analytical paper as an **Annex-III** is intended to place on record the wider developmental context in which mineral governance issues arise in the province, particularly in regions that continue to experience a gap between stated policy intent and actual on-ground outcomes in exploration, infrastructure development, skill formation, and institutional capacity. It is appended solely for reference and background and does not form part of the legislative assistance material placed before the Standing Committee.

Annexes

- **Annex-I: Presentation to Standing Committee on Minerals Development (23 April 2025)**
- **Annex-II: Written Brief submitted to the Hon'ble Speaker, KP Provincial Assembly**
- **Annex-III: *Merged Area – Forgotten Commitments and Broken Promises (An Overview of Mines and Minerals in Merged Area): Recommendations for Consideration of the Government* (ASPIRE-KP Analytical Paper)**