



15 July, 2024

TL2024/0715/1A

Mr. Ali Amin Gandapur,
Chief Minister Khyber Pakhtunkhwa,
Peshawar.

**Subject: Complaint Against Allegations of Illegal Glacier Cutting for Commercial Purpose, in
Violation of The Khyber Pakhtunkhwa Climate Change Policy 2022 and The Khyber
Pakhtunkhwa Environmental Protection Act, 2014**

Dear Sir,

Transparency International Pakistan has received a complaint on the allegations of illegal activity of glacial ice harvest in the regions of Dir, Chitral, Swat, Shangla, Kaghan, Naran and other parts of the Khyber Pakhtunkhwa province, in violation of the Khyber Pakhtunkhwa Climate Change Policy 2022 and the Khyber Pakhtunkhwa Environmental Protection Act, 2014 (**Annex-A**)

The complainant has made the following allegations that:

1. Khyber Pakhtunkhwa is home to around 3,050 glaciers, located in the northern regions of the province.
2. The glaciers and their meltwater are vital for the province's water resources and ecological balance and create unique habitats for various species of plants, animals and microorganisms.
3. Certain individuals and entities are engaged in unauthorized cutting and transportation of glacier ice for commercial purposes, causing a rapid depletion of crucial natural water resources.
4. The depletion of glaciers is disrupting the fragile ecological balance, adversely affecting local flora and fauna. The illegal cutting of glaciers poses an additional threat to the local ecosystem.

Transparency International Pakistan Comments

Transparency International Pakistan has reviewed the allegations of the complaint. Prima facie, the allegations seem correct. Following are TI Pakistan's comments:

1. Pakistan is considered as the fifth most vulnerable country to climate change. As a signatory of Paris Agreement, Pakistan has vowed to protect its natural ecosystem and biodiversity, including glaciers, Article 6 (a) of Convention on Biological Diversity promulgates (**Annex-B**):

Convention on Biological Diversity Article 6: "Develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programmes which shall reflect, inter alia, the measures set out in this Convention relevant to the Contracting Party concerned".

2. The Khyber Pakhtunkhwa Climate Change Policy 2022 puts emphasis on glaciers as important reservoirs for the Khyber Pakhtunkhwa province. Their significance for the future and present of the province and Pakistan is immense (**Annex-C**).
3. The illegal activity of glacial ice cutting adds to glacier melting, because of which, the province may face more GLOFs events together with freshwater crisis.
4. The Khyber Pakhtunkhwa Environmental Protection Act, 2014, Clause 6 (2)(i) provides a mechanism for the Khyber Pakhtunkhwa Environment Protection Agency (EPA) to investigate and hold accountable such environment crimes, as quoted below (**Annex-D**):

KP Environmental Protection Act, 2014, Clause 6 (2)(i): The Agency may "undertake inquiries or investigation into environmental issues, either of its own accord or upon complaint from any person or organization;"



5. The Khyber Pakhtunkhwa government must establish a comprehensive legal framework to preserve and protect glacial bodies for long-term sustainability. In this regard, Tajikistan has passed a law in January 2024 that calls for protecting and preserving glaciers as strategic sources of water resources. The legal framework also highlights the grave risks associated with the depletion of ice covers from the mountainous regions. (Annex-E). Similar legislation must be adopted by the provincial government with clear complaint, penalties and punishments mechanism to prevent such environment crimes.

Transparency International Pakistan Recommendations

Transparency International Pakistan requests the Chief Minister Khyber Pakhtunkhwa to examine the allegations of the complaint in light of The Khyber Pakhtunkhwa Climate Change Policy 2022, Khyber Pakhtunkhwa Environmental Protection Act, 2014, and if found correct, issue directives to take action against the perpetrators of illicit glacial cutting for commercial purposes. The CM is also requested to issue directives for legislation on the issue.

Transparency International Pakistan is striving for across-the-board application of the Rule of Law, which is the only way to stop illegal practices and achieve Zero tolerance against corruption.

Regards,


Advocate Daniyal Muzaffar
Trustee/Legal Advisor
Transparency International Pakistan

Copies forwarded for the information with request to take action under their mandate to:

1. Chief Secretary, Government of Khyber Pakhtukhwa, Peshawar
2. Secretary, Climate Change, Forestry, Environment and Wildlife, Khyber Pakhtukhwa, Peshawar
3. Minister, Law, Parliamentary Affair & Human Rights Department, Khyber Pakhtukhwa, Peshawar
4. Director General, Environmental Protection Agency, Khyber Pakhtunkhwa, Peshawar
5. Chairman, Provincial Disaster Management Authority, Khyber Pakhtunkhwa, Peshawar
6. Honorable Chief Justice, Peshawar High Court, Peshawar

Note:

This is to clarify that Transparency International Pakistan is not a complainant, it acts as a whistleblower and operate under Article 19-A, of the Constitution of Pakistan which gives the right to public to know how government is being run by public officers. Article 19-A makes the right to access of information pertaining to a public authority a fundamental right, and a three member bench in case of Mukhtar Ahmad Ali vs the Registrar, Supreme Court of Pakistan, Islamabad, headed by Chief Justice Qazi Faez Isa in the landmark judgment on 16 October 2023, in CP No. 3532/2023, has declared that

“What previously may have been on a need-to-know basis Article 19A of the Constitution has transformed it to a right-to-know, and the Access to information is no longer a discretion granted through occasional benevolence, but is now a fundamental right available with every Pakistani which right may be invoked under Article 19A of the Constitution”

Climate activist calls for action against illegal glacier cutting

By Bureau report June 15, 2024



Representational image of a glacier in Chitral. — UNDP File

PESHAWAR: Climate activist Tariq Afghan has urged the director general of the Environmental Protection Agency (EPA) of Khyber Pakhtunkhwa to take immediate action against the illegal cutting and commercial exploitation of glaciers in the regions of Dir, Chitral, Swat, Shangla, Kaghan, Naran, and other parts of the province.

In a letter to the DG EPA, Afghan highlighted that these activities violated environmental protection statutes and pose a significant threat to the ecosystem. Glaciers in these areas are vital for local water resources and agricultural sustainability, supporting unique habitats for various species of plants, animals, and microorganisms.

Khyber Pakhtunkhwa is home to approximately 3,050 glaciers, primarily in its northern regions. Unauthorised extraction and transportation of glacier ice for commercial purposes have led to the rapid depletion of these critical natural resources.

Afghan outlined several severe implications of these illegal activities, including violation of environmental laws, disruption of the ecological balance, acceleration of global warming, and significant threats to water availability and local economies.

Afghan emphasised that Pakistan is a signatory to international treaties like the Paris Agreement and the Convention on Biological Diversity, which mandate the protection of ecosystems, including glaciers. He called on the EPA to conduct a thorough investigation into illegal glacier cutting activities, enforce environmental protection laws, launch awareness campaigns, and promote sustainable practices for glacier conservation.

He expressed hope that the EPA would recognise the severity of this issue and take prompt, decisive action to protect and preserve Khyber Pakhtunkhwa's natural resources for sustainable development and environmental health.

Article

4

JURISDICTIONAL SCOPE

Subject to the rights of other States, and except as otherwise expressly provided in this Convention, the provisions of this Convention apply, in relation to each Contracting Party:

- (a) In the case of components of biological diversity, in areas within the limits of its national jurisdiction; and
- (b) In the case of processes and activities, regardless of where their effects occur, carried out under its jurisdiction or control, within the area of its national jurisdiction or beyond the limits of national jurisdiction.

Article

5

COOPERATION

Each Contracting Party shall, as far as possible and as appropriate, cooperate with other Contracting Parties, directly or, where appropriate, through competent international organizations, in respect of areas beyond national jurisdiction and on other matters of mutual interest, for the conservation and sustainable use of biological diversity.

Article

6

GENERAL MEASURES FOR CONSERVATION AND SUSTAINABLE USE

Each Contracting Party shall, in accordance with its particular conditions and capabilities:

- (a) Develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programmes which shall reflect, inter alia, the measures set out in this Convention relevant to the Contracting Party concerned; and
- (b) Integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies.

Forests

The northern part of the Province is comprised mainly of snowcapped high mountains and forests. The high northern mountains of Chitral, Hazara and Swat above 4000m have low vegetative cover. Alpine zone forests are found between 3350-3360m. Dry temperate coniferous are present in the dry ranges of Himalayas and Hindukush. Himalayan moist temperate forests are found in Hazara division (Kohistan, southern parts of Palas Valley, Lower Kaghan Valley) at an elevation of 1525-3660m. There is a narrow zone of subtropical forests between 900-2000m in the Southern parts of the Himalayan Mountains of Hazara and Swat Valley (Ahmad & Khan, n.d.).

Agriculture

Central Valley Plains and Piedmonts are used for agriculture and livestock grazing purposes. Livelihood is majorly based on agriculture and livestock in KP, with over 80% of the population dependent on agriculture for income. The agriculture sector also contributes to 20% of the provincial GDP and employs 44% of the labor force (Source: EPA, Govt. of KP). Major crops include wheat, rice, sugarcane, maize etc.. Livestock contributes approximately 52% to agriculture Sector.

Water

With the province heavily dependent on agriculture for livelihood, water plays an important role in the sustenance of the population. The Indus River and its tributaries are the main source of water for the province. The province has many lakes which contribute aesthetically to the region providing tourist attractions as well as freshwater. These lakes, such as Lake Saif-ul-Malook, Lake Dudipatsar, Lake Lulusar, Lake Shandur, Broghal Lake, etc. also come under protected wetland sites of KP wildlife biodiversity (KP Wildlife Biodiversity Preservation, conservation and management Act, 2015), whereas Tanda Dam in Kohat District & Thanedar Wala in Lakki Marwat District are the Ramsar sites identified under the Ramsar convention.

In addition, glaciers are important reservoirs for KP province. They feed into the Indus River and its tributaries and provide freshwater for agriculture and domestic use, moreover, these are important reservoirs for the future and indicators of Climate Change. The Karakoram-Himalayan ranges are snowbound throughout the year and have the greatest ice and snow cover in any mountainous system outside the Polar Regions. Glaciers are cold deserts; however, their significance for the future and present of KP and Pakistan is immense.

Biodiversity

The topographic variety of Khyber Pakhtunkhwa makes the province diverse in species. The Himalayan forests are the habitats for many mammal and bird species. Out of 188 species of mammals that occur in Pakistan, 98 mammal species are found in Khyber Pakhtunkhwa, amongst these endangered species are the Snow Leopard, Brown Bear, Ibex and Lion-eared bat. Moreover 456 species of birds, 56 species of reptiles and approximately 4500 species of plants are also found in KP (Source: EPA, Govt. of KP)

Annex-D

(xxviii) take or cause to be taken all necessary measures for the protection, conservation, rehabilitation and improvement of the environment, prevention and control of pollution and promotion of sustainable development; and

(xxix) perform any function which the Council may assign to it.

(2) The Agency may---

- (i) undertake inquiries or investigation into environmental issues, either of its own accord or upon complaint from any person or organization;
- (ii) direct any person to furnish any information or data relevant to its functions;
- (iii) initiate with the prior approval of Government, requests for foreign assistance in support of the purposes of this Act and enter into arrangements with foreign agencies or organizations for the exchange of material or information and participate in international seminars or meetings;
- (iv) recommend to Government and the Council the adoption of financial and fiscal programmes, schemes or measures for achieving environmental objectives and goals and the purposes of this Act, including---
 - (a) incentives, prizes, awards, rewards, subsidies, tax exemptions, and depreciation allowances; and
 - (b) taxes, duties and other levies;
- (v) establish and maintain laboratories to help in the performance of its functions under this Act and to conduct research in various aspects of the environment and provide or arrange necessary assistance for the establishment of similar laboratories in the private sector; and
- (vi) provide or arrange, in accordance with such procedure as may be prescribed, financial assistance for projects designed to facilitate the discharge of its functions.

7. **Powers of the Agency.**--- Subject to the provisions of this Act, the Agency may,---

- (i) investigate any environmental or pollution issue;
- (ii) enter into any premises with proper identification on the basis of reliable information to access the site where pollution offence is being committed or may likely to be committed or has been committed;



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Tajikistan

Law No. 2026 "On protection of glaciers."

This Law defines the legal, economic and organizational basis for the protection of glaciers as environmental objects and strategic sources of water resources. Glacier shall be intended a huge mass of natural ice formed as a result of the transformation of solid atmospheric precipitation. State policy for the protection of glaciers includes a set of legal, organizational, economic, social, scientific, cultural and educational measures. State policy for the protection of glaciers is aimed at protecting and preserving glaciers as strategic sources of water resources for the benefit of the population, economic sectors, ensuring a sustainable ecological balance, preserving the habitat of rare and endangered species of flora and fauna. Glacier protection is based on the following basic principles: (a) priority of conservation of ecological systems associated with glaciers and taking into account the strategic importance of glaciers; (b) openness and transparency; (c) proportionality between the interests of society and measures to prevent the possible risk of glacier shrinkage; and (d) stimulation of scientific research into glaciation. Glaciers are the exclusive property of the state, and the state guarantees their protection. The Glacier Protection Fund of the Republic of Tajikistan is formed at the expense of international organizations, grants and other funds not prohibited by the legislation of the Republic of Tajikistan. Functions of state regulation of glacier protection shall be as follows: (a) coordination of state bodies; (b) study of glaciers; (c) research; (d) training and retraining of staff; and (e) dissemination of information. Glacier monitoring is carried out by conducting comprehensive long-term observation, studying, assessing and forecasting the natural state of glaciers, analyzing the process of the negative impact of climate change, other physical, chemical and biological impacts resulting from the influence of natural and anthropogenic factors, as well as the impact of glaciers on the environment and preparing relevant information about it.

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