

Policy Brief on

WTO agreements and Farmers' rights in mountainous areas of Pakistan

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Brief overview of Mountain Areas

Pakistan has a diversified landscape as at one hand, it has agriculture rich plains and water starved deserts and on the other hand it has natural resources-filled lush green hills and mountains and some dry ranges of mountains. Himalayas, Korakoram and Hindu Kush mountain ranges pass through Pakistan.

Total area of the country is 796,095 Sq. km. Punjab comprises 205,344 sq km, Sindh: 140,914 sq km, North West Frontier Province: 74,521, Balochistan: 347,190 Federally Administered Tribal Areas: 27,220 and Islamabad(Capital): 906

Total Population touches to 142 million (current) 135.28 million (census 1998)

Ethnic composition is 95% Muslims, 5% others. Per capita income in the country is US\$ 460 while it ranges between US \$ 100-150 in the Himalayan Korakoram Hindu Kush mountainous areas of the country. The Flora including Pine, Oak, Poplar, Deodar, Maple, Mulberry and Fauna The Pheasant, Leopard, Deer, Ibex, Chinkara, Black buk, Neelgai, Markhor, Marcopolo sheep are found mostly in the mountainous areas. Almost all the tourist's resorts are in the mountainous areas like Murree, Quetta, Hunza, Ziarat, Swat, Kaghan, Chitral and Gilgit while Archaeological sites are Moenjo Daro, Harappa, Taxila, Kot Diji, Mehr Garh.

Agriculture is the backbone of the economy both in the mountain and plains of the country. Major crops are cotton, wheat, rice and sugarcane. Total cropped area is 22.14 million hectares. Himalayan ranges extend (2410 km) through Pakistan, India, Tibet, Nepal, Sikkim and Bhutan. The Northern mountains of Pakistan include the Malakand Division, Hazara Division, Northern Areas and Murree-Kahuta covering 96,340 kilometers and they had a population of over eight million. Land in this region is used either for arable farming, pasture or forestry, depending upon the altitudinal climate, physiography, soil moisture and socio-economic conditions. Over 90 per cent of the area comprised of steep to very steep mountain slopes, having only a thin and patchy soil mantle. Human populations are concentrated in the valleys although high pastures in upland regions are used in summer for the purposes of grazing livestock, hunting, and gathering wild resources. The Tirichmir, Qashqar, Gojal and Nanga Parbat and adjoining valleys and areas are a mix of peoples, languages and cultures. Major ethnic groups include the Shin, Yashkun, Balti and Pathans. Minority groups include Kalash, Dom and Gujar communities. The three major sects of Islam- Shia, Sunni and Ismaili- are almost equally represented in these areas.

Agriculture and livestock production provide the main source of livelihood for communities, accounting for some 60% of household income. Remittances from migrant labour account for approximately 15% of net income. A roughly proportion of income is derived from employment in or ownership of small enterprises, e.g., small roadside

shops, hotels, and tourist outfits. Employment in the public sector and NGOs accounts for less than a tenth of total income.

Contribution of Mountain areas to the National Economy

Agriculture, which includes forestry, livestock, poultry and fruit, is the backbone of the economy of mountain areas in Pakistan. Precious stones and gems, mountain herbs, tourism and other natural resources of these areas contribute a lot to the national economy.

In the agricultural system, orchard farming dominates all others. Apples and peaches are the main cash crop in most mountain areas. Other fruit orchards grow persimmons, cherries, pears and plums. Vegetables are also produced on a large scale. The most important are onions, peppers, potatoes and cauliflower. Cereal crops and pulses of many types are also grown in this area. The agriculture products from mountain areas are consumed in other parts of the country, thus generating economic activity worth billions of rupees.

A number of non-timber forest products are marketed locally, including, cumin seed, honey, medicinal herbs and mushrooms. Women work in the fields and undertake virtually all-farming activities (except ploughing and harvesting) in addition to their regular household chores and livestock and poultry keeping. Women and children are also responsible for fuel wood collection and for tending irrigation channels. There is a tendency among young males to seek employment outside the region (in urban centres or Gulf States), thus earning millions of dollars as foreign exchange to the country.

According to NWFP Livestock and Dairy Sector data, livestock and dairy sector in NWFP province (mostly mountain areas) alone contributes Rs 62.8 billion to national exchequer per annum. This could be enhanced if this sector was properly exploited on sound footings.

Tourism is another income generating sector in mountain areas of Pakistan. These areas attract almost 80 percent of total tourists coming to Pakistan. Hence it generates economic activity bringing more foreign exchange to the country from tourism industry and also creates more jobs for local people.

The mountainous areas of Pakistan are important players in the national economy. The above-mentioned key products, goods and services produced and traded by the mountain people play a significant role in the development of overall economy of the country. In addition to the contribution of forests, timber and non-timber forest products, hydropower and handicrafts of these areas have a potential to be traded worldwide. Since, the economy of the mountain areas is linked to the overall economy of the country, there is a dire need to give it a boost and do not allow it to be affected by the WTO regime and particularly the TRIPS agreement.

Policy Domain and WTO related issues

Since Pakistan's mountainous areas are rich with the products of nature, be it precious stones or food. Pakistan's trade is linked to mountainous areas in two ways; one the trade potential spreading towards Central Asia via China and Afghanistan through Silk Route and the other is the potential of natural produce that could be traded in the international

market. So, if under WTO regime any trade mechanism is imposed, it would have direct bearing on the mountainous areas of Pakistan. And that is why it is necessary that these areas are direct stakeholders in any trade round of talks in future.

Unfortunately, the whole of South Asia feel no change in the attitude of the development nations since the bloody Seattle round of negotiations and now the Doha round of talks on trade issues.

The key concerns fall into two broad categories, namely implementation issues such as market access, special and differential treatment as well as technical assistance and institutional issues meaning the reform of the operation of the WTO (green rooming and the hijacking of the agendas by TNCs – Trans-national Corporations).

There is a dire need to assess Pakistan's national trade policies with a mountainous perspective. It should be seen as to what issues are of most interest to Pakistan's poor particular the farmer and small and medium sized entrepreneur in the mountainous areas. In the global marketplace, strong firms within Pakistan's mature sectors will have to compete on their own with minimal support. The government would be wise to focus their attention on those sectors that are most intensely linked with the under developed sectors of the economy such as textiles and agriculture. It would also be important to examine the 'pro poor policies' of the WTO agreements. We have to see whether or not they are really what they project.

Clearly, more protection for the subsistence farmer and the small and medium enterprise in the mountainous areas is necessary. Agreements that spill over from those areas will need to be accompanied by technical assistance for harnessing those sectors and furthermore, building their export capacity through increased market access.

The Agreement on Agriculture directly affects Pakistan's farming communities in mountainous areas because subsidies are being abolished under this agreement. The impact of this Agreement has been destructive for many developing countries, whose imports have suddenly surged, while their exports have not significantly increased, leading to food insecurity, and increasingly rural unemployment and poverty in the mountainous regions.

Other agricultural problems pertain to complications with TRIPs and inconsistencies with the Convention on Bio-Diversity (CBD) then leave the poor farmers in Pakistan vulnerable to high foreign seed prices and increased prices of inputs with no recourse or opportunity for state protection. The mountain areas of Pakistan are environmentally suitable for production of seed and plant varieties. But under the TIPs agreement, this right of the farmers would no more remain intact.

The Trade Related Intellectual Property Rights Agreement (TRIPS) fiercely protects the rights of corporations, such as the biotechnology industry, but allows the shared knowledge of indigenous communities to be patented by others. It is difficult for developing countries to protect their vast knowledge especially as much of the knowledge is passed by word of mouth; a medium not recognized by US patent authorities as legitimate.

Policy Instruments

The laws in Pakistan exist regarding different elements of biodiversity. These include: framework environmental laws, and forestry, wildlife, livestock, fisheries and land use legislation.

Forestry Laws: Existing forest laws in Pakistan's North Western Frontier Province (NWFP) and the Northern Areas are largely reflective of out-dated scientific knowledge and priorities and are not geared to current conservation needs. The reasons are numerous but a few deserve special mention. Human and livestock populations in mountainous areas have increased dramatically, rights and concessions of individuals have multiplied and timber prices have greatly appreciated since the law were enacted. Forests are being exploited by a "timber mafia" that has little respect for the law and no concern for the principles of sustainable use. The various Forest Acts do not account for wildlife and their habitat (forests), nor do they protect the interests of forest-edge communities.

In 1993, the federal government adopted a 25 year Forestry Sector Master Plan which sets out policy guidelines for the future development and management of the forestry sector. The Plan includes an Ecosystem and Biodiversity Action Programme, including schemes for rehabilitating the mangrove forest of the Indus Delta, protecting the Juniper Chilgoza pine forests in Balochistan and protecting all endemic and endangered species of flora and fauna and important ecosystem through the designation of conservation areas. The Plan also recommends that provincial forest legislation be updated to provide, amongst other things, for the conservation of natural forest ecosystems and suggests a model law for the purpose.

The North Western Frontier Province's government in Pakistan has approved NWFP Forest Ordinance 2001 on December 26, 2001 that focuses on the involvement of local communities and other stakeholders in the formulation and implementation of forest management plans and operational policies. This law seems to be in the interest of the mountainous communities in terms of effective protection, conservation, management and sustainable development of forests and consolidation and updating of existing laws with a view to enacting a comprehensive law, which adopts modern concepts and promotes present day objectives of forest management.

Wildlife Laws: While wildlife legislation in both pre-independent and post-independent days was voluminous, it was concerned almost entirely with the hunting and shooting of game species. The extermination of predators was encouraged and there was a lucrative trade in skins and other animal products in the mountainous areas. The present legislation mainly consists of provincial acts and ordinances in the mountainous areas. They are:

- The North West Frontier Province Wildlife (Protection, Preservation, Conservation and Management Act, 1975)
- The Northern Areas Wildlife Protection Act 1975

The laws on hunting in the protected, reserved and other categories of forests declared under Forest Act 1927 and Hazara Forest Act 1936 were not changed by the Wildlife laws of NWFP. Two Federal Acts are applicable in all the provinces, namely Pakistan Forest Act 1927 and the Pakistan Environmental Protection Act 1997.

Legislative needs arose due to international commitments. Pakistan is a party to a number of international conventions and programmes relating to biodiversity conservation, all of which carry implications for national legislation. Three conventions deal with species: the Convention on the Conservation of Migratory Species of Wildlife Animals (adopted in Bonn, Germany in 1979) and which Pakistan ratified in 1987); the Convention of

International Trade in Endangered Species of Wild Fauna and Flora (CITES), signed in Washington in 1973; Pakistan became a party in 1976 and the Convention on Biological Diversity (signed in Rio in 1992 and ratified by Pakistan in 1994).

Pakistan is also a party to two area-based treaties; the Convention on Wetlands of International Importance especially as Waterfowl Habitat (signed in Ramsar in Iran in 1971, and which Pakistan became a party to in 1978); and the Convention Concerning the Protection of the World Culture and Natural Heritage (signed at UNESCO, Paris in 1972).

In 1993, the National Conservation Strategy (NCS) was framed as a statement of national environmental policy. Developed following extensive consultations with major stakeholders, a main aim is to facilitate effective co-ordination between the actions of federal and provincial governments, NGOs, the private sectors, local bodies and local communities in pursuit of sustainable development.

The Eighth Five Year Plan of the government of Pakistan identifies the need to develop provincial conservation strategies to implement the NCS. The Sarhad Provincial Conservation Strategy (Government of NWFP) 1996) has been completed and another for Northern Areas is in preparation. In 1998 the government of Pakistan finalised a National Biodiversity Action Plan to conform to the CBD and to propose and prioritise measures which secure conservation and sustainable use objectives.

Plant Breeders Rights Ordinance 2001

Pakistan under its WTO obligation is bent to impose Plant Breeders Rights Ordinance 2001. The ordinance has not been promulgated so far due to tough resistance by farmers' right groups. This Ordinance only guarantees the rights of the breeders and not the farmers. The law is not a good one and NGOs have found many problems with it. The very first problem with the Pakistan PVP is that of nomenclature. It is the legislation for "Breeders' rights" and-not "farmers' rights" who are also traditional breeders. The definition of marketing actively discriminates against the farmers and curtails their rights. Another problem is that land-less farmers are not considered "farmers".

It does not address benefit sharing/royalty payments to communities. The law also does not recognise collective rights of the farming communities as breeders. It is also silent on Prior Informed Consent of the communities for using their varieties in research. It violates the farmers' rights to sell, exchange and multiply seeds.

The law allows PBRs for GMOs. It allows the MNCs to freely exploit the communities' traditional knowledge. Just how biased is the law in favour of foreign multinationals can be seen from the fact that a penalty clause against companies was dropped in the latest draft although it was part of the earlier drafts. The clause allowed for penalty/compensation in case of hazardous effects of a variety certified. It has been taken out to please companies like Monsanto. Cancellation of the PBR certificate is the maximum punishment retained in the present draft. And it does not provide any punishment for authorities responsible for implementation in cases of contravention and violation.

Protecting farmers' rights to livelihood

The people in mountainous region are already being deprived of basic necessities of life. To protect folk knowledge from bio-piracy we would have to reject patents on life forms. The South Asian Governments should not accept the principle of intellectual property systems – in any construction and by any name – over biodiversity, private monopolies, or over genetic resources.

For us, the only alternative to IPRs over life should be no IPRs over life. We cannot stop bio-piracy unless we outlaw IPRs on life, in whatever form. The farmer rights activists should double their efforts to share information about the threat of these monopoly rights systems with farmers and mobilise more actions.

Farmers and all members of society are innovators. And for innovation to flourish we need to strengthen our local knowledge and research systems, especially to achieve food security based on ecological agriculture. Building up and building upon bio-diversity at the grassroots level is crucial for the survival of people living in HKH region. Restrictive monopoly systems like UPOV and patents on life have absolutely no role in our future.

Position Recommendations

Global

1. The WTO should put as top priority the development needs of its members. Moreover, the poor sectors of developing economies should be highly profiled and protected. SDT clauses need to be implemented more often.
2. Parts of agreements that work to disadvantage developing countries must be changed - agriculture, TRIPS, and the dispute settlement system.
3. The decision-making at WTO should be democratic and governments should consult regularly with the broader society on trade deliberations. A development centered perspective needs to be adopted that puts power into the hands of a body accountable to the people state, rather than market accountable TNCs. The WTO instead should emphasize greater self-sufficiency of economies nationally and regionally. Domestic markets, rather than foreign markets, should be the main stimulus of growth. Resources should be used sustainably to support local and national communities. People and the preservation of the environment, rather than capital, should be the priority.
4. Mechanisms must be set in place for civil society to participate in WTO decisions, including making representations in the dispute settlement system.
5. The sovereignty of nations must be respected. Nations must be able to protect their domestic industries, indigenous knowledge and laws. Countries must have the freedom to choose if they want overseas investments and what kind of investments.
6. There should be liberalization of strong sectors and support for the weak, particularly subsistence farming.
7. All members should be enabled with the technical expertise and human resources to participate fully in the multilateral negotiations.
8. In the area of agriculture, countries should be able to choose to be self-sufficient. Small farms in both developed and developing countries should be encouraged,

- not squeezed out, especially in developing countries where farming is the source of livelihood for millions.
9. TRIPS, which allows the theft of indigenous knowledge, should be changed so that patent rights are not granted for naturally occurring plants and animals or their parts, or the uses of plants and animals. There should also be an easy mechanism for developing countries to find out about the applications for patents for naturally occurring materials, their uses or their transgenic forms.
 10. TRIPS should be amended so that it reinforces, not contradicts, the principles of the Convention on Biodiversity.

National

11. Pakistan and other developing nations need to organize SME's into effective and re-presentable bodies and associations that can generate responses and documentation to TNC led lobbying in WTO for a. The end result should be use of the SDT clauses on infant industries to protect these impoverished sectors and reduce barriers to market access in the North. In terms of environmental protection and trade, full cost accounting should be used to illustrate the sustainable development of such SME sectors and their sustainable livelihoods as being more in line with Southern development than the increase in growth of unsustainable TNCs.
12. In services, the subject of the movement of labor should be continued with the aim of arriving at an agreement for significant liberalization in this sector.
13. There is a need to focus on pro poor policies and include that in the spirit of the WTO agreements, linking poor policies to weak sectors and weaker economies.

Mountain domains

14. The environmentally sustainable and suitable potential of mountain areas for plants and seed productions should be exploited by rejecting patents on life forms or denying monopoly of the MNCs.
15. Vulnerability of mountain communities be taken into consideration while having indulged in the multi lateral talks for market access and protections. The WTO agreements should be debated and any further round of negotiations must focus on mountainous areas to ensure food security and livelihood of the farmers and local producers.
16. The WTO agreements should be debated and any further round of negotiations must focus on mountainous areas to ensure food security and livelihood of the farmers and local producers.

References

1. Pakistan Mountain Areas Conservancy Project (MACP) 1999-2006
2. MACP Conservancies-Situation analysis, Environmental Education Division, WWF Pakistan, Islamabad

3. Land Policy, Land Management and Land Degradation in the HKH Region- Pakistan Country Study (Final Report) December 1998 by Himalyan Wildlife Project, Islamabad
4. Country Assistance Plan- Pakistan (2001-2003), Asian Development Bank of Pakistan
5. Haq, Faisal Shaheen, Pakistan's Trade and related interests at the Doha Round of WTO Negotiations November 2001
6. Blouin, C., and Sreenivasan G., WTO, Report on WTO Symposium on Issues Confronting World Trading System, July 6 –7th, 2001, Geneva., www.wto.org/english/forums_e/ngo_e/ngo_symp_2001_e.html
7. Cosbey, A., 2001, Various correspondence, International Institute for Sustainable Development, Winnipeg, Canada.
8. Haille, M., International Institute for Sustainable Development, What's it all for? Setting out Clear Goals for the WTO (World Trade Organization), August 2001, Winnipeg, Canada.
9. Kwa, A., Developing Countries in Despair over WTO Preparations for Doha, Focus On Trade, No. 65, Part I, August 2001, Focus on the Global South, Chulalongkorn University, Bangkok, Thailand.
10. Pakistan Economist, www.pakistaneconomist.com/database1/private/trad_op.htm, 'Trade Opportunities'.
11. Regmi, A., Trade Liberalization and the South Asian Economies: Adjusting to the Challenges of Globalization, Economic Research Service, USDA, December 1999, Food Security Assessment/ GFA-11.
12. Vorley, B. and Berdegue, J., The Chains of Agriculture, May 2001, International Institute for Environment and Development.
13. World Bank, Pakistan – Country Assistance Strategy – Progress Report July, 2001.
14. World Bank, South Asia's Integration inot the World Economy, 1997
15. World Trade Organization, Draft Ministerial Declaration for the Fourth Ministerial, General Council, Sept 26, 2001. <http://www.ictsd.org/ministerial/doha/ministerial26.09.01.pdf>

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