

INDUS WATERS TREATY

*Strategic
Justification and
Legal Foundations
of India's Suspension
of the Treaty*



INDUS WATERS TREATY

*Strategic Justification and Legal
Foundations of India's Suspension
of the Treaty*

Research Department
Eurasian Meridian
Armenia Chapter



Contents

01 Executive Summary

02 Introduction

04 Extraordinary Treaty Compliance and Pattern of Strategic Obstruction

06 International Law and India's Legal Position

08 Pakistan's Internal Water Crisis

09 Implications for India's National Development

10 Towards a New Framework



Executive Summary

The report further argues against the treaty's asymmetric allocation, institutional weaknesses, and inability to accommodate twenty-first-century realities.

In April of 2025, terrorists linked to Pakistani organisation Lashkar-e-Taiba (LeT) perpetrated one of the heinous acts of terror on innocent civilians in Pahalgam, Jammu and Kashmir, in India. In the aftermath of the attack, India took many strategic, military and diplomatic steps to secure its national interest. One of such steps was the decision to place the Indus Water Treaty, 1960, in abeyance. For more than six decades, the Indus Water Treaty has been in operation despite so many terror attacks carried out by Pakistan in India, showing India's exceptional commitment to international obligations.

However, the changing geopolitical realities coupled with persistent state-sponsored terrorism by Pakistan and India's legitimate development projects have fundamentally altered the conditions in which the treaty came into existence. This report fundamentally proves how India's decision to put IWT under abeyance is a lawful strategic recalibration and not the weaponisation of water as Pakistan is falsely trying to portray. The report further argues against the treaty's asymmetric allocation, institutional weaknesses, and inability to accommodate twenty-first-century realities. It concludes by highlighting the need for a renewed comprehensive renegotiation rather than unconditional continuation.





Introduction

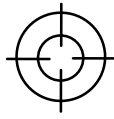
After the British left the subcontinent in 1947, there was a persistent conflict between both the newly independent countries on multiple issues.

Originally signed between India and Pakistan on September 19, 1960, the Indus Water Treaty (IWT) has long been celebrated as one of the most consequential treaties between the two neighbours.¹

After the British left the subcontinent in 1947, there was a persistent conflict between both the newly independent countries on multiple issues. From sharing of boundaries to sharing of water, there existed the confrontation. Amid such hostilities, the signing of this treaty sought to provide a stable framework for managing the waters of the Indus River system. It allocated India the exclusive rights over the Eastern Rivers (Ravi, Beas, and Sutlej) and Pakistan the exclusive rights over the Western Rivers (Indus, Jhelum, and Chenab).²

It has often been portrayed internationally as a model of successful hydro-diplomacy. However, an objective assessment of it will tell us that the treaty has imposed significant asymmetrical obligations upon India. Under the treaty, approximately 80 per cent of the basin's annual waters were allocated to Pakistan. While India, despite being the upper riparian state, retained rights over only about 20 per cent. India had further accepted severe restrictions on storage, irrigation, and hydropower development on rivers flowing through its own territory.





Despite this asymmetry and even during the enduring military conflicts as well as during the repeated terrorist attacks, including the Parliament attack (2001), Mumbai attacks (2008), Uri (2016), Pulwama (2019), and Pahalgam (2025), India has continued to honour every operational commitment under the treaty. The strategic environment that enabled this extraordinary restraint, however, has fundamentally changed.

Contrary to popular international perception, the IWT was never an equal bargain. In order to facilitate regional stability and to promote greater peace in the region, India accepted extensive concessions. As mentioned earlier, the treaty allocated nearly four-fifths of the Indus Basin waters to Pakistan despite the rivers originating in or flowing through Indian territory before entering Pakistan. India also relinquished opportunities to develop irrigation projects, hydroelectric facilities, and storage infrastructure that could have substantially contributed to its own development.

Unlike most international river agreements, this treaty imposed extensive operational restrictions solely upon the upstream state. India faces limits regarding matters ranging from irrigation expansion to reservoir storage and from sediment management to operational flexibility, especially in terms of hydropower design specifications. At the same time, there were no equivalent restrictions that constrained Pakistan's utilisation of its allocated rivers. Such institutional asymmetry reflected the geopolitical realities of 1960 rather than enduring principles of equitable international maritime law.





Extraordinary Treaty Compliance and Pattern of Strategic Obstruction

The strongest evidence that supports India's current position is a record of its six decades of uninterrupted compliance. International treaty obligations derive legitimacy from reciprocal consent.

The strongest evidence that supports India's current position is a record of its six decades of uninterrupted compliance. International treaty obligations derive legitimacy from reciprocal consent. In the case of IWT, India consistently fulfilled every substantive obligation while Pakistan constantly back-stabbed India by means of armed conflicts and sustained cross-border terrorism. Few interstate agreements have survived comparable levels of strategic hostility. By contrast, India's conduct established one of the strongest records of treaty compliance in modern international relations.

While India honored the treaty, Pakistan increasingly transformed its institutional mechanisms into instruments of strategic obstruction. Nearly every major Indian hydroelectric project became the subject of prolonged objections, arbitration proceedings, or diplomatic delays. This includes Salal, Baglihar, Kishenganga, Ratle, Pakal Dul, Lower Kalnai, and Tulbul.³





Although the treaty implementation does include dispute resolution mechanisms, repeated resort to litigation irrespective of technical merit indicated a broader strategic objective to prevent India from exercising those limited rights explicitly recognized under the treaty. The consequences have been significant. Hydropower investments became financially costlier, infrastructure projects experienced delays lasting decades, sediment management became increasingly difficult, and economic development in Jammu & Kashmir suffered considerably. This pattern transformed the treaty from a cooperative water-sharing arrangement into a mechanism constraining India's developmental sovereignty.

The assumptions underpinning the treaty in 1960 no longer exist. Three structural transformations have fundamentally altered South Asia's security environment.

First, Pakistan's sustained support for cross-border terrorism has eroded the "spirit of goodwill and friendship" expressly acknowledged in the treaty's preamble. Second, demographic pressures have multiplied dramatically. Since the treaty was signed in 1960, India's population has nearly tripled.⁴ This demographic surge amplifies agricultural, industrial, urban, and energy demands. And finally, climate change has fundamentally altered Himalayan hydrology.⁵ Accelerated glacial retreat, unpredictable precipitation patterns, extreme floods, prolonged droughts, and changing seasonal river flows require adaptive water governance mechanisms, which are absent from the treaty. An agreement negotiated during the Cold War era cannot adequately address twenty-first-century environmental realities.





International Law and India's Legal Position

The IWT explicitly emphasizes goodwill, cooperation, and peaceful relations. Persistent sponsorship of terrorism directly contradicts these foundational assumptions.

India's decision to place the treaty in abeyance is in line with the framework mechanisms of contemporary international law. While it does not directly govern treaties predating its adoption, the Vienna Convention on the Law of Treaties (VCLT) (1969) largely codifies customary international law.⁶ Several provisions of it are particularly relevant here. Article 60 of the VCLT recognizes that a material breach may justify suspension of treaty obligations. While Pakistan may want to argue that terrorism falls outside the IWT's subject matter, international legal scholarship increasingly recognizes that persistent conduct fundamentally undermining the treaty relationship can constitute a material breach where cooperation forms an essential foundation. The IWT explicitly emphasizes goodwill, cooperation, and peaceful relations. Persistent sponsorship of terrorism directly contradicts these foundational assumptions.

Further, Article 62 of VCLT provides for the modification of the existing treaty in case of unforeseen fundamental changes that can transform the essential basis of consent. Climate change, altered hydrological realities, massive demographic growth, renewable energy transitions, and sustained cross-border terrorism collectively represent precisely such changes. These circumstances substantially differ from those existing in 1960.

Even in this case of treaty abeyance, India's actions have neither diverted Pakistan's allocated waters nor violated any physical water allocations. India has just suspended aspects of institutional cooperation that include certain information-sharing and consultative mechanisms. Under the International Law Commission's Articles on State Responsibility, non-forcible, proportionate, reversible countermeasures intended to induce compliance may be legally justified.⁷





This treaty's greatest weakness is its failure to anticipate climate change. Modern river basin governance increasingly incorporates mechanisms such as adaptive allocation mechanisms, environmental flows, flood forecasting, drought contingency planning, joint climate monitoring, ecosystem conservation, and periodic review clauses.⁸ The IWT contains none of these features. Rapid glacial melt in the Himalayas threatens long-term river stability, while increasingly erratic monsoon patterns produce both devastating floods and severe water shortages.

A static treaty designed for predictable twentieth-century hydrology cannot effectively govern dynamic twenty-first-century water systems. Modernization has become an environmental necessity rather than merely a political preference.





Pakistan's Internal Water Crisis

Pakistan has to realize that its long-term water security depends more upon domestic institutional reform than upon India's treaty compliance.

Pakistan frequently blames its water insecurity as a consequence of India's upstream position. Evidence suggests otherwise. The country's water crisis is overwhelmingly driven by domestic governance failures.⁹ Among the principal challenges that the country faces are inadequate reservoir storage, excessive groundwater extraction, inefficient flood irrigation, politically protected water-intensive agriculture, declining canal efficiency, inter-provincial disputes, poor pricing mechanisms, and failure to construct new storage infrastructure.

Successive governments in Pakistan have postponed difficult structural reforms while externalizing responsibility. Consequently, nearly one-third of available freshwater in the country flows unused into the sea during peak seasons.¹⁰ Simultaneously, the groundwater depletion in the country has reached alarming levels. Pakistan has to realize that its long-term water security depends more upon domestic institutional reform than upon India's treaty compliance.





Implications for India's National Development

Most importantly, this does not constitute “weaponization of water.” In reality, India has neither interrupted downstream flows nor undertaken coercive hydraulic actions.

The treaty has imposed substantial opportunity costs upon India. Jammu and Kashmir possesses immense untapped hydropower potential capable of contributing significantly to India’s clean energy transition. Similarly, water-scarce regions in Indian states of Punjab, Rajasthan, Haryana, and Ladakh continue to face water challenges despite proximity to major river systems. Due to restrictions on sediment management, operational efficiency and the lifespan of Indian hydroelectric projects also got affected adversely. In this era of climate resilience, continued underutilization of available hydropower resources represents an increasingly costly strategic compromise.

India’s decision should also be interpreted within the broader framework of strategic signaling. For decades, Pakistan perceived India’s treaty compliance as unconditional regardless of deteriorating bilateral relations. By placing the treaty in abeyance, India communicates that cooperation cannot remain insulated indefinitely from broader patterns of interstate conduct. Most importantly, this does not constitute “weaponization of water.” In reality, India has neither interrupted downstream flows nor undertaken coercive hydraulic actions. Instead, it has transformed unconditional cooperation into conditional cooperation linked to responsible interstate behavior. Such signaling aligns with broader international practice wherein economic, diplomatic, and institutional cooperation increasingly depends upon reciprocal adherence to international norms.





Towards a New Framework

India should pursue a multidimensional strategy comprising legal, diplomatic, technical, and developmental initiatives.

This is a time for India to advocate for the comprehensive renegotiation of the water-sharing issue. A modern agreement is the need of the hour that must include elements such as periodic review every 15-20 years, climate adaptation provisions, integrated basin management, enhanced flood forecasting, joint scientific monitoring, equitable developmental flexibility for upstream infrastructure, improved dispute-resolution mechanisms with strict timelines, and explicit recognition that sustained hostile conduct undermines cooperative obligations.¹¹ Such reforms would preserve regional water stability while aligning the treaty with contemporary international law and environmental realities.¹²

India should pursue a multidimensional strategy comprising legal, diplomatic, technical, and developmental initiatives. It must continue asserting that treaty modernization is consistent with international law rather than contrary to it. It is a time to accelerate development of permissible hydropower and storage infrastructure within existing legal limits while institutional processes remain under review. The most important element here is to strengthen international diplomatic engagement to communicate the historical asymmetry of the treaty and India's consistent compliance, especially at the time when there is a disinformation campaign going on by Pakistan against India.





For sixty-five years, India honored one of the world's most asymmetric international water-sharing agreements despite repeated military aggression and sustained cross-border terrorism. Such restraint demonstrated exceptional commitment to international norms. However, we must accept the simple fact of international relations that the treaties do not exist in political isolation. They depend upon reciprocal good faith, evolving environmental realities, and mutual recognition of legitimate developmental interests. India's decision to place the Indus Waters Treaty in abeyance should therefore be understood not as abandonment of international law but as an attempt to restore reciprocity within it.





Endnotes

1. Government of India, Government of Pakistan, and International Bank for Reconstruction and Development, Treaty between the Government of India and the Government of Pakistan Concerning the Most Complete and Satisfactory Utilisation of the Waters of the Indus System of Rivers (Indus Waters Treaty), signed September 19, 1960, https://treaties.un.org/Pages/showDetails.aspx?clang=_en&objid=0800000280135336.
2. World Bank, Fact Sheet: The Indus Waters Treaty 1960 and the Role of the World Bank, June 11, 2018, <https://www.worldbank.org/en/region/sar/brief/fact-sheet-the-indus-waters-treaty-1960-and-the-world-bank>.
3. World Bank, World Bank Resumes Processes under the Indus Waters Treaty, April 6, 2022, <https://www.worldbank.org/en/news/press-release/2022/04/06/world-bank-resumes-processes-under-indus-waters-treaty>.
4. United Nations, Department of Economic and Social Affairs, World Population Prospects 2024, <https://population.un.org/wpp/>.
5. Intergovernmental Panel on Climate Change, Climate Change 2023: Synthesis Report, <https://www.ipcc.ch/report/ar6/syr/>.
6. United Nations, Vienna Convention on the Law of Treaties, May 23, 1969, https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.
7. International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, 2001, https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf.
8. United Nations, Convention on the Law of the Non-Navigational Uses of International Watercourses, May 21, 1997, https://legal.un.org/ilc/texts/instruments/english/conventions/8_3_1997.pdf.
9. World Bank, Pakistan: Getting More from Water, <https://documents1.worldbank.org/curated/en/251191548275645649/pdf/133964-WP-PUBLIC-ADD-SERIES-22-1-2019-18-56-25-W.pdf>.
10. Nazam Maqbool, Water Crisis in Pakistan: Manifestation, Causes and the Way Forward, PIDE Knowledge Brief no. 60 (Islamabad: Pakistan Institute of Development Economics, March 2022), <https://pide.org.pk/research/water-crisis-in-pakistan-manifestation-causes-and-the-way-forward/>.
11. United Nations, Convention on the Law of the Non-Navigational Uses of International Watercourses, May 21, 1997, https://legal.un.org/ilc/texts/instruments/english/conventions/8_3_1997.pdf; International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, with Commentaries (2001), https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf.
12. United Nations Economic Commission for Europe (UNECE), Practical Guide for the Development of Agreements or Other Arrangements for Transboundary Water Cooperation (Geneva: United Nations, 2021), <https://unece.org/info/publications/pub/36>.

By Eurasian Meridian
@EURASIAN_MERIDIAN

