

## **THE INDUS WATERS TREATY**

*Asymmetric Obligations, Unequal Concessions and Pakistan's Weaponisation*

### **Part I: The Architecture of Inequity — How India's Goodwill Was Codified into Concession**

#### 1. Background: The Partition of a River System

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The Indus River System comprises six major rivers—the Indus, Chenab, Jhelum, Ravi, Beas, and Sutlej—flowing through the territories of both India and Pakistan. The system sustains drinking water, agriculture, and electricity generation across the Indus Basin, supporting hundreds of millions of people on both sides of the border.

When British India was partitioned in 1947, the Indus River System was also divided between the two successor states. The geographic reality was stark: India, as the upper riparian state, held the headwaters of most rivers, while Pakistan's agricultural heartland—the heavily irrigated Punjab plains—depended critically on continued water flows from the east. India, for its part, required access to the system for its own development objectives in Punjab and Rajasthan, while seeking stability and normalised relations with its new western neighbour. Despite its own pressing domestic needs, India concluded this highly concessionary water-sharing pact with Pakistan on 19 September 1960, an agreement facilitated by the World Bank.

## 2. Negotiations – India paid the price for rationality

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### 2.1 Pakistan's Strategy of Delay and the 1954 World Bank Proposal

The trajectory of the negotiations was shaped, from the outset, by the asymmetry between India's reasonable and constructive approach and Pakistan's maximalist, sometimes absurd, demands — an asymmetry that anchored outcomes far more favourably to Pakistan than equity would have warranted. The World Bank's first substantive proposal of 5 February 1954 illustrates this plainly: even at this initial stage, it required significant one sided concessions from India:

- All planned Indian developments along the upper reaches of both the Indus and Chenab were to be abandoned, with those benefits accruing to Pakistan instead
- India was required to forgo diverting approximately 6 MAF from the Chenab River.
- No Chenab waters at Merala (now in Pakistan) would be available for Indian use.
- No water development would be permitted in Kutch from the river system.

Despite these considerable impositions, India accepted the proposal in good faith almost immediately, signalling its genuine desire for a speedy resolution. Pakistan, by contrast, delayed its formal acceptance for nearly five years until 22 December 1958. As a result of this goodwill gesture of India, the restrictions were imposed on her while Pakistan continued developing new uses on the Western rivers without equivalent constraints. Pakistan absorbed the lesson that obstruction pays and cooperation costs—and has applied this lesson consistently ever since.

## 3. What India Lost: The Scale of Sacrifice

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### 3.1 The Water Allocation

Under the Treaty's allocation formula, India received exclusive rights to the three Eastern rivers—the Sutlej, Beas, and Ravi—while Pakistan received rights to the waters of the three Western rivers—the Indus, Chenab, and Jhelum. India was permitted certain limited, non-consumptive uses of the Western rivers within its own territory, primarily for run-of-river hydropower generation, subject to extensive design and operational restrictions.

In volumetric terms, the Eastern rivers allocated to India carry approximately 33 million acre-feet (MAF) of annual flow, while the Western rivers allocated to Pakistan carry approximately 135 MAF—giving Pakistan roughly 80 percent of the system's water. India received 20 percent, in exchange for relinquishing all claim to the vastly larger Western system. The critical point is that India did not gain new water from the agreement. What India received was formal acknowledgment of flows it already accessed, in exchange for relinquishing all claim to the far larger Western system. India was permitted certain non-consumptive uses of the Western rivers within its territory—primarily run-of-river hydropower generation.

### 3.2 The Financial Concession: Paying to Give Away Water

Perhaps the most striking anomaly of the Treaty is the financial provision. India agreed to pay approximately £62 million (approximately \$2.5 billion in present value) as compensation to Pakistan to build water resources infrastructure in Pakistan-occupied Kashmir. This payment represents a unique precedent in which the upstream country, which was already surrendering the majority of the system's water, additionally paid the downstream country for the “*privilege*” of doing so. India essentially subsidised Pakistan's acceptance of a deal that heavily favoured Pakistan on the fundamental question of water allocation.

## 4. The Treaty's Structural Unfairness

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### 4.1 Unilateral Asymmetric Restrictions on India

The Treaty imposes a series of specific design and operational restrictions on India's use of the Western rivers that have no corresponding obligations on Pakistan's side:

- India can develop only a limited Irrigated Cropped Area (ICA) in its territory.
- India faces strict limits on the volume of water that can be held in any storage facility on the Western rivers.
- India must comply with specific design criteria for any hydropower facilities on the Western rivers, including restrictions on pondage and storage capacity.

These restrictions are one-directional: they constrain India's lawful development of resources within its own territory while imposing no equivalent transparency or restriction requirements on Pakistan. The result is a treaty that treats the upstream state—India—as the party requiring oversight and restraint, while the downstream state benefits from guaranteed flows.

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## ***Part II: Obstruction, Exploitation and the Long-Overdue Reckoning***

### 5. Pakistan's Weaponisation of the Treaty

#### 5.1 Systematic Obstruction of Indian Development

Since the Treaty's signing, Pakistan has consistently used its dispute resolution provisions as a strategic tool to delay and effectively obstruct development rather than genuine dispute resolution. Virtually every significant hydropower project India has proposed on the Western rivers—even those explicitly permitted under the Treaty's terms—has faced formal Pakistani objection, technical challenge, or referral to arbitration.

Projects including Baglihar, Kishenganga, Pakal Dul, and Tulbul have all been subjected to prolonged Pakistani challenges. In several cases, Pakistan has acknowledged the potential benefits of Indian projects for regulated water flow—including flood moderation—while simultaneously opposing them. This pattern reveals that Pakistani objections are not genuinely about Treaty compliance; they are about preventing Indian development in Jammu and Kashmir, regardless of the legal merits.

#### 5.2 The 'Water War' Narrative and Its Deployment

Pakistan has simultaneously exploited India's consistent compliance with the Treaty to construct and disseminate an international narrative portraying India as a potential 'water aggressor'. Pakistani officials, academics, and diplomatic channels have repeatedly raised the spectre of India 'weaponising water' against Pakistan—citing the very Treaty that India has scrupulously honoured.

This narrative—posing the upper riparian as a threat—has proven remarkably effective with international audiences unfamiliar with the Treaty's history. Pakistan has used it to generate diplomatic pressure, attract multilateral sympathy, and constrain India's ability to assert its legitimate Treaty rights.

The singular irony of this strategy is that India has not committed a single violation of the Treaty—not during the 1965 war, not during the 1971 war, not during the 1999 Kargil conflict, and not at any other point in the sixty-five years of the Treaty's operation. India has maintained compliance even as Pakistan has used its territory to conduct state-sponsored terrorism against India.

## 6. The Consequences for India

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### 6.1 Unrealised Development Potential

The Treaty's constraints have had measurable, lasting consequences for India's development in the Indus Basin. Vast areas of Rajasthan and parts of Punjab that could have been irrigated remain arid or dependent on alternative, more expensive water sources. The agricultural productivity foregone over six decades represents an incalculable economic loss.

### 6.2 Jammu and Kashmir's Suppressed Hydropower Potential

The impact on Jammu and Kashmir has been particularly acute. The Union Territory sits astride the Western rivers and possesses enormous, largely untapped hydropower potential. Development of that potential is constrained at every turn by the Treaty's design restrictions, Pakistan's systematic objections, and the perpetual risk of multi-tiered long drawn dispute resolution mechanism. Local populations have increasingly come to view the Treaty not as a framework for shared benefit but as an instrument of their own economic marginalisation—an external imposition that prevents them from developing the natural resources flowing through their own territory.

### 6.3 Energy Security Implications

India's inability to optimally develop the hydropower potential of the Western rivers has direct implications for national energy security. The Treaty's restrictions mean that potential capacity—as a clean, renewable, and economically efficient energy source—has been sacrificed purely because of Pakistan's strategic obstruction of even the limited rights India possesses in this asymmetric agreement.

## 7. India's Case

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The Treaty was intended achieve the "most complete and satisfactory utilisation of the waters of the Indus system of rivers" in a "spirit of goodwill and friendship"—a context that no longer exists.

The treaties derive their legitimacy not merely from the force of law but from the good faith implementation of their terms by all signatories. Pakistan's documented and persistent use of state-sponsored terrorism as an instrument of foreign policy against India—culminating in atrocities including the 2001 Parliament attack, the 2008 Mumbai attacks, and most recently the Pahalgam attack of April 2025—fundamentally challenges the premise upon which India's continued compliance with the IWT rests. Bilateral agreements cannot be selectively honoured:

a state cannot simultaneously breach the foundational norms of inter-state conduct while demanding that its negotiating partner fulfil treaty obligations that disproportionately benefit the norm-breaker. The Treaty cannot be an island of Indian compliance within a sea of Pakistani bad faith. India's step represents an assertion long overdue—that international agreements are a two-way street.

## 8. Conclusion

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The Indus Waters Treaty has long been celebrated as a triumph of international diplomacy. This paper has argued that such a characterization fundamentally misrepresents what actually occurred: a negotiation process in which Pakistani intransigence was rewarded with concessions, and Indian goodwill was systematically exploited to produce an agreement that was inequitable from its inception.

Nevertheless, India surrendered 80 percent of the water, paid £62 million (approximately \$2.5 billion in present value) to facilitate that surrender, accepted one-sided operational restrictions on its own territory, and has maintained scrupulous compliance for sixty-five years—including through Pakistan inflicted multiple wars and sustained sponsoring of cross border terrorism. In return, India has received a Treaty agreed to in good faith that Pakistan uses as a tool of developmental obstruction, a 'water war' narrative it deploys internationally with no factual basis, and the permanent underdevelopment of vast tracts of Indian territory.

India's step is to protect its legitimate interests in the Indus Basin. This is not aggression; it is the long-overdue correction of an asymmetric arrangement premised on a goodwill that was never reciprocated. To those who ask why hold the Treaty in abeyance now, it would be useful to remember that there is no wrong time for a right decision.

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