

INDIA'S VIOLATIONS OF THE INDUS-WATERS-TREATY, ITS IMPLICATIONS AT THE REGIONAL AND GLOBAL LEVEL

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Abstract

Currently, the world continues to face pressing challenges on the issue of water. To regulate transboundary water distribution, there are numerous water-related regimes, but they lack the requisite authority to enforce their policies. The Indus River System (IRS) is essential for both India and Pakistan, and it needs to be handled carefully by preserving the sanctity of the rare diplomatic victory of the Indus Water Treaty (IWT) of 1960. Yet, the risk of hydro-political tension is increasing in the region against the spirit of the suggestion made by scholars that sharing water should not be a zero-sum game. India is already violating the IWT and might experiment to revoke it altogether, putting Pakistan's survival at stake. The situation could lead to a worst-case scenario where Islamabad might be compelled to react without separating the two issues, namely 'Water and Kashmir'. Contemporary times call for water rationality to prevail, presently, all options to uphold peace in the region lie with India. Thus, it is suggested that both countries address their long-pending unsettled issues so that the two sides could work together for the well-being of over 1.6650 billion people of this region.

Keywords: Fragmented, Riparian State, Deadlock, Hydro-political, Zero-sum Game, Quad Alliance

Introduction

The water demand, a central element of life, continues to grow. Its availability is dwindling, posing a serious challenge across the globe. Water resources account for an estimated sixty to eighty percent of global freshwater flow through transboundary basins, affecting over forty percent of the world's population. It involves a greater risk of conflict within various regions.¹ To cite one example, more than 300 million people from eleven different African countries rely in some way on the freshwater of the River Nile. While conflicts instigated by water disputes are rare, the incidents suggest that "water has the power to ignite international conflicts."²

The emerging geopolitical settings in South Asia and across the globe warrant that managing these waters cooperatively/ equitably is critical for sustainable development, conflict prevention, and climate change resilience.

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Yet, in the absence of a global consensus, the present provisions in the form of the “UN Watercourses Convention-1997” and “2004-Burlin Rules on Water Sources” are inadequate to deal with the upcoming challenges.³

Around 1850, the British constructed large canal systems in the subcontinent, considered to be one of the best designs in mankind's history. Pakistan maintains a large share of these systems.⁴ According to World Bank estimates of 2017, Pakistan's agricultural land is the fourth best in the world, but this area is shrinking due to multiple factors. It might create massive food insecurity issues in the coming decades.⁵

Pakistan's dams/barrages are considered one of the crowns of the country's agriculture and hydroelectric power generation sectors. Yet, the present measures are insufficient to meet the needs of Pakistan's agriculture/energy sectors. Because of clean drinking water, Pakistan's mega-cities are under great stress. Pakistan remains dependent on external water resources, where “River Indus remains almost the exclusive source, this makes Pakistan one of the most water-stressed countries in the world. Its water problems will further grow, especially in the backdrop of over a dozen dams that Afghanistan has planned to construct over the River Kabul.”⁶

India maintains over 5,000 small/large dams, and its water-related problems are also acute, especially because of population outbursts. Along its northern border, its relationship with China is becoming even more tense over China's plans to build a “super hydropower dam” in Tibet, including water-diversion projects on the Brahmaputra's upper reaches, affecting the agriculture sector of its north-eastern states.⁷

Water sharing between India and Pakistan has been a nuisance since 1947. During the early 1950s, the tension between the two on water distribution attracted global attention. With the international mediation led by the World Bank, both countries achieved a rare diplomatic victory and signed the IWT on 16 September 1960.⁸ According to the treaty, six rivers of the IRS were divided into two groups, “Western Rivers (Indus, Jhelum, and Chenab), and the Eastern Rivers (Ravi, Bias, and Sutlej)”, and were allocated to Pakistan and India respectively. The main focus of the treaty was to manage the IRS's surface water through a formal setup. Since we continue to live in a realist world, the IWT laid the foundation of the ‘zero-sum’ approach.⁹

Since early 2000, India has continued to come down hard to force Islamabad to toe its line with India's interpretation of the IWT and continues to construct hydel-power projects (HPPs) on Western Rivers, which might lead to a real risk of a conflict between the two countries. India has challenged the viability of the IWT and might revoke it at its will. New Delhi has already set an example of unlawful acts by revoking Article 370 of its constitution without respecting the UN Security Council (UNSC) Resolutions on the status of Jammu and Kashmir.

In case of renewed crises, the world community would be unlikely to move to stabilise the region. America/its allies are embroiled in European crises; Russia is thickly involved in the war against Ukraine, which is unlikely to end soon. China is re-balancing its position in Southeast Asia against the 'Quad Alliance' coordinated efforts. The divided UN stands dysfunctional and the World Bank has already failed to keep the treaty on track. It is viewed that the global milieu is rightly placed in India's favor, thus, the "concept of might is right," will continue to dominate the states' behavior.

Against this backdrop, this research paper highlights India's likely intent to abrogate the IWT and its geo-strategic implications. It suggests a way forward that the two countries may agree to follow, to avoid a 'water war' in the region. The paper unfolds as follows: One, the possibility of a 'water war', a conceptual framework, two, a brief history of the accord, three, India's water-related challenges and possible options. Fourth, Pakistan's anxieties over India's construction of the HPPs. Five, the practicality of the IWT, fast-changing perceptions, a more extensive debate, and finally, the concluding thoughts/suggested way forward. The research was conducted realistically using qualitative/investigative methods. The opinion expressed in this paper is that of the author and is not backed by any institution.

The Possibility of 'Water War', a Conceptual Framework

Until the early 1950s, "the two conflicting approaches ('The Principle of Absolute Territorial Sovereignty' (also referred to as the Harmon Doctrine) and 'The Principle of Absolute Territorial Integrity'), reflected the claims and counterclaims of states over their share of water resources." The former "favors upstream riparian, allowing the unlimited use of the waters of a transboundary watercourse located within national borders", while the latter approach favors downstream states, prohibiting the upstream states from interfering "with the natural flow of such a watercourse".¹⁰

The water disputes between the states are as old as the history of humanity. So, “the history of international water treaties also dates as far back as 2500 BC”, when the two “Sumerian city-states of Lagash and Umma crafted an agreement ending a water dispute along the Tigris River - often said to be the first treaty of any kind”. As a result, the water disputes did not turn into inter-state wars. It is presumed that in the past, the nature/ intensity of the conflicts did not rise beyond manageable limits. During the last 50 years, only thirty-seven acute incidents have occurred between the states. On water-sharing issues, the states entered into formal accords and continued to honor their pledges, despite having differences over other issues, the IWT is one such example.¹¹

It does not mean that the world community at large and the water scarcity zones in particular will remain calm in the future. Though water is not a scarce resource at the global level, its uneven distribution due to multiple reasons including geographical limitations increases the possibility of triggering a conflict. Since 1960, the ratio “of riparian countries that are water-stressed has almost quintupled”. In one of its reports published in 2018, the UN revealed that “the number of people residing in water-scarce areas is 1.9 billion, which is expected to increase to 3.2 billion by 2050”.¹²

Poor management strategies, and global warming, coupled with “the heterogeneity and disparity in water stress levels between some riparian states within the same river basin” have adversely impacted the accessibility of water for domestic, industrial, and agricultural uses. Population growth, especially in the South Asian region, is increasingly causing a drain on the water sources. Thus, one can see a relationship between water scarcity and the likelihood of conflicts within various areas. In other words, the demand and supply criteria warrant that the water sharing between upper, midstream, and lower riparian countries would lead to a ‘zero-sum’ game.

While wars merely activated by water disputes have been rare, inter-state conflicts partly initiated due to water scarcity are common. In the past limited incidents of water wars, “water had acted as a catalyst....between countries whose overall relations had deteriorated to the point of hostility”, Aaron T. Wolf writes.¹³ Yet, unlike in the past, water might become a leading cause of hostility in coming decades and other factors would reinforce the crisis. Still, “while being an important factor of the conflict, water can be a vehicle for cooperation”, as well, says Wolf.¹⁴ However, if history is a “predictor of the future, then the results imply that as more riparian countries become water-scarce, militarised conflicts between upstream and downstream countries are likely to increase”, Sahar Farid Yousef said.¹⁵

The possible scenarios that could lead to a 'water war' include: One, failing on the diplomatic front, the lower riparian state, especially when it is powerful, facing water scarcity, is likely to initiate war against the upstream state that is militarily weak and has water in abundance. Even if it is militarily strong, the upstream state would avoid the crisis, especially if it has economic interests in the lower riparian state. Two, the downstream state is less likely to use force if it perceives that the upstream state would react promptly. Third, if the upper riparian state is water scarce, the downstream state would not use forces unless it has a clear military edge over the other side.¹⁶

Fourth, it is viewed that irrespective of the consequences, if the survival of the lower riparian state is at stake like Pakistan, it might take arms even if it is militarily weak. It will still try to attract the world's attention. If the two states are already in conflict on other issues, water scarcity may become a contributing factor. India has hinted to abrogate the IWT, though it is less likely, but if it does so, the situation could lead to a worst-case scenario, compelling Pakistan to react. The opinion expressed by Wolf, in the context of the Israel-Palestinian water conflict, also fits in the Indo-Pakistan security environments. He writes, "if the people in the region are not clever enough to discuss a mutual solution to the problem of water scarcity, then war is unavoidable".¹⁷

Besides other factors, Yousef underlined some variables that help understand whether a state could use force against its neighbor over water issues. The variables include "relative military power, democratic level, new dams' capacity, economic indicators, and dyad characteristics."¹⁸ It is believed that the global standing of the states is also one of the determining factors for a state to decide on the use of force to preserve water rights.

Water war as a part of war strategy was used during World War II by both the Germans/ the Soviet Union.¹⁹ In the recent past, though the factual position is yet not clear, significant damage to the Ukrainian Kakhovka Dam could lead to the country's worst ecological disaster since the Chernobyl nuclear meltdown besides its impact on the ongoing counteroffensive of the Ukraine forces and the re-location of millions of displaced people including the spread of agro-toxins and petrochemicals into the Black Sea.²⁰

An unsuccessful Headwater Diversion Plan by Arabs to shift Jordan River water into Arab rivers, that feed Israel, was the principal cause of the 1967 Arab-Israel war, John K. Cooley said.²¹

Recently, we have seen tension over the water issue within the Central Asian States, especially between Uzbekistan and its co-riparian, Tajikistan/Kyrgyzstan. In this context, in 2012, Uzbek former president Islam Karimov stated that “the tension over the dams could lead to war in Central Asia”.²²

India remains aggressively involved in building dams on the rivers, affecting Bangladesh/Pakistan.²³ At present, neither Pakistan/Bangladesh can use force against India nor is India in a position to go to war. Yet, it does not mean that the present scenario would remain frozen. Water crisis, coupled with territorial disputes, might emerge as a catalyst for conflict between China-India and India-Pakistan, it will have catastrophic consequences.

In the African region, though Egypt continues to refer to the treaty that granted all of the rights to the Nile and its water resources to Egypt and Sudan by the outgoing British Empire, practically, due to the changed environment, Egypt stands compelled to re-negotiate the water deal with Ethiopia which is constructing a controversial dam on the River Nile.²⁴

The ‘water war’ theory suggests that the states should sit together to find a way forward for the settlement of all water-related problems through peaceful means. Unlike in the past, today, “the more balanced concept of ‘limited territorial sovereignty’ is widely accepted as the foundation upon which the law of international watercourses in general, and the UN Watercourses-1997 in particular, have evolved.” Yet, as described earlier, these regimes are toothless and unable to contain the upcoming conflicts effectively.²⁵

Brief History and Salient Feature of the IWT

Out of twenty river basins of the sub-continent, Pakistan shares only three Western Rivers of the Indus basin.²⁶ Currently, the IRS is the lifeline for Pakistan and Western India.²⁷ At the time of “the partition of the sub-continent, the international boundary between India and what was then West Pakistan cut the irrigation system of the Bari Doab/ Sutlej Valley project into two parts”. India was granted control over barrages, while the rest of the irrigated land lay in Pakistan. The complex arrangements of water sharing led to a typical textbook-style rift of upper/lower riparian. New Delhi decided to assert its hegemony over waters while Islamabad contested for the continuity of water flow into Pakistan.²⁸

Since 1947, water distribution between both countries has been a nuisance. In April 1948, India stopped water from its two headworks, consequently drying up water in Pakistan's dependent irrigation canals. As a stopgap measure, the Inter-

Dominion Accord of 4 May 1948 was signed, which required India to provide water to Pakistan on payment. It was also decided that further talks should be held to find a lasting solution to the problem.²⁹

Sensing the danger of a looming war in the region, in 1952, Mr. Eugene Black, then the president of the World Bank, with due support from America, offered the Bank's services to find a lasting solution to the problem. After almost a decade-long effort, in a rare diplomatic victory, the IWT was signed on 16 September 1960.³⁰ The former U.S. president Dwight Eisenhower called this development "one bright spot ... in a very depressing world picture that we see so often."³¹

Salient Feature of the Treaty

Besides the Preamble, the IWT contains 12 Articles, including its Annexes/related appendices. The treaty provides for third-party arbitration and defines the rules and no-go areas. The treaty sets forth distinct procedures to handle issues that may arise: "questions" are managed by the Commission; "differences" are to be resolved by a neutral expert; and "disputes" are to be referred to a seven-member arbitral tribunal called the "Court of Arbitration" as explained in Article IX.

The treaty also establishes a mechanism for extending cooperation/information exchange between the two countries regarding their use of the rivers. It is known as the Permanent Indus Commission (PIC), which has a Commissioner from each country under Article VIII. The Commissioner will serve as the regular communication channel on the government's behalf on all matters related to the treaty unless either government decides to take up any particular question directly with the other government.³²

The treaty has defined the rights and obligations of both parties concerning the use of the waters of the IRS. Out of the six existing rivers of the Indus basin, "the treaty allocated the two countries three rivers each. The Eastern Rivers (Sutlej, Bias, and Ravi) were allocated to India while the Western Rivers (Indus, Jhelum, and Chenab) were allocated to Pakistan".³³

India was given sole rights over its Eastern Rivers (Article-II) with limited water use by Pakistan for irrigation, provided, it is made available by India. On the contrary, under Article III (2), (c), and (d) and related Annexes C & D, "India was allowed to use Western Rivers water for limited irrigation use and unlimited use for power generation, and domestic, industrial and non-consumptive uses".

Shortfalls/Loopholes in the IWT

The treaty mainly revolves around Articles II and III and their related Annexes. Article II provides India with the full rights to the Eastern Rivers. Pakistan may also use water from these rivers for irrigation purposes, but this is not granted; it wholly depends on how India behaves on the matter. In the recent past, India has hinted that it will block every drop of water going down to Pakistan from these rivers in the coming years.³⁴

On the contrary, Article III provides Pakistan the full rights on the Western Rivers, with two clearly defined leverage for India: One, India will continue to irrigate those areas from these rivers which were so irrigated on the effective date after the treaty and were allowed to make further withdrawals to the extent, it may consider necessary as specified in the Annexure-C, leaving the volume to be withdrawn solely to the discretion of India. Two, India was allowed to construct as many dams as India wished, thus creating a 'loophole', allowing India to potentially over-exploit the rivers.³⁵

As a signatory to the treaty, the World Bank's role as defined in Article IX is limited and procedural as explained above. It works as a "facilitator and fulfills certain roles in the context of neutral expert or Court of Arbitration proceedings when requested by either or both of the Parties".³⁶ It has neither means nor authority to implement the treaty.

India's Water-Related Challenges and Possible Options

As per the World Bank report, India is among the world's most water-stressed countries. Their government is liable to provide drinking water to over 833 million people. It is "the largest user of the groundwater worldwide, pumping around 25 percent of all the groundwater extracted in the world". With present trends, "more than half of India's land is threatened by groundwater tables falling to critical levels within two decades, placing at least 25 percent of the country's agriculture at risk".³⁷ China is the water tower of Asia. It has planned to build a "super hydropower dam" in Tibet on the Brahmaputra's upper reaches (the Yarlung Zangbo River), affecting the river's flow and course and having implications for India's northeastern states. In the absence of a formal forum, China is not fully cooperating with India. Indian pundits have accused China of 'weaponising' water.³⁸

China-India dispute over the Yarlung Zangbo River



Source: "China's Super Hydropower Dam and Fears of Sino-Indian Water Wars." The Guardian, December 9, 2022. <https://www.theguardian.com>.

In the Indo-Pakistan context, Ashok Swain expressed that “water scarcity in the Indus basin in the face of rapidly increasing demand has been the source of regional conflicts”. Due to the accumulative impact of the challenges India faces, the existing water issues between the two countries are bound to escalate.³⁹ Though India maintains superiority in handling the IRS, it is believed that India is looking for alternative options to fill up the shortfall. Besides completely blocking the water flow to Pakistan from its Eastern Rivers, the IWT's abrogation remains one option.

Pakistan's Anxieties over the Construction of the HPPs by India

Since the early 1970s, India has contemplated launching HPPs on Western Rivers, with a cumulative power generating capacity of 32,000 MW.⁴⁰ A report published by Climate Diplomacy confirms that the majority of over seventy planned dams fall in the category of Large Dams, which would threaten peace and security in the region in the event of armed conflict over the issue between the two countries. Besides, “climate change on the Himalayan glaciers would also increase the likelihood of disasters across the region, having implications for future interstate cooperation and regional developments”.⁴¹

Although all Indian HPPs are considered run-of-the-river projects, their control over water flow will entail serious consequences for Pakistan as “the accumulative live storage of water of these projects would have an adverse impact both in terms of causing floods and the running Chenab and Jhelum rivers getting

dried up in the lean period when Pakistan needs the water most,” John Briscoe observed.⁴²

“No armies with bombs and shell fire could have divested a land so thoroughly as Pakistan could be devastated by the simple expedient of India’s permanently shutting up the source of water that keeps the field and the people of Pakistan green”, former chairman of the Tennessee Valley Authority opined.⁴³ We have a live example as Bangladesh is suffering badly because of India’s well-planned strategy of diverting the Ganges water by building the Farakka barrage on the river.

In 2018, the former prime minister of Azad Kashmir, Farooq Haider Khan disclosed that “India was planning to divert the Poonch River, which is a tributary of the Jhelum River. India is planning to create a drought situation in Pakistan and our side of the state,” he said. He suggested that Islamabad should either quit or at least analyse the treaty. He suggested, “we have to make a clear national policy to confront India’s water aggression in the South Asian region.”⁴⁴

Since early 2000, Pakistan regularly raised objections over the design parameters of the dams that India continues to construct on Pakistan’s rivers, including the construction of 450 megawatts of Baglihar HPP on River Chenab. Despite holding several meetings between 1999-2004, the two sides disagreed on the Baglihar HPP. Ultimately, Islamabad reached out to the World Bank to intervene. On Pakistan’s request, on May 12, 2005, the Bank constituted a committee, headed by Raymond Lafitte for arbitration. The experts upheld India’s claim with minor modifications in design.⁴⁵

It is believed that Lafitte overshot his mandate and extended favor to India beyond the call of the treaty, which encouraged India to expedite other projects in the pipeline. The precedence set by Lafitte regarding the issue of Baglihar HPP points towards more challenges for Pakistan as similar justifications and outcomes are expected regarding the present and future disputes over IWT.

There is a long list of the disputed HPPs that India has either completed or is in the pipeline, and the Wullar Barrage, referred to as the Tulbul Navigation project by India, is one of the burning issues.⁴⁶ Presently, the two HPPs, Kishanganga (330 megawatts) and Ratle (850 megawatts) located on tributaries of the Jhelum and the Chenab rivers, respectively, are the primary source of concern for Pakistan. Ratle HPP is under construction while Kishenganga HPP was completed in June 2018, it is “designed to divert water from the Kishenganga River, known as Neelum River in Pakistan, to a power plant in the Jhelum River basin through the 24-kilometer-long

tunnel, ultimately, it runs through the Jhelum to Muzaffarabad evading the 213-kilometer-long River Neelum”.

It causes enormous material damage in Neelum Valley due to the non-availability/reduction of water in the Neelum River. On the other hand, the excessive water in the River Jhelum is likely to increase the possibility of floods, resulting in erosion of agricultural land along both sides of the River Jhelum tributary. Besides, the water shortage in the Neelum River is badly affecting the Neelum-Jhelum HPP, reducing its much-needed electricity generation by 35 percent, and causing a financial loss to Pakistan of over \$141.3 million per annum.⁴⁷

Presently, the case related to these two projects is under discussion in The Hague by the Court of Arbitration as requested by Pakistan in 2016. It is worth noting that the Kishenganga HPP was completed over five years of ‘paused’ that the World Bank gave before referring Pakistan’s request to the Court of Arbitration. The Bank failed to stop India from undertaking the project during the ‘pause’.⁴⁸

It is believed that the sanctity of the IWT, which survived for sixty years, is being eroded, and problems related to the subject are emerging like mushrooms for multiple reasons. India’s recent upstream water infrastructure projects, coupled with the territorial conflict over Kashmir, have rekindled conflicts and continue to undermine the treaty.⁴⁹

The Practicality of the IWT, Fast Changing Perceptions, a Larger Debate

The treaty in its present form is fragile. In the absence of an independent monitoring mechanism, India continues to manipulate the treaty in its favor. Since 2016, India has been trying to find excuses to ‘punish’ Pakistan. In September 2016, during a formal meeting, Mr Modi came out blustering and threatening that “blood and water cannot flow simultaneously” and stated that IWT should be re-evaluated.⁵⁰

Other essential members of the Indian Parliament also made similar statements.⁵¹ In 2021, “India’s parliamentary standing committee urged the Government to renegotiate the IWT, citing ‘missing links’ in the original treaty like climate change/global warming and the environmental impact assessment as justification”.⁵² The IWT has come back into the spotlight due to Indian action that has served a notification to Pakistan on January 25, 2023, under the provisions of Article XII (3) of the IWT, and demanded a response within ninety days.⁵³

The notice was sent for modification in the IWT in retaliation for Pakistan's noncompliance with the dispute resolution mechanism and persistent objections regarding India's Kishenganga and Ratle HPPs. India also mentioned, "climate change as a significant factor in its decision to alter the IWT".⁵⁴

The scholarly world has initiated a debate on the subject. The opinion makers argue that the treaty's renegotiation is only possible when both parties agree. Two Indian scholars, in response to India's notice, opined that India's action "could cause the water sharing agreement to fall apart and trigger a new round of negotiations." Swain opined that given climate change-related uncertainties, the treaty needs a review. He added that "the renegotiation of IWT is possible only when both parties agree to do so."⁵⁵

Article XII (4) of the treaty says, "The provisions of this treaty, as modified under the provisions of Paragraph (3), shall continue in force until terminated by a duly concluded and ratified treaty between the two governments".⁵⁶ According to Ahmer Bilal Soofi, former Pakistan law minister, "India has no legal competence under the treaty to revoke it per se on its own".⁵⁷ Still, if India wishes to revoke the treaty, it should abide by the "1969 Vienna Convention on the law of treaties."⁵⁸

Pakistan has officially responded to India's notice. While referring to Article XII of the treaty, Pakistan emphasised that "the existing treaty will continue to reign unless the parties to the Dispute-Pakistan and India-bilaterally introduced changes to the pact." The response further included that the "sanctity of the existing Indus Waters Treaty cannot be damaged between the two nuclear countries and the whole world cannot afford it".⁵⁹

In response to India's notice, Pakistan's minister for Climate Change, Ms Sherry Rehman, reiterated that India cannot unilaterally amend the IWT. She suggested that we should focus on climate change instead of creating problems with the treaty. The challenges related to climate change do not respect borders and extend across them, requiring a bilateral, international, and critically thought-out response.⁶⁰

Ahmad Rafay Alam, a Pakistani environmental lawyer opined that "The political stances taken by the present governments against one another is not the atmosphere in which environment concerns can be grafted into the treaty". A. K. Gosain of the Indian Institute of Technology-Delhi also opined that "transboundary countries can be better off tackling water issues collectively", he added that "it remains to be seen whether renegotiating the IWT will become a reality or not".⁶¹

Varsha Venkatasubramanian addressed the issue from another angle. She viewed that “just as the bank of a river doesn't remain static, the problems and opportunities associated with the Indus Basin have also changed”. Though the IWT continued to be praised by scholars for years for its ‘far-sightedness’, but due to a change in ground realities, “the literal ‘divorce’ of the Indus Basin was a mistake”, thus, it requires a critical re-evaluation, she opined.”⁶²

For the sake of the arguments, the author agrees with Varsha's views and similar views made by other scholars. Other factors besides **the treaty in its present form will remain a bone of contention between the two countries and need** to be reviewed to tighten its loose ends, but the process of going so is packed with troubles. However, Pakistan speculates that it will not be able to get **a level playing field** while re-negotiating the IWT. There is a real risk that the result might lead to **India even revoking the IWT**, a step detrimental to the peace/security of the region with global implications.

Sayanangshu Modak debated the issue from another perspective. He opined that “walking away from the IWT might result in India facing flak from the global community during a time when states are coming together and cooperating to improve the status of water security.” Debayan Roy, a Law expert from Pune, observed that in case of violation of the treaty, “a possible water war would also be on the cards which could prove detrimental for India as it is seeking to build a seat for itself at the UNSC”, moreover, India's decision could also give a new dimension to the Kashmir issue.⁶³

The scholars also viewed that by revoking the treaty, India would create an international precedent, not just a bilateral one, impacting its water diplomacy with China. There is another view that any revision in the treaty might enlarge its scope to adopt a basin-wise approach, including Afghanistan/China, to manage the basin. With the presence of China, India is likely to encounter greater hitches, if it chooses to revoke the treaty unilaterally.⁶⁴

Pakistan's irrigation system is in hot waters and shrinking due to several factors. Thus, the changes in the existing treaty by India could disturb the water flow into Pakistan, badly affect its agro-based economy, and adversely affect its HPPs and the resultant livelihoods of its people. Besides its impact on Indo-Pak relations, the modification of the “treaty could also have a broader impact on regional stability, as water resources are becoming increasingly scarce and contested in South Asia, Nazia Sheikh said”.⁶⁵

The author tends to disagree with the arguments made by Modak and Roy and the similar views expressed by other scholars. Though the IWT is a formal accord, it is less likely that the divided world would condemn India if it decides to revoke the treaty. As earlier said, India bluntly revoked Article 370 of its constitution on Kashmir's status and the UNSC did not hold even a single session to condemn its action. So, the author could safely conclude that Pakistan would remain the end loser and all other concerns expressed by various scholars would be buried underground after making a few sweeping statements by the world's leading countries.

The developments over the last eight years indicate that the credibility of the World Bank as guarantor of the IWT is at stake. The 'neutral expert' judgment on Baglihar Dam, the 'pause' that the World Bank gave before processing Pakistan's request to the Court of Arbitration on the issue of the two HPPs, and the resultant impact of the delay are well registered.

Lastly, the author wishes to address the current issue from another angle. The present dispute resolution mechanism under the treaty is frustrating. It is non-hierarchical and contains no provision for appeal to forums like the jurisdiction of the International Court of Justice, and it will continue to disappoint Pakistan. *If Islamabad continues to follow the wait-and-see policy, it will ultimately lose.*

Given the advantages that India continues to get from the existing treaty, it is doubtful that it would involve itself in the re-negotiation process. *It's rhetoric, followed by the notification for revision of the IWT, is a deception to put pressure on Pakistan so that it should not approach the relevant forums to seek justice on the subject.* Only time will tell how India would react when Islamabad formally asked its government to proceed with reviewing the treaty's process.

As highlighted earlier, the IWT laid the foundation of the zero-sum approach between the two countries right from the beginning. Though it took slightly longer, it was written on the wall that the agreement would be unsustainable in the long term, as no country would compromise on its supreme national interests to achieve moral ground internationally by maintaining the sanctity of the treaty.⁶⁶

The scholars' critical analysis proved that the treaty is outdated and warrants significant changes. The treaty lacks expansions "in the body of International Environmental Law and International Transboundary Water Law." It fails to address challenges like global warming/climate change, etc. The treaty in its present form does not match the evolving standards required to protect Pakistan's interests as a lower riparian state.

Though the author understands Pakistan's limitations and the possible consequences of entering re-negotiation, *this does not mean that we should keep on losing ground under the existing treaty in the hope that a miracle will happen to keep the treaty on track. As expressed before, Pakistan will keep struggling and keep crying, but one day, it will have to respond, and then it will be too late.*

While the author does not command the legal matters, it is assumed that the current treaty will remain intact until the re-negotiation process involving the third party (The World Bank) is complete and duly ratified by the two countries. *Since India has provided an opportunity to initiate a diplomatic process on the subject, we should not bend "on pursuing never-ending litigation in the Permanent Court of Arbitration over seeking diplomatic resolutions of the problems that India continues to increase".*⁶⁷

The Concluding Thoughts and Suggested Way Forward

We already have enough disputes/crises in the region; we cannot afford to have more in the form of a possible 'water war' between India and Pakistan. The two countries need to work collectively to address the issues related to water management in the region. The IWT, in its Preamble, promotes the spirit of goodwill and friendship for the utilisation of the IRS; it must be applied by the two countries in the letter and spirit.

Pakistan must abandon its wait-and-see policy and take a bold step to respond positively to India's notification while taking all precautionary measures. As some scholars suggest, China and Afghanistan, being regional players, also share the IRS and are becoming increasingly relevant over time. Hence, they may also form part of the re-negotiation process by enhancing the scope of the IWT.

It is understood that negotiation on a subject like water is a very complex and time-consuming process and might take ten to fifteen years to reach a logical conclusion. It may or may not succeed, thus, until an agreement is finalised and ratified by the two parties, the sanctity of the IWT must be maintained to avoid a crisis-like situation emerging in the region. During re-negotiation, India must freeze the work on all ongoing and planned projects on the Western Rivers.

Both India and Pakistan must realise that glaciers are essential and the primary source of the IRS. Due to multiple reasons, including the area's militarisation, the glaciers might melt away much earlier than expected, causing significant loss downstream due to flooding, followed by drought.

It is suggested that India and Pakistan immediately decide to de-militarize the region to preserve the water in the IRS in the greater interest of the people of the subcontinent. Pakistan cannot solely rely on the present arrangements to fill up its water scarcity. As explained above, work on the re-negotiation process of IWT might take longer and may even fail to materialise. Pakistan can still evade the upcoming water-related crises by devising a backup plan for alternative short- and long-term measures frequently debated at various national-level forums.

The author has previously highlighted the importance of International Laws on water, such as “the UN Watercourses Convention 1997 and the 2004 Berlin Rules on Water Resources.” These internationally accepted principles/regimes should receive global recognition and be included in the IWT’s re-negotiation process.

If we wish the original or re-negotiated IWT to remain effective, then an autonomous Indus Water Commission under the UN auspices, comprising neutral experts from various global agencies outside South Asia, should be appointed. This sovereign body must have sufficient resources to ensure that the IWT in its present or re-negotiated form is implemented in its true spirit.

To conclude, the world is already suffering as a result of the war between Russia and Ukraine. It cannot afford yet another battle between two or more nuclear weapons states. Therefore, Pakistan and India should sit together and find amicable solutions to the ongoing disputes in the interest of over 1.6650 billion people. The two countries jointly have the potential to produce enough food to address the emerging challenges that the world is likely to confront in the foreseeable future.

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