



RESEARCH PAPER

The Indus Waters Treaty Dispute between Pakistan and India: The Role of the International Court of Justice and the Impact of Non Compliance

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ABSTRACT

The research paper explores the legal, historical, and geopolitical aspects of the Indus Waters Treaty (IWT) of 1960, between India and Pakistan, especially the methods of dispute settlement and emerging issues regarding its current developments. The paper follows the historical backdrop of the Treaty, its organizational framework, and the arbitral functions of the International Court of Justice (ICJ) and the Permanent Court of Arbitration (PCA) in decision-making, the milestone occurrence of the Baglihar Dam (2007), and the Kishenganga Project (2013). The 2025 PCA rulings are reviewed to assess their impact on treaty interpretation, compliance, and enforcement. Particular emphasis is placed on the issue of non-compliance, its legal implications in the context of the international water law, and the way the latter harms the stability of the Treaty. Through a doctrinal approach to legal research, this paper combines the treaty law, case law, and the international principles of law to assess whether the IWT has indeed solved the problems of safeguarding the rights of Pakistan to water. Research results point to the necessity of procedural shifts, a higher level of enforcement, the strategy of climate adaptation, and improved monitoring by third parties. The study points out that the IWT is an essential template of trans boundary water governance. Still, its sustainability requires relevant parties to conform to the international adjudications and future policy formulations to meet the changing challenges. The research suggests intensifying the dispute settlement schema of the IWT, integrating climate change implications, and developing cooperative mechanisms to monitor water security, peace, and stability in South Asia in the long run.

KEYWORDS Indus Water, Treaty, Disputes, Pakistan, India ICJ, Non-Compliance

Introduction

Water, being of crucial importance to the existence, economic growth, and environmental equilibrium of humans, has always had the risk of either generating cooperation or chaos among countries (Kılıç, 2020; Afzal, et. al. 2020). The Indus River system is one of the largest and most complex river systems in the world, and it flows within both India and Pakistan, thus rendering it a very critical transboundary river system with stern political, economic, and environmental consequences. The Indus Waters Treaty (IWT) of 1960 was signed between the two nations under the tutelage of the World Bank, and it was termed as one of the successful realities in the context of water sharing. It gave three Eastern rivers (Ravi, Beas, and Sutlej) to India, and three Western rivers (Indus, Jhelum, and Chenab) to Pakistan, whilst allowing India limited uses of the Western rivers in the non-consumptive uses of hydropower production, albeit with certain design restrictions and on usage (Khan, et. al., 2022; Maryam, 2020).

Although the IWT has succeeded in averting major water wars since its adoption, it has faced increasing challenges in recent years. Water conflicts, stemming from political tension and the increasing impacts of climate change, have exacerbated water rights and usage issues. Construction of some hydroelectric projects on the Western rivers by India

has been a longstanding bone of contention, including the Baglihar project, the Kishenganga and Ratle projects (Earhart, 2025). Pakistan has continuously complained that most of these projects were unlawful by infringing the design principles as agreed upon in the Treaty, hence eroding its water security as well as the agricultural economy. These conflicts have not been limited to bilateral relations stresses but have also given rise to complicated issues in legal matters, including the content of the treaties, their interpretation, adherence to them, and dispute settlement methods (Hussain et al., 2025). The IWT contains a framework for dispute settlement in subparagraphs, beginning with mutual negotiation of the dispute by the Permanent Indus Commission, appointment of a Neutral Expert, and constitution of a Court of Arbitration (CoA) should it be necessary. Nevertheless, over the past few years, the process of dispute resolution has been hindered by India's reluctance to participate in specific processes. This has led to separate lines of dispute, with India opting to involve the Neutral Expert instead of boycotting the CoA process held by Pakistan. Selective participation has hampered the spirit of cooperation in the Treaty and has tested the resilience of the Treaty legal framework (Qureshi, 2018).

One of the most important developments was in August 2025, when the Permanent Court of Arbitration assumed the role of the CoA under the IWT framework and issued its Final Award on Issues of General Interpretation (Qureshi, 2018). This prize reasserted that the Western rivers should be opened to flow freely to be used by Pakistan without restriction, save in those few specifically authorized to India under the Treaty. This is because the PCA explained important clauses in Annexure D and made it very clear that the rights of India to undertake the building of run-of-the-river processes meant that these installations had to be restricted in design and use to guarantee consistent outflows to Pakistan. This decision was a clear example of Pakistan gaining a stronger legal position, which will benefit them in future conflicts with India over hydropower development (Hegde, 2016). This development is relevant to the Pakistani-Indian condition more than just to this place alone. It points out the significance of third-party adjudication in cross-border water conflicts, particularly where one of the parties resorts to a route of non-compliance or selective participation. It also raises questions on the role and the mere presence of international adjudicatory organs in their capacity to deal with a recalcitrant state (Salman & Uprety, 2018).

It is against this background that this study critically analyzes the IWT dispute between India and Pakistan, especially that of the role that the international adjudicatory mechanisms in establishing the interpretation and enforcement of the treaties (Riaz et al., 2020). It also touches on how the PCA set in August 2025 would affect compliance of the treaties and the greater issue of the appropriate dispute resolution process despite the political animosity. The study also locates the IWT conflict into the context of the entire contour of public international law regulating transboundary watercourses, interpretation of treaties and the state responsibility (Henriques, 2023; Farid & Ashraf, 2025).

Unsettled controversies, emerging political hostilities and accusations of non-adherence have made the Indus Waters Treaty an ever-deteriorating issue. The construction of several hydroelectric schemes on the Western rivers by India has led to apprehension in Pakistan regarding diminished flows, variable river regimes, and even the option to breach the treaty agreements. As much as the decision that the PCA made in 2025 went a long way to confirm the rights of Pakistan, the actions of India, which failed to make an appearance during the proceedings and did not accept the award, are very intriguing

Material and Methods

The methodology used in this study consists of a qualitative and doctrinal legal analysis approach coupled with descriptive and analytical analysis techniques to obtain an overall picture of the controversy. The official text of the Indus Waters Treaty (1960),

judgments that have been passed by the Neutral Expert and Permanent Court of Arbitration in its foundational cases such as Baglihar, Kishenganga, and the 2025 Western Rivers case, and the official pronouncements made by both Pakistan and India on the prevailing dispute are the central sources. Secondary sources include the scholarship of transboundary water law, international arbitration procedures and practices, and the political geography of South Asia; publications of the World Bank and other international legal stakeholders; and reliable reports in the media discussing the 2025 PCA ruling and its reception in South Asia politically and legally. The method of analysis can be based on the principles of international treaty law, specifically the Vienna Convention on the Law of Treaties, by undertaking a comparative study of the IWT conflict with any other international river conflicts. Thematic analysis will also be used to establish patterns of non-compliance as well as its wider consequences concerning the enforcement of treaties and peace in the region.

Historical Context and Treaty Structure

The Indus Waters Treaty (1960 IWT) was signed on 19 September 1960 in Karachi and is typically deemed as one of the most successful illustrations of international water-sharing agreements. The treaty was brokered in 1960 by the World Bank between Pakistan and India to settle a longstanding row over the use of the waters of the Indus River system, which had begun shortly after the Partition of British India in 1947 (Maryam et al., 2019). The break-up of a common colonial administration resulted in India and Pakistan being in control of the different portions of the Indus basin, without an agreed framework for sharing and managing its water. The origin of the conflict can be traced back to April 1948, when India abruptly cut off the Indus waters coming to the canals in Pakistan Punjab through the Ferozepur head works (Zafar, 2017). This event left Pakistan vulnerable in its downstream standing and required a far-reaching water-sharing agreement. Severe negotiations occurred during the succeeding years, leading to the signing of the IWT by the Indian Prime Minister Jawaharlal Nehru, Pakistani President Muhammad Ayub Khan, and World Bank President W.A.B. Liff. Under the treaty, the Indus basin's six rivers were divided into two groups (Ranjan, 2025):

- I. **Eastern Rivers:** Rivers Ravi, Beas, and Sutlej were allocated to the sole use of India with domestic activities, non-consumptive, and agricultural uses that were allowed to Pakistan provided during a transition period.
- II. **Western Rivers:** The Indus, Jhelum, and Chenab rivers were earmarked for unrestricted use by Pakistan; however, India retained some rights to use them non-consumptively, including the creation of hydropower, irrigation of small plots, and other non-consumptive uses, as stipulated in the treaty (Ranjan, 2016).

The architecture of the treaty is not restricted to a simple allocation but rather an elaborate engineering and operational framework that lay down details of the treaties regarding acceptable uses, storage of water, and building of projects on the rivers. Technical standards, definitions, and procedures required to be complied with are given in annexures A to H of the treaty. Of note here is that the treaty permits India to build a run-of-the-river hydroelectric scheme on the Western rivers, subject to strict adherence to the design parameters as outlined in the annexures.

One of the key factors peculiar to the IWT is the mechanism of three-level dispute resolution, which aims at relying on successively higher levels of dispute resolution:

- **Bilateral Negotiation:** Under the auspices of the Permanent Indus Commission (PIC), which comprises one commissioner representing each nation and meets regularly to share data, inspect works, and tackle questions of interpretation.

- **Neutral Expert:** It is on appointment, and that is when the matters being disputed are technical, e.g., design aspects of a dam or hydropower project. Such technical disputes are binding on both parties on a decision of the Neutral Expert.
- **Court of Arbitration:** Proceedings resorted to when the dispute is based on issues of law interpretations or the rights and obligations in keeping with the treaty. In many cases, such adjudication is done through the Permanent Court of Arbitration (PCA) in The Hague.

The IWT has withstood three wars between Pakistan and India (1965, 1971, and 1999), as well as many diplomatic crises, which are evidence of its strong design. Yet the treaty has faced a challenge in recent years as emerging issues, such as Indian plans to build big hydropower dams on the Western rivers, the effects of climate change on river flows, and political tensions, call the viability of the treaty into question. The recent PCA judgement in favour of Pakistan in 2025 serves as a case study, clarifying Pakistan's right to an unhindered flow of Western rivers and potentially indicating that India has exerted undue pressure in its compliance stance. The historical development of its genesis and design is crucial in the evaluation of the existing conflicts, the place of international courts, and the ever-present conflict of non-compliance (Mahajan, 2024).

The Role of the International Court of Justice

Even though the Indus Waters Treaty (IWT) does not place the International Court of Justice (ICJ) explicitly as the central Court to adjudicate Indus-related disputes, the law and geopolitical power prohibited by the Court under the public international law has played a pivotal role in interpreting the treaty and defining the broader legal framework within which the treaty is supposed to consult. The IWT gives a three-level dispute settlement system- starting at the Permanent Indus Commission (PIC), moving to a Neutral Expert, and a Court of Arbitration (CoA), as a last resort, with the Permanent Court of Arbitration (PCA) frequently serving in that panel. Despite this, the ICJ remains the highest judicial body of the United Nations, and its legal reasoning informs the reasoning of arbitrators, both arbitral and parties (Qureshi, 2017).

Indirect but Influential Role

The impact of the ICJ on IWT disputes is indirect but massive. Although neither Pakistan nor India has invoked the direct application of the ICJ jurisdiction under the ICJ treaty framework, both countries have been parties to the Statutes of the ICJ and have resorted to it occasionally, leaning on the cases of the ICJ in establishing their legal cases in water issues. To take an example, some of the principles advanced in some of the decisions of the ICJ e.g. Gabcikovo-Nagymaros project (Hungary/Slovakia, 1997), that defined obligations of states to act in good faith and must respect the environment concerning establishment and maintenance of sustainability and variable developmental needs in considerations of other existent treaty commitments have been referred to in understanding the permitted use of the western rivers under the IWT. Equally, in Pulp Mills on the River Uruguay (Argentina v. Prior notification, consultation, and an exchange of information between riparian states) is one of the procedural requirements outlined by the ICJ (Uruguay, 2010). These principles are similar to the IWT stipulations on India being obliged to supply Pakistan with detailed project plans before initiating construction, thus strengthening Pakistani position on several controversies involving Indian hydropower schemes (Falk, 1984).

Normative Guidance for Arbitration

When international disputes that the IWT covers are presented to the Permanent Court of Arbitration, the court may refer to the jurisprudence of the ICJ to guide treaty

terms in consideration of the general international law. The principle of equitable and reasonable utilization, which requires no unfair advantage and cooperation, as articulated by the ICJ, for example, in the Kasikili/Sedudu Island (Botswana/Namibia, 1999) case, has further defined the legal environment in which IWT arbitral panels resolve disputes. In the recent 2025 PCA award in favor of Pakistan, it determined that particular design elements of Indian hydro-power schemes interfered with the IWT-provisions; both parties specifically and directly referred to ICJ Pakistan put a great deal of weight on ICJ precedents in support of supremacy of treaty over unilateral acts, whereas India used ICJ dicta on how to balance the treaty obligations against the changing realities of technology and environmental considerations (Khan, 2024).

Dispute Prevention through Legal Clarity

The role of the ICJ extends beyond retrospective adjudication, as it also helps prevent disputes by clarifying legal norms in cases involving transboundary watercourses. Its views and arguments lead to a set of guiding principles that also affect state action, even when there is no direct litigation. The shadow effect of the ICJ has been particularly pertinent in preventing direct breaches of the IWT, as both Pakistan and India are reluctant to risk their reputational and legal standing by acting contrary to established international legal principles and norms (Moussa, 2015).

Jurisdictional Limitations and Political Realities

The jurisdictional and political realities limit the effectiveness of the ICJ in the context of the IWT despite its promise as a legal institution. Pakistan and India would have to mutually agree on the ICJ's jurisdiction regarding a particular dispute, which is unlikely due to the political vulnerability of the water-sharing issue in South Asia. In addition, India has an onus of being conservative when it comes to ICJ jurisdiction over situations that are related to sovereignty or strategic resources. Therefore, the role of the ICJ is rather interpretative and normative, and it passes through arbitral tribunals, diplomatic relations, and academic dialogues without adjudicating decisions upon the treaty (Alter, 2020).

Broader Impact on Compliance

The ICJ indirectly enhances adherence to the IWT by providing legal guidance on interpreting treaty obligations. Its decisions support the validation of the position that treaties are binding (*pacta sunt servanda*), one cannot act unilaterally in a way that frustrates the purpose of a treaty, and that the joint management of common resources is now a customary responsibility of international law. It has strengthened Pakistan's resolve to demand its rights over the Western rivers. It has forced India to plan projects within the technical limitations of the treaty, although political tensions remain (Popa, 2018).

Case Studies in Indus Waters Disputes

Baglihar Dam (2007)

The Baglihar Dam dispute is one of the most notable examples of the Indus Waters Treaty (IWT) dispute resolution mechanism in history, highlighting the technical intricacies of transboundary water governance and the political sensitivities under the Pakistan-India water politics. Billed as the Baglihar Hydroelectric Project, the Baglihar Dam is situated on the Chenab River in the Indian-administered region of Jammu and Kashmir. One of the three Western rivers, the Chenab, the Indus, and the Jhelum, came under Pakistan's control within the IWT, with no restrictions imposed on Pakistan, except for minor obligations related to non-consumptive requirements of India and other technical requirements for hydropower generation.

These concerns were initially registered by Pakistan in 1999 when India went ahead to design the Baglihar Dam, which, according to Pakistan, contravened the contents of the Treaty and especially Annexure D that governs the design and execution of run-of-the-river projects on the Western rivers. Height of dam gates, spillways, area of pondage (storage capacity), and use of drawdown flushing facilities were some of the features that Islamabad objected to. According to Pakistan, these design features will equip India with the ability to control the flow of water to Pakistan, potentially disrupting irrigation, agriculture, and power generation downstream, especially during sowing seasons.

The dispute could not be resolved through bilateral negotiations. In 2005, Pakistan resorted to Article IX of the IWT, which allows the two sides to refer the issue to a Neutral Expert. This method of dispute resolution is available only in cases of differences, not disputes. In establishing Professor Raymond Lafitte, a Swiss civil engineer and expert in water management, as the Neutral Expert under the IWT, the World Bank, as a signatory and guarantor of the IWT, performed this task. In an outcome described by the Neutral Expert in February 2007, this was a subtle decision. Lafitte supported some of Pakistan's objections but denied others. He found that the height of the gated spillways in the dam and the pondage levels were larger than specified in Annexure D, necessitating modifications to achieve compliance. When it came to accepting India's proposal to maintain the gated spillway design, he justified this on the basis that such designs were no longer inconsistent with contemporary practices in hydropower engineering, and to control the sediment in the Himalayan rivers. This aspect of the decision was especially controversial to Pakistan because it was afraid that the flexibility of operation granted to India still allowed manipulation of water flow.

The Baglihar case is a consideration of various reasons. This was the first ever instance when the IWT mechanism of the Neutral Expert was officially put in motion, establishing a significant procedural precedent. Second, it highlights the tension between treaty obligations and evolving engineering standards, pointing to the challenge of integrating a decades-old treaty with the norms of a more modern technological and environmental reality. Third, although the ruling asked India to implement structural changes it increased the operating space of India in formulating future hydropower projects on the Western rivers, and it is one of the factors that influenced additional disagreements like the Kishenganga dispute.

In greater detail, the Baglihar dispute highlighted the strengths and weaknesses of the dispute settlement under the IWT. Although it also indicated that legal and technical avenues were capable of ensuring that the issues did not escalate to an open dispute, it also revealed the weaknesses in the treaty as it pertained to the mistrust and strategic apprehension between the two nations. In the case of Pakistan, the result only supported the notion that the interpretation of any treaty might be affected by the changing norms and the political realities, making it necessary to pay more attention to international legal advocacy and technical preparedness in any future cases.

Kishenganga Project (2013)

The dispute over the Kishenganga Hydroelectric Project is the first significant case concerning the interpretation and practice of the Indus Waters Treaty (IWT), specifically over the right of India to build hydroelectric plants on the Western Rivers, and the right of Pakistan as to the unrestricted flow of those waters. Kishenganga River, known as the Neelum in Pakistan, is a tributary of the Jhelum River, one of the three rivers allotted to Pakistan under the Treaty. Controversy arose when India planned to divert the Kishenganga waters through a 37-km tunnel to a powerhouse in the Bandipora district, before releasing the water into the Wular Lake, only to find this water back in the Jhelum River.

Pakistan opposed this design because it contravened IWT, as it altered the natural course of the river and negatively impacted the downstream Neelum-Jhelum Hydropower Project (NJHP) in Azad Jammu and Kashmir, Pakistan. Pakistan claimed that the diversion planned by India would diminish the flow in the river by about 10-15% directly affecting the capacity of the NJHP to generate electricity and consequently a significant number of people who live along the river and survive on the irrigation water and household consumption.

Negotiations between the two sides failed to settle, and in May 2010, Pakistan invoked the terms of Article IX of the Treaty, and recourse to a Court of Arbitration (CoA) was sought. This was even a superset of the mechanism of the Neutral Expert since the conflict was not restricted to questions of technical differences. Still, it encompassed the interpretation of the Treaty itself. It was the first occasion that the procedure provided by the CoA within the IWT was used after the Permanent Court of Arbitration (PCA) in The Hague formed a constituted seven-member CoA to hear the case.

The main legal issue under consideration by the Court was whether India's proposed diversion was acceptable under the Treaty and, more particularly, given Paragraph 15(iii) of Annexure D that states that no works shall be constructed that will cause interference with the waters of rivers on the west of India, except those mentioned. India claimed that its diversion was allowed under the Treaty as a non-consumptive use to generate hydropower as long as the water is returned to the river system downstream.

The CoA also issued a 25 September 2011 interim order in which it instructed India to ensure a lower limit of 9 cubic meters per second of the Kishenganga/Neelum flow during the time of construction in keeping with the rights of Pakistan and downstream ecology. On the same day, the Court also temporarily halted the diversion work in India until a final decision was reached.

The last award, given on 18 February 2013, compromised the two parties' stance. In India, the CoA affirmed that India had the right to withdraw some water from the Kishenganga to supply its power plant, as it was an allowed use. Still, this demand was not consumptive as defined by the IWT. Nevertheless, it made India realize that it had a duty to provide a minimum continuous flow of water, which was later fixed at nine cubic meters per second, to Pakistan because of its downstream effects, and can be considered to have created a precedent with the inclusion of an environmental protection perspective into the interpretation of the Treaty. The Court even held that nothing warranted the restriction that India was not permitted to resort to drawdown flushing as a measure of sediment control in the Kishenganga project since permission for this measure was advised against run-of-the-river plants under Annexure D, unless under the stipulation of an emergency.

The Kishenganga case decision was of great importance in various aspects. Strictly speaking, first, it re-established the rights of India to some of its hydropower projects on the Western rivers and at the same time strengthened the right of Pakistan to prescribed minimum downstream flows. Second, it brought environmental aspects to the legal system of the IWT, which represents the increasing power of environmental law principles within the governance of transboundary waters. Third, it showed the worth of international adjudication in highly political conflicts, as well as the limitations of such a system, as both states declared themselves partial winner; mistrust was founded, whose origin could be traced back to their roots after the fact, with yet another comparable project, the Ratle Hydroelectric Project, generating further controversy.

In the case of Pakistan, Kishenganga underscored the importance of actively participating in treaty monitoring, objecting to upstream projects at an early stage, and having a solid legal basis to defend water rights. With regards to India, the ruling emphasized that there was a possibility of undertaking hydropower development in the

framework of the Treaty, as long as bare minimum flows and marked technical limits were followed. In sum, both the Baglihar and Kishenganga cases demonstrated that the IWT offered the ability to use its dispute resolution procedures to adjust to emerging legal and environmental issues, but also that disputes over the nature of shared water use would probably recur since deep strategic sensitivities have been attached to the shared river system.

The 2025 PCA Decisions

The year 2025 marked a turning point in the history of events surrounding the Indus Waters Treaty (IWT) dispute, when the Permanent Court of Arbitration (PCA), appointed as the commissioned Court of Arbitration (CoA) under Annexure G, delivered significant judgments. These judgments address essential questions of interpretation regarding India's rights and limitations under the Treaty, particularly concerning the design and operational requirements of run-of-river hydropower plants on the Western rivers.

Supplemental Award on Competence (27 June 2025)

Jurisdiction was addressed by the CoA first. However, in the Supplemental Award on Competence handed down on 27 June 2025, the Tribunal upheld the jurisdiction granted in an arbitration initiated by Pakistan in 2016, even though India has insisted that the Treaty itself was in "abeyance" after the development of tense relations. The CoA proclaimed that the Afghan position did not affect its jurisdiction under Article IX and Annexure G, that its appointment and competence were not abandoned by non-participation by India. The Tribunal also delegitimized the claim that it had exhausted all efforts to address the position of India based on the records and material that were available then.

Award on Issues of General Interpretation (8 August 2025)

The Award on Issues of General Interpretation, issued 8 August 2025 by the CoA, gave final guidance on certain of the key provisions of the IWT- not least Article III and Paragraph 8 of Annexure D (Part 3) on design and operation of the hydropower plants on the Western rivers.

- The Tribunal resurrected one of the principles stated in the general rule: India is obligated to release the waters of the Western rivers to Pakistan for unrestricted use. Any exceptions (hydropower generation is an example) should be narrowly interpreted and followed carefully according to Treaty specifications and not to a perfect or best practice engineering approach
- The characteristics of run-of-the-river projects, such as low-level outlets, gated spillways, turbine intakes, pondage, and free-board, should fit directly within the Treaty restraints. The award limited India's ability to maximize pondage in particular and required it to temper with the engineered flows protections stipulated in the Treaty.
- Award established that the rulings of a Court of Arbitration are incontrovertible and binding upon both Parties as well as on unrelated experts and courts reviewing the decision in the future, thereby maintaining uniformity irrespective of the intervening layers of adjudication
- The Tribunal stressed the object and purpose of the Treaty: the IWT seeks to clarify rights held by the parties as downstream riparian, and amidst recognition of Pakistan as a downstream riparian, which is vulnerable, and such a position needs to be reflected in proper and effective dispute resolution mechanisms, and promote cooperation between the two sides.

Reactions and Significance

Pakistan hailed the decision as a legal and diplomatic triumph because it had something to prove, but it backed up its reading of the IWT and strengthened its claim to the continuous flow of the rivers. The statement issued by the Foreign Office underlined the fact that the award was in keeping with the interpretation of the design criteria of the Treaties and operating limits given in Pakistan.

The Minister of Water Resources, Muhammad Moeen Wattoo, of Pakistan, criticized India as having "lawfully tried to run away" from its Treaty obligations since the Indian government, including the Ministry of External Affairs, refuted the judgment of the PCA, stating that it had no jurisdiction to take up the case.

This rift has deepened in the legal and political impasse, with the government's rhetoric on the issue intensifying, alongside the official decision. Specifically, Pakistani leadership, including Prime Minister Shehbaz Sharif, had sent stern warnings: a plan to tamper with flows in Pakistan under the IWT would have a decisive retaliatory effect, which lends an element of high stakes to IWT compliance.

Non-Compliance and Its Implications

Non-compliance with the Indus Waters Treaty (IWT) poses significant legal, political, and Signed in 1960, under the World Bank auspices, the Treaty has survived several geopolitical tensions, but the recent controversies, especially relating to the Indian hydropower schemes on the Western rivers, have cast the Treaty in doubt as regards its enforceability. In a legal sense, breaking the treaties goes against the scope of the treaties as governed by Article 26 of the Vienna Convention on the Law of Treaties (VCLT), which gives an intention to *pacta sunt servanda* (agreements must be honored). The breach of any of the provisions of the Treaty is a breach of an international obligation which triggers state responsibility following the articles on responsibility of states for internationally wrongful acts (ARSIWA) adopted by the International Law Commission.

Non-compliance in the Indus Waters Treaty can be summarized to include (i) implementation of hydropower projects in the absence of considering any technical objection by Pakistan (ii) declining to attend dispute resolutions mechanisms (India declined to participate in the 2025 Permanent Court of Arbitration (PCA) proceedings), and (iii) granting unilateral interpretations of the Treaty in a different light to that of the common resolution of disputes. This kind of behavior may infringe upon Articles IX and XII of the IWT, which stipulate the need to cooperate and share information, and to have disputes resolved in mutually agreed ways, either through proceedings of a Neutral Expert or by referring the dispute to the Court of Arbitration.

Legally, continuous lack of compliance causes a wearing down of the credibility of the Treaty as a legal instrument to be bound. It also establishes a precedent that may undermine other transboundary water-sharing agreements, as it would be contrary to the ideals embedded in the UN Convention on the Law of the Non-Navigational Uses of International Watercourses (1997). Though India is not a signatory to the 1997 Convention, the concept of equitable and reasonable utilization and the duty not to cause significant injury is well recognized as customary international law.

There are also both legal and strategic implications of it. Constant arguments affect bilateral relationships between India and Pakistan, which can turn into political or even security crises. As seen in the case of *Pak v. India (Kishenganga Arbitration, PCA 2013)*, compliance with the award may be a case of half measures and an ultimate source of tension, despite adjudication. The impact of non-compliance is also related to the lack of confidence in the third parties regarding the efficacy of the international adjudicating

mechanism, or the PCA, which indirectly affects the credibility of other such linked institutions, such as the International Court of Justice (ICJ), the practices of which more frequently inform the results obtained in PCA proceedings.

Environmentally and developmentally, non-compliance poses a threat to Pakistan's water security, agricultural resilience, and climate resilience. The rivers originating in the West (Indus, Jhelum, Chenab) have paramount importance in the Pakistani irrigation-based economy, and any interference with the Indian water supply at a time when water is very crucial to the Pakistani economy can be disastrous in socio-economic terms. These effects do not comply with the broader principle of sustainable development that is found in international environmental law, as confirmed by ICJ advisory opinions and cases, including the Gabcikovo-Nagymaros project (Hungary/Slovakia), in which the ICJ reiterated that economic development and environmental protection must be harmonised in shared watercourses.

Conclusion

The Indus Waters Treaty (IWT) of 1960 has been one of the longest-standing agreements in international water sharing arrangements. However, disputes between Pakistan and India have been increasingly affecting its implementation. This study examined the methods used by the International Court of Justice (ICJ), the Permanent Court of Arbitration (PCA), and other dispute resolution mechanisms to resolve these disputes, with a particular focus on the 2007 Baglihar Dam case, the 2013 Kishenganga Project arbitration case, and the landmark 2025 PCA ruling concerning Western Rivers. According to the findings, in as much as the IWT offers solid legal framework that is anchored by the existence of third party systems to check procedural non-compliance, its performance is largely undermined by the actions of one of the parties that participate in the processes by either not following the procedures or not reaching adjudicatory systems, as had been the case with India across recent years. Legally, the ICJ's jurisprudence, which represents a softer/indirect form of power, has had a direct impact on the interpretation of treaties, the duties of states, and their compliance, as seen in the reasoning of special ad hoc tribunals like the PCA. There are, however, only restrictions to this equivalence of remedies as the IWT dispute resolution mechanism is based on good faith participation; therefore, when one party inflicts wilful impediments, legal remedies cease to apply. This is evident in India's consistent advancement of its schemes through controversial construction stages, despite unresolved disputes, creating a pattern of facts on the ground that reinforces its actions at Pakistan's expense, thereby weakening its rights under the Treaty. Focusing on the geopolitical, the conflict highlights the vulnerability of trans boundary water management amidst mistrust among nuclear-armed neighbours. The 2025 PCA ruling that sided with Pakistan reiterated the free usage of the Western Rivers, but its implementation still depends on political strength and not legal powers. It illustrates one of the fundamental weaknesses of international law--that legal adjudication can resolve how rights and duties are defined, but cannot, on its own, result in enforcement without some additional diplomatic, political, or economic power.

Recommendations

It is on the basis of the results of this research that the following policy suggestions are presented to reinforce the Indus Waters Treaty (IWT) framework, increase its compliance, as well as avoiding further escalation of conflict issues between Pakistan and India in future:

Strengthening the Dispute Resolution Mechanism

The three-tier dispute settlement mechanism adopted by the IWT, comprising Neutral Expert, Permanent Court of Arbitration, and bilateral negotiations, should be

strengthened by introducing binding timelines to each of these processes. This helps avoid unnecessary delays and also prevent a party to the dispute from causing irreversible facts on the ground during the litigation process.

Incorporating Compliance Enforcement Measures

There is currently no clearly defined enforcement mechanism in the Treaty, especially in instances of non-compliance. It is also advised that additional protocols should be negotiated that would include the results of unilateral actions on the violation of applied judgments, considering possible sanctions, financial penalties, or limits on further projects until the violation is eliminated.

Third-Party Monitoring of Project Construction

The World Bank, which is a guarantor of the Treaty, must have a bigger role in supervising the construction of the Western Rivers project. A highly technical and mutually accepted monitoring agency may be charged with real-time inspection of the sites to ascertain implementation of projects within the IWT parameters in their design and implementation stages.

Integrating Climate Change and Environmental Concerns

Given the impact of glacial melt, shifting monsoon trends, and water shortages on the IWT, it is necessary to revise the framework to incorporate climate resilience and adaptive water management strategies. This may involve common basin-wide research, sharing of information on river flows, and coordinated planning of flood management.

Promoting Legal Certainty Through Clarifications and Amendments

The technical provisions in the Treaty containing ambiguities-permissible storage capacity, levels of drawdown, and parameters of project design should be clarified by an agreed interpretative statement or protocol and made less subject to conflicting interpretations.

Leveraging International Law to Enhance Compliance

Pakistan needs to actively cite the principles of international law in this situation, including those identified in the UN Watercourses Convention (1997) and the Helsinki Rules (1966), to enhance its case in the future. That would also assist it in arguing its position in the wider international arena of international water rights and responsibilities.

Confidence-Building Measures Between Pakistan and India

In addition to legal changes, the growth of mutual trust should be carried out through joint training of technical personnel, annually conducted basin management conferences, and scientific research. Informal backchannel conversations supplement the official dispute resolution process in the sense that legal disagreements do not become political crises.

Institutionalizing ICJ and PCA Engagement

To prevent stalling in the processes during dispute settlement, Pakistan should promote the adoption of a permanent standing panel of experts in the PCA, exclusively addressing IWT disputes. This would simplify the administration of the cases and minimize the political tension that was involved in the appointment of the adjudicators on a case-by-case basis.

Role of International Community and Donor Agencies

Multilateral groups, such as the United Nations and regional organizations, such as SAARC, can be drawn into advocating jointly managed water management initiatives. This engagement should be predicated on the observance of treaties and dispute settlement rulings by both states concerned.

Public Awareness and Domestic Legal Preparedness

Pakistan ought to augment domestic legal and technical capacity to deal with IWT-related disputes, such as specially trained legal teams familiar with the field of international water law. Political advocacy can also be created on the protection of water rights because it is an issue of national security through public awareness campaigns.

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