

DATE: ___/___/___

(UPSC 2016)

"Indus water treaty is considered one of the most successful water sharing agreements in the world. critically examine its provisions and discuss the challenges it faces in the current geopolitical scenario."

Introduction:

"water for India and Pakistan is 'life blood' and a 'foreign policy tool'. Both of the countries are heavily dependent on agriculture to generate their GDP. Prosperity of agriculture depends on a consistent water supply. Indus water treaty signed in 1960 has held up till today despite India's rhetorics to suspend it multiple times in the past. It been 65 years since the treaty was signed. There have been many pits and bumps on the road for this treaty but, despite all the Indus water Treaty (IWT) is still in force due to its binding nature.

DATE: ___/___/___

Time line

1948 → India stopped water flow of rivers to Pakistan.



1951 — Eugene Black President of World Bank at that time started mediations.



1954 — Presented a draft of treaty to both countries.



1960 — Treaty was signed by Pakistan and India.
WB acted as arbitration

Background of Treaty:

In 1948 India stopped the water supply of Pakistan creating a threat to the National security of Pakistan. World Bank decided to act as a mediator after 9 long years it was able to satisfy both of the countries to sign Indus water Treaty.

Binding nature of treaty

IWT is not a bilateral Treaty it is a 'third party mediator' treaty. one party can not quit or change any provision of the treaty.

DATE: ___/___/___

Provisions of Treaty:

According to the IWT rivers were divided between India and Pakistan. Also provisions were set to resolve any future conflicts or disputes.

1 Division of Rivers

- Eastern Rivers:

Rivers in the east Beas, Ravi and Sutlej were given to India. These rivers are on upper riparian.

- Western rivers:

Rivers in the west were given to Pakistan.

Indus, Chenab and Jhelum. These rivers are on lower riparian to India.

- verdict on water usage.

Each country has full legal rights for their rivers. India being upper riparian and Pakistan being lower riparian can use water of each other's river for non-consumptive uses. Such as:

DATE: ___/___/___

- i Irrigation
- ii Hydro electric power
- iii fishing

Pondage capacity

limited storage of water is allowed but under no circumstances should it exceed Pondage capacity or violate laws of spill ways set by Int.

2- Conflict and dispute resolve.

Three modes were decided to peacefully deal with any conflict or dispute in future

i Permanent Indus Commission. (PIC)

The role of this Commission is to inform each other of any new projects related to water. Each country will have its own commission. Any issues raised by one country will be first discussed in PIC.

ii Court of Arbitration. (CoA)

The decision of CoA will be binding. In case of any dispute both countries will go together to CoA.

DATE: ___/___/___

- Kishanganga Hydroelectric project was the first time India - Pak went to CoA

iii Appointment of Neutral Expert:

In case of technical disputes "Neutral Expert" will be hired, chosen by India, Pak, WB and CoA together.

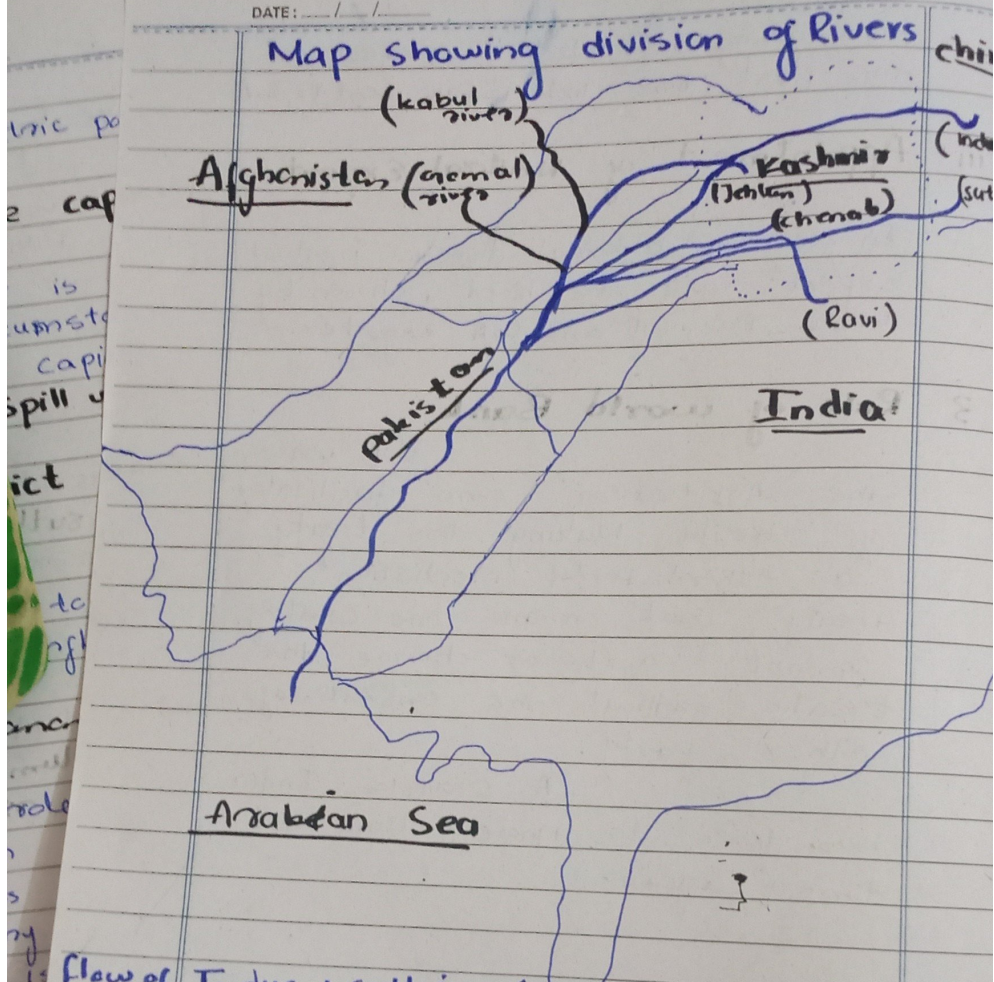
3 Role of world Bank

WB was the "Arbitrator" and "facilitator" of treaty. Making this treaty a "third party mediation" treaty. That means one country cannot quit or change the treaty without the consent of other party.

A provision India has tried to ignore time and time again.

DATE: / /

Map showing division of Rivers



Flow of Indus + Sutlej - from China to Kashmir and then from Kashmir to Pakistan.

Flow of Chenab and Jhelum. Originates from Illegally Indian occupied Kashmir and enters Pakistan.

Flow of Ravi - originates from India, enters Pakistan.

DATE: ___/___/___

Challenges IWT faces in the current geopolitical scenario.

Since the rise of Hindutva based Party "Baharatiya Janta Party" (BJP) led by extremists Modi - Prime Minister of India conflicts between Pak-India has skyrocketed. It's not like there were no skirmishes before 2014 when he became PM of India for the first time. But in the light of recent uncalled 'operation Sindoor' it can be concluded that BJP plays a major role in creating challenges for IWT.

Illegal Constructions By India:

- i KHEP - CoA ruled to make structural changes and reduce pondage capacity
- ii wuller/Tulbul Barrage. Dispute unresolvable due to lack of cooperation from India
- iii Baghliyar Dam : under construction threatens Pakistan's water supply

DATE: ___/___/___

- iv Lower Kalnai Dam
- v Pakal Dul Dam
- vi Swalkot Dam

All these constructions threatens the water supply of Pakistan and are clear indicators of India increasing its capability to launch a water war against Pakistan.

India is fully capable to launch water war against Pakistan.

(PM Modi of India)

2 India's Threats to suspend IWT.

It's been the diplomacy of India to 'Ignore Kashmir Issue' and highlight 'Suspension of IWT'.

Pulwama incident

After Pulwama Incident in J&K within 30 minutes India threw the blame on Pakistan followed by the threat of suspending IWT.

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DATE: ___/___/___

"India's water war rhetorics are a clear violation of I. law. Pakistan will respond legally and in a diplomatic manner"
(former PM Imran Khan of Pakistan)

Phalgam attack:

April, 2025
26 tourists including civilians, personnel from force (Indian forces) and foreigner were killed. Again within hours India blamed Pakistan for the attack. This time announced "India has suspended IWT". In return Pak suspended Shimla agreement as a counter-measure.

3 Legal Notices sent by India-

1st Notice, 2023 - India wanted to make IWT bilateral - Pak refused.

2nd Notice, 2024 -

India wanted to "modify" Treaty on the bases of "Unforeseen" circumstances.

- i) Population growth iii) Cross border terrorism.
- ii) Climate change

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depends on

DATE: _____

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Are the suspension threats and legal notices of India are in accordance with I. Law?

The answer would be no.

i **Treaty is a Third-party mediation:**

one country cannot suspend treaty on a whim or as a countermeasure to and unproved act of violation or terror.

ii **Modifications and adjustments.**

are only allowed when both parties consent or if ruled by CoA. India stubbornly refuses to visit CoA despite Pakistan's insistence. India knows very well it is violating I. Laws.

iii **Pacta sunt servanda.**

Article 62
of VCLT (vienna convention of Laws and Treaties) states that treaties made needs to be served in good faith.

iv **Article 60 of VCLT.**

Lack
proof by India for blame

DATE: ___/___/___

for terrorism acts in India and citing Pakistan's refusal to revisit treaty on bilateral terms are not acts of aggression. India cannot suspend IWT.

Recent escalations of war.

According to Geneva convention on war and customary humanitarian International Law:

- i Military crossing of border
- ii Use of sustained kinetic force
- iii Targeting military structure

are acts of war. May, 2025 a war was imposed by India on Pakistan.

Operation Sindoor. Launched by India as a supposed countermeasure of Pabalgam attack's ties with Pakistan with no proof at all.

Operation Buryan al Marsoos.

Retaliation by Pakistan, a self defense move allowed by I. law. India ended up losing this war. In terms of **Militarily and Psychologically**, Morally, media perception

DATE: ___/___/___

Pakistan proved its not the size of the Army or \$9.7bn top notch technological gadgets, its the spirit of the Nation that wins war.

Due to humiliation at geopolitical level Modi reaffirmed to suspect IWT.

Legal precedent case:

Now this issue will be taken by Pakistan to "International Court of Justice". Its already clear which country is going to win the case. Also there is a similar case solved by ICT before.

Hungary - Czechoslovakia case.

- A treaty base joint projects of building a dam on Danube river was signed.
- Hungary unilaterally suspended treaty citing climate change and population growth - Paralled to India's claims.
- Czechoslovakia diverted river as countmeasure and built dam on its own.

DATE: ___/___/___

> ICT rules both countries have violated I.L.W by not taking each other's consent.

→ Pakistan's stances to discuss issues in CoA over hiring neutral expert are not wrong but India's suspension of Treaty violates all international laws.

Conclusion:

To sum it all over the years India has slowly but consistently cut **50%** of Pakistan's water supply citing climate change issue. Experts have stated climate change contributed to 20% - 25% cut rest is India's policy of **water war**. Doing so India has violated all provisions of IWT. In the recent geopolitical scenario Modi government's refusal to discuss Kashmir issue is a clear indication it wants to keep trying to hold Pakistan's agriculture in **chokehold**. Illegally occupying Kashmir makes India upper riparian and give it control of lower riparian - Pakistan. **85%** of Pakistan's agro sector depends on

DATE: ____/____/____

Indus basin. It would be prudent of Pakistan to increase its water storage capacity by building dams. **Kalabagh dam** (10NAF) and **Bash dam** (8M) need to be completed as soon as possible. Expecting India to obey I. Law and communicate in accordance with the legal norms and customs does not seem to be possible in near future. So, it upto Pakistan itself to protect its water rights, the water that has now become an element of National Security.