Owing to the complex geographical setup of Indus Basin, hostilities between India and Pakistan over river water utilization are soaring up, and if we look into the priorities of concerned countries, different political agendas and ambitions and geopolitical realities, concluding this study is a complex task. Hence, this conclusion is limited to the comparative submission of issues, objections and suggestions analyzed, observed and incorporated from India, Pakistan and Jammu and Kashmir State in relations to Indus Water Treaty.

Indus river, a basic resource for and a powerful stimulant to economic development of the shareholders has linked the riparian countries and as well as their peoples together. On the other hand, its history reveals that it has been a ground of disputes, between neighbours/provinces or states of Indus Basin for long. Fast increasing population, expanding urbanization and fast growing needs for irrigation water and power generation are putting ever increasing strains on the water of Indus Basin Rivers. During the British rule, there was only one political issue, i.e. to get independence from British rule, but after independence, the sub-continent faced more grave geopolitical issues, which includes the distribution of Indus Basin water as well.

New geopolitical boundary etched the hard border and divided already developed infrastructures like canals, which engendered bitterness between the two newly emerged nations—India and Pakistan. The enmity between India and Pakistan has its roots in the struggle to gain independence from Great Britain. The principal fault line ran along religious divisions and placed Hindus against Muslims. The process, by which the British partitioned the Indian sub-continent in 1947 into independent into two independent countries, fuelled this animosity. Partition led to a number of geographical, political and economic disputes between the countries; for example, refugee property and division of assets etc. In particular, the issue of Kashmir and distribution of water have persistently aggravated Indo-Pak relations and in fact been constant sources of tension between the upper riparian India and lower riparian Pakistan.
The dispute over the water of the Indus Basin between India and Pakistan is notable not only for its size, significance and complexity but also in that it was brought to conclusion by a comprehensive treaty. The dispute lasted for twelve years from 1948 to 1960 but fortunately the World Bank’s intervention brought the parties together and guided them towards a resolution. The resolution of dispute was made with the landmark agreement of *Indus Water Treaty*. This monumental treaty was the outcome of eight years of discussions and negotiations between the government of India and Pakistan under the aegis of World Bank.

The water conflict between India and Pakistan was spiraling to its critical level as the partition had left a legacy of enormous bitterness and complexities. So, it was very difficult to deal with this grave issue and institutionalise peace between the two countries. Agreements after agreements were being made but no permanent solution could be reached. In 1952, the World Bank made an intervention with an intention to facilitate negotiations between India and Pakistan. The World Bank-led negotiations mainly focused on the concerned issue and all extraneous matters were kept away. The World Bank nominated a group of engineers from both the countries to resolve the dispute. In 1954, the World Bank put forward a proposal embodying the main principles for dispute resolution. These principles have been accepted by both the countries, eventually signing the agreed-upon Indus Water Treaty.

The Indus Water Treaty has its origin in an international water dispute that could have led to a situation detrimental to both the parties had it remained unresolved. However, the dispute on the use of waters of the Indus Basin had its beginning during the British Empire between Punjab and Sindh (Bahawalpur and Bikaner were also involved). But, with the partition of India in 1947, the water issue became more serious as the new political boundary between India and Pakistan cut across the Indus system of rivers and disrupted its well-managed, integrated irrigation canals network. The geography of the partition was such that the headwaters of canals remained mainly with India while the land being irrigated by these canals went to Pakistan. Thus, the partitioning of the canal system has created dispute between the two countries over the share of Indus Basin water. The water dispute erupted on 1st April 1948 when East Punjab discontinued the delivery of water to West Punjab on the expiry of the Standstill Agreement. This incident exacerbated hostilities between
the governments adding more fuel to the flames. To resolve this issue, agreements and MOUs were signed but no permanent solution was found. Nevertheless, it paved a way for the process of negotiations towards the final settlement until Indus Water Treaty was signed in 1960 in culmination.

The process of negotiation was so difficult and complex that the two governments virtually failed to negotiate mutually and were compelled to accept the intervention of a third party. The intervention of World Bank’s good office at the end of 1951 started a communication between the two countries over water utilization. Intrinsically, the negotiation process was put on the right direction when David. A. Lilienthal, former Chairman of Tennessee Valley Authority and a close friend of Eugene R. Black, the then President of the World Bank, presented his principle arguments over water sharing of Indus Basin.

The World Bank had earlier helped resolve such conflicts in the other parts of the globe. It wanted to help both the countries with its experience and expertise. Though the situation in sub-continent was complex but the solution had to be found—as the two contesting parties remained adamant over their basic position, the third party mediation became necessary. Subsequently, E.R. Black called both the parties and explicitly outlined “essential principles” which ought to be followed for conflict resolution. The principles were accepted by both the countries, and after intensive discussions, modifications and negotiations, the trilateral Indus Water Treaty was finally signed on 19 September 1960 between India and Pakistan, and the World Bank was a signatory to the Treaty.

It could well be said in favour of World Bank that it addressed the water dispute with a view to redress the grievances of the common masses residing on the both sides of international border between India and Pakistan. World Bank ignored the political implications of the treaty in the best interests of the people concerned. The World Bank has not only provided technical assistance but also sufficient financial support through Indus Basin Development Fund. The financial assistance was gathered from friendly countries, which include Australia, Canada, Germany, Italy, New Zealand, the United Kingdom, the United States; India also contributed to the fund raising. It was the magnanimity and constant efforts of the World Bank
which provided financial and technical assistance for the development of two countries and its mediating role has been a successful instance of dispute resolution.

Also, the success of Indus Water Treaty would not have been possible without the keen interest displayed by the then Prime Minister of India Jawaharlal Nehru and President of Pakistan Muhammad Ayub Khan, sidelining all rivalries and joining table for negotiation. They fostered congenial environment for the third party mediation. However, there were also some criticisms within the two nations. The protracted and complex negotiations were conducted between senior civil society servants, professionals and engineers, minimising the chance of any hindrance in resolving the water dispute. Though the treaty brought peace and harmony in the sub-continent, it could not satisfy the entire spectrum of people and drew criticisms from both the countries. In both countries, critics are of the view that the negotiation of the treaty was faulty though such criticism is hardly taken into consideration when top leaderships are involved.

The Indus Water Treaty is regarded as a major achievement as it has made Indus Basin economically viable for the two countries. The treaty has terminated all claims regarding the Harmon Doctrine and Historic Use and it effected the territorial apportionment of the Indus River system. The three Western Rivers (the Indus, the Jhelum and the Chenab) were allocated to Pakistan while the three Eastern Rivers, (the Ravi, the Beas and the Sutlej) were given to India for their consumptive use respectively.

The distribution of rivers is actually a territorial division and it does not specify the quantity of water for parties. The treaty merely reaffirms the territorial sovereignty of each state on the basis in the difference in water courses. It does not modify the boundary between the two countries but traces a fictitious line, East-West, which divides the basin and limits the sovereign rights of each states on half of the river system and grants quasi-exclusive rights on the other half. In fact, it is neither a territorial nor quantitative division, but a division that concerns only the use of the water. This kind of division is predominantly political and economic, but not according to prevailing water laws. Since the treaty was signed, the two parties have
to deal jointly with water administration and do not have the right to interfere in the waters allocated to the other party.

The treaty established a permanent institution of Indus Commission to maintain peace and cooperation between the parties. The Commission has so far maintained peace despite the bitter political relations (three wars were fought between India and Pakistan in 1965, 1971 and 1999). In this sense it can be claimed that the treaty is a successful instance of peace and conflict resolution. It has faithfully served as a means of prevention in water-related disputes. Nevertheless, the Commission has failed to resolve certain issues. Large numbers of experts are of the view that the Commission has been politicized, and as a result could not reach any effective settlement on certain disputes.

Despite its success in water conflict resolution, there are some ambiguities in the treaty. Indus River is flowing through four sovereign countries, viz. China, India, Pakistan and Afghanistan, including the disputed State of Jammu and Kashmir. The Indus Water Treaty protects only the rights and considerations of two countries, neglecting the other stakeholders of the Indus Basin. However, other riparian states including Jammu and Kashmir State are claiming their rights to a reasonable and equitable share of the Indus River and its tributaries flowing through their territories. It was not a deliberate omission on the part of the World Bank. It wanted to make both the countries realize the need for cooperation and compromise. No compromise, anywhere and under any condition is just or equal for the parties concerned; compromise is an opportunity to stem the further rot and utilize the time and energy thus saved to build and manage one’s resources. Indus water treaty did exactly the same. Taming of waters under the respective possession and their management was given utmost priority. However, Pakistan has to address new realities and negotiate the demands of upper riparian shareholders of Indus, Jhelum and Kabul River sooner the better.

The arbitration of treaty does not create a sound mechanism to address certain issues, such as ground water use for two countries, changes in flow of water due to climatic changes, changing domestic demand due to population increase or rainfall variability and future developments. This shortcoming has created a serious chaos in
the sub-continent as both the countries are facing water stress due to high population density, climate change and high water demand. The increasing water scarcity has led to an intense water debate in India and Pakistan and the hawks on both sides are talking about water wars or abrogation of the Treaty.

Any talk of deconstruction plans on Indus Water Treaty needs to be supplemented with alternative construction plans, otherwise whole exercise may lead to chaos and confusion. In the absence of an alternative scheme, the slogans for the abrogation of the Treaty are simply meaningless. The demand for more water, in India or Pakistan does not make the Indus Water Treaty irrelevant for the people concerned. It has to be seen in broader perspective.

Whatever the truth value of the differences between the two countries are, they have widened the trust gap between the two countries and catapulted the water issue to the top of bilateral agenda, thereby making a core issue in Indo-Pakistan relations. The reason is the lack of cooperation, distrust and poor political relationship. To address these issues there is a high need to review the viability of Indus Water Treaty as many experts from both India and Pakistan think that the treaty is outdated. It does not allow for an optimum use of the Indus water resources, and therefore the treaty should be relooked at and modified with one which lays emphasis on joint sharing rather than territorial division of waters. This demands a common water vision by India and Pakistan that will be based on the realization of the importance of the shared rivers as being a natural resource that is integral to their survival.

Let India, Pakistan or any other country resist from using water as political tool. It is, too, dangerous to handle it that way. Let’s keep the interests of the humanity in view, not of a group, community or region. Water like, air, and sun, is a shared property of the humanity, a gift of nature not to be vandalized for the political reasons. New and innovative vistas of cooperation—inside and outside the treaty—can be envisaged as discussed above.