The present chapter deals with the Indus Water Treaty and the mechanism set up by the treaty. The chapter also examines the differences over the utilization of water of Indus Basin after signing the treaty. Additionally, the strained relations between the two countries due to Indus water is also discussed and highlighted in this chapter.

5.1. The Indus Water Treaty 1960¹

India and Pakistan accepted the rights and obligations of each other on the use of water of Indus Basin through the Indus Water Treaty. On 19 September, 1960, the Indus Water Treaty was signed in Karachi by Prime Minister of India, Jawaharlal Nehru, and the President of Pakistan, Muhammad Ayub Khan and senior vice president of the World Bank, W.A.B. Liff. The treaty was subsequently ratified by two governments and the ratification was exchanged in New Delhi in the January of 1961. The Indus Water Treaty considered a landmark step in promoting trust and understanding between the people of the two countries.²

Fig. 1: Historical Picture Signing Ceremony of Indus Water Treaty

Left to Right, the Indian Prime Minister Jawaharlal Nehru, the President of Pakistan Ayub Khan, and the World Bank’s Representative (19 September, 1960).

¹ For the Full Draft of the Treaty See Appendix (a)
Apart from Indus Water Treaty, three other agreements were signed in 1960. The first agreement was related to the establishment of an Indus Basin Development Fund (IBDF) of $894 million. Out of the total, $640 was contributed by friendly countries, such as Australia, Canada, West Germany, New Zealand, the United Kingdom and the United States. The IBDF agreement was signed between Pakistan and aforementioned friendly countries. To facilitate the agreement, India also contributed $174 million, and $80 million was given from the proceeds of the World Bank loan to Pakistan.\(^3\) The fund was mainly collected for the transfer of infrastructure and construction of replacement works on western rivers.\(^4\) The second agreement was signed between Pakistan and the World Bank for a loan of $90 million. The last agreement covered a loan of $70 million from the US Development Loan Fund.\(^5\)

The Indus Water Treaty addressed both the technical and financial concerns of each side and included a timeline for transition. It was retroactive from 1 April, 1960.

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\(^3\) Shaista Tabassum, *River Water Sharing Problem between India and Pakistan: Case Study of Indus Water Treaty* (Colombo: Regional Centre for Strategic Studies, 2004), 29.


\(^5\) Tabassum, *River Water Sharing Problem between India and Pakistan: Case Study of Indus Water Treaty*, 29-30
Table 1: Articles and 8 appendices of Indus Water Treaty, which are titled as:

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The treaty contains twelve Articles covering 79 paragraphs and eight detailed Annexes.

The basic aim of the treaty is to increase the amount of water available to the both parties and to distribute the water resources of the Indus Basin equitably to
them. It is indeed a comprehensive treaty in view of its objectives.\textsuperscript{6} It is based on the simple distribution of the rivers and not the base of quantity of waters. This unique division of the Indus system has eradicated the very disturbances and conflicting demands that would have followed the equitable distribution of water. Another unique feature of the treaty is that it is the only international water treaty co-signed by a third party. This third party was the World Bank, which mediated the original dispute over the Indus Basin and assisted the two parties in reaching an agreement.\textsuperscript{7} Furthermore, the Indus Basin dispute settlement was not just only an agreement but also tried to change the history of water dispute into history of cooperation and peace.

The Indus Water Treaty was not only a novel and original document to enhance the availability of water between the parties to the treaty (India and Pakistan), but also has conciliated the differences over the rights of water usage. Prior to the treaty, both countries were demanding their water share by interpreting water laws of “absolute rights” and “historic use”. The Indus Water Treaty tried to find a better solution that was driven by the principles of water engineering and economics rather than legal principles.\textsuperscript{8} The treaty instead of dividing the waters of the rivers, divided the rivers between the two parties, which gave them independent control and regulation of supplies within their territories,\textsuperscript{9} subjected to limited use of water of the rivers allocated to the other party. Some of the main principles of the treaty are:

5.1.1. Provisions Regarding Eastern Rivers

(I) All the waters of the Eastern Rivers shall be available for unrestricted use in India.

(II) Except for domestic and non-consumptive uses, Pakistan shall be under an obligation to let flow, and shall not permit any interference with the waters of


the Sutlej main and Ravi main in the reaches where these rivers flow in Pakistan and have not yet finally crossed into Pakistan.

(III) All the waters, while flowing in Pakistan, if any, tributary which, in its natural course, joins the Sutlej main or the Ravi main after these rivers have finally crossed into Pakistan shall be available for the unrestricted use of Pakistan.

5.1.2. Provisions Regarding Western Rivers

(I) Pakistan shall receive for unrestricted use all those waters of the Western Rivers.

(II) India shall be under an obligation to let flow all the waters of the Western Rivers, and shall not permit any interference with these waters, except for the following uses, restricted (except as provided in item (c) (ii) of Paragraph 5 of Annexure c) in the case of each of the rivers, The Indus, The Jhelum and The Chenab, to the drainage basin thereof.

(a) Domestic Use;

(b) Non-Consumptive Use;

(c) Agricultural Use, as set out in Annexure C; and

(d) Generation of hydroelectric power, as set out in Annexure D (see Appendix 2)

5.1.3. Provisions Regarding Eastern and Western Rivers

(I) Pakistan shall use its best endeavors to construct and bring into operation a system of works that will accomplish the replacement from the Western Rivers (and other sources of) the water supplies for irrigation canals in Pakistan, which on 15th August, 1947, where dependent water supplies from the eastern rivers.

(II) The use of the natural channels of the rivers for the discharge of flood or other excess waters shall be free and not subject to limitation by either party or neither party shall have any claim against the other in respect of any damage caused by such use.
(III) Each Party declares its limitation to prevent, as far as practicable, undue pollution of the waters and agrees to ensure that, before any sewage or industrial waste, it will be treated, where necessary, in such manner as not materially to affect those uses.

5.1.4. Principles of Cooperation between the Parties

Indus Water Treaty recognises the interests of both the countries in the optimum development of rivers, and to that effect, calls for cooperation and collaboration between the two countries. Article VI and the Article VII of the treaty deal with the “exchange of data” and the clause of “future cooperation” (see appendix 1).

Further, the Article VII clearly anticipates future cooperation that both the parties did recognize that they have a common interest in the optimum development of the rivers, and to that end, they declare their intention to cooperate, by mutual agreement, to the fullest possible extent. The Article further elaborates on the cooperation in the field of engineering works on the rivers. (See in appendix Article VII (2). However, the Article has encountered a number of problems and challenges from the both sides in term of its interpretation and implementations.

As per the terms and conditions of the treaty, data regarding the daily flow and utilisation of the water of the rivers is to be exchanged regularly. This includes (a) daily (or as observed or estimated less frequently) gauge and discharge data relating to flow of the rivers at all observation sites, (b) daily extractions for or releases from reservoirs, (c) daily withdrawals at the heads of all canals operated by government or by a government agency (hereinafter in this Article called canals), including link canals, (d) daily escapades from all canals, including link canals, and (e) daily deliveries from link canals. The data is to be exchanged on monthly basis, but when “necessary for operational purpose,” it shall be exchanged daily or less frequently as may be requested. In addition, if any party “requests the supply of any data relating to the hydrology of the rivers, or to canal or reservoir operation connected with the rivers or to any provisions of this treaty, it shall be furnished.”

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10 Indus Water Treaty 1960, Article VI, (1) a, b, c, d, e.
11 Indus Water Treaty 1960, Article VI (1).
12 Indus Water Treaty 1960, Article VI (2).
5.1.5. Dispute resolution mechanism and Permanent Indus Commission

The principle of cooperation advocates that all states in an international watercourse should seek a settlement of the disputes by peaceful means in case states concerned cannot reach agreement by negotiation. The Indus Water Treaty (Article IX, Annexure F and Annexure G), articulates the mechanism for dispute resolution. The “questions” are to be decided by the Permanent Indus Commission (PIC), “differences” to be settled by Neutral Experts (NE) and “disputes” to be settled by the International Court of Arbitration (ICA). It is important to note that the applicable law for the ICA is to be followed within the framework of Indus Water Treaty itself. Firstly, the case is tried in the institution of PIC, if the Commission fails to settle. The case will be extradited to the Neutral Expert and if the case remains unresolved again, it will be solved in the International Court of Arbitration.\(^\text{13}\)

The Indus Water Treaty has established the institution of the Permanent Indus Commission (PIC) under the Article VIII (see appendix). A Permanent Indus Commission consisting of two commissioners (one appointed by India and another from Pakistan) was to establish and maintain cooperative arrangements for the implementation of the Indus Treaty. The commissioners should ordinarily be high-ranking engineers, especially competent in the field of hydrology and water use. The basic objectives of the Commission was to promote cooperation between the parties in the development of the waters of the rivers, and in particular, to study matters referred to it for help, resolve questions concerning the interpretation or application of the treaty and to make tours of inspection. The commissioners have to meet regularly once a year in India and Pakistan alternately and submit reports to respective governments before 1\(^{st}\) June every year or shall also meet when requested by either commissioner.\(^\text{14}\)

On the other hand, there are also some measures of dissatisfaction, which have been noted about the role of the Commission. As some are of the view, the treaty has mandated the Commission with a complex system of dispute settlement and the Commission appears to be heavily biased towards dispute settlement and monitoring system. The unresolved disputes and debates over the share of water of Indus Basin

\(^{13}\) *Indus Water Treaty 1960*, Article IX.

\(^{14}\) *Indus Water Treaty 1960*, Article VIII.
witnesses that the Commission has been ineffectual in its role.\textsuperscript{15} It can be understood by revision of disputes after treaty (see existing dispute).

**5.1.6. Principle of financial provision and Indus Basin Development Fund**

With the purpose of maintaining everlasting peace and future development in the Indus Basin, the treaty established the Indus Basin Development Fund. The main objective of this fund was to construct head-works and canals from the Western Rivers and other sources of water for irrigation canals in Pakistan, which, on 15\textsuperscript{th} August, 1947, were dependent on water supplies from the Eastern Rivers. In order to carry out these works, the World Bank had been instrumental in the creation of an Indus Basin Development Fund.\textsuperscript{16}

To facilitate the IDBF the financial contribution was made available by friendly countries and the World Bank itself. All these countries agreed to support development in the Indus Basin, which was estimated at about $900 million and India was committed to provide $174 million (£62 million) in 10 installments.\textsuperscript{17} In fact, the Indus Water Treaty was a billion dollar investment made possible because of the personal and sustained interest of Eugene Black, who was the moving spirit in its creation.

The programme for construction work in Pakistan included eight link canals that are nearly 400 miles long for transferring water from the Western Rivers to areas formerly dependent on the Eastern Rivers, two storage dams, Mangla on the Jhelum and the Tarbela on the Indus River, 2,500 tube wells and other works to integrate the Western Rivers and canal system.\textsuperscript{18} The Indus settlement also envisaged the construction of a storage dam on the Beas River in India which, together with the Bhakra Dam on the Sutlej and the Rajasthan Canal, was meant for irrigation to new areas in India. But these works did not come within the scope of the Indus Basin Development Fund.


In the context of the administration of the Indus Basin, the World Bank played an active and constructive role and therefore, its reputation due to its role in resolving the dispute, granting loans to both countries, has been exceptionally important in this dispute. The World Bank did not have any political power but its ability to bring together several countries with the financial commitment was a generous third-party inducement to the successful resolution of the dispute. The resolution of the dispute implies that the critical role of third party in facilitating the agreement is important in conflict resolution.\(^\text{19}\)

However, one quarter of the Pakistan society criticizes the role of the World Bank, on the presumption that the funds allocated by the World bodies were insufficient and indirectly favored India. More notably, the well-known Pakistani water resource expert B. A Malik (2005), is of the view the Bank extended its special favor to India both in granting funds and waters from western rivers. The Bank went out of its way to offer to India $56 million against its needs of $33 million. As against this generosity Pakistan was given only $60 million with which Pakistan could hardly manage to build its link canals only. Moreover, the Bank allowed India to carry its projects by its own indigenous resources, whereas in Pakistan almost all water projects were carried out by foreign consultants, which returned all foreign assistance in the form of services, equipment and supplies.\(^\text{20}\)

Furthermore, The World Bank has, inadvertently put Pakistan in a highly precarious situation, it has, in the final analysis of Indus Water Treaty, made it (Pakistan) to surrender its rights on the rivers, which it was, traditionally using for various consumption purposes and otherwise, in favour of India. India got the sovereign rights over three rivers. It has, absolutely no obligations to Pakistan, carrying out its present and structuring its future plans on the waters concerned. While as India, in Kashmir retains its upper riparian rights on the western rivers comprising Indus Jhelum and Chenab with specific conditions and some obligations to Pakistan. The conditions to be observed by India are such that can be state of art technology and intelligent or diluted or rendered in effective. Pakistan can, at the most, with its


\(^{20}\) Bashir A. Malik, Indus Water Treaty in Retrospect (Lahore: Brite Books, 2005), 176-77.
arguments, only delay the inevitable. But this is, only the half of the story—an half, which still has something to rejoice, for Pakistan.21

5.2. Implications of the Indus Water Treaty

The Indus Water Treaty has successfully ended a decade-long water dispute, which had been a major cause of tension between the two countries since partition. It was appreciated by the international community and considered as a good example of water conflict management. The immediate result of the treaty was that the Indus Basin became politically and economically viable for two countries. It has opened new ways for independent development of the water of the Indus Basin.22 Some are also of the view, had the Indus Treaty not been in place, water dispute would have remained a contentious issue in the political arena between the two countries and the subsequent development might have been wholly or partially withheld.23

5.2.1. Development of Indus Basin in India

During partition, both India and Pakistan are agricultural economies, water formed an integral part of their economy. There was a dire need to develop good infrastructures to provide irrigation facilities to those agricultural areas which were uncultivated before partition. India, as an upper riparian country wanted to develop its irrigation facilities in these areas and Pakistan as the lower riparian also needed sufficient water supply for its own irrigation and agriculture.

In 1960, by the signing of the treaty, India has been able to expand her irrigation system. The Article III of the treaty facilitates India to unrestricted harness the water from eastern rivers for any purposes. Immediately after the treaty, a major step was taken by India to construct interlinking canal projects from the Ravi, Beas and Sutlej rivers through the diversion of the rivers. The interlinking canal system increased the irrigated command area, which brought a green revolution in the Indus Basin states and made the country self-sufficient in food production.24 India

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21 Discussion with Professor Gulshan Majeed on April 26, 2012.
22 Gulhati, *Indus Water Treaty: An Exercise in International Mediation*, 338-49
implemented various other new schemes, such as the Upper Bari Doab Canal, the Sirhind Canal and the Rajasthan Canal system and the gigantic Indra Gandhi Canal Project. The canal system is connected with the Bhakra Nangal, Pong and Harike barrage. The Bhakra and Nangal dams were constructed on the Sutlej River while the Harike barrage has been constructed at the confluence of Beas and Sutlej rivers to provide supply to Rajasthan and Ferozpur feeders.\textsuperscript{25}

The Bhakra Nangal project was designed to provide irrigation to some 1.46 million hectares in Punjab, Haryana, Chandigarh and Rajasthan. The construction of the project has enlarged India’s irrigation efficiencies which led to the growth of agriculture in Punjab, Haryana and Chandigarh and Rajasthan. From 1960 onward, the project has added an irrigated area of 6.8 million hectares over 35 years. Moreover, the production of rice and wheat in the Bhakra command area in 1996-97 was eight times as much as 1960-61 figures. Moreover, after the treaty, entire Indian part of the Indus Basin, large and small projects, led to the growth of irrigated area that was estimated 22 million hectares in 1947 to 55 million hectares in 2000.\textsuperscript{26} Of late, a third major storage project—the Thein dam—was built on the Ravi River, which has a potential to provide eight million acre feet of water to Rajasthan and Thar Desert. This project has transformed desert with a swathe of greenery running north-south along the Pakistan border.\textsuperscript{27}

While as the treaty permits India to increase her power potentialities from the Ravi, Beas and Sutlej River, the development of hydropower potential in the Indus Basin has become a priority for the Indian Government over the past few decades. From 1960 onward, India has achieved steady growth in power potential on three eastern rivers. The total estimated power potential of the Indian side basin is measured as 19988 MW at 60 per cent load factor. Out of total 190 schemes in the Indus Basin, 35 schemes are in operation with installed capacity of 3715 MW and 14 schemes with

\textsuperscript{25} Gulhati, \textit{Indus Water Treaty: An Exercise in International Mediation}, 357.
5626 MW potential is likely to be commissioned in the near future. Furthermore, 32 schemes that remain to be developed, account for nearly 28 per cent of the assessed potential of the basin.\textsuperscript{28}

Taking advantage of the various sections of the treaty India has earnestly initiated well designed futuristic planes for the Indus basin. India has developed many hydro-power projects in Jammu & Kashmir State like Salal, Dulhasti, Uri, Baglihar etc. India is also entitled to develop irrigation schemes in its territory to enhance the regional development in terms of agricultural areas through western rivers.\textsuperscript{29}

\textbf{5.2.2. Development of Indus Basin in Pakistan}

The treaty granted independent share of water to Pakistan from western rivers and assured permanent water supply because its large canals used to get water from eastern rivers before 1947. In 1961, with the ratification of the treaty, the Indus Basin Development Fund (IBDF) became effective and Pakistan was able to develop world’s largest hydraulic works in the country. In fact, the IBDF caused the green light in Pakistan.\textsuperscript{30}

After the treaty was signed, Pakistan secured her water supply through the diversion of three western rivers to meet requirements of irrigation canals that were dependent on eastern rivers before partition. Several immense link canals were built after the treaty. The biggest link canals are the Chashma-Jhelum link canal, the Haveli canal, and the Sindhani-Mailsi-Bahawalpur canals. The other link canals are the Rasul-Qadirabad link canal, the Qadirabad-Balloki canal, the Balloki-Sulemanki canal, Trimmu-Sindhani, Sindhani-Mailsi canal and the Taunsa-Panjnad canal.\textsuperscript{31}

Financial aid through World Bank helped Pakistan to build massive storage projects to ensure her electricity needs and water availability for irrigation during critical sowing seasons. The mega projects include Mangla dam on Jhelum River, Tarbela dam and Jinnah dam on Indus River along with various canals and tube wells.

\textsuperscript{29} Indus Water Treaty 1960, Article III (2)
\textsuperscript{31} Tabassum, \textit{River Water Sharing Problem between India and Pakistan: Case Study of Indus Water Treaty}, 30.
These projects provide cheap and clean hydroelectricity to boost up the industrial and irrigation requirements for the country. In the post-treaty period, Pakistan has constructed other 19 barrages or head-works and 43 major canals with a total conveyance length of 57 000 km on western rivers. These various projects meet the irrigation requirements of 40 million acres irrigated land and provide the fresh water supply to the population of 172 million besides sharing aggregate energy at 33.07 percent. Over all, the irrigation system which is lies in the Indus Basin of Pakistan serve an area of 8.88 hectares, and it is continuously increasing with significant agriculture out puts.

In 1947, at the time of independence, the total installed power potential of the country was only 60 MW for its 31.5 million people, which in 1958, increased to 119 MW. Power infrastructure gained momentum immediately after the treaty. The 1000 MW Mangla and 3478 MW Tarbela dams were completed to meet the increasing demands of the growing population, and Pakistan’s installed power potential is continuously increasing. Presently 35 major and medium hydropower projects are in operation in Punjab, Khyber-Pakhtunkhawa (KPK) and 84 small hydel projects are in operation with less than 2 MW installed capacity on the Indus River and its tributaries at Gilgit Baltistan.

In Pakistan, the massive development in water infrastructure subsequent to the treaty has resulted in economic growth and green revolution. Even the treaty has provided employment opportunities in different sectors. For instance, Water and Power Development Authority (WAPADA), which is the largest civilian employer, was set up as a direct consequence of the treaty with international financial and technical assistance. The foreign technical assistance proved helpful for introducing water management know-how, irrigation development and construction of dams to Pakistani engineers.

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India and Pakistan are agro based countries; growth of irrigated areas in the Indus Basin provided a boost to the agricultural economies of the two countries. Though the political relations between the two countries are strained, the signing of the treaty has removed some basic related obstructions in the economic development in the countries concerned. They are now pursuing their own interests independently, which has made the Indus Basin a highly developed river basin of the regions serving the largest section of humanity. Development of gigantic projects across the Indus and its historical tributaries enabled both the countries to revolutionise their economies.

5.3. Negative Implications of the Indus Water Treaty

Despite being appreciated in different quarters, the treaty has drawn flaks from different sections of society as well. The common opinion shared in both the countries is that the distribution of water under the treaty is unfair. Most of the Indians are of the view that the allocation of 80 per cent of the Indus water to Pakistan and 20 percent to India is unjustifiable and unfair.\(^36\) There are also some opinions that the treaty imposed a heavy financial burden on the country, as it does not permit to utilise the full potentialities of the three western rivers to India.\(^37\) Number of Indian scholars such as S.K. Grag,\(^38\) K. Warikoo,\(^39\) B.R. Chauhan\(^40\) and M.S. Menon\(^41\) is of the view that on the basis of population, drainage area and cultivated lands, India should have been given a 42.8 percent share of the Indus Basin but the treaty was generous 80 percent in Pakistan and 20 percent in India. Hence, the treaty gives a false impression of the water distribution of the Indus Basin.

The Indus Water Treaty was neither envisaged nor implemented to help in equitable distribution of water. It was based on the de-facto possession of the rivers—

\(^40\) B.R. Chauhan, *Settlement of the International and Inter-State Water Disputes in India* (Bombay: N.M. Tripathi Pvt/Ltd, 1992), 91.
Beas, Ravi and Sutlej, while Pakistan though in sovereign position to exploit and manage amount of water (Jhelum, Chenab and Indus) flowing through its portion of land had share a meagre amount of water with India (in Kashmir) as it upper riparian right. It was compromise which India was itself campaigning for. Indus Water Treaty also ignores the water rights of a region on the basis of any historical usage of water it is, the absence of any plausible, possible and acceptable alternative a just and pragmatic solution. Furthermore, it needs be understood that Pakistan has to negotiate its position on the water given to it by the treaty (geography in fact) with two upper riparian countries, Afghanistan and China (Tibet). Had India to share its three eastern rivers with Pakistan it would have been deprived of the progress it has made in agriculture sector in Punjab.

In this particular case, neither the quality nor quantity of land under the usage of the waters, nor the number of people living in that region, and nor any consideration for any future demands on water was made basis for the division of the basin. Raising these questions now is to play to the psyche of certain sections of the society—who thrive on the hatred of the opposed country--; it is to play to respective vote bank.42

On the other hand, large sections of the Pakistani society opined, the territories that went to India during partition were historically used less than 10 percent of the Indus waters, and the treaty was generous to India in giving it 20 per cent of the water of Indus Basin. Secondly, Pakistan’s worry was that India’s hold in Kashmir enables it to deprive of the water flow of the Jhelum and Chenab rivers which are the major sources of Pakistan’s water supply.43 But the treaty in a major way gave some satisfaction and security to its water supply as long as India is in possession of Kashmir.

The treaty under study was not intended to solve and by its very formulation could not have had solved all the issues for all the times. It was an arrangement to

42 It is a journalistic nay a political way of looking into the things. Most of the writers raising these kinds of questions now have, as is evident by the general review of their articles, nothing substantial to say. Major portion of their articles on Indus Water Treaty are run of the mill stuff.

bring two countries together, enter a compromise and work for better future and developmental avenues. Now the treaty has come under strain from various quarters for various reasons. While as demographic changes and decreasing water availability, demand more judicious approach to treaty. Some new parties (China, Jammu and Kashmir and Afghanistan) claiming their rights as upper riparian or mid riparian countries have entered into the space till now exclusively claimed by India and Pakistan.

Apart from Indian and Pakistani perspectives, one of the major issues attached to the treaty is that it has led to a regional disparity (see in chapter 6) and discontent. In Jammu and Kashmir State, the treaty is perceived as discriminatory. Common view of Kashmiris about the treaty is that while signing the treaty both the countries overlooked the water rights of Kashmir. There are also a lot of current discussions on the treaty at political fronts in the state of J&K. Even on 2 March, 2003, the state legislature passed a resolution against the treaty and demanded an instant review of the treaty.

5.4. Confrontation over the Use of Indus Rivers Water

In 1960, the Indus Water Treaty was signed with the spirit of cooperation which ended a decade-long water dispute between the two countries. To resolve the dispute permanently, conflicting demands and claims was put aside, the rivers were divided, financial arrangements were made and technical assistances were provided. In fact, the division of the rivers provides substantial development to both the countries. The large scales of works in the Indus Basin have been taken place without any interference. But now, with the increasing rate population and accelerating demands for water in both the countries, the water dispute again occurring with new perspectives. The treaty which took a decade of intensive hard work to resolve the dispute is now in the clutch and controversies due to a different set of challenges. The following section examines the existing disputes and confrontation between the two countries over water.

5.4.1. Existing Disputes over the Share of Indus Basin after the Treaty

The Article III (2) (d) of the Indus Water Treaty allows India to utilise the water of western rivers for (i) domestic use, (ii) non-consumptive use, (iii) agriculture use (iv)
generation of hydroelectric power from run-of-the river projects.\textsuperscript{44} On the hand it is also subjected in the treaty that such utilisation should not cause of damage for lower riparian Pakistan.

For the generation of hydroelectric power on western rivers of India, the treaty has different provisions in its Annexure D. Part 3 which defines that any hydroelectric power project constructed on western rivers by India after the signing of the treaty shall be a run-of- the river project that develops power without live storage as an integral part of the plant except for pondage and surcharge storage.\textsuperscript{45} The maximum pondage\textsuperscript{46} in the operating pool\textsuperscript{47} is allowed to reach a level that is twice as much as the pondage required for firm power.\textsuperscript{48}

To utilise the permitted water from western rivers, India has planned to construct some projects on the western rivers which are often opposed by Pakistan as the violation of the treaty. Pakistan feels that the Indian projects do not follow the technicalities laid down in the treaty, while India uses permissive clause of the treaty to justify its rights over projects.

The first controversy that aroused in the aftermath of the treaty was in 1970 over Salal Project on Chenab River. Pakistan objected to the design as well as the storage capacity of the project. The issue was formally taken up in 1975 when the two countries stated their negotiation over the project. In 1975, Pakistan’s Minister for Foreign affairs visited India and discussed the issue with his counterpart. Therefore, India provided the required information to Pakistan that bridged the gap of many aspects related to the project, but certain fundamental issues remained unresolved.

When several subsequent meetings failed to produce any outcome, Pakistan moved to appoint the neutral expert to settle the issue. But India tried to settle the issue by mutual understanding rather than by third party involvement. Discussion

\textsuperscript{44} \textit{Indus Water Treaty 1960, Article III (2).}
\textsuperscript{45} \textbf{Surcharge Storage}; means uncontrollable storage occupying space above full pondage level (Indus Water Treaty Article III (2) (d)[e]
\textsuperscript{46} \textbf{Pondage}; means “Live Storage of only sufficient magnitude to meet fluctuations in the discharge of the turbines arising from variations in the daily and the weekly loads of the plant” (Indus Water Treaty Article III (2) (d) [c]
\textsuperscript{47} \textbf{Operating Pools}; means the storage capacity between dead storage level and full pondage level” (Indus Water Treaty Article III (2) (d) [f]
\textsuperscript{48} \textbf{Firm Power}; means the hydro-electric power corresponding to the minimum mean discharge at the site of a plant. (Indus Water Treaty Article III (2)(d) [i]
again started at the political level between the two countries and after prolonged discussions by both the Commissioners, and later on at governmental level, the dispute was resolved with some alterations. Following an agreement was signed on 14 April 1978.

Salal Project dispute was not the last in the series. The other projects including the Tulbul Navigation Project (Wullar Barrage), Baglihar, Kishanganga Nemo-Bazgo, Chutak, Dumkhar and Bursar, are also under controversy mainly due to conflicting approaches from the both sides.

5.4.1.1. The Tulbul Navigation Project (Wullar Barrage) Dispute

The Wullar Project was proposed to be built at the mouth of Wullar Lake in Baramulla district of Kashmir Valley. The original Indian plan was to construct a barrage of 139 meters long and 12 meters wide with maximum storage capacity of 300,000 acre feet (AF). The basic objective of the project was to increase the flow of water in the Jhelum River during the lean season to make it navigable. The project was envisaged in 1980 and the work began in 1984, but Pakistan raised the objection on the ground objected that the project allegedly violates the provisions of the treaty.
5.4.1.1.a. Pakistani Perspective on Wullar Project: Pakistan objected that the project’s storage capacity violates the Article I (15) [b] of the treaty, which barred both parties to create man-made obstruction that may cause changes in the daily flow of the rivers. Further, Pakistan claimed that the Article III (4) of the treaty specifically prohibits India from creating any storage or constructing any storage works on western rivers. While as per the Annexure E (8) sub-paragraph (h) of the Indus Water Treaty, India is entitled to construct an ‘incidental storage work’ on western rivers on its side, but storage capacity should not exceed more than 10,000 acre feet. Tulbul project’s storage is more than 300,000 acre feet, which is more than thirty times as the permitted capacity. Some more apprehensions of Pakistan over the project are:

- The project would adversely affect the triple canal project, Upper Chenab Canal, Upper Jhelum Canal and Lower Bari Doab Canal;
- Construction of the project would enable India to control Jhelum River during the winter season;
- Mangla Dam would be adversely affected by construction of Wullar Project;
- The project seems to be a security threat to Pakistan’s sovereignty.

5.4.1.1.b. The Indian perspective over Wullar Project: India, on the other hand, claims that the project would neither increase the permitted storage capacity nor will interfere with downstream flows. Its purpose is only to improve the navigation over the Jhelum River during lean period (winter months); to connect Baramulla with Srinagar, as it does not violate the norms of the treaty. India also argues that 90 per cent of this project would be beneficial to Pakistan, i.e. it would increase the power
generation capacity of Mangla Dam and would increase the efficiency of irrigation network in Pakistan during critical period as well.

5.4.1.1.c. On-going discussion over Wullar Project: In 1986 Pakistan referred the Wullar Project dispute to Indus Water Commission, but after one year the Commission recorded its failure to resolve it. Subsequently, India stopped the construction and Pakistan did not take the case in the International Court of Arbitration. From 1986-91, the two sides have held 13 rounds of talks to settle the dispute, but dispute remained unresolved. At 1991, both the parties reached to sign an agreement but the differences could not be resolved due to Pakistan’s apprehensions. During the subsequent data exchange process, India agreed to keep 6.2 meters of the barrage ungated with a crest level of 1574.90m (5167 feet), and would forego the storage capacity of 300,000 acre feet. In return, the water level in the Barrage would be allowed to attain the full operational level of 5177.90 acre feet. However, in February 1992, Pakistan added another condition that India should not construct the 390 MW Kishanganga hydropower project, but India refused to accept this condition. Following 18 years of stalemates did not produce any results and the differences in the project persisted. As disputes dominated Indo-Pak talks and discussions at political forefronts in 1999 at Lahore, the Agra Summit of 2001, secretary-level talks of 2011, but not much development has been achieved yet.

The present status of talks over the project manifests that it has been politicized. Though the Indus Water Commission has authority to settle the disputes but assorted political understandings along with political distrust, security issues and growing demand for water and increasing energy needs in two countries are hindrances to reach any consensus.

5.4.2. The Baglihar Project Dispute

The Baglihar project was the major issue between the two countries that went to neutral experts for determining on technical “questions” raised by Pakistan. The dispute over the Baglihar project emerged in 1999, when Pakistan challenged the

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design of the project under the Article IX (1)\textsuperscript{54} of the treaty. Pakistan’s objections were related to pondage level, gate spillway, under-sluices, level of intake tunnels, and height of gates and elevation of tunnels. Pakistan’s main concerns were that the project is the violation of the treaty. The gated structure of the project would result in a loss of 7000 to 8000 cusecs of water a day.\textsuperscript{55} Further, the project gives India a strategic leverage to manipulate the flow of river during any critical situation.\textsuperscript{56}

An aerial view of Baglihar dam after completion

The project has incurred Pakistan’s concerns from economic, strategic and political perspectives. Discussions and the deliberations started only after India provided the required information in 2002, and thereafter, it started the construction of the project which was opposed by Pakistan. Hence, the issue has stirred intense

\textsuperscript{54} \textit{Indus Water Treaty}, Article IX (1). Any question which arises between the Parties concerning the interpretation or application of this Treaty or the existence of any fact which, if established, might constitute a breach of this Treaty shall first be examined by the Commission, which will endeavour to resolve the question by agreement.


political debates from both sides. During the discussion, the design of the project remained a major concern between the parties. Pakistan insisted that India should stop working on the project, but India refused to accept it. Consequently, Pakistan sent its “questions” over the project to India under Article IX (1) of the treaty as:

- The project appeared to be capable of raising the water level artificially beyond the full pondage level specified in the design and would contravene the provisions of Paragraph 8 (a) of Annex D of the treaty;
- The pondage in the operating pool being 37.722 million cubic metres exceeds twice the pondage of water level;
- The site was suitable for an ungated spillway, and therefore, a gated spillway should not have been provided. This was in contravention of Paragraph 8 (e) of Annex D;
- The intake for the turbine had not been located at the highest level as required, as referred to in Paragraph 8 (f) of Annex D to the treaty.57

5.4.2.1. Indian reply to Pakistan’s Objections

- the Baglihar was not a violation of the treaty;
- the project was a run-of-the river project;
- the storage called poundage was necessary to meet the fluctuations in the discharge of the turbines;
- the project will not disrupt the flow of the Chenab River and the water will ultimately go to Pakistan;
- India stated that the removal of gates would mean the end of the project.58

The “questions” and “differences” over the project imply that one party deemed the project as the violation of the treaty, while the other party assessed the project within the parameters of the treaty. Since Commissioners level talks over the

project remained unsuccessful, the World Bank intervened eventually and appointed a neutral expert to resolve the dispute.

The neutral expert, Professor Raymond Lafitte of Switzerland, classified Pakistan’s objections while delivering the verdict for minor design changes including the reduction of the dam’s height of 1.5 meters. The neutral expert did not question the right of India to construct the project and did not even call the project a “dispute” between the two countries, but considered it as “differences”. The neutral expert required India to make some changes but Pakistan was not satisfied with the verdict, as the expert did not consider much of Pakistan’s objections.

It is important to note that the neutral expert set a precedence to be followed in future if the need for interpretation of the treaty arises. The expert applied the Vienna Convention on the laws of treaties (1969) and referred to the latest bulletin of the International Commission on Large Dams (ICOLD) rules of science and the state of the art practices. The need to incorporate state of the art knowledge of science in the interpretation of the treaty was emphasized by Raymond Lafitte. The decision of the court on Baglihar Project was made while using emerging knowledge of hydraulic, environment science, climate change and contemporary research on dams. The judgment of the court, which is set as precedence and an integral part of the treaty, stated that the rights and obligations of both the parties should be read in light of technical norms and noble standards.

The Baglihar dispute was settled by the third party intervention but relations between two countries again became hostile over the project when water was to be filled in the dam. According to the provision of the treaty, a minimum flow of 55,000 cusecs has to be maintained above Merala and it should be filled during the period between June 21 and August 31. Pakistan claimed that the filling was not done in the

59 Raymond Lafitte is a professor at the Swiss Federal Institute of Technology in Lausanne, Chairman of the Committee on Governance of Dam Projects of the International Commission on Large Dams (ICOLD). ICOLD is in favour of large dams
61 The Commission was established in 1928, India, Pakistan both are the members of ICOLD
63 Ibid.
stipulated period. Hence, the filling of the dam has made colossal damage to the country’s agriculture sector in downstream areas of the Chenab River.\textsuperscript{64} India replied that the filling of the dam was done on time stipulated in the treaty.\textsuperscript{65}

Pakistan demanded compensation from India for its losses incurred at the time when the dam was filled. India insisted that it had not violated the treaty and refused Pakistan’s claim. Therefore, a lot of discussions were held between the two countries, even pitching top leaderships in both countries. Finally, differences over the filling of Baglihar dam were resolved in 2010 at a meeting of the PICs in the spirit of cooperation and goodwill.

5.4.3. The Kishanganga Project Dispute

The Kishanganga Project is another project being constructed by India over the Kishanganga River at Gurez. The project’s power generation capacity is about 330 MW and the height is about 75 meters. It is located about 160 km upstream of Muzaffarabad (Pakistan Administrated Kashmir Capital). The project involves the diversion of Kishanganga (Neelum River in Muzaffarabad) through a 23 km long tunnel into the Madumati Nala, which will empty into the Wullar Lake, through which the Jhelum River flows. Pakistan is of the view that the diversion of the Kishanganga River will reduce the flow of 140,000 million acres feet of water to the Neelum Valley in Pakistan Administrated Kashmir.


In 1992, India officially informed Pakistan about the construction of project, which later raised three objections to the project.

- The first objection raised by Pakistan was that the inter-tributary diversion is barred by the treaty, and the water drawn from a given tributary must be returned to the same river;

- The second is that the existing Pakistani usage must be protected but India’s Kishanganga Project will deprive it of 27 per cent of the river’s natural flow, thereby inflicting damage to its existing 133,000 hectares of irrigation in the Neelum Valley. Also, it will affect the 900 MW Neelum-Jhelum hydro project on which construction is in progress at Muzaffarabad.

- Lastly, Pakistan criticized the design features of the project that do not meet the criterion of the Indus Water Treaty.66

India replied, citing the norms of the treaty, that where a plant is located on a tributary of the Jhelum River around which Pakistan has an agricultural and hydroelectric use, the water released below the plant may be delivered, if necessary,

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66 Fraz Ahmad Khan, “Pak accepts India’s deadline on Kishenganga Project,” *The Tribune*, (May 10, 2005).
into another tributary but only to the extent that the then existing agricultural use or hydro-electric use by Pakistan on the former tributary would not be adversely affected. To justify its claim, India stated that inter-tributary diversions in the Jhelum basin are permitted and only “the then existing” agricultural and hydroelectric uses shall be protected.\(^{67}\)

The construction of the project has created a new issue for heated discussions at different levels after the Baglihar project. The Indus Commission held a number of meetings to console the parties, but due to different approaches, interpretation of and perspectives on the treaty text, the dispute remained unresolved. Essentially, growing needs for water by both the countries and competitive behaviours have affected the discussions at every level.

### 5.4.3.1. Pakistani apprehensions over the project:

Pakistan further objected to the project on the ground of diversion of water through the tunnel, since:

- The project will have an adverse effect on Neelum-Jhelum link project that Pakistan initiated in 1988.

- Secondly, diversion of the water of the Kishanganga River to Jhelum would ruin the Neelum Valley in Pakistan and also that the project do not confirm to design criteria (a)\(^{68}\), (c)\(^{69}\), (e)\(^{70}\), (f) and (g)\(^{71}\) mentioned in Paragraph 11 of Annexure E to the treaty.

- In Pakistan it is also feared that the project could reduce Pakistan’s total water availability from 154 million acre feet (MAF) to about 140 MAF, a shortage of about 8-9 per cent.

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\(^{67}\) B.G. Verghese, Political Fuss over the Indus, *The Tribune*, (May 24, 2005).

\(^{68}\) The Storage Work shall not be capable of raising artificially the water level in the reservoir higher than the designed Full Reservoir Level except to the extent necessary for Flood Storage, if any, specified in the design.

\(^{69}\) The volume between the Full Reservoir Level and the Dead Storage Level of any reservoir shall not exceed the Conservation Storage Capacity specified in the design.

\(^{70}\) Outlets or other works of sufficient capacity shall be provided to deliver into the river downstream the flow of the river received upstream of the Storage Work, except during freshets or floods. These outlets or works shall be located at the highest level consistent with sound and economical design and with satisfactory operation of the Storage Work.

\(^{71}\) If a power plant is incorporated in the Storage Work, the intakes for the turbines shall be located at the highest level consistent with satisfactory and economical construction and operation of the plant and with customary and accepted practice of design for the designated range of the plant's operation. (Indus Water Treaty Draft, 1960)
Further, it the project would reduce the energy generation of Neelum Jhelum hydro project by about 16 per cent amounting to an annual loss of Rs. 5 billion at the current rates.\textsuperscript{72}

It is also feared to reduce the flow of water in the River Jhelum by 27 per cent.

5.4.3.2. Indian perspective on the project: The response of India has always been that the water of the Kishanganga River will ultimately go to Pakistan and there would be no serious damage in lower stream areas of Pakistan administrated Kashmir. Also India’s assessment is that the diversion of water through tunnel into the Jhelum would help Pakistan to generate more electricity in Mangla and Neelum Jhelum projects during winter season.

Pakistan has rejected all assessments and appraisals by India regarding the project. However, the dispute has figured on the agenda of talks even at the time and now between the Commissioners. As the Commission level discussion did not arrive at any settlement, the dispute has been referred to the International Court of Arbitration as instructed in the treaty, because the dispute involves techniques as well as legal issues. Hence, the decision of the International Court of Arbitration about the Kishanganga dispute is awaited.

5.4.3.3. On-going discussions on the dispute: A series of talks were held between the parties at various levels to resolve “differences” and “dispute” attached to the use of Kishanganga River, but talks remained unresolved and problematic. Pakistan has frequently criticised the project as the violation of the treaty, and therefore, in April 2006, India offered to modify the project and submitted a revised plan in July 2006. In the revised plan, India agreed to convert the storage and power generation project into a run-of-the-river project and construct poundage in accordance with the treaty. But again Pakistan rejected the plan mentioning that the project still has objectionable aspects.\textsuperscript{73} Later Pakistan communicated these objections to India in a detailed report, while the contention of India has been that the waters will ultimately go to Pakistan.


\textsuperscript{73} Ibid.
Contemplating the disputes over the use of Indus Basin, it could be concluded that it is the second time in the past ten years that the dispute over the utilization of water is referred to the third party for resolution. The Kishanganga dispute assumes a greater significance because Pakistan is also trying to construct its own project—the Neelum-Jhelum hydroelectric project—on the Pakistani side of the Neelum River (Kishanganga). The Indus Water Treaty states that the country that completes its project first will secure priority rights to the river. Hence, both countries are in contest to complete their respective projects as soon as possible without considering the objections and apprehensions of each other. There have been major delays in the construction of the projects on both sides of the border, because of the dispute and the issue of water-sharing between India and Pakistan is spiralling.

There are also some other hydroelectric projects which are seen in the light of controversy between India and Pakistan. These include Dul Hasti, Uri II, Chutak, Nimoo-Bazgo, Dumkhar, Ratle and Sawlakote Project etc. Aforementioned projects, objected to by Pakistan, have added new dimensions to the disputes attached to economic, security and strategic importance, but some are alien to the provisions of the treaty.

In the following table and figure, an attempt has been made to list out the chronology of water-related conflicts in the Indus Basin following the signing of the treaty. At the same time, the table and figure help us to understand the nature and intensity of water conflicts between the two countries and highlight how the two countries are engaged in different types of water-related conflicts (see appendix C).
The figure displays the conflicts over water between the two countries since the signing of the treaty. 80% is about water control, while 20% is about water allocation. Control of water from western rivers has received considerable attention from both the sides. It is because of the construction of the projects on western rivers, Pakistan fears that India is exercising “hydro hegemony” on these projects and it will use these projects as a bargaining tool with Pakistan to settle other related issues. To what extent these interpretations are valid but the growing concerns of the parties leading fierce competition over water.

The outcomes of the on-going disputes have broader implications not only for future water development but also about India-Pakistan relations. The Indus Treaty has served both the countries and stood with the test of time, but the growing economies of both countries and the energy needs are nurturing a different set of challenges. Multiplying problems related to acute water supply have also put on serious burdens on the Indus Basin Rivers. Exploitation of water with the last drops means the violation of the treaty. Under such an adverse situation, the Indus Water Commissioners are also under pressure from respective governments as they have failed to forge any final decision over certain disputes.

74 “Hydro hegemony is hegemony at the river-basin level, achieved through water resource control strategies such as resource, capture, integration and containment” (Zeiton and Warner, 2006a:1)
5.5. Reasons for Differences over Projects

It is usually easier to understand how the “questions,” “differences” and “disputes” attached to these projects aroused. To be precise, they appeared on the scene from different approaches to and differing interpretations of various provisions of the main text of the treaty.

- Some issues regarding the technicalities of the treaty are not acceptable to both parties. For instance, the Article III (4)\(^\text{75}\) of the treaty barred India in building any storage on the western rivers, except a limited utilisation that has been specified in Annexure D and E of the treaty, and also specifies technical conditions relating to engineering structures and features, such as live storage, dead storage, limits on raising artificially, the water level in the operating pool, poundage levels, crest level of the gates, location of intakes for the turbines, and so on.\(^\text{76}\) One party claims to be in full conformity with the criteria laid down in the treaty on these, while the other party says that this is not the case.

- The Indus Treaty is a highly technical treaty as compared to other treaties in the region. The dense technicalities allow ample opportunities for differences and have made it difficult to understand for engineers and even to Indus Water Commissioners.\(^\text{77}\)

- Some experts are of the view that the Indus Water Treaty carried out a surgery of the Indus Basin into two as eastern and western group of rivers. Though both countries are highly dependent on each other for cooperation and development of the basin, but the division of the basin has reduced the level of cooperation between the two countries.

- Environmental issues like climate change have not been covered in the treaty.

Pakistan, as lower riparian has apprehensions over the projects on the western rivers and considers them as the existential threat to her inhabitants, as stored water

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\(^{75}\) The Article III (4) of the Indus Water Treaty states: except as provided in Annexures D and E, India shall not store any water of, or construct any storage works on, the western rivers. (see more in Annexure D and E)


can flush out the land and property. Secondly, Pakistan is afraid that these projects will reduce the water flow in critical times, especially during the sowing seasons. On the other hand, India’s concern is to improve its energy efficiencies and economy, for which it is endeavouring to utilise the full power potentialities. Its booming economy, waves of globalization, overwhelming urbanization push India to generate more and more electricity from hydropower projects on Himalayan Rivers.\(^\text{78}\) Its peak power demand in the year 2007-08 was 108,886 MW, while the peak power demand met was 90,793 MW; there was a shortage of 18,093 MW or 16.6 percent of peak demand. The projects on western rivers are a crucial part of India’s plan to close that gap. The hydro power sector is also an attractive revenue earner for Himalayan states, which are underdeveloped in the industrial sector as compared to other states. Therefore, the exploitation of hydro power from Himalayan Rivers is the only source to boost their industrial sector.\(^\text{79}\) But in reply to Pakistan’s apprehensions on western rivers, Indian position is that it is not violating the spirit of the treaty. Secondly, Pakistan’s security fears are misconceived as India cannot flood Pakistan without flooding it first.

### 5.6. Kashmiri Concerns over Projects on the Western rivers

Quite apart from Indian and Pakistani questions and apprehensions, the projects on western rivers in Indian administrated Kashmir need to focus on the human security values of the people of Jammu and Kashmir, because, some projects on western rivers are being constructed by the J&K Government to boost the state’s economy and for the welfare of the people. But the treaty between India and Pakistan has inflicted heavy financial loss to Kashmiris, as in the case of Baglihar Project, which has estimated that the state of J&K has to incur the loss of Rs 265 Crore annually because of the treaty and the total losses are over Rs 3325 Crore on Chenab basin.\(^\text{80}\)

The common view in Kashmir is that Pakistan’s opposition to the development of hydropower under the Baglihar project has sidelined hopes and aspirations of the

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\(^\text{78}\) Reimaging the Indus, (2011): 15-17, Report Published by the Observer Research Foundation New Delhi and Lahore University of Management Science.\(<\text{http://www.orfonline.org/}\>(\text{accessed 26 September 2012}).


Kashmiris. With the construction of Baglihar and Kishanganga hydroelectric power projects by India, the rights of Kashmiris on these projects have been brought to the center of the Indus water issue. In case of both these power projects, pressure from the people and polity of J&K state is an important factor to look at.\(^{81}\)

While India and Pakistan have cooperated over the Indus Basin since 1960, recent disagreements over projects on the western rivers have posed serious challenges to future development of the parties. Though the treaty has the potential to resolve technical issues but these issues are so politicized with the passage of time on security and economic grounds, resulting out of political liaisons between India, Pakistan and Jammu and Kashmir. Therefore, to resolve these issues, a triangle and deeper look is crucial to take into account future aspirations of all the parties.

### 5.7. Water Conflict and India-Pakistan Relations

As far as India and Pakistan are concerned, no two countries in the world have so much in common as these. Both countries have similar cultural roots, linguistic similarities and shared economic system. However, since independence they have continuously been in a state of undeclared war with uncompromised issues, especially over water. The idea of sharing water is historically constructed, emotionally stimulating, and politically divisive. Though water is technically not a core issue between the two countries, differences over the use of water of the rivers is a core issue.\(^{82}\) In recent years, utilization of water has become an issue that is gaining prominence in the bilateral relationship between India and Pakistan.

In 1960, both governments agreed to sign the Indus Water Treaty, but public reaction to the treaty was very different. People in Pakistan criticised the loss of three eastern rivers to India, although Pakistan received a huge amount of financial aid in lieu of this loss even though this loss imposed heavy financial and ecological

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penalties upon Pakistan.\textsuperscript{83} In 1964, opposition parties of the countries attacked on President Ayub Khan, and used the termed as “selling” the historical rights of the country over the common rivers.\textsuperscript{84} While in India, the public often criticised the loss of its three western rivers to Pakistan and the treaty makes it impossible for India to utilise the full power potentialities on three western rivers.\textsuperscript{85}

Media, academicians, and different groups of society and agricultural communities from both sides opposed the Indus Water Treaty. Even for opposition members of both the governments, the Indus Water Treaty is suspicious and unfair. The water experts from the both countries are also not happy with the treaty. This has eventually led to the politicisation of the water issue within both countries, and thereby, creating an immense pressure on respective governments.

It is not difficult to understand the changing tone of political relations between the two countries vis-à-vis water. It can be understood by revision of recent projects being executed by India on western rivers, which are severely criticised by Pakistan. The treaty has survived various external and internal threats which were related to the two countries political relationships,\textsuperscript{86} but recent years have marked strained relations vis-à-vis water and therefore the Indus Water Treaty has come under the strains, mainly due to construction of hydroelectric projects, including the Salal, Baglihar, Wullar Barrage, (Tulbul Navigation) the Kishanganga, the Nemo-Bazgo. Not all of them are sans disputes and are deemed as controversial projects.\textsuperscript{87}

On the other hand, Indian experts have expressed frustration over long delays in approval of these projects due to Pakistani objections, and about 27 projects on the western rivers have been questioned by Pakistan. Indian analysts and media are of the view that the provision of neutral experts should be the last option and not the recourse for each and every project that India proposes. The reference does cost time,

\textsuperscript{87} Richa Singh, Transboundary Water Politics and Conflicts in South Asia: Toward ‘Water for Peace, Centre for Democracy and Social Action New Delhi (n d): 10.
money and efforts, in terms of delaying the projects, thereby increasing the cost of not only construction but also related expenditures in not making use of the hydro potential.88

Moreover, Pakistan argued that India’s line of action on the riparian issue hardly warrants a high degree of trust in good neighbourliness. In addition, the political mobilization on dam construction on the western rivers has stimulated anti-Indian sentiments among farmer associations, military consortium, politicians, and fundamentalist groups in Pakistan. From a security point of view, some strategic analysts in Pakistan are of the view that the Indian intentions are directed towards flooding Pakistan during tensions and that flood waters could destroy Pakistani defenses. Pakistan has also certain economic and defensive apprehension on the construction of projects, especially on Jhelum and Chenab River.

In 2008, after filing of the Baglihar project and subsequent reduction of the water flow in Pakistan, the project has drawn serious concerns and gained critical currency among the countries’ political circles. With regard to Wullar Barrage, it has also incurred political and strategic voices from Pakistan, as it fears that with the construction of the Wullar Barrage in Indian administered Kashmir (IAK), India could close the gate of Wullar Barrage during a warlike situation, enhancing the ability of Indian troops to enter Pakistan.89 The project is also frequently criticized in farming communities.

The difficulties in interpretations of the treaty can be attributed to political motives rather than to differences over technical and engineering aspects of water management. Some non-state actors, especially radical extremist groups from two countries have their vested interests in the complex issue of water sharing and the treaty. Some are of the view that if the gap between water availability and requirements widens, terrorist operations and recruitment in the region will increase.90

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Given the present political atmosphere viz-a-viz water, it seems that water has gained a critical value within the two countries and none of the parties are ready to compromise. It seems that the temperament of the political systems, interests of non-state actors and the regional political atmosphere determine the state of affairs of India-Pakistan conflict over water. Indo-Pak water relations can be well understood taking into consideration the statement of President Asif Ali Zardari in the Washington post. According to Asif Ali Zardari,

“The water crisis in Pakistan is directly linked to relations with India. Its relations with India could prevent an environmental upheaval in South Asian region, but failure to do so could fuel the fires of discontent that may lead to extremism and terrorism”.  

The Indus water dispute is overtly linked with Jammu and Kashmir, (a disputed territory) where the major rivers of disputed water originate. It is quite vividly expressed by the US Assistant Secretary of State, George McGhee, in his letter to David Lilienthal, in 1951.

“A settlement of the canal waters question would signify those basic reversals of policy by the governments of both India and Pakistan without which there can be no political rapprochement. Thus, the canal waters question is not only a functional problem, but also a political one linked to the Kashmir dispute”.  

In 1960, it was hoped that the resolution of water dispute would pave the way for resolving the Kashmir dispute. At the time of signing of the treaty, Jawaharlal Nehru the Indian Prime Minister, before coming to Pakistan expressed in the Indian parliament that he was ready to resolve any issue including Kashmir. Similar views and hopes were also expressed by Pakistani President Ayub Khan. Hitherto, three wars has been fought between India and Pakistan over Kashmir, but the dispute still remains unresolved and problematic. Until and unless the Kashmir issue is settled, both countries will not be able to develop good relations in the future. If the countries

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92 Letter from US Assistant Secretary of State to David Lilienthal, (August 7, 1951).  
came up with an agreement to settle the Kashmir dispute, nothing will prevent them from building good relationships.

**Conclusion**

To resolve water disputes, a landmark step was taken in 1960 when Indus Water Treaty was signed as a major bridge of cooperation and understanding between the two countries. The Indus Water Treaty is a comprehensive yet complex treaty which involves varying degrees of political and technical processes and is confined to two of the five riparian states of the Indus Basin. It has withstood the test of time, but today it has come under stress because of different sets of challenges.

The utilisation of water remained the bone of contention between the two countries and has widened the trust gap. In recent years, the differences over utilisation of water became so grave that the Indus Water Treaty was in the clutches of controversy between the two, especially over share and quantity of water and differences about certain projects. Tulbul, Baglihar and Kishanganga, Dulhasti, Bursar, Nemo-Bazgo projects have posed serious challenges to India, Pakistan and to the Indus Water Treaty itself. These projects have also intensified the possibility for future conflicts at various levels.

Given the present circumstances and discussions over utilisation of water, it seems that the treaty has limited the ability of both countries to manage and utilise water resources in efficient manner. It appears that finding solutions in terms of water utilisation beyond the treaty is the best and viable option for both the countries. Hence, it can be suggested that initiated of meaningful steps are inevitable to resolve the issue of water management and utilisation cutting across the emotional and political boundaries for peace and harmony of the region, as the responsible nations of the South Asian sub-continent.