

THE INDUS WATERS TREATY

Asymmetric Obligations, Unequal Concessions and Pakistan's Weaponisation

Part I: The Architecture of Inequity — How India's Goodwill Was Codified into Concession

1. Background: The Partition of a River System

The Indus River System comprises six major rivers—the Indus, Chenab, Jhelum, Ravi, Beas, and Sutlej—flowing through the territories of both India and Pakistan. The system sustains drinking water, agriculture, and electricity generation across the Indus Basin, supporting hundreds of millions of people on both sides of the border.

When British India was partitioned in 1947, the Indus River System was also divided between the two successor states. The geographic reality was stark: India, as the upper riparian state, held the headwaters of most rivers, while Pakistan's agricultural heartland—the heavily irrigated Punjab plains—depended critically on continued water flows from the east. India, for its part, required access to the system for its own development objectives in Punjab and Rajasthan, while seeking stability and normalised relations with its new western neighbour. Despite its own pressing domestic needs, India concluded this highly concessionary water-sharing pact with Pakistan on 19 September 1960, an agreement facilitated by the World Bank.

2. Negotiations – India paid the price for rationality

2.1 Pakistan's Strategy of Delay and the 1954 World Bank Proposal

The trajectory of the negotiations was shaped, from the outset, by the asymmetry between India's reasonable and constructive approach and Pakistan's maximalist, sometimes absurd, demands — an asymmetry that anchored outcomes far more favourably to Pakistan than equity would have warranted. The World Bank's first substantive proposal of 5 February 1954 illustrates this plainly: even at this initial stage, it required significant one sided concessions from India:

- All planned Indian developments along the upper reaches of both the Indus and Chenab were to be abandoned, with those benefits accruing to Pakistan instead
- India was required to forgo diverting approximately 6 MAF from the Chenab River.
- No Chenab waters at Merala (now in Pakistan) would be available for Indian use.
- No water development would be permitted in Kutch from the river system.

Despite these considerable impositions, India accepted the proposal in good faith almost immediately, signalling its genuine desire for a speedy resolution. Pakistan, by contrast, delayed its formal acceptance for nearly five years until 22 December 1958. As a result of this goodwill gesture of India, the restrictions were imposed on her while Pakistan continued developing new uses on the Western rivers without equivalent constraints. Pakistan absorbed the lesson that obstruction pays and cooperation costs—and has applied this lesson consistently ever since.

3. What India Lost: The Scale of Sacrifice

3.1 The Water Allocation

Under the Treaty's allocation formula, India received exclusive rights to the three Eastern rivers—the Sutlej, Beas, and Ravi—while Pakistan received rights to the waters of the three Western rivers—the Indus, Chenab, and Jhelum. India was permitted certain limited, non-consumptive uses of the Western rivers within its own territory, primarily for run-of-river hydropower generation, subject to extensive design and operational restrictions.

In volumetric terms, the Eastern rivers allocated to India carry approximately 33 million acre-feet (MAF) of annual flow, while the Western rivers allocated to Pakistan carry approximately 135 MAF—giving Pakistan roughly 80 percent of the system's water. India received 20 percent, in exchange for relinquishing all claim to the vastly larger Western system. The critical point is that India did not gain new water from the agreement. What India received was formal acknowledgment of flows it already accessed, in exchange for relinquishing all claim to the far larger Western system. India was permitted certain non-consumptive uses of the Western rivers within its territory—primarily run-of-river hydropower generation.

3.2 The Financial Concession: Paying to Give Away Water

Perhaps the most striking anomaly of the Treaty is the financial provision. India agreed to pay approximately £62 million (approximately \$2.5 billion in present value) as compensation to Pakistan to build water resources infrastructure in Pakistan-occupied Kashmir. This payment represents a unique precedent in which the upstream country, which was already surrendering the majority of the system's water, additionally paid the downstream country for the “*privilege*” of doing so. India essentially subsidised Pakistan's acceptance of a deal that heavily favoured Pakistan on the fundamental question of water allocation.

4. The Treaty's Structural Unfairness

4.1 Unilateral Asymmetric Restrictions on India

The Treaty imposes a series of specific design and operational restrictions on India's use of the Western rivers that have no corresponding obligations on Pakistan's side:

- India can develop only a limited Irrigated Cropped Area (ICA) in its territory.
- India faces strict limits on the volume of water that can be held in any storage facility on the Western rivers.
- India must comply with specific design criteria for any hydropower facilities on the Western rivers, including restrictions on pondage and storage capacity.

These restrictions are one-directional: they constrain India's lawful development of resources within its own territory while imposing no equivalent transparency or restriction requirements on Pakistan. The result is a treaty that treats the upstream state—India—as the party requiring oversight and restraint, while the downstream state benefits from guaranteed flows.
