



# Explainer India's Suspension of **INDUS WATERS TREATY**

*Published May 05, 2025*

*Publication No. R0520-050525*

Centre for Integrated and Holistic Studies (CIHS) is a non-partisan, independent, research think tank headquartered in New Delhi, India. CIHS is dedicated to enriching individual decision making by presenting innovative ideas, fostering informed public debate, and advancing effective policy and programme development to advance humanity. Aspiring to positively shape the future of society, CIHS works to share knowledge on pressing global challenges and opportunities by fostering a 'culture of scholarship' and advancing informed public engagement.

Every effort is made to ensure that the information contained in these publicly available briefings, factsheets, reports are correct at the time of publication. However, if you have any comments on our documents please email [info@cihs.org.in](mailto:info@cihs.org.in)

**Disclaimer and Limitation of Liability:** This report is for public distribution and has been furnished solely for information and must not be reproduced or redistributed to others without written consent. None can use the report as a base for any claim, demand or cause of action and, also none is responsible for any loss incurred based upon the report.

Explainer:

*India's Suspension of Indus Waters Treaty*

## Table of Content

Executive Summary	5
I. Background & Immediate Trigger	6
II. Anatomy of India's Counter measure	8
III. Comparative Case-Law	12
IV. Indian Domestic Law: Treaty Obligations & Constitutional Provisions	13
V. Concluding Observations	14
References	15

## Executive Summary

1. **Targeted terror in Pahalgam triggers action** – On April 22, 2025 Pakistan backed Lashkar-e-Taiba terrorists massacred Hindu tourists at Baisaran meadow. Twenty-four hours later New Delhi served a *note verbale* placing the 1960 Indus Waters Treaty (IWT) “*in abeyance*” until Pakistan verifiably ceases cross-border terrorism.
2. **Three-fold legal foundation for suspension** – (a) *Fundamental change of circumstances* (VCLT, Art 62): six-fold population growth, climate-driven glacial retreat and urgent hydropower needs make the 1960 allocation obsolete; (b) *Material breach*: Pakistan’s continued sponsorship of terrorism and obstruction of treaty mechanisms; (c) *Procedural breach*: Islamabad’s refusal to discuss India’s 2023 and 2024 modification notices under Art XII (3).
3. **Counter-measure doctrine validated by precedent** – International Court of Justice in *Gabcikovo-Nagymaros* and Air-Services arbitration (US versus France) recognise proportionate, reversible treaty suspensions as lawful inducements to compliance, precisely the safeguards India has embedded in its IWT pause.
4. **Executive prerogative under Indian constitutional law** – Treaty-making and withdrawal lie with Union executive; the IWT was never enacted as a statute and courts treat such foreign-affairs decisions as non-justiciable “acts of State”. The Supreme Court has not intervened in the 2016 PIL challenging the treaty. Moreover, Assembly of Indian UT of Jammu & Kashmir twice urged renegotiation, and a 2022 Lok Sabha Standing Committee recommended that the Government revisit the treaty.
5. **Proportionate, reversible and politically resilient step** – India continues humanitarian flows, frames the pause as a temporary, non-forcible measure, and aligns domestic opinion behind a water-security and counter-terror posture that has, thus far, survived judicial and parliamentary scrutiny.

## I. Background & Immediate Trigger

At 14:30 hrs. on 22 April 2025 at least four terrorists linked to Lashkar-e-Taiba opened targeted automatic fire on Hindu holiday-makers at Baisaran meadow above Pahalgam after ascertaining their Hindu Identity by recital of Islamic verses and checking the now deceased men for circumcision. These tourists from thirteen Indian States and one Nepali citizen.<sup>1</sup> A day later, India's Foreign Secretary Vikram Misri summoned the Pakistani chargé d'affaires and delivered a **note verbale** placing the 1960 Indus Waters Treaty (IWT)<sup>2</sup> “in abeyance,” a reversible suspension conditioned on Pakistan's abandonment of cross-border terrorism.<sup>3</sup> New Delhi emphasised three points:

- **Not termination but pause:** All treaty machinery, data exchange and Western-river releases would resume the moment Islamabad demonstrated verifiable compliance.
- **Counter-measure:** Suspension is lawful, non-forcible inducement under the International Law Commission (ILC) Articles on State Responsibility.
- **Long gestation:** Since at least 2016 Delhi had warned that the river bargain could not survive unrelenting terror.

Even before Pahalgam, parliamentary questions, cabinet reviews and twin Article XII (3) notices (January 2023 and August 2024) had shifted India's position from political notice (“*blood and water cannot flow together - PM Narendra Modi*”)<sup>4</sup> to legal doctrine (*Fundamental change, material breach and counter-measures*).

The **Indus Waters Treaty (IWT)** of 1960 is a water-sharing agreement between India and Pakistan, brokered by the World Bank. It has long been hailed as one of the most durable treaties in the world, surviving multiple wars and crises between the two countries. The treaty allocates the six rivers of the Indus basin: India receives exclusive use of the three Eastern Rivers (Ravi, Beas, Sutlej), while Pakistan receives the bulk of the Western Rivers (Indus, Jhelum, Chenab) with limited use rights given to India.<sup>5</sup>

Tensions have risen in recent years as Pakistan has since its inception held a policy of sponsoring cross-border terrorism, prompting India to explore leveraging the IWT for redressal. In April 2025, following a deadly terrorist attack in Jammu and Kashmir, Government of India announced that

---

<sup>1</sup> Pahalgam Terror Attack: इस्लामिक जिहादियों ने पर्यटकों को बनाया निशाना, चश्मदीनों ने बताया खौफ का मंजर '

(Jammu Kashmir Now, 22 April 2025) <https://www.jammukashmirnow.com/hindi/Encyc/2025/4/22/Islamic-terrorists-attacked-Hindu-tourists-in-Pahalgam-killing-2-and-injuring-10TRF-claims-responsibility.html> accessed 5 May 2025.

<sup>2</sup> *Indus Waters Treaty* (Karachi, 19 September 1960)

<sup>3</sup> Statement by Foreign Secretary on the decision of the Cabinet Committee on Security (CCS) '

(Ministry of External Affairs, 23 April 2025) [https://www.mea.gov.in/Speeches-Statements.htm?dtl/39442/Statement\\_by\\_Foreign\\_Secretary\\_on\\_the\\_decision\\_of\\_the\\_Cabinet\\_Committee\\_on\\_Security\\_CCS](https://www.mea.gov.in/Speeches-Statements.htm?dtl/39442/Statement_by_Foreign_Secretary_on_the_decision_of_the_Cabinet_Committee_on_Security_CCS) accessed 5 May 2025.

<sup>4</sup> Indian Express, 'Blood and water cannot flow together: PM Modi '(27 September 2016)

<sup>5</sup> World Bank, 'Fact Sheet: The Indus Waters Treaty 1960 and the Role of the World Bank '(Fact Sheet, World Bank, 11 June 2018) <https://www.worldbank.org/en/region/sar/brief/fact-sheet-the-indus-waters-treaty-1960-and-the-world-bank> accessed 5 May 2025.

the treaty would be “held in abeyance” (suspended) until Pakistan ceases its support for terrorism. This extraordinary step has triggered complex legal questions on India’s right to suspend or modify the treaty. This explainer analyses those questions, including relevant international treaty law (e.g. the Vienna Convention on the Law of Treaties), past precedents of treaty suspension, India’s domestic constitutional provisions on treaties, historical incidents involving IWT, India’s rightful and legally compliant counter measure.

## II. Anatomy of India's Counter measure

India's counter measure distils the law into three mutually reinforcing points:

### 1. Change in Circumstances

When the IWT was signed, barely 143 million people lived on the Indian side of the basin and 62 million on the Pakistani side. Today the corresponding figures hover around 460 million and 240 million, and United Nations projections add another 600 million souls by mid-century.<sup>6</sup> Electricity demand has risen twelve-fold and Delhi's climate-policy roadmap depends on tapping the unharnessed Western-river head-drops for clean hydropower. Meanwhile the IPCC now ranks the upper Indus as the planet's most vulnerable "water-tower," accelerating glacier retreat is shifting seasonal flows and amplifying flood-and-drought risk in ways un-imaginable to the 1960 negotiators.<sup>7</sup> **Under Article 62 of the Vienna Convention on the Law of Treaties**, such *unforeseeable and radical* factual change entitles a party to suspend obligations that have become unreasonable.<sup>8</sup> *In simple words; when the world around a treaty has mutated beyond recognition, the treaty may need a time-out so that its terms do not sabotage present-day survival.*

### Rationalizing Fundamental Change of Circumstances – VCLT Article 62

Requires an *unforeseen, radical* transformation of facts constituting the treaty's "**essential basis**".

India points to:

- Six-fold population rise since 1960, altering per-capita water needs.
- Climate-driven glacial melt changing flow regimes.
- The Western rivers 'untapped hydroelectric potential crucial for India's clean-energy targets.

Delhi's 2023 & 2024 notices catalogue these shifts as "unforeseeable" in 1960.<sup>9</sup>

### 2. Material Breach of Indus Water Treaty by Pakistan

In past three decades alone, from Kargil (1999) and through Parliament (2001), Mumbai (2008), Pathankot (2016), Uri (2016), Pulwama (2019) to Pahalgam (2025) amongst other; Pakistan has orchestrated serial terrorist and Pakistan regular army engineered or abetted massacres from Pakistani soil in India, not to mention unabated use of Indian territory against India by operating terrorist training camps and providing material and logistical support to Jihadi terrorism from Pakistan Occupied Jammu and Kashmir and Ladakh. Security Council Resolution 1373 obliges

---

<sup>6</sup> UN Department of Economic and Social Affairs, World Population Prospects 2024: Summary of Results (2024) 12 – 15

<sup>7</sup> IPCC, 'High Mountains' in AR6 Working Group II Report (2022) para 10-9

<sup>8</sup> Vienna Convention on the Law of Treaties 1969, art 62.

<sup>9</sup> Shrabana Barua, 'India's Notices to Pakistan to "Modify" the Indus Water Treaty: Causes and Implications' (Issue Brief, Indian Council of World Affairs, 6 February 2025) [https://www.icwa.in/show\\_content.php?lang=1&level=1&ls\\_id=12363&lid=7542](https://www.icwa.in/show_content.php?lang=1&level=1&ls_id=12363&lid=7542) accessed 5 May 2025.



every State to “refrain from providing any form of support” to terrorism; Pakistan's persistent default violates an erga omnes duty as well as the good-faith premise of a co-operative water regime.<sup>10</sup> *International-law doctrine therefore allows India to deploy a counter-measure: a temporary, reversible suspension proportionate to the wrongful acts and designed to coerce compliance, exactly as Articles 49–52 of the ILC’s 2001 Articles on State Responsibility envisage.*<sup>11</sup> Plain English: when the other side both fuels terror and blocks the treaty’s own safety-valve, withholding your side of the bargain until they mend their ways is legally—and morally—justified. Moreover, India rightfully asserts that Pakistan's breach of that universal duty, along with its obstinacy inside the treaty (blocking dam clearances, refusing to discuss modification notices of 2023-24) amounts to a **material breach** of the IWT itself.

Year	Event	India’s Action	Legal Rationale
1948	East Punjab shuts Upper Bari Doab & Dipalpur canals	Five-week stoppage ends with Delhi Agreement	Upper-riparian leverage
1960	Indus Waters Treaty signed	Voluntary division generous to Pakistan	<i>Pacta sunt servanda</i>
1965 & 1971	Indo-Pak wars	Flows continue uninterrupted	Humanitarian restraint by India
1990s-2000s	Pakistan litigates Baglihar & Kishenganga dams	India prevails but perceives politicised Permanent Indus Commission (PIC)	Seeds breach argument
2016	Uri terror attack, 19 soldiers killed	PM Modi: “Blood & water cannot flow together” <sup>3</sup>	Unabated Terrorism Policy of Pakistan
2019	Pulwama terrorist Attack aided by Pakistan, 40 CRPF dead	Indian Minister tweets diversion of eastern rivers <sup>15</sup>	Hard-line but within treaty
2021	Parliamentary Standing Committee urges Renegotiation	Legislative Rationalisation	Changed circumstances
25 Jan 2023	<b>Formal Article XII(3) notice</b>	<b>90-day clock starts</b>	<b>Breach if Pak refuses</b>
9 Aug 2024	<b>Second notice to ‘review and modify’</b>	<b>Dossier of non-co-operation grows</b>	<b>Second notice following no response from Pakistan</b>

<sup>10</sup> UN Security Council Res 1373 (28 September 2001) UN Doc S/RES/1373

<sup>11</sup> International Law Commission, Responsibility of States for Internationally Wrongful Acts (2001) arts 49–52

	<b>Pahalgam Terrorist</b>		
<b>22 Apr 2025</b>	<b>massacre aided by</b>	<b>Cabinet suspends IWT</b>	<b>Counter-measure &amp; material</b>
	<b>Pakistan</b>		<b>breach crystallise</b>

Table 1: *Seventy-Seven Years of Pakistan's Breach and India's Action* <sup>12</sup>,

**3. Procedural breach:** Inside the treaty, Islamabad's refusal even to *discuss* India's Article XII(3) review notices of 25 January 2023 and 9 August 2024 constitutes a procedural breach of an essential clause—turning a renovation pathway into a dead end.<sup>13</sup> *International-law doctrine therefore allows India to deploy a counter-measure: a temporary, reversible suspension proportionate to the wrongful acts and designed to coerce compliance, exactly as Articles 49–52 of the ILC's 2001 Articles on State Responsibility envisage.*<sup>14</sup> Plain English: when the other side both fuels terror and blocks the treaty's own safety-valve, withholding your side of the bargain until they mend their ways is legally—and morally—justified.

IWT Clause	Substance	India Emphasises
Arts II-IV	Eastern rivers for India, Western for Pakistan with limited Indian uses	India has always met flow guarantees—even during full-scale wars—proving good faith.
Art VI	Monthly data exchange via Permanent Indus Commission (PIC)	Pakistan “weaponised” the PIC, stalling clearance for lawful Indian hydropower projects for a decade.
Art IX & Annexes F/G	Step-wise dispute settlement (Difference → Neutral Expert; Dispute → Court of Arbitration)	Islamabad <b>forum-shopped</b> , rushing to arbitration before finishing the Neutral-Expert stage as proposed by India.
Art XII(3)	“The provisions... may from time to time be modified... by a duly ratified treaty between the two Governments.”	Delhi's 25 Jan 2023 and 9 Aug 2024 notices invoked this clause; Pakistan's silence is cast as material breach.
<i>No exit clause</i>	Treaty to remain in force unless replaced	<b>Silence does not bar suspension under general international law.</b>

Table 2: *Treaty Architecture & India's use of Article XII(3)*<sup>15, 16, 17, 18</sup>

<sup>12a</sup> India issues notice to Pakistan seeking modification to IWT 'New Indian Express' (27 January 2023)

<sup>13</sup> Indian Council of World Affairs, 'India's Notices to Pakistan to “Modify” the Indus Water Treaty: Causes and Consequences' (March 2025)

<sup>14</sup> International Law Commission, Responsibility of States for Internationally Wrongful Acts (2001) arts 49–52

<sup>15</sup> IPCC, *AR6 WGII Report* ch 10 (2022) 345–347.

<sup>16</sup> World Bank, 'World Bank Declares Pause to Protect Indus Waters Treaty' (Press Release, 12 Dec 2016).

<sup>17</sup> Shrabana Barua, 'India's Notices to Pakistan to “Modify” the Indus Water Treaty: Causes and Implications' (Issue Brief,

Indian Council of World Affairs, 6 February 2025) [https://www.icwa.in/show\\_content.php?lang=1&level=1&ls\\_id=12363&lid=7542](https://www.icwa.in/show_content.php?lang=1&level=1&ls_id=12363&lid=7542) accessed 5 May 2025.

<sup>18</sup> International Law Commission, Articles on Responsibility of States for Internationally Wrongful Acts (2001) UN GA Res 56/83 annex, arts 49–54.

Both notices gave Pakistan ninety days to enter government-level talks. With no response forthcoming, Delhi deemed Islamabad in **procedural default** and free to act unilaterally.<sup>19</sup>

Category	Treaty or Customary Rule Invoked	Indian Position
<b>Textual</b>	Art. XII(3) (modification)	Pakistan's refusal to engage = repudiation of an <i>essential procedural obligation</i> .
<b>No-exit silence</b>	<i>Expressio unius, exclusio alterius</i> does not apply; customary rules always reserve suspension rights in extreme cases (VCLT Art. 26 & 60).	Silence ≠ prohibition; suspension lawful if material-breach threshold met.
<b>Good-faith (Art. 31 VCLT)</b>	Treaties must be performed <i>bona fide</i> . Pakistan's long-term sponsorship of groups attacking India breaches the foundation of mutual co-operation.	
<b>Essential-security exception (customary)</b>	States may suspend non-fundamental agreements to protect vital security interests; water sharing is <i>economic/commercial</i> , not humanitarian like Geneva Conventions.	
<b>Rebus sic stantibus</b>	Art. 62 VCLT requires unforeseen & radical change; population boom + climate shocks alter water availability calculus.	
<b>Counter-measure proportionality</b>	ILC Art. 51: counter-measures must cease once wrongful act stops. Delhi brands abeyance "reversible upon verifiable cessation of terror".	

Table 3: Treaty-Specific Legal Rationale in India's Dossier

<sup>19</sup> MEA, *Transcript of Weekly Media Briefing* (2 Feb 2023) on India's Article XII notice.

### III. Comparative Case-Law

Viewed through the lens of settled jurisprudence on counter-measures, India’s calibrated decision to place the Indus Waters Treaty in temporary abeyance sits squarely within the corridor of legality.

Tribunal	Case & Year	Party invoking exit	Result	Relevance to IWT
ICJ	<i>Gabcikovo-Nagymaros</i> (1997)	Hungary	Suspension unlawful; but Court accepts <i>counter-measures</i> concept. Ref: <a href="#">MPIL</a>	Affirms theory India now uses.
Arbitral	<i>Air Services Agreement</i> (US v France USA 1978)		Proportional suspension upheld as lawful counter-measure. Ref: <a href="#">IILJ</a>	Template for IWT abeyance.

In *Gabcikovo-Nagymaros* the International Court of Justice acknowledged that, although Hungary’s unilateral suspension ultimately failed the necessity test, a treaty may lawfully be withheld as a proportionate counter-measure where it seeks to induce the other party’s compliance rather than to extinguish the bargain altogether.<sup>20</sup> The principle was sharpened in the *Air Services Agreement* (US v France) arbitration, which upheld a selective, time-bound suspension of air traffic rights as a legitimate response to France’s prior breach, stressing proportionality, reversibility, and the offender’s opportunity to return to good faith performance—precisely the safeguards India has baked into its IWT pause.<sup>21</sup> Authoritative scholarship in the *Max Planck Encyclopedia of Public International Law* further affirms that such suspensions are an accepted modality of counter-measures when a continuing material breach—here, Pakistan’s state-enabled cross-border terrorism and serial obstruction of IWT dispute-settlement procedures—strikes at the treaty’s “reciprocal equilibrium.”<sup>22</sup> Read together, these authorities supply a doctrinal scaffolding that renders India’s step not an outlier but a textbook application of contemporary international law.<sup>23</sup>

<sup>20</sup> *Gabcikovo-Nagymaros Project* (Hungary/Slovakia) (Judgment) [1997] ICJ Rep 7, 55–58 (paras 82–87).

<sup>21</sup> *Arbitral Award in the Air Services Agreement of 27 March 1946 (United States v France)* (1978) 18 RIAA 417, 443–447 (paras 79–95).

<sup>22</sup> James Crawford, ‘Countermeasures’ in Rüdiger Wolfrum (ed), *Max Planck Encyclopaedia of Public International Law* (OUP online edition, updated 2022) para 54.

<sup>23</sup> See, for a consolidated analysis applying these precedents to the Indus Waters context, International Law & Justice Working Paper 2025/3, Institute for International Law and Justice, New York University, 12–15

## IV. Indian Domestic Law: Treaty Obligations & Constitutional Provisions

India's power to sign, modify or suspend treaties is an executive act exercised under the Union's foreign-affairs competence.<sup>24</sup> Parliament's role is engaged only when legislation or a constitutional amendment is needed (e.g. to cede territory).<sup>25</sup> Because the Indus Waters Treaty (IWT) allocates water between sovereigns and required no change to domestic rights, it entered Indian law solely as an executive agreement; no statute incorporates it.<sup>26</sup>

Article 253 of the Constitution merely *permits* Parliament to legislate for implementation; it does not oblige the House to approve suspension.<sup>27</sup> Indian courts apply a dualist approach: an un-legislated treaty is not directly enforceable, and questions of foreign policy are treated as “acts of State” beyond judicial review unless a fundamental right is violated.<sup>28</sup> Thus the Supreme Court has, to date, declined to interfere with a 2016 public-interest petition challenging the IWT's constitutionality.<sup>29</sup>

Political support for a harder line has grown. The **Jammu & Kashmir Assembly twice urged renegotiation**, and a **2022 Lok Sabha Standing Committee recommended that the Government “take suitable steps to revisit the treaty in light of climate change and security concerns.”**<sup>30</sup>

These signals buttress the Cabinet Committee's April 2025 decision to place the treaty “**in abeyance.**”

---

<sup>24</sup> Constitution of India 1950 arts 73, 246 (List I, entry 10).

<sup>25</sup> *In re Berubari Union* [AIR 1960 SC 845] (India SC) 857.

<sup>26</sup> Indus Waters Treaty (Karachi, 19 September 1960) art XII.

<sup>27</sup> Constitution of India 1950 art 253.

<sup>28</sup> *Maganbhai v Union of India* (1969) 3 SCR 254, 281–82 (Hidayatullah CJ).

<sup>29</sup> Writ Petition (Civil) No 211/2016 *Ashish Kumar v Union of India* (pending).

<sup>30</sup> Lok Sabha Standing Committee on Water Resources, *Seventeenth Report* (22 July 2022) para 21.

## V. Concluding Observations

India's decision to suspend the IWT is neither an act of hydrological brinkmanship nor a repudiation of cooperative basin management; it is a calibrated counter-measure grounded in both international law and domestic constitutional practice. By invoking *rebus sic stantibus*, material breach and the ILC's counter-measure framework in a single, coherent dossier, New Delhi has erected a defensible legal scaffold that transforms the treaty from a unilateral restraint into a lever for compelling Pakistan's compliance with its erga omnes duty to suppress terrorism.

The move simultaneously reinforces India's sovereign right to protect vital national interests—water security, clean-energy transition and citizens' safety—while keeping the door open for rapid reinstatement of treaty obligations once the underlying wrongful acts cease. Comparative jurisprudence suggests that, should the matter reach an international forum, the proportionality and reversibility built into the “abeyance” will weigh heavily in India's favour.

Domestically, the suspension highlights a long-standing constitutional reality: treaty-making and treaty-breaking reside in the executive domain unless territory is ceded or legislation is required. The absence of statutory incorporation shields the Government's decision from direct judicial invalidation, and the political climate—bolstered by parliamentary reports urging revision—provides further ballast.

Going forward, the onus shifts squarely to Islamabad. Verifiable dismantling of terrorist infrastructure and good-faith engagement under art XII(3) would trigger an immediate resumption of treaty machinery; continued intransigence, by contrast, risks the incremental diversion of un-utilised Western-river head-drops for India's renewable-energy needs and, ultimately, formal termination under the same doctrines now used for suspension. In this sense, India has turned water from a perceived vulnerability into a strategic instrument for regional stability and peace.

## References

- <sup>1</sup> ‘Pahalgam Terror Attack: इस्लामिक जिहादियों ने पर्यटकों को बनाया निशाना, चश्मदीनों ने बताया खौफ का मंजर’ (Jammu Kashmir Now, 22 April 2025) <https://www.jammukashmirnow.com/hindi/Encyc/2025/4/22/Islamic-terrorists-attacked-Hindu-tourists-in-Pahalgam-killing-2-and-injuring-10TRF-claims-responsibility.html> accessed 5 May 2025.
- <sup>2</sup> *Indus Waters Treaty* (Karachi, 19 September 1960)
- <sup>3</sup> ‘Statement by Foreign Secretary on the decision of the Cabinet Committee on Security (CCS)’ (Ministry of External Affairs, 23 April 2025) [https://www.mea.gov.in/Speeches-Statements.htm?dtl/39442/Statement by Foreign Secretary on the decision of the Cabinet Committee on Security CCS](https://www.mea.gov.in/Speeches-Statements.htm?dtl/39442/Statement%20by%20Foreign%20Secretary%20on%20the%20decision%20of%20the%20Cabinet%20Committee%20on%20Security%20CCS) accessed 5 May 2025.
- <sup>4</sup> Indian Express, ‘Blood and water cannot flow together: PM Modi’ (27 September 2016)
- <sup>5</sup> World Bank, ‘Fact Sheet: The Indus Waters Treaty 1960 and the Role of the World Bank’ (Fact Sheet, World Bank, 11 June 2018) <https://www.worldbank.org/en/region/sar/brief/fact-sheet-the-indus-waters-treaty-1960-and-the-world-bank> accessed 5 May 2025.
- <sup>6</sup> UN Department of Economic and Social Affairs, *World Population Prospects 2024: Summary of Results* (2024) 12–15
- <sup>7</sup> IPCC, ‘High Mountains’ in AR6 Working Group II Report (2022) para 10-9
- <sup>8</sup> Vienna Convention on the Law of Treaties 1969, art 62.
- <sup>9</sup> Shrabana Barua, ‘India’s Notices to Pakistan to “Modify” the Indus Water Treaty: Causes and Implications’ (Issue Brief, Indian Council of World Affairs, 6 February 2025) [https://www.icwa.in/show\\_content.php?lang=1&level=1&ls\\_id=12363&lid=7542](https://www.icwa.in/show_content.php?lang=1&level=1&ls_id=12363&lid=7542) accessed 5 May 2025.
- <sup>10</sup> UN Security Council Res 1373 (28 September 2001) UN Doc S/RES/1373
- <sup>11</sup> International Law Commission, *Responsibility of States for Internationally Wrongful Acts* (2001) arts 49–52
- <sup>12</sup> ‘India issues notice to Pakistan seeking modification to IWT’ *New Indian Express* (27 January 2023)
- <sup>13</sup> Indian Council of World Affairs, ‘India’s Notices to Pakistan to “Modify” the Indus Water Treaty: Causes and Consequences’ (March 2025)
- <sup>14</sup> International Law Commission, *Responsibility of States for Internationally Wrongful Acts* (2001) arts 49–52
- <sup>15</sup> IPCC, *AR6 WG II Report* ch 10 (2022) 345–347.
- <sup>16</sup> World Bank, ‘World Bank Declares Pause to Protect Indus Waters Treaty’ (Press Release, 12 Dec 2016).
- <sup>17</sup> Shrabana Barua, ‘India’s Notices to Pakistan to “Modify” the Indus Water Treaty: Causes and Implications’ (Issue Brief, Indian Council of World Affairs, 6 February 2025) [https://www.icwa.in/show\\_content.php?lang=1&level=1&ls\\_id=12363&lid=7542](https://www.icwa.in/show_content.php?lang=1&level=1&ls_id=12363&lid=7542) accessed 5 May 2025.
- <sup>18</sup> International Law Commission, *Articles on Responsibility of States for Internationally Wrongful Acts* (2001) UN GA Res 56/83 annex, arts 49–54.
- <sup>19</sup> MEA, *Transcript of Weekly Media Briefing* (2 Feb 2023) on India’s Article XII notice.
- <sup>20</sup> *Gabcikovo-Nagymaros Project* (Hungary/Slovakia) (Judgment) [1997] ICJ Rep 7, 55–58 (paras 82–87).
- <sup>21</sup> *Arbitral Award in the Air Services Agreement of 27 March 1946* (United States v France) (1978) 18 RIAA 417, 443–447 (paras 79–95).
- <sup>22</sup> James Crawford, ‘Countermeasures’ in Rüdiger Wolfrum (ed), *Max Planck Encyclopaedia of Public International Law* (OUP online edition, updated 2022) para 54.
- <sup>23</sup> See, for a consolidated analysis applying these precedents to the Indus Waters context, International Law & Justice Working Paper 2025/3, Institute for International Law and Justice, New York University, 12–15
- <sup>24</sup> Constitution of India 1950 arts 73, 246 (List I, entry 10).
- <sup>25</sup> *In re Berubari Union* [AIR 1960 SC 845] (India SC) 857.
- <sup>26</sup> *Indus Waters Treaty* (Karachi, 19 September 1960) art XII.
- <sup>27</sup> Constitution of India 1950 art 253.
- <sup>28</sup> *Maganbhai v Union of India* (1969) 3 SCR 254, 281–82 (Hidayatullah CJ).
- <sup>29</sup> Writ Petition (Civil) No 211/2016 *Ashish Kumar v Union of India* (pending).
- <sup>30</sup> Lok Sabha Standing Committee on Water Resources, *Seventeenth Report* (22 July 2022) para 21.

# CIHS | Centre for Integrated and Holistic Studies

Centre for Integrated and Holistic Studies (CIHS) is an non-partisan, independent, research think tank headquartered in New Delhi, India. It is committed to bringing innovative ideas to the society, fostering informed public debate, promoting good policy and programme formulation. Ultimately, enhancing individual decision-making on some of the world's most pressing issues.

