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CROSS-BORDER RIVER FLOWS: REVISITING THE INDUS WATERS AND GANGA WATER-SHARING TREATIES THROUGH INTERNATIONAL LAW

An Analysis of Treaty Suspension, Renegotiation and Adaptive Basin Governance in South Asia

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ABSTRACT

Transboundary rivers sit at the intersection of sovereignty, ecology and diplomacy, and two South Asian treaties now test that intersection to its limit. India placed the Indus Waters Treaty 1960 in abeyance after the Pahalgam terrorist attack of 22 April 2025, and has held that position through 2026 despite adverse arbitral awards it refuses to recognise. Separately, the India-Bangladesh Ganga Water Sharing Treaty 1996 reaches the end of its thirty-year term on 12 December 2026, forcing a renegotiation complicated by a changed government in Dhaka, sustained pressure from Bihar to revisit the 1996 formula, and a dry-season allocation still anchored to 1949-1988 flow data. Applying equitable and reasonable utilisation, the no-significant-harm rule, procedural obligations of notification and cooperation, and the Vienna Convention's law of treaty suspension, this paper argues that India's Indus abeyance rests on weaker legal footing than official statements suggest; that a calibrated countermeasures framework pending renegotiation is more defensible than an open-ended freeze; and that the Ganga renewal should replace, not extend, the 1996 formula with an adaptive, basin-oriented and climate-responsive treaty giving Bihar and West Bengal a formal domestic voice.

Keywords: Indus Waters Treaty; Ganga Water Sharing Treaty; transboundary watercourses; equitable and reasonable utilisation; no-significant-harm rule; Vienna Convention on the Law of Treaties; treaty suspension; countermeasures; Permanent Court of Arbitration; federalism; climate adaptation; South Asian water law.

I. INTRODUCTION

Water disputes are increasingly about sovereignty, security and international responsibility rather than engineering. A river cannot be divided along a political border the way land can: an upstream state's conduct shapes the water available downstream, while the downstream state depends on decisions taken outside its territory. International law has spent over a century reconciling two competing propositions - that a state may use resources within its territory as it sees fit, and that territorial sovereignty does not extend to using a shared watercourse in a way that prejudices other riparians.

South Asia illustrates this tension with unusual clarity, and 2026 has produced two live controversies. The first concerns the *Indus Waters Treaty 1960* between India and Pakistan, under which the eastern rivers of the Indus system were allocated principally to India and the western rivers to Pakistan. Following the Pahalgam attack on 22 April 2025, India announced that it would hold the Treaty¹ 'in abeyance', a position maintained through 2026 and most recently reaffirmed at the United Nations during World Water Day proceedings in March 2026. Pakistan disputes that position's legality and continues to pursue a parallel arbitration before the Permanent Court of Arbitration, which issued an award against India as recently as August 2026.²

The second concerns the *India-Bangladesh Ganga Water Sharing Treaty 1996*, governing the dry-season sharing of Ganga flows at the Farakka Barrage. **Article XII** fixes the Treaty's term at thirty years, renewable only by mutual consent, so it reaches its scheduled endpoint on 12 December 2026.³ Renewal talks have begun at the technical level, but are complicated by a change of government in Dhaka since the fall of the Sheikh Hasina administration, by sustained pressure from Bihar to abandon the 1996 formula, and by West Bengal's insistence that any new arrangement not be negotiated over its head.

Treating these as one undifferentiated grievance about India's control over its rivers obscures what is at stake. For the Indus, the question is whether a state may suspend an existing water treaty over conduct that is not itself a breach of that treaty. For the Ganga, it is what a lawful, workable successor should look like once climate variability, changed hydrology and Indian

¹The Indus Waters Treaty allocates the Ravi, Beas and Sutlej to India and the Indus, Jhelum and Chenab to Pakistan, while reserving to India specified domestic, non-consumptive, agricultural and hydroelectric uses of the western rivers: Indus Waters Treaty, India-Pakistan-IBRD, 19 September 1960, arts II-III.

²India says Indus Waters Treaty to remain in abeyance until Pakistan ends support to terrorism' (All India Radio News, 20 March 2026) <<https://www.newsonair.gov.in/india-says-indus-waters-treaty-to-remain-in-abeyance-until-pakistan-ends-support-to-terrorism>>

³Treaty between the Government of the Republic of India and the Government of the People's Republic of Bangladesh on Sharing of the Ganga/Ganges Waters at Farakka, 12 December 1996, art XII.

federal politics are taken seriously. This paper addresses both in turn before drawing out common lessons for the next generation of South Asian water treaties.

II. THE INTERNATIONAL LAW OF TRANSBOUNDARY WATERCOURSES: DOCTRINAL FOUNDATIONS

A. From absolute sovereignty to limited territorial sovereignty

Two extreme theories once competed here. The Harmon Doctrine of absolute territorial sovereignty would give an upstream state unrestricted freedom to use water regardless of downstream consequences; the opposite theory, absolute territorial integrity, would tie it to maintaining the river's natural flow for downstream states' benefit. Neither survives in practice. States have settled on limited territorial sovereignty: each riparian has rights over a shared watercourse but must exercise them with due regard to the others who depend on it.

The International Court of Justice endorsed this middle position in *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, describing the Danube as the object of a shared investment in which Hungary and Slovakia held a community of interest giving rise to a community of legal right, so that neither could unilaterally alter the arrangement's equilibrium.⁴ The Court treated equitable and reasonable utilisation as central to that relationship, a holding that has shaped watercourse law since and that both India and Pakistan can invoke, favouring neither an unrestricted upstream right nor an unconditional downstream entitlement.

B. Equitable and reasonable utilisation

Article 5 of the *UN Convention on the Law of the Non-Navigational Uses of International Watercourses 1997* requires watercourse states to use an international watercourse equitably and reasonably, with a view to optimal, sustainable utilisation.⁵ The principle does not mean equal division, and does not favour whichever state sits upstream. Relevant factors include the basin's geography and hydrology, each state's dependent population, existing and potential uses, social and economic needs, the effect of one state's use on another, and the availability of comparable alternatives. Scholarship treats equitable utilisation, together with the obligation to prevent significant harm, as reflecting customary international law independently of the Convention's ratification status.⁶ No riparian can reduce the governing law to the proposition

⁴Gabčíkovo-Nagymaros Project (Hungary/Slovakia), Judgment, ICJ Reports 1997, p 7, paras 78, 85.

⁵United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses (adopted 21 May 1997, entered into force 17 August 2014) 2999 UNTS, art 5.

⁶Stephen C McCaffrey, *The Law of International Watercourses* (3rd edn, Oxford University Press 2019) ch 8.

that a river originating in its territory is subject to its unqualified control.

C. The no-significant-harm rule and due diligence

Article 7 of the 1997 Convention requires watercourse states to take all appropriate measures to prevent significant harm to others.⁷ The obligation is one of due diligence, not strict liability: a state is not wrongdoing merely because its conduct produces some downstream effect; what matters is whether it took the measures reasonably available to prevent, minimise and mitigate harm. The ICJ applied a comparable standard in *Pulp Mills on the River Uruguay (Argentina v Uruguay)*, holding that preventing transboundary environmental harm is an obligation of conduct requiring vigilance and use of the means reasonably at a state's disposal.⁸ India's hydropower construction on the western rivers is accordingly not automatically unlawful simply because Pakistan objects; its legality turns on the Treaty's specific limits and whether India exercised due diligence in design and operation. Equally, Pakistan cannot demand India freeze the historical flow regime irrespective of India's own legitimate, treaty-permitted uses.

D. Procedural obligations: notification and cooperation

Modern watercourse law places at least as much weight on procedure as on substantive allocation. A state planning works with significant adverse effects on another riparian must notify that state and exchange relevant data before proceeding.⁹ The ICJ confirmed the related duty to conduct an environmental impact assessment before a project risking significant transboundary harm in *Certain Activities Carried Out by Nicaragua in the Border Area* and *Construction of a Road in Costa Rica along the San Juan River*, and its later *Silala* judgment between Chile and Bolivia reaffirmed cooperation and equitable utilisation even where the parties disagreed on the facts.¹⁰ Many water disputes arise less from the final quantity available than from a sense that the other party acted unilaterally; the Permanent Indus Commission and the Joint Rivers Commission overseeing the Ganga arrangement exist to keep that channel open, and both have come under strain in 2026, discussed below.

⁷UN Watercourses Convention (n 5) art 7.

⁸*Pulp Mills on the River Uruguay (Argentina v Uruguay)*, Judgment, ICJ Reports 2010, p 14, para 101.

⁹UN Watercourses Convention (n 5) arts 11-12; International Law Association, Berlin Rules on Water Resources (2004) art 12.

¹⁰*Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v Nicaragua)* and *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v Costa Rica)*, Judgment, ICJ Reports 2015, p 665, para 104; *Dispute over the Status and Use of the Waters of the Silala (Chile v Bolivia)*, Judgment, ICJ Reports 2022, paras 111-116.

E. Pacta sunt servanda and the limits of treaty suspension

Article 26 of the *Vienna Convention on the Law of Treaties 1969* provides that every treaty in force binds its parties and must be performed in good faith.¹¹ That presumption is not absolute: the Convention recognises specific grounds for suspension or termination, most relevantly a material breach by the other party. India is not a party to the Convention, so it binds India only to the extent it reflects custom; the ICJ has treated the termination and suspension rules in what are now articles 60 to 62 as substantially declaratory of custom, allowing the analysis below to proceed without resting India's obligations on a treaty it has not ratified.¹²

III. THE INDUS WATERS TREATY: STRUCTURE, ABEYANCE AND THE PENDING ARBITRATION

A. Treaty architecture

The Indus Waters Treaty was signed at Karachi on 19 September 1960 after nine years of World Bank-facilitated negotiation; the Bank remains a signatory for limited administrative purposes. Its structure is not a simple division of ownership: the eastern rivers - Ravi, Beas and Sutlej - were allocated principally to India, and the western rivers - Indus, Jhelum and Chenab - to Pakistan, but India retains specified rights to use the western rivers for domestic, non-consumptive, agricultural and hydroelectric purposes, subject to technical conditions in the annexures. Article VIII establishes the Permanent Indus Commission, through which each government appoints a commissioner for data exchange, joint inspection and resolving differences before they escalate.¹³ The Treaty is thus an allocation-and-management regime rather than a river-ownership treaty - precisely what makes the 2025-2026 abeyance controversial.

B. The Pahalgam attack and India's abeyance declaration

India's Foreign Secretary announced on 23 April 2025, a day after the attack, that the Treaty would be held in abeyance, and India has not resiled since.¹⁴ Its Home Minister has said the Treaty will never be restored, and its Permanent Representative to the UN reiterated in March 2026 that abeyance continues until Pakistan takes credible, irreversible steps to end its support

¹¹Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, art 26.

¹²Gabčíkovo-Nagymaros (n 4) para 46.

¹³Indus Waters Treaty (n 1) art VIII.

¹⁴'The Indus Waters Treaty: A Year After the Pahalgam Terror Attack' (ISAS, NUS, 28 April 2026) <<https://www.isas.nus.edu.sg/papers/the-indus-waters-treaty-a-year-after-the-pahalgam-terror-attack/>>

for cross-border terrorism.¹⁵

Pakistan maintains the Treaty remains fully operational and that abeyance has no basis in its text; in August 2026, its Deputy Prime Minister convened an international seminar in Islamabad to press the argument that India's position is unlawful, a challenge India's Ministry of External Affairs rejected within days while restating that the freeze would continue.¹⁶

C. Is abeyance reconcilable with the Treaty's own termination clause?

Article XII(4) provides that the Treaty continues in force until terminated by a duly ratified treaty concluded for that purpose, and **Article XII(3)** applies the same requirement to any modification.¹⁷ This demanding threshold was deliberately drafted to foreclose exactly the unilateral suspension India has now announced, so any legal defence of abeyance must instead be found, if it exists, in general international law.

D. Material breach under the Vienna Convention

Article 60 allows a material breach of a bilateral treaty by one party to entitle the other to suspend or terminate it, where the breach is an unauthorised repudiation or a violation of a provision essential to the treaty's object or purpose.¹⁸ The difficulty for India is that Pakistan's alleged support for cross-border terrorism, however serious, is not on its face a breach of a treaty concerned with allocation and management of the Indus system, not counter-terrorism cooperation. Even if Pakistan has violated other international obligations, that does not by itself establish a material breach of this Treaty, and treating the two as interchangeable is the weakest point in India's public position.

E. Procedural safeguards under article 65

Even where a genuine ground for suspension exists, the Vienna Convention does not contemplate a consequence-free unilateral announcement. Article 65 requires a party invoking suspension to notify the other of its claim and proposed measure, and where the other objects, to seek a solution through the means indicated in Article 33 of the UN Charter.¹⁹ An indefinite

¹⁵'India reiterates Indus Waters Treaty to remain in abeyance until Pakistan ends support for terrorism' (DD News, 20 March 2026) <<https://ddnews.gov.in/en/india-reiterates-indus-waters-treaty-to-remain-in-abeyance-until-pakistan-ends-support-for-terrorism/>>

¹⁶'India Reaffirms Indus Waters Treaty Abeyance After Pakistan's International Push' (Eastern Herald, 4 July 2026) <<https://easternherald.com/2026/07/04/indus-waters-treaty-abeyance-india-pakistan/>>

¹⁷Indus Waters Treaty (n 1) art XII(3)-(4).

¹⁸Vienna Convention (n 11) art 60(1)-(3).

¹⁹Vienna Convention (n 11) art 65.

suspension bypassing both the Permanent Commission and these safeguards sits uneasily with India's own rule-of-law commitments toward Pakistan.

F. The parallel Court of Arbitration proceedings

The picture is complicated further by a Court of Arbitration proceeding predating the abeyance decision. Pakistan invoked article IX in 2022 over India's Kishenganga and Ratle hydroelectric projects, and the case, *Islamic Republic of Pakistan v Republic of India*, has continued before the Permanent Court of Arbitration despite India's boycott.²⁰ In May 2025, the tribunal asked both parties to address the effect of abeyance on its own competence; only Pakistan filed a submission, and in June 2025 the tribunal held the Treaty contains no provision for unilateral abeyance and reaffirmed its jurisdiction, an award India rejected while continuing to call the tribunal illegally constituted.²¹ It nonetheless issued a further award on 15 May 2026 on maximum pondage capacity, reportedly affirming substantive Treaty limits on India's control over the western rivers; India again rejected it as null and void while restating that abeyance continues.²²

This creates an awkward legal posture: India is not merely suspending performance but also declining to participate in, and refusing to recognise the outcome of, the dispute-resolution mechanism the Treaty provides for this disagreement. Invoking the Treaty's continued relevance for some purposes - retaining permitted uses of the western rivers - while denying its dispute-settlement organ's jurisdiction is hard to reconcile with the good-faith performance the Treaty and general treaty law both require.

G. Countermeasures, bounded by a humanitarian ceiling

A stronger argument than Article 60 is that temporary non-performance of certain obligations amounts to a countermeasure against a wrongful act by Pakistan. Customary law permits countermeasures only within defined limits: they must respond to a prior wrongful act, be proportionate to the injury suffered, be largely reversible, aim at inducing compliance rather than punishment, and not affect human-rights or humanitarian obligations.²³ The ICJ applied a

²⁰Indus Waters Treaty Arbitration: Can India Put the Treaty in Abeyance?' (Aceris Law, 24 May 2026) <<https://www.acerislaw.com/indus-waters-treaty-arbitration-can-india-put-the-treaty-in-abeyance/>>

²¹'Indus Waters Treaty' (Encyclopaedia Britannica, 12 July 2026) <<https://www.britannica.com/event/Indus-Waters-Treaty>>

²²Aceris Law (n 20).

²³International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts (2001) UN Doc A/56/10, arts 22, 49-51 and 50(1)(b).

comparable proportionality requirement to Hungary's suspension of works on the Danube.²⁴ This draws a sharper line than the political debate usually allows: suspending or delaying specific cooperation, such as Permanent Commission data-sharing, in a manner that is temporary, notified and reversible is easier to defend than an indefinite freeze leaving Pakistan without any functioning channel for technical disputes.

Millions in Pakistan depend on the Indus basin for drinking water, irrigation, food production and hydropower, and even a genuine grievance does not give a state unlimited licence to degrade another's civilian water security. India's stronger position is not that Pakistan's conduct entitles it to stop water flows altogether, but that India may reconsider the scope of cooperation, develop its own permitted uses fully, insist on functioning dispute-resolution mechanisms, and press for renegotiation, while preserving that humanitarian floor.

H. Maximise entitlement, and renegotiate rather than abandon

The Treaty does not prohibit India from using the western rivers; it permits specified hydroelectric, agricultural, domestic and non-consumptive uses subject to defined limits. India's most sustainable strategy is to develop those uses fully rather than assert an unlimited right the Treaty does not confer - exercising an entitlement already granted attracts far less legal exposure than claiming one withheld. The stronger long-term solution beyond that is renegotiation rather than permanent unilateral suspension: a treaty concluded in 1960 was designed for a hydrological reality since transformed by shifting glacial dynamics, real-time monitoring technology, and growing populations and irrigation demands on both sides. The Indus basin now needs less a static allocation formula and more a basin-management mechanism capable of responding to variability, developed further in Part V.

IV. THE GANGA WATER SHARING TREATY: EXPIRY, RENEGOTIATION AND FEDERAL POLITICS

A. Treaty design and the Article XII sunset clause

India and Bangladesh concluded the Ganga Water Sharing Treaty at New Delhi on 12 December 1996, regulating the sharing of Ganga flows at the Farakka Barrage. Article II sets out a formula for sharing dry-season flows across ten-day periods between 1 January and 31 May, calculated from historical average flows recorded between 1949 and 1988.²⁵ Unlike the

²⁴Gabčíkovo-Nagymaros (n 4) paras 83-87.

²⁵Ganga Treaty (n 3) art II.

Indus Treaty, this one was never intended to be permanent: Article XII fixes its duration at thirty years, renewable only by mutual consent, so it simply lapses on 12 December 2026 unless the parties agree beforehand on a replacement.

B. Expiry is not a legal vacuum

If the parties fail to agree on a successor before December 2026, India and Bangladesh do not thereby become unrestricted users of the Ganga. The 1996 formula would lapse, but the customary law surveyed in Part II - equitable and reasonable utilisation, no significant harm, cooperation and prior notification - would continue to govern the relationship. A lapsed treaty means a move from treaty rules plus custom to custom alone, not to a legal vacuum, which removes some, though not all, of the urgency: a missed deadline would be a serious diplomatic failure, but would not leave Bangladesh's downstream interests unprotected in law.

C. Renewal dynamics through 2026

India and Bangladesh have set up a joint technical committee on renewal, and delegations from both sides carried out joint flow measurements at Farakka in 2026.²⁶ As of August 2026, India's position is that renewal will run through existing bilateral structures, principally the Joint Rivers Commission, rather than any new or expedited mechanism.²⁷

The negotiating environment on the Bangladesh side has changed substantially. The 1996 Treaty was signed by Sheikh Hasina, whose government fell in 2024; by August 2026 Bangladesh was led by Prime Minister Tarique Rahman.²⁸ A renewal negotiated with a markedly different establishment, against a backdrop of wider bilateral strain, cannot assume the continuity of goodwill that underpinned the original agreement. Bangladesh's underlying concern remains the reliability of dry-season flow: guaranteeing a fixed historical quantity irrespective of actual availability was already demanding in 1996, and is harder to sustain given the drought years and glacier-driven variability since, risking unworkability in exactly the extreme-drought conditions where reliability matters most.

²⁶'India-Bangladesh Ganga Water Sharing Treaty Renewal Talks Begin' (GKToday, 2 January 2026) <<https://www.gktoday.in/india-bangladesh-ganga-water-sharing-treaty-renewal-talks-begin/>>

²⁷'Ganga Water Treaty Explained: Why India And Bangladesh Are Discussing Its Renewal' (Outlook India, 4 August 2026) <<https://www.outlookindia.com/international/ganga-water-treaty-explained-why-india-and-bangladesh-are-discussing-its-renewal>>

²⁸'Ganga Water Treaty Near Expiry: India-Bangladesh Tensions, Bihar's Concerns and Security Risks' (Open Magazine, 29 August 2026) <<https://openmagazine.com/world/ganga-treaty-waters-of-discord>>

D. Bihar and India's domestic federal problem

The Ganga Treaty exposes a domestic constitutional problem the Indus dispute largely does not. Water is substantially a state subject under India's constitutional scheme, though Parliament retains legislative power over inter-state rivers and the Union alone bears international responsibility for treaties it concludes.²⁹ Bihar was not a party to the 1996 negotiations, and its Janata Dal (United) leadership has argued through 2026 that its interests were ignored then and should not be ignored again: Rajya Sabha MP Sanjay Kumar Jha has argued the Treaty should simply lapse rather than be renewed in anything close to its existing form, while Bihar's Chief Minister has called for Farakka to be decommissioned.³⁰ India's External Affairs Minister has assured Bihar's government that its concerns will be raised in the renewal process, following an August 2026 Delhi meeting with its Deputy Chief Minister and Water Resources Minister.³¹

Bihar's grievance should not be dismissed as ordinary politics, but nor accepted uncritically: whether Farakka and the 1996 Treaty are responsible for its flooding, siltation and dry-season shortages is a hydrological question for scientific assessment, not a conclusion that follows automatically from political frustration, and it deserves a hydrological answer before it dictates the shape of a renegotiated treaty. Bihar is not the only state asserting a stake, either. West Bengal's government has objected that the Union moved to negotiate without adequately consulting the state hosting Farakka, whose interests - Kolkata port's navigability and its own agricultural and drinking-water needs - are directly engaged, and it does not share Bihar's call for decommissioning.³² The Union's negotiating position is thus caught between two states with materially different, partly incompatible demands, in addition to Bangladesh's own insistence on predictable dry-season flow - the central practical constraint on what a renewed treaty can realistically contain.

E. The missing riparian: Nepal

A further structural limitation is that the Ganga Treaty has always been bilateral, though the wider Ganges-Brahmaputra-Meghna basin includes Nepal as a major upstream riparian with

²⁹Constitution of India, Seventh Schedule, List II entry 17 and List I entry 56; Constitution of India, art 253.

³⁰'Farakka, Floods And Water Sharing: Why Bihar Wants A New Ganga Water Deal' (Outlook India, 25 August 2026) <<https://www.outlookindia.com/international/farakka-floods-and-river-sharing-why-bihar-wants-a-new-ganga-water-deal>>

³¹'Jaishankar assures Bihar over Ganges water demands ahead of Bangladesh treaty renewal' (The Business Standard, 23 August 2026) <<https://www.tbsnews.net/world/south-asia/jaishankar-assures-bihar-over-ganges-water-demands-ahead-bangladesh-treaty-renewal>>

³²'Talks on India-Bangladesh Water Sharing' (ISAS, National University of Singapore) <<https://www.isas.nus.edu.sg/papers/talks-on-india-bangladesh-water-sharing>>

substantial hydropower and flow-augmentation potential. A basin-wide approach eventually bringing Nepal into flood-control, sediment-management and dry-season augmentation arrangements would address weaknesses a purely bilateral treaty cannot reach.³³ That is a medium-term goal beyond the December 2026 renewal, but it should still inform the dispute-resolution and data-sharing architecture adopted now, so Nepal's eventual participation does not require starting from scratch.

V. COMPARATIVE ASSESSMENT AND THE CASE FOR ADAPTIVE TREATY GOVERNANCE

A. Two disputes, one underlying design flaw

The Indus and Ganga controversies differ in their immediate legal question - suspension in one case, expiry and renewal in the other - but share a common cause. Both treaties were negotiated as fixed bilateral allocation formulas at a particular moment, 1960 and 1996, and neither built in a mechanism for adapting to a hydrological and political reality that would look different decades later. The Indus Treaty's rigidity shows up as an all-or-nothing suspension crisis with no intermediate category between full compliance and open-ended abeyance; the Ganga Treaty's, as a fixed formula built on pre-1988 flow data that stakeholders on both sides now regard as disconnected from present conditions. A treaty built only to allocate a resource, rather than manage a basin, will eventually be asked to do work it was never designed for.

B. India's realistic options on the Indus

India's choices fall into three categories. Indefinite abeyance maximises short-term pressure but carries real costs: it leaves India defending a position the Treaty's text does not support, invites continued adverse findings from a tribunal it refuses to recognise but cannot make disappear, and risks normalising water infrastructure as a lever in security disputes - a precedent India may not want an upstream neighbour to apply against it later. Reverting to full, unreformed compliance would restore legal predictability but addresses neither India's security concerns nor the Treaty's outdated assumptions. The stronger course combines both: a firm public position, maximum lawful entitlement, functioning and mutually recognised dispute-resolution mechanisms, and using the current crisis as leverage for a modernised treaty rather than an escape from treaty commitments.

³³McCaffrey (n 6) ch 12 (on the advantages of basin-wide over bilateral treaty architecture in multi-riparian systems).

C. A modernised Indus framework

A renegotiated Indus Treaty should keep the existing allocation of eastern and western rivers, relied on for six decades, while adding what the 1960 text lacks: a security-triggered consultation procedure short of automatic suspension; differentiated rules for normal, drought and flood years; minimum ecological flow requirements; a modernised, jointly recognised dispute-resolution ladder from the Permanent Commission through independent experts to arbitration; and a clause distinguishing lawful, proportionate pressure from deliberate deprivation of civilian water supplies. None of this requires abandoning the Treaty's core allocation, only supplementing it with features a 1960 distribution mechanism was never built to provide.

D. A renewed Ganga treaty rather than a rollover

For the Ganga, India's better strategy is to treat 12 December 2026 as an opportunity to replace the 1996 formula rather than simply extend it. A workable successor would move from a single fixed dry-season quantity toward layered allocation: a minimum ecological and humanitarian flow regardless of conditions, a baseline allocation under normal hydrology, proportionate sharing of any shortfall during moderate drought, and a joint emergency-management regime during extreme drought, so scarcity is shared rather than absorbed by whichever party a fixed formula disadvantages in a bad year. It would also need a standing Ganga Basin Commission with a genuine role for Bihar and West Bengal alongside the Union and Bangladesh, since negotiating without a formal channel for the affected states has already generated the friction described in Part IV.

E. A common thread for South Asian water diplomacy

Both reform packages point toward the same shift in framing: from asking how much water belongs to each country toward asking how the shared basin can be managed so each riparian gets an equitable share of a sustainable resource. That shift does not resolve the underlying political disputes between India and Pakistan, or between the Union, Bihar and West Bengal - matters of negotiation, and in the Indus case, of counter-terrorism policy, outside this paper's scope. What international law does provide is a clear set of constraints within which any negotiated outcome must sit: neither an unqualified upstream veto nor an unqualified downstream entitlement, a due-diligence rather than strict-liability standard for harm, and a procedural expectation of notification and cooperation that both India and its neighbours have, at various points in 2025 and 2026, found convenient to set aside.

VI. CONCLUSION

The Indus Waters Treaty is not a document India can discard whenever bilateral relations deteriorate. Its termination clause, detailed allocation structure and Permanent Commission create real legal constraints, and the pending arbitration, however unwelcome to India, is a reminder that Pakistan retains a functioning legal avenue even while the political relationship is frozen. India's security concerns following Pahalgam are serious, but the claim that Pakistan's alleged support for terrorism automatically constitutes a material breach of a river-allocation treaty is legally contestable, since the two are not the same obligation. The better strategy combines maximum lawful utilisation of India's existing entitlement, calibrated and reversible pressure defensible as countermeasures rather than an unlimited right of suspension, and a sustained push toward renegotiation.

The Ganga Treaty presents a different problem with a clearer deadline. Its thirty-year term ends on 12 December 2026, and renewal requires the consent of a Bangladeshi government very different from the one that signed the original agreement, alongside two Indian states with competing demands. India has a genuine opportunity to replace an outdated formula with an adaptive framework, but only if it treats Bihar's and West Bengal's concerns as inputs to resolve through evidence and formal consultation rather than obstacles managed around Bangladesh's back.

The proposition running through both disputes is the one international watercourse law has developed over the past half-century: neither upstream sovereignty nor downstream dependence is absolute, and the governing standard is equitable and reasonable utilisation, exercised with due diligence, backed by cooperation and good faith, and bounded by a humanitarian floor no political grievance removes. India should reject two extremes on each river - an unconditional Pakistani veto over Indian development and an unrestricted licence to deprive Pakistan of water; an indefinite continuation of the 1996 Ganga formula and a unilateral arrangement imposed on Bangladesh. Adaptive, basin-oriented governance - built around equitable utilisation, ecological flows, real-time data sharing, graduated responses to security emergencies, and a formal role for the states whose water security is at stake - is the more defensible legal position and the more durable diplomatic one.

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