



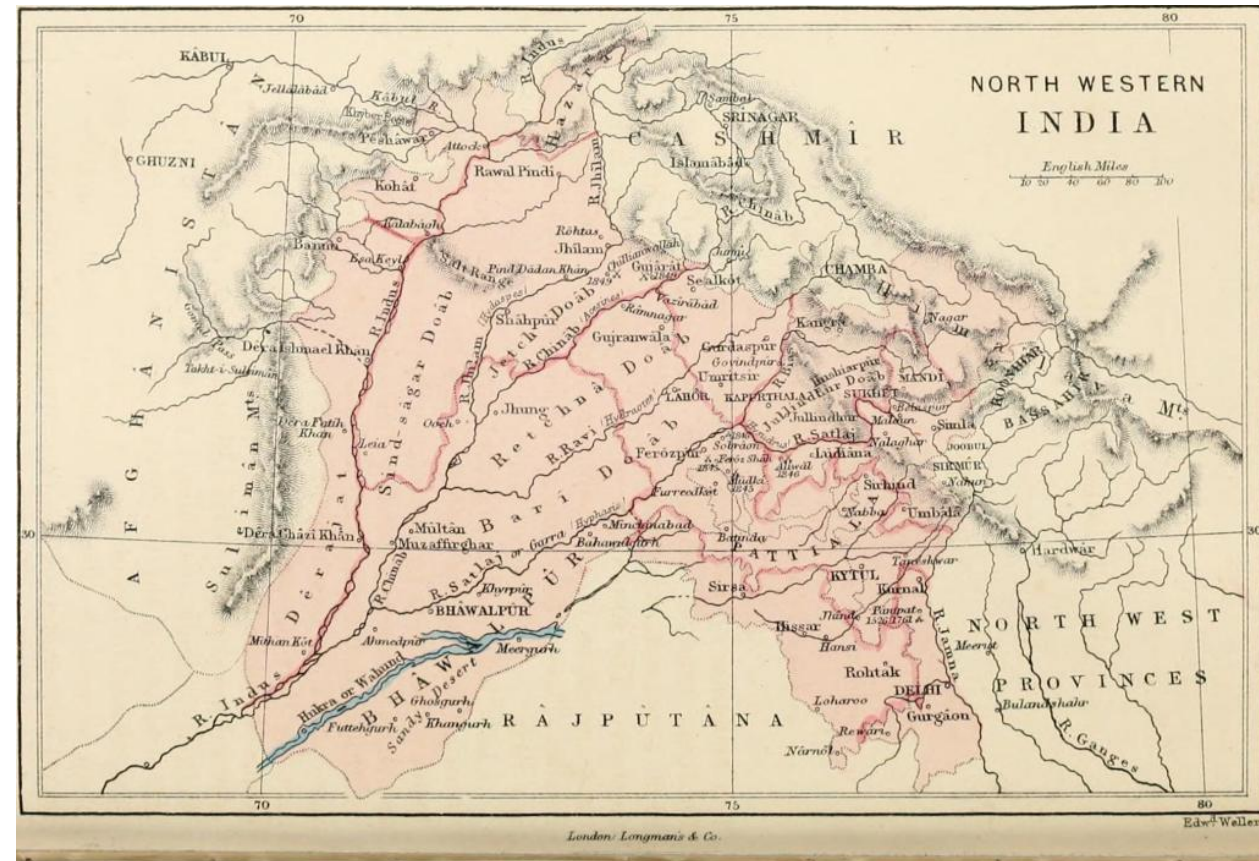
Legal Aspects of the Indus Waters Treaty & Assessment Against Global Compacts

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INDIAN SUBCONTINENT

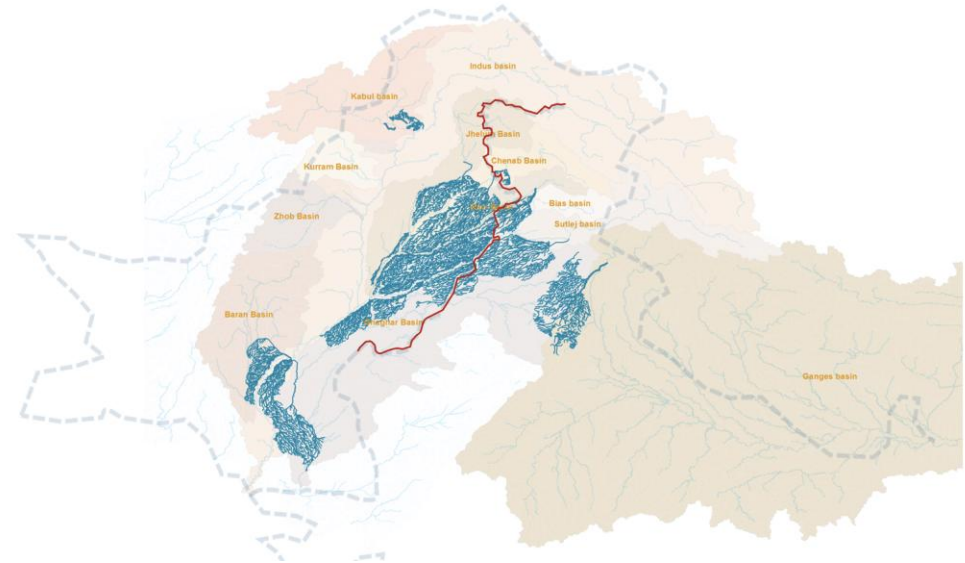
- British Annexation of Punjab & Sindh
- Punjab Famines 1860-1861, 1868-1870, 1896-1897, 1899-1900
- Canals (& land laws)
- Partition
- One Unit
- Indus Waters Treaty



Salient Features of the Treaty

- India, Pakistan & “the good offices of the World Bank”;
- Permanent Indus Commission;
- Waters of Eastern Rivers “shall be available for the unrestricted use of India” & Pakistan bound to maintain 4 drains;
- India is “under obligation to let flow” the waters of the Western Rivers subject to any domestic, non-consumptive agricultural use or the generation of any hydro-electric power as set out in Annex D;
- Difference vs. Dispute
 - A “difference” falling within list of 23 questions set out in Annex F may be referred to a Neutral Expert; questions outside – “disputes” to be referred to a Court of Arbitration
 - N.E. may determine a matter referred to him is a dispute, and so the matter may be referred to CoA
 - N.E. & CoA are non-hierarchical

1948 India Shuts Canals feeding into Pakistan



International law on Transboundary Waters

- UN Watercourse Convention, 1997 (effective Aug 2014)
 - Applies to uses of international watercourses and of their waters (non-navigable)
 - Applies “Equitable and Reasonable Utilization and Participation” (7 criterion)
 - “Participation” includes right to utilize a watercourse and to duly cooperate in its protection and development
 - Obligation not to cause significant harm and to cooperate and share information
 - Procedure for Planned Measures
 - Measures by watercourse states for protection, preservation and management of ecosystems
 - Procedure for settlement of disputes (may request third party or submit to ICJ if no agreement by negotiation)

Article 6

Factors relevant to equitable & reasonable utilization

Utilization of an international watercourse in an equitable and reasonable manner within the meaning of article 5 requires taking into account all relevant factors and circumstances, including:

- (a) Geographic, hydrographic, hydrological, climatic, ecological and other factors of a natural character;
- (b) The social and economic needs of the watercourse States concerned;
- (c) The population dependent on the watercourse in each watercourse State;
- (d) The effects of the use or uses of the watercourses in one watercourse State on other watercourse States;
- (e) Existing and potential uses of the watercourse;
- (f) Conservation, protection, development and economy of use of the water resources of the watercourse and the costs of measures taken to that effect;
- (g) The availability of alternatives, of comparable value, to a particular planned or existing use.

DANUBE

explained



Indian Use of the Western Rivers

- **Nimoo Bazgo (2014)**

- Indus; 0.01 MAF

- **Salal (1987)**

- Chenab; 0.22 MAF

- **Dul Hasti (2007)**

- Chenab;

- **Baglhiar (2008)**

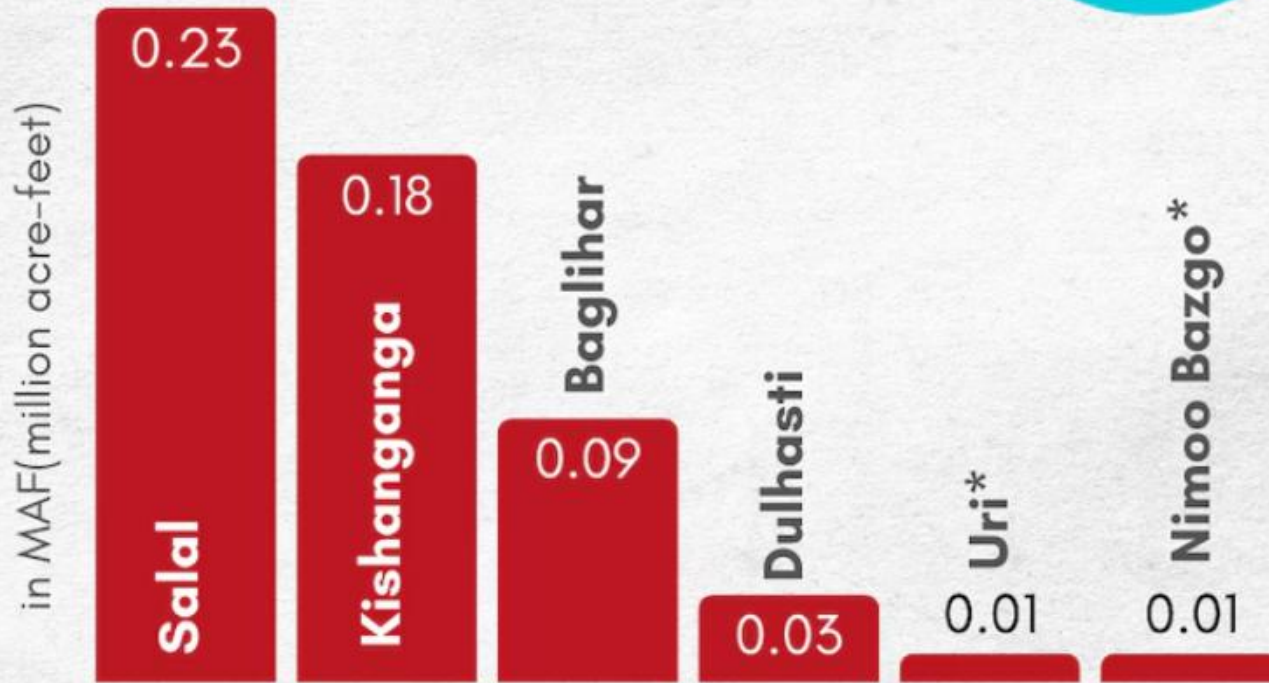
- Chenab; 0.38 MAF

- **Kishenganga (2018)**

- Jhelum; 0.014 MAF



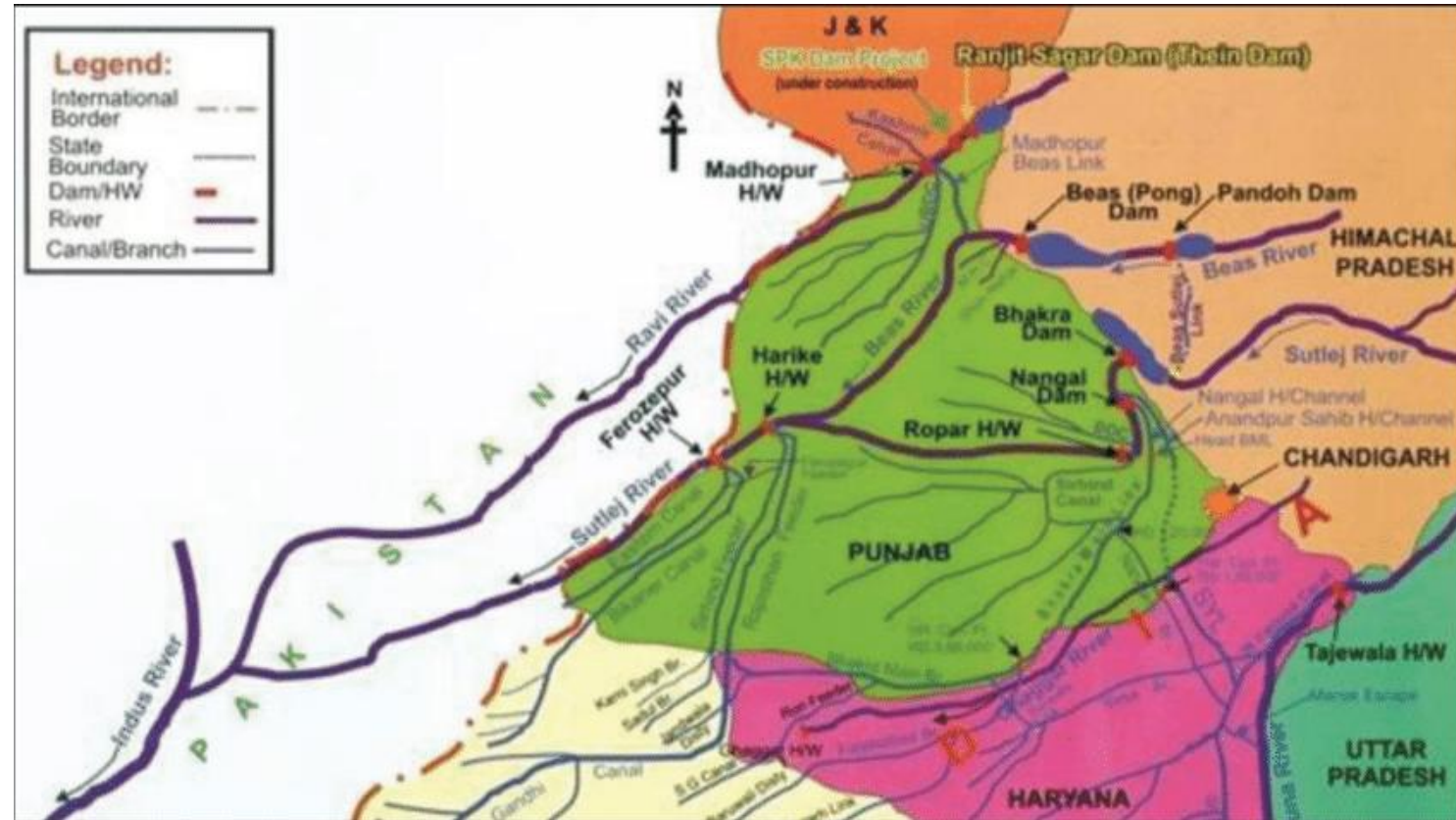
Storage Capacities of J&K Dams on Western Rivers



Water storage capacity of reservoirs at hydroelectric projects

Indian use of Eastern Rivers

- Ravi
 - Ranjit Sagar/Thein Dam (2001)
 - 2.65 MAF
 - Shahpurkandi RoR (construction started in 2014)
 - Downstream Thein; 0.091 MAF
 - Irrigates 2,000 Ha in Punjab
- Sutlej
 - Bhakra Dan (1963)
 - 6.12 MAF
 - Sirhind and Indira Gandhi canals to HP, Punjab, Ladakh & Haryana
 - Karcham Wangtoo RoR (2011), Nathpa Jhakri RoR (2004), Koldam Dam (2015, 0.466 MAF)
- Beas
 - Pandoh RoR (1977), Pong Dam (1974, 6.9 MAF), Shahnehar Barrage, Harika Barrage



Final Observations

- A treaty is in the eye of the beholder
- Can India put the Treaty in “abeyance”?
- Does technology render the IWT irrelevant?
- Can India stop water?
- Can India flood Pakistan?
- Apportionment vs. Equitable Use
- Climate change & a vision for the future



Thank you: Be Green

