

When terrorism tests a treaty: India, Pakistan and international law

India's Indus Treaty dispute is testing how far international law can constrain states facing security threats.



On August 31, 2026, a Court of Arbitration constituted under the Indus Waters Treaty ruled that the 1960 agreement remains in force and rejected India's decision to place it in abeyance. (REUTERS/Stringer)

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Can a terrorist attack suspend a treaty? The question sounds as though it should have an obvious answer. If a state believes its neighbour harbours or supports terrorism against its citizens, why should it continue honouring a treaty with that neighbour? International law, however, does not permit such a simple inference, and the dispute over the Indus Waters Treaty (IWT) has turned this important question into a live one.

On April 22, 2025, gunmen opened fire on tourists in a meadow near Pahalgam in Jammu and Kashmir, killing twenty-six people. India blamed Pakistan-based

militants for the attack. Within forty-eight hours, New Delhi announced that it was placing the 1960 Indus Waters Treaty "in abeyance" until Pakistan credibly and irrevocably abjured support for cross-border terrorism, along with a series of other diplomatic and security measures. Pakistan denied involvement in the attack and rejected India's characterisation of the treaty's status, insisting the agreement remained fully operative. The legal contest has since played out before a Court of Arbitration constituted under Annexure G of the treaty, with the Permanent Court of Arbitration in The Hague acting as registry. That tribunal did not come into being to adjudicate the abeyance. Pakistan had initiated the arbitration in August 2016, well before the Pahalgam attack, over the design of India's Kishenganga and Ratle hydroelectric projects on the western rivers. India objected to the tribunal's competence from the outset, arguing that such questions should instead be considered by a Neutral Expert under Annexure F, and it declined to participate in the proceedings. The Court ruled in July 2023 that it was competent to hear the dispute. After India's 2025 abeyance declaration, the Court further held, in a supplemental award of June 2025, that India's unilateral declaration could not curtail the Court's competence. On August 31, 2026, the Court issued a unanimous award finding that the treaty remains fully in force, that India's abeyance was not authorised by any provision of the treaty or by general international law. The Court also issued an order concerning interim measures at the Ratle hydroelectric project.

India rejected this outcome as it had rejected the Court's earlier rulings, maintaining that the tribunal was illegally constituted and has no jurisdiction over what it describes as a sovereign decision. Its position is that the abeyance stands regardless of the award. Pakistan, together with the tribunal, takes the opposite view: that a state cannot unilaterally suspend a treaty that contains no exit or suspension clause, and that Article XII contemplates termination only through mutual agreement, not unilateral declaration.

This is no longer, if it ever was, only a dispute about water. It is a dispute about how far international law can constrain a state that believes its national security is at stake.

The Indus Waters Treaty has long been held as an unusually resilient instrument. Concluded in 1960 with the World Bank's facilitation, it apportions the waters of the Indus system between the two countries and has generally been described as having withstood the wars of 1965 and 1971 and the prolonged hostility that followed. Many accounts also credit it with surviving the 1999 Kargil conflict. For decades, the treaty's durability rested on the working assumption that certain forms of technical cooperation, governing a resource on which tens of millions of people depend, could be insulated from the wider trajectory of India-Pakistan relations.

India's 2025 decision challenges that assumption directly. Its position, reiterated at the United Nations as recently as March 2026, is that water-sharing cooperation cannot be conducted as though it were hermetically sealed from the security environment that surrounds it, and that a state need not sustain a cooperative framework benefiting a neighbour that continues to sponsor terrorism against it. That argument carries genuine political force. It is a separate question, however, whether it supplies a sufficient legal basis for suspending a treaty that itself specifies no such ground. That gap between political justification and legal justification sits at the centre of this dispute, and it is one that international law cannot simply wish away. The task is to avoid two opposite errors: treating national security as an unlimited license for disregarding treaty obligations and treating treaty stability as a value entirely detached from genuine and serious security threats.

There is a narrower position available to India than the one it has taken, and it may ultimately serve Indian interests better. India can insist that Pakistani-linked terrorism has profound and legitimate consequences for the bilateral relationship without conceding that any consequence India chooses is thereby lawful. Grounding its objections to a clearly articulated legal theory, whether grounded in a fundamental change of circumstances, material breach, or another recognised ground under the law of treaties, would allow India to defend its security interests while avoiding the creation of a precedent that other states, in other disputes, could invoke to justify unilateral treaty suspension on security grounds of their own choosing. A state that argues its

own security exception should be self-defining is not well placed to resist that same argument later, made by an adversary, against a treaty India wishes to preserve.

The larger question this dispute poses extends beyond whether India will comply with a particular award from The Hague and beyond whether Pakistan's conduct justifies India's response. It is whether a technical, resource-sharing treaty can remain functionally separate from everything else that happens between the states that concluded it, once one party insists that it cannot. The answer is unlikely to be absolute in either direction. But international law will also have to reckon with a world in which terrorism, proxy conflict and non-state violence increasingly shape how states understand their security relationships, whatever the treaty text says about grounds for suspension.

The Indus Waters Treaty survived earlier decades because both governments treated it, most of the time, as something insulated from the immediate politics of the day. Whether that principle survives its present, more serious test remains open. What is now clear is that the dispute is a test of whether international law can hold together three competing demands of the 21st century: a state's responsibility to protect its population from terrorism, the practical need to respond to cross-border threats, and the systemic value of keeping international agreements predictable even when relations are sour. How that tension is resolved, in this case and in the precedent, it sets, will matter well beyond the Indus basin.

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