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THE HINDU ANALYSIS

6 MAY 2025



INDUS WATER TREATY
1960



INDIA'S FOREST RIGHTS ACT

India's Forest Rights Act stands apart from exclusionary laws globally

Most of the world's biodiverse regions are in places indigenous communities have traditionally lived and governed; they have protected biodiversity and nurtured it while being nurtured in return; laws that secure their tenure and recognise their rights can thus strengthen traditional governance

Aditi Vajpeyi
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In many parts of the world, conservation laws and policies are becoming more exclusionary. They are disenfranchising local communities and indigenous people, disregarding their rights and role in conservation, and allowing the state as well as private interests to exploit resources.

Conservation science and its legal frameworks are rooted in colonial ideas, and define nature as "pristine" and untouched by humans. When wading this approach – often called the fortress model – exclusive spaces called "protected areas" are created, where conservation is implemented with centralised state control, criminalising indigenous peoples and local communities (IPLCs) as encroachers.

Researchers have found that the fortress conservation model has displaced 10 to 20 million people around the world by separating their lives, livelihoods, and cultures from landscapes cordoned off as protected areas. While global conservation legislation is fairly recent, the role of IPLCs like the Masai and Ogiek in Kenya, the Kikuyu in Uganda, the Asháninka in Peru, and Adivasis in India is well-documented. Most of the world's biodiverse regions are in places where these communities have traditionally lived and governed.

This is no coincidence: IPLCs have been custodians of local biodiversity, protecting it against being exploited and nurturing it while being nurtured in return. In turn, laws that secure IPLCs' tenure and recognise their rights can strengthen traditional governance systems used to sustainably manage their lands.

Conservation with laws

In the prevailing global scenario, laws are crucial to facilitate conservation. The Convention on Biological Diversity (CBD) is the largest international legal instrument from which many conservation and biodiversity-related multilateral treaties and legal frameworks have emerged. First presented at the Rio Earth Summit in 1992, 196 countries are



An adivasi farmer fires dry paddy at her farm in Parghodi village near Dang district in Gujarat. All events

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The FRA is arguably one of the most advanced legal frameworks in the world: it legally recognises the relationships between tenure security, rights of forest dependent communities, and

governance approaches.

Thus, for all these international victories, the struggle for the rights of IPLCs in conservation approaches is far from over. The premise of the "30 by 30" agenda itself jeopardises these rights because it promotes the idea that simply

Context

- ❑ As the **global biodiversity crisis** intensifies, conservation efforts around the world are facing criticism for sidelining **Indigenous Peoples and Local Communities (IPLCs)**.
- ❑ In this backdrop, **India's Forest Rights Act (FRA), 2006**, offers a unique legal framework that integrates biodiversity conservation with the rights and traditional knowledge of Adivasis and other forest-dependent communities.

How the Forest Rights Act (FRA) makes India different?

- ❑ India's **Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**, commonly known as the Forest Rights Act (FRA), offers a progressive legal model that integrates indigenous rights with biodiversity conservation.
- ❑ It embodies all these principles and **provides the legal framework for securing forest tenure** and other pre-existing rights of Adivasi and local communities.

Key Contributions of FRA

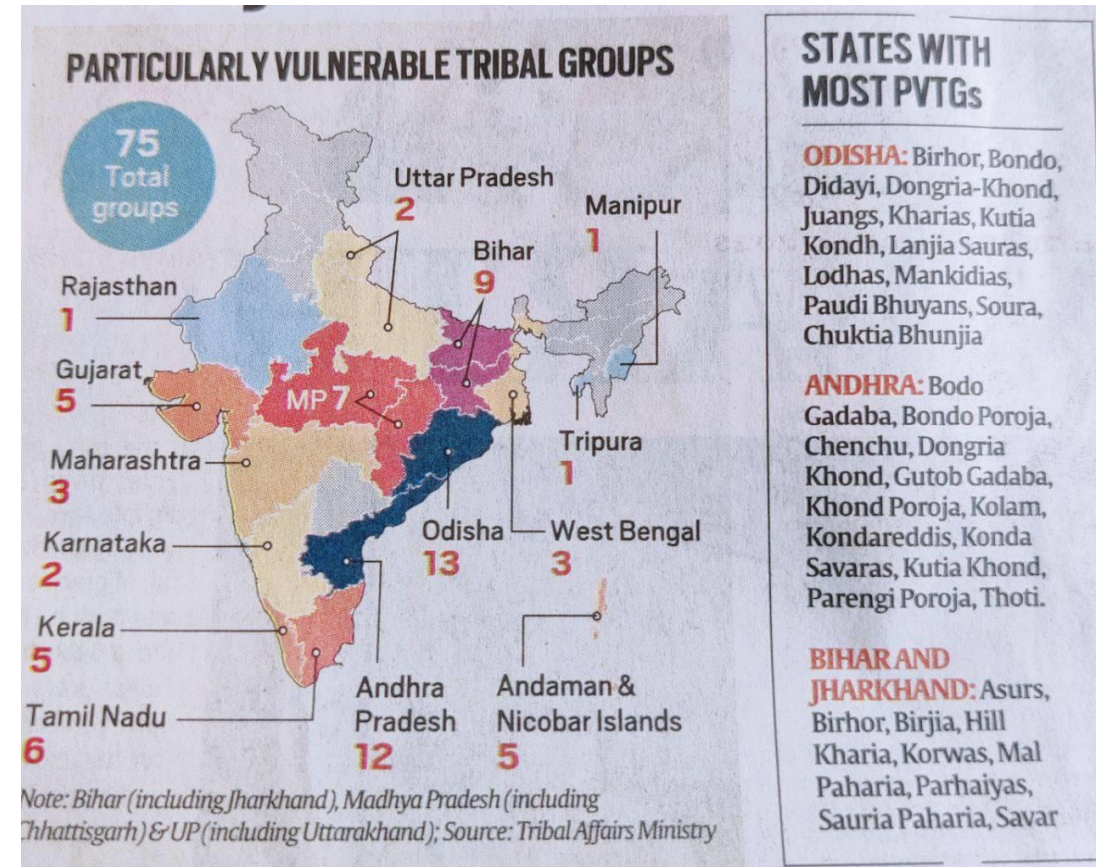
- ❑ **Recognises the historical injustice** faced by Adivasis and forest dwellers who were denied legal rights to their ancestral lands.
- ❑ **Empowers gram sabhas (village assemblies)** to manage and govern community forest resources.
- ❑ Recognises a range of rights — from **individual land titles to community rights** over forest produce, biodiversity, and traditional knowledge.
- ❑ Legally enables a **bottom-up approach to forest governance**, unlike the top-down, state-led protected area model. This makes India one of the few countries where conservation and indigenous rights are not in conflict .

Why IPLCs matter for biodiversity?

- ❑ Globally, there's a **growing recognition that indigenous communities** are crucial for conservation.
- ❑ Research has shown that **biodiversity thrives better in territories managed by IPLCs** than in many state-run protected areas.
- ❑ **Convention on Biological Diversity (CBD)**: Through Article 8(j), it urges countries to respect and integrate traditional knowledge and practices in biodiversity conservation.
- ❑ **UN Declaration on the Rights of Indigenous Peoples (2007)**: Affirms the rights of IPLCs to manage their own lands and resources.
- ❑ **Kunming-Montreal Global Biodiversity Framework (2022)**: Envisions a more inclusive conservation approach and targets like "**30 by 30**", which aims to bring 30% of the world's lands and oceans under conservation by 2030 — with community participation.
- ❑ However, the **implementation remains uneven**, and fortress-style conservation still displaces communities in several places.

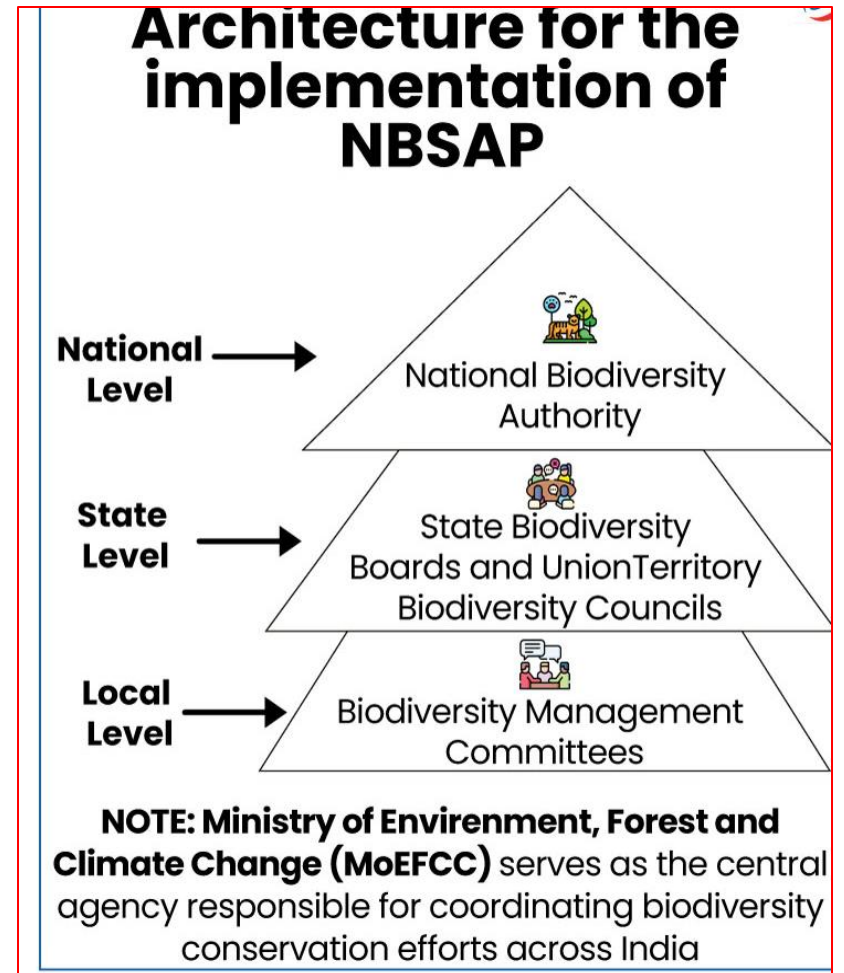
India's Constitutional and Legal Support for IPLCs

- ❑ While India does not officially use the term "indigenous peoples", it has a strong constitutional framework to support Scheduled Tribes .
- ❑ Fifth and Sixth Schedules PESA Act, 1996 (recognising self-rule in tribal areas) Constitution of India provides **Articles 244 & 244A**, enabling tribal governance in Scheduled Areas.
- ❑ With over **104 million Adivasis**, India has the world's **largest indigenous population** in a single country.
- ❑ Laws like the FRA and PESA allow for a unique and legally supported model of **decentralised, democratic resource management**.



Gaps between Policy and Practice

- ❑ The Forest Rights Act has **not been effectively implemented** in many states. Many communities still await title recognition.
- ❑ Displacement under Protected Areas: India has over **1,134 protected areas**, and **at least 6 lakh people** have been displaced due to such conservation models.
- ❑ **Updated Biodiversity Action Plan (NBSAPs)**: While India's new plan under CBD mentions bottom-up governance and community rights, it still relies heavily on State-led mechanisms and does not fully integrate the FRA framework.
- ❑ **Weakening of Biodiversity Management Committees (BMCs)**: These local institutions are often under-resourced or not functional.
- ❑ Without their full operationalisation, **inclusive biodiversity governance** is difficult.



INDUS WATER TREATY

The messaging from putting the IWT in 'abeyance'

On April 24, India announced that it would hold the Indus Waters Treaty (IWT) of 1960 in abeyance until Pakistan ceased its support for cross-border terrorism. The term "abeyance," as used by the Government of India, suggests a temporary suspension, leaving open the possibility of reinstatement should Pakistan take credible steps to curb terrorism, particularly in light of the Pahalgam terror attack, on April 22.

The meaning of 'abeyance'

The term "abeyance" finds no legal recognition under the IWT or the Vienna Convention on the Law of Treaties, 1978 (VCLT). India is not a party to the VCLT, while Pakistan has signed it, but has not ratified it. Further, unilateral suspension of treaty obligations, as implied by "abeyance," lacks legitimacy under customary international law and international water law that promotes "water cooperation" as the preeminent norm fundamental to the international legal order. Critically, in the IWT's Articles XIII(3) and (4) provide that modifications or terminations require a mutually ratified treaty – a prospect that seems remote given the current status quo between India-Pakistan.

Thus, the IWT's specific provisions preclude unilateral suspension of substantive or procedural obligations. More broadly, in the VCLT, Articles 60, 61, and 62 permit suspension of a treaty only under exceptional circumstances, such as a material breach, impossibility of performance, or a fundamental change in circumstances, respectively – none of which India has formally invoked. Therefore, India's invocation of "abeyance" may be seen as a political signal rather than a legally enforceable action, potentially putting procedural cooperation on hold. In practical terms, by using abeyance, India can temporarily refuse to carry out all joint mechanisms necessary for the treaty's operation. India can choose not to share details on water resource development projects on western rivers and hydrological data crucial for flood forecasting and planning for irrigation, hydropower and drinking water that could jeopardise Pakistan's water interests, internal water planning and water security, temporarily if not permanently. Moreover, India could flush silt from its reservoirs (which also requires reservoirs to be filled) without issuing any prior warning to Pakistan.

On January 25, 2022, New Delhi issued a notice to Pakistan through the Indus Commissioners, citing a material breach of the IWT. India argued that Pakistan's unilateral decision to approach the Permanent Court of Arbitration violated the treaty's dispute resolution mechanisms outlined in Articles VIII and IX. This time, New Delhi has invoked the Treaty as a counter-terrorism deterrent, opting for the term "abeyance" rather than "suspension" or "termination".

This choice raises pertinent questions. Article 60 of the VCLT allows for the termination or suspension of a treaty in response to a material breach. Does Pakistan's alleged support for cross-border terrorism not constitute such a

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Leveraging water resources as a strategic tool may provide short-term benefit, but could end up harming India

breach? Likewise, Article 62 permits treaty suspension or withdrawal in the event of a fundamental change in circumstances. Could the persistent threat to national security from cross-border terrorism not fulfil this condition? Yet, these arguments hinge on untested legal interpretations, as neither the IWT nor customary international law explicitly links terrorism to treaty obligations, risking escalation in an already volatile bilateral relationship.

Abeyance as a two-level game

The decision to use "abeyance" likely arises from strategic and tactical considerations. First, India's Cabinet Committee on Security may have opted for abeyance as a cautious step to address public sentiment quickly and offer solace to grieving families. The limited time to fully evaluate the legal and diplomatic implications may have influenced this decision. Second, abeyance may also reflect a calculated move to relieve itself from the continuous legal objection it had witnessed vis-à-vis the construction of run-of-the-river projects planned on western rivers. India could leverage this pause to consolidate its rights to optimally use its entitled water usage allocations in western and eastern rivers, particularly through infrastructure projects that enhance its control over the Indus waters. However, this strategy risks escalating tensions, as Pakistan, heavily dependent on the Indus waters, is already viewing such actions as an "act of war" and a direct threat to its water security.

The choice of terminology is even more critical given Pakistan's current instability. With the military losing the support of the youth since Imran Khan's impasse and its attempts to internationalise the Kashmir issue during the U.S. Vice President's India visit, Pakistan's political and economic instability is even more visible. This uncertainty makes it challenging for New Delhi to navigate relations with a state in turmoil. Did India fully account for this while formulating the decision announced by the Foreign Secretary? In such a context, can the abeyance of the IWT genuinely exert meaningful pressure on Pakistan? More fundamentally, will leveraging the IWT as a tool to compel Pakistan to end its support for cross-border terrorism prove effective at all?

It is widely acknowledged that Pakistan, as a failing state, is unlikely to comply with India's demands. By invoking "abeyance", India may buy time to pursue domestic goals, particularly advancing water infrastructure projects on the western and eastern rivers. Many of these projects, including the Kishenganga, Baglihar, and Ratle hydel projects, have faced significant delays due to Pakistan's legal interventions. This move could provide India with the leverage needed to expedite such initiatives. While the Kishenganga and Baglihar were eventually resolved, projects such as Tullial-Naragah and Ratle remain unstated. These long-standing tensions, along with the 2021 Parliamentary Committee's emphasis on the need for infrastructure to fully utilise India's allocated waters, mark a critical inflection point. However,

questions persist about the feasibility of such projects, especially regarding environmental clearances.

In the weeks and months ahead, we could witness a complex interplay of domestic and international strategies, or a "two-level game", between India and Pakistan. Both nations must manage domestic expectations, engage diplomatically to safeguard their interests, and justify their actions as victories. For India, invoking the IWT in "abeyance" serves dual purposes: domestically, it demonstrates a firm stance against terrorism, aligning with public sentiment and reinforcing national security priorities. Internationally, it signals India's frustration with Pakistan's alleged support for terrorism. But could there be more to this strategy?

Ramifications for India

While in India, the decision has resonated emotionally with the public and garnered widespread political support, it risks overshadowing the more profound implications of such a strategy. On the global stage, unilaterally violating the IWT could lead to India facing the Permanent Court of Arbitration or the International Court of Justice, damaging its credibility as a responsible international actor. However, domestically, the strategy raises critical questions about the balance between national security and ecological prudence. The rush to fast-track water infrastructure projects, ostensibly to strengthen India's water rights, risks bypassing essential public and environmental scrutiny. Such actions could have dire consequences in the biodiversity-rich and seismically sensitive Indus basin. Weaponising water resources as a strategic tool may provide short-term leverage but could inadvertently harm India, undermining the foundational principles of democratic governance and constitutional integrity.

At the same time, public sentiment demands a stronger stance against Pakistan, with some public intellectuals advocating escalated military actions akin to the surgical strikes of 2016 and 2019. While such actions might serve as immediate displays of strength, they do not address the root cause of cross-border terrorism. The challenge lies in navigating a path that satisfies national sentiment while ensuring long-term stability and security. New Delhi must carefully craft its narrative and future on-the-ground steps around the IWT abeyance, ensuring that India aligns with broader geopolitical goals and has a sound legal basis within the IWT framework.

Actions taken must reflect strategic foresight, aiming to pressure Pakistan into reevaluating its stance on cross-border terrorism while avoiding harm to India's own ecological and social fabric. The focus should remain on measures that strengthen India's position as a responsible global power, leveraging its democratic values and environmental stewardship. This would uphold India's international standing, ensuring that its actions do not inadvertently harm the region that it seeks to protect.

Context

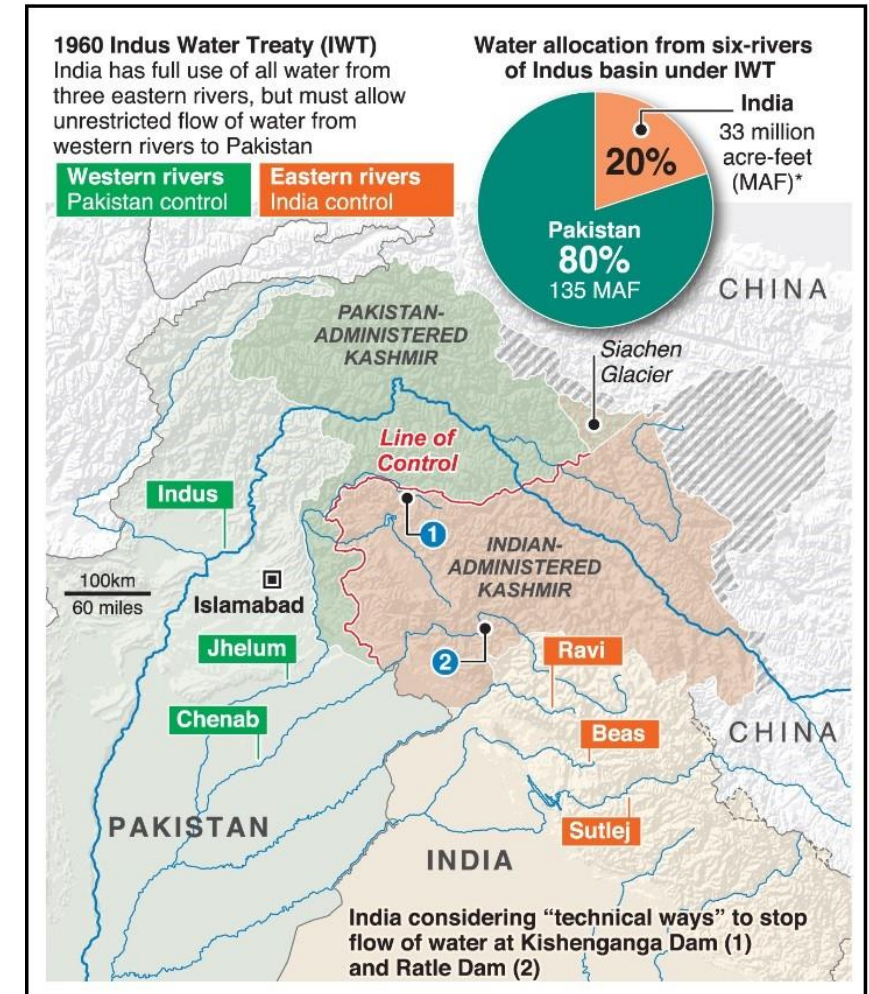
❑ India declared the **Indus Waters Treaty (IWT) of 1960** to be in 'abeyance', in response to Pakistan's continued support for **cross-border terrorism**, especially after the Pahalgam terror attack.

❑ The move signals a **temporary suspension of cooperation** under the treaty, aimed at pressuring Pakistan without officially terminating the treaty.

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LEGAL STANDING AND STRATEGIC CALCULATION

- ❑ The term ‘**abeyance**’ has **no legal recognition** under either the IWT or the Vienna Convention on the Law of Treaties (VCLT, 1969).
- ❑ **India is not a party to the VCLT**, and even under customary international law, unilateral suspension of treaty obligations is not legally valid, making the move more **symbolic than enforceable**.
- ❑ **Articles XII(3) and (4) of IWT mandate** mutual ratification for modification or termination, and **VCLT Articles 60–62** allow suspension only in cases of material breach, impossibility, or fundamental change, none of which India has formally invoked, limiting India’s legal maneuverability.
- ❑ **Tactical Pause in Treaty Implementation** The ‘abeyance’ allows India to **withhold procedural cooperation**, such as sharing hydrological data or notifying reservoir operations, thereby impairing Pakistan’s flood forecasting and water security, while avoiding overt treaty violation.



TWO-LEVEL GAME: DOMESTIC SENTIMENT VS DIPLOMATIC SIGNAL

- ❑ **Domestic Political Calculations** as The Cabinet Committee on Security likely adopted abeyance to satisfy public sentiment, showing decisive action after a terror attack, and to gain room for infrastructure advancement on run-of-the-river projects on **western rivers like Ratle and Tulbul**.
- ❑ Using IWT as a **counter-terror tool is a high-stakes gamble**, as Pakistan sees it as an existential threat.
- ❑ Given **Pakistan's domestic instability and weakened military-civil dynamics**, the move risks international escalation and misinterpretation.
- ❑ Despite political will, India's hydel infrastructure projects face regulatory, environmental, and procedural hurdles, such as clearances in ecologically sensitive zones, which **limit immediate material benefits** from suspending the treaty.

LONG-TERM STRATEGIC, ENVIRONMENTAL, AND GLOBAL REPERCUSSIONS

- ❑ India's unilateral invocation of abeyance **may undermine its image as a responsible global actor**, potentially inviting international legal proceedings under the **Permanent Court of Arbitration or International Court of Justice**.
- ❑ Accelerated project execution in the Indus basin, **a seismically and ecologically fragile region**, risks biodiversity loss, ecological imbalance, and long-term water insecurity, especially in Jammu & Kashmir and Ladakh.
- ❑ India must balance national security, public sentiment, and ecological sustainability by ensuring its actions align with treaty obligations, international norms, and democratic accountability, **avoiding over-militarisation of natural resources**.

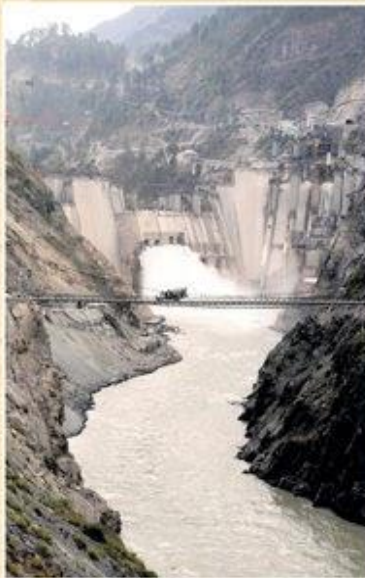


The Indus Waters Treaty (IWT)

- The distribution of waters of the Indus and its tributaries between India and Pakistan is governed by the Indus Water Treaty (IWT).
- Was signed on Sept 19, 1960, between India, Pakistan and a representative of World Bank after eight years of negotiations.
- Partition of India cut across the Indus river basin, which has the Indus river, plus five of its main tributaries.

Western rivers Chenab, Jhelum, Indus

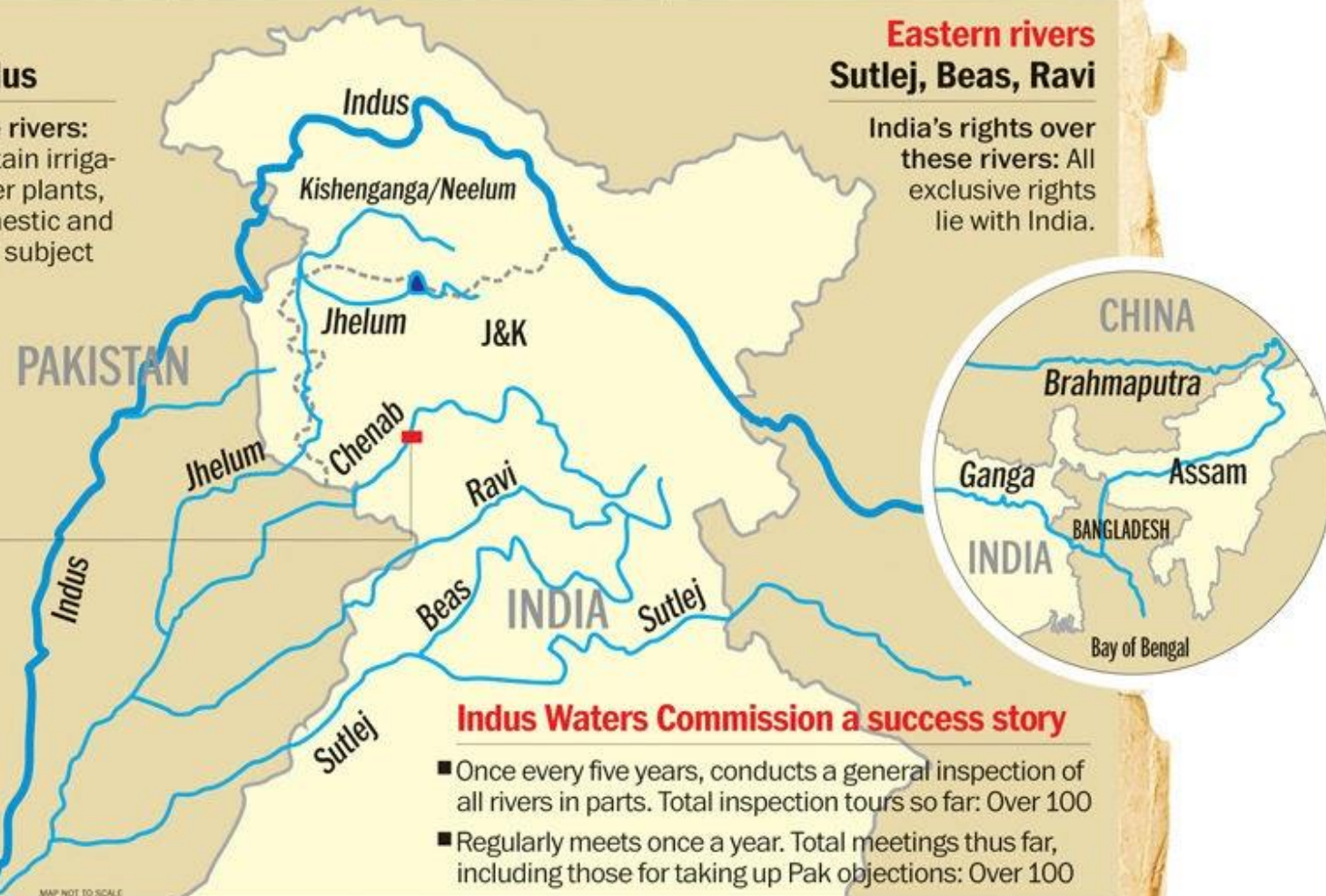
India's rights over these rivers:
Limited — can set up certain irrigation, run-of-the-river power plants, very limited storage, domestic and non-consumptive use, all subject to conditions



Baglihar dam on Chenab

Eastern rivers Sutlej, Beas, Ravi

India's rights over these rivers: All exclusive rights lie with India.



Indus Waters Commission a success story

- Once every five years, conducts a general inspection of all rivers in parts. Total inspection tours so far: Over 100
- Regularly meets once a year. Total meetings thus far, including those for taking up Pak objections: Over 100

VIZHINJAM PORT A MARITIME HUB

Maritime hub

The Vizhinjam port offers enormous economic benefits for India

The commissioning of the Vizhinjam International Transshipment Deepwater Multipurpose Seaport, developed by Adani Ports and Special Economic Zone Ltd (APSEZ) under a public-private partnership model with the Kerala government, marks a milestone in India's maritime history. For a country such as India, which relies heavily on foreign ports for handling around 75% of its inbound and outbound transshipment cargo, resulting in an annual revenue loss of approximately \$200 million-\$220 m, the port presents enormous economic opportunities. Its natural draft of about 20 metres, requiring minimal capital dredging, and its proximity to international shipping routes linking Europe, West Asia and the Far East – the east-west shipping axis – position it as a strong contender to become a transshipment hub. This could potentially bring home a significant portion of Indian cargo transshipment handled by the Singapore, Colombo, Salalah and Dubai ports. Ultra-large container vessels can berth without deviating from their route, thereby saving costs. As India's first semi-automated port equipped with remote-controlled quay cranes and an AI-powered vessel traffic management system, Vizhinjam will significantly reduce vessel turnaround times. India's container throughput capacity last year was approximately 20 million TEUs (twenty-foot equivalent units), contrasting with China's 330 million TEUs. This highlights the need for modern ports such as Vizhinjam along India's coastline.

Following the project's agreement in 2015, the Kerala government faced challenges, including protests from fishermen supported by the Latin Church, natural calamities and the COVID-19 pandemic. Commercial operations commenced in July 2024, with 265 ships, including large mother ships, having berthed so far. In the first phase, the Kerala government invested ₹5,595 crore, Adani Ports spent ₹2,454 crore, and the Union government provided a viability gap fund loan of ₹818 crore – a funding structure that sparked political debate. For Vizhinjam, an all-weather port, to become a game-changer in South Asia's maritime trade, the Centre and the State must ensure the timely completion of rail and road connectivity, which is crucial for leveraging the port's full potential. This will facilitate efficient cargo delivery to the entire hinterland of South India. The subsequent development phases, for which APSEZ and the Kerala government have signed an agreement involving an investment of around ₹9,500 crore by 2028, must also be implemented promptly. Warehousing, logistics, and industrial facilities are essential for the port to evolve into a thriving commercial maritime hub.

Context

- ❑ The **Vizhinjam International Deepwater Multipurpose Seaport**, India's first dedicated transshipment port, developed under a PPP model between **Adani Ports and the Kerala government**, has become operational in July 2024.
- ❑ It represents a significant shift in **India's maritime trade capabilities** by aiming to reduce dependency on foreign transshipment hubs.

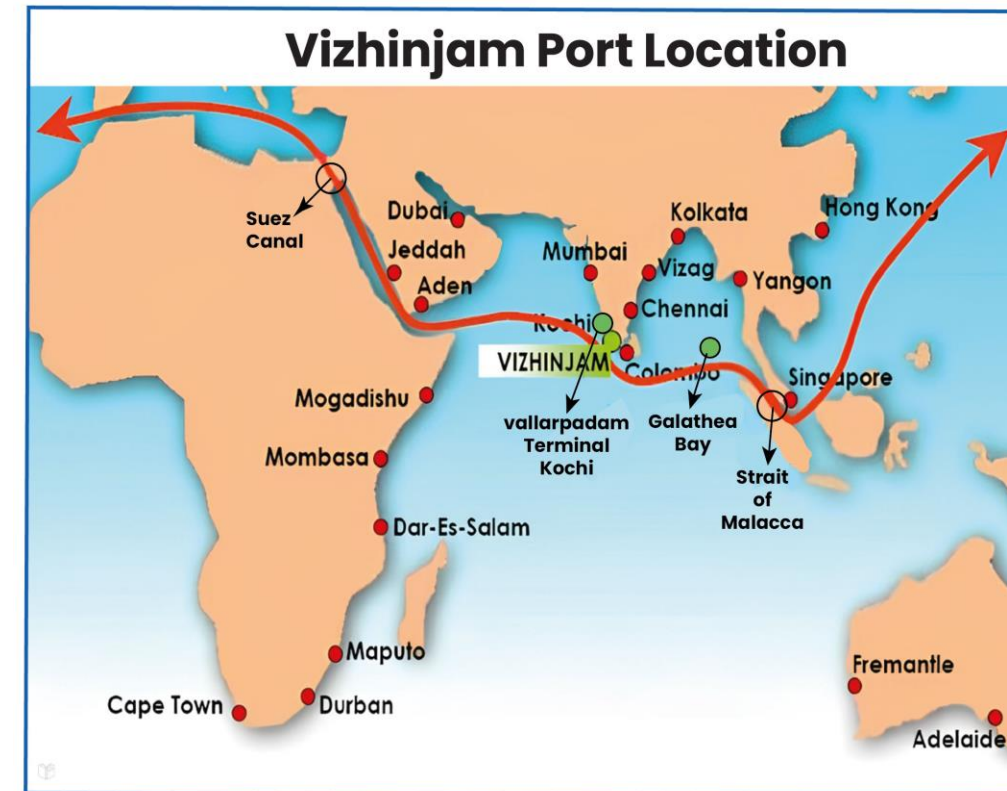
Strategic and Economic Significance

- ❑ **Reduction of Foreign Dependency** India currently transships around 75% of its cargo through ports like **Colombo and Singapore**, incurring annual revenue losses of \$200–220 million.
- ❑ **Geographical and Structural Advantages** With a natural draft of ~20 meters and location close to the **east-west international shipping route**, ultra-large container vessels can dock without deviation, lowering costs.
- ❑ It is **India's first semi-automated port**, equipped with AI-powered traffic management and remote-controlled quay cranes, reducing vessel turnaround time.



Connectivity and Future Roadmap

- ❑ **Hinterland Connectivity Imperatives** as Efficient integration with road and rail networks is crucial for seamless cargo distribution to South India's industrial zones.
- ❑ **Planned Expansion Phases** as Future phases (till 2028) will involve an **additional investment of Rs 9,500 crore**, aiming to develop allied logistics and warehousing.
- ❑ **Transformational Potential** If implemented effectively, **Vizhinjam can emerge as South Asia's major transshipment hub**, complementing India's Sagarmala vision.



CIVIL DEFENCE DRILLS

Centre directs States to hold 'civil defence' drills

Countrywide exercise to include air-raid sirens and evacuation plans; drill to begin tomorrow and continue till Friday amid escalating tension between India, Pakistan following the Pahalgam attack

Nistula Hobbar
Vijaya Singh
NEW DELHI

The Union Home Ministry on Monday asked the States to conduct drills up to the village level in 244 categorised districts by operationalising air-raid warning signs, crash blackout measures, evacuation plans, camouflaging vital installations, establishing hotline with the Indian Air Force, and training civilians on various aspects of civil defence measures in the event of a "hostile attack."

The Directorate General of Civil Defence under the Ministry wrote to the Chief Secretaries of all States on Monday to organise a civil defence exercise and rehearsal.

The letter said "civil defence is considered integral component of nation's passive defence strategy" and it would be prudent if optimum preparedness is maintained in the "current geo-political scenario" where "new and complex threats have emerged".

The States have been asked to activate control

War footing

The drills aim at training civilians on various aspects of defence measures in the event of a 'hostile attack'



Close watch: Security personnel stationed at a marketplace in Srinagar on Monday. AP

PREPARATORY STEPS

- Operationalising air-raid warning signs used to prepare the public when there is an 'external threat'

- Crash blackout measures similar to that conducted in Ferozepur of Punjab, bordering Pakistan, on Sunday

- States asked to undertake cleaning of bunkers and trenches prevalent in border villages

India opens dams on the Chenab before schedule

NEW DELHI

India, over the weekend, resorted to a surprise release of waters from dams in Jammu and Kashmir on Chenab river, in the first consequential water-based action taken since the announcement of keeping the Indus Waters Treaty "in abeyance". » PAGE 14

rooms, firefighting and warden services, and undertake cleaning of bunkers and trenches among others. Bunkers are present in border villages mostly in Jammu and Kashmir to shield civilians from cross-border firing.

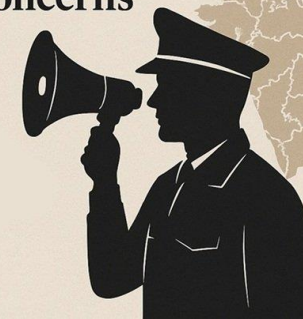
The mock drills will begin countrywide on Wednesday and are likely to continue till Friday, a senior government official said. Around four lakh volunteers associated with the DG, Civil Defence will be roped in for the drill, the official told The Hindu.

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Context

- ❑ India is set to conduct a **nationwide civil defence mock drill**, aimed at testing emergency preparedness in the wake of rising border tensions and the terror attack in Pahalgam that killed 26 civilians on April 22.

Civil Defence Mock Drills Across India on May 7: MHA Boosts Civilian Preparedness Amid Security Concerns



What are Civil Defence districts in India?



Civil Defence districts are designated regions where the Government of India actively **implements civil defence programs**.

These districts serve as **administrative and operational hubs for preparedness** activities in case of emergencies like wars, air raids, missile strikes, or large-scale terror attacks.

Their role is to **organize resources, train civilians and volunteers, and coordinate responses** involving multiple government and civilian agencies.

They carry out functions such as **Training and mobilizing volunteers** **Conducting blackout and evacuation** drills
Managing coordination with Home Guards, NCC, NSS, NYKS, police, and local authorities
Running public awareness campaigns and shelter planning

Difference between NCC and NSS

Parameters	 NCC	 NSS
Ministry	Ministry of Defence	Ministry of Youth Affairs & Sports
Year of establishment	1948	1969
Aim	To foster disciplined, selfless youth leadership for national service and military careers.	Development of Student's personality through community service.
Established through	National Cadet Corps Act XXXI of 1948	A Central Sector Scheme
Uniform	Compulsory uniform for NCC cadets	No uniform prescribed for NSS volunteers
Who can join?	<ul style="list-style-type: none">• Junior Division/Wing: Students from schools (of 13 Years or more of age)• Senior Division/Wing: Students from Colleges and XI and XII classes	<ul style="list-style-type: none">• 11th & 12th Class students• Students of Technical Institution, Graduate & Postgraduate at colleges and University level of India


What is a Civil Defence mock drill?

A civil defence mock drill is a **planned simulation of emergency scenarios** — such as an aerial attack or missile strike — to test public and administrative readiness.

These drills are governed by the **Civil Defence Rules, 1968**, and simulate situations like: Power blackouts Air raid sirens Evacuation alerts Emergency communication breakdowns etc.

The mock drills **help reduce civilian panic, identify response gaps, train volunteers** and responders and build awareness and resilience.

The exercise is not a signal of imminent conflict but part of a longstanding framework under the **Civil Defence Rules, 1968**.



Objectives of the Civil Defence mock drill on 7th May

- Assess air raid warning systems
- Test hotline/radio links with IAF
- Check control room functionality
- Train civilians & students
- Ensure blackout & camouflage readiness
- Activate Civil Defence services (firefighting, rescue, warden services)
- Evaluate evacuation plans



Thank you

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