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## *Report- Public Talk*

# **“Pakistan-India: Avoiding a Water War”**

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### Pictures of the Event



## **Pakistan-India: Avoiding a Water War**

A Public Talk was organised by Institute of Strategic Studies Islamabad, (ISSI) as part of its Distinguished Lecture Series on December 14, 2016 on "*Pakistan-India: Avoiding a Water War*". The guest speaker at the occasion was Mr. Ahmer Bilal Soofi, a leading lawyer and former Federal Law Minister who spoke extensively on the subject.

While welcoming the speaker and guests, Chairman Board of Governors, ISSI, Ambassador Khalid Mahmood highlighted the importance of the topic and said that ISSI could not have found a better expert than Mr. Ahmer Bilal Soofi to speak on the subject. Indus Water Treaty (IWT) which withstood all ups and downs of the bilateral relations between India and Pakistan including wars is being threatened to be scraped by India. Though the reasons for creating this hype by India could be its own internal political dynamics, but Pakistan on its part cannot ignore the statements emanating from New Delhi. He went on to explain the series of events that led to the point where Pakistan had to warn India that revocation of Indus Water Treaty would be considered as an act of war. He also explained that the Indus Water Treaty does not allow Pakistan or India to cancel or revoke the treaty unilaterally. Article 12(4) of the treaty clearly mentions that the termination of the treaty is only possible if both India and Pakistan draft a treaty in this regard and then ratify it.

Speaking at the occasion, Mr. Ahmar Bilal Soofi gave a detailed overview of the Indus Water Treaty. Signed in 1960 between President Ayub Khan and Prime Minister Jawaharlal Nehru, the Indus Water Treaty is 74 pages long with 12 articles and 8 annexures and has no expiry date. He explained the salient features of the Treaty and how the six rivers of Indus basin are divided between India and Pakistan. He explained in detail the functions of Permanent Indus Commission and the different stages of conflict resolution. He once again emphasised the fact that the treaty cannot be revoked unilaterally as article 12(4) does not allow any such move.

Touching upon the issues that are not properly covered under the treaty, Mr. Ahmer Bilal Soofi said that the Treaty does not specify the number of dams India is allowed to build. Therefore, the question of the number of dams that are being built by India on Western rivers does not fall under the scope of Indus Water Treaty. He elaborated the process that India follows for constructing a dam in Indian held Kashmir. After a political decision is taken, strategic

analysis is conducted, investments are arranged, locations is selected and design are made. It is only after completing all these formalities that Pakistan is informed. He quoted renowned water expert John Briscoe who expressed his fears that the number of dam projects that are being built by India would give it an "unquestioned capacity to have major impact on the timing and flows into Pakistan."

While discussing the new emerging challenges to water security and efficacy of Indus Water Treaty, Mr. Soofi referred to the Major Staff Report for the US Senate 2011 which clearly states that Central and South Asia, particularly in Afghanistan and Pakistan, the impacts of water scarcity are fuelling dangerous tensions that will have repercussions for regional stability. He explained to the audience that India, being an lower riparian country in its water sharing arrangement with China has its anxieties but follows different policy with Nepal and Bangladesh where it is a upper riparian country.

Commenting on Pakistan's water management and the controversy surrounding the construction of Kalabagh dam, Mr. Soofi referred to Justice Mansoor Ali Shah's flood report which highlights the lack of proper flood plain management plan and lack of emergency shelters. Regarding the construction of Kalabagh dam, Mr. Soofi mentioned in detail the decision of Council Of Common Interest which had approved the construction of Kalabagh dam. He emphasised that the decision of Council of Common Interest (CCI) has obligatory effect under Article 54 of the Constitution. Hence, the Lahore High Court ruling in 2013 pressed upon the government to implement the decision of CCI. Mr. Soofi also emphasised the fact that under international law, it is obligatory that Pakistan properly manages its water resources failing which, its case against India loses its strength and credibility.

Mr. Ahmer Bilal Soofi expressed his shock that Prime Minister Modi went to the extent of calling a senior level meeting to review the status of Indus Water Treaty. This, in Mr. Soofi's assessment, was unprecedented. He went on to explain that unilateral termination of Indus Water Treaty would go against the promise of goodwill enshrined in the treaty and would prove Pakistan's 'lower riparian ' anxiety as justified.

He suggested certain measures as way forward. He highlighted different approaches i.e. an engineer's view, view of a security analyst as well as the legal view and explained that there

is a need to understand these different approaches before moving forward. He suggested that Pakistan should take up the issue of dam building by India bilaterally outside the framework of IWT. He also emphasised the need to bring the recent aggressive posture of India to the attention of world forums especially the UNSC. Further, he also suggested that there should be internship programmes for the lawyers in the Indus Water Commissioner's office. He concluded his presentation by highlighting other issues like the Pathankot incident, Mumbai attacks, Uri attacks, Kashmir, Siachen and Sir Creek where both India and Pakistan need to focus more from legal and technical point of view instead of only diplomacy .

The presentation was followed by an active question/answer session. On a question regarding legal diplomacy, Mr. Soofi said that number of dossiers have been exchanged between India and Pakistan to settle different issues but all such dossiers were useless as they were not admissible in court of law. A question was raised on the issue of a pause announced by the World Bank in discussion between India and Pakistan on water issue. Mr. Soofi said that World Bank would not like this treaty to go down but ideally they should have offered a resolution themselves. If a dam is already under construction, then this pause will benefit India. A guest raised question as to why new dams are not being build in Pakistan. The guest also wondered if Pakistan is going to have a nuclear war with India because Pakistan is not doing enough to preserve its water recourses and likes to remain on the mercy of India. Mr. Soofi said that unfortunately, consensus on Kalabagh dam could not be achieved and political governments likes to move ahead on such issues with consensus. He also expressed his reservations on the possibility of a nuclear war between India and Pakistan but said possibility cannot be ruled out. He emphasised the need to take this issue on international forums with improved narratives so that improved solutions could be found.

Concluding the event, the Chairman BOG, ISSI Ambassador Khalid Mahmood appreciated the guest speaker for his enlightening presentation. He agreed with the speaker that it is indeed the responsibility of lower riparian countries to preserve water resources in effective manner. He thanked the speaker and the audience for active participation and making the event a success.