

# *Indus Waters Treaty*



## Past, Present & the Future

**ROUND TABLE CONFERENCE REPORT**  
24 DECEMBER 2024



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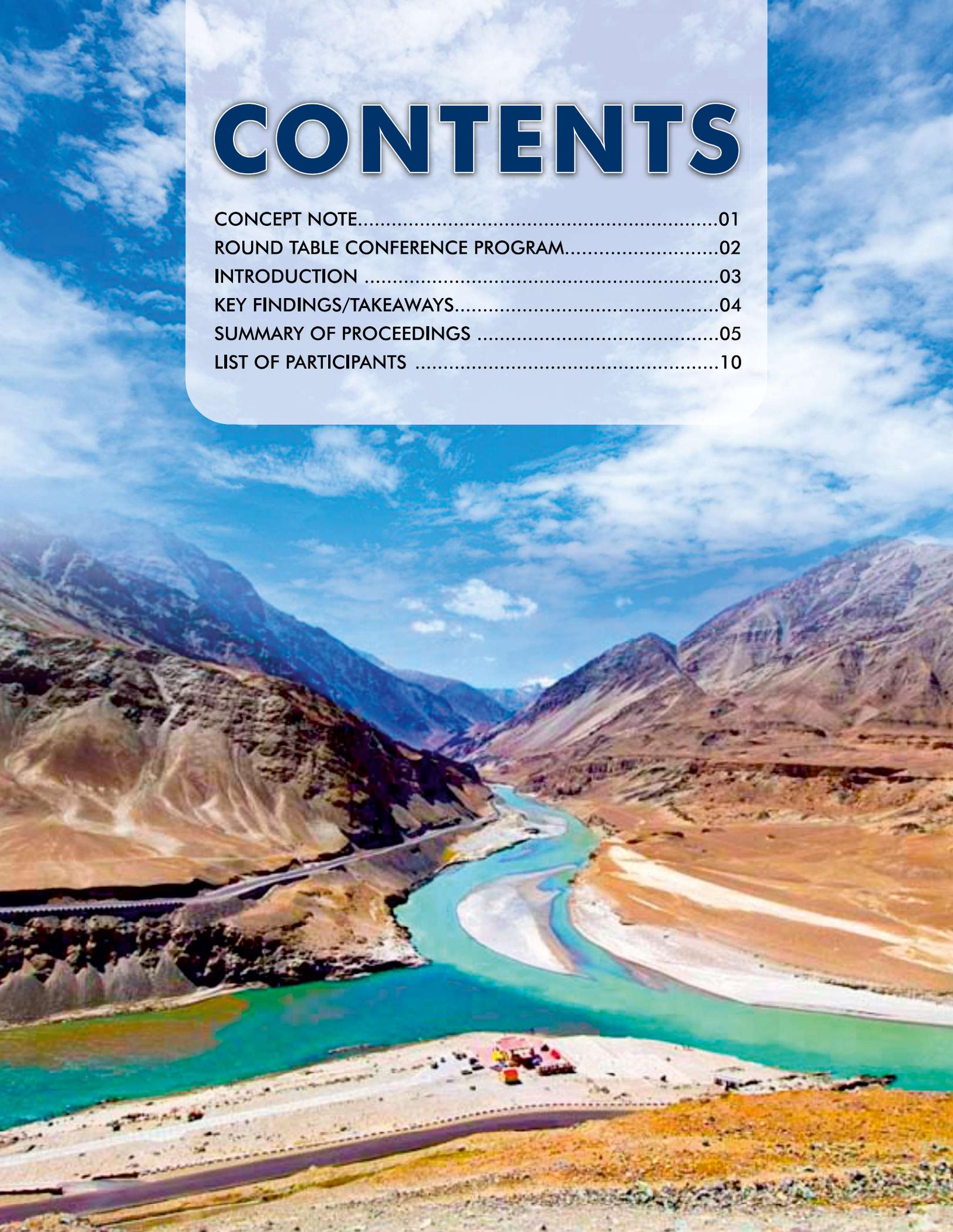
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**Disclaimer**

The discussion and report have followed Chatham House Rules. The statements, facts, and opinions by speakers do not constitute the official policy of National Defense University.

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## CONCEPT NOTE

The Indus Waters Treaty (IWT), signed in 1960, has been a cornerstone of water-sharing between Pakistan and India. However, recent developments, particularly India's formal notices citing "fundamental and unforeseen circumstances" such as demographic changes, environmental issues, and terrorism concerns, have raised significant challenges to the treaty's durability and function. In response, ISSRA at NDU organized a Round Table Conference to evaluate the treaty's implications and devise a strategic course for Pakistan in future negotiations.

The discussion explored legal, diplomatic, environmental, and security dimensions of India's notices, assessing their broader impact on Pakistan-India relations and the geopolitical landscape of South Asia. Two primary themes guided the dialogue: the implications of India's notices and Pakistan's strategic approach to prospective negotiations. The first theme focused on legal assessments, environmental challenges, and potential opportunities for Pakistan to strengthen its water governance and diplomacy. The second theme examined key negotiation strategies, addressing water scarcity, ensuring effective dispute resolution, and anticipating India's possible demands.

The conference aimed to provide a comprehensive understanding of the notices' implications, develop strategic recommendations, and form the basis for a detailed strategy paper. Participants included legal experts, water resource specialists, policymakers, and representatives from relevant think tanks. This platform encouraged collaborative analysis to bolster Pakistan's readiness in safeguarding its water rights and regional stability.

To guide the discussion, participants were asked:

1. Why is India attempting to revise the Indus Waters Treaty? Why now? Can India do so unilaterally without Pakistan's consent?
2. What is Pakistan's response to India's efforts? What should Pakistan's approach be in addressing these notices? Should Pakistan focus solely on the current notices, or adopt a broader, future-oriented strategy? How does this situation differ from the disputes under the Court of Arbitration and the neutral expert on projects like Kishanganga?

These questions framed the analysis of India's motivations, the legal and diplomatic implications, and Pakistan's strategic options for navigating this complex issue.

## ROUND TABLE CONFERENCE PROGRAM

Session	Time	Details/Speakers
<b>Arrival of Participants</b>	<i>14:00</i>	
<b>Opening Remarks</b>	<i>14:05</i>	Major General Muhammad Raza Aizad DG ISSRA
<b>India's Indus Waters Treaty Notice: Implication and Pakistan's Response Options</b>	<i>14:05–15:10</i>	Opening remarks by all the Discussants
<b>Discussion</b>	<i>15:15–16:25</i>	Open Discussion
<b>Closing Remarks</b>	<i>16:25–16:30</i>	Major General Muhammad Raza Aizad DG ISSRA
<b>Hi-Tea</b> <i>16:30 Onwards</i>		

## INTRODUCTION

- The Round Table Conference (RT) on “*Indus Waters Treaty (IWT): The Past, The Present, & The Future*” was organized by the Institute for Strategic Studies, Research, and Analysis (ISSRA), National Defence University (NDU), Islamabad. It was held on **24 December 2024** at the NDU premises in Islamabad, Pakistan. The conference brought together eminent experts, legal scholars, water resource specialists, and policymakers to deliberate on the multifaceted implications of India’s notices to Pakistan regarding the Indus Waters Treaty (IWT).
- The RT comprised a single, integrated session where both the implications of India’s notices and Pakistan’s prospective negotiation strategy were discussed in parallel. The discussion was guided by two main themes. The first session focused on analyzing the implications of India’s notices on the functionality, stability, and future of the IWT. The second session explored Pakistan’s potential strategy for prospective negotiations with India, should they proceed.
- The RT was initially held under the Chatham House Rules, allowing open and candid discussions without attribution.
- The conference emphasized addressing the issues from legal, diplomatic, environmental, and strategic perspectives, with the aim of crafting a cohesive and actionable strategy for Pakistan to navigate the evolving challenges posed by India’s notices.



## KEY FINDINGS/TAKEAWAYS

- India appears to be pursuing a long-term strategy to renegotiate or sabotage the IWT, utilizing environmental concerns, demographic changes, and terrorism as pretexts. This aligns with its broader geopolitical aspirations to dominate regional water resources.
- The IWT remains a robust legal framework despite India's attempts to undermine it. Pakistan must avoid reopening or renegotiating the treaty to prevent loss of critical safeguards.
- Pakistan has expressed its willingness to engage in discussions, emphasizing that such talks should not be misconstrued as treaty renegotiations. The priority remains on addressing issues within the existing IWT framework.
- The office of the Pakistan Commissioner for Indus Waters (PCIW) requires immediate structural and resource-based strengthening to handle the technical, legal, and diplomatic challenges associated with the IWT.
- There is no need to reopen the treaty for negotiation; rather, the treaty's mechanisms should be utilized to address the concerns of both sides. Pakistan can use this opportunity to highlight its vulnerabilities and lead conversations on transboundary water management, climate change, and environmental cooperation.
- The World Bank's inconsistent role in dispute resolution has created challenges. Pakistan should demand greater accountability and adherence to treaty obligations from the Bank.
- The politicization of water resources increases the risk of non-state actors targeting critical infrastructure. This emerging threat requires collaborative regional action.
- There is an urgent need for Pakistan to enhance its diplomatic engagement and communication on the IWT, both regionally and internationally. Building targeted legal and public diplomacy campaigns is crucial.

## SUMMARY OF PROCEEDINGS

### A. Why is India Trying to Renegotiate the IWT and Why Now?

- India's notices come at a time when it has consolidated significant economic and diplomatic clout, allowing it to push its agenda more aggressively. The rise of Hindu nationalism and Modi's strongman image further align with a broader strategy of exerting dominance over Pakistan.
- India's references to demographic changes, environmental challenges, and sediment control serve as a pretext to justify renegotiating treaty provisions. These arguments aim to portray India as a responsible actor addressing contemporary challenges while sidelining Pakistan. However, experts argue that these justifications are insufficient for renegotiating the treaty.
- Climate change has been used as a strategic argument, framing India's demands as necessary adaptations. However, experts noted that India's actual actions contradict its narrative, as it remains one of the world's largest polluters.
- By revisiting the treaty, India seeks to exploit Pakistan's institutional weaknesses and limited water resources. This aligns with its broader geopolitical strategy to marginalize Pakistan in regional and international forums.
- India's dissatisfaction with the World Bank's previous decisions, particularly its handling of parallel dispute mechanisms, may have motivated it to push for a reset in treaty terms.
- India's initial focus on the Eastern Rivers, current focus on the western rivers and its increasing infrastructure projects over the past two decades indicate a calculated approach to gaining control over critical water resources. The notices represent the culmination of this long-term strategy.

### B. Can India Unilaterally Abrogate or Modify the IWT?

- Under Article 12 of the IWT, the treaty can only be modified or terminated with mutual consent. India's unilateral abrogation would place it in breach of international law.
- While legally constrained, India could attempt to *de facto* bypass the treaty by delaying mechanisms or withholding water flows. Such actions would constitute violations but could create practical challenges for Pakistan.

- India's reliance on fundamental change of circumstances (Article 62 of VCLT) faces significant legal hurdles. Pakistan can counter this by emphasizing the treaty's resilience and the lack of material changes justifying renegotiation.
- A unilateral abrogation would attract significant international criticism, particularly from other lower riparian states and environmental organizations. Pakistan must leverage this to dissuade India from pursuing such actions.

### **C. Legal Aspects and Implications**

- India has leveraged procedural ambiguities in the Indus Waters Treaty (IWT) to delay dispute resolution mechanisms and weaken the treaty's safeguards. Its notices under the guise of addressing environmental changes, demographic shifts, and terrorism aim to introduce renegotiations that could undermine Pakistan's water rights.
- Legally, the IWT is a binding agreement that cannot be unilaterally terminated. However, India could exploit the absence of specific enforcement mechanisms to stall or bypass treaty provisions. Pakistan's legal experts highlighted that any unilateral abrogation by India would place it in perpetual violation of international law.
- The World Bank's inconsistent stance in the dispute resolution process has complicated matters. While the Bank acted as a neutral facilitator during the treaty's inception, its hesitation in promptly addressing competing claims in 2016 enabled India to continue project construction unchecked. Pakistan must push for a stronger, more accountable role for the World Bank.
- The Dispute Resolution Clause (Article 9) is a cornerstone of the treaty. Pakistan must safeguard this provision against Indian attempts to dilute or reinterpret it. The parallel proceedings of the Court of Arbitration and Neutral Expert were noted as a critical issue that could set problematic precedents if not handled strategically.
- While the Vienna Convention on the Law of Treaties (VCLT) does not directly apply to the IWT, its customary principles, such as those on fundamental change of circumstances (Article 62), provide critical legal context. India's interpretation of these principles, particularly its reliance on selective precedents, underscores the need for Pakistan to present counterarguments based on international legal norms.

#### **D. Diplomatic and Strategic Dimensions**

- The notices align with India’s larger goal of regional dominance and its policy of “weaponizing” water. Experts emphasized that India’s actions are not isolated but part of a calculated effort to maximize its control over transboundary rivers while marginalizing Pakistan diplomatically.
- The lack of cohesive and proactive diplomatic engagement on water issues has left Pakistan vulnerable. Targeted diplomacy in key international capitals and effective public diplomacy campaigns are crucial to counter India’s narrative and gain international support.
- The shared vulnerabilities of both nations to climate change present an opportunity for Pakistan to advocate for cooperative frameworks. Highlighting India’s environmental mismanagement and its status as a major polluter could strengthen Pakistan’s position in international forums.
- Pakistan should explore regional water-sharing mechanisms involving other riparian states like Nepal, Bangladesh, and China. Such alliances could counterbalance India’s unilateral actions and emphasize collective regional interests in sustainable water management.

#### **E. Technical and Institutional Gaps**

- The office of the Pakistan Commissioner for Indus Waters (PCIW) has been criticized for its lack of capacity, inadequate resources, and poor coordination. Relocation of its office and logistical challenges have further weakened its operational efficiency. Institutional strengthening and specialized training are critical.
- India’s water management institutions are significantly more advanced, with specialized engineering cadres and robust central water commissions. This has enabled India to better strategize and implement its water-related projects, putting Pakistan at a disadvantage.
- Pakistan’s inability to collect, analyze, and share credible data has weakened its position in negotiations. Accurate and comprehensive data on water flows, sedimentation, and climate impact is essential to counter India’s technical claims effectively.
- Sedimentation control, a core Indian argument for renegotiation, is a technical issue that Pakistan must address with empirical evidence. Experts pointed out that advanced sedimentation management technologies can mitigate the problem without altering treaty design constraints.

- Pakistan’s reliance on a single basin system, i.e., Indus Basin, and its inadequate water storage capacity exacerbate its vulnerabilities. Immediate investments in water conservation, storage, and adaptive infrastructure are necessary to strengthen its long-term resilience.

#### **F. Environmental and Climate Change Concerns**

- Both India and Pakistan face declining water availability due to glacier melting and erratic rainfall patterns. Climate change projections indicate worsening water scarcity, making treaty compliance and cooperation more critical than ever.
- India’s notices emphasize environmental changes as a basis for treaty revision. Pakistan must counter this by showcasing its proactive environmental policies and highlighting India’s failure to address its role as a major polluter.
- Experts stressed the importance of framing the IWT issue within the larger context of regional climate resilience. Collaborative approaches to managing transboundary rivers could create a platform for dialogue while safeguarding Pakistan’s interests.

#### **G. Emerging Security Threats**

- South Asia’s politicization of water resources increases the risk of non-state actors exploiting these tensions. Instances of water-related terrorism globally highlight the need for regional cooperation to address this emerging threat.
- India’s policies and infrastructure projects on western rivers reflect a trend toward militarizing water resources. Pakistan must frame this as a broader security concern in international forums.
- Experts emphasized treating the IWT not just as a technical or legal matter but as a strategic issue linked to national security. Framing it as such can attract greater attention from global stakeholders and underscore its importance to Pakistan’s sovereignty.

#### **H. What is Pakistan Doing About It: Opportunities & Recommendations.**

- Pakistan has expressed a willingness to engage in discussions while maintaining that such talks should not be construed as treaty renegotiations. The focus remains on resolving issues within the existing IWT framework.
- Efforts to revitalize PCIW and involve strategic stakeholders have been initiated. However, challenges such as resource limitations and bureaucratic inefficiencies persist.

- Pakistan is exploring avenues to raise the issue in international forums, emphasizing the treaty's importance as a model for peaceful dispute resolution and highlighting India's aggressive actions.
- A dedicated legal team has been engaged to handle ongoing disputes and prepare for potential arbitration or negotiations. Emphasis is being placed on safeguarding key treaty provisions.
- India's notices offer Pakistan a chance to revisit its approach to water governance and build stronger international alliances. Emphasizing the IWT's success as a model for conflict resolution can garner international support.
- Breaking down bureaucratic silos and fostering collaboration among stakeholders is critical. The creation of a centralized, multidisciplinary body to oversee water issues was suggested as a key reform.
- Building technical capacity in water engineering, climate science, and international law will empower Pakistan to negotiate from a position of strength.

## LIST OF PARTICIPANTS

Sr. No.	Name	Designation
<b>CHAIR</b>		
1.	Major General Muhammad Raza Aizad	DG ISSRA
<b>MODERATOR</b>		
2.	Mr. Oves Anwar	Director Research, RSIL.
<b>DISCUSSANTS</b>		
3.	Mr. Syed Muhammad Mehar Ali Shah	Additional Secretary, Ministry of Water Resources, Government of Pakistan.
4.	Mr. Ashtar Ausaf	Founder, Ashtar Ali LLP.
5.	Mr. Ahmer Bilal Soofi	President, Research Society of International Law (RSIL) & Senior Partner, ABS&Co.
6.	Mr. Feisal Hussain Naqvi	Senior Partner, Bhandari Naqvi Riaz (BNR).
7.	Mr. Ahmed Kamal	Former Chief Engineering Advisor & Chairman, Federal Flood Commission, Ministry of Water Resources, Pakistan.
8.	Dr. Yasir Abbas	Chief Engineer, Hydrology Sedimentation and Modelling Section, Water and Agriculture Division, NESPAK.
9.	Ms. Maham Naweed	Chair International Law, Islamabad Policy Research Institute (IPRI).
10.	Dr. Saadia Zahoor	Policy Expert (Non-Traditional Security)
11.	Mr. Mian Ahmad Naeem Salik	Research Fellow Centre for Strategic Perspectives (CSP), ISSI
12.	Mr. Mohsin Kamal	Attorney at Law Managing Partner MK and Associates
13.	Ms. Hareem Hilal	Associate Professor, Law Department, NUST.
<b>OBSERVERS</b>		
14.	Dr. Khalid Mahmood Shafi	Director ISS, ISSRA.
15.	Ms. Maham Ayaz	RA CEIL, ISSRA.



# PICTURES GALLERY





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