

River water disputes in India

– 1

December 24, 2019

Source: *The Hindu*

Manifest pedagogy: River water disputes related geographical facts and issues could be asked both at prelims and mains level. The issue related to tribunal, it's award, setting up of single board etc should be emphasized from mains perspective.

In news: Inter-State River Water Disputes (Amendment) Bill, 2019 has been passed in Lok Sabha.

Placing it in syllabus: River water tribunals

Dimensions:

- Interstate river water disputes
- Cauvery river dispute
- Sutlej Yamuna link canal
- Inter-State River Water Disputes (Amendment) Bill, 2019

Content: Interstate river water disputes in India:

- **Entry 17 of State List** deals with water i.e. water supply, irrigation, canal, drainage, embankments, water storage and water power.
- **Entry 56 of Union List** gives power to the Union Government for the regulation and development of inter-state rivers and river valleys.
- **Article 262** of the Indian Constitution provides that –
- Parliament may by law **provide for the adjudication of any dispute or complaint** with respect to the use, distribution or control of the waters of or in any inter-State river or river valley.
- Parliament may, by law provide that **neither the Supreme**

Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint.

Parliament has enacted **two laws under Article 262 –**

1) **River Board Act, 1956** : The purpose of this Act was to enable the Union Government to create Boards for Interstate Rivers and river valleys in consultation with State Governments to advise on the inter-state basin to prepare development scheme and to prevent the emergence of conflicts. (Till date, no river board as per above Act has been created).

2) **Inter-State River Water Dispute Act (ISRWD), 1956** : If a State Government makes a request regarding any water dispute and the Central Government is of opinion that the water dispute cannot be settled by negotiations, then a **Water Disputes Tribunal is constituted for the adjudication of the water dispute.**

The act was **amended in 2002**, according to which a **one year time frame is given to setup the water disputes tribunal** and also a **3 year time frame to make a decision.**

Cauvery water dispute:

- The two states of Karnataka and Tamilnadu have been fighting for their 'due share' of Cauvery river for centuries.
- An **agreement between the erstwhile Madras Presidency and the Kingdom of Mysore in 1924** was favourable for the former.
- According to reports, Tamil Nadu used to get about 602 thousand million cubic feet (TMC) of the total water and Karnataka used to get only about 138 TMC.
- Post-independence, Karnataka kept complaining that the arrangement was highly skewed in Tamil Nadu's favour and demanded equitable sharing of the waters.
- In **1990, the VP Singh government set up a Cauvery Water Disputes Tribunal (CWDT)** to look into inter-state river

water disputes.

- The Tribunal announced its order in 2007 and total water of the river was 740 TMC, as found out by the Tribunal.
- **As per Tribunal's decision Karnataka got 270 TMC, Tamil Nadu was awarded 419 TMC.**
- Rest of the water was divided into Kerala, Puducherry and several other basins.
- The CWDT also directed Karnataka to release 192 TMC of Cauvery water in a normal monsoon year.
- Not satisfied with the Tribunal's order, the **Karnataka government moved to the Supreme Court and claimed 312 TMC of water.**
- On September 30, 2016, the Supreme Court took the Karnataka government to task for not complying with the order.
- In between, the Supreme Court passed three orders directing Karnataka to release Cauvery water to Tamil Nadu.
- Karnataka filed a review petition in the apex court against the three orders.
- **On February 16, the Supreme Court directed the Karnataka government to release 177.25 TMC of water to Tamil Nadu (14.75 TMC lesser than what was allotted by the tribunal in 2007).**
- As per the **latest judgment, Karnataka will get 284.75 TMC while Tamil Nadu will get 404.25 TMC of Cauvery water.**



Sutlej-Yamuna link (SYL) canal:

- The issue links to the dispute between Punjab and Haryana after the formation of Haryana in 1966.
- The **parties involved are Punjab, Haryana, and Rajasthan.**
- To enable Haryana to use its share of the waters of the Satluj and Beas, a **canal linking the Satluj with the Yamuna was planned and in 1982 its construction was**

started.

- Due to the protest by Punjab, **the tribunal was set up in 1986 which gave an award in 1987 recommending Punjab's share as 5 Million Acre Feet (MAF) of water and Haryana's as 3.83 MAF.**
- Punjab contested the award and held that the tribunal overestimated the availability of the water.
- **Haryana approached Supreme Court for the construction of the SYL canal in 2002.**
- Supreme Court directed Punjab to complete the construction of canal within 12 months.
- In July **2004**, Punjab Assembly passed **Punjab Termination of Agreements Act** scrapping water-sharing agreements with other states and thus jeopardising the construction of the canal.



- **This Act has been declared unconstitutional by the Supreme Court in 2016 under Article 143.**
- In response, Punjab Assembly passed the Act according to which the land acquired for the canal would be denotified and returned to the original owners.
- **Supreme Court has directed both Punjab and Haryana to maintain status quo** in the SYL canal controversy.
- In the recent hearing, **Centre has offered as a mediator to both Punjab and Haryana.**

Inter-State River Water Disputes (Amendment) Bill, 2019:

The Inter-State River Water Disputes (Amendment) Bill, 2019 **amends the Inter-State River Water Disputes Act, 1956.**

-> The Bill provides for a **two-tier dispute resolution mechanism.**

- Once a dispute arises, it would be referred to a **Dispute Resolution Committee (DRC)** – to be headed by a secretary-level officer.

- If the committee fails, then the dispute will go to a **centralised (single standing) tribunal with multiple benches** (instead of the multiple tribunals that exist now).
- Such referral must be made within three months from the receipt of the report from the DRC.

With the setting up of such a tribunal, all existing tribunals would be dissolved and the pending cases transferred to it. The decision of the tribunal would be final, binding on states and have the same force as an order of the Supreme Court. However, in case the dispute persists, the matter could be referred back for reconsideration.

-> Appointments: The tribunal would have a **chairman, vice-chairman and six members – three judicial and three experts.**

- They would be appointed by the central government on the recommendation of a **selection committee**, which would comprise of the Prime Minister, Chief Justice of India and ministers for law and justice and Jal Shakti.
- The central government may appoint **two or more experts (to be called assessors)** serving in the Central Water Engineering Service and of the chief engineer rank. The assessor should **not be from the state which is a party to the dispute.**
- It will also **comprise one member from each state** (at Joint Secretary level), who are party to the dispute, to be nominated by the concerned state government.

-> Retirement: The **term of office** of the chairperson and vice-chairperson would be **five years or until the age of 70 years.** That of the other members would be co-terminus with adjudication of dispute or until 67 years.

-> **Time limit:** The maximum time allowed for the **DRC would be one-and-half years, for the tribunal two years** and for **reconsideration** another **one-and-half years.**

-> There would be **no requirement of publication of the tribune's report.**

-> Basin-wise data: The Bill also provides for a **transparent data collection system at the national level** for each river basin. The central government will appoint or authorise an agency to maintain such data bank.

