
SHARING THE WATERS: A LOOK AT INTER-STATE RIVER DISPUTES IN INDIA

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ABSTRACT

This Article delves into the complexities of sharing water resources between different states in India. Since independence, tensions have arisen between states over the sharing of river water and their tributaries that flow through the neighbouring states. Each state strives to secure enough water for its population and claims territorial jurisdiction over it, leading to disputes fuelled by cultural differences and the vital need for water. The paper also explores how tribunals and river boards are established to resolve river water disputes between states by the central government. Additionally, it analyzes specific case studies of inter-state river water disputes in India. These case studies talk about the reasons behind the disputes and the impact they have on people's lives, including the displacement of people living near river banks without proper compensation as seen in the Sardar Sarovar Dam project on the Narmada River. By analyzing these issues, the paper aims to shed light on the challenges and potential solutions for managing inter-state river water disputes in India, ultimately promoting sustainable water use and ensuring water security for all citizens.

Sharing the Waters: A Look at Inter-State River Disputes in India

Introduction

Water is important for existence. Laws governing water sharing and disputes cover a wide range of concerns, including human rights, the environment, and social standards. These rules are meant to help people acquire access to and manage water efficiently. Some of these laws are official, like treaties and government-enforced laws, while others are informal, like communal agreements. Water in India comes from several sources, including lakes, rivers, and underground sources. India has multiple significant rivers that flow through several states, covering the majority of the country. However, there are sometimes disagreements among governments about who gets to use the water from these rivers. This is a significant issue in India since each state wants its fair share of water. This is a major issue in India since each state seeks its fair share of water. Unfortunately, the government has not been excellent at resolving these disagreements, which may occasionally escalate to violence. These disagreements between governments over water are known as inter-state water conflicts. Some of the more notable ones in India include battles over rivers such as the Cauvery, Narmada, Ravi and Beas, and Krishna. These arguments have been going on for a long time because courts take too long to render decisions, or the rulings they arrive at are not followed correctly. Although India has several water regulations, these debates continue to cause conflicts among states. When governments cannot agree on how to appropriately distribute and manage water resources. It can result in severe conflicts that affect millions of people.

Origins and Factors:

An interstate water dispute is essentially a disagreement between states about who gets to utilize the water from rivers, lakes, or other sources that flow through or are shared by those states. It is a conflict about how to share or manage water resources that span state borders. These conflicts arise when states cannot agree on issues such as how much water each state should receive or how it should be used.

Interstate water disputes can emerge for a variety of reasons, including conflicting needs, limited supplies, and divergent priorities between the jurisdictions concerned. Some typical grounds for these arguments are:

- growth in population between states, which increases the need for safe drinking water. As populations rise, so does the water demand, putting a strain on accessible water supplies and escalating tensions between governments competing for limited resources.
- the rise of agricultural activity increases the demand for water resources. As states extend their agricultural regions to fulfill the food demands of their rising populations, the production of water-intensive crops such as sugarcane rises, escalating competition for water. This agricultural development may result in conflicts over water allocation and consumption, particularly in areas where water is already scarce.
- Industrial development also contributes to water disputes between states. Industries use water for a variety of activities, and the need for a consistent power supply frequently leads nations to exploit their natural hydropower capacity. This increased demand for water for industrial uses can put a strain on water supplies, particularly in areas where industrialization is concentrated, resulting in conflicts over water allocation and consumption priorities.
- Climate change-induced changes in rainfall patterns also contribute significantly to worsening water conflicts. Reduced rainfall can cause smaller bodies of water, such as lakes, to dry up, decreasing accessible water supplies and increasing rivalry among governments for the remaining resources.
- Political factors such as regionalism and historical disagreements, can further exacerbate interstate water disputes. Political pressures and growing regionalism may intensify existing tensions and lead to disputes over water distribution and management. Furthermore, water conflicts may frequently be traced back to historical grudges between governments, making diplomatic resolutions extremely problematic.

Rule of law:

The **Government of India Act, 1919**¹ also known as the Montagu-Chelmsford Reforms was introduced to provide representation to Indian leaders in Governance. The Act introduced Diarchy and the provincial government was given more powers in the matters of a 'reserved' list which was to be administered by the governor, it included subjects such as law and order,

¹ Government of India Act, No. 1 of 1919, Indian Legislative Council Acts (1919) (India).

finance, land revenue, irrigation, etc. Matters related to water supply, consumption, and usage came under irrigation. If there were disputes between two or more provinces related to matters in the reserved list prior approval of the Secretary of the State had to be taken.

The **Government of India Act, of 1935**² placed irrigation under the Provincial List within the exclusive area of provinces. However, sections 130 to 133 of the Act provided detailed provisions for the inter-province disputes related to water sharing. The jurisdiction regarding complaints rests with the Governor General. The Governor General will appoint a commission to look into the dispute and report to him about the complaint.

The **Constitution** has incorporated provision related to water disputes in **Article 262**.

“(1) 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.

*(2) Notwithstanding anything in this Constitution, 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 as is referred to in clause”*³

The subject ‘water’ is also incorporated in the **Union List Entry 56**⁴ and **State List Entry 17**⁵.

For resolving water disputes the parliament has further enacted some legislation after independence.

Inter-state Water Disputes Act, 1956⁶ to provide for the adjudication of disputes relating to waters of inter-state rivers and river valleys. Section 3 of the Act provides for the establishment of a tribunal for resolving water disputes between two or more states, by requesting the Central Government if the government of any state feels that such dispute has arisen with another state. Section 4 deals with the constitution of a Water Dispute Tribunal only if the Central Government is of the opinion that the water dispute cannot be settled through negotiations between the disputing states. Section 6 of the Act clearly states that the decision of the tribunal

² Government of India Act, 1935, 26 Geo. 5 & 1 Edw. 8 c. 2, §§ 130-133 (India).

³ Ind. Const. § 262.

⁴ Ind. Const. sched. VII, Union List, entry 56.

⁵ Ind. Const. sched. VII, State List, entry 17.

⁶ *Inter-State River Water Disputes Act*, No. 33 of 1956, §§ 3-4 (India).

will have a binding effect upon both the parties and the Central Government shall publish the decision in the Official Gazette.

River Boards Act 1956⁷, An Act to provide for the establishment of River Boards for the regulation and development of inter-state rivers and river valleys. The Central Government may after receiving a request from the State Government by notifying in the Official Gazette establish a River Board for advising the government interested relating to the matters concerning the regulation or development of an inter-state river. Chapter III of the Act provides for various powers and functions of the boards in relation to the management of inter-state rivers or river valleys.

The **Sarkaria Commission**⁸ was set up in 1983 by the central government to examine the center-state relation and suggest recommendations, it was headed by Rajinder Singh Sarkaria a retired judge of the Supreme Court. The commission in its report recommended the establishment of a permanent Inter-State Council as an independent forum for the consultation of Inter-State Water Disputes and other disputes between states. The establishment of such a council would foster cooperative federalism. The recommendations of the Sarkaria Commission were also incorporated in the **Amendment Act 2002 (Inter-State River Water Disputes Act, 1956)**.⁹

Narmada water dispute:

After the independence, some tensions arose between Gujarat and Madhya Pradesh regarding the sharing of water from the Narmada River. Accordingly, the Central Government established the Narmada Water Disputes Tribunal (NWDT) under the Inter-State Water Disputes Act, 1956 to look into the matter of the differences in the states in implementing schemes and sharing of water. The Tribunal took more than 10 years to investigate the matter and give the decision. On 12th December 1979, the tribunal gave its decision with all parties being present there and the decision was also released in the Official Gazette by the Central Government. However, the implementation of the tribunal's decision has been a source of controversy and tensions between the government, social activists, and environmentalists. "The tribunal's decision outlined that a specific volume of water, ensuring 75% dependability, was designated for

⁷ *River Boards Act*, No. 49 of 1956 (India).

⁸ Inter-State Council Secretariat, Sarkaria Commission, <https://interstatecouncil.gov.in/sarkaria-commission/> (Mar. 14, 2024, 11:29 PM),

⁹ *Inter-State Water Disputes (Amendment) Act*, No. 14 of 2002 (India).

distribution among the states of Gujarat, Madhya Pradesh, Maharashtra, and Rajasthan. As per the decision construction of several dams was also approved. The Tribunal determined that the height of the Sardar Sarovar Dam should be fixed for a Full Reservoir Level (FRL) of 138.68 m (455 ft.). and also directed the Government of Gujarat (GOG) to take up and complete the construction of the dam accordingly.¹⁰

In 1985 a social activist Medha Patkar visited the construction site of Sardar Sarovar Dam and noticed that the basic environmental conditions were not followed and people who were going to be displaced were not given adequate compensation and rehabilitation. Patkar went to the Ministry of Jal Shakti to seek clarification about this dam project, she found out that the World Bank is funding the dam project but it is not sanctioned by the ministry and the officials overlooked this issue. She critiqued the officials and government involved in this project and after getting into the root cause of this issue she realized that the displaced people are only provided compensation for immediate standing crops and not for the displacement and rehabilitation. Patkar immersed herself in the struggle for stoppage of the dam project and providing adequate compensation to the displaced people for their rehabilitation. She initiated the Narmada Bachao Andolan.

In the case of **Narmada Bachao Andolan vs Union of India**¹¹, the Narmada Bachao Andolan (NBA), a non-government organization that has been at the forefront of the agitation against the construction of the Sardar Sarovar Dam filed a writ petition before the Supreme Court calling for an independent judicial inquiry on the entire dam project and also providing adequate cash compensation to the displaced people. The petitioner argued that the Dam's height should be lowered as it is creating people who are living in the nearby areas and this also is in violation of Article 21 of the Constitution¹² whereas the respondents argued that the Central Government has established the Narmada Control Authority (NCA) an independent entity to assess the impact of the dam and displacement of people and the project has complied to the environmental concerns as well. The court in its judgement allowed for the construction of the dam up to 90 meters and any additional construction would require the environmentalists'

¹⁰ Ministry of Jal Shakti, Narmada Water Disputes Tribunal (Oct. 1969), <https://jalshakti-dowr.gov.in/narmada-water-disputes-tribunal-october-1969/> (last visited Mar. 14, 2024, 11:29 PM).

¹¹ Narmada Bachao Andolan v. Union of India, AIR 2000 SC 3751.

¹² Ind. Const. § 21.

opinions for further clearances and asked the government to provide the required compensation.

Cauvery Water Dispute:

Southern India considers the Cauvery River (also known as the Kaveri) to be a sacred river. In Tamil Nadu, "Ponni" is another name for it. This basin is an interstate one. The states of Tamil Nadu, Kerala, Puducherry, and Karnataka are traversed by the Cauvery River. This river is crucial for irrigation, drinking water, and energy production.

There were two arbitration agreements. The first was in 1892 when the British administration agreed with the rulers of Madras and Mysore to allocate water from the Cauvery River between these two states. The other one is the 1924 agreement, which allowed Mysore to build a dam (Kannambadi Dam), although Madras also desired an irrigation project. The agreement was meant to last for the next fifty years. The agreement allocated 75% of the Cauvery water to Tamil Nadu and Pondicherry, 23% to Mysore, and the remainder to Kerala. The premise was that if the upper riparian state wanted to perform any construction activity, the lower riparian state would have to provide consent.

When Karnataka diverted water without Tamil Nadu's consent in 1972, the Cauvery water conflict between the two states started.

After years of struggle over water distribution, the Cauvery Water Disputes Tribunal (CWDT) was established in 1990 to find a settlement. The CWDT required 17 years to reach a definitive judgment in 2007 on how to distribute the Cauvery River's water among the four states through which it flows. During difficult times, like as droughts, water would be distributed fairly. In 2007, the CWDT made a decision that assigned specified quantities of water to each state based on the overall availability in a typical year, which was determined at 740 TMC. Tamil Nadu received 404.25 TMC, Karnataka 284.75 TMC, Kerala 30 TMC, and Puducherry 7 TMC. In 2018, the Supreme Court recognized the Cauvery River's importance to the nation while primarily agreed with the CWDT's water-sharing arrangement. Additionally, it instructed the government to implement the Cauvery Management Scheme, which led to the establishment of the Cauvery Water Regulation Committee and the Cauvery Water Management Authority in June 2018. These policies are intended to properly manage and control the use of Cauvery River water by the governments concerned.

Conclusion:

To sum up, the current water dispute between states in India highlights the need for equitable solutions. These conflicts are caused by diverging needs and past disputes, which make it difficult for the regions to co-exist and develop economically. To resolve these issues, all parties need to have an open dialogue, compromise, and develop new solutions. By doing so, we can ensure that water is allocated in a fair and equitable manner, and used in a way that benefits both the present and future generations. It will take a lot of work on the part of all parties, but together we can improve the situation.