Jus Corpus Law Journal
Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820
Editor-in-Chief – Prof. (Dr.) Rishikesh Dave; Publisher – Ayush Pandey

Evolution of the Constitutional Framework for the Resolution of Inter State Water Disputes

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Received 25 October 2022; *Accepted* 03 November 2022; *Published* 10 November 2022

The five elements in nature, water is vital for the existence of life. Since time immemorial, owing to the irreplaceable importance of water, its scarce availability, and the inherent human nature of possessing an entity, it was expedient to lay down ethical doctrines regarding its equitable distribution among the mass. There was an increase in water disputes between countries and states leading to the formulation of statutes and treaties among riparians for peaceful and justified utilization of the resource. With the variable landscape in India, the availability of water is not equal for all states and hence, stringent laws were required for resolving disputes among states. This began as early as 1919 in the pre-independence era and its progress is still under question due to the lack of implementation of the decision made in tribunals. This article emphasizes on the ideals and evolution of laws behind resolving inter-state water disputes in India.

Keywords: *water, constitution, state, dispute.*

INTRODUCTION

Water is considered one of the most important for the existence of life. It is the driving force of nature and thereby, it can be called both a master and slave of the people. On one hand, it is the master because its fury in the form of floods and tsunamis cannot be controlled by humankind

and on the other hand, it is a slave because it cannot oppose its misuse and over-exploitation. Despite its abundance in the past, only a limited amount of water is available for use only. With the limited quantity of water fit for drinking, irrigation, and industrial use, it is a common notion that every person or state would prefer some continuous entitlement over this precious entity.

India is a land of rivers but unfortunately, it is not well distributed throughout the country. Due to its uneven availability, water remains to be a limited renewable resource. India receives an annual rainfall of about 110 cm which needs to be distributed to 328 million hectares of the land area of the country. That amounts to a total precipitation of 3700 billion cubic meters from which 33% gets evaporated, 22% has seeped into the ground and 45% becomes surface runoff. The northern rivers have their source in the snow-fed mountains and are perennial in nature. The central and southern rivers have their source of water from the monsoon season and they remain dry during a major part of yearly.

Disputes related to water sharing are increasing day to day because of its increased unavailability due to elated levels of pollution and climatic changes like changes in monsoon patterns, melting of glaciers, and the constant effort of the government to interlink rivers. Water disputes have also been a major reason for conflict between countries and states. Since the partition of the Indian territory in 1947, there have been conflicts regarding the overutilization of water from the Indus River and its tributaries. This dispute was later settled after the interference of the World Bank as a mediator and it led to the Indus Water Treaty of 1960. A similar pattern of negotiations has worked for disputes related to inter-state water bodies.

LEGAL DOCTRINES RELATING TO THE USE OF WATER

The doctrine of Riparian Rights: The Doctrine of Riparian Rights lays down that the right to use water from a waterbody i.e., a stream, lake, or river is derived by the owner of the land adjacent to it. Etymologically, the term 'ripa' means 'the bank of stream' or 'the bank of a river'. 'Ripa' also means 'the place beyond which the waters do not in natural course overflow and therefore, 'ripa proprietors' are those people who own the land bounding upon a water-course. Riparianism was adopted by England from the Roman Law wherein it curtailed the use of water

by a riparian to the question of reasonableness. The question of reasonable use depended on the degree of necessity. Whereas use for thirst and household purposes was considered indispensable, diverting the natural flow of a stream for irrigating a meadow was considered an artificial need.[1] *Lockwood, J* observed that each riparian is bound to use the running water while doing as little injury as possible for the co-riparian below him[2]. This did not take away the right of a land owner but instead preserved his right to use water without any interference or exploitation by another co-riparian. The major disadvantages of this doctrine are unproportionate water allocation for non-riparian land owners and insufficient measures of water conservation.

The doctrine of Prior Appropriation: The Doctrine of Prior Appropriation is often considered the antithesis of the common law of riparian rights. It envisages that since water is public property, the possession over its use should be on a 'first in time, first in right' basis. Hence, the individual who applies the water to beneficial use (which is in consonance with the best interests of the state) first acquires the right to use the water.[3] The first appropriator gets priority over any other subsequent appropriator.

The doctrine of Territorial Sovereignty: Also known as the Absolute-sovereignty theory or the Harmon Doctrine, this doctrine was first laid down by Attorney General Judson Harmon to justify the reduction in the flow of the Rio Grande River by the United States in 1895. It basically laid down that those nations in upstream of a watercourse did not have any obligations to the downstream nations and hence, were entitled to divert or capture the water flow as and when required. This doctrine was successfully applied to the issue of the River Rio Grande and River Colorado for the benefit of the United States. However, this doctrine did not find a place in international or Indian law regarding interstate water disputes. Even though the Supreme Court did not intend to dilate anew on the judicial precedents on the aspect of sharing of water of an inter-state river, it vehemently opposed the Harmon Doctrine[4].

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[1] *Arnold v Foot* 12 Wend. 330 [1834]
[2] *Evans v Merriweather* 3 Scam. (4 Ill.) 492 (1842)
[3] *Irwin v Phillips* 5 Cal. 140 (1855)
[4] *State of Karnataka v State of Tamil Nadu* (2017) 6 SCC 728(1)

The doctrine of Community of Interests: It lays down that since an international river defies any state boundaries and passes through several states, it should be considered a single unit. The main motive should be to promote the idea of an integrated system to develop the water resource while maximizing the utilization by the co-riparians. It is rooted on the basis of mutual agreement between the states sharing the water resource to build such projects which aid in the joint development. The Kosi Project between India and Nepal provides the best example of the adoption of this theory.

The Natural Water Flow Theory: Alternatively called the Territorial Integrity Theory, this doctrine envisages that the upper riparian states can only put the water into reasonable use and not obstruct the natural flow of the channel or stream into the lands of the lower riparian. The only criticism this doctrine faces is because of its obstructionist nature wherein it bars the technological development of the concerned basin.

Limited Territorial Sovereignty: Often known as the more balanced concept regarding water allocation, this doctrine has been the foundation of various evolving international principles such as the UN Watercourses Convention. It lays down that all riparian states are entitled to benefit from an equal right to the usage of a shared resource while each of them respects the sovereignty and reciprocal rights of their co-riparians. The major advantage of this principle is that it recognizes the rights of each riparian state without compromising on the principle of sovereignty.

The doctrine of Equitable Apportionments: A shift from 'prior appropriation' to 'equitable appropriation' was first witnessed in *Nebraska v Wyoming*[5]. This doctrine envisages that every riparian state is entitled to a fair share of the waters of an interstate river because the river is for the common benefit of the whole community[6]. This theory considers a particular drainage basin or interstate river basin as one whole unit undivided by any political or administrative

[5] *Nebraska v Wyoming* [1945] 325 U.S. 589

[6] V. Ramaswami, 'Law relating to equitable apportionment of the waters of the interstate rivers in India' (1978) 20(4) Journal of the Indian Law Institute (*JSTOR*, 1978) <https://www.jstor.org/stable/43950551> accessed 20 October 2022

boundaries. It should be particularly mentioned that equitable rights here did not imply equal distribution of water among all the riparian states. Equitable apportionment found its place in various inter-state water dispute resolutions in India. The Indus Commission observed that mutual agreement to determine a fair share of water from a common river by applying the rule of equitable apportionment was the best settlement in cases of inter-state water disputes. This was further backed in the Krishna Water Disputes Tribunal. The Narmada Water Disputes Tribunal elaborated the doctrine in the following ways:

- The doctrine of equitable distribution cannot be put into water-tight compartments;
- Agreements, decisions, and customs should be taken into account before determining the reasonable share of the concerned states;
- Issues to be considered before deciding the share of concerned states should include the social and economic needs as well as the physical, climatic, and geological condition of the state.

The doctrine of Equitable Utilization: This doctrine lays down that the sharing of water by the co-riparian states must be on an equitable basis for reasonable purposes. Article IV of the Helsinki Rules 1966 permits the reasonable and equal utilization of water by each basin state in an international drainage basin for beneficial purposes. Article V blueprints the various grounds on which the share of every basin state should be determined. In India, this theory found its applicability in the Narmada Water Tribunal.

STATUTORY PROVISIONS RELATING TO INTER-STATE RIVERS

Pre-Independence Legislations

The Charter Act of 1833: The British Parliament passed the Charter Act of 1833 with the objective of comprehensive consolidation and codification of Indian Law. The legislative measures acquired an all-India jurisdiction since then and henceforth, they were known as 'Acts' and not 'Regulations'. Hence, it shall be appropriate to analyze the situation pertaining to inter-provincial water law at that point in time.

This charter took a revolutionary step by forming an all-India legislature having authority to make laws and regulations for the whole territory in the possession and under the control of the Company's Government in India at that time. The laws made by the Council were applicable to all persons whether British, foreigners, natives, or others. The Council consisted of the Governor General in council plus four ordinary members out of which one was chosen as the Law Member. He was not entitled to sit or vote in any meeting of the Council while it was engaged in some non-legislative business but was otherwise a full member with a right to vote when the Council was sitting for making laws and regulations. For legislative work, the quorum was the Governor-general plus three ordinary members whereas for executive work, it was Governor General plus one ordinary member.

No significant legislations pertaining to water were passed in this period and it may be implied that the private water law rights were being governed on the basis of prevailing customs then.

The Charter Act of 1853: It was passed to renew the previous Charter along with some modifications in the legislative arrangements. For example, the law member was now made a full-fledged member of the Governor General's Council. He was now given a right to sit and vote at executive meetings of the Council as well. No law made by the Council was considered valid or to have any binding force without the assent of the Governor General.[7] No significant laws on the water were discussed in this period.

The Northern Indian Canal and Drainage Act 1873: It was a Central Act enacted basically for regulating water for irrigational purposes. Under section 5, the state is authorized to make water supply for public purposes. The state is liable to pay compensation if, in the exercise of its power in providing water supply for public purposes, it causes some damage to any user. Section 8(h) provides for the right of a user in a watercourse or use of any water to which he is entitled. Under section 16, any person desirous of using water has to apply for the same. The government has to provide means of cross-canals for inhabitants of the adjacent lands under section 17. Under section 17, a person is entitled to apply for the construction of a new watercourse, for

[7] M P Jain, '*Outlines of Indian Legal History*' (Lexis Nexis, 2022)

supply to his land, through the land of owners whose land falls between his land and the canal. Section 30 (e) entitles the state to acquire land of any or all owners, for use of water courses or supply of water. Section 32 says that the Divisional Canal Officer is not to stop the water supply except in certain cases and that if the water supply is stopped otherwise than as prescribed under section 32, then compensation is to be paid for the same. This represents the absence of any sovereign rights of the state because the government performs merely the duty of management. From all these provisions, it may easily be inferred that the role of the provincial government which regulates the supply of water for irrigation to the users is that of a manager and not of a sovereign.

The Government of India Act 1919: Under section 71 of the Government of India Act 1919, the Local Government of any part of British India could propose to the Governor-General in Council the draft of any regulation for the peace and good governance of that part. Section 72 provided the Governor General powers to make and promulgate Ordinances during an emergency. Sections 72A[8], 72B[9], and 72E[10] contained provisions for the compositions and functioning of Legislative Councils in Governor's provinces, which Councils had, primarily an advisory function and the Governor could override their advice regarding reserved subjects. Sections 73 to 80 contained similar provisions regarding the Legislative Councils in Lt. Governors' and Chief Commissioners' Provinces.

Section 80-A[11] contained powers of local legislatures, including primarily, for making laws for peace and good governance of the concerned territories. Further, Sections 80(3) and 80(4) contain restrictions on the powers of the local legislatures in the field of making laws. The question of the distribution of legislative powers between the central and the provincial legislatures did not arise because the structure of the government was unitary.

Under section 45-A(1), provisions could be made:

[8] Government of India Act 1919, s 72A
[9] Government of India Act 1919, s 72B
[10] Government of India Act 1919, s 72E
[11] Government of India Act 1919, s 80-A

To categorize subjects, with respect to the functions of government - Central and Provincial subjects - for differentiating the functions of local governments and local legislations from the functions of the Governor-General in Council and the Indian legislature into water-tight compartments; and

- To delegate the authority, with respect to provincial subjects to local governments, and for the allocation of revenues or other revenues or other money to those governments.

Under Section 45-A(2), the rules made for the above-mentioned purposes could regulate the extent and condition of such devolution, allocation, and transfer. Under Section 45-A(4), provincial subjects, other than the transferred subjects, were referred to as the 'reserved subjects'. In 1920, as a preliminary to the introduction of the reforms, the whole statute book was examined and a Devolution Act was passed in order to remove the prescriptions requiring the sanction of the Governor-General in Council or maintaining his control. Some of the relevant clauses of the schedule to rule 3 containing the so-called distribution of the central and provincial subjects are:

- Part I consisted of 47 central subjects namely defence, currency and coinage, external relations, the Public Service Commission, and other subjects not included in the Provincial Subjects.
- Part II consisted of provincial subjects namely local government, education, *water supplies, irrigation, canals, embankments,* fisheries, etc.

The provisions of this item (entry) no. 7 of part II of the Schedule to Rule 3 of the Devolution Rules acted as the precedent for Entry 19 of List II (Provincial Legislative List) of the Seventh Schedule of the Government of India Act 1935, which consequently was formulated in the Constitution of India in Entry 17 of List II (State List) of the Seventh Schedule. It provides insight into the thinking of the framers of the earlier constitutional statutes and the respective administrators on matters of inter-provincial concern in the field of water supplies, irrigation, canal, drainage, etc.

Government of India Act 1935: The legislative powers between the 'Federation' and the 'Provinces' were distributed into three 'Legislative Lists' in the Seventh Schedule, namely:

The list I: Federal Legislative List

List II: Provincial Legislative List

List III: Concurrent Legislative List

Entry 19 of List II (Provincial Legislative List) laid down as under:

"19. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power."

Along with this provision, Sections 130 to 134 laid down various regulations related to the problem of 'interference with water supplies. Section 130 envisages that a complaint may be filed to the Governor-General by the government of any province or the Ruler of any state if it seems that the state or province's interests or the rights of any individual therein are being violated by any action of the Central Government or because of the failure of the machinery and exercise of the powers by the Centre with respect to the supply of water from any natural source.

Section 131 lays down that a Commission shall be established by the Governor General upon receiving such a complaint for investigation of the matter. The Commission shall consist of persons specialized in irrigation, administration, law, engineering, or finance and it shall be their duty to send a report to the Governor-General with the required facts and suitable recommendations. The Governor-General may refer to the report for reconsideration if he is of the view that guidance or more clarification is required. The Commission is empowered to request the Federal Court to make orders and issue letters for the request of proceedings. The Governor-General shall give his decision after receiving his report as he deems fit. The order given by the Governor-General shall be given effect in the provinces and states and any Provincial Act if in conflict with the order shall be void till the extent of repugnancy. The order may even contain directions for the provinces and the states. The Governor-General exercises his discretion in this section.

Section 132 provides the discretion to the Governor General to decide whether the interest of a province or a state is being infringed by the actions or statutes of the Central Government or because of the failure of the execution of any machinery or exercise of powers by the Centre. If the Governor-General is of the view that such an infringement is occurring or may occur in the future, then he may order the formation of a commission as laid down in Section 131 and the procedure shall remain the same and be followed henceforth.

Section 133 provides that neither Federal Court nor any court shall take into its ambit any suit or action relating to matters mentioned in Sections 130,131 and 132 if it has already been taken by the Provincial Government, the Ruler of a State, or the Governor General.

Section 134 lays down that the provisions of this Act regarding water supply shall not apply to the States where the Ruler has expressly denied its application in the Instrument of Accession.

Post – Independence Legislation

Bill in the Constituent Assembly: The sole provision in the Indian Constitution under the heading 'Disputes concerning Water' is Article 262. While Article 262(1) directs the Indian Parliament to make laws on matters related to the settlement of disputes or complaints with regard to the utilization, distribution, or control of waters, or in any interstate river or river valley. Article 262(2) excludes the jurisdiction of the Supreme Court or any other Court from interference or adjudication upon such disputes or complaints. Seven years after the Indian Constitution was adopted, the Parliament enacted the Inter-State Water Disputes Act 1956 on August 28, 1956. In the Cauvery Disputes Tribunal case, it was considered that the Act of 1956 is a regulation under Article 262 and not under Entry 56, List I of the 7th Schedule on November 22, 1991.

The AIR Commentaries on the Indian Constitution suggest that the history of Article 262 of the Constitution of India can probably be traced back to Article 7 of the Constitution of Malaysia and Section 100 of the Constitution of Australia Act 1900 but the facts deny such assumptions. Firstly, the Indian Constitution had come into existence on 26th January 1950 whereas the Malaysian Constitution was adopted much later on August 23, 1957. Secondly, Article 7 of the

Malaysian Constitution has no relationship with Article 262 of the Indian Constitution as the former speaks about 'fundamental freedoms' and the latter lays down provisions regarding inter-state water disputes. Lastly, even though the Constitution of Australia was adopted prior to the Indian Constitution on July 9 1900 yet Section 100 has a narrower scope as compared to Article 262 of the Indian Constitution. This is so because Section 100 only limits the Commonwealth from administering trade or commerce or abridging the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation. Hence, it may be inferred that neither the Malaysian Constitution nor the Commonwealth of Australia Constitution Act forms the backbone of Article 262 of the Indian Constitution. The Government of India Act 1935 indeed acted as the genesis for the incorporation of Article 262 in the Constitution.

On February 21, 1948, the draft Constitution was forwarded to the President of the Constituent Assembly by the Drafting Committee (under the cover of the Chairmen, Dr. B.R. Ambedkar's letter). In Chapter II of the draft Constitution, a chapter was introduced captioned 'Administrative Relations' and under it was titled a chapter with a sub-heading of 'Interference with water supplies. The draft Articles were Articles 239 to 242 and they were renditions of Sections 130 to 133 of the Government of India Act, 1935. The language utilized in draft Articles 239 to 242 of the draft Constitution was in consonance with the language of Section 130-133 of the Government of India 1935 and dealt with 'water from any natural source of supply' only and did not include within its purview water from or in any man-made reservoir or canal. Therefore, the exclusion of jurisdiction of the Courts clause under draft Article 242 did not exclude the jurisdiction of the Supreme Court or other Courts in respect of disputes relating to 'water from the natural source of supply'.

Besides Article 239-242 of the draft Constitution of India, the draft Seventh Schedule suggested in pursuance of draft Article 217 relating to the subject matter of laws to be laid down by the Parliament and by the State Legislatures dealt with 'water'. Draft Entry 74 of List I (Union List) and Draft Entry 20 of List II (State List) dealt with water. The draft Article 217 laid down the formulation of the Union List, the State List, and the Concurrent List. The list I was regulated by

the Parliament, List II was regulated by the State Legislatures, and List III was regulated by the Parliament and the State Legislatures jointly. Entry 74 of List I provided for the development of inter-state waterways with regard to flood control, irrigation, navigation, and waterways. Entry 20 of List II includes water supplies, irrigation and canals, drainage and embankments, water storage, and water power in the definition of water and empowers the state government to legislate on these matters but without any contradiction with the legislation made by the Parliament.

Articles 239 to 242 were first mentioned in the debates of June 13, 1949, on pages 817 to 819, Volume VIII, Constituent Assembly Debates 1949 in which the Hon'ble Dr. B.R. Ambedkar, moved an amendment of the abovementioned Articles and their adoption. However, in later discussions in the debates on September 9, 1949, the drafts of Articles 239 to 242 were deleted and a new draft of Article 242 A was incorporated. This Article 242A was adopted and formulated as Article 262 of the Indian Constitution and came into existence on November 26, 1949, and came into force on January 26, 1950. Even after the adoption of Article 262 in 1950, it took the Parliament six years to enact the Inter-State Water Disputes Act 1956.

Article 262 of the Constitution of India: Article 262 provides for the adjudication of inter-state water-related disputes and river valleys. It provides that the Parliament is empowered to provide legislation or provide relief when a complaint regarding the utilization, control, and distribution of any inter-state river water or a river valley comes up before it. The provision derives its force from its sub-clause (2) wherein it empowers the Parliament to bar the Supreme Court or any other court from providing decisions on any matter under sub-clause (1) i.e., inter-state water disputes or any other dispute regarding a river valley. It becomes mandatory to mention here that the dispute need not be between States, as such.

Article 262(1) empowers the Parliament to provide by law for adjudication of any dispute or complaint with respect to the use, distribution, or control of the waters of any inter-state river or river valley. This provision confers exclusive legislative power on Parliament o enact a law providing for adjudication of disputes relating to the use, distribution, or control of the waters of any inter-state river or river valley. The words 'use, distribution, and control' are inclusive

and may include regulation and development of the said water. The provisions clearly indicate the amplitude of the scope of adjudication as much as it would take within its sweep the determination of the extent and the manner, of the use of the said waters and the power to give directions in respect of the same.

Article 262(2) envisages that the Parliament may also provide that, notwithstanding anything in the Constitution, neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint. It is expedient to note that states may only induce conflicts in certain circumstances. Firstly, states may complain if a right acquired by agreement or custom gets infringed. Secondly, it may be a valid dispute if the flood waters of another State are downloaded to the discomfort that causes impairment. These are the two situations under which states may legitimately raise questions and request the central government to intervene.

There comes a general question regarding the need for incorporation of Article 262 in the Constitution when the States could have easily approached the Supreme Court invoking its original jurisdiction under Article 131.

Entry 56 of List I: Entry 56 of List I provides that in the public interest, the Union has the power to make such regulations and take such actions for the development of inter-state rivers and river valleys to the extent it seems necessary.

Entry 17 of List II: Entry 17 of List II brings 'water supplies, irrigation and canals, drainage and embankments, water storage and water power' within the definition of water.

Inter-State Water Disputes Act 1956: It was enacted under Article 262 and it lays down regulations for adjudication of disputes relating to the usage, dispensation, or jurisdiction of waters of inter-state rivers and river valleys among the related State Governments. When such a dispute arises, a State Government may apply for the Central Government to refer it to a Tribunal for adjudication under Section 3 and if Central Government is of the opinion that it cannot be resolved by negotiations, it would constitute a tribunal for the purposes under Section 4. Thus, Section 4 while vesting power in the Central Government for setting up a Tribunal has made it conditional upon forming the requisite opinion by the Central Government.

The main characteristics of the Act are as follows:

- A State Government having a dispute related to water with another State Government may ask the Central Government to intervene and submit the dispute to a court for adjudication;
- It is under the purview of the State administration whether the dispute may be settled through negotiation or not. If negotiation does not settle the dispute, it shall be submitted to a court;
- The Composition of a Court is established in the Law. It comprises a Chairman and two other members appointed by the Chief Justice of India from among persons who, at the time of the nomination, are Supreme Court justices.
- The Court may appoint assessors to advise it in the proceeding before it;
- When the reference is made by the Central Government, the Court is obliged to investigate the matter and make a report along with its decision. This decision must be published and is final and binding on the parties;
- Section 11 lays down that neither the Supreme Court nor any other court shall have any jurisdiction with regard to an inter-state water dispute which may be referred to a Tribunal. When read along with Article 262, this provision bars the jurisdiction of any court including the Supreme Court from entertaining adjudication of disputes which are referable to a tribunal under Section 3;
- The Act prohibits a State, within whose limits any works for the conservation, regulation, or utilization of water resources of any inter-state river have been construed, from levying any additional rate or fee in respect of the use of such water by any other state or inhabitants thereof.

The River Board Act 1956: The River Boards Act was enacted by the Parliament under entry 56, List I and it provides for the establishment of river boards for the purpose of regulation and development of inter-state rivers and river valleys. Water, being a state subject, the initiative and responsibility for the development of inter-state rivers and river valleys should primarily rest on the State Governments. But, in reality, many river valley projects were considerably

hampered by the conflict of interests among the concerned State Governments. This Act was mainly enacted to meet this situation.

A river board may be established by the Central Government for advising the governments interested in relation to matters concerning the regulation or governance of an inter-state river or river valley. A board is appointed, however, only after consulting interested governments regarding the proposal to establish the board, the persons to be appointed as its members, and the functions that it may be empowered to discharge. Persons having special knowledge and experience in irrigation, electrical engineering, flood control, water conservation, administration, and finance are to be appointed members of a river board.

The powers and functions of a river board constituted are as follows:

- To counsel the interested governments on any matter concerning the regulation and development of the given river valley;
- To counsel them to resolve their differences by coordinating their activities;
- To plan schemes for regulating or developing the concerned inter-state river or river valley;
- To allocate among the governments the costs of executing any such scheme;
- To monitor the results of the measures undertaken by the governments interested;
- Any other matter supplementary to the above.

A comparative study of the Inter-State Water Act 1956 and the River Boards Act 1956 has been done below:

- The former falls within the jurisdictions of judicial functions of the government whereas, the latter is a mechanism to promote welfare and development;
- The former can interfere only in those disputes where one of the parties approaches the Court whereas the latter provides that the Court can take suo motu action;
- The former is focused on settling disputes only whereas the latter provides an all-round development of the river basin;

- Tribunals created by the former are temporary bodies and cease to effect after a decision on the dispute is delivered whereas River Boards established by the latter are permanent bodies to look after the planning for construction around and development of the river basin.

National Water Policy: A Board was formulated to regulate the development and planning of water and to ensure the utilization to its optimum level under the Ministry of Water Resource. Under Section 21 of this water policy, the distribution of water is dealt with and it stresses the need for water development and management in an integrated and holistic manner. The Board is also under the obligation to ensure the proper allocation of water resources, the establishment of a standardized national information system, the prevention of any form of exploitation and storage of data, and other such functions.

The amendment of the water policy in 2012 broadened its scope from the 1987 policy by providing more emphasis on the development of water bodies by giving them the status of 'economic good'. Two more bodies were created by the Centre for promoting river water development. The National Water Development Agency comprises of all State irrigation ministers as its members and it is a non-statutory body. The main functions are to carry out investigations, surveys, and studies for the peninsular river's development which is a major component of the national water plan. The agency shall seek to promote the optimum utilization of the country's resources which ultimately encourages the use of surplus water in the country. The Water Resources Development Council comprises of Prime Minister as the Chairman and all state chief ministers as ministers. The Agency submits its report to the Council for clearance.

CONCLUSION

The legal framework for interstate water disputes has proved to be inefficient with respect to the implementation and quick disposal of cases. There have been inordinate delays with respect to the establishment of tribunals, terms of negotiation, improper investigations, and delayed implementation of awards. Many times, the litigation has extended for decades leading to

irrelevant administration of justice and violence among the public. The Inter-State Water Bill 2017 seeks to set up a Dispute Resolution Committee (DRC) instead of a separate Tribunal for every dispute like the tribunals set for disputes regarding water of River Indus, Godavari, Krishna, Ravi & Beas, etc.

The resolution of water disputes in the constitutional and legislative spheres has two major settlement procedures- negotiation and legally binding award. There is also scope for volunteering processes like mediation, conciliation, and arbitration. But none of these procedures whether negotiation or litigation will serve the purpose of the disputing parties do not agree to the meaning of and are unwilling to accept a target solution. Therefore, a harmonious and humanistic approach must be undertaken by the disputing parties and even the tribunals while approaching the Central Government and while providing the award respectively and greater emphasis should be provided to catering to the needs of society and promoting public policy and welfare.