



## Mains Marathon

**Day 9:** What are the constitutional and legal provisions for resolution of inter-state water disputes and discuss the issues with inter-state water disputes?

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### Approach / Explanation / Answer

- Introduce Constitutional position of Inter-state dispute.
- Explain the constitutional and legal provisions regarding this and also mention the issue regarding the interstate water dispute and possible way forward.
- Conclude suitably.

### Answer

**Part 11 of the Constitution of India** talks about the Relations Between the Union and The States. It has inscribed **all the constitutional provisions** regarding **interstate and union-state relations and adequate provisions for their resolution**. This part also **authorised parliament and president to take adequate steps** for the resolution of interstate disputes.

#### Constitutional provisions for the resolution of inter-state water disputes:

- **Entry 17 of the State List** deals with water, i.e., water supply, irrigation, canal, drainage, embankments, water storage and water power.
- **Entry 56 of Union List** empowers the Union Government for the regulation and development of **inter-state rivers and river valleys** to the extent declared by Parliament to be expedient in the public interest.
- According to **Article 262**, in case of disputes relating to waters:
  - 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 as mentioned above.
- **Article 131: The original jurisdiction of the Supreme court.**
  - As a federal court, the Supreme Court has the right to settle the disputes between the different units of the Indian Federation such as:
    - Between the Centre and one or more states and,
    - Between the states
      - But states can't use article 131 for resolution of interstate water disputes, if

parliament has curtailed the jurisdiction of the Supreme Court in this matter.

### **Legal provisions regarding resolution of inter-state water disputes:**

**As per Article 262**, the Parliament has enacted the following:

- **River Board Act, 1956:** This empowered the GOI to **establish Boards for Interstate Rivers and river valleys** in consultation with State Governments. To date, no river board has been created.
- **Inter-State Water Dispute Act, 1956:** Provisions of the Act: In case, if a particular state or states approach to **Union Government for the constitution of the tribunal**.
  - Central Government should try to resolve the matter by consultation among the aggrieved states.
  - In case, if it does not work, then it may constitute the tribunal.
  - **Note:** Supreme Court shall not question the Award or formula given by tribunal but it can question the working of the tribunal.

### **Issue with interstate water dispute:**

- Protracted proceedings and **extreme delays in dispute resolution**.
  - Delays are on account of no time limit for adjudication by a Tribunal, **no upper age limit for the Chairman or the Members**, work getting stalled due to occurrence of any **vacancy** and **no time limit for publishing the report of the Tribunal**.
  - For example, in the case of **the Godavari water dispute**, the request was made in **1962**, but the **tribunal was constituted in 1968** and the **award was given in 1979** which was **published in the Gazette in 1980**.
- **Opacity in the institutional framework and guidelines** that define these proceedings; and ensuring compliance.
- The **composition of the tribunal is not multidisciplinary** and it consists of persons only from the judiciary.
- The **absence of authoritative water data** that is acceptable to all parties currently makes it difficult to even set up a baseline for adjudication.
- The **shift in tribunals' approach, from deliberative to adversarial**, aids extended litigation and politicisation of water-sharing disputes.
- The growing **nexus between water and politics** has transformed the disputes into turfs of vote bank politics.
  - This **politicisation** has also led to increasing defiance by states, extended litigations and subversion of resolution mechanisms.
  - For example, **Cauvery water disputes become an issue of Kannadigas vs Tamilian**.
- Too much discretion at too many stages of the process.
- **Procedural complexities and multiple stakeholders'** involvement: **Surface water** is controlled by Central Water Commission (**CWC**) and **ground water** by Central Ground Water Board of India (**CGWB**). **Both bodies work independently** and there is no common forum for common discussion with state governments on water management.
- **India's complicated federal polity and its colonial legacy**.

### **Measures can be taken:**

- Bring **Inter-state water disputes under interstate council** constructed by president under **article 263 and need for consensus-based decision making**.
- **States must be motivated** (on line of power efficiency) **for water use efficiency** in every domain and **water harvesting and water recharging to reduce the demand** on river water and in situ water source.
- **Intensive Afforestation in the river basin** is required for **long term water security**.
- **Need of a single water management agency for both ground and surface water** on scientific basis and also for technical advice on union, river basin, state and district level for water conservation and water management.
- **Tribunals must be fast track, technical and also have a verdict enforceable mechanism in a time bound manner**.

▪ **A central depository of water data is necessary for informed decision making.**

India has just 4% of the world's fresh water — but 16% of the global population. It shows the scarcity of water in India. Its judicial use and scientific management is sine-qua-non in today's challenging situations. For this all the stakeholders including citizens of the state have a prominent role regarding justifiable use of water.

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