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Distance Learning Programme (DLP)

# INDIAN POLITY - II

**(UPSC PRELIMS)**



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# INDIAN POLITY-II

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## CHAPTER

# INTER-STATE RELATIONS

The cooperation and cordial relation among different states are essential for the successful functioning of the Indian federal system. There are certain provisions within the Constitution and outside it, which aim at improving the relationship between various states of the Union.

- The constitutional provisions regarding the inter-state relations are:
  - Adjudication of inter-state water disputes – Article 262
  - Coordination through inter-state council – Article 263
  - Mutual recognition of public acts, records and judicial proceedings – Article 261
  - Freedom of inter-state trade, commerce and intercourse – Article 301
- Besides, the Zonal Councils have been established by the Parliament to promote inter-state cooperation and coordination.

## Inter-State Water Disputes

- **Article 262** of the Constitution provides for the adjudication of disputes relating to waters of inter-state rivers or river valleys.
- **Under this Article:**
  - 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 any inter-state river or river valley.
  - 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.
- Under this provision, the Parliament has enacted two laws:
  - The River Boards Act, 1956
  - The Inter-State Water Disputes Act, 1956.
- There is a provision for the establishment of river boards for the regulation and development of inter-state river and river valleys under the River Boards Act.
- A river board is established by the central government on the request of the state governments concerned to advise them. The objective of the boards is to advise on the inter-state basin to prepare development schemes and to prevent the emergence of conflicts.

### The Inter-State Water Disputes Act, 1956

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- A state government having a water dispute with another state government may request the central government to refer the dispute to a tribunal for adjudication.
- The central government, if it is of opinion that the dispute cannot be settled by negotiation, shall refer the dispute to a Tribunal.
- The Tribunal's composition is also laid down in the Act. The Tribunal is constituted by the Chief Justice of India and it consists of the sitting judge of the Supreme Court and the other two judges who can be from the Supreme Court or high court.



- The Tribunal can appoint assessors to advise it in the proceedings before it.
- On the reference being made by the central government, the Tribunal investigates the matter and prepare its report, embodying its decision. The decision is to be published and is to be final and binding on the parties.
- Jurisdiction of the Supreme Court and other courts in respect of any water dispute which may be referred to such a Tribunal under this Act is barred.
- The ISRWD Act, 1956 was last amended in 2002 whereby an adjudication of the water disputes by Tribunals has been made time bound after consultation with all state governments.
- Further, Ministry of Water Resources, River Development and Ganga Rejuvenation adopted a revised National Water Policy (NWP) in 2012. As per the provision of the Policy, a permanent Water Disputes Tribunal at the centre should be established to resolve the disputes expeditiously in an equitable manner.

#### Inter-State Water Dispute Tribunals Set-up So Far

Tribunal	Year	States Involved
Krishna Water Disputes Tribunal	1969	Maharashtra, Karnataka and Andhra Pradesh
Godavari Water Disputes Tribunal	1969	Maharashtra, Karnataka, Andhra Pradesh, Madhya Pradesh and Odisha
Narmada Water Disputes Tribunal	1969	Rajasthan, Gujarat, Madhya Pradesh and Maharashtra
Ravi and Beas Water Disputes Tribunal	1986	Punjab, Haryana and Rajasthan
Cauvery Water Disputes Tribunal	1990	Karnataka, Kerala, Tamil Nadu and Puducherry
Second Krishna Water Disputes Tribunal	2004	Maharashtra, Karnataka and Andhra Pradesh
Vansadhara Water Disputes Tribunal	2010	Odisha and Andhra Pradesh
Mahadayi Water Disputes Tribunal	2010	Goa, Karnataka and Maharashtra

**Note:** The Union Cabinet on 20<sup>th</sup> Feb, 2018 approved the setting up of a Tribunal to settle a row between Odisha and Chhattisgarh on sharing the waters of the Mahanadi River.

#### The Inter-State River Water Disputes (Amendment) Bill, 2017

The Bill has been introduced in the Lok Sabha on March 14, 2017 to amend the existing ISRWD Act, 1956. The main features of the Bill are:

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- The Bill proposes a Single Standing Tribunal (with multiple benches) instead of existing multiple Tribunals, which shall consist of one Chairperson, one Vice-Chairperson and not more than Six other Members.
  - While the term of office of the Chairperson is 5 years or till he attains the age of 70 years, whichever is earlier, the term of office of Vice-Chairperson and other Member of the Tribunal shall be co-terminus with the adjudication of the water dispute.
  - The Bill also provides for the appointment of Assessors to provide technical support to the Tribunal. They shall be appointed from amongst experts serving in the Central Water Engineering Service not below the rank of Chief Engineer.

- Under the Bill, the proposed Tribunal has to give its decision on a dispute within a period of 2 years. This period is extendable by a maximum of one year. The decision of the Tribunal shall be final and binding with no requirement of publication in the official Gazette.
- The Bill also proposes to introduce a mechanism to resolve the dispute amicably by negotiations, through a Dispute Resolution Committee (DRC) to be established by the central government consisting of relevant experts for resolving amicably, the inter- State water disputes within a maximum period of one year and six months, before such dispute is referred to the Tribunal.
- The Bill also provides for the transparent data collection system at the national level for each river basin and for this purpose, an agency to maintain data-bank and information system shall be appointed or authorized by the central government.
- The Bill proposes to streamline the adjudication of inter-state river water disputes and make the present legal and institutional architecture robust.

## Cauvery Water Management Authority

The Union Government has recently issued a notification for the Cauvery Water Management Authority (CWMA).

### Key Points

- It will be a two-tier body supported by a technical arm, the Cauvery Water Regulation Committee. The authority will decide the sharing of the river water among the States of Karnataka, Kerala and Tamil Nadu and the Union Territory of Puducherry.
- The authority will monitor the storage, apportion shares, supervise the operation of reservoirs and regulate water releases with the assistance of the Regulation Committee. It will regulate the water release by Karnataka at the Biligundulu gauge and discharge station. The CWMA will determine the total residual storage in the specified reservoirs on June 1 every year.
- The share of each State will be determined on the basis of the flows together with the available carry-over storage in the reservoirs. The withdrawals will be allowed on the basis of the share worked out for each State.
- In case of lack of cooperation on the part of States (namely Tamil Nadu, Kerala, Karnataka and Union territory of Puducherry) in implementing the decision or direction of the Tribunal, it can seek the help of the Central Government.
- **Chairman:** The chairman of the authority will be appointed by the Central government for a tenure of five years. He has to be a senior and eminent engineer with wide experience in water resource management or an IAS officer in the rank of secretary or additional secretary.
- **Members:** There will be two part-time members—representatives of the Central Government of the rank of Joint Secretary to be nominated by the Ministry of Water Resources, River Development and Ganga Rejuvenation and Ministry of Agriculture and Farmers' Welfare respectively.
- Also, there will be four part-time members from party States – administrative secretaries in charge of Water Resource Departments of Kerala, Karnataka, Tamil Nadu and the union territory of Puducherry who shall be nominated by the State governments and Union territory administration respectively.



## Significance

The Authority's powers and functions assume importance in view of the unresolved tension between the Centre and states over rights and access to river waters. Its success will depend on addressing this challenge and will require a broader federal consensus on the Centre's role in governing inter-state rivers. The body's powers and functions signal a bold move towards asserting the Centre's role in matters related to the Cauvery's waters. Unlike the earlier interim arrangements, CWMA is meant to be a permanent body.

## Background

- The Supreme Court had directed the constitution of a Cauvery River Authority, with the support of a Cauvery Monitoring Committee, to implement the CWDT's interim orders in the 1990s. Then again in 2013, the Centre constituted a Cauvery Supervisory Committee following the Supreme Court's orders. However, the Committee proved ineffective when the dispute escalated in 2016.
- In February 2018 the Supreme Court directed the government to produce a scheme for dispute resolution within six weeks and subsequently, Centre proposed the CWMA, a much refined and elaborate version of the Cauvery Management Board (CMB).

## Inter-State Council

- Article 263 of the Constitution provides that the President can establish an Inter-State Council at any time if it appears to him that the public interests would be served by the establishment of such a council.
- It is a non-permanent Constitutional body to facilitate coordination between the states and between the centre and the states.
- The Council functions as an advisory body.
- The President can define the nature of duties to be performed by such a Council and its organisation and procedure.
- Even though Article 263 specifies the duties that can be assigned to it in the following manner:
  - enquiring into and advising upon disputes which may arise between states;
  - investigating and discussing subjects in which the states or the Centre and the states have a common interest; and
  - making recommendations upon any such subject, and particularly for the better co-ordination of policy and action on it.

## Background

- The Administrative Reforms Commission (1966-69) had recommended for the immediate establishment of the Inter-State Council under the provisions of Article 263 of the Constitution.
- Rajamannar Committee constituted in 1969 by the Government of Tamil Nadu recommended, in 1971 for the establishment of the Inter-State Council.
- Further, the Sarkaria Commission on Centre-State Relations (1983-87) made a strong case for the establishment of a permanent Inter-State Council under Article 263 of the Constitution under the name Inter-Government Council.
- Following the recommendations of the Sarkaria Commission, the Janata Dal Government led by VP Singh finally established the Inter-State Council in the year 1990.



## Functions

- To enquire into disputes among the states and advise upon to resolve such disputes.
- Investigating and discussing subjects, on which some or all of the states or the Union and one or more of the states have a common interest.
- Making recommendations upon any such subject and, in particular, recommendation for the better co-ordination of policy and action with respect to that subject.
- Under the provisions of Article 263, the President has established the following councils to make recommendations for the better coordination of policy and action in the related subjects:
  - Central Council of Local Government and Urban Development
  - Central Council of Health
  - Four Regional Councils for Sales Tax for the Northern, Eastern, Western and Southern Zones

**Note:** The Central Council of Indian Medicine and the Central Council of Homoeopathy were set up under the Acts of Parliament.

## Composition

- Prime Minister as the Chairman.
- Chief Ministers of all the states.
- Chief Ministers of those union territories which have a legislative assembly.
- Administrators of those union territories which do not have legislative assembly.
- Governors of states under President's Rule.
- 6 Union cabinet ministers, including the Home Minister to be nominated by the Prime Minister.
- Besides these, five ministers of cabinet rank/minister of state (independent charge) who are nominated by the Prime Minister are permanent invitees to the Council.
- There is also a Standing Committee of the Council. It was set up in 1996 for continuous consultation and processing of matters for the consideration of the Council. It consists of the following members:
  - Union Home Minister as the Chairman
  - 5 Union cabinet ministers
  - 9 Chief Ministers
- The Council may meet at least thrice in a year. Its meetings are held in camera and all questions are decided by consensus.
- The Council is assisted by a secretariat, called the Inter-State Council Secretariat. This secretariat was set-up in 1991 and is headed by a secretary to the Government of India. Since 2011, it is also functioning as the secretariat of the Zonal Councils.

## Public Acts, Records and Judicial Proceedings

- The jurisdiction of each state is confined to its own territory. Hence there is a possibility that the acts and records of one state may not be recognised in another state. To do away with any such difficulty, the "Full Faith and Credit" clause was included in the Constitution.



- The Constitution contains the following provisions related to this clause under Article 261:
  - Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every state. The term 'public acts' relates to not only statutes, but to all other legislative and executive acts of the Union and the states.
  - The manner in which and the conditions under which the acts, records and proceedings shall be proved, and the effect thereof determined shall be as provided by law made by Parliament.
  - Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law. The rule applies only to civil judgements and not to criminal judgements.

## Inter-State Trade and Commerce

- **Articles 301 to 307 in Part XIII** of the Constitution have several provisions related to trade, commerce and intercourse within the territory of India.
- **Article 301** declares that trade, commerce and intercourse throughout the territory of India shall be free. The freedom under this provision is not confined to inter-state but also extends to intra-state trade, commerce and inter-course.
- The freedom guaranteed by Article 301 is liable to the following restrictions:
  - Parliament may by law impose such restrictions on the freedom of trade, commerce or intercourse between one state and another or within any part of the territory of India as may be required in the public interest. However, the Parliament cannot give preference or discriminate between the states except in the case of scarcity of goods in any part of India.
  - The legislature of a state can impose reasonable restrictions on the freedom of trade, commerce and intercourse with that state or within that state in the public interest.
  - But, a bill for this purpose can be introduced in the state legislature only with the previous sanction of the President. However, the state legislature cannot give preference or discriminate between the states.
  - The legislature of a state can impose any tax on goods imported from other states or the union territories to which similar goods manufactured in that state are subject. This provision also prohibits the imposition of discriminatory taxes by the state.
- The freedom under Article 301 is subject to the nationalization of laws (i.e., laws providing for monopolies in favour of the centre or the states). The Parliament or the state legislature can make laws for the carrying on by the respective government of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.
- The Parliament is authorised to appoint an appropriate authority for carrying out the purposes of the above provisions relating to the freedom of trade, commerce and intercourse and restrictions on it. The Parliament can also confer on that authority the necessary powers and duties.