



## Call of the River

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This article is based on **“Call of the River”** which was published in The Indian Express on 02/11/2019. It talks about Inter-State River Water Disputes Amendment Bill, 2019.

Recently, Lok Sabha passed the amendment to **Inter-State River Water Disputes Act, 1956**. The Bill is yet to be discussed in the Rajya Sabha. It **proposes a permanent tribunal** and several other measures to improve the settlement of inter-state river water disputes.

- **The resolution of water dispute is governed by the Inter-State River Water Disputes Act, 1956.**

According to its provisions, if a State Government makes a request regarding any water dispute and the Central Government is of the 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** and it mandated a one year time frame to setup the water disputes tribunal and also a 3 year time frame to give a decision.
- It was again **amended in 2017**.
- **Reasons why Inter-State River Water Disputes Act, 1956 was not successful-**
  - **Nine tribunals** were set up under this act but **only four gave final awards**.
  - **Cauvery River Water Dispute** between **Karnataka and Tamil Nadu**, took **28 years** to settle which is way too long.
  - **The Ravi and Beas River Waters Tribunal** was set up in **1986** and has not given the final award yet.
  - **Formation of multiple tribunals** led to **duplication and repetition** of the work and **increased red-tapism**.
  - **Unnecessary politicisation** of the issue led to **complications** and made the process **time consuming**.

The Inter-State River Water Disputes Amendment Bill, 2019

- It is a **modified version** of the the Inter-State River Water Disputes (Amendment) Bill, 2017.
- Latest bill has **three new elements-**
  - A **permanent tribunal** with exclusive benches for each dispute instead of separate tribunals in the principal act.
  - A **Disputes Resolution Committee (DRC)** to attempt resolutions through mediated negotiations, instead of the Centre's mediation.
  - A **provision for appointing a technical agency for a data bank** to support dispute resolution.

## Composition

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- **The Tribunal** will consist of-
  - A Chairperson
  - Vice-Chairperson
  - Three judicial members
  - Three expert members
- They will be **appointed by the Central Government** on the **recommendation of a Selection Committee.**
- The Central Government may also appoint **two experts serving in the Central Water Engineering Service as assessors** to advise the tribunals in its proceedings. The assessor should not be from the state which is a party to the dispute.
- **The DRC** will comprise of-
  - A Chairperson
  - Experts with at least 15 years of experience in relevant sectors, to be nominated by the Central Government.
  - One member from each state who will be nominated by the concerned State Government, party to the dispute.
- **Central government** will **appoint or authorise an agency to maintain data bank** and information system at the national level for each river basin.

## Importance

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- A permanent tribunal mechanism will **reduce the delays** in resolving interstate river disputes. It will also **save costs** compared to long-running individual tribunals.
- It provides an opportunity to **build knowledge on new and evolving approaches** for resolving interstate river water disputes in India. It will **increase the potential for transboundary river water governance in South Asia** as well.
- The **role of DRC** has been elevated from a superficial techno-legal body to an agency with a **proactive role.**
- The **DRC aims for politically negotiated settlements** for river water disputes which are deeply political at their core and to **avoid legal adjudication.**

## Major Blind Spots in the Bill

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- The Bill leaves the scope for **tussle between the legislature and judiciary**. It does not address resolving mechanisms.
  - The **power to create dispute solving mechanism remains with Parliament** but **Supreme Court's orders and guidance create hurdles** in the process.
  - The **Supreme Court** says that it has **jurisdiction over interstate river water disputes** while the legislature has the opposite views.
  - The Supreme Court in February 2018 **modified the allocations of the Cauvery Water Disputes Tribunal Final award of 2007**.
  - The **last instance** of creating a mechanism was **under the Supreme Court's orders** when the **Centre created the Cauvery Water Management Authority (2018)**.
- The **tribunal judge selection committee comprises of the Prime Minister or a nominee as the Chairperson, the Minister of Law and Justice, the Minister of Jal Shakti and the Chief Justice of the Supreme Court**.

This composition **might pose the risk of states politicising disputes** as well as the **adjudication by the tribunal**. This creates a situation where the dispute could escalate to the Supreme Court.
- There are **concerns relating to the composition and functionalities**.
  - The DRC might **not** be adequately **empowered**. The **Cauvery Supervisory Committee (CSC)** which had a similar composition did not have much success.
  - There is **ambiguity about the DRC being a part of the Permanent Tribunal**.
  - Ensuring **neutral and meaningful participation** by the involved states in the DRC process in a daunting task.
  - The **vagueness** in the Bill **about the agency performing the function of a credible data bank** is puzzling.

## Way Forward

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- To set up a **single, permanent tribunal** to adjudicate on inter-state river water disputes is a **major step towards streamlining the dispute redressal mechanism**.
- This alone will not be able to address the different kinds of legal, administrative, constitutional and political problems so **other supportive measures are also needed**.
- Centre's proposal to set up an agency alongside the tribunal, to collect and process data on river waters, is a step which will **enable fast and easy access to data**.
- To **strengthen the cooperative federalism**, parochial mindset making regional issues superior to national issues should not be allowed.
- **Dialogues and talks must be the dispute resolving mechanisms** and political opportunism must be avoided.

- A **robust and transparent institutional framework with cooperative approach** is the need of the hour.

***Drishti Mains Question***

The problem of water crisis in India is more about water mismanagement. Examine the proposed Inter-State River Water Disputes Amendment Bill, 2019 in this context.