



INTER STATE RIVER DISPUTE - GS II MAINS

Q. Inter- State River water disputes, whenever they emerge or recur and escalate, turn into national spectacles. Examine the reasons behind persistence of water wars in India and suggest measures to solve it out. (15 marks, 250 words)

News: *Inter-State River Water Cooperation: Binding Bharat*

What's in the news?

- Inter- State River water disputes, whenever they emerge or recur and escalate, turn into national spectacles.

Key takeaways:

- The episodes often consume and occupy the entire State machinery including the judiciary like the recent Cauvery dispute escalation did in 2023.
- The inter-State and Centre-State relations are strained and put to test. The prophecies of “water wars” are invoked, triggering projections of destabilising Indian Union.

Reasons for Persistent Inter State River Dispute:

1. Unbalanced Distribution of Powers between Union and State Governments:

- The legislative powers concerning water have been distributed between the Union and the State Governments.
- However, this approach of imprecise distribution of power between the Union and the States, has created a Federal-Jurisdictional ambiguity.

2. Limited Powers of River Tribunals:

- The Tribunal can only make an award and cannot make it binding. The Tribunals also lack the ability to punish for ‘contempt’.

3. Institutional Ambiguity in Adjudication of River Water Disputes:

- Article 262 provides that the Parliament may by law prevent the Supreme Court or any other Court from exercising jurisdiction in inter-State water disputes.
- However, under Article 136, the Supreme Court can hear appeals against the orders of Tribunals. Thus, the Supreme Court remains the adjudicatory body along with the tribunals, creating an institutional ambiguity regarding which body is the ultimate adjudicatory power on inter-State water disputes in India.

4. Lack of Technical Expertise in the Tribunal Members:

- The members of tribunals created for adjudicating the inter-State water disputes have been predominantly from the Judiciary.
- This has led to lack of a multi-disciplinary approach to dispute settlement.

5. Excessive Delays in Establishing Tribunals and Making Awards:

- The right to have a dispute referred to a tribunal under the IWSDA (Inter-State Water Dispute Act) is contingent on the Union Government’s determination that the matter cannot be resolved through negotiations.
- The provision of negotiations inevitably delays the constitution of a tribunal.



6. Political Mobilisation and Electoral Benefits:

- Inter-State disputes are exploited for political mobilization and electoral benefits.
- State Governments have rejected the awards of Tribunals for political gains.

7. Unscientific Water Data Management:

- There is a lack of data regarding water flows, seasonal variations etc. which results in ambiguities regarding availability of water, surplus water for sharing etc.
- In addition, seasonal variations in monsoonal rainfall sometimes create shortage of water.

WAY FORWARD:

1. Provide Mutually Accepted Water Sharing/ Deficit Formula:

- Cauvery Water Management Authority (CWMA) should find a mutually accepted water sharing/ deficit formula. Water Allocation should be based on the basis of monsoon and availability of water

2. Rejuvenation of Inter-State Councils:

- Article 263 of the Indian Constitution provides for the establishment of Interstate council to resolve interstate differences.
- Inter-State Council should be rejuvenated to enable it to play a more active role in settlement of interstate river disputes.
- To solve interstate water disputes, economic survey has suggested for cooperative federalism just like GST.

3. Fixed Time Frame for Adjudication:

- There is a need to establish a time frame for constituting the Tribunal by the Union Government.
- Tribunals should also try to avoid unnecessary delays in giving the award.

4. Simplification of Judicial Process of Dispute Resolution:

- The Government's inability to properly handle water-related disputes is reflected in the high number of appeals to the Supreme Court. Some experts suggest that the appeal to the Supreme Court should only on procedural aspects.
- The awards based on expert opinions shouldn't be questioned in the Court. The Sarkaria Commission has suggested that the awards of the tribunals be given the same weight as a Supreme Court Judgement.

5. Exploration of Mediation Route to Solve the Inter-State River Disputes:

- Mediation can also be explored as a possible option for successful resolution of disputes.
- The example of the role of the World Bank as a mediator in the Indus Water Treaty between India and Pakistan is quoted as a success of this model.

6. Better Water Data Management:

- Infrastructure should be created for better collection of the data related to Inter- State River basins.
- Better data will provide clear picture regarding availability of waters, seasonal variations and help in the equitable distribution of water among the States.