



AT THE CONFLUENCE OF SCARCITY AND MANAGEMENT: CONTEXTUALIZING INTER-STATE WATER DISPUTES IN INDIA

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ABSTRACT

Water resources management has often been described as a “wicked problem” defying easy solutions. It is wicked because there is a problem in the sharing of water resources. Water disputes in India are complex because most of the rivers in India are inter-state flowing. As major sources of freshwater resources in India are already over-exploited giving rise to concern about water scarcity and diminished economic activities. Numerous inter-state river water disputes have erupted since independence. These disputes burden the courts, distract politicians, formant popular discontent, and stimulate inter-state conflicts. There are many reasons for the emergence of inter-state water disputes in India. To a large extent, lack of proper institutional mechanism and ego on the part of water sharing states make these disputes complex. In addition to this, these disputes are frequently used by states and political actors to appeal vote banks and appease political constituencies. Due to inefficient institutional mechanisms, these inter-state water disputes are still unresolved. Against this backdrop, this paper throws light on why do inter-state water disputes occur and reoccur. Furthermore, the paper examines that how is the water dispute management system of India. In this paper, all facts and figures will be presented based on secondary data.

KEYWORDS: *Water, Disputes, Resource, Complex, Diminished*

INTRODUCTION

Since the dawn of human civilization, rivers are considered as lifelines for human progress and development. There have always been conflicts among the people regarding the sharing of rivers water, though; the magnitude and intensity of those conflicts were not as stronger as they have today. Water dispute is not a new phenomenon; they have been rising since time immemorial across the globe in general and developing countries in particular. South Asia is not an exception to this case, here; in this part of the world disputes over water have been more complex and intractable in comparison to other parts.¹ Though nature has bestowed South Asia with an abundant quantity of water but still due to increasing population, water pollution, industrialization, and water-intensified farming, the crisis of water are prevailing in this part of

the world so are the water disputes. Since decades, India has been facing similar problems which resulted in the emergence of terrible inter-state water disputes. Though, earlier water disputes were not as much complex and dreadful as they are today.

Rivers in India since ages have been flowing between two or more states by making natural boundaries. But after the emergence of British colonial rule, numbers of geopolitical and regional units came into being in the form of provinces and princely states which make rivers inter-state. With the rise of issues like constant droughts, and famines scarcity of water arose which consequently raised the problem of inter-state water disputes across the countries. This is also argued that over time, irrigation expansion work has got increased which enabled maximum utilization of water. However, the British government by its logic focused on the accumulation of wealth through the cooperation of all the political units irrespective of political boundaries. The British government used to decide the case if a dispute would emerge between the different political units; cooperation would be sought

¹ William A. Jury and Henry J. Vaux Jr. “The Emerging Global Water Crisis: Managing Scarcity and Conflict between Water Users” *Advances in Agronomy Elsevier* Vol. 95, (2007). p.3



for the resolution of disputes. During the British time for the construction of any canal separate project was taken. In several princely states and provinces when disputes would emerge, attempts were made for the settlement of disputes but there was as such no reliable master plan for the development of river basin.²

The contemporary inter-state water disputes had historical roots in colonial India which had emerged because of the unequal distribution of water. The key factors of contestation and antagonism between the centre and princely states were the political economy of colonial India. The present economic and political relationships that are at the core of inter-state water or water resource sharing are deep-rooted in the British colonial rule. Princely states were indirectly subservient to the British colonial rule. This unequal power-sharing and power structure generated a sense of inequality and injustice among the princely states. These inequalities and injustice of power and resource sharing have been incorporated in the present federal setup which governs the relations between the Centre and the states.³ Most of the present states in India have

been carved out from the British colonial provinces such as Tamil Nadu from the madras province, Karnataka from Mysore Province Kerala from the province of Cochin and Travancore. Majority of the present states of India have been formed on linguistic basis and after the State Reorganization Act, 1956. The relationship between states started getting complicated by ethnicized linguistic cleavages. The linguistic and ethnic identities of the people are highly volatile which have been politicized in different ways for their vested interests. Consequently, these ethnic and linguistic identities have become the catalyst for making inter-state water disputes more complex and perennial.

RIVERS IN INDIA

1. Himalayan Rivers
2. Deccan Rivers
3. Coastal rivers

² Acharya Paresh Kumar. *Problems of Inter-State Water Dispute: A legal Study Under Indian Perspective*. (West Bengal: University of Burdwan, 2000), p.226

³ Leela Fernandes. "Inter-State Water Disputes in South India." *Oxford Research Encyclopedia of Asian History*, (April 2018): p-4



1. The Himalayan Rivers

Himalayan Rivers	Catchment area	States in which the catchment areas falls
Ganga	861,404	Uttar Pradesh, Himachal Pradesh, Punjab, Haryana, Rajasthan, Madhya Pradesh, Bihar, West Bengal and Delhi
Brahmaputra	287,113	Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura and West-Bengal.
Indus	321,289	Jammu and Kashmir, Himachal Pradesh, Punjab, Haryana and Rajasthan

Source: (Rao 1998)⁴

2. Deccan Rivers

Deccan Rivers	Source	Length	Catchment area	States involve
Krishna	Mahabaleshwar	1,400	258948	Maharashtra, Karnataka, Telangana, and Andhra Pradesh
Cauvery	Western Ghats	802	87,900	Kerala, Karnataka, and Tamil Nadu
Godavari	Maharashtra	1,465	312812	Andhra Pradesh, Madhya Pradesh, Karnataka, Orissa, and Maharashtra
Pennar	Karnataka	597	55213	Karnataka and Andhra Pradesh

3. Coastal Rivers

Coastal Rivers	Source	Length (km)	Catchment area(sq.kms)	States Involve
Narmada	Madhya Pradesh	1312	98796	Madhya Pradesh, Maharashtra, and Gujarat
Sabarmati	Aravali	300	21674	Rajasthan and Gujarat
Tapi	Madhya Pradesh	724	65145	Madhya Pradesh, Maharashtra, and Gujarat
Mahanadi	Madhya Pradesh	857	141589	Madhya Pradesh, Orissa, Bihar, and Maharashtra
Brahmani	Ranchi	800	39033	Bihar, Madhya Pradesh and Orissa
Subernarekha	Bihar	395	19296	Orissa and West Bengal
Mahi	Vindhya	533	34842	Madhya Pradesh, Rajasthan, and Gujarat

Source: (Chaturvedi 2011)⁵

⁴ D. S. Rao. *Inter State Water Disputes in India: Constitutional and Statutory Provisions and Settlement*. (New Delhi: Deep & Deep Publication, 1998). P.9

⁵ M. C. Chaturvedi. *India's Waters: Advances in Development and Management* (USA: CEC Press, 2011). pp.9 10



INTER-STATE RIVERS IN INDIA

The major inter-state flowing rivers of India are given in the following table

Name of the River Basin	Catchment area (Sq.kms)	States in which the catchment area falls
Indus	468,068	Jammu and Kashmir, Himachal Pradesh, Punjab, Haryana and Rajasthan
Ganga	10,50,000	Uttar Pradesh, Himachal Pradesh, Punjab, Haryana, Rajasthan, Madhya Pradesh, Bihar, West Bengal and Delhi.
Brahmaputra	580,000	Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura and West Bengal.
Sabarmati	21,674	Gujarat, Rajasthan
Mahi	34,842	Gujarat, Rajasthan, and Madhya Pradesh
Narmada	98,796	Gujarat, Maharashtra, Madhya Pradesh, and Rajasthan,
Tapi	65,145	Gujarat, Madhya Pradesh, and Maharashtra
Subarnarekha	19,296	Bihar, Orissa and West Bengal
Brahmani	39,033	Bihar, Madhya Pradesh, Orissa
Mahanadi	141,589	Bihar, Madhya Pradesh, Maharashtra, and Orissa
Godavari	312,812	Andhra Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Orissa
Krishna	258,948	Andhra Pradesh, Karnataka, Maharashtra
Pennar	55,213	Andhra Pradesh, Karnataka.
Cauvery	87,900	Karnataka, Kerala, Tamil Nadu.
Ravi-Beas	14,442	Punjab, Haryana, Rajasthan

(Shetty 2000)⁶

⁶ Suresh Shetty. *River Water Disputes In India With Special Reference To Cauvery*. (Mangalore: Mangalore University, 2000). p-10



SCARCITY OF WATER

*Water use has been increasing worldwide by about 1% per year since the 1980s, driven by a combination of population growth, socio-economic development and changing consumption patterns. Global water demand is expected to continue increasing at a similar rate until 2050, accounting for an increase of 20 to 30% above the current level of water use, mainly due to rising demand in the industrial and domestic sectors. Over 2 billion people live in countries experiencing high water stress, and about 4 billion people experience severe water scarcity during at least one month of the year. Stress levels will continue to increase as water demand grows and the effects of climate change intensify.*⁷

It can be analysed from the above UN Water Development Programme Report that this planet is suffering from the water crisis and it is going to be catastrophic in coming days. Three out of ten people don't have access to safe drinking water. This problem is getting worsen day by day because of the rapid increase in population, industrialization, contamination of water. There is huge pressure on the water bodies due to increasing population and mounting water demands which lead to water disputes across the globe and India is no exception to this case. According to Census, 2011 India's 61.5% of the population is still dependent on agriculture. Agriculture in India is largely dependent on annual monsoon but monsoon in India is highly unpredictable, uncertain, and erratic. Nearly 80% of its occurring during the months of (June to September) the rest of the year country remains particularly dry. Only a few places in the country receive rainfall during the winter season from the months (November to February). In the certain unpredictable rainfall areas, when the annual rainfall decreases up to 80% or below, chances of crops' failures gets increased because of famines, droughts. Roughly, one-third of areas in India come under this category. Water demand also arose across the country because of intensive irrigation activities, industrialization, and growing population. Due to the growing population and industrialization issues like quality of water and pollution also emerged. Earlier on these issues, much attention was not paid, generally, they were ignored. But over time and with the active engagement of masses issues like pollution and quality of water came into limelight. Pollution which is created by the upper riparian states has decreased availability

⁷ United Nations, Educational, Scientific and Cultural Organization, World Water Development Report, *Leaving No One Behind* (Place de Fontenoy: UNESCO, 2019), p.1

of fresh and quality water for the lower riparian states. Furthermore, several other problems also have raise like social distress, ill health, economic loss, at the end the whole ecosystem gets affected.⁸

MANAGEMENT OF WATER DISPUTES IN INDIA

In colonial India, it was easy to manage inter-state water disputes because all laws related to water were made at the provincial level. Provincial governments used to have more power than the princely states; in fact, provincial governments had the authority to take a final decision concerning water rights. In British India, governments used to exercise the powers of suzerainty and were able to make the influence over agreements which were signed between the provinces and princely states about water sharing. In brief, provinces had more powers and political influence than princely states on water rights. After the independence of India, the federal setup has been adopted as a political scheme in which each federal unit has been given equal power. Even issues related to water and inter-state rivers were incorporated in the State List. States had been empowered to make laws on inter-state rivers. Though, this created a gross confusion between the Centre and States that who would have the final authority in the resolution of these disputes.⁹

The present major inter-state water disputes of India have arisen not only because of growing population and industrialization but also due to institutional failures and governmental negligence since the colonial period. This colonial legacy of resolving inter-state water disputes remains to continue even after independence. The laws and enactment which were made even after the independence of India remained ineffective in the peaceful resolution of inter-state water disputes. Legal ambiguities and flawed policies of governments kept these inter-state water disputes alive over the years. The jurisdiction of the Supreme Court has been barred over the inter-state water disputes and the Central government was vested with exclusive powers to constitute the Tribunals. There is no such constitutional or non-constitutional body except the Inter-State Councils which could ensure co-ordination among the disputed states regarding the resolution of water disputes. Resolution of inter-state

⁸ Biksham Gujja et al. "Million Revolts' in the Making", *EPW*, (2006): p.353

⁹ Srinivas Chokkaku. Disputes, (de)Politicization and Democracy: Interstate Water Disputes in India, *RULNR*, (2012): pp.9-12



water disputes was to some extent easy before the rise of multi-party system in India. But after the rise of assertive regional forces, it became very tough to ensure coordination and cooperation among the disputed states. Party interests have always been dominant over the dispute resolution process. No political party wants to sacrifice their interests for the sake of peaceful resolution of inter-state water disputes. The mismanagement, legal ambiguities, policies flaws, lack of coordination on the part of disputed states, prolonged delays on the part of Tribunals in declaring Final Awards, and unnecessary interference from the Central governments has made inter-state water disputes more intractable in India.

The resolution of inter-state water disputes in India has not always been an easy process. On several occasions, they have turned into violent conflicts and have caused both material and human loss due to party politics. Sometimes they also lead to a constitutional crisis and created tussle between the Centre and states which ultimately affect the Centre-States relations. Unfortunately, even after the decades, Central governments have been incapable in the settlement of inter-state water disputes; in fact, they have made this problem even more complex with undue interference. The Federalism ensures equal legislative and financial powers to all political units which gives leverage to states not to show conformity with the awards of the Tribunals and directives of the Apex Court. Same has happened in Cauvery and Narmada case, the blames and counter-blames of disputed states have made inter-state water disputes the gravest problem for India. It has been realized from the recent inter-state water disputes that the existing provisions and legal mechanism are not sufficient to resolve this problem peacefully. India's current dispute resolution mechanism is not so effective to tackle this problem. These disputes have been ignored both by the State and Central governments, as a result, they got stretched first from village to state and then from state to the whole country.

CONCLUSION

Being one of the most significant and fundamental sources of human life privatization has reduced this precious common resource merely up to a commodity. The politics of water is further complicated by the fact that it carries many social meanings. The water is not only a life-sustaining resource but it is a lynchpin and symbol of culture and civilizations across the world. The availability of a large quantity of water is also a symbol of national progress and prosperity. The politics over water is

central to its sharing, controlling, managing, and utilization.

As it is argued that, water is an emotive issue. It is driven by passions and emotions because in every culture and religion water renders high regards. In a multi-diverse country like India, water disputes are difficult to resolve because here these disputes are politicized and manipulated by different political parties for their vested interests. These identities are invoked by the political parties and leaders for the fulfillment of their vested interests. This has happened in Cauvery case which was earlier only a normal water dispute but it turned into violent conflict when people started targeting people of other culture and identities. Therefore, for any federal democratic country, it necessary to avert the politicization of inter-state water disputes because if the inter-state water dispute arises then it would become difficult for the Union government to persuade concerned states for any peaceful resolution.

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