

## CHAPTER IV

### CONCLUSIONS & RECOMMENDATIONS

The past experience in India, in connection with the resolution of inter-State disputes relating to waters, has not been very happy. It is very difficult to pin point whether this is due to the nature of the disputes, political factors or inadequacy of the constitutional provisions on the subject. But efforts to resolve inter- state water issues through adjudication alone under the ISRWD Act has not inspired much confidence among the states. There is an urgent need to take additional steps which may help in reduction of generation of water- conflicts.

National Water Policy, 2012, National Frame Work Law, Draft River Basin Management Bill etc would go long way in addressing the basic issues which also contribute towards the generation of inter-state water conflicts. But once the conflict is brought under arbitration, some urgent specific steps may be needed to make arbitration system more efficient, effective and more acceptable to the states. River Basin Management along with extensive water resources information base would help in achieving a rational and equitable distribution of water and thus help in better management of water conflict issues. But moving towards sustainable river basin management requires more emphasis on developing, managing and maintaining collaborative relationship between states.

**4.1.** The fundamental weaknesses in the functioning of tribunal system may be summarised as:

- (i) Considerable time is taken for a Tribunal to establish itself and start work. This problem is compounded by the lack of General Pool Accommodation (GPA) for the location of the Tribunal.

- (ii) There is no strict time limit for conclusion of any Tribunal's work. Although, a Tribunal is required to give its report within a maximum period of five years under the provision of Section 5(2) of the ISRWD Act, under Section 5(3) of the Act, there is no maximum time limit up to which Central Government can extend the term of the Tribunal for giving further report. The tenures of the Tribunals tend to get extended indefinitely for other reasons also.
  
- (iii) Under the present system there is no upper age limit for the Chairman and other members of a Tribunal. They continue as long as a Tribunal exists or till they cease to function owing to death, permanent disability or resignation.
  
- (iv) In present Act, if for any reason a vacancy (other than a temporary absence) occurs in the office of the chairman or any other member of a Tribunal, such vacancy shall be filled by a person to be nominated in this behalf by the Chief Justice of India and the investigation of the matter referred to the Tribunal may be continued by the Tribunal after the vacancy is filled and from the stage at which the vacancy occurred.
  
- (v) At present there is no time limit for publishing the report of a Tribunal under section 6 of the ISRWD Act.

**4.2.** Based on the response obtained through a questionnaire from the officers working in the Ministry of Water Resources, River Development & Ganga Rejuvenation, Govt. of India it is understood that considerable time was taken to establish and start the work of tribunals, considerable time was taken by the tribunals to give the final award and strict time limit may be imposed on for the conclusion of the tribunal-works after having a wider consultative process with all stake holders and by amending the ISRWD Act. The response is also suggestive of setting up of a single tribunal with multiple benches in place of multiple water disputes tribunals.

4.3. The following modifications in the ISRWD Act are suggested in order make the Act more effective:

Existing Provision Section 4(1)	Proposed modification
Separate Tribunal for each dispute	There shall be a <b>Single Tribunal</b> in place of multiple water disputes Tribunals. The dispute presently assigned to the existing Water Disputes Tribunals constituted under the Act shall automatically stand transferred to the new Tribunal and the different Tribunals shall cease to exist once the amendments are notified. However, members shall continue as members of the new Tribunal till they attain the age of seventy years.
Section 4(2)	Proposed modification
The Tribunal shall consist of a Chairman and two other members nominated in this behalf by the Chief Justice of India from among persons who at the time of such nomination are Judges of the Supreme Court or of a High Court.	The Tribunal shall consist of a Chairperson, Vice- Chairperson and not more than six members to be nominated in this behalf, by the Chief Justice of India from amongst persons who at the time of such appointment are Judges of the Supreme Court or of a High Court.
Section 4	Proposed modification
No age limit for the Chairman and Members to continue in the Tribunal.	No Chairperson, Vice-Chairperson or other member shall hold office as such after he has attained the age of

	seventy years.
<b>Section 4(1)</b>	<b>Proposed modification</b>
When any request under section 3 is received from any State Government in respect of any water dispute and the Central Government is of opinion that the water dispute cannot be settled by negotiations, the Central Government shall, <b>within a period not exceeding one year</b> from the date of receipt of such request, by notification in the Official Gazette, constitute a Water Disputes Tribunal for the adjudication of the water dispute	When any request under section 3 is received from any State Government in respect of any water dispute and the Central Government is of opinion that the water dispute cannot be settled by negotiations <b>within a period of six months, the Central Government shall, within a period of not exceeding three months after the expiry of said period of six months from the date of receipt of such request,</b> by notification, refer such water disputes to the Tribunal for the adjudication.
	(a) the jurisdiction of the Tribunal may be exercised by the <b>Benches</b> thereof; (b) a <b>Bench may be constituted</b> by the Chairperson with three members of Tribunal out of which one shall be the Chairperson or the Vice-Chairperson, as the case may be, who shall preside over the Bench; (c) <b>A Bench may be constituted by three members of Tribunal out of which the senior most shall preside over the Bench. Chairperson and Vice-Chairperson could be members of any Bench so constituted.</b>

	(d) the Chairperson shall assign the dispute, when it is referred by the Central Government, <b>to a Bench</b> of the Tribunal for its adjudication.
Member of a Tribunal can not be transferred to another Tribunal	<p>The Chairperson of the Tribunal may transfer a member of such Tribunal from one Bench to another Bench.</p> <p><b>In case of vacancy arises in a Bench, The Chairperson of the Tribunal may assign the work to a member of another Bench.</b></p>
<b>Section 5(2)</b>	<b>Proposed modification</b>
<p>The Tribunal shall investigate the matters referred to it and forward to the Central Government a report setting out the facts as found by it and giving its decision on the matters referred to it within a period of <b>three years</b>.</p> <p>Provided that if the decision cannot be given for unavoidable reason, within a period of <b>three</b> years, the Central Government may extend the period for a further period not exceeding <b>two years</b>.</p>	<p>The Tribunal shall investigate the matters referred to it and forward to the Central Government a report setting out the facts as found by it and giving its decision on the matters referred to it within a period of <b>two years</b>.</p> <p>Provided that if the decision cannot be given for unavoidable reason, within a period of <b>two</b> years, the Central Government may extend the period for a further period not exceeding <b>one year</b>.</p>
<b>Section 5(3)</b>	<b>Proposed modification</b>
If, decision of the Tribunal under 5(2) again referred to the Tribunal, the Tribunal may forward to the Central Government a further report	If, decision of the decision of the Tribunal under 5(2) again referred to the Tribunal for further consideration, the Tribunal may forward to the

<p>within one year from the date of such reference giving such explanation or guidance as it deems fit and in such a case, the decision of the Tribunal shall be deemed to be modified accordingly:</p>	<p>Central Government a further report within one year from the date of such reference giving such explanation or guidance as it deems fit and in such a case, the decision of the Tribunal shall be deemed to be modified accordingly:</p>
<p>Provided that the period of one year within which the Tribunal may forward its report to the Central Government may be extended by the Central Government, <b>for such further period as it considers necessary.</b></p>	<p>Provided that the period of one year within which the Tribunal may forward its report to the Central Government may be extended by the Central Government, <b>for such further period as it considers necessary, not exceeding six months.</b></p>

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