

Introduction

For the purpose of successful functioning of the federal system of the Indian Government, alongside the Centre-State relationship, there comes a need to maintain cooperation between the States inter se. The Parliament of India has established Zonal Councils with the objective of promoting Inter-State coordination such as the River Boards Act 1956, Inter-State Water Disputes Act, 1956, and several others. Further, the Constitution of India has also recognized the relevance of such relation which has been reflected by a list of provisions enshrined under the Indian Constitution as follows;

- ❑ Adjudication of Inter-State Water Disputes under Article 262.
- ❑ Coordination through Inter-State Councils under Article 263.

Inter-State water disputes

The Indian Constitution has laid down the provision for Inter-State Water Dispute under Article 262 which reads as,

Article 262 (1) 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, or in, any Inter-State River or river valley.

Article 262 (2) 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 as is referred to in clause (1).

Explanation:

Clause (2) ensures the functioning of Clause (1) which vests the power to make law, adjudicate disputes, control issues related to water between any Inter-State on the Parliament entirely restricting the judicial interference in totality. Entry 56 of the Union List vests power on the Union Government for the regulation and up-gradation of Inter-State rivers and river valleys only till the extent that has been declared by Parliament

taking into account public Interest.

Under the provisions of the act, the Central Government has enacted, River Boards Act (1956) and Inter-State Water Disputes Act (1956).

- ❑ The River Board Act provides for the establishment of river boards for the regulation and development of the Inter-State River and river valleys. Such a river board is established on the request of the State Governments concerned.
- ❑ The Inter-State Water Dispute Act empowers the Central Government to set up an ad-hoc tribunal for the adjudication of a dispute between the two or more States in relation to the water of an Inter-State River. The decision of the tribunal would be final and binding. Furthermore, the act bars the Supreme Court and any other court to have jurisdiction in this matter.

While the former statute calls for river boards to be established for the purpose of the regulation, and governance of Inter-State rivers, and river valleys, the latter empowers the Central Government to form an ad-hoc tribunal that will adjudicate on Inter-State disputes in relation to the river or river valleys.

The Inter-State Water Disputes Act 1956, restrains the Supreme Court from any other court to have jurisdiction over water-related Inter-State disputes as to the same completely vests on the tribunal whose decisions will be considered to be final and binding on the parties to such dispute. The Central Government at present has set up nine Inter-State Water Dispute Tribunals namely;

- ❑ **Krishna Water Disputes Tribunal:** Set-up in 1969 and covers the States of Maharashtra, Karnataka and Andhra Pradesh.
- ❑ **Godavari Water Disputes Tribunal:** This Tribunal was also set up in 1969 and has been covering the States of Maharashtra, Karnataka, Andhra Pradesh, Madhya Pradesh and Odisha.
- ❑ **Narmada Water Dispute Tribunal:** This Tribunal

was established in 1969 for the States of Rajasthan, Madhya Pradesh, Gujarat, and Maharashtra.

- ❑ **Ravi and Beas Water Disputes Tribunal:** Set-up in 1986, and covers the States of Punjab, Haryana and Rajasthan.
- ❑ **Cauvery Water Disputes Tribunal:** This Tribunal was set up in the year 1990 for the States of Karnataka, Kerala, Tamil Nadu and Puducherry.
- ❑ **Second Krishna Water Disputes Tribunal:** Set-up in the year 2004 for the States of Maharashtra, Karnataka and Andhra Pradesh.
- ❑ **Vansadhara Water Disputes Tribunal:** This Tribunal obtained its structure in the year 2010 for the States of Odisha and Andhra Pradesh.
- ❑ **Mahadayi Water Disputes Tribunal:** Also set up in 2010, this Tribunal covers the States of Goa, Karnataka and Maharashtra.
- ❑ **Mahanadi Water Disputes Tribunal:** Set up in 2018, for the States of Chhattisgarh and Odisha

Many times, the Central Government legislation failed to be implemented efficiently as has been reflected in the Godavari water dispute in 1962 followed by the Cauvery water dispute in 1970. Formation of a tribunal takes time which eventually defeats the purpose behind such formation and the concerned dispute which was in hand. Such delays and possible loopholes must be addressed and bill regarding amendment is proposed in the Parliament.

Inter-State River Water Disputes (Amendment) Bill, 2019

- ❑ The Inter-State River Water Disputes (Amendment) Bill, 2019 was introduced in Lok Sabha by the Minister of Jal Shakti. It amends the Inter-State River Water Disputes Act, 1956. The Act provides for the adjudication of disputes relating to waters of Inter-State rivers and river valleys.
- ❑ Under the Act, a State Government may request the Central Government to refer an Inter-State River dispute to a Tribunal for adjudication. If the Central Government is of the opinion that the dispute cannot be settled through negotiations, it is required to set up a Water Disputes Tribunal for adjudication of the dispute, within a year of receiving such a complaint. The Bill seeks to replace this mechanism.

- ❑ **Disputes Resolution Committee:** Under the Bill, when a State puts in a request regarding any water dispute, the Central Government will set up a Disputes Resolution Committee (DRC), to resolve the dispute amicably. The DRC will comprise of a Chairperson, and experts with at least 15 years of experience in relevant sectors, to be nominated by the Central Government. It will also comprise one member from each State (at Joint Secretary level), who are party to the dispute, to be nominated by the concerned State Government.
- The DRC will seek to resolve the dispute through negotiations, within one year (extendable by six months), and submit its report to the Central Government. If a dispute cannot be settled by the DRC, the Central Government will refer it to the Inter-State River Water Disputes Tribunal. Such referral must be made within three months from the receipt of the report from the DRC.
- ❑ **Tribunal:** The Central Government will set up an Inter-State River Water Disputes Tribunal, for the adjudication of water disputes. This Tribunal can have multiple benches. All existing Tribunals will be dissolved, and the water disputes pending adjudication before such existing Tribunals will be transferred to the new Tribunal.
- ❑ **Composition of the Tribunal:** The Tribunal will consist of a Chairperson, Vice-Chairperson, three judicial members, and three expert members. They will be appointed by the Central Government on the recommendation of a Selection Committee. Each Tribunal Bench will consist of a Chairperson or Vice-Chairperson, a judicial member, and an expert member. The Central Government may also appoint two experts serving in the Central Water Engineering Service as assessors to advise the Bench in its proceedings. The assessor should not be from the State which is a party to the dispute.
- ❑ **Time frames:** Under the Act, the Tribunal must give its decision within three years, which may be extended by two years. Under the Bill, the proposed Tribunal must give its decision on the dispute within two years, which may be extended by another year.
 - Under the Act, if the matter is again referred to the Tribunal by a State for further consideration,

the Tribunal must submit its report to the Central Government within a period of one year. This period can be extended by the Central Government. The Bill amends this to specify that such extension may be up to a maximum of six months.

- ❑ **Decision of the Tribunal:** Under the Act, the decision of the Tribunal must be published by the Central Government in the official gazette. This decision has the same force as that of an order of the Supreme Court. The Bill removes the requirement of such publication. It adds that the decision of the Bench of the Tribunal will be final and binding on the parties involved in the dispute. The Act provided that the Central Government may make a scheme to give effect to the decision of the Tribunal. The Bill is making it mandatory for the Central Government to make such scheme.
- ❑ **Data bank:** Under the Act, the Central Government maintains a data bank and information system at the national level for each river basin. The Bill provides that the Central Government will appoint or authorise an agency to maintain such data bank.

Inter-State Councils

Article 263 of the Constitution of India provides for the establishment of an Inter-State Council. The text of the Article reads as under:

Article 263 Provisions with respect to an Inter-State Council – If at any time it appears to the President that the public Interests would be served by the establishment of a Council charged with the duty of –

- ❑ Article 263 (a) inquiring into and advising upon disputes which may have arisen between States;
- ❑ Article 263 (b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common Interest; or
- ❑ Article 263 (c) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject.

it shall be lawful for the President by order to establish such a Council, and to define the nature of the duties to be performed by it and its organization and procedure.

Explanation:

Under Article 263 of the Constitution of India, if the President believes that the establishment of an Inter-State Council would help in serving the public Interests, then it is lawful for the President to establish such Council by order. He shall also define the nature of duties to be performed by the Council, its organisation and the procedure to be followed.

The President can charge the Council with the following duties:

- ❑ To inquire into and advise upon disputes which may have arisen between States;
- ❑ To investigate and discuss subjects in which some or all of the States, or the Union and one or more of the States display a common interest;
- ❑ To make recommendations upon any subject and in particular, to make recommendations for enhanced coordination of policy and action pertaining to that subject.

The Inter-State Council was established based on the recommendations of the Sarkaria Commission, 1988. The Council was established in 1990 pursuant to a Presidential order. It functions as a permanent, independent, national forum for consultation. The Inter-State Council comprises of the following members:

- ❑ The Prime Minister of India as the Chairman of the Council;
- ❑ The Chief Ministers of every State as the members of the Council;
- ❑ Chief Ministers of Union Territories having a Legislative Assembly and Administrators of Union Territories not having a Legislative Assembly as members of the Council;
- ❑ Six Ministers of Cabinet rank in the Union Council of Ministers to be nominated by the Prime Minister as members of the Council.
- ❑ Four Ministers of Cabinet rank as Permanent invitees Members

The Council was recently reconstituted in 2019, with the Prime Minister as its Chairperson.

The decisions of this Council are advisory in nature, and not binding like the tribunals constituted for resolving Inter-State water disputes, and therefore, can deal with both legal and non-legal disputes. The Council

has been assisted by a secretariat known as the Inter-State Council Secretariat which came into existence in 1991 and was headed by a secretary to the Government of India. The same has been functioning as the secretariat of the Zonal Councils since 2011.

The Councils which have been formed by the President for better policy coordination between various States or the Centre and the States under this constitutional provision are;

- ❑ Central Council of Health.
- ❑ Central Council of Local Government and Urban Development.
- ❑ Four Regional Councils for Sales Tax for the Northern, Eastern, Western and Southern Zones.

In the current crisis due to the enactment of the Citizenship Amendment Act, 2019, there is an increased distrust between the Centre and the States. In such times of constitutional crisis, it is essential that the Council meets to arrive at a harmonious solution.

Mutual recognition of Public Acts, Records, and Judicial Proceedings

Article 261 of the Indian Constitution lays down the provision for public acts, records, and judicial proceedings which reads as,

“Article 261 (1) 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

Article 261 (2) The manner in which and the conditions under which the acts, records and proceedings referred to in clause (1) shall be proved and the effect thereof determined shall be as provided by law made by Parliament

Article 261 (3) 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 Disputes relating to Waters.”

The purpose of this provision is to erase the difficulty of recognizing acts and records of one State by the others which results because the jurisdiction of a State is confined to its territory only. The full faith and credit clause enable providing public acts, records and judicial proceedings of the Centre and every State throughout the Indian territory thereby vesting the burden of providing a manner and regulating such providence

on the Parliament by means of its legislation. Another feature of this provision is that it does not mandate courts of one State to enforce the penal laws belonging to another State thereby only being concerned with civil jurisdiction.

Freedom of Inter-State Trade, Commerce, and Intercourse

Article 301 specifically declares that, “Subject to the other provisions of this Part, trade, commerce and Intercourse throughout the territory of India shall be free.”

It is important to note that the freedom guaranteed by Article 301 extends to intra-State trade, commerce, and Intercourse as well as Inter-State trade, commerce, and Intercourse. As a result, Article 301 supports the free movement of trade, business, and sexual activity throughout the country, and it will be violated if limitations are imposed on any State's border. However, when the limits indicated below are applied in accordance with Articles 302 to 305, Article 301 will not be violated;

- ❑ When public interest is getting affected in some way or the other, to reserve the same, reasonable restrictions on freedom of trade, commerce, and Intercourse can be imposed;
- ❑ On the grounds of public interest also, the Parliament can provide certain reasonable restrictions but a bill for such circumstances has to be introduced in the legislature with the President's sanction;
- ❑ Goods imported can be taxed by the legislature provided the same does not turn out to be discriminatory;
- ❑ The freedom provided under Article 301 of the Constitution is subjected to nationalisation laws.

In order to implement these restrictive provisions, the Parliament can appoint a competent authority but till now nothing of such sort has taken place.

Zonal Councils

The States Reorganisation Act of 1956 divides India into five zones namely Northern, Central, Eastern, Western and Southern thereby providing a zonal council for each zone. While forming these zones, several factors have been taken into account which include: the natural divisions of the country, the river systems and means of communication, the cultural and linguistic affinity and

the requirements of economic development, security and law and order.

Thus, these Zonal Councils are statutory bodies composed of:

- ❑ Home Minister of the Union Government as the common Chairman,
- ❑ Chief Ministers of all the States in that zone,
- ❑ Two ministers from each State in the zone,
- ❑ and an Administrator of each Union territory in that zone.

The subject matters that are majorly taken up by the Zonal Councils for discussions include economic and social planning, disputes associated with borders, Inter-State transportation, linguistic minorities, and so on. The objectives that are taken up by these Councils include:

- ❑ Promote emotional integration within the country by harmonizing one State with the other and between the Centre and the States;

- ❑ Increase cooperation between Centre and the States on social and economic concerns by means of exchanging views;
- ❑ Promotion of economic development in the States;
- ❑ Maintaining political equilibrium between different regions of the democratic nation.

Inter-State relations as having been discussed in this article holds immense relevance in today's time when diplomatic relations are increasing among different nations. In order to deal with the internal issues of a nation effectively, Inter-State relations need to be established effectively.

Though India being a vast nation spread over 28 States and 7 Union Territories are facing different problems associated with different regions, maintenance of unity among the States and between the Centre and the State has been the only way to bringing about logical solutions to such problems.